

OCTOBER 2023



# The SideBar

NEWSLETTER OF THE MARTIN COUNTY BAR ASSOCIATION

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MCBA PRESIDENT, R. WAYNE RICHTER**

**OCTOBER LUNCHEON  
PRESIDENT'S SPEAKER SERIES  
JULIE BROWN - MIAMI HERALD REPORTER**



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## THE SIDE BAR NEWSLETTER

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

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

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

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## Past Presidents of the Martin County Bar Association

William R. Scott - 1955 – 1958  
Evans Crary, Jr. - 1958 – 1959  
Hon. Pfeiffer Trowbridge -  
(Subsequently Elected to Bench) 1960  
Thomas H. Thurlow - 1960 – 1961  
William A. Oughterson - 1963 – 1964  
William F. Crary - 1965 – 1966  
Robert F. McRoberts, Jr. - 1966 – 1967  
Thomas H. Thurlow, Jr. - 1967 – 1968  
Larry E. Buchanan - 1971 – 1972  
C. Norris Tilton - 1972 – 1973  
Richard J. Dungey - 1979 – 1980  
Hon. F. Shields McManus - 1981 – 1982  
William Dale Anderson - 1982 – 1983  
John H. Fenniman - 1983 – 1984  
Wesley R. Harvin - 1984 – 1985  
James L. S. Bowdish - 1985 – 1986  
W. Thomas Wackeen - 1986 – 1987  
Thomas E. Warner - 1987 – 1988  
Douglas Sands - 1988 – 1989  
Vicki Junod - 1989 – 1990  
(*First Female MCBA President*)  
George F. Bovie, III - 1990 – 1991  
Stephen C. Page - 1991 – 1992  
Jane L. Cornett - 1992 – 1993  
Walter G. Woods - 1993 – 1994  
Richard Kibbey - 1994 – 1995  
Lee David - 1995 – 1996  
William F. "Rick" Crary, II - 1996 – 1997  
Frederick G. Sundheim - 1997 – 1998  
Hon. William L. Roby - 1998 – 1999  
Hon. Barbara W. Bronis - 1999 – 2000  
Sheila D. Biehl - 2000 – 2001  
Deborah B. Beard - 2001 – 2002  
Jack M. Sobel - 2002 – 2003  
Hon. Darren Steele - 2003 – 2004  
Edwin E. "Ted" Mortell - 2004 – 2005  
Richard H. Levenstein - 2005 – 2006  
Portia B. Scott - 2006 – 2007  
Hon. Alan Orantes Forst - 2007 – 2008  
Linda L. Weiksner - 2008 – 2009  
Scott W. Konopka - 2009 – 2010  
Preethi Sekharan - 2010 – 2011  
Shaun T. Plymale - 2011 – 2012  
Gregory S. Weiss - 2012 – 2013  
George W. Bush, Jr. - 2013 – 2014  
Hon. Jennifer Alcorta Waters - 2014 – 2015  
Chad H. Hastings - 2015 - 2016  
Mark Miller - 2016 - 2017  
Elizabeth R. Hunter - 2017 - 2018  
Barbara A. Kreitz-Cook - 2018 - 2019  
Jason D. Berger - 2019 - 2020  
Barbara Kibbey Wagner - 2020 - 2021  
Adam Schwartz - 2021 - 2022  
Jeffrey Friedman - 2022 - 2023

## Message From the President

Martin County Bar President - R. Wayne Richter, Esq.

In 2002, in a campaign that has since been retired, United Parcel Service (UPS) launched a slogan titled: "What Can Brown Do For You?" The slogan was a question for UPS customers about ways the company might earn their business. Perhaps, not as indelibly etched in the American psyche as Wendy's "Where's the Beef" ad, it did get me thinking about what the Martin County Bar Association (MCBA) can do to engage or assist our membership.

Before the MCBA board could address ways to engage and assist our membership, and meet their needs, we needed to first consider what is the purpose of this organization? So, in January of this year, the MCBA board set out to update the Bar's mission statement.

The new statement reads: "Established in 1955, the Martin County Bar Association's mission is to provide educational opportunities to its members, encourage civility and professionalism, promote fellowship and networking, foster the membership's health and wellness, assist the public in understanding the role of attorneys and judges in the legal system, and to engage in service to the community."

Going forward, the goal is to meet those objectives. The MCBA would like to hear suggestions on how we might meet your professional needs. Like UPS, please let us know what the MCBA can do for you. You can send an email with your suggestions to: [martincountybar@gmail.com](mailto:martincountybar@gmail.com)

I'm not sure how many are aware, but the MCBA provides educational opportunities to our members free of charge as a member benefit. A library of CLE materials is maintained on the first floor of the Clerk of Court's office across from the jury assembly room. Additionally, CLE credit is provided for each luncheon, and each luncheon is recorded.

October 13<sup>th</sup> CLE luncheon will feature Miami Herald investigative journalist Julie K. Brown. Julie "has won dozens of awards, including a George Polk Award in 2018 for 'Perversion of Justice,' a series that examined how a rich and powerful sex trafficker, Jeffrey Epstein, managed to arrange a secret plea deal and escape life in prison -- even though he was suspected of sexually abusing more

than 100 underage girls and young women. The series, and her subsequent dogged coverage of the case in 2019, led to the resignation of labor secretary, Alex Acosta, Epstein's arrest on new federal charges in New York and reforms in the way that prosecutors treat victims of sex crimes." Come join us for this installment of the "**President's Speaker Series**" on October 13, 2023, from 11:30 a.m. to 1:00 p.m. at Monarch County Club in Palm City. (Please note the date. This luncheon is being held a week earlier than usual.)

Also, in October, come fellowship and network with old and new friends at our annual Judicial Reception. At the reception, we will honor the judiciary of the Nineteenth Circuit and the Fourth DCA, our newest members and present the George W. Bush, Jr. Professionalism Award. The Judicial Reception will be held at the Stuart Yacht & Country Club on Thursday, October 19, 2023, from 5:30 p.m. to 7:30 p.m. Look for an email from the Bar on how to RSVP and purchase a ticket for what promises to be a fantastic evening.

To round out the month of October, the MCBA will host a joint Halloween themed happy hour with members of the Palm Beach County Bar Association on Thursday, October 26 from 5:30 p.m. to 7:00 p.m. at Abacoa Golf Club, 105 Barbados, Drive in Jupiter. This a Free event for members! Let's show up in force and not be outdone by our colleagues to the south! RSVP by emailing [martincountybar@gmail.com](mailto:martincountybar@gmail.com) and include Halloween RSVP in the subject line.

As you can see, there are several different ways to be involved with the MCBA in October! However, if you don't see something enticing; what can the MCBA do for you?

Sincerely,



R. Wayne Richter



# Thank you Committee Chairs!

We want to thank our committee chairs for 2023-2024 for stepping up to the plate and taking on leadership roles. It takes time and dedication to be a chair and we appreciate you!

This is the year for member engagement so make it a point to attend a social event or a CLE. We want to see you in person or online!



**Julie Treacy**  
Judicial Relations  
Page 13



**Whitney Duteau**  
Criminal Law  
Page 19



**Manuel Farach**  
Real Estate  
Page 24



**Cristine Moreno**  
Legal Resources  
Page 18



**Pamela Lewis**  
Paralegal  
Page 20



**IT OUT**

## MCBA Member Directory

Be sure to update your profile in our Member Directory. This is a great referral source and another MCBA Member Benefit at no additional cost to you. Go to [https://www.martincountybar.com/members-directory/?ihcUserList\\_p=1](https://www.martincountybar.com/members-directory/?ihcUserList_p=1)



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Post your listing on FIRMS HIRING on our website and let us help you grow your practice!

Send your listing to: [martincountybar@gmail.com](mailto:martincountybar@gmail.com)

Cost: \$100.00 for one month

Mail your check to: MCBA, P.O. Box 2197, Stuart, FL 34995

FIRMS HIRING is another MCBA MEMBER BENEFIT!

## President's Speaker Series

### Miami Herald Reporter To Speak About the Jeffrey Epstein Case and More



Julie K. Brown

**Friday, October 13, 2023**

**11:30 a.m. to 1:00 p.m.**

**Monarch Country Club**

1801 SW Monarch Club Drive, Palm City

**FREE to all MCBA Members & the Judiciary**

**RSVP to: [martincountybar@gmail.com](mailto:martincountybar@gmail.com)**

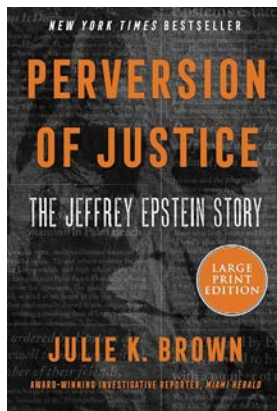
**include in the subject line: RSVP Oct 13 Lunch**

**Registration deadline: 10/5/23 - CLE expected.**

When wealthy financier Jeffrey Epstein was arrested in 2006 in Palm Beach following an investigation into his sexual activities with teenage girls, the case ended in a secret plea deal in which Epstein served 13 months in a county jail. Eleven years later, Miami Herald reporter Julie K. Brown stumbled upon the long dormant case, discovering a 10-year-old civil lawsuit brought by his victims that sought to overturn the plea deal and put Epstein back behind bars.

But the case had stalled for years. Brown decided to take a fresh look at what Epstein did and how he managed to dupe the criminal justice system into getting what many have called the most lenient plea deal for a sex trafficker in U.S. history. Brown will talk about why and how she embarked on the project, the stumbling blocks she faced, as well as the difficulty in getting the victims, now in their late 20s and early 30s, to trust her enough to talk about one of the most traumatic events in their lives. Brown learned that the victims had not only been victimized by Epstein – but in many cases, by their own lawyers, their families, their friends and the very prosecutors who were supposed to bring them justice.

When Geoffrey Berman, the U.S. Attorney in New York arrested Epstein seven months after Brown's story appeared, he was asked why he took up the case after all these years. "We were assisted by some very excellent investigative journalism," he said. Brown will discuss the case, as well as the crisis the nation now faces with the death of local news and the epidemic of misinformation.



Monthly membership lunches are for MCBA members and sponsors.

Attorneys who are non-members are welcome for \$45.00.

Mail your check to P.O. Box 2197, Stuart 34995

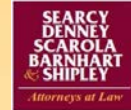


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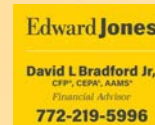
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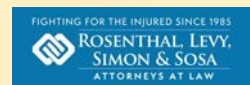
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# Constitution Week



Hon. Alan O. Forst



Hon. Darren Steele

To celebrate Constitution Day and Citizenship Day (Sept. 17), members of the Martin County Bar Association recently made special presentations to Martin County schools throughout the district to teach students about the U.S. Constitution. Pictured is MCBA member, Abby Spears (center), following her presentation for first graders at Bessey Creek, along with teacher Dorothy Hyland (right) and school board member Amy Pritchett (left). Thank you to Ms. Hyland and her class who dressed in red, white, and blue to help celebrate the Constitution's 236th birthday. A special thank you to Judge Alan Forst, Judge Darren Steele and Judge Kathleen Roberts for chairing our efforts.



Hon. Kathleen Roberts





Nelson E. Báez, Esq. Scott B. Smith, Esq. Marc Ball Elordi, Esq. David C. Prather, Esq.

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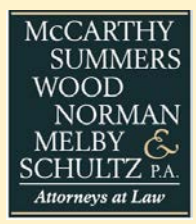


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 and The Florida Bar  
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# The Martin County Bar Association presents

## President's Speaker Series



R. Wayne Richter  
2023-24 President

Please mark your calendar and join us for my President's Speaker Series. These membership lunches are held on the third Friday of every month at Monarch Country Club in Palm City from 11:30 a.m. to 1:00 p.m.

Programs are educational, informative and provide great networking opportunities! Plus, lunches include CLE and are FREE to all MCBA members and the judiciary. Now, that's a great member benefit!

RSVP by email to: [MartinCountyBar@gmail.com](mailto:MartinCountyBar@gmail.com), include in the subject line: **President's lunch** & the date you are registering for. Attorneys who are non-MCBA members are welcome for \$45.00.

Send your check to: P.O. Box 2197, Stuart 34995

### Save the Dates! Your RSVP is Needed One Week Prior to Each Event.

- October 13, 2023:** Julie K. Brown, Miami Herald Investigative Reporter who covered the Jeffrey Epstein case
- November 17, 2023:** Darren Heitner, Esq., Name, Image, Likeness (NIL) College Athletes
- January 19, 2024:** Melissa Byers, Executive Director, St. Pete Bar. Melissa will discuss Mental Wellness
- February 16, 2024:** Greta Schulz, Networking for Lawyers
- March 22, 2024:** Victor Ashe, Former Ambassador to Poland
- April 19, 2024:** Judicial Meet and Greet
- May 10, 2024:** Steve Weagle, News Channel 5

*For easy access at the gate - your RSVP must be made one week prior to the lunch.*



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# Judicial Relations Committee

Chair – Julie Treacy, Esq.



Julie Treacy

Hello All and Welcome Back! I am serving as the Judicial Relations Committee Chair for the Martin County Bar for the 2023-2024 year. Please reach out to me directly if you are interested in serving on the committee or sponsoring a luncheon.

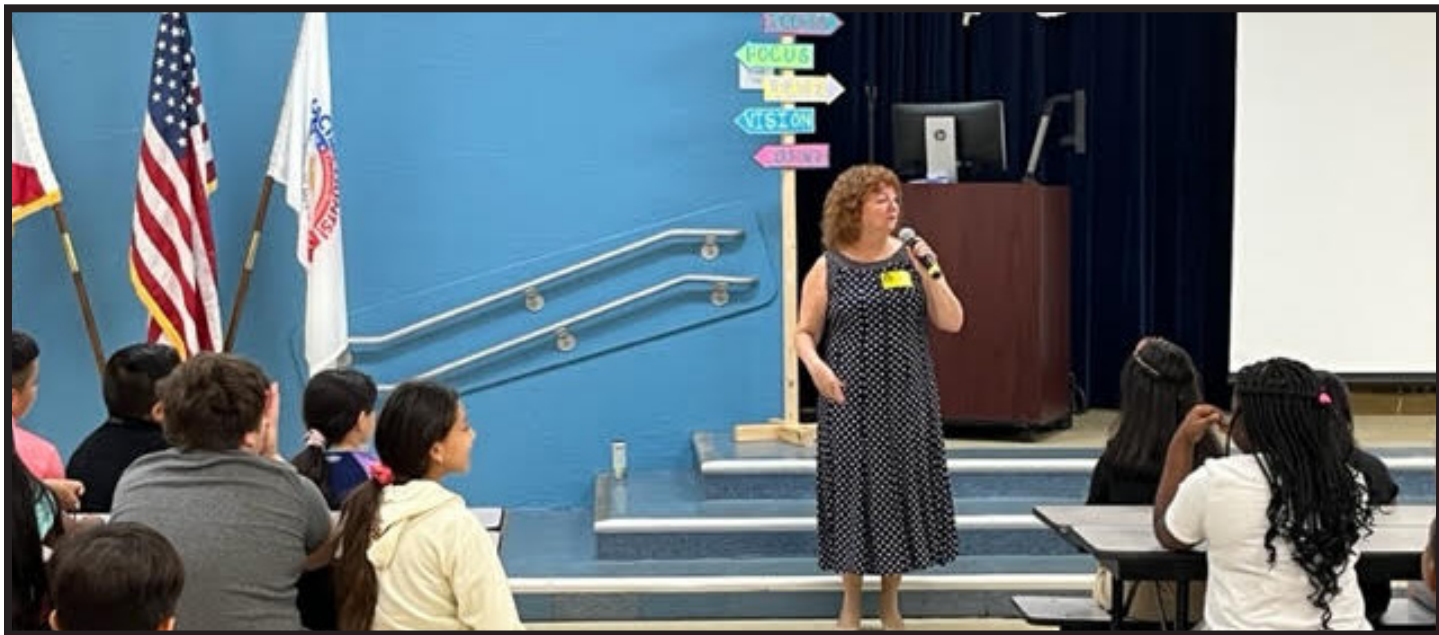
**Purpose:** The Martin County Bar Association’s Judicial Relations Committee primarily serves as a liaison between the Martin County Bar Association and the 19th Circuit’s Judiciary. Additionally, it serves to develop, nurture, and maintain positive and professional relationships between the Court and the practitioners in the 19th Judicial Circuit, and provides a platform to discuss any issues, concerns, and/or practices that require addressing and/or discussion. The Judicial Relations Committee will be planning, implementing, and coordinating certain programs designed to improve these relationships and overall communications between the Bench and the Bar.

Our Judicial Speaker Series Luncheons have been tentatively scheduled for the following dates: 10/17/2023; 11/14/2023; 12/19/2023; 1/16/2024; 2/20/2024; 3/19/2024; 4/16/2024; and 5/21/2024. The luncheons will be held from approximately 11:45 am to 1:00 pm and will be held at my office, Treasure Coast Legal, 100 SW Albany Ave, Ste 310, Stuart, Florida 34994.

Each luncheon will include a judicial speaker to speak about a topic of their choosing and/or any other topic brought to the table. Each luncheon will be sponsored by a local business, and the sponsor will be given the opportunity to speak to the luncheon attendees prior to the main speaker for approximately 5 minutes. Please RSVP to the luncheons at [jtreacy@treasurecoastlegal.com](mailto:jtreacy@treasurecoastlegal.com) at least 1 week prior to the luncheon. Lunch will be served, obviously. Meetings are free for current members or \$10 for all others. A HUGE THANK YOU TO OUR FIRST SPONSOR OF THE YEAR FOR THE SEPTEMBER LUNCHEON – **KATE MIKKELSON** WITH EDWARD JONES!



I HOPE TO SEE YOU THERE!



Judge Roberts speaking to students for Constitution week 2023



The Judicial Relations Committee cordially Invites you to its annual

## *Judicial Reception*

Thursday, October 19, 2023  
5:30 p.m. to 7:30 p.m.

Yacht & Country Club  
3883 SE Fairway E  
Stuart

Honoring the 19th Circuit Judiciary, new MCBA members and the announcement of our 2023 George W. Bush, Jr. Professionalism Award

***Tickets are \$50.00 for MCBA members.***

Attorneys who are non-members are welcome for \$60.00.  
Judges and new MCBA members are complimentary.

***Please RSVP to:*** [martincountybar@gmail.com](mailto:martincountybar@gmail.com)  
(write in the subject line: RSVP Judicial Reception)

***Mail your check*** made payable to: MCBA,  
P.O. Box 2197 Stuart, FL 34995  
(include the names of your attendees along with your check)

Payments must be received on or before October 12.



*Thank you to our Judicial Reception Sponsors!*

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*If you would like to sponsor this reception, please contact Lynne by email:*

*[martincountybar@gmail.com](mailto:martincountybar@gmail.com) (Printing deadline is October 3)*

# Welcome Back From The Long Hot Summer

We had a great turnout for our “Welcome Back From The Long Hot Summer” happy hour at Fysh Bar and Grill. What a terrific way to kick off our Bar year! Thank you to our members and sponsors for attending. We appreciate you!







# Legal Resources / CLE

Thank you for your interest in the Martin County Bar Association's collection of Continuing Legal Education (CLE) Seminars. The following information is provided to assist with the procedure for use of these materials by members of the Martin County Bar Association. The materials are located in the:

Office of the Martin County Clerk and Comptroller  
 Official Records Division  
 100 SE Ocean Boulevard  
 1st Floor  
 Stuart, FL 34994

Office Hours are 8 am to 5 pm, Monday through Friday. If you have any specific questions regarding these instructions, please contact the Official Records Division at 772-288-5553.

## CLE CD Circulation Information

- **Item Limit:** Patrons are limited to checking out one CLE program at any one time.
- **Due Date:** The loan period for any CLE Program is two weeks per course.
- **Renewals:** Items must be returned on time and Patrons may not renew materials for consecutive periods. Items can be re-lent to the same borrower one full month after the initial return date, providing there are no reserve requests attached to the materials. Late returns are subject to a \$10 per day fine which may be added to the Patron's MCBA account.
- **Hold-Reserve:** Patrons can reserve materials as follows:
  - By Phone at 772-288-5553
  - In person at the:

Martin County Clerk of the Court and Comptroller  
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 100 SE Ocean Boulevard  
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- **By E-mail to Continuing Legal Education (CLE) Martin Clerk.** Please include the exact title of the CLE Course to be reserved. A confirming email will be sent within one business day. In addition, an email will be sent when the requested item is available for pickup.
- **Return Materials:** All materials must be returned to the:

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 100 SE Ocean Boulevard  
 1st Floor  
 Stuart, FL 34994

Please do not return any materials to the Martin County Library System. The MCBA cannot retrieve any materials returned to the Martin County Library System and will consider such materials to be lost, with the full replacement cost charged to the Patron.

*Continued On Next Page . . .*

- **Fines and Fees:** Overdue fines are charged for materials returned after the due date and apply to all Patrons. Overdue items will be assessed a fine of \$10 per item per day, however, fines shall not accrue during holiday closings or days the Martin County Courthouse is closed. Patrons are responsible for the full replacement cost of lost, damaged, or never returned materials. The Deputy Clerk or the MCBA may attempt to notify Patrons if the Patron's items are overdue or missing, but non-notification shall not excuse any assessed fines, fees, or replacement charges.

### Current CLE Seminars Available Include the Following:

**2022 Survey of Florida Law (audio CDs and USB CD of materials) -- Course Number 6522C -- Credit Hours: 15.0 General. 2.5 Ethics; 0.5 Bias Elimination; 1.0 Professionalism; 3.0 Technology; 3.0 Mental Illness. CLE Approval Period: Valid through 01/31/2024. Certification Credit: 2.5 Appellate Practice; 2.5 Business Litigation; 1.0 City, County & Local Govt; 3.5 Civil Trial; 1.0 Construction Law; 2.5 Criminal Appellate; 1.5 Criminal Trial law; 1.0 Elder Law; 1.0 Health Law; 1.0 Intellectual Property; 1.0 Labor & Employment; 1.5 Juvenile Law; 1.0 Tax Law; 1.0 State, Fed Govt and Admin; 2.0 Wills, Trusts & Estates.**

**2023 Advanced Real Property Certification Review Course (DVDs & USB CD of materials) -- Course Number 5991D -- Valid through 09/30/2024. Maximum CLER Credit: 17.0 hours General. 1.0 hour Ethics. Certification Credit: 17.0 Business Litigation; 17.0 Condominium & Planned Land Development; 17.0 Construction Law; 17.0 Real Estate; 1.0 Tax Law; 0.5 Technology.**

**2023 Wills, Trusts and Estates Certification Review Course (DVDs & USB CD of materials) -- Course Number 5990D -- Valid through 09/30/2024. Maximum CLER Credit: 18.0 hours General. 1.0 hour Ethics. Certification Credit: 18.0 Elder Law; 1.50 Real Estate; 18.0 Tax Law; 18.0 Wills, Trusts & Estates.**

The CLE seminars noted are available free of charge to all Martin County Bar Association members and can be picked up on the first floor of the Constitutional Building of the Martin County Courthouse - Official Records Division, Monday through Friday (8 am to 5 pm). DONATIONS OF UNEXPIRED CLE MATERIALS ARE ENCOURAGED.

## September Luncheon Photos



# Criminal Law Committee

## Presents: Update on the latest Legislative Session

Date: Thursday, October 5, 2023

Time: 6:00 p.m.

Where: Zoom

Cost: FREE to all MCBA Members, including

CLE: 1.0 General; 1.0 Criminal Appellate Law and 1.0 Criminal Trial Law

Moderated by: Whitney Duteau, Esq



Join the Criminal Committee for an update on all the changes that took place in the last legislative session.

We will review the new laws that took effect July 1 and those set to go into effect on October 1. A brief overview of the pertinent changes and their practical application will be discussed. There will also be an opportunity for discussion on how the changes may impact the handling of your cases and the approaches we can take to better serve our clients.

**Join us on Zoom!**

<https://us06web.zoom.us/j/8211013042>

Meeting ID: 821 101 3042

## September Luncheon Photos



# Paralegal Committee

The first Paralegal Committee CLE Meeting was a huge success with the **Honorable Elizabeth Metzger** as our first speaker. Judge Metzger gave us a much needed and thorough review of the changes taking place in the 19th with regard to Civil Procedures and Guidelines and the new requirements pertaining to the Case Management Plan and Order and the use of Magistrates to relieve some of the busting at the seams happening at the courthouse post Covid. Judge Metzger also entertained the paralegals with a candid discussion about what the court expects from the legal community when preparing for hearings.



Special shout out to **Kibbey Wagner** law firm for sponsoring our dinner!

This month on October 18, we will have Presenter, **Magistrate Terry Slusher**. If you are interested in sponsoring a dinner or being a guest speaker, please contact me at [Plewis@mrachek-law.com](mailto:Plewis@mrachek-law.com).

During her last CLE meeting with Judge Metzger, the Paralegal Committee Chair, Pam Lewis of Mrachek Law, collected back to school safely items for JD Parker Elementary School. The collected items consisted of hand sanitizer, tissues, antibacterial wipes, cleaners, etc. to assist with keeping the classrooms germ free and the students safe and healthy for the school year. The items were presented to Principal Aimee Morrell on behalf of the Martin County Bar Association. Principal Morrell was very excited to receive the items and distribute them among the teachers for their classrooms.

A special shout-out and thank you to all of the paralegals that participated by donating the items!



Principal Aimee Morrell & Paralegal Committee Chair Pamela Lewis



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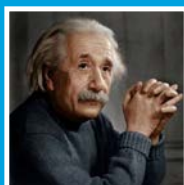


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-- Albert Einstein

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for upcoming events,  
committee meetings  
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FIND US ONLINE





Martin County  
**MCWLA**  
Women Lawyers Association

## Upcoming Events & Programs

**October 18, 2023**  
12:00 p.m. – 1:00 p.m.

**CLE: Legal Malpractice Practicalities**  
via Zoom (link to be emailed)  
RSVP Required

**October 26, 2023**  
7:30 a.m. – 9:00 a.m.

**Lady Lawyer Coffee Hour**  
Gilbert's Coffee Bar  
615 SW Anchorage Way  
Stuart, FL 34994  
No RSVP Required

Last Thursday  
of Every Month!

SAVE THE DATE !

**November 8, 2023**  
12:00 p.m. to 1:00 p.m.

**CLE: Time Management & Destressing**  
Manero's Restaurant  
2851 SW High Meadows Ave  
Palm City, FL 34990  
RSVP Required

*We Look Forward to Seeing You Soon!*

Email RSVPs to [admin@martincountywomenlawyers.com](mailto:admin@martincountywomenlawyers.com)  
Please Include Date & Event Title in the Subject Line.

## CONNECT WITH US ON SOCIAL MEDIA!

Facebook: [@MartinCountyWomenLawyersAssociation](https://www.facebook.com/MartinCountyWomenLawyersAssociation)  
Instagram: [@Martin\\_County\\_Women\\_Lawyers](https://www.instagram.com/Martin_County_Women_Lawyers)

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Contact our Membership Director, Niki Marshall, at [marshall.law.fl@gmail.com](mailto:marshall.law.fl@gmail.com) with any membership questions.

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\*Consistent with Florida Bar rules.

# Real Estate and Commercial Litigation Update

## Florida Real Property and Business Litigation Report

Manuel Farach



Manuel Farach  
Chair

**In Re: January 2021 Short Squeeze Trading Litigation**, Case No. 22-10669 (11th Cir. 2023).

A website which restricts a customer's ability to buy certain stocks does not violate agency and contract principles, nor tort principles when the alleged tort is to avoid causing purely economic loss.

**Emergency Recovery, Inc. v. Hufnagle**, Case No. 22-10048 (11th Cir. 2023).

A Rule 59(e) Motion to Alter or Amend Judgment applies to any order from which an appeal may lie, including an order granting a motion for voluntary dismissal which does not award attorney's fees.

**Grupo Unidos por el Canal, S.A. v. Autoridad Del Canal de Panamá**, Case No. 21-14408 (11th Cir. 2023).

While arbitrators should liberally disclose background information about themselves prior to appointment, failure to disclose appointment of one arbitrator by another in a separate case is insufficient to justify vacatur of a final award.

**D.H. Pace Company, Inc. OGD v. Equipment Company, LLC**, Case No. 22-10985 (11th Cir. 2023).

A trademark licensee can bring a claim against a third party for unfair competition under the Lanham Act even when its licensing agreement does not expressly authorize it to do so.

**In Re: Amendments To Florida Rule of Civil Procedure 1.351**, Case No. SC2022-080 (Fla. 2023).

Rule 1.351 is amended to expand the time to object to notice production from a non-party to 45 days if the notice is served simultaneously with the complaint.

**Moore v. Wagner**, Case No. 2D22-292 (Fla. 2d DCA 2023).

The following agreement to hold a lease open is not an agreement to enter into a lease, i.e., a

prohibited "agreement to agree," but instead an independent agreement:

**APPLICATION DEPOSIT:** Applicant and any co-applicants must pay in total the Application Fee and Application Deposit shown below. The Application Fee is a nonrefundable processing fee. **The Application Deposit will be applied as part or all of the lease security deposit if a lease is entered into between the applicant (and any coapplicants) and the landlord. . . If applicant and any co-applicants are approved and applicant and any co-applicants refuse to enter into the proposed lease, the deposit will be forfeited as a liquidated damage for landlord's loss of rent and rental expenses.**

**Bydalek v. Saenz**, Case No. 3D22-2085 (Fla. 3d DCA 2023).

Failure to comply with Florida Statute section 718.503(2)(c) grants a buyer the right to cancel a condominium sales contract up to the date of closing.

**Dobal v. Villas at South Beach Condominium Association, Inc.**, Case No. 3D22-1169 (Fla. 3d DCA 2023).

Condominium association board members who target a former board member by refusing to fix the roof over his unit, keeping him from fixing the roof himself, and requiring an engineer to change his report stating the roof needed to be fixed engage in action "with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property" such that immunity from suit under Florida Statute section 718.111(1)(d) is lost.

**Inspired Capital, LLC v. Howell**, Case No. 3D22-1220 (Fla. 3d DCA 2023).

Out-of-pocket damages are general damages which need not be specifically pled at motion to dismiss but must be contested with specificity at the summary judgment stage.

Continued On Next Page . . .



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**Peaceful Paws Memorial Services LLC v. Tarves**, Case No. 3D23-348 (Fla. 3d DCA 2023). Service on a limited liability company must be accomplished in accordance with Florida Statute section 48.062, not other sections of Chapter 48.

**Rhythm & Hues, LLC v. Nature's Lawn Care, Inc.**, Case No. 4D22-2859 (Fla. 4th DCA 2023). An implied contract is generally barred when there exists an express contract but “may arise out of an express contract where a contractor or subcontractor performs ‘extras’ not covered by the original contract.”

**SICIS North America, Inc. v. Sadie's Hideaway, LLC**, Case No. 1D23-8 (Fla. 1st DCA 2023). An owner of real property whose construction company, i.e., agent, purchased construction materials from a manufacturer must arbitrate claims against the manufacturer if the warranty for the materials purchased by the construction company contained an arbitration provision.

**DJB Rentals, LLC v. City of Largo**, Case No. 2D22-693 (Fla. 2d DCA 2023). An as-applied constitutional challenge may not be raised for the first time in a lien foreclosure action, i.e., the issues must have been raised first in an appeal from the magistrate order confirming the lien.

**Mawardi v. Cohen**, Case No. 4D21-2291 (Fla. 4th DCA 2023). A fiduciary relationship does not arise in the typical creditor-debtor relationship.

**Allison v. The Grand at Olde Carrollwood Condominium Association, Inc.**, Case No. 2D22-1521 (Fla. 2d DCA 2023). A trial court conducting a trial de novo after a failed arbitration under Florida Statute section 718.1255(4) cannot sit in an appellate capacity but must instead conduct an entirely new trial where the arbitration decision is admissible but not binding on the trial court.

**Warren Gammill & Associates, P.L. v. Sommers**, Case No. 3D23-1123 (Fla. 3d DCA 2023). Under Rule Regulating the Florida Bar 4-3.7, a trial court has discretion to prevent prejudice and confusion when deciding whether counsel for one party can be witness at trial.

**Young v. Kopchak**, Case No. 4D22-2289 (Fla. 4th DCA 2023).

Social media posts which are only tangentially connected to pending litigation do not enjoy protection from defamation claims under the Litigation Privilege.

**Fision Corporation v. Frueh**, Case No. 2D22-2517 (Fla. 2d DCA 2023).

A promissory note whose repayment terms state it “shall be paid out of any bridge financing or other funding received by either the Borrower or the Guarantor” requires payment in cash, not stock of the borrower.

**Belkova v. Deer Run Property Owners' Association, Inc.**, Case No. 4D21-2924 (Fla. 4th DCA 2023).

A state court can award attorney's fees for work done in bankruptcy court so long as the bankruptcy court did not dispose of the property in litigation; conflict certified with *Florida Federal Savings & Loan Ass'n v. Sanchez*, 553 So. 2d 1254, 1255 (Fla. 3d DCA 1989), *Sanchez in Pastore-Borroto Development, Inc. v. Marevista Apartments, M.B., Inc.*, 596 So. 2d 526 (Fla. 3d DCA 1992), and *Martinez v. Giacobbe*, 951 So. 2d 902 (Fla. 3d DCA 2007).

**Mconico v. Morgan's Mill Property Owners Association, Inc.**, Case No. 6D23-1213 (Fla. 6th DCA 2023).

A homeowner's association which has the ability under its declaration to remedy a homeowner violation by itself has an adequate remedy at law and is not entitled to a mandatory injunction requiring the homeowner to remedy the violation.

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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 [clicking on “Volunteer Attorney Registration”](#) and agreeing to the attorney agreement.**

# Links, Jobs and Legislation



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

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

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

Emergency Hotline / Info: 772.742.9229

Visit

**[www.martincountybar.com](http://www.martincountybar.com)**

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



## Florida Bar Appointments / Vacancies

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

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

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

## Track Legal Legislation

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

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



## Martin County Ordinances

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

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

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

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



## City of Stuart Ordinances

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

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

Click on link at the bottom of the page.

# October

2023

## MCBA Upcoming Events

**Criminal Committee** presents Update on changes in the Legislative Session, Thursday, **October 5, 6:00 P.M.**

**Zoom** - FREE to all MCBA Members!

<https://us06web.zoom.us/j/8211013042>

Meeting ID: 821 101 3042

Membership Luncheon, **October 13**

Judicial Reception, **October 17**

Halloween Happy Hour with members of the Palm Beach County Bar Association, **Thursday, October 26**



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5 <b>Criminal Committee Meeting</b>	6	7
8	9 Columbus Day	10	11	12	13 Membership Luncheon	14
15	16	17 Judicial Relations Committee Meeting	18	19 Judicial Reception Yacht & Country Club	20	21
22	23	24	25	26 Halloween Happy Hour @ Abacoa	27	28
29	30	31 Halloween				



MARTIN COUNTY BAR ASSOCIATION  
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## Please join us for MCBA's CLE Monthly Meeting, Friday, October 13, 2023

- When: Friday, October 13, 2023  
11:30 a.m. networking; 12:00 p.m. lunch
- Where: Monarch Country Club  
1801 SW Monarch Club Drive, Palm City
- Menu: Chicken with artichoke and sun-dried tomato cream sauce, vegetable and dessert
- Speaker: Julie Brown, Investigative Reporter from the Miami Herald talks about the Jeffrey Epstein case and misinformation in the media
- CLE: 1 general CLE approved.

RSVP to: [martincountybar@gmail.com](mailto:martincountybar@gmail.com)  
No later than Thursday, October 5, 2023

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

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