

MAY 2023



The SideBar

NEWSLETTER OF THE MARTIN COUNTY BAR ASSOCIATION

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JEFFREY FRIEDMAN

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THE SIDE BAR NEWSLETTER

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Website: www.martincountybar.org

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Message From the President

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

Dear Members:

We hope you gained useful information from our May luncheon speaker, Peggy Hewitt with Florida Mutual Insurance Company, who spoke about legal malpractice. (Let's face it, no one "enjoys" hearing about malpractice). Thank you to Ms. Hewitt for taking the time to provide us with valuable information to avoid malpractice issues, and how to deal with a malpractice claim should an issue arise.

At this month's luncheon we will be discussing the state of the Bar. Over the last few years, we've had many changes to the Bar events. We returned to in-person meetings and in-person speakers. We increased networking opportunities by having more happy hours and our first Holiday Mixer. There are more changes to come that will improve your experience with the MCBA, which we will be discussing at the luncheon.

We have made it to the month of May. The name May originated from the Latin word *Maius*, named after the Greek goddess of growth, Maia. On May 8th, 1945, the German high command unconditionally surrendered to allied forces bringing an official end to World War II. We also observe Memorial Day, when we honor and remember the men and

women who died while serving in the United States military. In May we show appreciation for all of the Moms out there when we celebrate Mother's Day. Cinco de Mayo is a celebration of the Mexican army's victory over the French on May 5, 1862 at the Battle of Puebla. Lastly, a discussion of May would not be complete without mentioning Star Wars day! May the 4th be with you...always.



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

Sincerely

A handwritten signature in black ink that reads "Jeffrey M. Friedman".

Jeffrey M. Friedman
2022-2023 MCBA President

In Memoriam

Frederick G. Sundheim, Jr.





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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Please Join Us!

Join us on Friday, May 12, 2023

On Friday, May 12, 2023, the Executive Board of the Martin County Bar Association invites its members, and guests to join us for our monthly CLE luncheon at Monarch Golf Club in Palm City. **Networking begins at 11:30 a.m. and lunch will be served promptly at noon.**

We hope you will join us for the last luncheon of the 2022 - 2023 Bar Year. Jeff Friedman, MCBA President will be our guest speaker and will discuss the State of the MCBA ***including some exciting news about changes coming in 2023-2024!*** In addition, we will recognize the MCBA Scholarship winners!

We look forward to an engaging program and hope to see you there.



RSVP IS REQUIRED on or before 5:00 p.m. **FRIDAY, May 5, 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.

Wishing our members a safe and fun summer!



Shareholders Deborah Ross, David Earle, Elizabeth Bonan, and Jacob Ensor are pleased to announce that **John Carrigan** has become a named shareholder of the firm. The firm will now be known as Ross Earle Bonan Ensor & Carrigan, P.A. Congratulations, John! The firm has offices in Stuart at 789 SW Federal Highway, Suite 101 and in Vero Beach at the Transocean Office Building on the corner of Highway A1A and the 17th Street Causeway.

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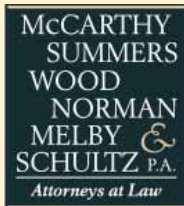
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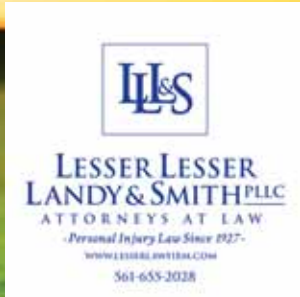
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The Florida Bar News

MINDFULNESS AND THE RULE AGAINST PERPETUITIES

Apr 04, 2023 By Scott Rogers Special to the News Columns

You probably remember learning in law school the rule against perpetuities. And while this common law property rule tends to be elusive to grasp, an insight underlying the rule — that it can be problematic to tie up the future with today's beliefs and intentions — is more readily appreciated. The present moment can also be difficult to grasp. Given our propensity to forecast the future, it can be useful find a way to minimize the time and energy that can be spent anticipating and trying to manage imagined scenarios that tend to be out of proportion to what reality brings our way.

An accessible and short mindfulness practice known as STOP is one such method. It can take anywhere from a few seconds to a minute to practice and many find it to be very helpful.

A HIJACKED ATTENTION

Can you recall needless hours spent lying awake at night fretting, unproductive afternoons anticipating uncertain outcomes, and belaboring how best to respond to a low likelihood event. At such times our attention is being hijacked away from a present-moment task. Even if we sense that our hypervigilance regarding a future concern is probably unnecessary or futile, there seems to be little we can do about it. We can get lost in scattered and distracted thinking and wish we could STOP the mental freight train long enough to be able to disembark and get back to the task at hand — be it a good night's sleep, finishing a project, or adequately preparing for a negotiation, client meeting, or hearing.

Mindfulness practices lay a foundation for seeing things more clearly. How, by sensitizing us to the presence of mind wandering and augmenting our ability to return to, and more fully grasp, our present moment circumstance. This, in turn, helps us to minimize rumination and catastrophizing. As such, practicing mindfulness both allows us to be more present and feel more relaxed, even when the present moment isn't all that we'd like it to be.

Along with formal mindfulness practices that may run for between 5 and 45 minutes, there are short, informal, practice techniques that can be brought into the day to effect useful shifts in the quality of our focus, emotional well-being, and sense of connection to others. In this month's column we'll look at a popular practice technique, known as STOP. I'll also share a variation, one especially helpful as you first begin to practice it.

STOPPING THE MENTAL FREIGHT TRAIN

The acronym STOP stands for:

Stop (or sit, stand, slow down),
Take a breath (aware of the sensations of breathing)
Observe (something taking place in the present moment), and
Proceed

Let's give it a try:

- Begin with **stop**, or *intentionally* pausing, whether you are sitting, standing, walking, or lying down.
- Now, **take** a breath, aware of the breath as it moves through the body. If you'd like to feel a little more relaxed, slow down the breath.
- **Observe** the moment as it is. For example, you might continue to observe the sensations of breathing or notice what you are thinking, feel the temperature of the air, listen for sounds, or look around and see what's taking place in your environment. Keep it simple.
- After a few moments, **proceed**.

STOP can take as little as 5 or 10 seconds to practice. It is both a short mindfulness practice and a method for slowing things down . . . and calming down. You can practice it just about any time. The following links offer you short discussion of the practice by law professor and mindfulness teacher, [Rhonda Magee](#) and a short video that does a nice job explaining the STOP exercise to [children](#).

Continued On Page 14

Foreclosure Committee

Federal National Mortgage Association v. Trinidad - collateral estoppel/ lost note standing

In 2012, Fannie Mae filed a foreclosure action and the court found Fannie Mae lacked standing because one of the allonges predated the note. Fannie Mae moved to release the original note, but it was lost in the mail when the clerk attempted to return it to plaintiff's counsel. Fannie Mae filed a new foreclosure in 2018 alleging lost note standing. At trial, Fannie Mae referenced the prior judgment to show they were a holder of the note before it was lost. The borrowers raised an argument outside of the pleadings - the indorsements were invalid based on the law of the case and alleged Fannie Mae lacked standing because the prior judgment found the allonges were legally insufficient. The trial court entered judgment in favor of the borrowers finding that Fannie Mae lacked standing because the prior judgment found Fannie Mae lacked standing. Fannie Mae appealed arguing collateral estoppel was not raised as a defense or tried by consent. The 4th DCA reversed and remanded finding lost note standing was established. The 4th DCA found reliance on collateral estoppel was erroneous when it has been previously held that an allonge is not invalid for predating a note and this reliance could create a windfall for the borrowers where Fannie Mae could never enforce the note and foreclose.



Dorothy Dlugolecki
Chair

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We are pleased to announce Jack Sobel has joined the firm as Of Counsel. Mr. Sobel is board certified in civil trial law, tried more than 100 cases to verdict, and is a published novelist.

We are excited to have him as a part of our team.

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MORE ON INSURANCE

Have you read your insurance policy? ... Be it Homeowners, Malpractice, Auto, or Vessel or any other type of insurance, there is likely a 100% certainty you did not read your policy ... until you were faced with a loss. But ... why bother? Here's why.

Homeowners Insurance Like you ... even though I have owned homes for well over 20 years ... I did not read my policy, except for the Coverage amount page ... until this year, when the renewal fee was twice that of the previous year. That made me wonder: did I have any coverage that would likely never be used? So I read my policy and found there was coverage for "other structures". I read further and found that "other structures" were my property fences, dock, and pool. I read even further and found that there would be reimbursement for damage to these "other structures" but only if the house fell on them and caused the damage. I reasoned that was unlikely, since the dock and fences were 200 to 400 feet and the pool 50 feet from the house! When I questioned my insurance agent as to the cost of the "other structures" coverage, I found it was half the cost of the entire policy! I then reduced my annual fee by half by eliminating that coverage.

Vessel Insurance After the recent hurricanes, there were many vessels in the Fort Myers area that were damaged while stored "on the hard" (i.e. on land) due to being hit by other vessels falling from their supports or wind-driven objects. After the owners gave notice to their insurer that their vessel was damaged, the insurers sent adjusters to assess the losses. One adjuster was tasked with assessing losses for hundreds of vessels that were all dry stored in the same marina. The overworked adjuster arrived at a loss estimate from a visual assessment of the exterior of each vessel. He did not have a ladder, so did not go aboard any vessel. The visual damage of my client's vessel was assessed as \$3500. I hired an independent adjuster to make their own assessment, and to include an assessment of interior damage. The independent assessor estimated **\$35,000** in damage (a

constructive total loss) because the vessel interior was flooded from the massive hurricane rains that inundated the vessel's interior cabinetry, engines, generator and all electrical and electronics.

The vessel insurance policy provided that, in the event of a dispute as to the amount of damages, the two adjustors were tasked with hiring a third adjustor to mediate the ultimate damage assessment. Instead, the first assessor agreed with the second adjustor's valuation, admitting that it was error not to inspect the interior. If the owner had accepted, without challenge, the first damage assessment, and failed to hire someone to read their policy, the owner would have been left with a worthless vessel.

Some vessel policies require application of New York law, which does not allow bad faith claims or have an anti-technical provision like that of Florida, whereby, in the absence of a judicially established federal admiralty rule on point, "[a] breach or violation by the insured of a warranty, condition, or provision of a wet marine or transportation insurance policy, contract of insurance, endorsement, or application does not void the policy or contract, or constitute a defense to a loss thereon, unless such breach or violation increased the hazard by any means within the control of the insured." Fla. Stat. § 627.409(2). A "hazard" under section 627.409(2) concerns "danger to the insured vessel itself," and a causal connection is necessary to prove that the breach "increased the hazard" that resulted in the loss, *Pickett v. Woods*, 404 So.2d 1152, 1153 (Fla. 5th DCA 1981) and *Travelers v. Ocean Reef Charter LLC*, 996 F. 3d 1161 (11th Cir. 2021) (reversing judgment for insurer because breach of policy condition "did not contribute to the accident" as required by section §627.409(2)).

So **READ** your insurance policy before there is a loss ... so you know the conditions with which you must comply in order to recover for a loss.

A Message from your Executive Director

Another year has flown by. As we begin to look forward to 2023-2024, I would like to take a moment to express my gratitude and appreciation for a few people who don't get enough recognition for the work they do to get this magazine published every month.

First, a thank you to all the committee chairs and members who submit articles regularly. Without your contributions, *The SideBar* would not exist.

An enormous thank you to **Kathy Enloe of Esquire Reporting** for your time and attention to detail in proofreading every issue. Your efforts are a tremendous help and I appreciate the time and effort put toward getting the *SideBar* ready to publish.

An equally huge thank you to **Kevin Mulligan of Spiral Media** for taking my word document and turning it into a magazine. As hard as I try to anticipate how everything will fit in to a magazine format, sometimes a lot of revising is necessary. I appreciate your time and patience in working with me to deliver a great product every month.

Lastly, they say a picture is worth a thousand words. . . it has been a pleasure working with **Kevin Velasquez of Keveditme Videography and Photography**. Thank you for all the great photos!

If you need the services of any of these people, please contact them, they do a great job!

We have some exciting things in store for 2023-2024 and I look forward to serving as your Executive Director. Wishing everyone a safe and fun summer! See you in August!



Robyn O'Heron
Executive Director

Personal Injury Trial Attorney **JACK SOBEL**

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More about pregnant workers

In the March 2023 *SideBar* I alerted everyone to the new law called the Pregnant Workers Fairness Act (PWFA), which goes into effect on June 27, 2023. Two months ago I explained that the Equal Employment Opportunity Commission (“EEOC”) will provide examples of reasonable accommodations, which I anticipated would likely include reducing lifting requirements, added restroom breaks, and providing stools for workers who stand.

Since the March 2023 *SideBar*, the EEOC has provided the following informal guidance:

What are some examples of reasonable accommodations for pregnant workers?

“Reasonable accommodations” are changes to the work environment or the way things are usually done at work.

The House Committee on Education and Labor Report on the PWFA provides several examples of possible reasonable accommodations including allowing an employee to:

- sit or drink water;
- receive closer parking;
- have flexible hours;
- receive appropriately sized uniforms and safety apparel;
- receive additional break time to use the bathroom, eat, and rest;
- take leave or time off to recover from childbirth; and
- be excused from strenuous activities and/or activities that involve exposure to compounds not safe for pregnancy.

Employers are required to provide reasonable accommodations unless they would cause an “undue hardship” on the employer’s operations. An “undue hardship” is significant difficulty or expense for the employer.

The EEOC will issue a proposed version of the PWFA regulations so the public can give their input and offer comments before the regulations become final. However, the EEOC will start accepting charges under the PWFA on June 27, 2023. For the PWFA to apply, the situation complained about in the charge must have happened on June 27, 2023, or later.



As a reminder, the PWFA applies only to accommodations. Existing laws that the EEOC enforces make it illegal to fire or otherwise discriminate against workers on the basis of pregnancy, childbirth, or related medical conditions.

A pregnant worker who needs an accommodation before June 27th may, however, have a right to receive an accommodation under another federal or state law.

In some situations, workers affected by pregnancy, childbirth, or a related medical condition may be able to get an accommodation under Title VII of the Civil Rights Act of 1964 or the Americans with Disabilities Act (ADA). Therefore, until June 27, 2023, the EEOC will continue to accept and process Title VII and/or ADA charges involving a lack of accommodation regarding pregnancy, childbirth, or related medical conditions.

County and Circuit Civil Mediator



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Continued From Page 10

I find that because STOP can be practiced within such a short time window, the mental-moment can pass a bit too quickly and the benefits to mind and body and decision-making can be less than fully realized. The following tweak hones in on the Stop portion to help ensure that it is not given short shrift.

COUNT TO 10


The instruction involves counting to 10 after coming to a Stop. Often, due to feelings of urgency, restlessness, anxiety, or just as a byproduct of our continuously spinning internal hamster-wheel, we may not come to as full a Stop as we might and we risk rushing through the rest of the instruction.

A good time to practice STOP is when walking from one place to the next — to a meeting, the restroom, to your home at the end of a long day, or perhaps to your child’s room to read a bedtime story. Somewhere on the way to your destination, come to a complete stop. Then, slowly count to 10. It’s like pressing a reset button. After giving your mind and body a little more time to settle,

then **take** an intentional breath, be aware of the breath, **observe** what is arising, and then **proceed** on to your destination.

As you experiment with STOP, see what might begin to shift. You can even practice in your car while driving. Should you forget or get lost in thought, you might see a . . . sign.

Scott Rogers, M.S., J.D., is a nationally recognized leader in the area of mindfulness in law and founded and directs the University of Miami School of Law’s Mindfulness in Law Program where he teaches mindful ethics, mindful leadership, mindfulness and negotiation, and mindfulness in law. He is the creator of Jurisight, one of the first CLE programs in the country to integrate mindfulness and neuroscience and conducts workshops and presentations on the role of mindfulness in legal education and across the legal profession. He is author of the recently released, “The Mindful Law Student: A Mindfulness in Law Practice Guide,” written for all audiences.

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Wills, Trusts & Estates

I cannot believe that yet another Bar year is coming to an end, and we are looking forward to summer. It has been my privilege to serve as Chair of the Wills, Trusts and Estates Committee, and I thank all the committee members and sponsors who participated in our meetings. A special thank you to those members who gave their time and their knowledge to assist other members with complex and/or problem issues. In addition to gaining insight, perspective and knowledge, we realized that we are not alone. With our members so willing to assist and share knowledge, we can always reach out to a colleague.



Thank you for the opportunity to serve as the chair of the committee. I appreciate all your help, participation and feedback. I wish you all a happy summer filled with lots of stress-free fun and good health. Be well!
Lisa Clasen

Trial Law Committee

Governor Ron DeSantis signed House Bill 837 into law on March 24, 2023, enacting major tort reform for the state of Florida. Some of the new changes litigators should be aware of include, but are not limited to, the following:

NEGLIGENCE

Florida modified its comparative negligence system to now permit recovery only if the plaintiff's share of fault is 50% or less.

The statute of limitations for general negligence actions was also reduced from four years to two years.



INSURANCE

The law now makes it clear that "mere negligence alone is insufficient to constitute bad faith." The bill further repealed sections that provided for the recovery of attorneys' fees by insureds after prevailing in coverage disputes.

PREMISES LIABILITY

The bill provides that in actions against property owners, the trier of fact must consider the fault of all parties, including a criminal third party. The bill also creates a presumption against liability for the criminal acts of third parties if property owners have implemented certain security measures.

ATTORNEYS' FEES

The bill narrows the applicability of contingency-fee multipliers when computing attorneys' fees to be awarded by the court. The law is now that "[T]here is a strong presumption that a lodestar fee is sufficient and reasonable. This presumption may be overcome only in rare and exceptional circumstance with evidence that competent counsel could not otherwise be retained."

For the full text of the bill visit: <https://www.flsenate.gov/Session/Bill/2023/837/BillText/er/PDF>

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March 2023 Luncheon



Andrew Blum,
Gregory Glenn



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Michael Dadko - Sailfish Wealth Management



Ross Alagna,
Katie Jay



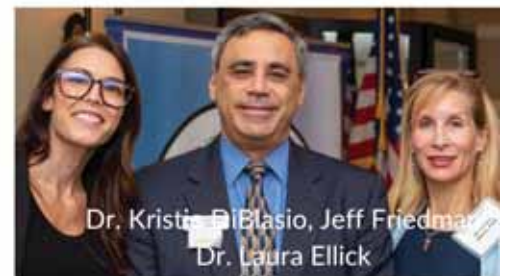
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Thank You Kevin Velasquez of
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MARTIN COUNTY BAR ASSOCIATION RACE TO THE COURTHOUSE

The MCBA 5K Race to the Courthouse was a huge success! The support of the participants and sponsors is invaluable. Stay tuned for photos and race recap

One last Thank You to all who made it possible

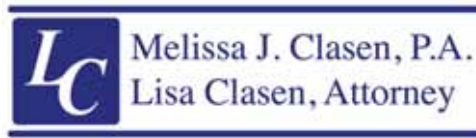
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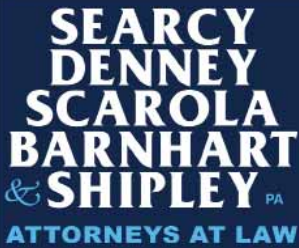
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- Benjamin Disraeli



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Solo & Small Firm Committee



Kathy McHale
Chair

SAVE the DATE of May 10th at Noon for lunch with the Solo and Small Firm Committee –

Location: **Renato & Josephine's**
3714 SE Ocean Blvd.
Harbor Bay Plaza
Stuart, FL

Sponsored by **EdwardJones**
Douglas Marcello/Financial Advisor

Paralegal Committee

I want to take a moment and thank all of the wonderful and knowledgeable speakers we have had over the past term. I have truly enjoyed each and every meeting. March was our last meeting for this term and Donna Krusbe did an awesome job explaining the appellate process. I am looking forward to starting up again in August. I am in need of speakers to lecture for us. I would appreciate any volunteers or suggestions. Please email me with any volunteers or suggestions to plewis@mrachek-law.com. I hope you all have a great summer!



Pamela Lewis
Chair

Pam Lewis, *Paralegal Committee 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.

**THANKS FOR ANOTHER GREAT YEAR!
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CONSIDER JOINING NOW.**

Aim phone at QR Code to go
to membership link.



“One of the best
networking groups
in Martin County” –
MCWLA member

**JOIN US FOR A RELAXING MORNING
AT THE BEACH
SATURDAY MAY 6, 2023 AT 9 A.M.
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**KEEP AN EYE OUT FOR INVITATION
WITH ALL THE DETAILS.**

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

Bittner v. United States, Case No. 21-1195 (2023).

The penalties under 31 U. S. C. §5314 for failure to comply with the Bank Secrecy Act's requirement to report foreign bank accounts accrues on a per-report and not on a per-account basis.

Delaware v. Pennsylvania, Case No. 145, Orig. (2023).

Agent Checks and Teller's Checks operate in the same manner as money orders, and accordingly, escheatment of these financial instruments falls under the federal Disposition of Abandoned Money Orders and Traveler's Checks Act, 12 U.S. Code § 2503, and not the escheatment statutes of individual states.

Nealy v. Warner Chappell Music, Inc., No. 21-13232 (11th Cir. 2023).

A copyright claimant who has filed a timely claim for infringement under the Eleventh Circuit's discovery accrual rule, i.e., when the infringement occurred more than three years ago, may nonetheless recover damages for the infringement.

Ezer v. Holdack, Case No. 4D21-3528 (Fla. 4th DCA 2023).

A corporation, including a condominium association, may request dismissal of a derivative lawsuit if an independent committee under Florida Statute section 617.07401(3) conducts a reasonable investigation and makes a good faith determination that maintenance of the suit is not in the corporation's best interests.

Peeples v. Carlton Palms Educational Center, Inc., Case No. 5D22-452 (Fla. 5th DCA 2023).

A notice of change of judicial assignment is sufficient "record activity" in a case to avoid dismissal for lack of prosecution under Florida Rule of Civil Procedure 1.420(e).

HERC Rentals, Inc. v. Superior Site Services, Inc., Case No. 5D22-1241 (Fla. 5th DCA 2023).

A trial court must examine the following factors in determining whether a guarantor should be released from a guaranty:

1. the obligee's lack of knowledge of a change in the obligor's business,
2. the nature of the change of the obligor business,
3. whether the guarantor participated in the change in the obligor business, and
4. whether the guarantor sought to revoke the guaranty.



Manuel Farach
Chair

Lusby v. Canevari, Case No. 6D23-488 (6th DCA 2023).

An injunction order, including one permitting access to real estate through an easement, must specify the reasons for entry and detail the likelihood of irreparable harm, unavailability of a legal remedy, substantial likelihood of success on the merits, and public interest considerations.

Total Quality Logistics, LLC v. Trade Link Capital, Inc. Case No. 3D22-579 (Fla. 3d DCA 2023).

A party seeking to avoid an enforceable forum selection clause it claims is unjust or unreasonable must demonstrate that trial in the contractual forum will be so gravely difficult and inconvenient that the objecting party will for all practical purposes be deprived of their day in court.

Carl Domino, Inc. v. Dixon, Case No. 4D21-2986 (Fla. 4th DCA 2023).

A party cannot use a third-party complaint other than for indemnification, subrogation, or contribution purposes.

Hogg v. Villages of Bloomingdale I Homeowners Association, Inc., Case No. 2D21-3724 (Fla. 2d DCA 2023).

Florida Statute section 95.11(2)(b) (real property actions have a five-year statute of limitations) is the correct statute of limitations to apply to actions to reform a recorded declaration.

Continued From Previous Page..

Parisi v. de Kingston, Case No. 3D22-793 (Fla. 3d DCA 2023).

The requirement under Florida Statute section 709.2105 (two subscribing witnesses are necessary for an enforceable power of attorney) must be followed in order for powers of attorney executed outside Florida to be considered valid; there is no statutory exception for substantial compliance nor for following the law of the locale where the power of attorney was executed unless exemption for the specific locale is set forth in the statute.

S and A Property Investment Services, LLC v. Garcia, Case No. 3D22-835 (Fla. 3d DCA 2023).

A quitclaim deed from individual owners to their wholly owned Florida limited liability company is a change in ownership and not merely a transfer from beneficial to legal ownership status; *Crescent Miami Center, LLC v. Florida Department of Revenue*, 903 So. 2d 913 (Fla. 2005), and *Kuro, Inc. v. State Department of Revenue*, 713 So. 2d 1021 (Fla. 2d DCA 1998), are distinguishable and the transfer results in full taxation under Florida Statute section 193.1554(3).

Destiny Fulfilled Outreach Ministries, Inc. v. Investments SWK, LLC, Case No. 4D22-228 (Fla. 4th DCA 2023).

Florida Statute section 83.232 does not provide a party who prevails on a non-residential eviction action a statutory basis for attorney's fees.

DiMauro v. Martin, Case No. 4D22-524 (Fla. 4th DCA 2023).

The Doctrine of Mutuality of Remedy does not require identical remedies between parties for a contract to be enforceable.

Sage v. Pahlavi, Case No. 4D22-1566 (Fla. 4th DCA 2023).

No actionable *Johnson v. Davis*, 480 So. 2d 625 (Fla. 1985), claim exists when a potential defect is disclosed and the buyer takes no further action to investigate the defect.

DeMaria v. Construction Industry Licensing Board, Case No. 1D20-2306 (Fla. 1st DCA 2023).

Even if the contractor has declared bankruptcy, Florida Statute section 489.1401(2) requires a claimant seeking recovery from the Construction Industry Recovery Fund obtain either a judgment, an arbitration award, or an order of restitution before the Construction Industry Licensing Board

may pay from the recovery fund.

KRG Oldsmar Project Company, LLC v. CWI, Inc., Case No. 2D21-1731 (Fla. 2d DCA 2023).

A lease must be read for its plain meaning, and cannot be interpreted to make a "go dark" provision that prohibits no liability closure unless one year has passed to permit closure without consequences before the one year period.

American Sales and Management Organization LLC v. Lopez, Case No. 3D20-563 (Fla. 3d DCA 2023).

An inconsistent verdict occurs when two definite findings of fact material to the judgment are mutually exclusive, and a verdict form that fails to instruct the jury it must award damages if it finds for plaintiff on a cause of action does not create either an inconsistent or inadequate verdict.

Urrea v. Koplow, Case No. 3D21-1419 (Fla. 3d DCA 2023).

A creditor who has multiple judgments against multiple defendants does not have discretion to apply payments to whichever judgment he desires.

Guevara v. Lamothe, Case No. 3D22-33 (Fla. 3d DCA 2023).

Florida Statute section 489.105(3)(c) provides a homeowner acting as their own contractor and providing direct, onsite supervision themselves of all work not performed by licensed contractors does not need a "contractor license" to construct on their own property.

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How To Manage The Fear Of Loneliness In Your Life

By: Stan Popovich



Sometime or another we will experience a time when we are alone. Some people fear of being alone for various reasons.

The first step is to become comfortable with yourself and having the self-confidence that you will be able to manage being by yourself.

With this in mind, here are 7 suggestions that a person can use so that the fear of loneliness doesn't become a major issue in their life.

1. **Find an activity that you enjoy doing:** Joining a group activity can be a great way to meet people. Doing something that you like to do will make you happy and the fact that you will be around different people will increase your chances of making friends
2. **Spend your time with a pet:** Animals are a great source of companionship. Volunteer at your local animal shelter to help those animals who are in need. Another option is to consider adopting a pet. Regardless, spending time with your favorite pet or animal will overcome your loneliness.
3. **Help others through community service:** There are many people out there who could benefit from your time and talents. Helping others can give you a sense of pride and accomplishment and help you not to focus on your loneliness. You can also increase your chances of meeting others with similar interests.
4. **It could be worse:** Imagine that you are married or stuck in a relationship that you can't get out of and also makes you miserable on a daily basis. Being in an unhappy relationship can be very depressing, so remind yourself the next time you feel a little lonely. This will help put some things in perspective.
5. **The important thing is to be active:** Sitting around and doing nothing will not make things any better whether it is dealing with the fear of being alone or something else. Take it one day at a time and try to make the effort of being active with others in your community.
6. **Things can change:** Nothing remains the same and events change all of the time. Even if the thing that you feared does happen there are circumstances and factors that you can't predict which can be used to your advantage. You never know when an opportunity that you are looking for will come to you.
7. **You're not the only one who is alone:** Remember that everyone deals with loneliness sometime in their life. Focus on your life and don't compare yourself to others. Continue to seek friendships with other people and don't feel sorry for yourself. There are all kinds of people in various circumstances so don't assume that you are the only one who is alone.

BIOGRAPHY

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>



MARTIN COUNTY
PROPERTY APPRAISER
Jenny Fields, CFA

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MARRIED? DIVORCED? WIDOWED?

**If you got married, divorced, or are newly widowed,
please contact our Office to avoid losing your homestead exemption!**

MARRIED?



- Married couples can claim only **one** Homestead Property Tax Exemption or residency based exemption.
- If both of you currently own a homesteaded property, either in Florida or anywhere else in the United States, one of the exemptions will need to be removed no later than **January 1** after you are married.
- Failure to notify our Office could cause you to not only lose your Homestead Exemption, but also you may be subject to back assessment liens, penalties, and interest.

DIVORCED?



- A Final Judgement for Dissolution of Marriage automatically changes your property ownership from "tenants by the entirety" to "tenants in common." This means each spouse owns 50% interest in the property.
- A divorce can affect the amount of your homestead exemption as well as who benefits from the accumulated Save-Our-Homes benefit, also known as portability.
- Please contact our Office if you anticipate a divorce so that all parties may understand the different scenarios and portability calculation consequences.

WIDOWED?



- If you currently benefit from homestead exemption and have become widowed, you may qualify for an additional \$5,000 exemption off your property's assessed value. This equates to approximately \$100 in annual tax savings.
- To apply for this exemption, please visit our Stuart or Hobe Sound office and provide your Florida driver's license, social security number, and a copy of the death certificate.
- Once you qualify and receive this exemption, you are required to notify our Office if you re-marry as the exemption will need to be removed.

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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 online 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. Login 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 fillup 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

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.

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

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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>May 2023</h1>						
1	2	3	4	5	6	MCWLA Yoga at the Beach 9:00 am @ Stuart Beach
7	8	9	10	11	12	13
		MCBA Officers' Meeting	Solo & Small Firm Committee Lunch 12 noon		MCBA Luncheon @ Monarch CC (11:30 am)	MCBA Sobel Cup Golf Tournament Lost Lake G.C.
14	15	16	17	18	19	20
Mother's Day						Annual Banquet 6:30 p.m. Willoughby G.C.
21	22	23	24	25	26	27
28	29	30	31	SAVE THE DATES: See www.martincountybar.org for full 2022-23 calendar including committee meetings, holidays & courthouse closings.		
	Memorial Day Courthouse Closed					



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

Please join us for MCBA's CLE Monthly Meeting, Friday, May 12, 2023

- When: Friday, May 12, 2023
11:30 a.m. networking; 12:00 p.m. lunch
- Where: Monarch Country Club
1801 SW Monarch Club Drive, Palm City
- Menu: Carrot Ginger Soup; Asian Marinated Chicken Salad with Grilled Watermelon, Pickled Red Onion, Candied Nuts and Asian Dressing; Rolls with Butter; Carrot Cake.
- Speaker: Jeff Friedman, MCBA President, 2022-23
- CLE: Pending

RSVP to: martincountybarassociation@msn.com
No later than Friday, May 5, 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).