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The Magazine For The Legal Professional | November/December 2020



Celebrating Veterans Day 2020

See page 12

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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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Autumn Reminds Us of the Beauty in Letting Things Go

As I write this "Letter from the Editor" the weather in St. Petersburg is in the 60s and it could not be a lovelier morning. As a native Floridian, I cherish that moment when the weather finally cools off and reminds you that it is not always summer in Florida. The cooler weather surprises me every year, even in 2020 which sometimes seems like the longest year in recent history. As Oscar Wilde once said "and all at once, summer collapsed into fall." We are certainly embracing it at our house and I'm not ashamed to say we decorated for Halloween on Labor Day weekend. Autumn is the prelude to winter, which is my favorite time of year in Florida as the weather is amazing, the mosquitoes mostly disappear and the sunsets are even more beautiful.

Autumn 2020 is the perfect time to release the old and make space for the new. It is unlikely that the world will ever return to the state we were in as recently as early March. While there are certainly inconveniences and staggering losses, there are also many silver linings. Zoom may be the bane of my first grader's current existence, but I thoroughly enjoy conducting depositions and hearings via Zoom. I can wear jeans with a suit jacket, and I don't have to drive. It's easy to share screens and keep exhibits digital. It saves us time and our clients money.

I also just wrapped up my first Zoom trial. It was a bench trial and overall, it went well. The judge remained engaged, the witness attendance worked well and without issue and the technology held its own other than an occasional slow computer in opening new exhibits to screen-share.

Another silver lining of 2020 is the ability to work from anywhere. Fall in Florida mostly makes me miss seasons, so I will be embarking on a trip in search of foliage come October. Given the new virtual state of affairs, it is even easier to maintain school and work while traveling. Is anyone else hitting the road for pleasure travel this fall? If so, share some pictures with the Paraclete! My family will be exploring Lake Lure and Hilton Head, some of our favorite places as well as new areas of Hiawassee, Georgia and the Outer Banks of North Carolina. My children, husband and I will be able to keep up on school and work while we travel thanks to the remote flexibility 2020 has gifted us.

The St. Pete Bar has done an exceptional job in revising its networking and educational opportunities to work in a virtual world. The September and October membership luncheons were fantastic. The luncheons are still a great way to see



By Shannon Zetrouer

familiar faces and eat a tasty lunch on the Bar's dime. Thanks to Zoom's gallery mode – you can still see the faces of your colleagues and the Bar provides a \$25 Uber Eats gift card for lunch for each attendee.

The Bar's list of activities for fall appears to be unending. The virtual lineup included cooking with the judiciary, a family scavenger hunt, cooking with Parkshore Grill Chef Tyson Grant, and a couple's newlywed game. All events were free to members and I encourage you to include family members when participating in upcoming events. Just remember to keep it on mute.

Our current virtual world is an excellent frontier for a paperless office, a good video conferencing system and a strong online presence. My firm went paperless eight years ago and we've never looked back. Not having physical files fits well with the virtual world we are in.

Stress is certainly something we can all choose to let go of more often. If you missed Juli Steinocher, the speaker at our September luncheon, you should check out her "First Aid for Stress" on her website at www.mindbodylab.com. Juli gave an excellent presentation and presented six easy things you can do, even while sitting at your desk, to relieve stress. I participated along with her, and can honestly say I felt less stress after trying her methods. She presented several techniques at the luncheon, including: 1) front/back head hold; 2) Tibetan Prayer Pose; and 3) adrenal calmer. There are even more items listed on her website.

As we enjoy the best weather months in Florida and wrap up a year that no one quite saw coming, what can you let go? What practices should your firm let go? Perhaps, even, what clients should you let go? For all the letting go, how can you do so to enjoy the beauty of what letting go really is? Releasing that which does not serve you will allow 2021 to fill your plate in ways you cannot imagine.

Shannon L. Zetrouer is the managing partner of Zetrouer Pulsifer, PLLC which focuses on real estate matters, including timeshare and association related issues. Her passion for law is only superseded by her love for her children, Ariana Sol and Austen Lee and her husband, Trevor.

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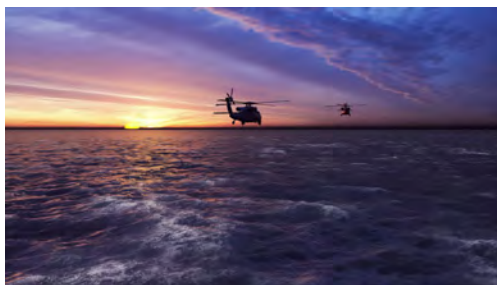


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Take a Moment to Think About Our Veterans

November is a month that brings with it many great things. We are already well into fall, and we are enjoying our pumpkin spice lattes, pumpkin flavored beers, and pumpkin pies. This month also brings in the beginning of the holiday season, with Thanksgiving being the big American kickoff to such season. Yet, the event that should be most recognized in November is Veterans Day. This issue of the *Paraclete* honors our veterans. Accordingly, it only seems appropriate that we take a moment to think about our veterans.



While a moment of silence is a nice gesture, and we should encourage this, we, as practitioners, can do more. Practitioners can really make a difference when we take just a short moment to think about which of our clients are veterans. Many times, we can alert our veteran-clients to ancillary Veterans Affairs (VA) benefits that may also be available outside of the narrow scope of our veteran-client's current case. Too often, veterans do not even know of VA benefits that are available to them.

The City of St. Petersburg had 20,922 veterans living in it between 2014 and 2018.¹ With a population of 265,351,² this means that just under one out of every ten people living in St. Petersburg is a veteran. This means that, on average, about one out of ten of your clients could be a veteran. When we, as practitioners, take a moment to think about other ways, outside of the immediate case, we can help our veteran-clients, we can really add benefit to our veterans.

One of the most advantageous benefits available to many veterans is VA Disability benefits. Though many practitioners have heard of VA Disability law, it remains a somewhat of a mystery. This is no surprise because the world of VA Disability law is a wacky world, indeed. The VA has its own internal adjudicatory system, with its own hierarchy of decision-making authority, which is navigated in no linear path. Instead of a straight appellate path from a trial level to an appellate level, with which most attorneys are familiar, the VA world allows different paths toward similar results that can often overlap. Hence, due to such complexity, this remains a very niche area of practice.

However, VA benefits may overlap with many other areas of practice, from estate planning, to foreclosure and bankruptcy, to personal injury, to criminal law, among various other areas of law. In estate planning, a veteran-client can

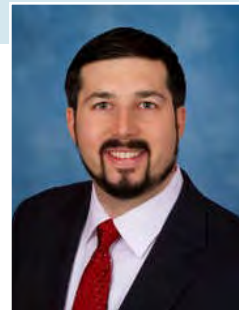
sometimes make claims for VA Disability benefits or an increase in benefits that may impact the estate plan. In foreclosure and bankruptcy, knowing if a veteran-client can increase his or her VA claims can sometimes get a veteran-client out of debt. In personal injury, an accident can aggravate a service-connected injury or worsen a psychological condition, which could be given an increase in rating by the VA. In criminal law, there are veteran courts that allow for rehabilitation rather than punishment due to the understanding that many veterans have obtained psychological problems due to service. These are just a few examples of the overlap.³ Sometimes, simply informing veteran-clients of the availability of such benefits can change their lives.

We love taking a moment to honor our veterans, but as practitioners, we can utilize this moment to reflect on ways to genuinely improve the lives of our veteran-clients. Whether practitioners become accredited by the VA to fully represent veterans who are seeking these benefits, take a short CLE on Veterans Disability benefits to make their veteran-clients aware of benefits that may be available to our veterans, or simply consult with other practitioners who are familiar with Veterans Benefits Law, taking a moment to really think about whether we can help our veteran clients receive additional benefits is perhaps one of the greatest things we can do in salute to our veterans. Moments of silence are nice, but as practitioners, we can and should take moments of action to help or inform our veteran-clients of ways to better their lives.

Douglas G. Jackson is the Principal of The Law Firm of Douglas G. Jackson, P.A., a St. Petersburg law firm that represents veterans nationwide for VA service-connected disability and ancillary legal matters, including foreclosure, bankruptcy, criminal defense, and personal injury.

1. Quickfacts St. Petersburg, Florida, United States Census Bureau <https://www.census.gov/quickfacts/stpetersburgcityflorida> (accessed on September 27, 2020).
2. *Id.*
3. H.R. 2228 - 115th Congress (2017-2018) (enacted into law on August 23, 2017). The VA procedural process appears more like a choose your own adventure book than a traditional procedural process.

By Douglas G. Jackson



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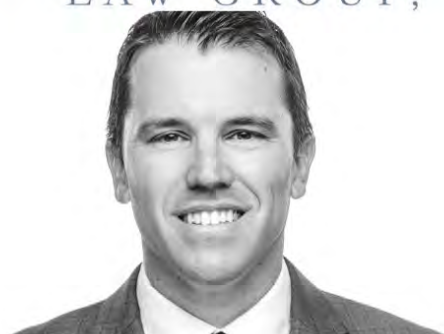
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By Stacey-Rae Simcox & Morgan MacIsaac

Celebrating Veterans Day 2020

As we consider celebrating and honoring our veterans this year, it is important to remember that 2020 is a year of historic anniversaries and firsts for our Nation's military and veterans.

Anniversaries:

75 years ago: The Allied forces turned the German army back during the Battle of the Bulge, marking the beginning of the end for Hitler's forces in Europe leading to Germany's formal surrender on May 8, 1945. The United States dropped two atomic bombs on the Japanese cities of Hiroshima and Nagasaki. The formal surrender of Japan to the United States took place on board the USS Missouri in September of 1945. The Nuremberg trials began in Germany in the ceremonial birthplace of the Nazi party. Twenty-four men, accused of being the highest-ranking members of the Nazi party, the Gestapo, and the Schutzstaffel (SS), among others, were accused of participating in crimes against humanity. Twelve of these men were sentenced to death, and seven received sentences ranging from ten years to life. A subsequent Nuremberg trial the following year of the medical doctors involved in the Nazi's human torture and atrocities was presided over by Stetson Law alum Justice Harold Sebring of the Florida Supreme Court the following year.

250 years ago: On March 5, 1770, British troops occupying Boston opened fire on a mob of colonists accused of threatening violence to a British soldier. The Boston Massacre ended that day with the first casualty of the Revolutionary War, an African American

man named Crispus Attucks, and the wounding, many mortally, of six others.

2,500 years ago: While this may not involve American service men and women, it is just a fact too cool to pass up in this list of anniversaries. In 480 BC, the Persian emperor Xerxes met 7,000 Greeks led by the Spartan King Leonidas at the pass of Thermopylae. The narrowness of the pass seemed to Leonidas as good a place as any to stand against the vastly larger army of the Persians. When ordered to surrender their weapons, King Leonidas invited the Persians to "molon labe" ("come and take them") and proceeded to hold the pass (if only shortly) with only 300 men allowing the rest of the Greeks to safely retreat. This legendary encounter known as the Battle of Thermopylae is still seen today as "an example of heroic persistence against seemingly impossible odds."

Firsts:

It seems fitting to sum up the anniversaries for our nation's fighting forces with an example of heroic persistence against seemingly impossible odds by considering this is the first time our nation has been hit with a national shut-down due to a pandemic. The year 2020 has seemed to be a never-ending parade of crises following one after the other. One of the most concerning outcomes of the COVID-19 pandemic that we all have experienced is isolation. For months on end, we have been encouraged to stay home and socially distance ourselves in order to slow the virus. While this may have helped to stop the spread, it

presented a significant threat to our veteran population.

For veterans, particularly those suffering from post-traumatic stress disorder or physical disabilities, social isolation can be a real health hazard. Loneliness and isolation have been linked to poor physical health, cognitive decline, depression, and even death.¹ Unfortunately, many military veterans already experience high levels of loneliness and social isolation due to their experiences, feelings which likely became exacerbated during the height of the pandemic. This is a major source of concern due to the already alarmingly high rate of suicides among

veterans. On average, 17-22 veterans committed suicide each day of 2019, and unfortunately, we may see a grim spike in the statistics this year.² In fact, military-related suicides have already gone up by 20% this year as compared to 2019. Department of Veterans Affairs Secretary Robert Wilkie stated that his approach to lower this number was to "reach veterans where they live and thrive." Now, more than ever, we need to do the same.

For years, the American Legion has been conducting "buddy checks" on their members. By reaching out through a phone call or stopping by just to check in, these volunteers make sure the

veterans in their communities are not alone. This is something we can all do.

This Veterans Day as we consider the sacrifices and service of our veterans, take time to check in on your neighbor. Become a pen pal.³ Volunteer at the Bay Pines VA.⁴ Honor their service to do what you can to make sure the veterans in your community are supported during this time.

Stacey-Rae Simcox is a Professor of Law at Stetson University College of Law in Gulfport, Florida. She is also the Director of the Veterans Law Institute and Veterans Advocacy Clinic and a veteran of the US Army Judge Advocate General's Corps. Morgan MacIsaac is a recent graduate of Stetson University College of Law and the Veterans Law Institute Fellow.



1. Open Access Government News, Veterans are experiencing loneliness and social isolation (12/14/2018) available at <https://www.openaccessgovernment.org/veterans-experiencing-loneliness-and-isolation/55738/>
2. The Military Times, New veteran suicide numbers raise concerns among experts hoping for positive news (10/29/2019) available at <https://www.militarytimes.com/news/pentagon-congress/2019/10/09/new-veteran-suicide-numbers-raise-concerns-among-experts-hoping-for-positive-news/>
3. For information on how to become a penpal, visit: https://www.army.mil/article/237698/army_spouses_website_seeks_pen_pals_for_veterans
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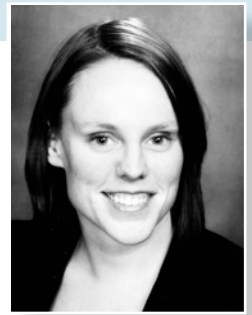
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The Florida Jurist: Recognizing Hispanic Excellence and Our Own Honorable Myriam Irizarry

By Mary J. Howard



On September 17, 2020, lawyers and judges from across the state gathered via Zoom to attend “The Florida Jurist: Recognizing Hispanic Excellence”. The program was sponsored by the Broward County Bar Association and included participants from eleven voluntary bar associations including the Broward County Hispanic Bar Association, Escambia-Santa Rosa Bar Association, Hispanic National Bar Association, North Dade Bar Association, Palm Beach Hispanic Bar Association, Palm Beach Bar Association, Puerto Rican Bar Association of Florida, St. Petersburg Bar Association, South Palm Beach County Bar Association, and Jacksonville Bar Association.

This program celebrating Hispanic Judges occurred during Hispanic Heritage Month and was the first statewide Hispanic legal event. Additionally, this was the first time nearly a dozen voluntary bar associations joined together in such a celebration of the promotion, retention and encouragement of diversity in the legal profession, the judiciary, and the legislature.

Honorees included the Honorable Justice John D. Couriel, the Honorable Tatiana Salvador of the Fourth Circuit Court, Chief Judge Bertila Soto of the Eleventh Circuit Court, the Honorable Luis Delgado of the Fifteenth Circuit Court, the Honorable Robert Diaz of the Seventeenth Circuit Court, and the Honorable Myriam Irizarry of our own Sixth Circuit Court.

St. Petersburg Bar Association President Sean McQuaid served as the moderator and introduced Judge Irizarry. Judge Irizarry was appointed in 2015 by then-Governor Rick Scott and is the sole Hispanic judge in Pinellas County. Recently, she announced her retirement. Judge Irizarry expressed her appreciation for the honor to be recognized among her Hispanic colleagues.

The Judge spoke of her journey to, and inspiration for, becoming a judge. Born in Puerto Rico, she was one of seven children raised by her mother. Judge Irizarry’s family lived in severe poverty in a shack with no running water, surviving on food grown on their land. Her family slowly emigrated to New York City, starting with her oldest sister who took a job at a feather factory to save money and move their mother to New York. Once there, her mother joined her sister working

at the feather factory, living in tenement slums, and saving money to bring the Judge and her siblings to New York.

When her whole family was together again in New York, misfortune struck when the building they were living in burned down leaving the family homeless. The siblings were separated to live with family while her mother worked hard to bring everyone back together. After they were reunited, the family moved to the lower east side of Manhattan and lived on public assistance. During this time, the Judge accompanied her mother to different social service organizations serving as her interpreter. The Judge’s mother dubbed the Judge as her little advocate.

It was the Judge’s mother who inspired her to become a lawyer and taught her to focus on perseverance and overcoming obstacles. At the time, becoming a lawyer seemed like an unachievable dream. But the Judge went on to attend Rutgers University

with help from Upward Bound, a program that provides support to students in their preparation to enter college. The Judge attended law school at Rutgers University with the assistance of the Council on Legal Educational Opportunity (CLEO) Program, a non-profit project founded as a part of the American Bar Association Fund for Justice and Education to expand opportunities for minority and low-income students to attend law school.

The Judge’s humble beginnings inspired her to focus her career on public service. She worked as an attorney at legal aid, as a public defender, and as chief deputy and then general counsel for the Pinellas Clerk of the Circuit Court prior to being appointed to the bench. She has tried to serve with humility and with an empathetic ear. She hopes that she has helped pave the way for more diversity on the bench in Pinellas County.

Mary J. Howard is a Senior Attorney with the Agency for Health Care Administration, the state agency responsible for the administration of the Florida Medicaid program, licensure and regulation of Florida’s health facilities and for providing information to Floridians about the quality of care they receive.





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The Notorious RBG:

A Look at What Made This Legend Just so Special

Ruth Bader Ginsburg became known over the past decade as the Notorious RBG, a nickname only fitting for a champion of equality such as herself. But what exactly made Justice Ginsburg so special? Why should we, as attorneys, aspire to be like her every day? I believe it boils down to the fact that Justice Ginsburg never quit. She never stopped fighting for what she believed was right and just, even when the mountain she had to climb to reach that goal seemed insurmountable.

How Justice Ginsburg climbed those seemingly insurmountable obstacles is what we can learn from. So, how did she do it? Justice Ginsburg took every, for lack of a better word, loss and turned it into a win in ways that would impact millions of Americans for generations to come. From her first day of law school to the moment she took her last breath, Justice Ginsburg never took “no” for an answer; she never allowed precedence or the status quo to scare her away from her goal of ensuring all Americans are afforded equal rights under the law.

Even though Justice Ginsburg had just secured an incredible victory (in terms of gender equality) in the landmark case *Moritz v. Commissioner of Internal Revenue*,¹ Justice Ginsburg still had to convince the U.S. Supreme Court that statutes discriminating on the basis of gender violated the Fourteenth Amendment. Her first shot at achieving this came when she argued *Kahn v. Shevin*² in front of the Court. Unfortunately, the Court upheld the discriminatory Florida statute, signaling the Court’s reluctance to depart from any of its previous rulings on issues of gender discrimination. With another case added to the Court’s precedent of upholding the legality of gender discrimination, most people would be discouraged

to the point of giving up, but not Justice Ginsburg. Instead of resigning in defeat, she brought case after case to the Court until she ensured that gender discrimination was firmly held as violative of the Fourteenth Amendment.

Justice Ginsburg’s never-quit attitude didn’t end when she took a spot on the bench, either. Some of Justice Ginsburg’s most famous opinions during her tenure on the Supreme Court were the dissents she authored. It becomes abundantly clear from reading one of her dissents that Justice Ginsburg viewed writing those dissents as an opportunity to effect change through an avenue other than the judiciary, when her chance to do so in the Court had been foreclosed.

The most notable example of this is the dissent she authored in *Ledbetter v. Goodyear Tire & Rubber Company*.³ The Court held that Ledbetter, who had sued her employer for gender discrimination under Title VII for compensating her significantly less than her male co-workers for the same job, was not entitled to relief due to the statute of limitation imposed under the statute. Justice Ginsburg’s dissent, which she publicly read from the bench—an action rarely taken by a Justice—urged Congress to pass legislation that would reverse what she believed was an improper interpretation of the law by the Court. The passionate and eloquent dissent authored by Justice Ginsburg directly led to the passage of the Lily Ledbetter Fair Pay Act, a piece of legislation that helps bolster



By Ciera Lipps

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protections against pay discrimination and grants those who face such discrimination a greater opportunity to seek recourse.

When we look back on history, Justice Ginsburg will always be remembered as a shining example of what a “zealous advocate” should be. She was a zealous advocate not only for her clients, but for all those marginalized and arbitrarily treated as less in the eyes of the law simply because of an inherent quality they possessed. We should all strive to be even just a little more like Justice Ginsburg every day, taking every opportunity, even those where it seems as though we have lost, to better our legal system for generations to come. That is why we became attorneys, so let’s not forget it, just like we will never forget the infamous Justice Ruth Bader Ginsburg.

Ciera Lipps, Esq. is a 2019 graduate of Stetson College of Law. Ciera became an attorney to be able to help ensure that individual’s constitutional rights are protected, especially those who belong to marginalized groups. Her goal is to one day effect change on a large scale through either the judiciary or legislature.

1. 469 F. 2d 466 (10th Cir. 1972).
2. 416 U.S. 351 (1974).
3. 550 U.S. 618 (2007).

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BLUE INDICATES BAR EVENT; PURPLE INDICATES SECTION CLE

| JULY | Time | Event/CLE |
|--------------------|---------------|---|
| July 6, 2020 | 12-1pm | Town Hall with Judge Campbell |
| July 7, 2020 | 12-1pm | Town Hall with Judge Helinger |
| July 8, 2020 | 12-1pm | Town Hall with Judge Bulone/Levine |
| July 9, 2020 | 12-1pm | Town Hall with Judge Muscarella |
| July 9, 2020 | 4-5pm | YLS – Conversation with YLS President |
| July 30, 2020 | 12-1pm | Remote Litigation A-Z |
| AUGUST | | |
| August 7, 2020 | 12-1pm | Advanced Zoom Tips and Techniques for Lawyers |
| August 14, 2020 | 10am – 12pm | Mock Family Law Trial |
| August 19, 2020 | 12-1pm | Civility and Good Practice |
| August 19, 2020 | 9-10am | YLS – Java with the Judges |
| August 21, 2020 | 10am – 1:30pm | Family |
| August 27, 2020 | 11-2pm | Criminal |
| SEPTEMBER | | |
| September 4, 2020 | 11:30 – 1pm | September Membership Luncheon |
| September 8, 2020 | 12-1pm | Government |
| September 9, 2020 | 5:30-6:30pm | Cooking Class with Parkshore Chef Tyson Grant |
| September 9, 2020 | 12-1pm | Law Practice Management |
| September 11, 2020 | 12-1pm | Real Property Section Meeting |
| September 17, 2020 | 12-1pm | Civil Trial Law CLE |
| September 17, 2020 | 5:30 – 7:30pm | Honoring Hispanic Excellence Event |
| September 29, 2020 | 12-1pm | Probate |
| September 30, 2020 | 12-1pm | Criminal |
| OCTOBER | | |
| October 2, 2020 | 11:30 -1pm | October Membership Luncheon |
| October 6, 2020 | 12-1pm | Employment |
| October 7, 2020 | 6-7pm | Cooking with Judge Pollack |
| October 8, 2020 | 12-1pm | Employment |
| October 9, 2020 | 4-5pm | ADR Section Meeting |
| October 13, 2020 | 12-1pm | Probate |
| October 14, 2020 | 5:30-6:30pm | Cooking with Judge Meyer |
| October 15, 2020 | 12-1pm | Civil Trial |
| October 16, 2020 | 12-1pm | Professionalism and Chaos - Judges Roundtable |
| October 20, 2020 | 12-1pm | Government |
| October 21, 2020 | 6-7pm | Newlywed Game |
| October 22, 2020 | 12-1pm | Criminal |
| October 28, 2020 | 6-7pm | Scavenger Hunt for Families |
| October 29, 2020 | 12-3pm | Law Practice Management |
| NOVEMBER | | |
| November 4, 2020 | 6-7pm | Cooking Class Parkshore Chef Tyson Grant |
| November 6, 2020 | 1-4pm | Business |
| November 10, 2020 | 12-1pm | Construction |
| November 16, 2020 | 12-2pm | Bench and Bar Plenary Session |

| | | |
|-------------------|---------------|--|
| November 16, 2020 | 2-3pm | Bench and Bar Paralegal Session |
| November 17, 2020 | 2-4pm | Bench and Bar Probate Breakout |
| November 18, 2020 | 2-4pm | Bench and Bar Criminal Law Breakout |
| November 19, 2020 | 2-4pm | Bench and Bar Family Law Breakout |
| November 20, 2020 | 2-4pm | Bench and Bar Civil Trial Breakout |
| DECEMBER | | |
| December 3, 2020 | 12-1pm | Real Property |
| December 8, 2020 | 12-1pm | Probate |
| December 10, 2020 | 12-1pm | Business |
| December 10, 2020 | 6:00-7:30pm | SPBA Holiday Party |
| JANUARY | | |
| January 12, 2021 | 12-1pm | Probate |
| January 19, 2021 | 1-4pm | Law Practice Management |
| January 20, 2021 | 9-10am | YLS – Java with the Judges |
| January 21, 2021 | 12-1pm | Civil Trial |
| January 28, 2021 | 12-1pm | Criminal |
| January 29, 2021 | 12-4pm | Law for Public Officials with Clearwater Bar |
| FEBRUARY | | |
| February 11, 2021 | 12-1pm | Real Property |
| February 12, 2021 | 1-4pm | YLS – Diversity CLE |
| February 12, 2021 | 12-1pm | Government |
| February 18, 2021 | 12-1pm | Civil Trial |
| February 18, 2021 | 6:00-8pm | Judicial Reception - Tentative |
| February 19, 2021 | 12-4pm | Joint Probate Update with Clearwater Bar |
| February 25, 2021 | 1-4pm | Appellate |
| MARCH | | |
| March 5, 2021 | 11:30 – 1pm | March Membership Luncheon |
| March 9, 2021 | 12-1pm | Probate |
| March 11, 2021 | 12-1pm | Construction |
| March 12, 2021 | 12-4pm | Joint Family Law Update with Clearwater Bar |
| March 17, 2021 | 9-10am | YLS Java with the Judges |
| March 18, 2021 | 12-1pm | Civil Trial |
| March 18, 2021 | 6:30 – 8:30pm | Past President’s Reception - Tentative |
| March 19, 2021 | 1-4pm | ADR |
| March 24, 2021 | 12-1pm | Real Property |
| APRIL | | |
| April 2, 2021 | 11:30 -1pm | April Membership Luncheon |
| April 10, 2021 | TBD | YLS - Kayak and SUP Event |
| April 13, 2021 | 12-1pm | Probate |
| April 15, 2020 | 12-1pm | Civil Trial |
| April 16, 2020 | 1-4pm | Real Property/Government Law |
| April 28, 2021 | 3-5pm | Swearing In Ceremony |
| MAY | | |
| May 7, 2021 | 11:30 – 1pm | Law Day |
| May 11, 2021 | 12-1pm | Probate |
| May 19, 2020 | 9-10am | YLS - Java with the Judges |
| May 28, 2021 | 1-4pm | Criminal |
| JUNE | | |
| June 10, 2021 | 5:30-7:30pm | Installation |

Integrating Charitable Gift Planning Into Estate Planning

By Laurie W. Valentine



The overriding goals of estate planning are to provide for loved ones, minimize taxes, and plan for the possibility of future incapacity. In addition, many clients want to leave a legacy, through the way they provide for their family during life and at death and/or through charitable gifts made during life or at death.

Including a bequest to one or more charities in a will or trust is a good option for an individual who wants to make a gift to charity but is not comfortable parting with assets during life. Making the charitable gift through a will or trust allows the person to maintain control over what he or she owns until death and provides estate tax savings, if needed, through the unlimited charitable estate tax deduction.

The only downside to using a bequest to accomplish charitable giving at death is that if all assets are jointly-owned, beneficiary-designated, and/or set up as “payable on death” to named beneficiaries, there will be no assets passing under the will. Clients for whom that is the case should be guided to other options for charitable giving at death, such as designating a charity as either the primary or contingent beneficiary of a life insurance policy. Using life insurance to fund a charitable gift at death offers the opportunity to make a bigger gift than the client may have ever dreamed possible since the premiums paid during life are generally significantly less than the death benefit.

Individual Retirement Accounts (IRAs) can be used for lifetime charitable giving by certain clients as well as for making gifts to charity at death.

IRA owners who are age 70½ or older may make qualified charitable distributions (QCDs) not to exceed a total of \$100,000 each year directly out of their IRAs to public charities. The QCD must be an outright gift to the charity or to an endowment fund for the charity. QCDs are not permitted to donor advised funds, private foundations, charitable remainder trusts, or charitable gift annuities. The QCD is counted towards the IRA owner’s required minimum distribution (RMD) but is not included as part of the IRA owner’s taxable income, thereby saving income taxes. A QCD can be a helpful lifetime charitable gifting option for clients whose gifts to charity and other deductible payments do not exceed the increased standard income tax deduction.

IRAs can also be a great funding source for charitable gifts at death, as using an IRA avoids or reduces the double

taxation that occurs if the IRA owner’s estate is large enough that federal estate tax will be payable at their death and family members or other individuals are named as beneficiaries. The value of the portion of the IRA distributable to charity provides a charitable estate tax deduction and the tax-exempt charity does not have to pay tax on the IRA distributions. Clients who have a charitable bequest in their wills or trusts may want to delete that and direct all or a portion of their IRAs to the charitable beneficiaries and leave other assets to family members and other beneficiaries through their wills or trusts.

Charitable Remainder Trusts and Charitable Gift Annuities are giving vehicles that provide an income stream back to the giver and/or others for life or a term of years, with the remainder payable to one or more charities at the death of the “life income” beneficiary(s) or when the trust term ends. Charitably-inclined clients with “too many eggs in one basket” in the form of a single highly-appreciated security or parcel of investment real estate can gift the appreciated asset to fund a “life income” giving vehicle to diversify investments while avoiding the recognition of all or a portion of the built up capital gains because the gift to the life income giving vehicle is not a sale. A term of years life income giving vehicle can be a good solution for a client desiring to provide funds for all or a portion of the higher education expenses of a child, grandchild, or other young family member. This is also a good option for a client who wants to provide a retirement income for a long-time housekeeper or gardener or support for an elderly relative in a tax efficient manner.

Charitable gift planning should be a part of all estate planning conversations, as charitable giving can not only be a means of “leaving a legacy” but can also help clients accomplish other goals of estate planning.

Laurie Valentine has rejoined the Wills, Trusts and Estates Department of Fisher & Sauls, where she practiced from 1982 to 1993 and was of counsel 1993 to 1999. From 1994 to September 2017, Ms. Valentine served as Trust Counsel and Chief Operating Officer of the Kentucky Baptist Foundation (KBF) in Louisville, Kentucky. Ms. Valentine concentrates her practice in the areas of planning for federally taxable estates, will and trust preparation, probate and trust administration, planning for children and future generations (both minors and beyond), charitable gift planning, special needs planning, business succession planning, and guardianship.



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What's Up & Who's New

The Profit Partners Chapter of Network Professionals International in Clearwater has appointed **Jennifer Codding** to serve as its new Program Chair. Codding practices real estate litigation with the **Massey Law Group** in St. Petersburg.

Thomas D. Sims, a partner in the St. Petersburg office of **Johnson, Pope, Bokor, Ruppel & Burns, LLP**, has been named to the Board of Directors for The James Museum that was formed in November 2019.

Hill Ward Henderson advised Asbury Automotive Group (NYSE: ABG) in its acquisition of 12 new vehicle luxury franchises from Park Place located in the Dallas/Fort Worth market. The acquisition is the largest in Asbury's history, with a goodwill value of \$685 million and acquired revenues of \$1.7 billion on an annualized basis. The deal was completed on August 24.

Older Lundy & Alvarez, a multi-service law firm, opened a fourth office location in Clearwater on September 1, 2020. The new Pinellas location is currently the law office of Koch & Hoffman, P.A. Koch merged his practice into Older Lundy Alvarez & Koch and Koch, along with associates Susan Hoffman and Jaime Girgenti, will become a part of the firm's Marital and Family Law Practice Group.

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Fred G. Minnis, Sr. Bar Association

Connecting the Community, Inspiring Equality



By Constance D. Coleman

Joining Together for Justice

The news features African American families seeking justice, distraught over the deaths of loved ones. Nationwide racial tension feels palpable. Thankfully, the Pinellas County legal community is taking action, and the Fred G. Minnis, Sr. Bar Association is here to help.

Yes, local commitment to change is apparent. From the Clearwater Bar Association's hosting of *Conversation with Colleagues: Strategies to Face Race* to the Lawyers March for Equal Justice in both Tampa and Saint Petersburg, the local legal community is promoting equal access and justice for all. The Fred G. Minnis, Sr. Bar Association, community leaders, fellow lawyers, and concerned citizens are making a difference in Pinellas.

It's no surprise that in this fight against racial injustices and biases, we will undoubtedly accomplish more as a collective unit. Maximum results can only be achieved when our differences are recognized; however, our differences should not become a barrier to equal treatment and equal access.

We're all in this together. And the role of the Fred G. Minnis, Sr. Bar Association, to protect the civil rights of the historically disadvantaged, is being actively sought today. Its members strive to serve as a conduit for change and fairness.

Outreach of Fred G. Minnis, Sr. Bar Association Honors Legacy of Equality Pioneer

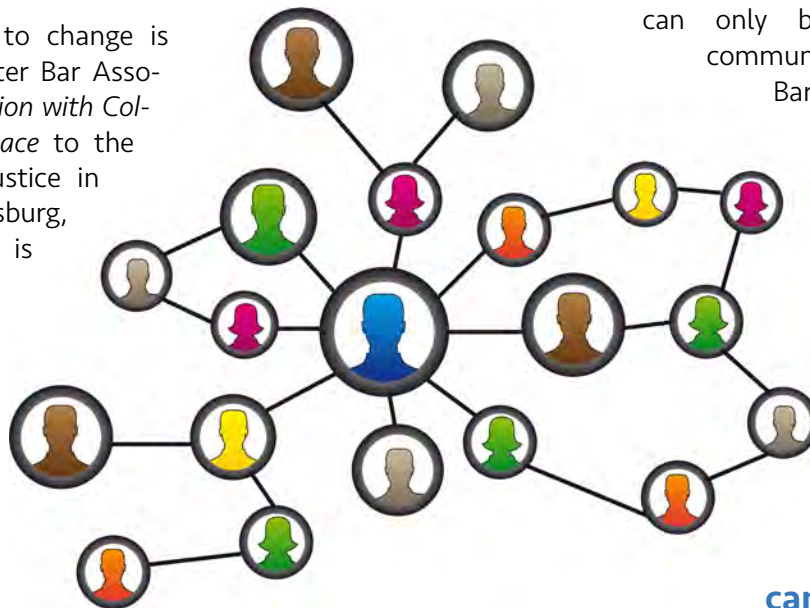
I often wonder of the struggles Fred G. Minnis, Sr. experienced in 1956 when he opened the doors to his law practice on 22nd Street in South St. Petersburg. It couldn't have been easy. Did he have a host of attorneys ready and willing to step up and help those who disproportionately face injustice? Thankfully, we do.

A consummate legal professional, Minnis, Sr. had a drive and dedication that paved the way for those who follow in

his footsteps. The Bar Association that bears his name and was founded in 2000 maintains its mission to promote and provide a support system for talented minority lawyers in Pinellas County and to promote justice and education in the surrounding communities.

It's apparent that this mission of equality can only be accomplished through community unity. The St. Petersburg

Bar Association recognized this by offering free membership to Minnis Members for the 2020-2021 year; the Clearwater Bar Association offers reciprocity membership to its members. Lawyers and judges alike have joined the Fred G. Minnis, Sr. Bar Association to demonstrate solidarity.



Be the change. We can help.

So, what can you do? Continue to talk with one another. Share your thoughts and beliefs. Keep an open mind; we are never too old to change or too stagnant to adopt new thoughts and new ideas. At the Fred G. Minnis, Sr. Bar Association office, the phone continues to ring, and the person on the other side has the same question as the last caller: *What can I do to help?*

Keep calling. We can stand together for human decency and the rights of all to equality and justice. It takes a community to invoke change, and our community is embracing this tenet.

We are stronger in numbers.

Fred G. Minnis, Sr. Bar Association

Learn more at: <https://minnisbar.com>

Constance D. Coleman is the founding attorney of the Coleman Law Group, PA. She is also the President-Elect of the Fred G. Minnis, Sr. Bar Association. Ms. Coleman practices personal injury law in Florida and has been a member of The Florida Bar since 2009. She can be reached at constance@clgfl.com.



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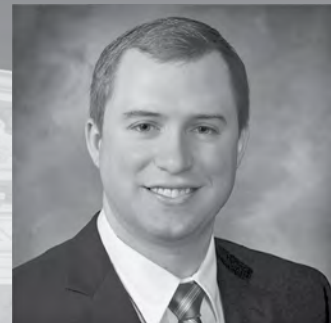
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Standing Together as One Despite Our “Differences”

The COVID-19 pandemic has caused disorder and unprecedented challenges across America and the rest of the world. Countless people have endured immeasurable pain and suffering associated with contracting the disease or losing a loved one who has succumbed to the disease, financial troubles, and businesses permanently shutting down. In the midst of all the chaos the nation faces, the Asian American community took another hit – increased racism, discrimination, and anti-Asian attacks.

Asian Americans face the same challenges and tribulations as the rest of the country. Yet, the pandemic has exposed the implicit bias and prejudice that some have against Asian Americans. Asian Americans have been victims of verbal and violent physical attacks for no reason other than their race. From hate speech to dirty looks, innocent Asian Americans are suffering and being targeted simply because of how they look. Using the terms “Wuhan virus” or “Chinese virus” to describe COVID-19 has also seemingly painted Asian Americans as the enemy during this pandemic.

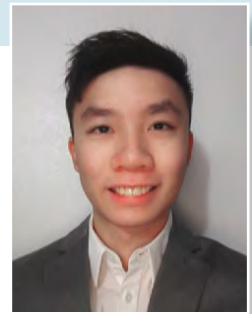
What has transpired over the past months produced fear in many Asian Americans. Not only is there fear of the actual disease, fear of their daily interactions with others now also exists. But why should this be tolerated? No one should have to fear being discriminated, hated, or unwanted by their neighbors. No one should have to fear that their business will suffer because the public is purposefully avoiding them. No one should have to fear going to the store or wearing a face mask because others might act dangerously based upon unfounded biases. No one should have to fear being assaulted

and attacked, simply for existing in the same space as others. No one should have to deal with these fears; yet these fears have increasingly plagued the Asian American community every day since the pandemic began.

Without a doubt, the pandemic understandably has created frustrations and feelings of hopelessness. Lives have been significantly altered, and numerous restrictions have been placed. Indeed, there is great uncertainty as to what the future will hold. Times like these will naturally create stress, anger, and other unpleasant emotions. People will want to find something or someone to blame. However, please be reminded that the Asian American community is not the enemy and Asian Americans are not to blame.

Discrimination and racism have no place in our community, and attacking Asian Americans does nothing but create more division in the nation. During these challenging times, it is particularly important for us to be united. Rather than attacking and hating an innocent population, let this pandemic be an opportunity to encourage one another. Let us use our “differences” to overcome a common problem. Together, America can rise from COVID-19 a greater and stronger country, but we must stand together as one.

Tik Sang Kwok, Stetson University College of Law, JD Class of 2022. Member, Asian Pacific American Bar Association of Tampa Bay.



By Tik Sang Kwok



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Judge Ramsberger commands an understanding of the complete court file, the material issues, and the pertinent law. He displays a very high level of professionalism and courtesy which, in turn helps maintain the expectation that lawyers should behave in the same fashion. Win or lose, it is a pleasure to practice before Judge Thomas Ramsberger because you know that he cares and has carefully considered both sides.



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J. S. Lucas Fleming

Excerpt from Nomination Received:

Lucas has always displayed the highest level of honor, integrity, and fair advocacy in dealing with his clients, opposing attorneys, and the court. Lucas is an incredibly honest and open person. Lucas's most significant contribution to our legal community is his generosity with his time and his enduring commitment to improving our local bar.



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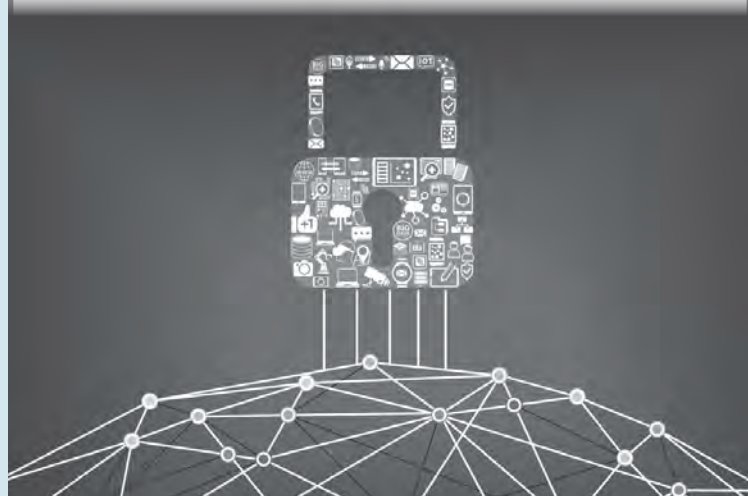
Excerpt from Nomination Received:

Catherine continually went above and beyond the call of duty. She worked tirelessly to provide relevant education, secure sponsors, provide valuable Bench and Bar content, spearhead a community service project for the YLS, and assist with creative programming such as yoga in the park. Catherine met every challenge with enthusiasm and energy.

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The 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 Kimberly Rodgers

Much has been done on a local, state, and national level to help people impacted by COVID-19 avoid becoming homeless. Despite these efforts, legal aid organizations like ours are seeing record numbers of people facing eviction. The need for help will only get worse once these stop-gap measures expire.

Community Law Program has been hard at work designing a new program that will hopefully provide some



long-term solutions in our community for all parties involved – tenants, landlords, and our courts. This program is called Pinellas Eviction Diversion Program (PEDP). The key service offered by

this program is mediation in a virtual setting. Through this program, we can expeditiously arrange a virtual mediation session at any stage of the eviction process. Recognizing, however, that other services beyond mediation are needed to help remedy an inability to pay rent, and ultimately, to keep an individual or a family from becoming homeless, this program will also make available at one central entry point the following additional services: (1) free legal assistance; (2) expedited help applying for financial assistance to pay past due rent; and (3) help finding a new place to live.

To qualify for these services, a tenant must: (1) reside in Pinellas County; (2) be economically impacted by COVID-19; (3) have household income that does not exceed 200% of federal poverty guidelines; and (4) not have an eviction final judgment on his/her record within the last 12 months. For the mediation service, which is purely voluntary at this point, we will attempt to obtain a written agreement to mediate by both sides. Once we have that agreement, we'll schedule the mediation to occur via Zoom with a Florida Supreme Court certified mediator. If an agreement is reached at mediation, the mediator will prepare a Stipulation to be signed by all parties using DocuSign technology. In post-filing cases, this Stipulation can be filed with the Court by the mediator.

Alone, we could not provide all of these services; I am thrilled to report that we have received a generous grant from the Pinellas CARES Nonprofit Partnership Fund to launch this exciting new project. We are partnering in this effort with Bay Area Legal Services, Gulfcoast Legal Services, Stetson

University College of Law, the Homeless Leadership Alliance, and 211 Tampa Bay Cares. In addition, two local grassroots organizations, Dab Community Services and Community Development and Training (CDAT), are also helping us spread the word about these services within communities of color, who are disproportionately impacted by COVID-19 and who are more often renters than homeowners.

We have also hired some additional staff at CLP to help us operate this new program. Mercy Roberg, Esq., joins us as



our newest Staff Attorney/Director of Operations. Mercy worked most recently as the director of the Office of Professional Education at Stetson.

Lynn Murphy, J.D. joins us as our Mediation Director.



Lynn is a family and county court certified mediator with years of experience as both a mediator and as an attorney, having managed a law firm in Charleston prior to relocating to Florida and pursuing mediation full-time. Mercy can be reached at mroberg@lawprogram.org and Lynn can be reached at lmurphy@lawprogram.org. Please join me in welcoming Mercy and Lynn to our team! Two additional temporary employees will be joining our team in October to assist with client intake and mediation coordination.

If you know someone who could benefit from the services of the Pinellas Eviction Diversion Program, please have him/her reach out to us at (727) 582 – 7475. By the time you read this column, we will also have a new website dedicated to this program with an intake portal for tenants, landlords and management companies and new social media channels. Stay tuned for more updates on the website and join us on social media! Also, if you are interested in pro bono opportunities related to this or any other CLP project, please visit the CLP website at <https://lawprogram.org/attorneys>. We couldn't do what we do without the support of the St. Petersburg Bar Association and the donation of time, talent, and treasure of so many of you in the legal community.

Kimberly Rodgers is the executive director of Community Law Program, a 501(c)(3) non-profit corporation formed in 1989 by members of the St. Petersburg Bar Association concerned about the unmet civil legal needs of the poor in our community.



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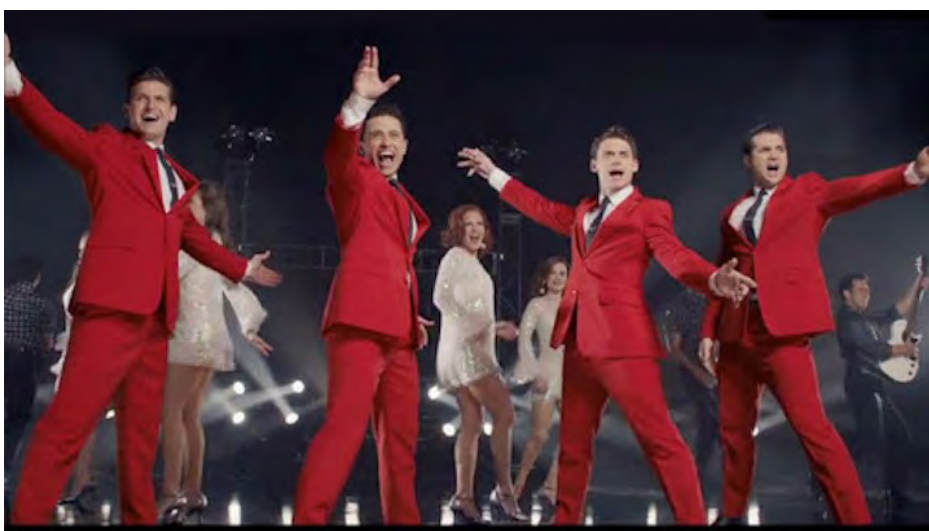
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Big Boys Don't Cry: Federal Appeals Court Rejects Copyright Infringement Claim Against Jersey Boys Musical

By David R. Ellis



In a case decided by the U.S. Court of Appeals for the Hollywood Circuit, also known as the Ninth Circuit Court of Appeals, a three judge panel ruled that the authors of the award-winning Broadway musical, Jersey Boys, did not infringe the copyright in the autobiography of one of the members of The Four Seasons, the famous 1960's band led by Frankie Valli. *Corbello v. Valli*, 2020 WL 5361461 (9th Cir. 2020).



Seasons." He contrasts the work with inaccurate accounts that others had published, notes his "candor," and asserts that this is a true behind-the-scenes depiction of the band.

For several years, Corbello tried to get the book published but was unable to do so. In 2005, she contacted DeVito to discuss her continuing interest in publishing the work, but was rebuffed. Soon afterwards, Jersey Boys debuted on Broadway. It was a smash hit, winning four Tony Awards, and Corbello hoped that the show would renew interest in the band, so she took steps to confirm the registration of Woodard's and DeVito's copyright in the book.

When she checked the records of the U.S. Copyright Office, she learned that shortly before Woodard's death in 1991, DeVito had registered the work solely in his own name. Corbello was eventually able to secure recognition of Woodard as co-author of the copyrighted work, without DeVito's cooperation, and registered the copyright in 2007. Corbello also learned through news

accounts that DeVito had provided the musical's writers with a copy of the work while creating the production and that DeVito was profiting from its success.

Corbello sued DeVito in 2007 for breach of contract, an equitable accounting, and copyright infringement. Ultimately, she sued fourteen defendants in all, including band members DeVito, front man Frankie Valli, and Bob Gaudio, as well as writers, directors, and producers of the musical. DeVito subsequently settled with Corbello, and the case went up and down through the federal courts for thirteen years, including a jury trial and multiple appeals.

In this appeal, the principal question was whether the defendants had infringed Woodard's copyright in the autobiography. The defendants claimed that although the plaintiff's work and defendants' musical were similar in many respects, whatever was copied by the defendants were unprotected elements, namely historical facts rather than expression protected by copyright.

Under Section 102 of the U.S. Copyright Act, 17 U.S.C. § 102, copyright provides protection for "original works of

The lawsuit was brought by Donna Corbello, widow of Rex Woodard, an attorney, writer, and devoted fan of the band, who partnered with one of the original band members, Tommy DeVito, in the late 1980s, to write a book telling "the whole story" of The Four Seasons. The two produced an autobiography of DeVito that was ghostwritten by Woodard and completed in 1991, shortly before Woodard died.

According to the court, Jersey Boys depicts the history of the popular musical quartet, The Four Seasons, from its origins in New Jersey in the 1950s to its induction in the Rock and Roll Hall of Fame in 1990. The show includes such Four Seasons hits such as "Walk Like a Man," "Big Girls Don't Cry," and "Sherry" and recreates the band's musical legacy on stage. Beginning in 2005, Jersey Boys ran on Broadway for over ten years, toured the country repeatedly, and was adapted as a movie in 2014.

The book reads as a straightforward historical account and is presented as an autobiography, with DeVito listed as a co-author. In the book, DeVito, as the narrator, describes his book as the "complete and truthful chronicle of The Four

authorship fixed in a tangible medium of expression,” and does not extend to any underlying “idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.”

Here, the court said that the allegedly infringed book is a work of historical fact, as recounted by DeVito with the assistance of Woodard’s writing skills. The creative aspects of the book do not generally concern things like character, plot, and setting, but rather writing style and presentation. Neither DeVito nor Woodard created or even claimed to have created any characters, plot lines, settings, etc. So, although the creative expression in their book — the “writing style and presentation” — is protected by copyright, the historical elements presented in the book are not.

The two works clearly were similar in many respects, but that is because they were both based on the same set of historical facts. Likewise, they both included common phrases and “scenes-a-faire” (scenes that are “indispensable, or at least standard, in the treatment of a given idea”), and elements that were treated as facts in the book and are thus unprotected by copyright, even though some of them were later challenged as made up by DeVito. The court found that Valli and the other defendants did not violate the plaintiff’s copyright by depicting in the play events in their own lives that were also described by DeVito and Woodard in their book.

Thus, the court’s decision rested on the proposition that facts, in and of themselves, may not form the basis of a copyright claim, particularly a nonfiction biography which is necessarily structured around historical facts and events, which are not themselves copyrightable. Accordingly, because the authors and producers of Jersey Boys did not copy any protected elements of the plaintiff’s book, the court concluded that the defendants had not infringed the plaintiff’s copyright.

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David R. 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 is the author of the book, A Computer Law Primer, and has taught Intellectual Property and Computer Law as an Adjunct Professor at the law schools of the University of Florida and Stetson University. He can be reached at 727-531-1111 and ellislaw@alum.mit.edu. For more information, please see www.davidellislaw.com.



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Not Just Your Average SPBA Soiree for the Average Advocate



By John M. Stokes

Hi everyone, this is John M. Stokes, the SPBA's own "Average Advocate" with a recap of a recent memorable SPBA event.

We all know the daily grind: the multitude of telephone calls that nearly create a hermetic seal between our ears and the telephone receiver; client demands that are always worthy of an emergency hearing (per the client), though realistically few are; and those delightful vendor solicitation calls that cap off an otherwise perfect day!

Naturally, what Average Advocate wouldn't want to come home and immediately fire up the Zoom© app to commiserate with fellow bar members, rather than a quiet evening with the family. But that is exactly what your Average Advocate, and my partner Mrs. Advocate, did on the evening of September 9, 2020.

Let the word go forth, if you want to learn to cook virtually with a world class chef, then Owner/Chef Tyson Grant of downtown St. Pete's Parkshore Grill is your "Cuisinier"! A wondrous evening of culinary learning (we made a luscious seafood risotto), buffered with

healthy doses of "fruta de vino, de la casa" was had by all!

If you've ever dined at Parkshore Grill, then you know Chef Tyson is known for his superb steaks. That said, one would be forsaking one of life's gastronomic delights if you didn't check out the house's risotto.



Those who attended got the best of both culinary worlds! Chef Grant, on behalf of all in attendance we salute and sincerely thank you for a memorable night out, that was had in, by all!

John Montgomery Stokes is a partner at the Stokes Law Firm on Central Avenue. He is a "Double Gator" graduate of the University of Florida, obtaining a bachelor's degree in economics in 1983 and his juris doctorate in 1986. Stokes was also a member of the University of Florida Trial Team and was an adjunct professor at UF's law school from 1990-1992. He concentrates his practice in the areas of criminal defense in both state and federal courts, and personal injury litigation. To date, he has tried over three hundred (300) cases to verdict.





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Increased Partnerships – agreement with Fred G. Minnis, Sr., Appoint SPBA Board Liaison

Focus on Diversity – Diversity Committee with new members

Foster Inclusion – host roundtable with community and bar member stakeholders and Stetson stakeholders to determine 2020-21 Objectives; Meet with Sarasota Bar Diversity Council Representative

October Luncheon – SPPD Chief and Leon Jackson (Courageous 12)

Diversity Symposium – address diversity, inclusion, equality topics including unconscious bias training

Paraclete – articles that support diversity/inclusion topics and submissions from diverse authors

Diversity in CLE's – substantive law diversity topics with diverse speakers – Equity in Sentencing (Criminal), Employment Law Challenges Facing Black Americans (Employment), LGBTQ Considerations in Estate Planning (Probate)

Honoring Hispanic Judiciary – Judge Irizarry will be recognized in Hispanic Excellence Event

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Fostering Fun Family Events – cooking classes with local chefs, cooking classes with the judiciary, “Newlywed Game” for couples, scavenger hunt for families

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