

DECEMBER 2023

The SideBar

NEWSLETTER OF THE MARTIN COUNTY BAR ASSOCIATION



Happy Hanukkah!

IN THIS ISSUE

PRESIDENT'S MESSAGE:

MCBA PRESIDENT, R. WAYNE RICHTER

In This Issue

President's Message (Pg. 3)
President Speaker Series (Pg. 5)
Employment Law (Pg. 7)
Holiday Party Recap Pg. 10-11)
Tennis Committee (Pg. 12)
Wills, Trusts & Probate (Pg. 13)
Halloween Happy Hour Recap (Pg. 14-15)
Race to the Courthouse 5K (Pg. 18)
Judicial Relations Committee (Pg. 20)
Small & Solo Committee (Pg. 21)
November Luncheon Recap (Pg. 22-24)
Real Estate\ Commercial Litigation (Pg. 25, 26)
Legal Resources (Pg. 27)
Florida Bar Help Line (Pg. 28)
Online Resources (Pg. 29)
Links, Jobs & Legislation (Pg. 31)
December Calendar (Pg. 32)

MCBA 2023 - 2024 Executive Board:

President:
R. Wayne Richter

Vice President:
Brandon V. Woodward

Secretary:
Jeanette M. Lugo

Treasurer:
Gene Zweben

Immediate Past President:
Jeffrey Friedman

Executive Director:
Lynne Poirier

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

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

E-mail: martincountybar@gmail.com

Website: www.martincountybar.com

Voicemail Line: (772) 220-8018

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

Past Presidents of the Martin County Bar Association

William R. Scott - 1955 – 1958
Evans Cray, Jr. - 1958 – 1959
Hon. Pfeiffer Trowbridge -
(Subsequently Elected to Bench) 1960
Thomas H. Thurlow - 1960 – 1961
William A. Oughterson - 1963 – 1964
William F. Cray - 1965 – 1966
Robert F. McRoberts, Jr. - 1966 – 1967
Thomas H. Thurlow, Jr. - 1967 – 1968
Larry E. Buchanan - 1971 – 1972
C. Norris Tilton - 1972 – 1973
Richard J. Dungey - 1979 – 1980
Hon. F. Shields McManus - 1981 – 1982
William Dale Anderson - 1982 – 1983
John H. Fenniman - 1983 – 1984
Wesley R. Harvin - 1984 – 1985
James L. S. Bowdish - 1985 – 1986
W. Thomas Wackeen - 1986 – 1987
Thomas E. Warner - 1987 – 1988
Douglas Sands - 1988 – 1989
Vicki Junod - 1989 – 1990
(*First Female MCBA President*)
George F. Bovie, III - 1990 – 1991
Stephen C. Page - 1991 – 1992
Jane L. Cornett - 1992 – 1993
Walter G. Woods - 1993 – 1994
Richard Kibbey - 1994 – 1995
Lee David - 1995 – 1996
William F. "Rick" Cray, II - 1996 – 1997
Frederick G. Sundheim - 1997 – 1998
Hon. William L. Roby - 1998 – 1999
Hon. Barbara W. Bronis - 1999 – 2000
Sheila D. Biehl - 2000 – 2001
Deborah B. Beard - 2001 – 2002
Jack M. Sobel - 2002 – 2003
Hon. Darren Steele - 2003 – 2004
Edwin E. "Ted" Mortell - 2004 – 2005
Richard H. Levenstein - 2005 – 2006
Portia B. Scott - 2006 – 2007
Hon. Alan Orantes Forst - 2007 – 2008
Linda L. 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.

Dear Members & Friends,

New Hampshire prides itself on its “First in the Nation” status when it comes to elections. That’s right, hamlets like Dixville Notch and Hart’s Location begin voting at midnight on election day. Well, the Martin County Bar Association (MCBA) now claims a similar distinction. We hosted our 2nd Annual Holiday Party on November 30th, likely making the MCBA the “First in the State” among bar associations to host a holiday party! (It’s a self-proclaimed title). Members and guests gathered at the Dolphin Bar & Shrimp House in Jensen Beach to kickoff the holidays with some camaraderie and caroling courtesy of Martin County High School. There was even a special visit from Santa Claus.

The calendar now says that it is December. Did anybody manage to stick to the resolutions they made back in January? Don’t fret, the new year will be here in the blink of an eye, and you can recommit yourself to those resolutions. But before I rush us into the new year, let’s enjoy December.

I do enjoy the month of December. I enjoy the cooler mornings. I enjoy the kids being out of school. I enjoy believing, even if untrue, that people are kinder and more patient. I enjoy looking at Christmas lights as I drive home from the office. I enjoy the holiday movies on TV. There are some fun Christmas movies like *Christmas Vacation*, and others are classics such as *It’s a Wonderful Life*. However, as I have gotten older, the 2004 movie *The Polar Express* has become one of my favorite Christmas movies.

If you are not familiar, Tom Hanks narrates the movie about a boy who has become skeptical about the existence of Santa Claus. The boy boards a train, *The Polar Express*, bound for the North Pole to see if his belief in Santa can be rekindled. In the movie, your belief in Santa is based on whether you can hear the jingling of Santa’s sleigh bells. After some adventure at the North Pole, the boy watches one of Santa’s sleigh bells shake loose from the reins. The bell bounces to the boy’s feet without any audible jingling. The boy finally declares that he believes in Santa and

can then hear the jingling of the bell. Santa delivers the bell to the boy as a gift on Christmas morning. The boy gives a soliloquy at the end of the movie about how his sister and friends, now much older, can no longer hear the ringing of the bell. The boy then says: “Though I’ve grown old, the bell still rings for me, as it does for all who truly believe.”



R. Wayne Richter
2023-24 President

During this holiday season we will undoubtedly be pulled in many directions. We will have work commitments, shopping to do, obligations to attend holiday parties, kids’ performances to attend, and the like. However, I wish you some peaceful moments where you can still hear the ringing of the bell!

Happy Holidays!

R. Wayne Richter

R. Wayne Richter, Esquire
2023-2024 MCBA President

THE MARTIN COUNTY BAR ASSOCIATION

WOULD LIKE TO WISH ALL
OUR MEMBERS A SAFE AND
JOYOUS HOLIDAY SEASON

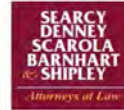


Thank You, Annual Sponsors - We Appreciate Your Support!

Platinum Sponsors:



Gold Sponsors:



Silver Sponsors:



Bronze Sponsors:



Join our growing list of partners and you'll be recognized online, in print and during events, too! Contact Lynne at martincountybar@gmail.com



The Martin County Bar Association
presents

President's Speaker Series



Save The Dates

Friday, January 19

Speaker: Melissa Byers, Executive Director from the St. Petersburg Bar Association
"Shift Happens: Surviving the Law Profession"

Thursday, February 22 *NEW DATE

Speaker: The Honorable Jennifer Dorow

Judge Dorow, from the Wauchesa County Circuit Court, joins us to discuss presiding over the tumultuous Darrell Brooks trial. This trial included twists and turns with no shortage of memorable moments. The case made national news as Brooks represented himself and was found guilty of all 76 charges against him for the Christmas day parade crash killing innocent people. Judge Dorow will talk about being an ambassador of justice and what that means to lawyers and judges.

Friday, March 22

Victor Ashe

**American former diplomat and politician who served as
United States Ambassador to Poland**

Friday, April 19

Round table with the Judges

Friday, May 20

Steve Weagle, WPTV News Channel 5

Hurricane Prep: Protect your home and practice.

Support our President's Speaker Series so we can continue bringing quality programming to the Martin County Bar Association.

Contact Lynne at martincountybar@gmail.com



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

EXPERIENCED DEDICATED TRIAL LAWYERS

SMITH, BALL, BAEZ & PRATHER
FLORIDA INJURY LAWYERS

FIGHTING FOR EQUAL JUSTICE FOR THE INJURED

YOUR FLORIDA CIVIL TRIAL LAW FIRM

Hundreds of Millions Recovered for Injured Victims throughout Florida.

- Auto Accidents
- Truck Accidents
- Boat Accidents
- Motorcycle Accidents
- Medical Malpractice
- Catastrophic Injury
- Wrongful Death
- Product Liability
- Premises Liability

Over 100 years of combined Florida legal and litigation experience.

800-500-1530

BEST LAW FIRMS
 BUSINESS
 2023

www.SmithBall.com | 4440 PGA Blvd., Suite 306, Palm Beach Gardens, FL 33410



1031 EXCHANGES



CONTACT: BRANDON WOODWARD
PHONE: 772-497-6544
EMAIL: BRANDON @WKFKLAW.COM



YOUR LOCAL ELDER AND SPECIAL NEEDS LAW ATTORNEY



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

Martindale-Hubbell
AV PREEMINENT
 Peer Rated for Highest Level of Professional Excellence 2023

Nicola J. Melby
 Certified Elder Law Attorney By the National Elder Law Foundation and The Florida Bar
 njm@mccarthysummers.com

2400 SE Federal Highway, 4th Floor
 Stuart, FL 34994
 Tel (772) 286-1700 • Fax (772) 283-1803
 Www.McCarthySummers.com

McCARTHY SUMMERS WOOD NORMAN MELBY & SCHULTZ, P.A.
Attorneys at Law

Integrity. Dedication. Solutions.

Employment Law

Chair - David Miklas, Esq.

Minimum wage increase

Did you know Florida's current minimum wage is now \$12.00 per hour? Also, if a business (such as a restaurant) takes a tip credit (such as for a bartender or server) the minimum wage for the tipped employee is now \$8.98 per hour for tipped employees, in addition to tips. Businesses can download the new poster for free at www.floridajobs.org.



David Miklas
Chair

Proposed increase to salary level for “exempt” employees

The proposed new salary level for white collar exemptions are being discussed by a lot of lawyers. I have seen nearly all of them declare that the proposed level will be \$1,059 per week or \$55,068 annually for a full-year worker. This is not entirely accurate.

The Department of Labor (DOL)'s Notice of proposed rulemaking is 267 pages long. Buried in a footnote (fn3) is language explaining that people still need to make comments and the DOL may change the number. However, if the number stays the same, that time delay means that the 35th percentile of weekly earnings of full-time salaried workers is projected to be higher in the fourth quarter of 2023. The DOL informed us that they project that the salary threshold could be \$1,140 per week or \$59,285 for a full-year worker.

I am not sure this will even take effect, but if you have exempt employees making less than \$60k and you are planning what to do if this change takes effect, please do not use the \$55,068 number. Please crunch your numbers using the \$59,285 number...and it may be even higher.

To make it even more complicated, if there is a little more delay and this become effective in 2024 instead of the end of 2023, then the DOL predicts that in the first quarter of 2024, the salary threshold could be \$1,158 per week or \$60,209 for a full-year worker.

So, if you have a salaried employee making below about \$60k, and if this proposed rule takes effect, you will need to increase the salary of your employees, or else begin tracking their hours so you can pay them overtime if they work more than 40 hours in a workweek.

Real World Example:

Another story in the news about misguided DEI efforts. This company created an “Early Career” hiring initiative, which had the goal of changing hiring preferences to add more millennials to the workforce.

Boom. This just cost the employer a whopping \$2.4 million. Why? Well, this is age discrimination.

This is no different than if an employer wanted to add more women or blacks to the workplace and did so by discriminating against men or whites.

Discrimination is still discrimination, even if you think you have a good goal.

By the way, this wasn't a mom and pop company. This was a pharmaceutical corporation called Lilly USA, LLC, and its parent company, Eli Lilly and Company.



PRESIDENT'S SPEAKER SERIES

Presents:

Shift happens: Surviving the Law Profession with Melissa Byers, Executive Director, St. Petersburg Bar Association



Friday, January 19, 2024
11:30 a.m. to 1:00 p.m.
Monarch Country Club

FREE to all MCBA Members including
lunch, plus CLE Credit: General 1.0;
Substance Abuse 0.5 and Mental Health
and Wellness 0.5

RSVP REQUIRED BY 1.12.24

Email: martincountybar@gmail.com
include in the subject line (Jan Lunch RSVP)

The billable hour, adrenaline addiction, and the badge of honor culture pervasive in law firms and today's society is leading to increased rates of burnout and unhealthy coping skills. What is true wellness? Based upon overwhelming research associated with increased alcohol/drug use, increased stress/anxiety/depression, and feelings of isolation plaguing the law profession, this seminar provides attorneys real world tips/guidance to achieve wellness while facing daily professional challenges.

You owe it to yourself (and your firm) to create a shift in how you approach your wellness.

Thank you to our title sponsor:



Help us continue to bring quality speakers to the MCBA!

To sponsor a lunch - please contact Lynne at martincountybar@gmail.com



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

**EXCLUSIVELY DEDICATED
 TO CRIMINAL DEFENSE**

**AGGRESSIVE * DEDICATED
 *EXPERIENCED TRIAL ATTORNEY**

**RATED AV PREEMINENT
 BY MARTINDALE HUBBEL**

**OFFICES IN PALM CITY
 & WEST PALM BEACH**

TELEPHONE: 772-291-2765

EMAIL: WAYNE@RICHTERLAWPA.COM

WEBSITE: WWW.RICHTERLAWPA.COM

25% Paid Attorney Referral Fees

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



KOGAN & DISALVO®
 PERSONAL INJURY LAW

To refer a case call **772-888-9085** or submit online at
koganinjurylaw.com/referrals

**You love what you do.
 We know the feeling.**



Let's talk about your passion.

Visit us at tdbank.com/smallbusiness or call 1-855-278-8988.

Unexpectedly engaged.
 Unexpectedly Human.



Member FDIC, TD Bank, N.A.

J LAW OFFICE OF
JASON D. BERGER, P.A.

Estate Planning and Family Law

850 NW Federal Hwy
 Stuart, FL 34994



jason@jasonbergerlaw.com

Phone: 772-403-5880

Fax: 772-403-5884

Law Office of Jason D. Berger
 Working to do right by you and your family!

MCBA FIRST To Kick Off The Holidays!

Oh, what fun we had kicking off the holidays with live music, gift giveaways, good food and a surprise visit from Santa!





Tennis Committee

On the Court and In The Courtroom

Thanks for giving me the honor of heading up the MCBA Tennis Committee. I will start by telling you that my co-chair, Todd Thurlow and I have set a date for the Annual Tennis Tournament.

MCBA Tennis Tournament

When: March 9, 2024
 Time: 8:30 am
 Where: Willoughby Golf and Country Club (Tennis Courts)



If you have never been to this event, you should know that it is, at minimum, fun to watch the finals. This year, if you play tennis, play in the tournament. However, if you don't play tennis but want to have lunch and watch the finals, please join us. This year we are going to showcase our finals.

I will finish by telling you a story that my partner, and immediate past Florida Bar President, Gary Lesser was able to witness at this year's U.S. Open in Flushing Meadows, New York.

It was the first round opening match for 19-year-old Coco Gauff against 35-year-old veteran player, Laura Siegemund. Siegemund is known for "slow play." However, in this match Siegemund continually blew the 25 second time clock, she was continuously not ready for Gauff's serve, which delayed Gauff from being able to move the match forward, she then took a 7 + minute bathroom break, violating the 3-minute bathroom break rule and the chair umpire was not penalizing Siegemund for her behavior. Gauff finally made a dramatic argument to the chair umpire pointing out the violations. If you watch tennis, this match was big news of the week. After all, it was the most drama we tennis fans have seen since Nick Kyrios left the scene.

Does this tactic by Siegemund sound familiar? While I watched this match, I thought "Wow, this is strikingly similar to a tactic out of some attorney's litigation playbook." That is, delay, file motion to create more delay, blow deadlines creating more delay, file another motion to delay more, make baseless objections creating more delay and forcing motions to be filed, then set a continuance hearing for months later, on an already delayed case.

If you have not experienced this tactic in litigation, you are lucky. Gauff did prevail in this match, and the chair did penalize Siegemund to correct her behavior. In the same way, our judiciary does assess penalties for abusive delay tactics. But, like Gauff, pointing out the abusive delay to the trial judge is often necessary. In Gauff's case she won the match. Similarly, those attorneys who intentionally delay typically lose the case and/or get sanctioned. Thus, justice was done on the court that day and is usually done in the courtroom where we encounter this tactic.



Wills, Trusts and Probate

Chair – Matthew Worsham, Esq.



Matthew Worsham
Chair

The Wills, Trusts, and Estates Committee is planning its first CLE luncheon for December 2023. The date, location and topic will be announced shortly. Please contact me if you are interested in attending. mworsham@jonesfoster.com

A Cautionary Tale of Florida Relocation

Florida is now the fastest-growing state in America, according to 2022 population estimates by the U.S. Census Bureau¹. While some are drawn to the sun, warmth, and beaches, others are drawn to Florida's tax benefits and homestead protections. Regardless of their decision to move to Florida, your new clients need to ensure they properly abandon their prior residency or risk having to pay taxes to their former home state. One Nebraska couple fell directly into this trap.

In *Acklie v. Nebraska Department of Revenue*, the Nebraska Supreme Court examined whether Duane and Phillis Acklie properly changed their residence from Nebraska to Florida. 982 N.W 2d 228 (Ne. 2022). In 1997, the Acklies purchased a residence in Florida and used it for rental income. In 2008, they: (1) moved personal property from Nebraska to their Florida residence; (2) obtained Florida driver's licenses; (3) registered vehicles in Florida; (3) registered to vote and voted in Florida elections; (4) obtained Florida homestead exemption for their Florida residence; (5) joined a Florida church and Florida country club; (6) maintained bank accounts in Florida and had statements mailed to their Florida residence. In 2012, the Acklies updated their passports that identified them as Florida residents.

While this is likely enough evidence to establish Florida residency, the Nebraska Department of Revenue found that the Acklies retained connections to Nebraska, including: (1) their daughters resided in Nebraska; (2) they had a vehicle registered in Nebraska; (3) Duane Acklie made various political contributions to Nebraska entities/candidates; (4) served as board members for Nebraska entities; and (5) in 2015, Duane was named "Nebraskan of the Year" by a Nebraska entity.

The Nebraska Court held that the "evidence to support the Acklies' assertion that they established a new domicile in Florida in 2008 was outweighed by substantial evidence of conduct during the audit period [2010-2014] that was inconsistent with an intention to abandon Nebraska as their domicile." *Id.* at 235. The Acklies had the burden of proof to show a change of domicile. *Id.* at 237. In this case, while there was conflicting evidence demonstrating two potential domiciles, Nebraska applies a presumption against a change in domicile in such situations. *Id.* at 239. Ultimately, the Acklies were liable for Nebraska income tax from 2010 to 2014.

For your clients who are new to Florida, let the Acklies' story serve as a cautionary tale. Although each state has its own rules for abandoning residency, and you do not need to commit them to memory, remember to counsel your clients to avoid remaining liable for unnecessary taxes.

I hope this article was interesting and applicable to your practice. Please contact me at mworsham@jonesfoster.com for inclusion on the Committee's emails and/or to share any potential speakers, topics, or articles.

¹ <https://www.census.gov/library/stories/2022/12/florida-fastest-growing-state.html>

Halloween Happy Hour – Immediate Past President Wins FIRST PLACE

Look how much fun we had during our Halloween Happy Hour at Abacoa Golf Club in Jupiter! This event was FREE and held along with members of the Palm Beach County Bar Association.







DOMNICK CUNNINGHAM & YAFFA

CO-COUNSEL WITH A
PROVEN PARTNER

PBGLAW.COM



Medical Malpractice
Nursing Home Abuse
Trucking Litigation

Insurance Bad Faith
Serious Personal Injury
Product Liability

Experience the
Seaside difference
today.



Mark T Ciotti | SVP, Client Advisor
mciotti@seasidebank.com | 772-600-3764

© 2022 Seaside Bank and Trust. All Rights Reserved.
Seaside Bank and Trust is a division of United Community Bank. | seasidebank.com



Nason Yeager
GERSON HARRIS & FUMERO, P.A.
ATTORNEYS AT LAW | Est 1960

3001 PGA Boulevard | Suite 305 | Palm Beach Gardens, Florida 33410
Telephone (561) 686-3307 | Facsimile (561) 686-5442 | www.nasonyeager.com

PALM BEACH GARDENS • BOCA RATON




Janney **SAILFISH**
WEALTH MANAGEMENT

MICHAEL DADKO, CFP®, CLTC®
Executive VP, Financial Advisor

DIANE DADKO, CFP®
Private Client Associate

Sailfish Wealth Management | 309 SE Osceola Street, Suite 208, Stuart, FL 34994
sailfishwmg.com | 772.219.2026 | 877.716.3502

© JANNEY MONTGOMERY SCOTT LLC • MEMBER: NYSE, FINRA, SIPC • REF. 838451-1022

ForTheInjured.com

GORDON & PARTNERS
772-333-3333

Offices: Palm Beach Gardens, Stuart & Plantation

ATLAS

SOLOMON

PLLC

STRENGTH. WISDOM.

BE A HERO TO YOUR CLIENTS

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

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

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

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

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



Leading Our Port Saint Lucie Office

Marisa E. Zarzeski
ASSOCIATE ATTORNEY



Craig M. Goldenfarb, Esq.
FOUNDER / ATTORNEY



Spencer T. Kuvin, Esq.
LITIGATION DIRECTOR



Jorge L. Maxion, Esq.
CIVIL TRIAL ATTORNEY



Jeffrey D. Kirby, Esq.
PRE-SUIT ATTORNEY



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



Aaron D. Neifeld, Esq.
ASSOCIATE LITIGATION ATTORNEY



Donald W. Vollender, Esq.
PRE-SUIT ATTORNEY



Michael A. Wasserman, Esq.
CIVIL TRIAL ATTORNEY

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



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

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

Race to the Courthouse 5k Run/Walk



Gene Zweben

We are looking forward to another great event this year! The Race will be held on Saturday, April 20, 2024, so there is plenty of time to get out there and start training! We are still looking for sponsors and committee members. For more information, please contact Gene Zweben at gene@zwebenlawgroup.com or 772-223-5454.



Martin County Bar Association

Law Office Space Available US-1 @ Monterey

Month - to - month,
1-month deposit required.

Excellent referral opportunities.

Other amenities available.

Kowalski, Tuttle, McKee & Associates

Merrill Lynch Wealth Management

2301 SE Monterey Road
Stuart, FL 34996

772.223.6760
fa.ml.com/kowalski_tuttle



Merrill Lynch, Pierce, Fenner & Smith Incorporated (also referred to as "MLPF&S" or "Merrill") makes available certain investment products sponsored, managed, distributed or provided by companies that are affiliates of Bank of America Corporation ("BoFA Corp."). MLPF&S is a registered broker-dealer, registered investment adviser, Member SIPC and a wholly owned subsidiary of BoFA Corp.

© 2023 Bank of America Corporation. All rights reserved. | MAPS272720 Vault-BA1MK8 | MLWM-242-AD | 470944PM-0123



2400 SE Federal Hwy

Please contact: Victoria Blount
(772) 497-6544
victoria@wkfklaw.com



FIGHTING FOR THE INJURED SINCE 1985

**ROSENTHAL, LEVY,
SIMON & SOSA**
ATTORNEYS AT LAW

Welcome
Attorney **JENNIFER CISEK-HILL**

Special focus on Personal Injury
and Employment Law

25% Attorney Referral Fees
Personal Injury • Workers' Compensation
Employment Law

772-878-3880 | Info@RosenthalLevy.com
RosenthalLevy.com

Congratulations



Congratulations to LYNNE SPRAKER, winner of our Membership Engagement contest! MCBA President Wayne Richter recently presented Lynne with a complimentary membership for next year.

Help us grow our Bar by recruiting a colleague or sponsor to join us! Contact Lynne at martincountybar@gmail.com

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



- Impact Windows
- French Doors
- Sliding Glass Doors
- Accordion Shutters



Call For A Free Estimate
772-408-0200



Visit One of Our Showrooms 1740 NW Federal Hwy, Stuart
6400 SE Federal Hwy, Stuart



Looking to hire staff?

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

Send your listing to: 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!

Judicial Relations Committee

The Judicial Relations Committee invites you to its monthly lunch meetings.

RSVP required by emailing chair Julie Treacy at JTREACY@TREASURECOASTLEGAL.COM

SAVE THE DATES AND JOIN US!

- December 19 - Judge Rebecca White
- January 16 - Magistrate Lillian Ewen
- February 20 - Judge Jennifer Waters
- March 19 - Judge Brett Waronicki
- April 16 - Judge William Roby
- May 21 - Judge Leatha Mullins



W. Jay Hunston, Jr.



Mediator/Arbitrator/
Special Master

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

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

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



PROUD SUPPORTERS OF
THE MARTIN COUNTY
BAR ASSOCIATION



**LESSER LESSER
LANDY & SMITH PLLC**
 ATTORNEYS AT LAW
- Personal Injury Law Since 1927 -

WWW.LESSERLAWFIRM.COM • 772.283.6839



Solo & Small Firm Committee



Invites you for Lunch:

Wednesday, January 31, 2024

11:45 a.m. to 1:00 p.m.

Berry Fresh Cafe -1429 SE Federal Highway - Stuart

Topic:

Next Gen Marketing: Ethical Considerations for a New Era
INCLUDING: CLE GENERAL 1.0; ETHICS 0.5 AND TECHNOLOGY 0.5

Please RSVP so we know how many members to expect.
You'll order off the menu and pay for your own meal.

Bring Business Cards!

Deadline to register is 1.24.24

RSVP by emailing: martincountybar@gmail.com
(include in the subject line: Solo Lunch)

Sponsored by:



November Luncheon Recap

President's Speaker Series Does Not Disappoint

Ask anyone whose attended our membership lunches this year and they'll tell you they've all been great! Last month was no exception with Darren Heitner, Esq. Darren graduated from the University of Florida Levin College of Law and has taught courses at UF, University of Miami and Indiana University - Bloomington. Darren is a foremost authority on Name, Image & Likeness (NIL) issues in college athletics. He was instrumental in forming the Gator Collective at UF and in drafting Florida's NIL statute (Fla. Stat. §1006.74 (2020)). Darren has appeared on sports T.V. shows such as the Dan Patrick Show and the Paul Finebaum Show.

If you would like to hear a recording of Darren's talk, let us know and we'll be happy to send you a copy, along with CLE. This is FREE and another MCBA Member Benefit!



Continued On Next Page . . .



November Luncheon Photos



Real Estate and Commercial Litigation Update

Florida Real Property and Business Litigation Report

Manuel Farach



Manuel Farach
Chair

Thai Meditation Association of Alabama, Inc. v. City of Mobile, Case No. 22-11674 (11th Cir. 2023).

Neighborhood character or zoning are not compelling government interests sufficient to justify abridging core constitutional rights, including exercise of religious beliefs.

Noble Prestige Limited v. Galle,

Case No. 22-11520 (11th Cir. 2023).

The Doctrine of Prior Exclusive Jurisdiction under *Princess Lida of Thurn & Taxis v. Thompson*, 305 U.S. 456 (1939), holds that a court of competent jurisdiction that first obtains possession, custody, or control of particular property cannot have its possession disturbed by another court.

McGriff v. City of Miami Beach, Case No. 22-12863 (11th Cir. 2023).

Government's own speech is not controlled by the First Amendment, and accordingly, it is free to choose what to say and what not to say including deciding what art to display or not display.

In Re: Amendments To Florida Rule of Civil Procedure 1.530 and Florida Family Law Rule of Procedure 12.530, Case No. SC2022-0756 (Fla. 2023).

The words "sufficiency of a trial court's findings in the final judgment" in subdivision (a) of both rules is replaced with "failure of the trial court to make required findings of fact in the final judgment" to make clear the rule applies only when a judge is required to make specific findings of fact and not when a party seeks to make other challenges to a trial court's order.

Hess v. PMG-S2 Sunny Isles, LLC, Case No. 3D21-1547 (Fla. 3d DCA 2023).

The assignor of a sales contract is entitled to an award of prevailing party fees and costs, even if it had no standing to enforce the contract, if the contract provides that assignor remained liable under the contract until the closing of the sales contract.

Frehling v. Garcia, No. 3D22-0949 (Fla. 3d DCA 2023).

The statutory enlargement of the application time period to port Save Our Homes exemption to a new property from two years to three years is not retroactive.

M.P. v. Guiribitey Cosmetic & Beauty Institute, Inc., Case No. 3D22-1927 (Fla. 3d DCA 2023).

An "adhesionary" contract, including one for arbitration, is not necessarily unconscionable.

Cape Coral Loan Acquisitions, LLC v. 924 Del Prado, LLC, Case No. 6D23-401 (Fla. 6th DCA 2023).

A settlement agreement in which a settling borrower waives "any defenses of any nature whatsoever" includes a statute of limitations defense.

CCP Harbour Island, LLC v. Manor at Harbour Island, LLC, Case No. 2D22-2922 (Fla. 2d DCA 2023).

Employment of ruthless negotiation tactics, even for issues not part of the litigation, does not sufficiently affront "conscience, morality, or the law" so as to constitute the type of "wrongfulness" that qualifies for punitive damages.

Asset Recovery, Inc. v. Wells Fargo Bank, N.A., Case No. 6D23-282 (Fla. 6th DCA 2023).

Foreclosure sale surplus arises ten days after the clerk issues the certificate of disbursements and no objection is received.

Ramle International Corp. v. Miami-Dade County, Case No. 3D20-0114 (Fla. 3d DCA 2023).

Florida Statute section 197.502(4) holds that a party seeking tax deed sale surplus funds must establish it was one of the persons listed under the statute to recover surplus funds, i.e., "the titleholder to the property up for sale, '[a]ny lienholder of record who has recorded a lien against the property,' and '[a]ny mortgagee of record.'"

Miami Dade College v. Nader + Museu I, LLLP, Case Nos. 3D20-663 and 3D20-1014 (Fla. 3d DCA 2023).

A trial court may offset competing judgments when the entry of separate judgments would create an absurd result.

Green Tech Development, LLC v. Kahn & Resnik, PL, Case No. 4D2022-2194 (Fla. 4th DCA 2023).

A debtor may overcome a prima facie case of an account stated by proving fraud, mistake, or error in the account but a party's objection to only certain items on the bill implicitly admits the correctness of those items not challenged.

Waterside at Boynton Homeowners' Association, Inc. v. Southern Homes of Palm Beach, LLC, Case No. 4D2022-2211 (Fla. 4th DCA 2023).

A settlement agreement may be set aside for mutual mistake of fact, but only if the mistake is mutual (the parties agreed to one thing and the written agreement expresses something different due to either a scrivener's error or inadvertence) and the fact is of the essence of the contract.

AFP 103 Corp. v. Common Wealth Trust Services, LLC, No. 3D21-2117 (Fla. 3d DCA 2023).


Upon rehearing, the Third District withdraws its prior opinion that easements created by landowners are void ab initio and decides the case on the basis that AFP had no interest in the property as the dominant estate.

Costco Wholesale Corporation v. Vargas, Case No. 3D22-585 (Fla. 3d DCA 2023).


A corporate representative who deposition is being taken does not need to have personal knowledge of the listed deposition topics but is not permitted to use an undisclosed and unproduced set of answers nor to be coached by the attorney defending the deposition.

Riggins v. Clifford R. Rhoades, P.A., Case No. 6D23-489 (Fla. 6th DCA 2023).

A court deciding a Motion to Dismiss may not stray outside the four corners of the complaint, including reviewing judgments from other courts, in order to decide the motion.



THE LAW OFFICES OF
JEFFREY N. FRIEDMAN



Board Certified
Workers' Compensation Attorney

Offices in Stuart
and West Palm Beach

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

Call 772.247.0228 or 561.228.7998
www.friedmanworkerscomp.com



Serving the Treasure Coast
for Over 25 Years



We Go The Extra Mile For You!

Gene R. Zweben, Esq.
Personal Injury Lawyer

Car Accidents - Slip & Fall - Personal Injury

Zweben Law Group is dedicated to helping those who have suffered injury or death as a result of another's negligence. Contact us today to begin the referral process and earn your 25% referral fee*.

772-223-5454
532 Colorado Avenue Stuart, Florida 34994
zwebenlawgroup.com

*Consistent with Florida Bar rules.



Legal Resources / CLE

Christine Moreno, Legal Resources Committee Chair

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 Martin County Public 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).



Christine Moreno
Chair

CLE MATERIALS: Visit our Website or the Clerk's website for available FL CLE programs. Our current offerings include:

2022 Florida Survey of Law

2023 Florida Survey of Law

2023 Wills, Trust & Estates Certification Review Course

2023 Advanced Real Estate Certification Review Course

Our materials generally include a disc for pdf course materials

Currently corporate sponsors are enlisting to provide specialty FL CLE courses to our members, so check back to our MCBA website or Clerk's website for updates on CLE course offerings.

ADMINISTRATIVE RESOURCES: Discounts are available for many administrative resource materials. Please inquire if you are interested in any such services. Also, our Florida Bar offers free CLE courses as well as administrative materials at the FloridaBar.Org website under the heading "Legal Fuel". One valuable & FREE resource is the current "NOTA" on-line trust accounting program. I am still awaiting information on the security and encryption aspects of NOTA, since it is an on-line platform, but it looks promising.

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

CYBER ATTACKS ARE COMING...



CLOUD CHOICE TECHNOLOGIES CAN PROTECT YOUR BUSINESS USING THE LATEST CYBER DEFENSES!

WWW.CLOUDCHOICETECH.COM



MELTZER & BELL, P.A.
DUI & CRIMINAL TRIAL LAWYERS
THE TRAFFIC ST-OP

Main Criminal Defense Office: (561) 557-8686
Traffic Defense Office: (561) 500-5000



Steven K. Bell

Cell: (954) 554-5269
Fax: (561) 300-2158

OFFICE LOCATIONS:

515 North Flagler Drive, #240
West Palm Beach, FL 33401

110 SE 6th Street, 17th Floor
Fort Lauderdale, FL 33301

1 SE Ocean Blvd
Stuart, FL 34994



Bill Biglin

Certified Bosch CDR Tool Technician



1-833-546-4440
Service@CDRFlorida.com
www.cdrflorida.com

Member FDIC



firstcitizens.com

Stronger finances make stronger practices.

Custom financial services for law firms.

Sarah Baker | Vice President
772-221-7050



PERFECTLY LEGAL
OFFICE SOLUTIONS, LLC

SHAUN KELLY

Legal Assistant

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

772.349.5519
Shaun@perfectlyLegalOS.com
www.perfectlylegalos.com

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

Spiral Technologies

www.Spiral.Tech

OUTSOURCE YOUR IT

WITH OUR MANAGED IT SERVICES & SUPPORT



Managed Backups



Managed IT Services



Security Solutions



Hardware Management

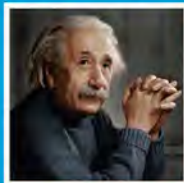


- Maintain & Monitor
- Firewalls
- Audit & Optimize
- Remote Support
- VPN/Remote Access
- Switches
- Managed IT Services
- Discovery & Documentation
- Wiring: New & Repairs
- Server Installations
- Websites
- POS systems
- PC & Laptop Repairs
- SPAM & Malware Removal

TEL: (772) 285-9934

WWW.SPIRAL.TECH

“ In matters of truth and justice, there is no difference between large and small problems, for issues concerning the treatment of people are all the same. ”



-- Albert Einstein

SEARCY DENNEY SCAROLA BARNHART & SHIPLEY

ATTORNEYS AT LAW

READY TO FIGHT FOR YOU!

WEST PALM BEACH/TALLAHASSEE

◆ 800.780.8607 ◆

WWW.SEARCYLAW.COM

Visit the MCBA

*website at
www.martincountybar.com
for upcoming events,
committee meetings
and more!*

FIND US ONLINE



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.com

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.

December

2023

Martin County Bar Association

Upcoming Events:

January 11, 2024 – MCBA membership happy hour from 5:30 to 7:00 at Hudsons on the River

March 9, 2024 – MCBA Tennis Tournament – Willoughby Golf & CC



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5	6	7 Hanukkah	8	9
10	11	12	13	14	15	16
17	18	19 Judicial Relations Lunch	20	21	22	23
24 Christmas Eve	25 Christmas Day	26 Kwanzaa	27	28	29	30
31 New Year's Eve						



**All the members of the board of
The Martin County Bar Association
would like to wish everyone a safe and
peaceful Holiday season.**

Please join us for MCBA's next Monthly Meeting, Friday, January 19, 2024