



OCTOBER 2022

# The SideBar

NEWSLETTER OF THE MARTIN COUNTY BAR ASSOCIATION

*IN THIS ISSUE*

*PRESIDENT'S MESSAGE:  
MCBA PRESIDENT,  
JEFFREY FRIEDMAN*

*FALL RECEPTION*

*BENCH BAR CONFERENCE*

## In This Issue

President's Message (Pg. 3)  
In Memoriam (Pg. 4)  
Bench Bar Conference (Pg. 4)  
CLE Monthly Meeting (Pg. 5, 32)  
Judicial Reception (Pg. 5)  
New and Returning Members (Pg. 6)  
Florida Bar Help Line (Pg. 12)  
Cheers (Pg. 18)  
Sponsor Spotlight (Pg. 18)  
September Luncheon Photos (Pg. 19)  
100% Club (Pg. 20)  
MCWLA (Pg. 22)  
Palm Beach Dramaworks – 12 Angry Men (Pg. 24)  
Happy Hour (Pg. 25)  
Florida Free Legal (Pg. 29)  
Online Resources (Pg. 29)  
Links, Jobs & Legislation (Pg. 30)  
September Calendar (Pg. 31)

### Law/Bar Related Committee Reports:

19th Circuit JNC (Pg. 8)  
5K Run to the Courthouse (Pg. 16)  
Admiralty (Pg. 11)  
Appellate (Pg. 15)  
Bankruptcy (Pg. 23)  
Diversity (Pg. 25)  
Employment (Pg. 13)  
Florida BOG (Pg. 8)  
Foreclosure (Pg. 17)  
Golf Tournament (Pg. 10)  
Legal Resources (Pg. 26)  
Real Property (Pg. 27)  
Small & Solo Firm (Pg. 9)  
Tom Warner Gator Tailgate (Pg. 7)  
Wills, Trusts & Estate (Pg. 21)

## MCBA 2022 - 2023 Executive Board:

**President:**  
**Jeffrey Friedman**

**Vice President:**  
**R. Wayne Richter**

**Secretary:**  
**Brandon Woodward**

**Treasurer:**  
**Jeanette M. Lugo**

**Immediate Past President:**  
**Adam G. Schwartz**

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

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

## 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.

**E-mail: [martincountybarassociation@msn.com](mailto:martincountybarassociation@msn.com)**

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

**Voicemail Line: (772) 220-8018**

## 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 - 1989 – 1990  
(*First Female MCBA President*)  
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. Weiksnar - 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  
Adam Schwartz - 2021 - 2022

*Any article appearing herein may be reproduced provided credit is given both to The SideBar and the author of the article. Views and conclusions expressed in articles and ads herein are those of the authors or advertisers and not necessarily those of the officers, directors, or staff of the Martin County Bar Association. Further, the Martin County Bar Association and staff do not endorse any product or service advertised. All advertising is subject to approval. We regret any errors or omissions and such, if applicable, will be noted in future issues.*

## Message From the President

Martin County Bar President - Jeffrey M. Friedman, Esq.

Dear Members,

We hope you enjoyed our September luncheon speaker, Carolyn Timmann, Clerk of the Martin County Circuit Court. There have been some impressive technological changes with the court system that certainly has improved efficiency. We all appreciate Ms. Timmann taking time out of her busy day to update us on the recent, and future changes.

This month's luncheon speaker is current Florida Bar President, and MCBA member, Gary Lesser. Mr. Lesser will be speaking about the current state of the bar and providing us with his plans for the Bar this year. It is an honor to have him attend our luncheon, so let's thank him with a high attendance of our members.

October is now upon us, so we will probably see rows of December holiday decorations. Remember when that started after Thanksgiving? While much of the country will see the leaves change, we will see the traffic change with the influx of snowbirds. Now for some October trivia. In October 1886, France gave the USA a little gift known as the Statute of Liberty. We all know that Halloween is coming, but did you know that the last Friday in October is Frankenstein Friday? Also, more US Presidents were born in October than any other month. I hope you all have a fun and safe Halloween!

We look forward to seeing everyone at the luncheon.

Sincerely,



Jeffrey M. Friedman  
2022-2023 MCBA President



### Don't forget to send in your 2022 - 2023 Membership Renewal

Renewals are due July 1 of each year.

Only members in good standing will continue to be listed on our website with all their contact information, professional headshot and in our FREE Referral program by Practice Area.

Don't forget, Courthouse Badges are only available to MCBA members.

# In Memoriam

## Stuart Address



*We make a living by what we get, but we make a life by what we give. – Winston Churchill*

## Save the Date

19th JUDICIAL BENCH BAR CONFERENCE

NOVEMBER 4, 2022

HUTCHINSON SHORES RESORT AND SPA 3793 NE OCEAN BLVD

JENSEN BEACH FL



Please contact Ryan Carley at [ryan.carley@frls.org](mailto:ryan.carley@frls.org) or 1.888.582.341 O Ext. 7026 or visit [www.frls.org](http://www.frls.org)

## Looking for Year-Round Marketing Exposure to MCBA Members?



Want to stand out from the Crowd?

Consider an Annual Sponsorship.

**The annual sponsorship program provides your firm with continuous, repeatable marketing presence and networking opportunities with MCBA Membership.**

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

**Sponsorship Packages for law firms and businesses of all types, sizes and marketing budgets.**

**Contact Robyn O'Heron at 772-283-9076 or [martincountybarassociation@msn.com](mailto:martincountybarassociation@msn.com) for details.**



# Please Join Us!

The Martin County Bar Association is pleased to welcome Florida Bar President, Gary Lesser as the guest speaker at our monthly luncheon meeting on Friday, October 21, 2022 at Monarch Country Club. Networking begins at 11:30 a.m. and lunch will be served promptly at noon.

Mr. Lesser will discuss the state of The Florida Bar as well as his vision for the upcoming year. We are looking forward to another insightful and engaging program. Please join us, if you are able.

RSVP IS REQUIRED on or before 5:00 p.m. **FRIDAY, October 14, 2022** by calling 772-220-8018 or emailing [martincountybarassociation@msn.com](mailto:martincountybarassociation@msn.com).



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

**MCBA JUDICIAL RELATIONS & PROFESSIONALSIM COMMITTEES PRESENT**

## 2022 JUDICIAL RECEPTION

**October  
20, 2022**

**STUART YACHT &  
COUNTRY CLUB**

**5:30 -  
8:00 p.m.**

**Tickets: \$40 members/\$50 guests**

**Judiciary & New 2022-23 Members Complimentary**

*Send check payable to MCBA with list of attendees to:  
Martin County Bar Association, PO Box 2197, Stuart, FL 34995*

**Judges and New Members: Please RSVP by email  
to: [martincountybarassociation@msn.com](mailto:martincountybarassociation@msn.com)**

**Payment/RSVP by: October 12, 2022**

Welcome New and Returning Members

Attorney Member: Donna Krusbe
Billing Cochran, P.A.
Palm Beach Gardens, FL
University of Miami School of Law

Returning Member: Philip Burke
Office of Criminal Conflict Civil Regional
West Palm Beach, FL
Florida A & M University, College of Law

Returning Member: Leanne Ohle
Ohle and Ohle
Stuart, FL
Stetson University College of Law

Associate Member: Sherri Mora
Gunster, Yoakley & Stewart, P.A.
Stuart, FL

SPIEL APPRAISAL SERVICES

RESIDENTIAL REAL ESTATE APPRAISER

SERVING NE PALM BEACH AND MARTIN COUNTIES.

EXPERT WITNESS TESTIMONY

APPRAISAL APPLICATIONS INCLUDE:

- TAX APPEAL
-TRUSTS, ESTATES
-DIVORCE
-LITIGATION
-MORTGAGE AND FEMA.



USPAP COMPLIANT REPORTS. MARKET KNOWLEDGE, CUSTOMER SERVICE, & CONSULTATION. OVER 36 YEARS EXPERIENCE

PAUL A. SPIEL, SRA, CERT GEN RZ2435
561-307-4428
PAULSPIEL18@GMAIL.COM

RWR LAW OFFICES OF R. WAYNE RICHTER, P.A.

EXCLUSIVELY DEDICATED TO CRIMINAL DEFENSE

AGGRESSIVE \* DEDICATED \*EXPERIENCED TRIAL ATTORNEY

RATED AV PREEMINENT BY MARTINDALE HUBBEL

OFFICES IN PALM CITY & WEST PALM BEACH

TELEPHONE: 772-291-2765

EMAIL: WAYNE@RICHTERLAWPA.COM

WEBSITE: WWW.RICHTERLAWPA.COM



# TOM WARNER MCBA GATOR TAILGATE

Saturday,  
October 8, 2022

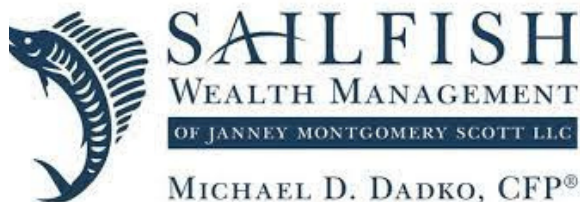
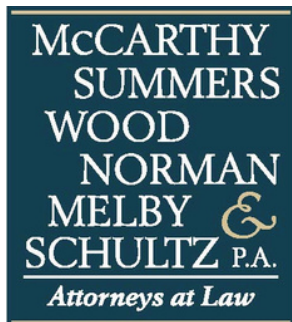
*Florida vs Missouri*



Game Tickets: <https://fevo.me/mcba>

**HOTEL:** Best Western Gateway Grand, Gainesville  
Call 352-331-3336 to Reserve

## THANK YOUR SPONSORS!





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

GREG WEISS - 19<sup>TH</sup> 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"

## 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)

**ACQUISITIONS  
ARE RARELY  
SMOOTH  
SAILING**

**BUYING AND SELLING  
BUSINESSES  
IS OUR BUSINESS.**



Contact: Brandon Woodward  
772.497.6544 | [wkfklaw.com](http://wkfklaw.com)

**Cloud Choice**  
561.935.6300  
**FROM  
\$25/LINE**



Business Phone Systems  
Managed Technology Solutions  
Cyber Security Experts  
Private Cloud Solutions  
Servers, Desktop, Backup  
Microsoft 365, Sharepoint



# MCBA Small and Solo Practice Committee

## Networking Happy Hour

Tuesday, October 25th  
5:30pm – 6:30pm

District Table & Bar  
4665 SE Dixie Hwy, Stuart  
Drinks are on your own

RSVP by October 21st to Kathy McHale -  
Kathy@KMcHaleLaw.com



Kathy McHale  
President



THE LAW OFFICES OF  
JEFFREY M. FRIEDMAN



**Board Certified**  
Workers' Compensation Attorney

Offices in Stuart  
and West Palm Beach

Based upon my 29 years' experience, I am qualified to represent injured workers in navigating the complexities of the workers' compensation law to ensure they receive everything that is owed to them.

Call 772.247.0228 or 561.228.7998  
[www.friedmanworkerscomp.com](http://www.friedmanworkerscomp.com)



Office on  
Kanner Hwy  
in Stuart, FL

Darryl  
Kogan\*

Ted  
DiSalvo\*

# 250% Paid Attorney Referral Fees

Trust Sending Your Referrals to Florida  
Bar Certified Civil Trial Lawyers\*



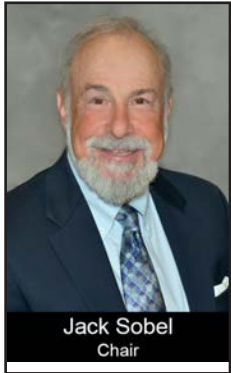
KOGAN  
& DISALVO®  
PERSONAL INJURY LAW

To refer a case call 772-888-9085 or submit online at  
[koganinjurylaw.com/referrals](http://koganinjurylaw.com/referrals)

# MCBA Golf Tournament

Chair: Jack Sobel

## Join the Golf Committee!



Jack Sobel  
Chair

Here's a good opportunity for you to have some fun while doing something nice for local high school seniors. Join the Martin County Bar Association Golf Committee, or become a sponsor, and help plan and run the next Martin County Bar Association Golf Tournament, which funds scholarships awarded by the MCBA Scholarship Committee to three Martin County High School seniors at graduation ceremonies every spring.

The golf committee works with sponsors and local merchants to gather prizes for the players. The tournament is always a fun experience. We use the scramble format - while all four golfers on the team hit their shot, only the best one counts. The other three players simply pick up their ball and move it to the place where the best one lies.

No need to fret about an errant shot. This allows even inexperienced golfers to have fun enjoying a pretty

outdoor setting, and maybe compete for a trophy. This year, the gross division winners were Adam Less, Matthew Killough, E.R. Clark and Geoff McGowen and the net division winners were Robin Wally, Michael Peckham, Juan Asconape and Blake Swan. The biggest silent auction prize was a foursome at the exclusive Fisher Island Club (which is only accessible by boat).

The committee wants to thank this year's sponsors: Donaldson & Weston; Williams, Leininger & Cosby; R. Wayne Richter, Atlas|Solomon; Law Offices of Jason Berger; Yara Bashoor of Water Pointe Realty; Kathryn McHale; Treasure Coast Estate Buyers; Manatee Island Bar & Grill; and Ohle & Ohle. The tournament was started in 2003 and has become something of a tradition, while serving as one of MCBA's best fundraising events.

Become a sponsor or join the Golf Committee and be part of our next great tournament!

Visit the MCBA website at [www.martincountybar.org](http://www.martincountybar.org) for upcoming events, committee meetings and more!

**FIND US ONLINE**

**PERFECTLY LEGAL**  
OFFICE SOLUTIONS, LLC

**SHAUN KELLY**  
Legal Assistant

Providing assistance for vacations, leaves, overflow, work and special projects for over 40 years

772.349.5519  
Shaun@perfectlyLegalOS.com  
[www.perfectlylegalos.com](http://www.perfectlylegalos.com)

Member FDIC firstcitizens.com

**Stronger finances make stronger practices.**

Custom financial services for law firms.

Sarah Baker | Vice President  
772-221-7050

**First Citizens Bank**

# Admiralty Committee

## SO, YOU THINK YOUR MARINE INSURANCE WILL PAY YOUR BOAT DAMAGE CLAIM.....

### Barbara A. Kreitz Cook

Florida Bar Board Certified Admiralty & Maritime Law  
MCBA Admiralty Committee Chair

If you have a boat insurance policy issued by Concept Special Risks YP, **READ THIS!** Great Lakes Insurance SE (GLSE) is a German corporation that makes payment on approved claims for these policies of marine insurance for Hull and Machinery and Protection and Indemnity (liability) coverage. Concept Special Risks Ltd. issues the policy contracts and acts as claims agent on behalf of GLSE.

Under *Wilburn Boat Company v. Fireman's Fund Insurance Company*, 348 U.S. 310 (1955), state law governs marine insurance. Like most states other than New York, Florida law provides that a breach by the insured of a warranty in a marine insurance policy does not bar coverage or void the policy "unless such breach or violation increased the hazard by any means within the control of the insured." See Fla. Stat. § 627.409(2). The purpose of this Florida statute is to "prevent the insurer from avoiding coverage on a technical omission playing no part in the loss," *Pickett v. Woods*, 404 So.2d 1152, 1153 (Fla. 5th DCA 1981), and to ensure that the breach "significantly alters the risk of loss [the insurer] would be called on to bear," *Fireman's Fund Ins. Co. v. Cox*, 742 F.Supp. 609, 611 (M.D.Fla.), aff'd, 892 F.2d 87 (11th Cir.1989). See also *Travelers Prop. Cas. Co. Am. v. Ocean Reef Charters, LLC*, 996 F.3d 1161 (11th Cir. 2021)

The Concept/GLSE contracts contain general conditions which are designated as warranties and which void the policy if breached. GLSE takes advantage of the *Wilburn Boat* decision and avoids the Florida anti-technical statute by including a choice of law provision in its insurance policies, such that regardless of the citizenship of the insured, where the policy is

delivered, or the state where the loss occurred, New York law applies. New York law utilizes the "strict or literal compliance" rule whereby breach of an express warranty in a marine insurance policy voids coverage, even if there is no connection between the breach and the loss.

GLSE has a sufficient substantial relationship with New York to allow application of New York law: GLSE is a surplus line carrier in New York; it maintains bank accounts in New York; it accepts service of process through attorneys in New York; and Great Lakes is a wholly owned subsidiary of Munich Re, which owns American Re, and the offices of both of those insurance companies are in New York. Like other courts that have addressed this precise issue, Florida courts have concluded that, on these facts, there is no basis to disregard the policy's choice of New York law.

GLSE relies on application of New York insurance law to deny coverage for a breach of any policy condition without regard to any causal connection to the loss. Upon the occurrence of a claim, if GLSE claims agents find a violation of any policy condition, GLSE denies coverage and/or reserves its rights and brings suit for declaratory judgment against the vessel owner. Vessel owners incur large attorney fees to defend those lawsuits, sometimes for years, while GLSE maintains a cadre of attorneys on contract to prosecute and win those suits, or to effectively force vessel owners to settle for minimal amounts and for far less than the amount the owner believed was bargained for under the



Barbara A. Kreitz Cook  
Chair





policy. A Pacer search of the outcome of many GLSE lawsuits proves the effectiveness of this approach: a breach of any policy condition, even a mere technical omission playing no part in the loss, voids the policy .

However, a recent 3<sup>rd</sup> Circuit ruling issued August 30, 2022, in *Great Lakes Insurance SE v. Raiders Retreat Realty Co., LLC*, a maritime insurance case, offers some hope for policy holders with claims. In *Raiders*, at 15-16, the 3<sup>rd</sup>

Circuit opined, citing Supreme Court cases, “we consider it altogether reasonable that a strong public policy of the forum [state] in which suit is brought could, as to that policy specifically, render unenforceable the choice of state law in a marine insurance contract”. The 3<sup>rd</sup> Circuit held that “the District Court needed to consider whether Pennsylvania has a strong public policy that would be thwarted by applying New York law. We thus vacate and remand for further proceedings consistent with this holding.”

## 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.

**PERSONAL INJURY  
TRIAL ATTORNEY**

**JACK SOBEL**

Board Certified Civil Trial Lawyer




*Donaldson & Weston*

**Donaldson & Weston**  
**772-266-5555**  
jsobel@dwinjurylaw.com

Offices in Stuart and West Palm Beach

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

**W. Jay Hunston, Jr.**



Mediator/Arbitrator/  
Special Master

Since 2001, limiting his practice to all forms of effective dispute resolution, including, mediation, arbitration, special master, and private judging services.

- J.D. Stetson Univ. College of Law
- Fla. Bar Bd. Cert. Civil Trial Lawyer, 1983 - 2003
- Fla. Cert. Circuit Civil, Appellate & Family Mediator
- Member, AAA Roster of Neutrals for Commercial and Construction Arbitration & Mediation
- Qualified Fla. Arbitrator
- Statewide Per Diem Rate Available Upon Request
- Hourly Rates Available (No Charge for Travel Time Within 15th, 19th & 17th Circuits)

P.O. Box 508, Stuart, FL 34995  
(772) 223-5503; (800) 771-7780 - Office  
(772) 223-4092 - Fax  
Email; wjh@hunstonadr.us  
Website Online Calendar: www.hunstonadr.us

# Employment Law

*David Miklas, Esq. – representing employers only*

## Two real-world fact patterns:

### Situation #1:

Rosalia worked for an employer for 24 years, first starting when she was 17 years old. About 6 weeks ago she was fired and told it was because she didn't take a work break early enough in her shift.

However, 6 months ago Rosalia reported sexual harassment one of her female co-workers suffered at the hands of a male co-worker. The male co-worker was related to one of the managers. So, Rosalia reported the harassment on the other employee's behalf to corporate HR, which resulted in the male co-worker's removal from the store, but their manager was irate with Rosalia for not reporting it to her.

First, the harassed co-worker was written up, suspended for a week, and then fired. Then it was Rosalia's turn.

Now Rosalia says her termination was retaliated against for reporting the sexual harassment.

Is the employer big or small?

It is a McDonald's. They have been in the news a lot for harassment. That tends to happen when your "managers" get paid low wages and maybe don't receive harassment training.

"But Dave, I am sure they get trained."

Lots of corporate folks use webinar modules to check off training. Well, there is a reason employment lawyers say that live, inter-active training is the gold standard.

Frankly, most of my clients are pleasantly surprised when they learn how reasonable live training can be.

I encourage Florida businesses to look into it, rather than just checking boxes and providing low quality training to your employees, especially your managers.

### Situation #2:

Let's say an employer issues a communications policy that prohibits staff from saying anything negative about the employer to anyone who is not employed by the employer. Is that legal?

Probably not. This almost certainly violates the National Labor Relations Act (NLRA).

Everyone knows that I represent Florida employers but sometimes we can learn from things that happen in other states.

According to reports, a School Board in Minnesota met in a closed session last week to talk about this specific policy with its legal team.

Why? Well, the teacher union sued the School Board.

After reopening the meeting, the Board voted unanimously to rescind the policy.

This case is even more of a problem than your average business because it involved a School District. See, School Districts are public employers and their employees have SOME First Amendment protections dealing with Free Speech (which employees of private companies do not have).

Also, according to the union, the communications policy would prevent mandated reporters from informing law enforcement or other agencies about child abuse or neglect!

So, there is a reason why Human Resources and Office Managers often run things by "legal" before just rolling out a new policy. This is a great example. Any experienced employment lawyer would have pumped the brakes on this policy.



David Miklas  
Chair

# BE A HERO TO YOUR CLIENTS

REFER YOUR PERSONAL INJURY CASES TO  
THE LAW OFFICES OF CRAIG GOLDENFARB

Our employees love where they work! That is why we were awarded the #1 Overall "Top Workplace" award by the SunSentinel for the small employer category for 2018, and why we have ranked in the top 3 for four years in a row.

Happy employees produce extraordinary results for clients. **This is one of the many reasons that your 25% referral fee is safe with us.**

With our team of highly skilled personal injury litigators supported by sixty legal, administrative, and operations staff, you can trust that your referral will be competently handled.



**Be a hero to your clients. Refer that personal injury case to the Law Offices of Craig Goldenfarb, P.A.**



*Leading Our Port Saint Lucie Office*

**Marisa E. Zarzeski**  
ASSOCIATE ATTORNEY



**Craig M. Goldenfarb, Esq.**  
FOUNDER / ATTORNEY



**Spencer T. Kuvin, Esq.**  
LITIGATION DIRECTOR



**Jorge L. Maxion, Esq.**  
CIVIL TRIAL ATTORNEY



**Jeffrey D. Kirby, Esq.**  
PRE-SUIT ATTORNEY



**Rafael J. Roca, Esq.**  
BOARD CERTIFIED CIVIL  
TRIAL ATTORNEY



**Aaron D. Neifeld, Esq.**  
ASSOCIATE LITIGATION ATTORNEY



**Donald W. Vollender, Esq.**  
PRE-SUIT ATTORNEY



**Michael A. Wasserman, Esq.**  
CIVIL TRIAL ATTORNEY

To refer us a case, call **561-270-5044**. You may also email [intakelead@800goldlaw.com](mailto:intakelead@800goldlaw.com) with all the case details. We'll let you know right away if we can help.



LAW OFFICES OF  
**CRAIG GOLDENFARB, P.A.**  
PERSONAL INJURY · WRONGFUL DEATH · NURSING HOME ABUSE

1-800-GOLD-LAW - 800 GOLDLAW.COM



# Appellate Committee

## The Sixth DCA & Christmas....They will Both be here Soon!

In June of this year, Governor Ron DeSantis signed CS/HB 7027 creating Chapter 2022-163, which in turn created the Sixth District Court of Appeal. It will be the first new court since 1979. The new court will be headquartered in Lakeland, pushing the Second DCA to St. Petersburg. The Sixth DCA will handle appeals from the courts in the Ninth, Tenth, and 20th Circuits which cover Pasco, Hillsborough, Pinellas, Manatee, Sarasota, and DeSoto counties.

The Sixth DCA will open for business on January 3, 2023. Judges, judicial work groups, and the Office of State Court Administrator (OSCA) are creating a brand new court in just six months (and one of those months is December, so we know that doesn't really count as a full month). Much of the personnel is in place, including the new Clerk of the Court who is moving from her current position as the Clerk for the Arkansas Supreme Court, Stacey Pectol.

The existing five DCAs are affected to varying degrees. The Third and Fourth DCA will not be directly impacted because the circuits they cover will not change. The First, Second, and Fifth will be realigned geographically and some of the circuits they currently cover will be transferred to the new Sixth DCA. The Fifth DCA is arguably

impacted the most because five of its judges are transferring to the Sixth, including Judge Meredith Sasso who will become the first Chief Judge of the Sixth DCA.

The new DCA is soliciting comments and suggestions on internal procedures from the bar. If you have suggestions regarding extensions, mediation, jurisdictional briefs for non-final appeal or any other matter, now is the time to contribute.

The Sixth DCA judges are still considering what will be precedent for the new court. Lawyers who practice before the Sixth and its lower courts must be prepared to argue what constitutes binding precedent.

Coming off their recent success in handling the transfer of all circuit court appeals, the DCAs seem to once again be capable of handling the impossible (new appellate court in six months?!). And doing it in impressive fashion...kinda like Santa Claus.



Carri Leininger

### Family and Circuit Civil Mediator



**F. Shields McManus**

See calendar online at:

[www.fshieldslaw.com](http://www.fshieldslaw.com)

then call

**772-285-2774**

or email

[f.shieldsmac@gmail.com](mailto:f.shieldsmac@gmail.com)

**Experience the Seaside difference today.**



A division of United Community Bank

Mark T Ciotti | SVP, Client Advisor  
[mciotti@seasidebank.com](mailto:mciotti@seasidebank.com) | 772-600-3764

© 2022 Seaside Bank and Trust. All Rights Reserved.  
Seaside Bank and Trust is a division of United Community Bank. | [seasidebank.com](http://seasidebank.com)



# MARTIN COUNTY BAR ASSOCIATION RACE TO THE COURTHOUSE



We are looking forward to another great event this year!

The Race will be held on **April 22, 2023**. So, there is plenty of time to get out there and start training!

We are still looking for sponsors and committee members.

For more information, please contact Gene Zweben at [gene@zwebenlawgroup.com](mailto:gene@zwebenlawgroup.com) or 772-223-5454.

## Banking for what's next.

At SouthState, we believe in helping you grow your business and run your operations more smoothly. Whether it's opening a new account, managing your cash flow or obtaining credit to expand, we'll make sure you have what you need to take that next step forward.

**This is banking at its best. This is Banking Forward.**



2400 SE Monterey Rd, Ste. 100 • Stuart, FL • 772.426.8100  
2991 SW High Meadows Ave • Palm City, FL • 772.283.6803  
[SouthStateBank.com](http://SouthStateBank.com) • Member FDIC

# Foreclosure Committee

Dorothy Dlugolecki – Chair

## U.S. Bank v. Grob – standing to foreclose a HELOC

Following a motion for clarification, the 4<sup>th</sup> DCA withdrew its prior opinion issued on March 30, 2022 and issued this opinion clarifying its reversal of the trial court's dismissal of the complaint. This case involves the foreclosure of a HELOC where the loan servicer verified the foreclosure complaint. The homeowners moved to dismiss the complaint for lack of standing to enforce a non-negotiable instrument and alleged the action must be dismissed because it was brought by the loan servicer on behalf of the plaintiff. The trial court granted the motion and dismissed the complaint. The 4<sup>th</sup> DCA reversed the dismissal in its prior opinion and issued a substantially similar opinion that clarified that the appellees include the parties that executed the loan documents and the current owners of the property. The Court found that the action was brought by the plaintiff and not the loan servicer. Case law is clear that a loan servicer may verify a foreclosure complaint on behalf of a plaintiff. Dismissal for lack of standing was not warranted because the complaint attached an assignment from the original lender and a certificate of possession of the original loan documents were filed with the complaint.

**Consolidation of 4 cases: 1) Azran Miami 2, LLC v. US Bank; 2) Buset v. HSBC; 3) Carrington Mortgage Services v. Nicolas; and 4) BONY v. Bontoux – sanctions for violating Rule 4-8.2(a)**

The 3<sup>rd</sup> DCA consolidated these 4 matters to address individual orders directed toward Bruce Jacobs, Esq. to show cause for why the court should not impose sanctions for his legal arguments being frivolous, impugning the integrity of the court, filing appendices of unrelated documents without seeking leave from the court, and citing to the record or

case law that do not support the facts or legal propositions. The 3<sup>rd</sup> DCA found Jacobs failed to show good cause and repeatedly violated Rule 4-8.2(a) by making false, malicious, and meritless accusations against adverse parties/counsel and judges. The sanctions imposed were a formal referral to the Florida Bar for disciplinary proceedings and remanding to award the opposing parties reasonable attorney's fees up to \$5,000.00 for a total of \$35,000.00.



Dorothy Dlugolecki  
Chair

**KIBBEY WAGNER**  
ATTORNEYS AT LAW



*Solutions for even the most challenging cases  
Criminal Law and Personal Injury*

NEW PHONE NUMBER  
STUART | PORT ST LUCIE | WEST PALM BEACH | 772 444 7000 | KIBBEYLAW.COM





# Cheers!



All the best to Donna McMillan.



It is with sadness that McCarthy Summers Wood Norman Melby & Shultz, P.A. announces the retirement of Donna R. McMillan effective September 27, 2022. We are so grateful for having the pleasure of sharing Donna’s professionalism and dedication to her clients, colleagues, and friends over the past eight years and for her service to the community and to the Elder Law Section of the Florida Bar. We wish her the very best as she embarks on the next chapter of her life!

We look forward to continuing to serve all the clients of our firm and invite you to reach out to shareholder Nicola J. Melby at [njm@mccarthysummers.com](mailto:njm@mccarthysummers.com) if you have any questions or concerns about the transition.

## Sponsor Spotlight

**We appreciate our sponsors! Without them the MCBA would not be able to provide all the great benefits of Membership!**

**This Month’s featured Corporate Sponsor is:  
Silver Sponsor Cloud Choice Technologies**



**Cloud Choice provides Cyber Security, Technology support, Business Phone Systems and Private Cloud Services to legal, medical and accounting professionals throughout South Florida. This really means we can supply your firm with the Technology & Communication services you need.**

**We doubled our business during the pandemic because of our complete set of technology services – and we can help you grow your firm, secure your systems and protect your office.**



Nicole Laliberte, Linda Weiksnar



Sherry Plymale & Carrie Lavagna



Hon. Michael McNicholas, Hon. Jeffrey Hendriks, Adam Schwartz



Fred King - Sponsor  
Cloud Choice Technologies



Hon. Carolyn Timmonns  
Speaker



Louis Larsen, Gene Zweben



Kristen Crall, Laurel Hopper



John Mangan, William Gallese



Mandee Johns, Carrla Segura



Christopher Gaston, Gloretha Hall



Jack Sobel, James Bowdish



Grace Phillips - Sponsor  
Carr Riggs & Ingram

*We would like to recognize the following firms for reaching 100% Club  
as of July 31, 2022.*

*Anthony D. George, Jr. P.A.*

*Apfelbaum Law*

*Christopher J. Twohey, P.A.*

*Crary Buchanan, P.A.*

*Donaldson & Weston, P.A.*

*Ehrlich & Naparstek, PLLC*

*Fox McCluskey Bush Robison, PLLC*

*Grazi & Gianino*

*Gunster, Yoakley & Stewart*

*Guy, Yudin & Foster*

*Kibbey Wagner*

*Laurie Rusk Sewell, P.A.*

*Law Office of Frank DiGiacomo*

*McCarthy, Summers, Wood, Norman, Melby & Schultz, 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*



# Wills, Trusts & Estates

Lisa Clasen – Chair

Happy Fall Y'all! Can you feel fall in the air? Have you already indulged in your favorite pumpkin treat? Hopefully, by the time you read this, the temps will have dropped below 90!

The next meeting of the Wills, Trusts and Estates Committee will be on Thursday October 27<sup>th</sup>, at noon in the seminar room on the second floor of The Nexus Building, 850 NW Federal Highway in Stuart. **Please RSVP to [Lisa@Clasenlaw.com](mailto:Lisa@Clasenlaw.com) no later than Monday, October 24<sup>th</sup>**, if you plan to attend. Speaker and topic to be determined. Do you have any great ideas to share?



Lisa Clasen  
Chair

## Don't Delay, Get your Judicial Reception Tickets Today.

Join us as we honor the Judiciary of the 19th Judicial Circuit,  
New MCBA Members and  
Announce the 2022 George W. Bush, Jr. Professionalism Award Winner

Deadline to purchase Tickets is October 12, 2022

### YOUR LOCAL ELDER AND SPECIAL NEEDS LAW ATTORNEY



Martindale-Hubbell®



**Nicola J. Melby**

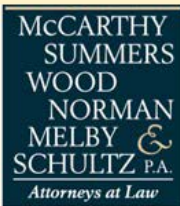
Certified Elder Law Attorney By the  
National Elder Law Foundation  
and The Florida Bar  
[njm@mccarthysummers.com](mailto:njm@mccarthysummers.com)

2400 SE Federal Highway, 4th Floor  
Stuart, FL 34994

Tel (772) 286-1700 • Fax (772) 283-1803  
[www.McCarthySummers.com](http://www.McCarthySummers.com)

*Integrity. Dedication. Solutions.*

- Elder Law*
- Special Needs Trusts*
- Medicaid Planning  
and Applications*
- Long Term Care Planning*
- Estate Planning*
- Wills & Trusts*
- Uncontested Probate*
- and*
- Guardianship*



## LEADING FLORIDA FORWARD



*For nearly 100 years, Gunster has provided full-service legal counsel to organizations and individuals from its 11 offices throughout Florida.*

*With more than 220 attorneys collaborating across 18 practice areas, we are committed to growing Florida's economy, strengthening its communities and serving its population.*



**GUNSTER**  
FLORIDA'S LAW FIRM FOR BUSINESS

[Gunster.com](http://Gunster.com) | 772.288.1980

## Martin County Women Lawyer's Association

Abby Spears: MCWLA President 2022 - 23



**Martin County**  
**MCWLA**  
Women Lawyers Association

The **Martin County Women Lawyer's Association** is your local chapter of Florida Association for Women Lawyers (FAWL). The mission of FAWL is:

*To actively promote gender equality and the leadership roles of FAWL's members in the legal profession, judiciary and community at large. To achieve these goals, FAWL will uphold the highest standard of integrity, honor and courtesy in the legal profession, promote reform in law, and facilitate administration of justice.*

### **MCWLA BRINGS BACK MORE IN-PERSON EVENTS, FOCUSES EVENTS ON GROWING OUR BUSINESS AND OUR WEALTH**

Martin County Women Lawyer's Association is planning more in-person events this year – come join us. Thanks to everyone who joined us for the Judicial & New Member Reception at First Citizens Bank last month. Thank you Sarah Baker for hosting. September also saw an informative presentation on “Leveraging Your Brand to Grow Your Business.”

Join us in person next month for a luncheon.

#### **LUNCHEON AT BERRY FRESH CAFÉ (Stuart)**

**“Women, Wealth & Well Being”  
with Jennifer Taboada, VP BlackRock**

Wednesday, November 9, 2022  
11:45 a.m. networking  
12:00 p.m. presentation  
RSVP to [fawlmartin@gmail.com](mailto:fawlmartin@gmail.com)

**BECOME A MEMBER OF MCWLA TODAY!** 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.

**CONNECT WITH US ON FACEBOOK:** [@MartinCountyWomenLawyersAssociation](https://www.facebook.com/MartinCountyWomenLawyersAssociation)  
**CONNECT WITH US ON INSTAGRAM:** [@Martin\\_County\\_Women\\_Lawyers](https://www.instagram.com/Martin_County_Women_Lawyers)

#### **THANK YOU TO OUR 2022-2023 SPONSORS:**

**GOLD SPONSORS:** Atlas Solomon, PLLC; Carr, Riggs & Ingram, LLC; First Citizens Bank; Paul F. Iandoli, ChFC, CLU, MBA – Signature Wealth Advisors  
**SILVER SPONSORS:** Cohen Milstein Sellers & Toll, PLLC; Fox McCluskey Bush, Robison, PLLC; Kathryn L. McHale, LLC/Reasonable Solutions; Nason, Yeager, Gerson, Harris, & Fumero, P.A.; Phipps Reporting

# Bankruptcy

Chair: Thomas Zeichman

## Florida's "Unlimited" Homestead Exemption Can Be Limited in Bankruptcy: Recent 11th Cir. Case Addresses Limits

Florida is known for many things: sunshine, beaches, and a generous homestead protection. Stories abound of individuals moving to Florida, buying an opulent homestead, and frustrating creditors. To address this, Congress passed the Bankruptcy Abuse Prevention and Consumer Protection Act to place certain limits on the homestead exemption when a debtor files for bankruptcy. *In re Graybill*, 806 Fed. Appx. 920 (11th Cir. 2020) analyzed provisions of the Bankruptcy Code which limit the homestead protection and reduced the amount of the debtor's homestead exemption.

### Florida's Homestead: The Basics

Florida Constitution, Article X, Section 4 provides that, except for certain creditors (mortgage, mechanics lien, and certain taxes) your Florida homestead is exempt from forced sale by judgment creditors if your homestead is one-half acre or less within a municipality or 160 acres or less outside a municipality. Florida does not place a dollar limit on the amount of the homestead that may be claimed exempt.

### 1,215 Day Homestead Exception under Section 522(p)

The timing between the purchase of a homestead and a bankruptcy filing impacts the exemption. If purchased within 1,215 days before filing for bankruptcy, then the exempt portion of the homestead is capped at the amount set by the Bankruptcy Code in section 522(p), currently \$189,050. An example of when this cap would apply is the out-of-state individual who purchases a one-million dollar home in FL with non-exempt cash and then files for bankruptcy a year post-purchase. Because the debtor in that instance purchased the homestead within 1,215 days, the Bankruptcy Code under section 522(p) would cap the exempt value at \$189,050.00 and the remainder would be available to creditors. Outside of bankruptcy the homestead in this example would be 100% exempt.

### The 10-Year Fraudulent Transfer Exception Under 522(o)

The source of funds for acquisition, improvement, and debt reduction for a homestead can impact whether the protection is limited in bankruptcy. Under section 522(o), the exempt value of the homestead is reduced if within the 10-year period before bankruptcy the debtor obtained an interest in the homestead by disposing of non-exempt property with the intent to hinder, delay, and defraud a creditor.



Thomas Zeichman  
Chair

The 11<sup>th</sup> Circuit's decision *In re Graybill* provides an example of section 522(o) provision in action. In that case the debtor, after a judgment was entered, sold a vehicle and received \$112,947.81 from the sale. The debtor then used \$97,681.21 of the proceeds to pay off the balance on her mortgage. Thereafter, the debtor filed for bankruptcy and claimed her homestead 100% exempt. The bankruptcy trustee objected to the debtor's homestead exemption on the basis that the non-exempt vehicle proceeds were used to pay down the mortgage on the homestead. The bankruptcy court sustained the objection to the homestead exemption and reduced it by the amount of the proceeds used to pay down the mortgage. The 11<sup>th</sup> Circuit Court of Appeals affirmed the bankruptcy court's decision.

### Conclusion

Given the flurry of real estate transactions, including many relocations to Florida, debtors and creditors should consider potential limits on the homestead protection as part of their bankruptcy strategy.

Want to learn out more about bankruptcy and how it impacts your practice area? Reach out to Thomas Zeichman, MCBA Bankruptcy Chair at [tzeichman@bmulaw.com](mailto:tzeichman@bmulaw.com) or 561-549-9036.





Presents

## TWELVE ANGRY MEN

By Reginald Rose

Directed by J. Barry Lewis

**December 9 – 24, 2022**

Palm Beach Dramaworks is a professional, nonprofit theatre company founded in 2000 and located in the heart of downtown West Palm Beach. Each season, the award-winning company produces five mainstage shows and offers a wide variety of programs for students at the theatre, in schools, and online. Committed to fostering the future of theatre, PBD has become a hub for playwrights in Florida and around the country to nurture their work through initiatives including Drama (in the) works and the annual New Year/New Plays Festival.

*Theatre to think about!*

201 Clematis Street, West Palm Beach, FL

In this timely, timeless, and taut classic, 12 jurors deliberate the fate of a teenager accused of killing his father. Only Juror #8 is uncertain of the young man's guilt. As he compels the others to carefully examine the evidence, the prejudices and social attitudes of each man are revealed – as are the strengths and flaws of the American justice system.

### Attorney Appreciation Night

(Exclusive Event)

**Tuesday, December 13, 2022 •**
**6:30pm Reception, 7:30pm Play & Talkback**

#### SPONSORSHIP OPPORTUNITIES:

Producer: \$3,000 – Exclusive Opportunity

Associate Producer: \$2,000 – 5 Opportunities

Playbill Advertiser: \$1,000

#### Individual Tickets: \$150

Proceeds benefit Palm Beach Dramaworks and the Legal Aid Society of Palm Beach County

#### For more information please contact:

Linda Berman, Development Manager

Palm Beach Dramaworks

Office: (561) 514-4042 ext. 106

Cell: (516) 439-6914

lberman@palmbeachdramaworks.org

### Tickets available Online, In-Person or by Phone

boxoffice@palmbeachdramaworks.org

(561)514-4042, ext. 2

201 Clematis Street

West Palm Beach, FL 33401


<https://www.palmbeachdramaworks.org/>

# Diversity Committee

Chair: Paul Bernard

Greetings! The Diversity Committee is planning to have a happy hour soon. If you are interested in helping or want to send us your ideas, please email Paul Bernard ([paul@meltzerandbell.com](mailto:paul@meltzerandbell.com)). Also, if you want to become a committee member, don't hesitate to get in touch with Paul Bernard.

We are looking forward to having an eventful year.



Paul Bernard  
Chair

On Wednesday, September 21, 2022 the Social Committee and Young Lawyers Division co-hosted a Happy Hour at Ocean Republic Brewing. The YLD school supply drive was a huge success, thank you to all who donated. The supplies were delivered to United Way who will hold the supplies in reserve and distribute to students in need throughout the school year.







# Legal Resources / CLE

CLE seminars are available free of charge to all MCBA members through the Clerk of Court Office - Official Records Division at the Martin County Courthouse (1st Floor). Non-members may rent them for a fee. If you have new seminar suggestions, please e-mail [martincountybarassociation@msn.com](mailto:martincountybarassociation@msn.com) for consideration.

The Law Library has relocated to the first floor reference area of the main branch of our Martin County library system, The Blake Library at 2351 SE Monterey Road in Stuart,

with expanded hours of access to library patrons. Legal research assistance will continue to be offered Monday through Thursday (Noon to 4:00 p.m.); Blake Library hours are Monday – Thursday (10 a.m. to 8 p.m.) with all other days open 10 a.m. to 5:30 p.m. except for Sunday (closed).



Christine Moreno  
Chair

## Current CLE Seminars Available Include the Following:

- **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.
- **2021 Survey of Florida Law(2 copies)** - Valid through 12/31/2022. **Credits:** 14.5 General; 3.5 Ethics; 0.5 Bias Elimination; 1.5 Professionalism; 3.0 Technology. **Certification Credits:** 5 Appellate Practice; 2.5 Business Litigation; 2.0 City, County and Local Government; 3.5 Civil Trial; 1.0 Condominium and Planned Development Law; 2.5 Criminal Appellate; 2.5 Criminal Law; 2.0 Elder Law; 1.0 Health Law; 1.0 Intellectual Property; 2.5 Juvenile Law; 1.0 Labor & Employment Law; 3.0 marital & Family Law; 2.0 Real Estate Law; 2.0 State & Federal Gov't & Administrative Practice; 1.0 Tax Law; 2.0 Wills, Trusts & Estates.
- **MCBA Monthly Meeting** – November 19, 2021. Valid through 5/31/2023. Speaker: Judge Robert J. Luck, U.S. Court of Appeals, 11<sup>th</sup> Judicial Circuit. Topic: Martin County's Legal Impact on State and Federal Law – Part 2. **Credits:** 0.5 General. Includes speaker notes.
- **MCBA Monthly Meeting** – December 17, 2021. Valid through 6/30/2023. Speaker: Edwin Bell, Director of Racial Justice, Equity & Inclusion National Center for State Courts. Topic: Blueprint for Racial Equality. **Credits:** 1.0 General; 1.0 Bias Elimination.
- **MCBA Monthly Meeting** – January 21, 2022. Valid through 7/31/2023. Speaker: Ambassador Tatiana Gfoeller-Volkoff; Topic: Afghan Women: Where are They Now? **Credits:** 1.0 General;
- **MCBA Monthly Meeting** – February 25, 2022. Valid through 2/28/2023; Speaker: Michael Tanner, Esq. Florida Bar President. **Credits:** 1.0 General; 1.0 Professionalism.



## Real Estate and Commercial Litigation Update

### Florida Real Property and Business Litigation Report

Manuel Farach

**AFC Franchising, LLC v. Purugganan**, Case No. 20-13849 (11th Cir. 2022).

A “floating forum selection clause, i.e., one that applies to a mutable location, is enforceable.

**Victor Elias Photography, LLC v. Ice Portal, Inc.**, Case No. 21-11892 (11th Cir. 2022).

Copyright protection information which is embedded in a photograph’s metadata and is not readily apparent without several clicks cannot form the basis for claims of copyright infringement.

**Sailboat Bend Sober Living, LLC v. Fort Lauderdale, Florida**, Case No. 20-13444 (11th Cir. 2022).

The application of non-discriminatory zoning and building ordinances to “sober homes” is not a violation of the Fair Housing Act, 42 U.S.C. § 3604, and the Americans with Disabilities Act, 42 U.S.C. § 12132.

**Mintz Truppman, P.A. v. Cozen O’Connor, PLC**, Case No. SC20-1225 (Fla. 2022).

A writ of prohibition is only appropriate to prohibit future actions, and cannot be used as an “end-around” around the limited number of appealable non-final orders set forth in Florida Rule of Appellate Procedure 9.130 to correct past action.

**1944 Beach Boulevard, LLC v. Live Oak Banking Company**, Case No. SC21-1717 (Fla. 2022).

Failure to correctly state a debtor’s name invalidates a filed UCC-1 financing statement; there is no “safe harbor” under Florida Statute 679.5061(3) as the result of the Florida Secured Transaction Registry not employing a statutorily-required “standard search logic.”

**In Re: Amendments to Florida Rules of Civil Procedure 1.530 And 1.535**, Case No. SC22-115 (Fla. 2022).

Florida Rule of Civil Procedure 1.530 is amended to state the deadline to file a Motion for New Trial or Rehearing runs “15 days after the date of filing of the judgment,” and the text of Florida

Rule of Civil Procedure 1.535 is moved to Rule 1.530 as new subdivision (h) while Rule 1.535 is deleted.

**Kim v. Galasso**, Case No. 2D20-3313 (Fla. 2d DCA 2022).

Trees are generally considered part of the realty and not personalty; any contract taking planted trees out of the general rule must satisfy the statute

of frauds and furthermore must clearly show an intent the trees be personal property.

**Perez v. The Estate of Ofelia Reitman**, Case No. 3D21-1104 (Fla. 3d DCA 2022).

A trial court is required by Florida Statute section 45.032(3)(b) to set an evidentiary hearing to determine entitlement to surplus foreclosure sale proceeds if - prior to the date the clerk reports the surplus as unclaimed - any person other than the owner of record claims an interest in the proceeds or the owner of record files a claim for the surplus but acknowledges there are others that may be entitled.

**RKHub Logistics LLC v. Eastern Auto Motor Corp.**, Case No. 4D21-2665 (Fla. 4th DCA 2022).

Florida Rule of Civil Procedure 1.510 sets a mandatory requirement that a trial court state on the record the reasons it granted or denied a motion for summary judgment.

**Holland M. Ware Charitable Foundation v. Tamez Pine Straw LLC**, Case No. 1D22-4 (Fla. 1st DCA 2022).

A verified Motion for Temporary Injunction is insufficient to grant a temporary injunction if an evidentiary hearing has been scheduled.

**Vericker v. Powell**, Case No. 3D22-645 (Fla. 3d DCA 2022).

The Third District aligns with the Fourth District and holds that interlocutory review is not available to review non-final orders arising from SLAPP suits; conflict



Manuel Farach  
Chair

Continued On Next Page . . .

certified with decisions from the Second District.

judgment being recorded.

**Annesser v. Innovative Service Technology Management Services Inc.**, Case No. 3D19-2429 (Fla. 3d DCA 2022).

The dropping of a party upon a complaint being amended is the same as dropping a party without prejudice and is not a basis for an award of attorney’s fees under a proposal for settlement.

**Maxwell v. Mark W. Edwards, D.M.E.**, Case No. 4D21-951 (Fla. 4th DCA 2022).

A party that did not sign a settlement agreement cannot be bound by its terms.

**Shakhova v. Pugachov**, Case No. 4D21-1253 (Fla. 4th DCA 2022).

A party seeking to enforce a foreign judgment is required by Florida Statute section 55.604(1) to record an affidavit at the time of filing the judgment, but compliance can be excused if the judgment debtor is aware of the pendency of the

**Physicians Care Centers of Florida, LLC v. PNC Bank, National Association**, Case No. 4D21-3228 (Fla. 4th DCA 2022).

An assignment of a judgment debtor’s assets that is still conditional and not fully effective does not take priority over a writ of garnishment.



**Get the right IT support solutions for your business**

**Managed IT**

- **Managed Security**
- **Telecom\VOIP**
- **Microsoft 365**
- **Cloud Technologies**

**Security Solutions**

- **Web Design & Hosting**
- **Managed Backup Solutions**
- **Cabling\Network**
- **Security & Compliance**

**The IT Support your team deserves**

**772.285.9934**  
**www.spiral.tech**

## 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 [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>October 2022</h1>						
2	3 SideBar Articles Due	4 Yom Kippur Begins	5 Yom Kippur <b>Courthouse Closed</b>	6	7	8 Gator Tailgate
9	10 Columbus Day	11	12	13	14 <b>RSVP DEADLINE FOR 10/21 LUNCH</b>	15
16	17	18 MCBA Officers' Meeting	19	20 <b>Judicial Reception</b> 5:30 p.m.@ Stuart Yacht & County Club	21 MCBA Luncheon @ <b>Monarch CC</b> (11:30am)	22
23	24	25 Small & Solo Firm Happy Hour 5:30 p.m. @ District Table	26	27 Wills, Trusts & Estates Committee Meeting 12 p.m. @ Nexus Bldg	28	29
30	31 Halloween	<b>SAVE THE DATES:</b> See <a href="http://www.martincountybar.org">www.martincountybar.org</a> for full 2022-23 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, October 21, 2022**

When: Friday, October 21, 2022  
11:30 a.m. networking; 12:00 p.m. lunch

Where: Monarch Country Club  
1801 SW Monarch Club Drive, Palm City

Menu: Taco Salad: Tortilla Bowl Filled with Lettuce, Tomato, Cheese, Chili Filling, Salsa, Sour Cream, Guacamole and Cilantro with a side of Black Beans and Rice. Key Lime Pie

Speaker: Florida Bar President, Mr. Gary Lesser

CLE: 0.5 General CLE Credit

RSVP to: [martincountybarassociation@msn.com](mailto:martincountybarassociation@msn.com)  
No later than Friday, October 14, 2022

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

There is no charge for paid MCBA members. Guests are welcome; a \$35 guest fee may be paid at the luncheon (cash or check only).