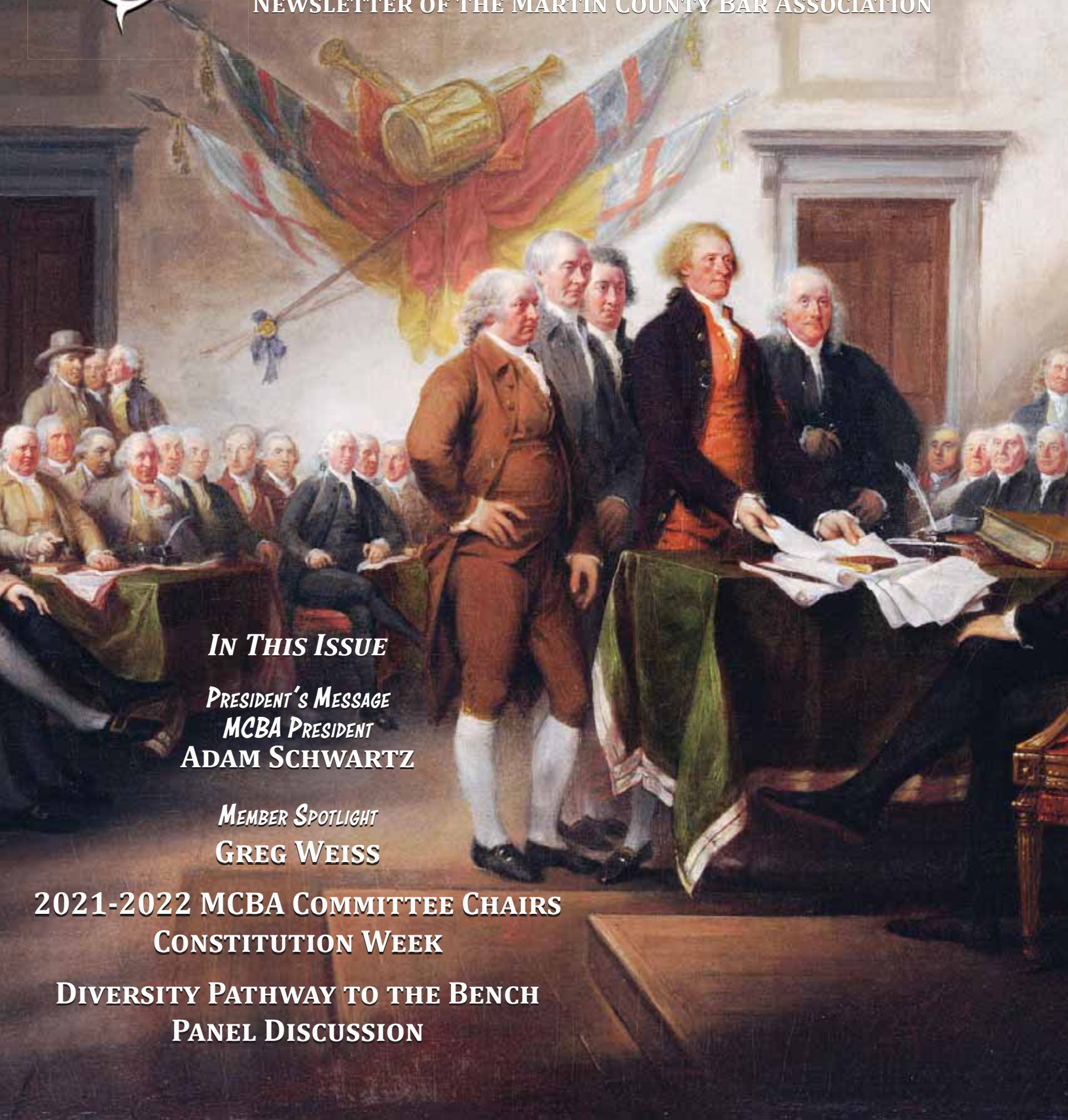


SEPTEMBER 2021



# The SideBar

NEWSLETTER OF THE MARTIN COUNTY BAR ASSOCIATION



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## THE SIDE BAR NEWSLETTER

Published monthly, excluding June & July, by the Martin County Bar Association as a service to its membership.

If you have an article, opinion, news or other information for publication in the *SideBar*, please call (772) 220-8018 or email information to: [martincountybarassociation@msn.com](mailto:martincountybarassociation@msn.com)

The due date for all advertisements, articles and announcements is the 1<sup>st</sup> of the month preceding publication.

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**Barbara Kibbey Wagner**

**Executive Director:**  
**Robyn O'Heron**

**Florida Bar Board  
Of Governors Representative**  
**Gregory Weiss**

## Past Presidents of the Martin County Bar Association

William R. Scott - 1955 – 1958  
Evans Cray, Jr. - 1958 – 1959  
Hon. Pfeiffer Trowbridge -  
(Subsequently Elected to Bench) 1960  
Thomas H. Thurlow - 1960 – 1961  
William A. Oughterson - 1963 – 1964  
William F. Cray - 1965 – 1966  
Robert F. McRoberts, Jr. - 1966 – 1967  
Thomas H. Thurlow, Jr. - 1967 – 1968  
Larry E. Buchanan - 1971 – 1972  
C. Norris Tilton - 1972 – 1973  
Richard J. Dungey - 1979 – 1980  
Hon. F. Shields McManus - 1981 – 1982  
William Dale Anderson - 1982 – 1983  
John H. Fenniman - 1983 – 1984  
Wesley R. Harvin - 1984 – 1985  
James L. S. Bowdish - 1985 – 1986  
W. Thomas Wackeen - 1986 – 1987  
Thomas E. Warner - 1987 – 1988  
Douglas Sands - 1988 – 1989  
Vicki Junod -  
(First Female MCBA President) 1989 – 1990  
George F. Bovie, III - 1990 – 1991  
Stephen C. Page - 1991 – 1992  
Jane L. Cornett - 1992 – 1993  
Walter G. Woods - 1993 – 1994  
Richard Kibbey - 1994 – 1995  
Lee David - 1995 – 1996  
William F. "Rick" Cray, II - 1996 – 1997  
Frederick G. Sundheim - 1997 – 1998  
Hon. William L. Roby - 1998 – 1999  
Hon. Barbara W. Bronis - 1999 – 2000  
Sheila D. Biehl - 2000 – 2001  
Deborah B. Beard - 2001 – 2002  
Jack M. Sobel - 2002 – 2003  
Hon. Darren Steele - 2003 – 2004  
Edwin E. "Ted" Mortell - 2004 – 2005  
Richard H. Levenstein - 2005 – 2006  
Portia B. Scott - 2006 – 2007  
Hon. Alan Orantes Forst - 2007 – 2008  
Linda L. Weiksner - 2008 – 2009  
Scott W. Konopka - 2009 – 2010  
Preethi Sekharan - 2010 – 2011  
Shaun T. Plymale - 2011 – 2012  
Gregory S. Weiss - 2012 – 2013  
George W. Bush, Jr. - 2013 – 2014  
Hon. Jennifer Alcorta Waters - 2014 – 2015  
Chad H. Hastings - 2015 - 2016  
Mark Miller - 2016 - 2017  
Elizabeth R. Hunter - 2017 - 2018  
Barbara A. Kreitz-Cook - 2018 - 2019  
Jason D. Berger - 2019 - 2020  
Barbara Kibbey Wagner - 2020 - 2021



# Message From the President

Martin County Bar President - Adam G. Schwartz, Esq.

Dear Members,

We hope you enjoyed the Family Beach day and our August luncheon speaker, **Tom Barnett**. We look forward to welcoming Florida Supreme Court **Justice Jamie Grosshans** at our September luncheon on September 17, 2021. We hope you are able to join us. Justice Grosshans is currently the only female serving on our Supreme Court and was appointed by Governor DeSantis. Justice Grosshans is originally from Mississippi and is reputable as a brilliant jurist and lawyer. We are grateful she can join us.

If you are able, please participate in our Constitution Week teaching this September 17, 2021. It is very rewarding. Please watch for announcements.

If your practice of law involves going to Court, please review the new Administrative Order 2021-11 issued by Chief Judge Schwab on August 2, 2021, addressing continued Covid-19 reopening procedures and Court operations for second protocols.

If your practice of law involves going to Court, please have patience with our Court system and all those who work tirelessly to support our Court systems. Everyone is facing backlogs. The Florida Supreme Court requires timely movement of cases. Remote proceedings are again required for all but a narrow set of court hearings/trials. Foreclosure and eviction moratoriums have lifted (except for FHA insured loans, where there is still an eviction moratorium until September

30, 2021). Numerous new civil cases are going to be filed. It will take the leadership and grace of you, our members, as community leaders to help the public maintain its confidence in the legal system as we move forward. Civility and professionalism. Nothing less should be tolerated. Appreciate the blessed opportunity to be able to continue to work and support yourself, your family, and your community through these troubled waters.



*“The world has enough beautiful mountains and meadows, spectacular skies and serene lakes. It has enough lush forests, flowered fields, and sandy beaches. It has plenty of stars and the promise of a new sunrise and sunset every day. What the world needs more of is people to appreciate and enjoy it.” — Michael Josephson*

Yours Truly,

Adam Schwartz  
2021-2022 MCBA President

### Don't miss out! Renew Your Membership Now

Benefits of your MCBA membership include:

- Monthly CLE Luncheons at NO COST
- Networking Opportunities
- Listing on MCBA Website - with professional headshot and contact information included
- Inclusion in our Referral Program – Members by Practice Area
- Mentoring through our “Lawyers mentoring Lawyers” Program
- FREE Law Library CLE Benefits
- Bench Bar Conference, Judicial Reception, Annual Installation Dinner and other events

Don't forget, MCBA members are eligible to participate in the Courthouse Badge Program

Download the registration form at: [www.martincountybar.com](http://www.martincountybar.com) and go to Members Tab

## Welcome New and Renewal Sponsors

### New Sponsors

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### Annual Sponsorship Opportunities Available

Opportunity for Year-Round marketing exposure with Martin County Bar Association's Membership!

The Annual Sponsorship Program provides your firm continuous, repeatable marketing presence and networking opportunities with MCBA's membership through:

- Greater exposure on-line; in-print; and during monthly meetings
- Person-to-person networking
- Increased recognition
- Building more meaningful relationships with colleagues

Benefits include visibility on MCBA's website, inclusion on member email blasts, signage at Bar events, advertising in the SideBar and complimentary tickets to the Fall Reception and Annual Installation Dinner.

There are sponsorship packages for law firms and businesses of all types, sizes and marketing budgets.

**Visit the Sponsor page of the MCBA website or contact Robyn O'Heron  
at [martincountybarassociation@msn.com](mailto:martincountybarassociation@msn.com) for details.**

# Please Join Us!

The Martin County Bar Association (MCBA) will welcome Florida Supreme Court Justice Jamie Grosshans as the guest speaker at our monthly luncheon meeting on Friday, September 17, 2021 at Monarch Country Club for networking begins at 11:30 a.m. and lunch will be served promptly at noon.

Justice **Jamie R. Grosshans** was appointed to the Florida Supreme Court on September 14, 2020 by Governor Ron DeSantis. Previously she was appointed to the Fifth District Court of Appeal in 2018 by Governor Rick Scott. Prior to her appointment to the appellate court, she served as an Orange County Court Judge in the Ninth Judicial Circuit of Florida where she presided over criminal and civil matters.

Justice Grosshans was raised in Brookhaven, Mississippi and graduated cum laude from the University of Mississippi School of Law. During law school, she clerked for the Civil Rights Division of the Department of Justice in Washington, D.C., and the United States Attorney's Office for the Northern District of Mississippi. Following admittance to the Florida Bar, she served as an Assistant State Attorney for the Ninth Circuit of Florida in both the misdemeanor and felony divisions where she tried numerous criminal jury trials.

Justice Grosshans later entered private practice and founded her own law firm where she focused on family law and criminal defense matters for nearly ten years. During this time she also served as an Adjunct Professor at Valencia College where she taught Hospitality Law for the Hospitality and Tourism Management Program. She also frequently volunteered as a guardian ad litem with the Orange County Legal Aid Society. Justice Grosshans has served on state court system advisory committees and has been involved in numerous activities with the Florida Bar and other legal organizations.

Justice Grosshans regularly speaks to lawyers and law students on topics such as challenges in the practice of law, the role of judges, professionalism and respect in the legal profession, criminal law, and family law.

Justice Grosshans' topic will be: The Florida Constitution: Securing the Benefits of our Constitutional Liberties. We look forward to an insightful and engaging program and are looking forward to seeing everyone in-person. The lunch is free to MCBA members and Judges. Guests are welcome to attend and pay the \$30 guest fee at the door (cash or check only).

**RSVP IS REQUIRED** on or before 5:00 p.m. **FRIDAY, AUGUST 13, 2021** by calling 772-220-8018 or emailing [martincountybarassociation@msn.com](mailto:martincountybarassociation@msn.com).



**Justice  
Jamie R. Grosshans**

**In order to expedite gate access for everyone,  
please be sure to RSVP by the deadline.**

The Martin County Bar Association  
& Diversity Committee invite you

Diversity Pathway to the Bench Panel Discussion

Tuesday, October 5, 2021

5:00 – 7:00 p.m.

Martin County Courthouse

Panelists:

**Honorable Darrin P. Gayles** – United States District Judge Southern  
District of Florida

**Honorable Shaniek M. Maynard** – United States Magistrate Judge Southern  
district of Florida

**Honorable Cymonie Rowe** – Judge, 15<sup>th</sup> Judicial Circuit



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## Member Spotlight

### Greg Weiss



#### Education:

Undergrad? University of Florida

#### Law School?

University of Florida

**How long have you been practicing law?**  
22 years.

#### Why did you want to be an attorney?

I always wanted to be on my feet in the courtroom, which was potentially influenced by television shows like L.A. Law and Old Ironsides.

#### What do you like most about it?

Delivering closing argument.

#### What don't you like?

Time away from my family.

#### What are the biggest changes you have seen through the years?

Discovery of, and litigation over, electronically stored information.

#### How do you define success?

Delivering a result for my client.

#### Who Inspires you?

My late father.

#### Who has been the most influential person in your career?

I have been fortunate to have many professors, mentors and colleagues who have helped me understand and refine how I practice. I would have to start with Prof. Elizabeth Lear, who taught me Federal Courts my third year of law school, and include all of my law firm partners, Scott Konopka (my fraternity

big brother), Dan Thomas (my law school section-mate and roommate), Alan Rose, Roy Fitzgerald and Lou Mrachek.

#### If you could choose anyone as a mentor, who would you choose?

What is the best piece of advice you have ever received? When you are in the well of the courtroom, you are on equal footing with everyone else in the courtroom. Always be respectful, but never forget that you must advocate for your client on level ground with opposing counsel and the Court.

#### What advice would you give to someone looking to become an attorney?

Begin the practice of law trying cases, lots of cases, because a litigator must understand that litigation should mainly involve marshalling facts to present to the trier of fact in closing argument.

**If you weren't an attorney, what would you be doing?** Fantasy: boat captain or professional triathlete. Reality: stay at home dad.

**What's on your bucket list?** Captaining my own boat from Florida to the British Virgin Islands and back.

**If you could visit anywhere in the world, where would you go?** That's tough. Too many places to list. India. Mt. Everest. South Africa. Tahiti. ...

Continued On Next Page . . .



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**If you could have dinner with any person, alive, dead or fictional, who would it be and where would you go?**

Jules (Samuel L. Jackson) from Pulp Fiction. Or Barney Greenwald, the defense counsel in The Caine Mutiny. Their choice of venue.

**What is something that not many people know about you and might be surprised to learn?**

I have always wanted to buy a Land Rover Defender 90, and I am always searching for "the one" I will actually buy.

## Young Lawyers Division

Jeanette Lugo - Chair



The YLD is happy to welcome everyone back to what we hope will continue to be the beginning of more in-person events.

With that spirit in mind, we hope you will join us on Friday, **September 13, 2021** at **The Hoffman** (3825 NE Indian River Drive, Jensen Beach FL. 34957) at 5:30 PM for some good conversation and a fun evening!

We look forward to seeing some new faces and if you have any questions regarding YLD or this event, please do not hesitate to contact Jeanette M. Lugo ([jlugo@wmrfla.com](mailto:jlugo@wmrfla.com)).

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# The Martin County Bar Association Golf Tournament is ON for 2022!!!!

We're very excited that the MCBA Golf Tournament is back on for 2022. We hope to announce the golf course and date soon but no matter what, we will be playing on a luxurious course sure to be enjoyed by all. Don't worry if you aren't a good golfer. The tournament format makes it fun for all skill levels, (including those of us with no skill levels at all), because we'll "scramble," meaning that after all four golfers take their turn, only the best shot counts. The other three players pick up and move their ball to the spot where the best shot ended before all four hit again. This format keeps the game moving and eliminates (or at least reduces) any fretting over bad shots.

We'll start off with a continental breakfast, followed by the golfing (4 hours, more or less), followed by lunch - at which time the winners will be announced). We'll have a low "gross" category (to be won by the team with the best true score, earning them the honor of having their names engraved on the Trophy Cup and possession of it until next year's tournament); but we'll also have trophies for teams with the best "net" scores (based on each player's reported handicap).

The tournament has been one of our most effective vehicles for raising scholarship funds to be awarded to local high school seniors. Each year, the Scholarship Committee conducts an essay contest and awards the three top essayists a total of \$5,000 to be used for college. The winners are announced during ceremonies held in their respective high school auditoriums. Not only are the recipients grateful, but the entire assembly of local businesses and charitable organizations hears of our organization's good deed. Showing our generous, charitable side contributes to the community's goodwill.

In past years, the tournament attracted so many sponsors and prize donors that every entrant won something. Sign up as a foursome and save

a bit or enter individually and we'll team you up with others. We guarantee you'll enjoy the comradery in a beautiful setting while doing something to benefit three deserving local high school seniors.

We can always use more volunteers to contact potential sponsors and players and to load and distribute "goodie bags" to the players, so if you can help, please contact our Association's amazing Executive Director, Robyn O'Heron at (772) 382-9076 or via email to martincountybarassociation@msn.com, and please stay alert for more details, including the golf course and date, and be ready to get your sponsorship and entrance forms in. We hope to see you there! - Jack Sobel



Jack Sobel  
Chair

## Personal Injury Trial Attorney JACK SOBEL

Board Certified Civil Trial Lawyer



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& Weston*

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jsobel@dwinjurylaw.com

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**Don't forget to get your copy of The Judge's Lawyer available on Amazon.**

# MCBA Small and Solo Practice Committee



## It's been a while... Networking Happy Hour

Thursday,  
September 9th  
5:30pm - 7:00pm

District Table & Bar  
4665 SE Dixie Hwy  
Stuart

Drinks are on your own



Kathy McHale  
Chair

RSVP by September 8<sup>th</sup> to  
Kathy McHale  
Kathy@KMcHaleLaw.com

## WORKERS' COMPENSATION TRIAL ATTORNEY

### Jeffrey M. Friedman



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# Bankruptcy Committee

Jon Martin - Chair

## UCC 9 Sale vs Sub Chapter V - (Part I)



Jon Martin  
Chair

No small business owner wants to file Bankruptcy for himself or his business. As a result, many small businesses fail for lack of taking action that would allow the business to survive.

Few small businesses have the ability to continue to operate and still endure the rigors and the expense of a full-fledged Chapter 11, not to mention the loss of ownership that can occur when a Chapter 11 collapses into a liquidating Chapter 7!

This leaves small business owners (and especially owner/operators) grasping at straws for alternative solutions; many of which serve only to further propel the enterprise and its owners to a devastating end.

Two of the current highly promoted solutions involve either the avoidance of a bankruptcy filing by reducing corporate debt through what is known as a UCC 9 Sale; or, the advantages incorporated in the new Sub Chapter V under Chapter 11 of the Bankruptcy Code. Sub Chapter V was enacted for the sole purpose of making small business bankruptcy a viable, powerful, effective way for small businesses and their owners to completely restructure their company and reduce or eliminate debt, thus reducing debt service and improving cash flow.

A UCC 9 sale can help the business avoid the necessity of filing bankruptcy but requires a change of ownership of the business and relies on cooperation from creditors to resolve matters for the business owner personally. Still, it can be effective for all parties under the right circumstances.

Bankruptcy under the new Sub Chapter V, on the other hand, provides guidelines that take the decision of what's "fair and equitable" and puts decision-making in the hands of the Judge. As long as the rules are followed, debt relief will occur and owners are no worse off than with a UCC 9 sale and the owner retains the business.

Both processes are extremely complex and neither cures underlying issues that forced the enterprise to its knees in the first place. Nevertheless, each serves a unique purpose and is best used in accordance with the surrounding circumstances and objective of the owners.

While you are waiting for Part II it would be wise to contact a professional to get better informed about each process and determine which serves your best interests.

Need more information? Contact a Bankruptcy Committee Member or call Jon L. Martin, Bankruptcy Committee Chair at (772) 834-5021 at [jlj@jonlmartinlaw.com](mailto:jlj@jonlmartinlaw.com).

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Nicola J. Melby  
Margaret E. Wood  
Donna R. McMillan  
Kimberly A. Ryan

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Kenneth A. Norman  
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Jessica VanValkenburgh  
Christen Spake  
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# NEW MEMBERS

## JULY / AUGUST 2021

**James A. Alderman**

University of Florida Levin College of Law, 2019  
Ross, Earle, Bonan & Ensor, P.A.  
Stuart, FL

**Dylan J. Brandenburg**

Stetson University College of Law, 2020  
Brandenburg & Associates, P.A.  
Stuart, FL

**Alexzander D. Gonano**

Nova Southeastern University – Shepard Broad  
College of Law 2010  
Gonano & Harrell  
Ft. Pierce, FL

**Nicole Laliberte**

Crary Buchanan, PA  
Stuart, FL

**Marianne Rahm**

St. Thomas University School of Law, 1999  
Rahm Law LLC  
Palm City, FL

**James F. Sposato**

Brooklyn Law School 1999  
Ritter Chusid, LLP  
Coral Springs, FL

**Yara Lisa Bashoor**

Nova Southeastern University – Shepard Broad  
College of Law 1996  
Sewalls Point, FL

**Jami L. Duckson**

University of Florida Levin College of Law  
Palm City Law  
Palm City, FL

**Judith Ann Just**

Brooklyn Law School  
Judith Ann Just Attorney, P.A.  
Jensen Beach, FL

**Eric Marc Levine**

Harvard Law School 2008  
Akerman LLP  
West Palm Beach, FL

**Trevor J. Sherrard**

Sherrard Law Group  
Stuart, FL

**Ora Jean Strickland**

University of Miami School of Law 2018  
U.S. District Court - Southern District of Florida  
Ft. Pierce, FL



# SouthState

# Constitution Week

## VOLUNTEERS NEEDED FOR CONSTITUTION WEEK 2021

Judge Alan Forst: Past MCBA President and Constitution Week Co-chair

Adam Schwartz: Current MCBA President and Constitution Week Co-chair

*The clearest way to show what the rule of law means to us in everyday life is to recall what has happened when there is no rule of law. Dwight D. Eisenhower*



Judge Alan Forst  
Chair

For the past eighteen years (with one exception), the MCBA has celebrated the United States Constitution by sending volunteers to our local schools, during Constitution Week, to discuss, in one fashion or another, the Constitution. Public Law 108-247, signed into law in 2004, designated September 17 of each year as “Constitution Day and Citizenship Day.” Last year, we created a digital recording (I initially wrote “video,” but that’s so last decade) that was shown in the schools (or so I’ve been told).



Adam Schwartz  
Co-Chair



**Why September 17?** Because the United States Constitution was signed by a majority of the attendees at the Constitutional Convention on September 17, 1787. **Why do we team with the schools?** Because, by public law, “[e]ach educational institution that receives Federal funds shall hold an educational program on the United States Constitution on September 17 of each year for the students served by the educational institution.” **Can we stretch Constitution Day out to a week?** Well, the U.S. Code also provides that “[t]he President is requested to issue each year a proclamation inviting the people of the United States to observe Constitution Week, in schools, churches, and other suitable places, with appropriate ceremonies and activities.” **Constitution Week 2021 runs from Friday September 17 to Thursday September 23.**

Now you know the “why.” As to the “where”—in our local public schools, though we will raise a glass (of ice tea or water) at our MCBA lunch on Constitution Day. I urge future MCBA presidents to annually schedule a Constitution Week program at the September Bar lunch. We also encourage our lengthy roster of volunteers to propose and present educational programs elsewhere in the community, such as at houses of prayer, public libraries, and recreation centers.

Which leads to the question of “how.” Fingers crossed—we plan to return to live presentations this month. **We will be hosting a lunch meeting (pizza is on us!) at the courthouse on Wednesday September 8 at noon.** We will be sharing lesson plans, materials, and experiences. Several judges are part of this “staff,” and therefore this meeting will also be a network-with-the-judges opportunity.

# Judicial Relations Committee

Jessica VanValkenburgh - Chair



**2021-2022 JRC Committee Members** – Judge Lawrence Mirman, Judge Elizabeth Metzger, Judge William Roby, Gene Zweben and Kathryn McHale

**Our Purpose:** The purpose the MCBA’s Judicial Relations Committee (JRC) is primarily to serve as a liaison between the Martin County Bar Association and the 19th Circuit’s Judiciary. Moving forward, the JRC will be planning, implementing and coordinating certain programs designed and focused on improving relationships and overall communications between the Bench and Bar.

### Upcoming JRC Meetings:

### JRC Judicial Speaker Series 2021 - 2022

<u>Dates</u>	<u>Speakers</u>
September 21, 2021	Judge Darren Steele
October 12, 2021	Judge Jeffrey Hendriks
November 9, 2021	Judge Brett Waronicki
December 14, 2021	TBD
January 11, 2022	Judge Jennifer Alcorta Waters
February 8, 2022	TBD
March 8, 2022	TBD
April 12, 2022	TBD
May 3, 2022	TBD

All JRC Judicial Speaker Series meetings will be held from 11:45 a.m. to 1:00 p.m. at McCarthy, Summers, Wood, Norman, Melby & Schultz, P.A., 2400 SE Federal Highway, Fourth Floor, Stuart, Florida 34994, (772) 286-1700. RSVP required at least two (2) days prior to each meeting to: [jmv@mccarthysummers.com](mailto:jmv@mccarthysummers.com). Space is limited. Lunch will be provided. Meetings are free for current MCBA members and \$10.00 for all others. Cash or checks made payable to the MCBA accepted.

If you are interested in the JRC please contact Jessica VanValkenburgh, Esquire, at [\*\*jmv@mccarthysummers.com\*\*](mailto:jmv@mccarthysummers.com)

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## Diversity Committee

Chair: Paul Bernard

The Diversity Committee is planning some exciting and informative meetings for the year. If you are interested in helping or would like to send us your ideas, please email Paul Bernard ([paul@meltzerandbell.com](mailto:paul@meltzerandbell.com)). Until then, we hope you and your families are staying safe and healthy.



# ADMIRALTY LAW



MCBA Admiralty Committee Chair,  
Vice-Chair of the Florida Bar Admiralty Law Committee,  
Member of the Admiralty Law Certification Committee

## LIABILITY OF SHIP OWNERS TO CRUISE PASSENGERS

Cruising has become favorite form of vacation travel world-wide. According to the website, Cruise Market Watch, “Total worldwide ocean cruise capacity at the end of 2021 will be 581,200 passengers and 323 ships.” (<https://cruisemarketwatch.com/capacity/>) As the ships grow larger, driven by an increasing demand for cruise accommodations, the potential increases for claims against the cruise lines when passengers are injured. Liability of the cruise lines for the injuries of passengers depends largely on where and how a passenger is injured. The standard of care owed by a shipowner to a passenger, and the theory of liability, are important considerations for the practitioner before filing suit. Did the shipowner have “notice” of a potential injury-causing condition before the injury occurred. In a particular circumstance is “notice” required in order to prevail against a shipowner. Recently, the 11<sup>th</sup> Circuit clearly explained the issue of “notice” and how it’s applied when a cruise passenger is injured.

In the matter of YUSKO V NCL (Bah.), 2021 U.S. App. LEXIS 20502 (11th Cir. 2021), the issue before the court was whether a shipowner was liable when its employee negligently injured a passenger during a dance routine. The District Court ruled on summary judgment that because there had been no actual or constructive notice of a potential injury-causing condition prior to the injury, the shipowner was not liable for the passenger’s injuries.

The 11<sup>th</sup> Circuit reviewed the liability of shipowners and notice requirements when a passenger is injured. Generally, liability claims against shipowners fall into two distinct categories: either a claim against the ship itself, often related to negligent maintenance of the premises; or a claim of vicarious liability based on the actions of a ship’s employees.

Yusko’s claim against NCL alleges an employee of the cruise line let go of her hand when she

was participating in a dance contest, causing her to fall and hit her head. In its Motion for Summary Judgment, NCL cited Keefe v. Bahama Cruise Line, Inc., 867 F.2d 1318,1322 (11<sup>th</sup> Cir. 1989) for the proposition Plaintiff had failed to give actual or constructive notice of the risk-creating condition that led to her injuries. The District Court granted NCL’s motion and the decision was appealed.



In overturning the ruling below, the Circuit Court agreed Keefe was “the correct standard of care against which a shipowner’s conduct must be measured” and held that “the benchmark against which a shipowner’s behavior must be measured is ordinary reasonable care under the circumstances.” Id at 1322. “(A)s a prerequisite to imposing liability, the carrier must have had actual or constructive notice of the risk-creating condition... Id. Where passengers sued the shipowners for breaching the duty of care, the notice requirement governed because the passengers alleged wrongdoing by the shipowner itself.

In distinguishing Yusko, the Court determined Yusko’s claim of vicarious liability was not based on the shipowner’s conduct. “When the tortfeasor is an employee, the principle of vicarious liability allows “an otherwise non-faulty employer” to be held liable “for the negligent acts of [that] employee acting within the scope of employment.”” Langfitt v. Fed. Marine Terminals, Inc., 647 F.3d 1116, 1121 (11<sup>th</sup> Cir. 2011).

The Circuit Court held explicitly that “a passenger need not establish that a shipowner had actual or constructive knowledge of a risk-creating condition to hold a shipowner liable for the negligent acts of its employees”. Yusko at [\*14]. The matter was remanded to the District Court for further proceedings.

# Elder Law

Portia Scott - Chair

## FILIAL RESPONSIBILITY LAWS



Portia Scott  
Chair

We all know that a parent has a financial obligation to support his or her minor child: child support. But, did you know that many states in the US can also impose on an adult child a responsibility to support his or her parent? These are called "Filial Responsibility laws" and, before moving to such a state, it is good to understand how these

laws work.

The logic of these laws goes something like this: Before all of the taxpayers should have the burden of providing for impoverished adults, the law should look first to the children of the person seeking help from the state.

Typically, filial responsibility laws are enforceable, though little attention is given to them. And then, in 2012, an impoverished woman who had been in full skilled nursing care in Pennsylvania was removed to Greece (the nation of her birth) which had socialized medicine. The facility was left with a huge, unpaid bill. The facility sued the

adult son and got a judgment against him.

Many states have such laws on their books, though with a wide variety of who may institute the suit. For instance, our neighbor to the north, Georgia, apparently only authorizes counties providing support to the indigent to initiate suit. Delaware, Massachusetts, North Dakota, New Jersey, even Alaska have some form of duty imposed on the adult children of indigent parents. Some states, such as North Carolina, even criminalize failure to support one's indigent parent if able.

Jurisdiction over the child does become an issue if the child does not reside in the same state as the indigent parent. But what about residents of North Carolina who only maintain a temporary presence in Florida?

Florida, of course, has no such laws. We utilize Medicaid to help the elderly poor in need of medical assistance. Still, it is useful, before moving to another state, to take its filial responsibility laws into consideration.

# Wills, Trusts & Estates Committee

Kimberly Ryan - Chair



Kimberly Ryan  
Chair

Please join us for the first Wills, Trusts & Estates Law Committee luncheon of the 2021-2022 year on **September 14, 2021** at noon at the offices of McCarthy, Summers, Wood, Norman, Melby & Schultz, P.A. located at 2400 SE Federal Highway, 4th Floor, Stuart, FL 34994.

The topic for this meeting will be recap and discussion of the 41<sup>st</sup> Annual RPPTL Legislative and Case Law Update Seminar.

Send your RSVP to [kes@mccarthysummers.com](mailto:kes@mccarthysummers.com) no later than September 10th.



# Employment Law

David Miklas, Esq. – Chair

## Common Problems with Employee Severance Agreements

As part of my law practice I regularly draft severance agreements for employers who desire to provide some pay to a departing employee. In Florida, employees are not entitled to any severance pay. Most Treasure Coast employers do not pay any severance when an employee quits or is fired. Sometimes a business or non-profit may feel benevolent and choose to pay severance. Sometimes the employer desires to mitigate risk of litigation and is willing to pay a severance in exchange for a waiver and release of claims.

This is where the business lawyer or in-house counsel might undertake the task of drafting a severance agreement. I mean, it is just a contract, right? We all took Contracts in law school. This is something we should be able to wing, right?

Well, apparently no. Although we all learned that “consideration” is necessary for a contract, I have seen lawyers draft a severance agreement that has the employee giving up certain rights in exchange for the employee’s last paycheck or commission. Oops. That is not consideration. If the employee is already entitled to the money, then it cannot form the basis for consideration. What does this mean? Well, the employee can take the money and use it to hire a lawyer to sue the employer, because the severance agreement is worthless.

Another serious mistake that I see lawyers making when they take a hand at drafting a severance agreement is that they have no clue about the special language that must be included in the agreement in order to waive an age discrimination claim.

The Older Workers Benefit Protection Act (“OWBPA”) sets minimum standards for evaluating the validity of waivers pertaining to claims under the Age Discrimination in Employment Act (“ADEA”). To be effective, any such waiver must be “knowing and voluntary.” 29 U.S.C. § 626(f)(1); 29 C.F.R. § 1625.22. To be considered “knowing and voluntary,” the waiver, must, at a minimum:

- be in writing, drafted in a manner calculated to be understood by the individual, or by the average individual eligible to participate;
- specifically refer to ADEA rights or claims;
- not waive rights or claims that may arise in the future (after the date of execution);
- be in exchange for consideration in addition to anything of value to which the individual is already entitled;
- advise the individual in writing to consult with an attorney prior to executing the agreement;
- provide the individual with at least twenty-one (21) days within which to consider the agreement; and
- provide that the individual may revoke the agreement within seven (7) days of its execution.



David Miklas  
Chair

29 U.S.C. § 626(f)(1); 29 C.F.R. § 1625.22.

FYI, the 21-day period may be waived, but the 7-day period cannot. So, it is crucial that an employer does not pay the employee any severance until after that seventh day!





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# Foreclosure Committee

Dorothy Dlugolecki - Chair

**Foreclosure Moratorium - Update:** The foreclosure moratorium for federally backed mortgages is set to end on July 31, 2021 and the Biden Administration announced this will be the final extension of the moratorium. This moratorium does not apply to vacant/abandoned properties and privately owned mortgages. Foreclosure-related evictions of persons from properties that were secured by FHA-insured single-family mortgages are suspended until September 30, 2021.

**Vista Financial Group, LLC v. BONYM:** In this case, the 3<sup>rd</sup> DCA evaluated if third-party purchasers from a foreclosure sale would be protected by Fla. Stat. §702.036 when they pursued a re-foreclosure of a junior lienholder because the junior lienholder was not named in the original foreclosure action. The only issue disputed was whether the third-party purchasers were affiliated with the foreclosing lender and the Court agreed with the trial court's reasoning that the act of purchasing property from an imperfect foreclosure action alone cannot create an affiliation with the foreclosing lender as it would prevent any third-party purchaser from being protected by Fla. Stat. § 702.036 if there was a defect in the foreclosure action. The Court affirmed the order dismissing the action to set aside the foreclosure judgment against the third-party purchasers.

**Athene Annuity & Life Assurance Company v. Teavana Holdings:**

In this case, the 5<sup>th</sup> DCA held a party cannot utilize a 1.540 motion to re-litigate issues previously addressed in a motion for rehearing.

**Suarez v. BONYM:**

In this case, both plaintiff and defendants moved for attorneys' fees pursuant to Fla. Stat. § 57.105 following an involuntary dismissal of the foreclosure action. Defendants moved for fees under subsection 7, which allows for reciprocal fees if there is a contractual basis for fees. The bank moved for fees under subsection 1 alleging defendants' motion for fees was frivolous. The 2<sup>nd</sup> DCA affirmed an order denying defendants' attorneys' fees because defendants failed to plead entitlement to fees in any pleading. The Court reversed a denial of bank's motion for fees because defendants' and their counsel knew or should have known their motion for fees was not supported by the application of then-existing law to the material facts.



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# Get Your Tickets!

**2<sup>nd</sup> Annual MCBA/Tom Warner Gator Tailgate**  
**University of Florida Gators vs Samford University Bulldogs**  
**Saturday, November 13, 2021**

Bring your family!  
Enjoy Gainesville in the Fall to cheer on the Gators.

## Pre & Post Game Tailgate with Food & Beverages

### HOTEL ROOM BLOCK

Fairfield Inn & Suites, 3877 SW 37<sup>th</sup> Boulevard, Gainesville  
Call (352) 745-7777 and mention "MCBA Gator Tailgate 2021"  
**Reservation Deadline: Tuesday, October 12, 2021**

### GAME TICKETS

A block of seats in the Upper South Endzone Bleacher AND Evans Champions Club available  
To purchase game tickets go to the Group Sales Order Portal at:

<https://offer.fevo.com/florida-vs-samford-fjxi6go-9cf849b?fevoUri=florida-vs-samford-fjxi6go-9cf849b%2F>

The tail gate is made possible by the generous sponsorships of:



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WW

The first CLE Luncheon of the Bar Year was held on August 20, 2021 at Monarch Country Club. Members enjoyed networking, lunch and the presentation on Artificial Intelligence as it relates to the legal profession from Tom Barnett, of UnitedLex.



Niki Marshall, Shaun Kelly



Jack Sobel, James Bowdish,  
Sheila Biehl



Hon. Kathleen Roberts, Jane  
Cornett, Ryan Carley



Hon. Kathleen Roberts, Erin  
Kirkwood



Kristen Crall, John Kops



Marc Teplitz, Jami Duckworth



Oliveann Lance, Phil Waldrop



Yara Bashoor, Niki Marshall



Hon. Darren Steele, Jeff Friedman,  
Hon. Brett Waronicki



Adam Schwartz



Mandee Johns, Carla Segura



Abby Zayyed, Yara Bashoor



Jay Connelly, Phil Waldrop



JOIN US FOR A

# READING OF THE UNITED STATES CONSTITUTION

DOWNTOWN STUART  
RIVERWALK STAGE

**SEPTEMBER 16, 2021 | 3:30PM**

IF YOU WOULD LIKE TO TAKE PART AS A READER IN  
THIS PATRIOTIC EVENT PLEASE CALL 288-5340  
OR EMAIL [JTHARP@CI.STUART.FL.US](mailto:JTHARP@CI.STUART.FL.US)  
A SCRIPT WILL BE GIVEN FOR YOU TO PREPARE



# Welcome to our 2021 – 2022 Committee Chairs!

The MCBA Executive Board would like to recognize those members who give countless hours as Chairs or Co-Chairs of our 30+ Committees. The following have generously offered their time to Chair a Committee for 2021- 2022. Thank You!

## Admiralty & Maritime Law Committee

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Guy, Yudin, & Foster, L.L.P.  
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Email: jfoster@guyyudinlaw.com



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E-mail: jlm@jonlmartinlaw.com



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Law Office of Marc S. Teplitz, P.A.  
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Email: mteplitzlaw@bellsouth.net



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Email: clerk@martinclerk.com



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Email: hcartwright@foxmccluskey.com



## Constitution Week Committee

Co-Chair: Honorable Alan O. Forst  
Fourth District Court of Appeal  
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Email: forsta@flcourts.org



## Constitution Week Committee

Co-Chair: Adam G. Schwartz  
Fox McCluskey Bush Robison PLLC  
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Email: aschwartz@foxmccluskey.com



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## Diversity Committee

Chair: Paul Bernard  
Meltzer & Bell, P.A.  
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Email: paul@meltzerandbell.com



## Elder Law Committee

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Portia B. Scott, Chartered  
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The MCBA Executive Board Welcomes our 2021 - 2022 Committee Chairs

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Kibbey Wagner
Phone: (772) 872-5185
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Email: Kathy@KMcHaleLaw.com



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Email: gene@zwebenlawgroup.com



5K Run/Walk

Co-Chair: Sarah Pauline Vickers, Ph.D.
Phone:
Email: indiantownlaw@aol.com



Join us for a Beverage and Conversation



Ocean Republic Brewing
Thursday, September 23, 2021
5:30 - 7:30 p.m.



Appetizers Included

# Martin County Women Lawyers Association

Elizabeth Hunter: MCWLA President 2021 - 22



Elizabeth Hunter  
MCWLA President 2021 - 22

The **Martin County Women Lawyers Association**, your local chapter of Florida Association for Women Lawyers (FAWL), thanks its members and sponsors for the support we received during the 2020-2021 year and we look forward to giving back in the year ahead with some great programming!

Our **monthly CLE presentations** (which are free for members) will start in September and run through May and will be held on the third Tuesday of each month from 12:00 pm to 1:00 pm (with networking time from 11:45 am to 12:00 pm).

Our first speaker of the year will be **Jenny Sieg, the 2021-2022 FAWL President**, who will present on **September 21, 2021** via Zoom at 12:00 p.m. RSVP to [fawlmartin@gmail.com](mailto:fawlmartin@gmail.com) for attendance information.

Save the dates for our upcoming CLEs: October 19<sup>th</sup>; November 16<sup>th</sup>; December 21<sup>st</sup>; January 18<sup>th</sup>; February 15<sup>th</sup>; March 15<sup>th</sup>; April 19<sup>th</sup>; May 17<sup>th</sup>.

To join or renew your membership, visit [www.fawl.org](http://www.fawl.org). Contact our Membership Director, Davina Tala, at [dt@talalegal.com](mailto:dt@talalegal.com) with any membership questions.

We are looking forward to hosting more in-person events this year, including our annual Judicial Reception ... **Details forthcoming!**

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## Real Estate and Commercial Litigation Update

### Florida Real Property and Business Litigation Report

Manuel Farach



Manuel Farach  
Chair

**Fisher v. PNC Bank, N.A.**, Case No. 20-10110 (11th Cir. 2021). A federal court is not limited by the Probate Exception and may exercise jurisdiction over a case brought by or involving an estate so long as doing so does not involve probating a will, administering the estate, or disposing of the estate's property.

**Calderon v. Sixt Rent A Car, LLC**, Case No. 20-10989 (11th Cir. 2021).

An arbitration clause which encompasses the arbitration of "claims" regarding "any services or products provided" requires arbitration only of the claims with the direct contracting party and not services affiliated with the contracting party.

**Harris v. Jayo** (In re: Harris), Case No. 19-11286 (11th Cir. 2021).

A state court default judgment must detail the factual background for the claims in the judgment in order to be given collateral estoppel effect in a § 523(a)(2)(A) proceeding.

**Gartner v. Reverse Mortgage Solutions, Inc.**, Case No. 1D20-772 (Fla. 1st DCA 2021).

The First District follows *Castellanos v. Reverse Mortgage Funding LLC*, Case No. 3D20-472, 2021 WL 1897069 (Fla. 3d DCA May 12, 2021), and holds that the reciprocity provisions of Florida Statute section 57.105(7) apply even when the loan is non-recourse.

**SG 2901, LLC v. Complimenti, Inc.**, Case No. 3D19-2131 (Fla. 3d DCA 2021).

The agent of an owner may recover fees for acting as the agent for construction work so long as a contractor licensed under Florida Statute section 489.105(3) performs the work set forth in the statute.

**Petkovich v. Sandy Point Condominium Apartments Association, Inc.**, Case No. 3D20-1775 (Fla. 3d DCA 2021).

Claims regarding the circumstances surrounding the execution – but not the contents - of documents in a title record are not claims founded on a duly recorded instrument under Florida Statute section 48.23.

**UN2JC Air 1, LLC v. Whittington**, Case No. 4D20-1449 (Fla. 4th DCA 2021).

There is no need to conduct Independent Tort Doctrine analysis when the plaintiff is not a party to the contract.

**Suarez v. The Bank of New York Mellon Trust Co.**, Case No. 2D20-1850 (Fla. 2d DCA 2021).

Failure to plead a demand for attorney's fees in a motion to dismiss negates the right to fees if the motion is granted, and continuing to seek fees under such circumstances will give the party whose complaint was dismissed the right to seek fees under Florida Statute section 57.105(7).

**Golden Cape of Florida, Inc. v. Perez de Ospina**, No. 3D21-0332 (Fla. 3d DCA 2021).

A county court does not have jurisdiction to adjudicate a claim for ejectment, even if the only action taken is to dismiss the case.

**Bach v. Vlad Igor Investments, Inc.**, Case No. 4D20-1857 (Fla. 4th DCA 2021). The Fourth District re-affirms its holding in *Corporate Creations Enterprises LLC v. Brian R. Fons Attorney at Law P.C.*, 225 So. 3d 296 (Fla. 4th DCA 2017), and holds that Florida Statute sections 685.101 and 685.102 provide independent bases for long-arm jurisdiction so long as Constitutional requirements are met.

**Athene Annuity & Life Assurance Company v. Teavana Holdings**, Case No. 5D20-1848 (Fla. 5th DCA 2021).

A party may not use Florida Rule of Civil Procedure 1.540 to re-litigate issues previously decided under Rule 1.530.

**Lee v. 1510 N.E. 109 St., LLC**, Case No. 3D21-265 (Fla. 3d DCA 2021).

A tenant that seeks to interpose a COVID-19 related defense to eviction must still comply with Florida Statute section 83.60(2) and deposit rent into the Registry of the Court.

**Community/Condotte/De Moya JV v. Circuit Court Judge**, Case No. 3D21-1178 (Fla. 3d DCA 2021).

A circuit court judge has no discretion under Florida Statute section 44.104 to deny a stipulated Motion to Appoint Trial Resolution Judge.

**St. Louis Condominium Association, Inc. v Rockhill Insurance Company**, Case No. 19-12716 (11th Cir. 2021).

The failure to provide not one date for the deposition of a party's expert witness before discovery cutoff supports a magistrate judge's decision to exclude the witness.

**Gulf Coast Solar Center I, LLC v. Busbee**, Case No. 1D20-1439 (Fla. 1st DCA 2021).

A business located on federal property is not exempt from Florida personal property taxation simply because of the Federal Enclave Exemption to taxation.

**City of St. Petersburg v. Dorchester Holdings, LLC**, Case No. 2D20-463 (Fla. 2d DCA 2021).

A government responding to a records request under the Public Records Act must determine whether the requested records exist, locate the records, and review each record to determine if it is exempt from production, including attorney-client and work product, and the clerk of the government agency may charge a special service charge to cover investigative costs in addition to the costs of duplication, which special service fee must be paid in advance.

**Powers v. Whitcraft**, Case No. 4D21-194 (Fla. 4th DCA 2021).

A sublessor is bound by the Florida Landlord-Tenant Act, Florida Statutes Chapter 83.

**The Board of County Commissioners, Santa Rosa County, Florida v. Home Builders Association of West Florida, Inc.**, Case No. 1D20-2227 (Fla. 1st DCA 2021).

Impact fees imposed without utilizing the "most recent and localized data" violates the Florida Impact Fee Act, Florida Statute section 163.31801(3)(a).

**Mojito Splash, LLC v. City of Holmes Beach, Florida**, Case No. 2D20-651 (Fla. 2d DCA 2021).

A landowner has no claim under the Bert J. Harris, Jr., Private Property Rights Protection Act, Florida Statute sections 70.001-.80, if the landowner purchased the property with constructive knowledge of zoning ordinance and comprehensive plan provisions which disallowed the use for which the landowner seeks compensation under the Act.

**Steven Enterprises Group Inc. v. Diversified Aero Inventory I, LLC**, Case No. 3D20-487 (Fla. 3d DCA 2021).

An evidentiary hearing on a motion to enforce a settlement agreement due to default in payment is not necessary when it is clear the payments were not made.

**Vista Financial Group, LLC v. The Bank of New York Mellon**, Case No. 3D20-602 (Fla. 3d DCA 2021).

A purchaser at foreclosure sale is not "affiliated with the lender" merely because of the purchase at foreclosure sale and thus is entitled to protections of Florida Statute section 702.036.

**CRSJ, Inc. v. Miami-Dade County**, Case No. 3D20-1693 (Fla. 3d DCA 2021).

Injunction to stop a home-rule county from considering a legislative proposal (such as annexation) is not proper.

**Calendar of Events  
September 2021**

**Monday, September 6, 2021**

Courthouse Closed – Labor Day

**Tuesday, September 7, 2021**

Courthouse Closed – Rosh Hashanah

**Wednesday, September 8, 2021**

Justice Major B. Harding American Inns of Court  
5:30 p.m.  
Martin County Courthouse

**Thursday, September 9, 2021**

Small & Solo Practice Committee Happy Hour  
5:30 – 7:00 p.m.  
District Table, 4665 SE Dixie Highway, Stuart  
RSVP to Kathy@kmchalelaw.com by 9/8/21

**Friday, September 10, 2021**

Young Lawyers Division Happy Hour  
5:30 p.m.  
The Hoffman, 3825 NE Indian River Dr, Jensen  
Beach

**Tuesday, September 14, 2021**

MCBA Executive Board Meeting  
12 noon  
Fox McCluskey Bush Robison

**Tuesday, September 14, 2021**

Wills, Trusts & Estates Committee Meeting  
12 noon  
McCarthy Summers Wood Norman Melby & Schultz  
RSVP to: kes@mccarthysummers by 9/10/2021

**September 17, 2021**

Constitution Week begins

**September 21, 2021**

Judicial Relations Committee Speaker Series  
11:45 a.m. – 1:00 p.m.  
McCarthy Summers Wood Norman Melby & Schultz  
RSVP to: Jmv@mccarthysummers.com

**September 21, 2021**

MCWLA Monthly CLE Meeting  
11:45 a.m. – 1:00 p.m. Via Zoom  
RSVP to: fawlmartin@gmail.com

**September 23, 2021**

Networking Happy Hour  
5:30 – 7:30 p.m.  
Ocean Republic Brewing,  
1630 SE Federal Hwy, Stuart

**W. Jay Hunston, Jr.**



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# Legal Resources / CLE

Welcome Back fellow legal practitioners! Our Martin County Bar Association has kept CLE materials current and available to all members at the Martin County Clerk of Court Recording Division at our Courthouse. Current materials are listed both on our Martin County Bar Association's website as well as the Courthouse website.

Please let us know if:

1. If there are any attorneys or law firms with available un-expired/current CLE materials to include in our lending program; or,
2. If there is any interest in possibly expanding our Legal Resources Committee to include practice management materials and information.



Christine Moreno  
Chair

If you would like to join our Legal Resources Committee, please email: [Christine Moreno at Moreno4Law@Gmail.Com](mailto:Christine.Moreno@Gmail.Com). Thank you everyone.

## Current CLE Seminars Available:

- **MCBA Monthly Lunch Meeting (Virtual) - August 21, 2020.** Valid through 1/31/2022. Speaker: FL Supreme Court Justice Jorge Labarga. Topic: The Role of the Judicial Branch during time of societal division. Credits: 1.0 General
- **MCBA Monthly Meeting (Virtual) - September 18, 2020.** Valid through 3/31/2021. Speaker: Giles Kibbe, SVP and General Counsel Houston Astros and Crane Companies. 1.0 General CLE Credit
- **2020 Survey of Florida Law (2 copies) - Valid through 11/30/2021. Credits:** 13.5 General; 3.0 Ethics; 2.0 Mental Illness; 1.0 Professionalism; 3.0 Technology. **Certification Credits:** 1.0 City, County and Local Government; 1.0 Civil Trial; 1.0 Condominium and Planned Development Law; 2.0 Elder Law; 1.0 Labor and Employment Law; 1.5 Marital and Family Law; 1.0 Real Estate; 1.0 State/Fed Govt & Admin Practice; 1.0 Tax Law; 4.0 Wills, Trusts & Estates.
- **MCBA Monthly Meeting (Virtual) - November 12, 2020.** Valid Through 4/30/2022. Speaker: Congressman Brian Mast, Journalist Ed Killer. Topic: The St. Lucie River & Estuary. 1.0 General CLE Credit.
- **40th Annual Legislative & Case Law Update - Valid through 2/28/2022. Credits:** 8.0 General; 1.0 Ethics; 0.55 Technology. **Certification Credits:** 8.0 Development Law; 8.0 Real Estate; 8.0 Tax Law; 8.0 Wills, Trusts & Estates.
- **How the Ethical Lawyer Can Avoid Technology Traps - Valid through 5/31/2022. Credits:** 1.0 General; 1.0 Ethics; 1.0 Technology.
- **Civil Trial Update & Board Certification Review 2021 - Valid through 8/31/2022. Credits:** 15.0 General; 2.0 Ethics; 1.0 Technology. **Certification Credits:** 15.0 Appellate Practice; 15.0 Business Litigation; 15.0 Civil Trial; 15.0 Criminal Appellate Law; 15.0 Criminal Trial Law; 15.0 Juvenile Law.
- **19th Circuit Voluntary Bar Coalition Town Hall - Valid through 9/30/2022. Credits:** 1.0 General.
- **Jury Trials in a New Age - Valid through 1/31/2022. Credits:** 1.0 General. **Certification Credits:** 1.0 Appellate Practice; 1.0 Civil Trial; 1.0 Criminal Appellate Law; 1.0 Criminal Trial Law; 1.0 Juvenile Law.
- **MCBA Monthly Meeting (Virtual) - Valid Through 10/31/2022.** Speaker: Andrea Andrus, Principal; Andrus Communications. Topic: Marketing & Advertising for Lawyers. Credits: 1.0 General Credit

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# FRLS ON THE END OF CDC MORATORIUM ON EVICTIONS

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The CDC Moratorium that was in place in the beginning of the pandemic for those affected by COVID-19 has been a lifesaving measure for many in our local community. Having lost jobs or the numerous other effects COVID-19 had, leaving many people in this country teetering on the brink of losing their homes. The original order put in place has come to an end. At the time I am writing this to you, there is a new moratorium in effect until October 3rd, though there is expected challenges and roadblocks for the new ban on evictions. Locally, there are still programs that are operational to continue to help landlords and renters, but all the assistance that is required is just not available.

One type of program that our office has implemented that has been beneficial for both landlords and tenants is a mediation program where attorneys assist in creating new rental agreements between landlords and tenants utilizing rental assistance available through the individual counties. In Indian River County, for example, the funds that have been approved for rental assistance have been used to cover past due as well as some future rent on tenants' properties and has given the tenant the ability to create a new rental agreement with the landlord. This is a win-win for the tenant and landlord and you as an attorney are in a unique position to help especially during this crisis. We are looking for attorneys to assist with mediating landlord/tenant disputes and assisting tenants with applications for rental assistance. Tenants can even be referred to an attorney for a private mediation or advice on how to handle a mediation with their landlord. Trainings will be available for any attorney who is interested in providing pro bono assistance with preserving housing and directing landlords and tenants to community resources.

As the federal government extended further assistance, there are still roadblocks and challenges expected that can hold up the assistance that is required for tenants to save their homes, and for landlords to receive rent. With COVID-19 cases on the rise again, members of our community

are being greatly affected and Florida Rural Legal Services and the Martin County Bar Association Pro Bono Committee is still looking for help. The need for attorneys who can help COVID-19 affected clients is high, and the number of clients who need assistance in other areas is growing as well.



Ryan D. Carley  
Director

While COVID-19 and the housing crisis are currently front and center, there is still a need for attorneys in other areas of law such as probate, wills, family law, and many other civil legal areas. FRLS as your local legal aid is always looking for assistance in any way you feel you can help. Whether it be volunteering to provide advice at a remote clinic, presenting a legal education seminar to the community, accepting a pro bono case for full representation, even mentoring another attorney, or training other pro bono attorneys by creating a free CLE training, there are so many ways WE NEED YOU!

October we are having our pro bono awards ceremony where our office will be recognizing the outstanding work that attorneys in our community have provided to our clients, but there is always more to do! This month Florida Rural Legal Services is issuing a challenge to the Martin County Bar Association, 45 new attorneys taking pro bono cases in 45 days. Speak with your colleagues, your partners, and your friends, and let them know we can assign pro bono cases in areas where they feel most comfortable, or they can even start by providing counsel and advice to help a client get their case started.



# MARTIN COUNTY BAR ASSOCIATION RACE TO THE COURTHOUSE



APRIL 17, 2021



The 2021 Race to the Courthouse was a great success!



Gene Zweben  
Co-Chair

Over \$5,000.00 was raised for the Martin County Legal Aid Society and the Martin County Bar Association Scholarship Fund.

We couldn't have done this without the generous support of our sponsors: McCarthy Summers, Becker & Poliakoff, Guy Yudin & Foster, Kathryn McHale LLC, Center State, Fox McCluskey, Natalie's Orchid Island Juice Company, Zweben Law Group, and Fleet Feet Sports. Also, thank you to Shari Geffner Sullivan of Illustrated Properties for her generous donation.



Sarah Vickers  
Co-Chair

**We are currently working on scheduling the 2022 race.  
More information to come.**

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## 2021 – 2022 MCBA 100% Club\*

**Congratulations to the following Firms for reaching 100% Club  
as of August 15, 2021**

Alley, Maass, Rogers & Lindsay, P.A.

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Crary Buchanan, P.A.

Donaldson & Weston, P.A.

Fox McCluskey Bush Robison, PLLC

Grazi & Gianino, LLP

Gunster, Yoakley & Stuart, P.A

Guy, Yudin & Foster

Lavargna Law, PLLC

Law Office of Frank DiGiacomo

Law Offices of David Golden, P.A.

McCarthy, Summers, Wood, Norman, Melby & Schultz, P.A.

Minton Law, P.A.

Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A.

Oughterson, Sundheim & Associates P.A.

Ross, Earle, Bonan & Ensor, P.A.

Sherrard Law Group, P.A.

Spraker & Prinz

Zweben Law Group

*\*to be eligible for 100% club: any firm with two or more practicing attorneys and all practicing attorneys of the firm are 2021-22 MCBA members or if a firm has multiple offices, all attorneys in the local office are 2021-22 MCBA members.*

## **NEED HELP?**

If you are feeling isolated, worried about your practice, your family, your employees, reach out - to a friend, a spouse, a colleague OR call the Florida Bar Helpline at 833-FL1-WELL

### **The Florida Bar Helpline**

Bar members will be able to dial the helpline (833-351-9355 or "833-FL1-WELL") and speak with a mental-health professional who can provide crisis intervention and a referral for up to three free visits with a locally based, licensed mental-health professional.

## Save the Date

### Justice Major B. Harding American Inns of Court 2021 - 2022 Meeting Dates

September 8, 2021	5:30 p.m.	Orientation Meeting - Swearing In the Officers
October 20, 2021	5:30 p.m.	Regular dinner meeting
January 12, 2022	5:30 p.m.	Regular dinner meeting
February 9, 2022	5:30 p.m.	Regular dinner meeting
March 9, 2022	5:30 p.m.	Regular dinner meeting
April 13, 2022	5:30 p.m.	Regular dinner meeting
May 11, 2022	5:30 p.m.	Regular dinner meeting

**Alternate dates, if necessary**

November 3, 2021	5:30 p.m.
December 1, 2021	5:30 p.m.
June 1, 2022	5:30 p.m.

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## Alternative Dispute Resolution

*Chair: Elizabeth Hunter*

Hello! I am happy to be chairing the Alternative Dispute Resolution Committee for the 2021-22 Bar year. If you would like to be included in the email list to receive updates on committee luncheons, then please send an email to me at ehunter@sheilabiehl.com. Planning is underway, so please stay tuned for more information on upcoming events.



Elizabeth Hunter  
Chair

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## Tennis Committee

*Chair: Ray Robison*



Ray Robison  
Chair

We look forward to having the MCBA Tennis Tournament again in early 2022. Please check future SideBar issues for further details on the tournament. If any questions, please contact Ray Robison (772-287-4444 or robison@foxmclcluskey.com). Thank you for everyone that has expressed interest in playing.

---

## The Florida Bar Updates / Board of Governors' Report

*GREG WEISS - 19TH CIRCUIT BOG REPRESENTATIVE*

Keep updated on Florida Bar initiatives and Board of Governors' information, meeting minutes and reports by visiting the website regularly!



A direct link can be found at The Florida Bar's home page ([www.floridabar.org](http://www.floridabar.org)) by clicking the "About The Bar"



Greg Weiss  
19th Circuit BOG Rep

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## 19<sup>th</sup> Circuit Judicial Nominating Commission

The MCBA will continue to post updates on the 19<sup>th</sup> Circuit JNC Commission meetings and deadlines for appointments to fill judicial vacancies as they become available at [www.martincountybar.org](http://www.martincountybar.org)

For more information, email [martincountybarassociation@msn.com](mailto:martincountybarassociation@msn.com)



## ONLINE RESOURCES OFFERED BY THE MCBA

Notice: Your clients and the public at large can now access online courses directly through the MCBA website. They are fast, convenient, and inexpensive - available 24 hours a day, 7 days a week. All instructions are included online and programs can be started/stopped, picking up where you left off, as many times as you like. **Help the MCBA promote this community service while generating income to support local initiatives!**

Florida Online Traffic School Courses:

- Basic Driver Improvement 4-hour course (Traffic Ticket - TCAC)
- First-time Driver 4-hour course
- Advanced Driver Improvement 12-hour course (ADI / Judge-ordered class)
- Florida Mature Driver Program 6-hour course

All traffic courses are approved by the Florida Department of Highway Safety & Motor Vehicles and sponsored by the American Safety Council.

Parent Education and Family Stabilization Online Course:

This 4-hour course is required by Florida law for concerned parties seeking to obtain a final judgment of dissolution of marriage in Florida when minor children are involved. The course is approved by the Department of Children & Families and provided by a division of the University of Continuing Education.

The courses are provided via the American Safety Council which is the leading source for online driver education, workplace safety training, continuing education, online business and security solutions, and more!



### Florida Free Legal Answers Program

Did you know that The Florida Bar provides free virtual legal information through its cooperative effort with the American Bar Association to low-income Floridians via the Florida Free Legal Answers Program?

Members of the public can go to: <https://florida.freelegalanswers.org/> to sign up and answer a few questions to see if they qualify to use the service.

Florida lawyers may enroll to join the effort by visiting <https://florida.freelegalanswers.org/> clicking on "Volunteer Attorney Registration" and agreeing to the attorney agreement.



# Links, Jobs and Legislation

19<sup>th</sup> Judicial Circuit Court of Florida

Court administration, judicial assignments, programs, job opportunities and other resources:

[www.circuit19.org](http://www.circuit19.org)

Emergency Hotline / Info: 772.742.9229

Visit

[www.martincountybar.org](http://www.martincountybar.org)

for resources, links, events and member contact & practice area information.



### Florida Bar Appointments / Vacancies

For applications and complete details, visit: [www.floridabar.org](http://www.floridabar.org)

### 19<sup>th</sup> Circuit Appointments / Vacancies

For applications and complete details, visit: <http://www.circuit19.org/careers.html>

### Track Legal Legislation

For more detailed information on specific legislation being tracked by the Bar, visit the Legislation Committee's webpage on the Bar website at this link:

<http://www.floridabar.org/cmdocs/bd160.nsf/WDOCS>



### Martin County Ordinances

All Martin County ordinances may be found on the County website:

<https://www.martin.fl.us>

Click on Departments, County Attorney, County Code & Ordinances.

See ordinance list on right side of web page (ex: Ordinances 800-849).



### City of Stuart Ordinances

All City of Stuart ordinances may be found on the City website:

[www.cityofstuart.us](http://www.cityofstuart.us)

Click on link at the bottom of the page.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<h1>September 2021</h1>						
<p>SAVE THE DATES:                      October 28, 2021 – Fall Judicial Reception                      October 29, 2021 – Bench Bar Conference                      See <a href="http://www.martincountybar.org">www.martincountybar.org</a> for full 2021-22 calendar including committee meetings, holidays &amp; courthouse closings.</p>						
5	6 <b>Courthouse Closed</b>	7 <b>Courthouse Closed</b>	8 Inns of Court 5:30 p.m.	9	10 <b>RSVP DEADLINE FOR 8/17 LUNCH</b> YLD Happy Hour @ The Hoffman 5:30 pm	11
12 Grandparents Day	13	14 MCBA Officers' Meeting (noon) WT&E Comm. Meeting @ McCarthy Summers Noon	15 Yom Kippur Begins	16 <b>Courthouse Closed</b>	17 MCBA Luncheon @ <b>Monarch CC</b> (11:30am) <b>Constitution Week begins</b>	18
19	20 <b>Constitution Week</b>	21 JRC Meeting @ McCarthy Summers, 11:45 a.m. MCWLA CLE Meeting Via Zoom @ Noon <b>Constitution Week</b>	22 <b>Constitution Week</b>	23 Networking Happy Hour @Ocean Republic 5:30 p.m.	24	25
26	27 <b>Constitution Week</b>	28 <b>Constitution Week</b>	29 <b>Constitution Week</b>	30 <b>Professionalism Award Nominations Deadline</b>	31	



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<h1>October 2021</h1>						
3	4	5 Diversity Pathway to the Bench Program Martin County Courthouse 5 – 7:00 p.m	6	7	8 RSVP DEADLINE FOR 10/15 LUNCH	9
10	11 Columbus Day	12 MCBA Officers' Meeting (noon) JRC Speaker Series @ McCarthy Summers, 11:45 a.m. Last Day to Book Rooms for Gator Tailgate	13	14	15 MCBA Luncheon @ Monarch CC (11:30am)	16 Boss's Day
17	18	19 MCWLA CLE Meeting Via Zoom @ Noon	20 Inns of Court 5:30 p.m.	21	22	23
24	25	26	27	28 Judicial Reception 5:30 p.m.	29 Bench Bar Conference	30
31 Happy Halloween	See <a href="http://www.martincountybar.org">www.martincountybar.org</a> for full 2021-22 calendar including committee meetings, holidays & courthouse closings					



MARTIN COUNTY BAR ASSOCIATION  
PO Box 2197  
STUART, FL 34995-2197

## Please join us for MCBA's CLE Monthly Meeting, Friday, September 17, 2021

- When: **Friday, September 17, 2021**  
**11:30 a.m. networking; 12:00 p.m. lunch**
- Where: **NEW LOCATION!!**  
Monarch Country Club  
1801 SW Monarch Club Drive, Palm City
- Menu: Carrot Ginger Soup, Rolls with Butter, Asian Marinated Chicken Salad with Grilled Watermelon, Pickled Red Onion, Candied Nuts and Asian Dressing  
Chef's Choice Dessert
- Speaker: Florida Supreme Court Justice Jamie R. Grosshans
- CLE: 1.0 General CLE Credit

RSVP to: [martincountybarassociation@msn.com](mailto:martincountybarassociation@msn.com)  
**No later than Friday, September 10, 2021**

**PLEASE BE SURE TO RSVP TO EXPEDITE ACCESS AT THE GATE**

There is no charge for paid MCBA members. Guests are welcome; a \$30 guest fee may be paid at the luncheon (cash or check only).