

MARCH 2023



The SideBar

NEWSLETTER OF THE MARTIN COUNTY BAR ASSOCIATION

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MCBA PRESIDENT, JEFFREY FRIEDMAN

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HOW I OVERCAME THE VICIOUS CYCLE
OF WORRY AND FEAR

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THE SIDE BAR NEWSLETTER

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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

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

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Adam Schwartz - 2021 - 2022

Message From the President

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

Dear Members:

We hope you enjoyed our February luncheon speaker, Edwin Bell. Mr. Bell provided us with very insightful and useful information from his work on his Blueprint for Racial Justice. We appreciate him taking the time to speak to us about his work and how we can create racial justice and diversity in the law.

In continuing with this year's focus on mental health, I am pleased to announce that this month's luncheon speaker will be Psychologist, Kristie DeBlasio, Ph.D. Dr. DeBlasio serves on the Florida Bar Mental Health and Wellness Committee and assists with providing mental health programs and education for attorneys. The Committee provides invaluable mental health resources to attorneys, which has always been needed, but even more so after all of the life-changing events of the past few years.

The month of March has great historical significance. In the original Roman calendar, March was the first month of the year. The "Ides of March" was known in Roman times as a deadline for settling debts. We have something similar in April called "Tax Day." It was also the day Julius Caesar was assassinated in 44BC.

Alexander Graham Bell made the first phone call in March, and it was also when a man named Eiffel was the first to ascend a tower you may have heard of. Unfortunately, March includes the change to Daylight Saving Time, where we all lose one hour.

Thanks for reading our Sidebar. We look forward to seeing everyone at the luncheon.

Sincerely,



Jeffrey M. Friedman
2022-2023 MCBA President



There are numerous opportunities to support the MCBA through Event Sponsorships.

Annual Installation Banquet – see page 18

Sponsorships allow for a special evening and help keep ticket prices as low as possible

MCBA Sobel Cup– see page 8

Proceeds from the Tournament go towards the MCBA Scholarship Fund.

Last year's tournament allowed the MCBA to increase the Scholarships awarded to \$7,500.

5K Race to the Courthouse – see page 20

Last proceeds go to Legal Aid Society of Martin County and MCBA Scholarship Fund

Your sponsorships help to make these events the best they can be.

Consider supporting your Bar with an Event Sponsorship



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) by clicking the "About The Bar"

19th Circuit Judicial Nominating Commission

The MCBA will continue to post updates on the 19th Circuit JNC Commission meetings and deadlines for appointments to fill judicial vacancies as they become available at www.martincountybar.org.

For more information, email martincountybarassociation@msn.com

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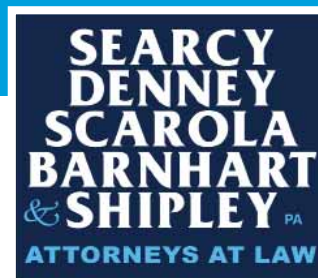
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- Benjamin Disraeli



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Please Join Us!

Join us on Friday, March 24, 2023

On Friday, March 24, 2023, the Executive Board of the Martin County Bar Association invites its members, and guests to join us for our monthly CLE luncheon meeting at Monarch Golf Club in Palm City. **Networking begins at 11:30 a.m. and lunch will be served promptly at noon.**

We are excited to welcome Dr. Kristie DeBlasio, Ph.D. Dr. DeBlasio serves on the Florida Bar Mental Health and Wellness Committee and assists with providing mental health programs and education for attorneys. The Committee provides invaluable mental health resources to attorneys, which has always been needed, but even more so after all of the life-changing events of the past few years.

Dr. Kristie is a native of South Florida and is the Vice President of Ricci Psychology. She obtained her undergraduate and master's degrees at Elon University and Loyola University, where she worked for the National Institutes for Health (NIH) and Johns Hopkins Hospital. She returned home to complete her Ph.D. at Nova Southeastern University. She also obtained specialized training in the treatment of anxiety disorders and is currently a Certified Clinical Anxiety Treatment Professional (CCATP).

Dr. Kristie has provided therapy, assessment, and research in a variety of settings, including mental health clinics, psychiatric hospitals, drug and alcohol treatment centers and medical centers. She was also the Clinical Director of a dual-diagnosis facility. She has been appointed to and continues to serve on the Florida Bar's Committee on the Mental Health & Wellness of Florida Lawyers. In addition to seeing clinical patients, Dr. Kristie provides gifted, psychoeducational, and neuropsychological testing.

Dr. Kristie utilizes a combination of therapeutic techniques, including Acceptance and Commitment Therapy (ACT), Dialectical Behavioral Therapy (DBT), Cognitive Behavioral Therapy (CBT), Exposure and Response Prevention (ERP), and Eye Movement Desensitization and Reprocessing (EMDR). She helps children, adolescents, and adults work through challenges associated with anxiety, obsessions and/or compulsions, phobias, and trauma, as well as social distress, low self-esteem, abandonment, codependency, life transitions, and relationship distress. She is often accompanied by her trained therapy dog, Sienna, in her sessions.

We look forward to an insightful and engaging program with another great turnout.

RSVP IS REQUIRED on or before 5:00 p.m. **FRIDAY, March 17, 2023** by calling 772-220-8018 or emailing martincountybarassociation@msn.com. 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).

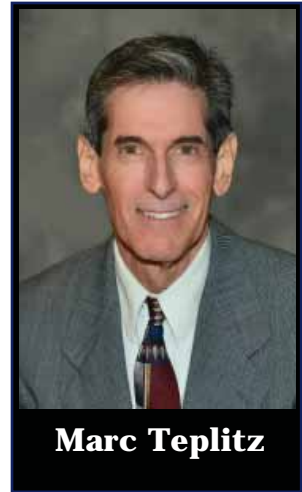
**In order to expedite gate access for everyone,
please be sure to RSVP by the deadline.**



Dr. Kristie
DeBlasio, Ph.D

Sebastian State Park Beach Camping Weekend

I am sorry to report that I have not received any responses from our membership desiring to participate in the Association's camping trip this year. Our past camping/canoeing trips have been in February and March as they are the best months for camping, since it's before the rainy season and temperature are pleasant. Our membership profile has changed a lot over the years and I understand our members with children are often occupied with team sports programs. I am hopeful that we can return to our camping trip next year. Please let me know if that is something that interests you and in which you would like to participate My email is mteplitzlaw@bellsouth.net



Marc Teplitz

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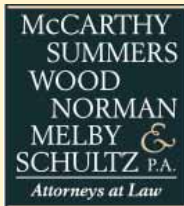


- Elder Law*
- Special Needs Trusts*
- Medicaid Planning and Applications*
- Long Term Care Planning*
- Estate Planning*
- Wills & Trusts*
- Probate and Guardianship*



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MCBA Sobel Cup

GOLF TOURNAMENT

Supporting the MCBA Scholarship Fund

SATURDAY, MAY 13, 2023

LOST LAKE GOLF CLUB
Hobe Sound, FL
8:30 a.m. Shotgun
Scramble Format



\$150 per golfer or
\$500 per foursome
Includes: Breakfast,
Lunch & Awards

Thank You
Sponsors!

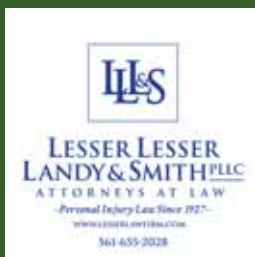
Gold Sponsor



Scorecard Sponsor



Cart Sponsor



Breakfast Sponsor



Hole Sponsors

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MCBA Sobel Cup Golf Tournament

Benefitting the MCBA Scholarship Fund

Sponsorship Opportunities



Gold Sponsor - \$1500

1 Available

- Includes Foursome (\$500 value)
- Logo in all print advertising and social media posts relating to tournament
- Signage at tournament
- Logo with hyperlink on MCBA website
- Recognition at Luncheons leading up to event
- Full-page ad in 1 issue of The SideBar

Luncheon Sponsor - \$750

1 Available

- Includes entry fee - 2 golfers (\$250 value)
- Logo in all print advertising and social media posts relating to tournament
- Signage and Recognition at Lunch
- Logo with hyperlink on MCBA website
- Recognition at Luncheons leading up to event
- Half-page ad in 1 issue of The SideBar

Cart Sponsor - \$500

1 Available

- Logo displayed on all golf carts used for event
- Logo in all print advertising and social media posts relating to tournament
- Logo with hyperlink on MCBA website
- Recognition at Luncheons leading up to event
- Quarter-page ad in 1 issue of The SideBar

Scorecard Sponsor - \$500

1 Available

- Logo displayed on all scorecard used for event
- Logo in all print advertising and social media posts relating to tournament
- Logo with hyperlink on MCBA website
- Recognition at Luncheons leading up to event
- Quarter-page ad in 1 issue of The SideBar

Beverage Cart Sponsor - \$500

1 Available

- Logo displayed on beverage cart used for event
- Logo in all print advertising and social media posts relating to tournament
- Logo with hyperlink on MCBA website
- Recognition at Luncheons leading up to event
- Quarter-page ad in 1 issue of The SideBar

Breakfast Sponsor - \$300

1 Available

- Signage and Recognition at Breakfast
- Logo in all print advertising and social media posts relating to tournament
- Logo with hyperlink on MCBA website
- Recognition at Luncheons leading up to event
- Business Card size ad in 1 issue of The SideBar

Gift Bag Sponsor - \$300

1 Available

- Logo on each gift bag
- Logo in all print advertising and social media posts relating to tournament
- Logo with hyperlink on MCBA website
- Recognition at Luncheons leading up to event
- Business Card size ad in 1 issue of The SideBar

Hole Sponsor - \$200 per hole

One sponsor per hole

- Signage at tee box
- Listing in all print advertising and social media posts relating to tournament
- Listing on MCBA website

Only 16 Remaining

To Sponsor or for Information contact: Robyn O'Heron at
martincountybarassociation@msn.com or 772-382-9076

Foreclosure Committee

U.S. Bank v. Bell - standing at case commencement

In foreclosures, the plaintiff must have standing at case commencement and at judgment. In this case, the copy of the note attached to the complaint did not include any indorsements, while the original note surrendered to the court before judgment had indorsements allowing plaintiff to be a holder at this time. At trial, plaintiff attempted to admit a pooling and servicing agreement (PSA) as evidence of standing at case commencement. Plaintiff attempted to admit the PSA as a business record under Fla. Stat. § 90.803(6) and as a document of independent legal significance. The trial court sustained the borrowers' hearsay objections and found plaintiff's witness could not authenticate the PSA. The 5th DCA reversed and remanded finding that a PSA is admissible as a document of independent legal significance and borrowers' waived an objection based on authentication.

McIntosh v. U.S. Bank - loan mod

In this case, the borrower appealed the final judgment of foreclosure for failing to include a loan modification agreement. The 3rd DCA reversed and remanded because the complaint

referenced a loan modification agreement, but the summary judgment evidence did not.

McIntyre v. CIT Bank - objections to sale

In this case, the personal representative for the borrower's estate filed an objection stating they obtained loan approval to redeem the judgment on the day of the sale. The sale went forward and the clerk filed a certificate of sale. The trial court entered an order on the objections staying the issuance of a certificate of title for 60 days, allowing the PR to redeem during this timeframe, and allowing the prior sale to continue if redemption is not accomplished within 60 days. The PR filed more objections within the 60 days based on general infirmities and the street address having one incorrect digit in the notice of sale. The trial court denied the objections. The 3rd DCA affirmed finding objections must be filed within 10 days of the sale and the stay did not extend the PR's timeframe to file objections.



Dorothy Dlugolecki
Chair

Visit the MCBA website at www.martincountybar.org for upcoming events, committee meetings and more!

find us online

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With our focus on mental health this year, we hope that you find the next two articles helpful and useful to you or someone you know that may be struggling.

How I Overcame The Vicious Cycle Of Worry And Fear

By: Stan Popovich

Do you ever get stuck in the vicious cycle of worry and fear in your life? As a published author of a managing fear book, I struggled with fear and anxiety for over 20 years.

Here is a brief summary of what I did to overcome the cycle of fear and anxiety in my life.

I got advice from the professionals: The first thing I did was to talk to various counselors since they know how to conquer fear and anxiety. Whenever I talked to the counselors, I would bring a notebook and take notes so I would not forget the advice that was given to me.

I became an expert on dealing with fear and anxiety: I did everything possible to learn as much as I could in removing my fears and anxieties in my life. I talked to professionals, read books, joined support groups, and learned from my experiences.

I surrounded myself with helpful people: I made it a habit of surrounding myself with supportive people who understood what I was going through. This really helped me out when I was really struggling with my anxieties and stresses.

I learned how to manage my fearful thoughts: The key in getting the edge off of your anxieties is by managing your fearful thinking. Whenever I would get a negative and fearful thought, I would challenge that thought with positive statements and realistic thinking. I also made it a habit to focus on the facts of my current situation and not on my negative thinking.

I was persistent: There were times I felt like giving up because my fears and anxieties were so powerful and I didn't know what to do. I worried about what would happen and that just made my fears that much stronger. During those times, I would consult with a professional and I made it a point to learn from my experiences so that I would be better able to handle these situations in the future.

I did not make excuses: With a lot of practice, I became very good at reducing my fears and anxieties. I realized that the answers to my problems were out there, however it was up to me to find those techniques that would get my life back on track. Making excuses would not improve my situation.

I realized that you can't predict the future: I realized that there are always factors and circumstances that I cannot predict or anticipate that could make a difference in my stressful and fearful situations. A person may be 99% correct in predicting the future, but all it takes is that 1% to make a difference. The key is to focus on the present.

I made the choice to get better: **You have to make the effort to find the answers to overcome your** situation. It will not always be easy, but you can overcome the cycle of fear and worry with hard work and a willingness to learn from your everyday experiences. It is important not to give up.

Stan Popovich is the author of the popular managing fear book, "A Layman's Guide to Managing Fear". For more information about Stan's book and to get some more free mental health advice, please visit Stan's website at <http://www.managingfear.com>. Reprinted with permission.

Admiralty Committee

Barbara A. Kreitz Cook

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



Barbara A. Kreitz Cook
Chair

VESSEL OWNER'S LIMITATION OF LIABILITY

The Limitation of Shipowners' Liability Act of 1851, codified at 46 U.S.C. §§ 30501 et seq, provides an opportunity unique to maritime law for vessel owners to limit their liability to the value of the vessel and its cargo **after** the accident or sinking or for complete exoneration for damage to property and for personal injury, incurred as a result of a vessel accident. The statute applies to every description of watercraft, including a wave runner, dinghy, dive boat, fishing charter boat, so long as the incident occurs in navigable waters and "without the privity or knowledge of the owner" and the vessel is under 100 gross tons. Some extreme examples are its application to deny recovery for the 1912 Titanic sinking to the value of the lifeboat, the Duck Boat sinking in Branson, MO, 17 dead, the Ethan Allen on Lake George, 20 dead, and the destruction by fire of the Dive Boat Conception, Labor Day, September 2, 2019, 34 dead.

The procedural provisions for limitation or exoneration are implemented by Rule F, Supplemental Rules for Admiralty or Maritime Claims, which rules are located at the end of the Federal Rules Civil Procedures. The vessel owner must bring the limitation action in federal court in admiralty, and "all claims and proceedings against the owner or the owner's property with respect to the matter in question shall cease." Fed.R.Civ.P.Supp. Rule F(3). Claimants asserting an owner's liability for the incident may then file claims in the limitation action. A claimant can defeat the limitation action by showing that the incident occurred "with the privity and knowledge of the owner." (46 U.S.C. § 30506(b)) If a claimant desires to contest either the right to exoneration from or the right to limitation of liability the claimant shall file and serve an answer to the complaint for limitation." Fed.R.Civ.P.Supp.

Rule F(4) It is not sufficient that the claimant simply deny the allegations of freedom from fault; the answer must set forth specific faults alleged as grounds for denying the petition. Fed.R.Civ.P.Supp. Rule F(5); *Petition of M/V Sunshine , II*, 808 F.2d 762 (11th Cir. 1987).

A shipowner can also raise limitation of liability as an affirmative defense to an action filed against the vessel or the owner in federal court in diversity or state court under the savings to suitors clause, 28 U.S.C. § 1333, and admiralty court has the discretion to stay the limitation action and allow that court to make the determination as to owner liability, so long as there is only one claimant or the value of the vessel after the accident exceeds the value of the alleged claims against the owner and vessel.



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Young Lawyers Division

Committee Co-Chairs: Melissa Dean and Jacob Mayer



Melissa Dean
Chair

First Citizens Bank shared their knowledge on what it means to be a young professional, the power of networking, and what we as Young Lawyers can do to foster and build our network and relationships.

With the momentum flowing, the Young Lawyers Division of Martin County will be attending the 2023 Affiliate Outreach Conference from February 3-4, 2023, at the Hard Rock Hotel in Daytona Beach. Due to the Conference, we will not be hosting an event this month. February will be a month of new ideas for the YLD, and we intend to bring those ideas to Martin County to support and aid the Young Lawyers in our community.

We are EXCITED to bring these new ideas to you soon!

Please reach out if you have any ideas to support the Young Lawyers of Martin County. Finally, we are calling all Young Lawyers to join us on this adventure to build a growing community of young lawyers in Martin County. If you know of any young lawyers that have not reached out yet... please let us know!

Wishing everyone a positive and productive March! We had a blast at the Young Lawyers Happy Hour hosted by the House of Brews.

**Personal Injury
Trial Attorney**

JACK SOBEL

Board Certified Civil Trial Lawyer




Donaldson & Weston

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Employment Law

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New laws for nursing mothers and pregnant workers

On December 29, 2022, President Biden signed into law: 1) the Pregnant Workers Fairness Act (PWFA) and 2) the Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act); both of which are designed to protect workers who are pregnant or breastfeeding.

PWFA:

This law requires employers with 15 or more employees to make reasonable accommodations for employees and applicants affected by pregnancy, childbirth, or related medical conditions.

Specifically, the bill declares that it is an unlawful employment practice to

- fail to make reasonable accommodations to known limitations of such employees unless the accommodation would impose an undue hardship on an entity's business operation;
- require a qualified employee affected by such condition to accept an accommodation other than any reasonable accommodation arrived at through an interactive process;
- deny employment opportunities based on the need of the entity to make such reasonable accommodations to a qualified employee;
- require such employees to take paid or unpaid leave if another reasonable accommodation can be provided; or
- take adverse action in terms, conditions, or privileges of employment against a qualified employee requesting or using such reasonable accommodations.

The Equal Employment Opportunity Commission (EEOC) will provide examples of reasonable accommodations, which are likely to include reducing lifting requirements, added restroom breaks, and providing stools for workers who stand.

This is a change because prior to this law,

employers did not have to accommodate pregnancy like it had to accommodate a disability. Now they do. The law goes into effect on *June 27, 2023*.

PUMP Act:

This law expands workplace protections for employees with a need to express breast milk. Although the Fair Labor Standards Act already imposed certain requirements on employers, this law broadens what is required by specifically including salaried employees.

The PUMP Act requires that time spent to express breast milk must be considered hours worked if the employee is also working. The bill also extends from one year to two years the available time period for such accommodations.

The PUMP Act also requires employers to provide:

- (1) a reasonable break time for an employee to express breast milk each time such employee has need to express breast milk for the 2-year period beginning on the date on which the circumstances related to such need arise; and
- (2) a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

Although the PUMP Act does not apply to employers with less than 50 employees, that only allows smaller employers off the hook if they can prove it would cause such employers an undue hardship. That is a tough burden that the employer must show. Before you take the position that you are too small to comply, please discuss with employment counsel. This new law already went into effect, but enforcement takes effect April 28, 2023.



Paralegal Committee

Pamela Lewis – Chair

Attention Paralegals!


Last month we had a great and very frank discussion about family law with Judge McNicholas. Always a pleasure to have him speak to us.

Please join us for our CLE Dinner on Wednesday, March 22, 2023 at 5:30 p.m. at Mrachek Law, 1000 SE Monterey Commons Blvd, Suite 306 in Stuart. Our speaker will be Donna Krusbe who will lecture on Appeals starting at the trial level and through formatting and filing briefs.

I am sure it will be an informative discussion. Space is limited. **RSVP by March 15** to plewis@mrachek-law.com to reserve your spot.



Pamela Lewis
Chair

Board Certified
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Bankruptcy Committee

Thomas Zeichman - Chair

What is a Subchapter V Bankruptcy? Chapter 11 Tailored to Help Small Business.



Chapter 11 is a powerful tool to reorganize debts and to maintain a going concern. But it does not always move quickly and many small businesses found the obligations too onerous.

The Small Business Reorganization Act was passed to help small businesses proceed quickly through Ch. 11 bankruptcy, obtain the benefits of Chapter 11 including the reduction and modification of debt, and avoid the expense or administrative delays generally associated with Chapter 11. Both small businesses and individuals with business debt are also eligible which may be helpful in the event the principals signed personal guarantees.

Below is a summary of the Small Business Reorganization Act.

Summary of Small Business Restructuring Act

- **Eligibility**
 - a debtor must have non-contingent, liquidated debts (secured and unsecured) of no more than \$7,500,000.
- **Benefits**
 - **Lower Costs.** SBRA helps keep costs low by:
 - Eliminating disclosure statement requirement.
 - Only the debtor may file a plan. No competing plans to litigate.
 - No longer required to obtain votes if plan otherwise complies with Bankruptcy Code. This too decreases the likelihood of costly litigation.
 - **Bankruptcy Tools**
 - Assume or Reject leases and contracts. This allows the company to terminate leases, cap damages, and spread reduced payments over time.
 - Modify debt obligations by spreading out payments, discharging, or both.
 - Sell assets “free and clear” to maximize their value.
 - **Retain Control.**
 - Absent bad acts, owners remain in control of operations during the bankruptcy case.
 - Owners retain ownership of the businesses post-bankruptcy by paying the company’s disposable income to creditors over a 3 to 5 year period.
 - **Fast Track Cases**
 - Court status conferences occur early to advance cases.
 - Debtor must file a plan within 90 days of the bankruptcy filing.
 - Trustee appointed to assist with creditor negotiations and advance plan of reorganization.

The Small Business Reorganization Act came at the right time as businesses and individuals experience unique challenges.

Do you have a bankruptcy topic you would like to see covered? Reach out to Thomas Zeichman, MCBA Bankruptcy Chair at tzeichman@bmulaw.com or 561-549-9036

January Luncheon



Solo & Small Firm Committee

The Solo & Small Firm Committee
Invites you to
Sailfish Sands Hitting Bays
Thursday, March 16, 2023
from 5 – 7 p.m.
Refreshments will be provided.

Limited Space Available.
RSVP to Kathy@KmcHalelaw.com



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FIRM
COMMITTEE

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2023 Martin County Bar Association Annual Banquet

Sponsorship Opportunities



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- Recognition on MCBA Website
- Recognition in *The SideBar* before & 1 month following Banquet
- Half-page ad in 1 edition of *The SideBar*
- 3 Tickets to Banquet (\$450 value)**

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- Recognition in *The SideBar* before & 1 month following Banquet
- Quarter-page ad in 1 edition of *The SideBar*
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- 1 Ticket to Banquet (\$150 value)**



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- Recognition on Banquet signage and program
- Recognition in *The SideBar*
- 1 Ticket to Banquet (\$150 value)**

The MCBA Executive Board
is pleased to announce

***The MCBA Annual
Installation Dinner***

Join us for an evening of Cocktails,
Dinner, Dancing & Casino Style Games
as we revive the Glitz and Glamour
of Old School Vegas

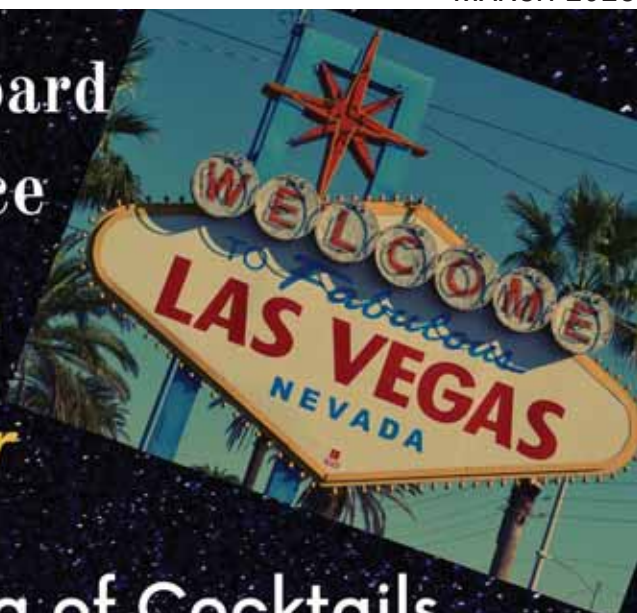
Saturday, May 20, 2023

6:30 p.m.

Willoughby Golf Club



Invitations to be mailed soon.





MARTIN COUNTY BAR ASSOCIATION RACE TO THE COURTHOUSE

Join us on April 22, 2023 for the 6th Annual Race to the Courthouse 5K
Benefitting Legal Aid Society of Martin County and the
MCBA Scholarship Fund

Please come out and run or walk with us through beautiful downtown Stuart.
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Awards for fastest male & female judges



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- Mention as sponsor and include logo in monthly articles in the MCBA Sidebar publication
- Opportunity to set up banner and or booth at the finish line
- Opportunity to include promotional items in the race bag
- Included in race day announcements
- Eight race entries

JUDGE SPONSOR \$500

- Logo on Race T shirt (third placement location)
- Logo on MCBA website through May 2023
- Mention as sponsor in monthly articles in the monthly MCBA Sidebar publication and Logo in May's issue
- Opportunity set up banner and or booth at the finish line
- Opportunity to include promotional items in the race bag
- Included in race day announcements
- Two race entries

COURTHOUSE SPONSOR \$750

- Logo on Race T shirt (second placement location)
- Logo on MCBA website through May 2023
- Mention as sponsor and include logo in monthly articles in the MCBA Sidebar publication
- Opportunity to set up banner and or booth at the finish line
- Opportunity to include promotional items in the race bag
- Included in race day announcements
- Four race entries.

JURY SPONSOR \$250

- Logo on Race T shirt (fourth placement location)
- Mentioned in monthly articles in the monthly MCBA Sidebar publication and Logo in May's issue
- Opportunity to set up banner and or booth at the finish line
- Opportunity to include promotional items in the race bag
- Included in race day announcements
- One race entry

EVIDENCE BAG \$50

- Opportunity to include promotional items in the race bag
 - Mention in May MCBA Sidebar publication

Wills, Trusts & Estates

Lisa Clasen- Chair

A special thank you to Sarah Baker and First Citizens Bank for sponsoring our January lunch meeting. We had a delicious lunch, and Sarah shared a lot of valuable information regarding all things banking, but especially fraud protection, ACH monitoring and trust account best practices. She provided insight on convenience accounts and use of powers of attorney. Thank you so much, Sarah! And thank you to all the committee members who attended. It was our best attended meeting so far. Watch your emails for notices about the next meeting.



Lisa Clasen
Chair



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Martin County Women Lawyers Association

Abby Spears: MCWLA President 2022 - 23



The **Martin County Women Lawyers 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.

3/29/23 - Camille Frazer, Director of Legal Training, Statewide Guardian ad Litem Office (via Zoom)

SAVE THE DATE:

May 6, 2023 Yoga on the Beach

April 27, 2023 Judicial Assisant Appreciation Luncheon at Kyle G's on the ocean

BECOME A MEMBER OF MCWLA TODAY! To join or renew your membership, visit www.fawl.org. Contact our Membership Director, Davina Tala, at dt@talalegal.com with any membership questions.

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Real Estate and Commercial Litigation Update

Florida Real Property and Business Litigation Report

Manuel Farach

Braun v. America-CV v. Station Group, Inc. (In re: America-CV Station Group, Inc.), Case No. 21-13774 (11th Cir. 2023).

Claimants and interest holders are entitled to a new disclosure statement and another opportunity to vote when there is a modification to a Chapter 11 reorganization plan which materially and adversely affects the claim or interest holders.

Royal Palm Village Residents, Inc. v. Slider, Case No. 21-13789 (11th Cir. 2023).

Florida Statute § 723.068 (prevailing parties in litigation over the Mobile Home Act are entitled to attorney's fees) does not apply to a voluntarily dismissed amended complaint which alleged violations of the Act but did not include claims for violations of, requests for relief under, or seek to enforce compliance with the Act.

Landcastle Acquisition Corp. v. Renasant Bank, Case No. 20-13735 (11th Cir. 2023).

The *D'Oench, Duhme & Co. v. Fed. Deposit Ins. Corp.*, 315 U.S. 447, 62 S. Ct. 676 (1942); 12 U.S.C. § 1823(e)] Doctrine, a form of estoppel, applies when the FDIC takes over a failed bank and sells it to a solvent bank and holds that evidence outside the failed bank's records cannot be used to establish liability against the failed bank or the FDIC.

Coates v. R.J. Reynolds Tobacco Company, Case No. SC21-175 (Fla, 2023).

Florida Statute § 768.73 limits punitive damage awards to no more than three times the compensatory damage award for "any civil action based on negligence, strict liability, products liability, misconduct in commercial transactions, professional liability, or breach of warranty, and involving willful, wanton, or gross misconduct ..."

In Re: Amendments To Florida Rules Of Civil Procedure 1.070 and 1.650, Case No. SC22-1715 (Fla. 2023).

The Florida Rules of Civil Procedure regarding notice are amended.

7 at Blue Lagoon (1), LLC v. Blue Lagoon Condominium Association, Inc., Case Nos. 3D21-1706 and 3D21-1731 (Fla. 3d DCA 2023).

A disputed term must be read in context of the whole text, not just the disputed term, and accordingly, a prohibition against interfering with rights of access under an easement is not violated merely by increasing traffic on the easement.

Guttenberg v. Smith & Wesson Corp., Case No. 4D21-2268 (Fla. 4th DCA 2023).

In order to not be considered merely a request for legal advice, a suit for declaratory action regarding a statute must demonstrate a present violation of the statute and/or penalties arising from same, or under the Ripening Seeds of a Controversy Doctrine, a showing of real threat of immediate injury.

Disorbo v. American Van Lines, Inc., Case No. 4D21-2994 (Fla. 4th DCA 2023).

The Florida Constitution requires cases with both legal and equitable counts and a demand for jury trial that the common issues of fact between the legal and equitable claims be tried to the jury.

Mane FL Corp. v. Beckman, Case No. 4D21-3424 (Fla. 4th DCA 2023).

Undisputed evidence of seven badges of fraud will support a summary judgment of a fraudulent conveyance under Florida Statute § 726.105.

Lennar Homes, LLC v. Wilkinsky, Case No. 4D22-1239 (Fla. 4th DCA 2023).

Personal injury claims against a developer must be arbitrated when the arbitration provision in the sales contract signed by plaintiff expressly and unambiguously extends to personal injuries suffered by plaintiff within the residential community where the home he purchased was located.



Manuel Farach
Chair

Davis v. Verandah at Lake Grady Homeowners Association, Inc., Case No. 2D21-1387 (Fla. 2d DCA 2023).

The merger doctrine does not eliminate later recorded restrictive covenants when the purchasers of the vacant lot acknowledged at closing that the property would later be subject to restrictive covenants and the purchasers had knowledge of the contents of the restrictive covenants.

Lake Lincoln, LLC v. Manatee County, Case No. D21-2826 (Fla. 2d DCA 2023).

A parcel within a DRI is not necessarily “contiguous” to the entire DRI for purposes of the Jirik Test found in *Department of Transportation, Division of Administration v. Jirik (Jirik II)*, 498 So. 2d 1253 (Fla. 1986) (physical contiguity, unity of ownership, and unity of use are examined to determine whether a landowner’s “parcels are separate and independent or a single tract” for purposes of determining a compensable taking).

Chakra 5, Inc. v. The City of Miami Beach, Case No. 3D21-1084 (Fla. 3d DCA 2023).

Plaintiffs suing a municipality under 42 U.S.C. § 1983 must establish: “(1) a deprivation of a constitutionally-protected liberty or property interest; (2) state action; and (3) constitutionally-inadequate process that was an express policy of the local government body” and such a “widespread practice that, although not authorized by written law or express municipal policy, is so permanent and well settled as to constitute a custom and usage with the force of law” or the actions of an official with final policymaking authority.

Kocik v. Fernandez, Case No. 3D21-1646 (Fla. 3d DCA 2023).

Florida’s Real Party in Interest Rule grants an agent standing to enforce a buyout clause in a shareholder agreement.

Gonzalez v. Nobregas, Case No. 3D21-1826 (Fla. 3d DCA 2023).

The Deceptive and Unfair Trade Practices Act (FDUTPA), section 501.204, et. seq contains a discretionary attorney’s fees provision to a prevailing party, and a trial court that granted summary judgment to a plaintiff who did not receive an award of damages from the jury did not abuse his discretion in declining to award fees.

Skyhop Technologies, Inc. v. Narra, Case No. 21-14051 (11th Cir. 2023).

So long as a plaintiff’s claims meet Florida’s connexity requirement, an allegation that an out of state software vendor violated the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, against a Florida company constitutes a tort committed in Florida and satisfies the requirements of Florida’s long arm statute under § 48.193(1)(a)(2).

Diaz v. Northwest Florida Water Management District, Case No. 1D21-2699 (Fla. 1st DCA 2023).

Whether a party participated in an administrative proceeding for an improper purpose such that attorney’s fees can be assessed against the party under Florida Statute § 120.595(1)(c) is a factual inquiry and fees can be assessed as the result of just one hearing.

Fries v. Anderson, Case No. 4D22-650 (Fla. 4th DCA 2023).

Even under the Small Claims Rules, a demand in the pleadings for “costs of court” is not equivalent to a demand for attorney’s fees and does not meet the requirements of *Stockman v. Downs*, 573 So. 2d 835, 837-38 (Fla. 1991).

Gay v. Jupiter Island Compound, LLC, Case Nos. 4D22-1007 and 4D22-1030 (Fla. 4th DCA 2023).

Unless the public official acted maliciously or in bad faith as prohibited by Florida Statute section 768.28(9)(a), a public official enjoys immunity from suits for tortious interference.

U.S. Bank National Association v. Bell, Case No. 5D21-2528 (Fla. 5th DCA 2023).

A mortgage pooling agreement has independent legal significance and thus is not subject to a hearsay objection.



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Thanks to everyone who came out to Charlies Bar & Grill on January 26, 2023 for our first networking happy hour of the year. It was great to relax, enjoy a beverage, appetizers and reconnect after the busy holiday season.



We would like to recognize the following firms for reaching 100% Club.

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Legal Resources / CLE

CLE MATERIALS: We are sending to you our **Urgent Request for current CLE Materials**. Our Martin County Clerk's Office—Recording Division, provides invaluable services in curating our CLE materials. However, this requires current (not expired) CDs of Florida Bar programs. Everything is out-of-date except for one Florida Bar CLE Program (Survey of Law) and our monthly meetings on DVD. Plus our Legal Resource Committee lacks the funds to provide additional materials beyond two Florida Bar CLE programs per year. Our Committee is actively requesting our membership (**YOU**) to contribute to our lending CLE law library any Florida Bar CLE programs which you have that are not expired.



Did you know: Our Florida Bar offers on-line CLE programs, for little or no cost! This is a great advantage if you are looking for 1 credit CLE materials on a variety of topics. Log-in to the Florida Bar and take a look.

Interesting: A quick read of your monthly Florida Bar News will result in many interesting topics. Did you know that one of the largest areas of disciplinary actions is the result of improper law office management/trust accounting? Yet, many Law Schools hardly ever offer law office management in their curriculum. Our committee has been asked to offer a CLE program on law office management. It is in the works and an agenda should be forthcoming soon with a program prior to June, 2023. When the agenda appears, please consult your schedules as we have been promised that the program will fill-up soon.

FREE LEGAL RESEARCH: All members are reminded that our Martin County Public Library has free legal research available which is accessible at all branches of the library system. **If you forget to bring your USB** for copying the research results, then one might be obtained for a nominal charge from the librarian, or you can always email your research results to yourself or print the results for a minor charge per page (although copying to usb is usually better).

ADMINISTRATIVE RESOURCES: Discounts are available for many administrative resource materials. Please inquire if you are interested in any such services.

Call (772) 485-6767 if you are interested in joining our Legal Resource Committee. See you at our upcoming Bar Luncheon, Christine Moreno

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

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Gator Basketball Game



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| # | PTS | FLS | | | # | PTS | FLS |
| 0 | 2 | 0 | | | 3 | 2 | |
| 4 | 4 | 0 | | | 5 | 4 | |
| 5 | 4 | 0 | | | 11 | 4 | |
| 12 | 9 | 0 | | | 12 | 12 | |
| 42 | 0 | 0 | | | 24 | 10 | |

| 42 | 41 |
|-------|----------|
| FLS 0 | FLS 0 |
| TOL 3 | TOL 3 |
| 2:53 | 2nd HALF |

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THE NEED FOR MORE ‘EXPERIENTIAL EDUCATION’ IN LAW SCHOOL

Reprinted from The Florida Bar News; March/April 2023 President’s Page
by Gary S. Lesser

Did law school prepare you to be a lawyer? It’s a serious question.

As I have been traveling all over Florida, speaking to various legal and non-legal groups about the work being done by The Florida Bar to help our legal profession, the court system, and the public we serve, one of my regular talking points is the mentoring program that we are creating and will be rolling out in just a few months.

Wherever I have traveled, I have received strong support of and interest in this mentoring program for newer lawyers with three or less years of experience at firms of three or fewer lawyers. I know this program will have a positive impact on newer lawyers in terms of greater professionalism and legal ability, along with personal and professional growth.



**Florida Bar President
Gary S. Lesser**

But during my travels, many people have commented to me that they wish that law school did a better job of preparing its graduates for actually practicing law in the real world. Of course, the reality is much more complicated and nuanced. There are law schools that offer and recommend internships and similar opportunities, and a much smaller number of law schools that require a certain level of “experiential education” as a requirement of graduating law school.

Over the years, there have been “thought leaders” who have recommended getting rid of one of the semesters of the third year of law school to allow for the opportunity for law students to have an internship, clerkship, or law clinic experience. I’m not sure if that’s necessary or if law schools would voluntarily give up on a semester of tuition. As the American Bar Association presently has the role of accrediting law schools, there would be many hurdles in taking that approach. I think a more realistic and helpful approach would be to implement what some law schools have started doing: requiring a certain number of credit hours of experiential education. This could take the form of an internship, law clinic, and even simulated work experiences in a law school setting. The Washington and Lee University School of Law was a pioneer in this movement, and over the years they have adjusted their program to spread this requirement out over multiple semesters, making it less burdensome for law students and creating more opportunities.

To be clear, this sort of thing is way above my pay grade as Florida Bar president, but as we create this new mentorship program, it is apparent how many people graduate law school without any internship or other “real-life” law experience. This makes the learning curve for these newer lawyers much steeper. Almost every other trade or profession requires an internship or apprenticeship. Obviously, medical school has a very rigorous approach, including clinics and shadowing medical professionals, followed by years of residency, internship, and possibly a fellowship. The legal profession should have similar opportunities so law school graduates can be better prepared for the practice of law and have a higher likelihood of long-term success.

There is another pragmatic benefit to requiring experiential education to graduate law school, and this has to do with greater access to legal services. The data is very clear about the large number of people choosing to go without an attorney for important life legal moments. Certainly, an ongoing public education program is going to be needed. But the reality is also clear that there are simply not enough lawyers practicing the “everyday practice of law” to provide these services. One of the recommendations of the Bar’s Special Committee on Greater Access

Continued On Next Page

Continued From Previous Page . . .

to Legal Services was the expanded use of prepaid legal service plans. If more lawyers and firms take advantage of this approach, this could increase the opportunities for new lawyers to start working in these environments, both during and after law school.

Like most longstanding issues, the discussion of more experiential education for law students is not new, but given other pressures facing the legal profession right now, this is the time to implement these changes in law schools all over the country. This will greatly benefit the law school graduates, the clients they serve, and the profession as a whole.

We have the opportunity to be a leader on these issues here in Florida and learn from the law schools in other states that are already taking this approach. As the third-largest state in the country, if we move forward in this direction, other states will surely follow suit. And this will be a significant benefit to the lawyers getting more real-life experience, and the members of the public having greater access to legal services for themselves and their families.

Every journey, whatever the length or complexity, always starts with that first step. We can make that happen right here in Florida.

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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



19th Judicial Circuit Court of Florida

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

www.circuit19.org

Emergency Hotline / Info: 772.742.9229

Visit

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

19th 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

Click on link at the bottom of the page.

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|--|--------|---------|-----------|----------|--------|----------|
| <h1>March 2023</h1> | | | | | | |
| <p>SAVE THE DATES: March 13 – 17: Martin County Schools Spring Break March 24, 2023: MCBA Monthly Luncheon April 22, 2023: Race to the Courthouse 5K May 13, 2023: MCBA Sobel Cup Golf Tournament May 20, 2023: MCBA Annual Installation Banquet</p> | | | | | | |
| 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 | 31 | |



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

Please join us for MCBA's CLE Monthly Meeting, Friday, March 24, 2023

- When: Friday, March 24, 2023
Note: This luncheon is a week later than usual due to school vacation
11:30 a.m. networking; 12:00 p.m. lunch
- Where: Monarch Country Club
1801 SW Monarch Club Drive, Palm City
- Menu: Caesar Salad; Vegetable Lasagna and Garlic Bread;
Cheesecake with Berry Drizzle
- Speaker: Dr. Kristie DeBlasio, PhD., MA, CCATP
Dr. Laura Ellick, PhD
- CLE: 1.0 General CLE Credit; 1.0 Mental Illness CLE Credit

RSVP to: martincountybarassociation@msn.com
No later than Friday, March 17, 2023

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).*