

NOVEMBER 2023



The Side Bar

NEWSLETTER OF THE MARTIN COUNTY BAR ASSOCIATION

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MCBA PRESIDENT, R. WAYNE RICHTER**

**NOVEMBER LUNCHEON
PRESIDENT'S SPEAKER SERIES
DARREN HEITNER, ESQ.**

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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

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

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Jason D. Berger - 2019 - 2020
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Message From the President

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

As you may have noticed, the days seem to be getting shorter, which is a sure sign that summer has ended, and we have entered fall. October was a busy month for the Martin County Bar Association (MCBA). We had over 100 attendees at our October CLE luncheon. That is the second month in a row that we have exceeded the century mark at our lunch meetings! We also honored the judiciary of the 4th DCA and the 19th Circuit at the Stuart Yacht & Country Club at our annual judicial reception and partnered with the Palm Beach County Bar Association's North County Section & YLD to host a free Halloween happy hour at Abacoa Golf Club. Thank you for engaging with the MCBA and let's keep the great turnout going!

Special recognition goes to Jane Cornett, Esquire, who won this year's George W. Bush, Jr. – MCBA Professionalism Award. Jane was the 1992-1993 president of the MCBA. Congratulations, Jane! The plaque with the names of all the past professionalism winners is located on the first floor of the Martin County Clerk's Office.

If you have enjoyed the speakers at our monthly meetings, be sure to thank our sponsors at the next bar event or luncheon. Each sponsor nametag includes a ribbon that indicates that their firm or company is a sponsor of the MCBA. Please also patronize our sponsors whenever possible. The MCBA could not have brought you this lineup of speakers without the financial support of these individuals, companies and firms.

I hope that you will join us on November 17th at 11:30 a.m. for our next CLE luncheon. We will be joined by Fort Lauderdale attorney Darren Heitner. Darren is a graduate of 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 issues in college athletics. Darren was instrumental in forming the Gator Collective at UF and in drafting Florida's NIL statute (Fla. Stat. §1006.74 (2020)). Darren has been a featured guest on sports T.V. shows such as the Dan Patrick Show and the Paul Finebaum Show. Come find out what's going

on at the intersection of collegiate sports and law.

In addition to boosting member engagement with the MCBA, we are also now turning our focus to membership growth. Growth is important to the vitality and longevity of the MCBA. Growth allows members to network with a larger group of individuals

and gives our sponsors more visibility, which increases the value of their sponsorship, which in turn increases sponsor retention, which allows for enhanced MCBA programming. Our post-pandemic membership numbers are lower than in previous years. You can help us grow the MCBA and win a free 2024-2025 MCBA membership by doing so! All you need to do is invite a colleague to join the MCBA. Please notify Lynne Poirier by email (martincountybar@gmail.com) of whom you have recruited. If that person joins the MCBA, your name will be entered into a drawing for a free 2024-2025 MCBA membership. The drawing will be held at our November CLE luncheon. (You do not need to be present to win, but it would be nice!)

Veterans Day is November 11th. Thank you to all our members and sponsors who have donned the uniform in service to this great country. We salute you!

Mark your calendar: The MCBA will host its 2nd Annual Holiday Party on Thursday, November 30th from 5:30 to 7:30 p.m. Come join your friends and colleagues at the Dolphin Bar and Shrimp House in Jensen Beach to celebrate the holidays! Last year's inaugural holiday party was a great success and we want to build upon that. Look for emails from the Bar regarding registration.

In sitting down to write this month's article, I wanted to convey a message about Thanksgiving since it is on the horizon. I found myself in front of my computer researching



R. Wayne Richter
2023-24 President

Continued On Next Page . . .

topics to write about such as the origin of Thanksgiving in the United States, or some sort of *Saturday Evening Post* type of feel-good story to share. However, I came across a Buddhist proverb about thankfulness that resonated with me. Trust me. It is not lost on me that a Buddhist proverb is not part of the Americana Thanksgiving tradition that I anticipated sharing. Nevertheless, the proverb says: "Enough is a feast." I know that this sounds cliché, but we all have something to be thankful for and I hope you find the time, however short, to sit and reflect on your blessings. Most of us, whether we realize

it or not, have been blessed with some form of abundance. So, instead of wishing an abundance for you, at a time when we often feast, I wish you enough! May you find contentment during this holiday season.

Happy Thanksgiving!

R. Wayne Richter, Esquire
2023-2024 MCBA President



Setting The Bar Higher

Proud Martin County Bar Association moment! President Wayne Richter recently made his TV debut live on Court TV talking about the Tim Ferriter case.

We appreciate your expertise, Wayne. Great job!

President's Speaker Series

Our President's Speaker Series continues with rave reviews! Julie Brown was our keynote speaker in October. Julie is an investigative reporter with the Miami Herald who discussed her reporting in the Jeffrey Epstein case.

Pictured with Julie is MCBA President Wayne Richter



President's Speaker Series Presents

Darren Heitner, Esq. Name, Image, Likeness (NIL) College Athletes



Darren Heitner, Esq.

Friday, November 17, 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, including lunch, plus 1.0 General and 1.0 Business

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RSVP to: martincountybar@gmail.com include in the subject line: RSVP November Lunch

Registration deadline: 11/10/23

We're excited to continue our monthly lunches with another terrific speaker!

November we welcome Darren Adam Heitner, Esq., Founder of Heitner Legal, P.L.L.C. Darren is an adjunct professor of Sports Law at the University of Florida Levin College of Law, an adjunct professor of name, image and likeness (NIL) at the University of Miami School of Law, a certified arbitrator with the American Arbitration Association, and author of many books published by the American Bar Association.

He has been referred to as one of the foremost experts on NIL by The Wall Street Journal, USA TODAY and On3, a power player in the NIL deals by Action Network.

Darren joins us to discuss Florida's NIL statute, and lawyers' role in NIL agreements.



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



The Martin County Bar Association presents

President's Speaker Series



R. Wayne Richter
2023-24 President

We kicked off our President's Speaker Series with an incredible presenter! You could hear a pin drop listening to Pulitzer Prize Author Gilbert King discuss his award winning book "Devil in the Grove" about a 1949 case where four young black men were falsely accused of raping a white woman and their representation by Thurgood Marshall. Mr. King also spoke about his relationship with retired Circuit Judge Scott Cupp and their quest to free another innocent man from prison whose story was chronicled in their podcast entitled "Bone Valley." Thank you members and sponsors for joining us for this sold-out event! And, a special thank you to our title sponsor: **Smith, Ball Baez Prather** Florida Injury Lawyers.



Save the Dates!

Your RSVP is Needed One Week Prior to Each Event.

- 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.





Thank You, Annual Sponsors - We Appreciate Your Support!

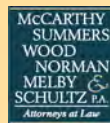
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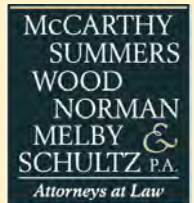


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Admiralty and Maritime Law

Florida Bar Board Certified in Admiralty & Maritime Law

By: Barbara A. Kreitz Cook, Esq.

MCBA Admiralty Committee Chair



Barbara A. Kreitz Cook

SPECIAL MARITIME RULES OF COURT

The Supplemental Rules for Admiralty or Maritime Claims are located after the last of the rules in the book of Federal Rules of Civil Procedure. The scope of the Supplemental Rules, which govern procedure with respect to various maritime remedies, is identified in Rule A and the rules are detailed in Rules B through F:

Rule A: These supplemental rules apply to maritime attachment and garnishment, actions in rem, possessory, petitory, and partition actions, actions for exoneration from or limitation of liability, forfeiture actions in rem arising from a federal statute, and the procedure in statutory condemnation proceedings.

Rule B: Maritime Attachment and Garnishment. This rule is applicable when a maritime defendant is not found within the District of the court where a maritime complaint has been filed, It provides for attachment and garnishment of a defendant's property that is within the District.

Rule C: Special Provisions. This rule is applicable for in rem actions against maritime property to enforce a maritime lien and whenever a statute of the United States provides for a maritime action in rem or a proceeding analogous thereto.

Rule D: Possessory, Petitory, and Partition Actions. This rule is applicable in all actions for possession, partition, and to try title or possession with respect to a vessel, cargo, or other maritime property or between part owners.

Rule E: Actions in Rem and Quasi in Rem. This rule supplements rules B, C, and D, and provides the detail, execution and service of process, and security required in and for such complaints.

Rule F: Limitation of Liability. This rule provides the means, security required, and process for a vessel owner to seek exoneration from, or limitation of, liability to, claimants who allege tort claims against a vessel. It provides for timing, deposit of security, injunction, notice to claimants, and contents required in the vessel owner's complaint for exoneration from or limitation of liability.

Rule G: Forfeiture Actions In Rem. This rule governs a forfeiture action in rem arising from a federal statute. It states the content, process, and notice requirements for the complaint and for the responsive pleading.



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Chair – Matthew Worsham, Esq.

Contracts After Death: Binding on Estate or Accidental Will?

Personal representatives have the unenviable task of determining whether a contract is enforceable on the estate, if it expired along with the decedent, or if it is a contract to make a will.

“The appropriate test to determine if a contract was intended to survive the death of one of the contracting parties where the contract is otherwise silent on the issue, is whether the personal representative may perform as fully and as well as the decedent might have.” *Bloom v. K & K Pipe and Supply Co., Inc.*, 390 So. 2d 770, 773 (Fla. 4th DCA 1980). Accordingly, a personal representative can properly refuse to perform a decedent’s contract when it is “personal” to the decedent. *Id.* The contract is “personal” if it only contemplates the personal performance of the decedent, such as a personal services contract. *Id.* In *Bloom*, the Court determined that a non-compete agreement was personal to the decedent and not enforceable. *Id.* The Third District Court of Appeals determined that a lease extension agreement that specified the decedent was personal and not enforceable by the personal representative. *Frankel v. Bernstein*, 334 So. 2d 37, 39 (Fla. 3d DCA 1976)



The personal representative has a duty to carry out the decedent’s non-personal contracts and, if they fail to do so, they may be compelled to pay damages with the assets in their hands. *Frissel v. Nichols*, 114 So. 431, 434 (Fla. 1927). In *Gunderson v. School District of Hillsborough County*, the Court determined that a pre-death settlement agreement with the decedent’s employer was enforceable by the personal representative. 937 So. 2d 777, 780 (Fla. 1st DCA 2006). Because the settlement agreement’s performance could statutorily be performed by the personal representative, the contract was not personal to the decedent and thereby enforceable. *Id.*

When a person intends a contract to survive death, they run the risk of accidentally making a contract to create a will under section 732.701, Florida Statutes. A written promise to leave money to an educational institution was deemed to be a contract to make a will and was not executed with the necessary formalities. See *Talmudical Academy of Baltimore v. Harris*, 238 So. 2d 161, 161-62 (Fla. 3d DCA 1970). An oral contract to care for the decedent in exchange for being named as the principal beneficiary of the estate was considered a contract to make a will and invalid for failing to be in writing and having two witnesses. *Renfro v. Dodge*, 520 So. 2d 690 (Fla. 4th DCA 1988).

When drafting contracts for your clients, practitioners should be aware of these general rules, especially when drafting contracts that may be later deemed invalid under section 732.701, Florida Statutes.

I hope this article was interesting and applicable to your practice. The Wills, Trusts, Estates, and Probate section will have a meeting in the near future. Please contact me at mworsham@jonesfoster.com for more details.



JOIN US FOR OUR 2ND ANNUAL HOLIDAY PARTY

THURSDAY
NOVEMBER

30



DOLPHIN BAR
& SHRIMP HOUSE
JENSEN BEACH

5:30 P.M. - 7:30 P.M.

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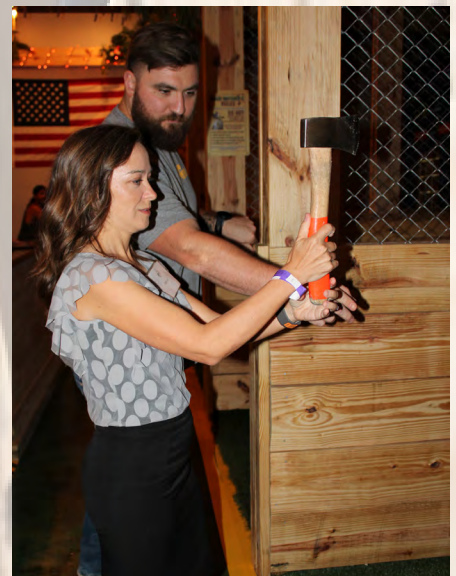
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Madd Hatcher's Night
Congratulations to John Mangan, winner of our Madd Hatcher's event! John takes home prestigious bragging rights for having the most accurate throw. Be sure to congratulate John the next time you see him.



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

CONGRATULATIONS JUDGE NORMAN!

On behalf of the Florida Bar, Martin County Bar Association president Wayne Richter recently presented Circuit Court Judge Anastasia Norman with a copy of the Holy Bible during her investiture. Judge Norman then took her Oath of Office upon the Bible.



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ANNUAL JUDICIAL RECEPTION

Members recently celebrated a special evening honoring our Judiciary, welcoming new members and recognizing Jane Cornett, Esq. with the 9th annual George W. Bush, Jr. Professionalism Award. Thank you to our members who took time to be with us and thank you to our sponsors for making these memorable events possible.



Congratulations to Jane Cornett (right) this year's 9th annual George W. Bush, Jr. Professionalism Award winner. Jane is pictured with her daughter.







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,

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Elder Law

Elder Law Attorney Corner

What is an Elder Law Attorney Anyway?

No, it's not an attorney over the age of 65, as one 95-year-old woman asked one day when I told her I was an elder law attorney. So then, she asked, "What do you mean by you are an elder law attorney? What do you do?"



First, the practice of elder law requires a level of competency in many areas of law in order to practice with a level of proficiency as an attorney to serve the consumer.

The competencies an attorney should develop on his or her journey to move in the direction of developing an "elder law practice" includes, but is not limited to: estate planning with wills & trusts, trust administration, guardianship, probate, incapacity planning, end-of-life decision-making, Social Security law, Medicare benefits, Medicaid law, SSI law, special needs asset protection trust planning, understanding of the use of ABLE accounts for disabled adults, Veterans Benefits laws, nursing home resident rights law, nursing home neglect, exploitation laws, real estate law, income tax law, and estate tax law. These are all areas of law an attorney should develop a level of competency in to be able to, at a minimum, spot issues and discuss with clients or refer the person to an attorney with specialization in the area the client has an issue with.

Typically, the journey to becoming an elder law attorney takes years, and includes hours of continuing education, participation in elder law listservs to learn, membership in national organizations, and state Bar organizations and committees focused on imparting knowledge of topics and laws affecting the elderly and disabled. Back in 1995 I started my law practice focusing on probate, guardianship, simple estate planning, incapacity planning, nursing home neglect, and real estate law. For several years I studied various other areas of elder law to develop my competencies. Eventually I segued my way into a personal comfort zone where I felt comfortable holding myself out as an elder law attorney.

As Chair of the 2023 MCBA Elder Law Committee, my vision is to assist our committee members in developing all of our collective knowledge of elder law topics and impart our wisdom upon each other and the MCBA collective membership. The overarching goal is to increase the competency of attorneys services being offered to Martin County seniors and the disabled.

The Elder Law Committee meetings and teleconferences will include updates on laws impacting the elderly and disabled as well as a segment for a discussion forum to share our own experiences and questions and seek answers on elder law topics.

The committee is seeking members who will share their wisdom, knowledge, and experience. Every one of us possesses knowledge to share with our colleagues. If you are interested in joining us please contact Lynne Poirier at martincountybar@gmail.com.



Gregory G. Glenn started his practiced with a focus on serving the elderly and disabled back in 1995. He is a nationally Certified Elder Law Attorney by the National Elder Law Foundation. His elder law practice today focuses on Medicaid planning, estate planning for the over 55 and disabled, special needs trust planning for the disabled, incapacity planning and probate. Prior to law school he worked as an accountant for Coopers & Lybrand, CPA's assisting clients with cash management as well as tax preparation and planning. He has offices in Stuart and Boynton Beach. Phone: 561-347-1071 Website: www.Bocaelderlaw.com.

Scholarship Committee

The 2023-2024 MCBA Scholarship application is open! Applications are due December 1, 2023.
Abby Spears, Scholarship Chair



The MCBA Scholarship program is open to any 2024 graduating High School Senior in Martin County (public, private, home schooled); minimum 3.0 unweighted GPA. Applicants complete a 1,000 – 2,500 word essay in response to the topic we provide. Scholarships are awarded to the most qualified candidate(s) regardless of school of graduation, financial need or career aspirations; funds are paid for fees associated with college attendance and paid directly to the institution. (Applications may be accessed through the high schools.)

The MCBA is giving away **\$5,000** in scholarships: \$2,500 for one; \$1,500 for one; and \$1,000 for one.

If you are interested in joining the committee this year and helping us review and rank the essays when they are received, please email Abby Spears at aspears@nasonyeager.com.

We look forward to receiving the essays and sharing our recipient information with you all in the Spring!

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



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UPCOMING EVENTS & PROGRAMS



November 8, 2023
 12:00 p.m. – 1:00 p.m.

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

November 30, 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



December 6, 2023
 5:30 p.m. – 7:30 p.m.

Holiday Party
 TBD
Keep an eye out for an email providing details!



Please RSVP to: admin@martincountywomenlawyers.com
 & Write in the Subject Line: **RSVP [Event Title & Date]**

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Thanks to everyone who joined us for our Judicial Reception held at First Citizens Bank on September 21, 2023

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Real Estate and Commercial Litigation Update

Florida Real Property and Business Litigation Report

Manuel Farach



Manuel Farach
Chair

City of Jacksonville v. Jacksonville Hospitality Holdings, L.P., Case No. 22-12419 (11th Cir. 2023). Federal Rule of Civil Procedure Rule 41(a)(1)(A)(ii) permits a plaintiff only to dismiss an action without court order by filing “a stipulation of dismissal signed by all parties who [at any time] have appeared” in the action.

In re: Fundamental Long Term Care, Inc., Case No. 21-10587 (11th Cir. 2023). Analysis of a conflict under 11 U.S.C. § 327 is a case by case analysis, but should focus on whether there exists a present (not a past) conflict.

In re Amendments To The Florida Rules of Appellate Procedure, Case No. SC2023-0033 (Fla. 2023). The Florida Supreme Court adopts proposed changes to the Rules of Appellate Procedure, including amending Rule 9.130(e) to reintroduce the five-day buffer between the deadline for initial briefs in non-final appeals and the deadline for appellees to serve their notice of intent to cross-appeal.

In Re: Amendments To Florida Rule of General Practice and Judicial Administration 2.215, Case No. SC2023-1114 (Fla. 2023). Rule 2.215 is amended to require that individual judge and divisional practices and procedures, local rules, and administrative orders be placed on each circuit’s website; that the practice of limiting attorneys or parties to communicate with the court solely by written letter is abolished; and that that each circuit must have a continuing review process in place to ensure that the requirements of the rule are met.

Suzmar, LLC v. First National Bank of South Miami, Case No. 3D22-1839 (Fla. 3d DCA 2023). Florida law does not recognize a claim for negligent lending absent there being a fiduciary relationship in addition to the creditor-debtor relationship.

Zakharova v. Innovative Technologies & Consulting Limited Corp., Case No. 3D23-1180 (Fla. 3d DCA 2023).

A motion to extend a notice of lis pendens need not be filed within one year of commencement to be able to grant relief.

Michael v. Lobbytools, Inc., Case No. 1D22-1649 (Fla. 1st DCA 2023).

No indemnification is required under Florida Statute section 607.0580(1) when a corporate officer is sued for disclosing trade secrets and not “by reason of the fact” that she was a corporate officer.

Certified Motors, LLC v. Aventine Hill, LLC, Case No. 2D22-2306 (Fla. 2d DCA 2023).

An option to renew a lease that does not contain stated terms presumes the parties agreed to renew on the same terms set forth in the original agreement.

AT&T Mobility, LLC v. Rigney, Case No. 3D21-2261 (Fla. 3d DCA 2023).

Florida Statute section 57.105(1)(b)’s “good faith argument for new law exception” does not apply to a motion for sanctions under section 57.105(1)(a) that a claim or defense is not supported by the facts of the case.

Bric McMann Industries Incorporated v. Regatta Beach Club Condominium Association, Inc., Case No. 2D22-2454 (Fla. 2d DCA 2023).

Florida Statutes section 768.72 allows a plaintiff to make a claim for punitive damages for gross negligence or intentional misconduct.

The MacDougald Family Limited Partnership, LLP v. Rays Baseball Club, LLC, Case No. 2D23-9 (Fla. 2d DCA 2023).

A broad arbitration provision, e.g., on which uses the word “concerning,” is nonetheless limited in scope if the broad application is limited to one issue such as interpretation of an instrument.

Continued On Next Page . . .

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Pirman v. South Pointe Of Tampa Homeowners Association, Inc., Case No. 2D23-58 (Fla. 2d DCA 2023).

A homeowner in a community association does not need to pay an assessed fine in order to have sufficient “damages” to sue over the allegedly improper fine.

Chiquita Fresh North America, L.L.C. v. Port Everglades Terminal, LLC, Case Nos. 4D2021-3433 & 4D2021-3556 (Fla. 4th DCA 2023).

A party seeking damages for unjust enrichment must prove it conferred a direct benefit on the defendant.

CPPB, LLC v. Taurus Apopka City Center, LLC, Case No. 6D23-2649 (6th DCA 2023).

The Sixth District aligns itself with the First District and in conflict with the Second, Third, Fourth, and Fifth Districts and holds that generalized allegations of harm are insufficient to invoke a district court’s certiorari jurisdiction.

Flamingo South Acquisitions, LLC v. Flamingo/ South Beach I Condominium Association, Inc., Case No. 3D22-656 (Fla. 3d DCA 2023).

A declaratory action which deals with election of condominium board members must first be arbitrated.

Factor Brokers, Inc. v. J&C Enterprises, Inc., Case No. 3D22-1029 (Fla. 3d DCA 2023).

A non-signatory to a contract containing an arbitration provision can be bound to arbitrate by virtue of a valid assignment of the contract.

Monroe County v. Jabour, Case No. 3D23-145 (Fla. 3d DCA 2023).

A Partial Summary Final Order of a code enforcement special magistrate which does not decide whether a violation occurred is not a final order capable of being appealed.

Florida Atlantic University Board of Trustees v. Harbor Branch Oceanographic Institute Foundation, Inc., Case No. 4D2022-0313 (Fla. 4th DCA 2023).

The Florida Legislature may not pass laws which impair the contractual relationships between parties; total or substantial destruction of the rights of parties is not required.

Stuart Roofing, Inc. v. Thomas, Case No. 4D2022-2580 (Fla. 4th DCA 2023).

A party alleging a violation of the Florida Deceptive and Unfair Trade Practices Act must prove actual, and not just consequential, damages.

T.G. United, Inc. v. AADD Properties, LLC, Case No. 5D22-1147 (Fla. 5th DCA 2023).

Florida Statute section 83.232(5) provides for an immediate default if a non-residential tenant fails to timely pay rent into the court registry, but the automatic default provision is not triggered if the court orders rent to be timely paid into an attorney’s trust account and the tenant fails to do so.

Royal United Properties, Inc. v. Royal, Case No. 6D23-584 (Fla. 6th DCA 2023).

Certiorari relief may be sought for a trial court setting aside a notice of election to purchase corporate shares under Florida Statute section 617.1430(1)(b).

Cole v. Plantation Palms Homeowners Association, Inc., Case No. 2D22-3068 (Fla. 2d DCA 2023).

An expert report which does not conclusively establish the cause of foundation cracking in several homes may still be sufficient to defeat summary judgment.

TBC Florida, LLC v. Infinity Biscayne Myrtle Member, LLC, Case No. 3D22-1317 (Fla. 3d DCA 2023).

While release of a debtor typically releases the debtor’s guarantor, a guarantor who guarantees a lease is not released from liability when the guaranty specifies “Tenant” and the assignee became the new “Tenant” under the assigned lease.

Federal Insurance Company v. Perlmutter, Case Nos. 4D2022-1558, 4D2022-1560, & 4D2022-1562 (Fla. 4th DCA 2023).

The Fourth District follows the Third District and holds that a trial court must consider an evidentiary showing by both sides at the hearing of a motion to amend to allege punitive damages.

Mortgage Assets Management, LLC v. Unknown Spouse, Case No. 5D23-188 (Fla. 5th DCA 2023).

A party that complies with the certificate process of Florida Statute sections 90.803(6)(a) and (c) is not required to produce a live witness on the certificated matters at trial.

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ONLINE RESOURCES OFFERED BY THE MCBA

Notice: Your clients and the public at large can now access online courses directly through the MCBA website. They are fast, convenient, and inexpensive - available 24 hours a day, 7 days a week. All instructions are included online and programs can be started/stopped, picking up where you left off, as many times as you like. **Help the MCBA promote this community service while generating income to support local initiatives!**

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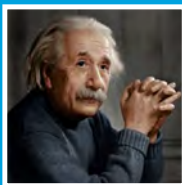


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Martin County Ordinances

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

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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:

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Click on link at the bottom of the page.

November

2023

MCBA Upcoming Events

Judicial Relations Luncheon w/ Judge McNicholas, **November 14**

Membership Luncheon, **November 17**

Holiday Party, **November 30**



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7 Election Day	8	9	10 Veterans Day (Observed)	11 Veterans Day
12	13	14 Judicial Relations Luncheon with Judge McNicholas	15	16	17 Membership Luncheon	18
19	20	21	22	23 Thanksgiving Day	24 Black Friday	25
26	27	28	29	30 Holiday Party		



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

Please join us for MCBA's CLE Monthly Meeting, Friday, November 17, 2023

- When: Friday, November 17, 2023
11:30 a.m. networking; 12:00 p.m. lunch
- Where: Monarch Country Club
1801 SW Monarch Club Drive, Palm City
- Menu: House Salad with Dressing Selection, Rolls with Butter, Grilled Marinated Pork Chop(s) with Apple Chutney, Mashed Potatoes, Broccoli, Cherry and Berry Cobbler with Whipped Cream
- Speaker: Darren Heitner, Esq., Name, Image, Likeness (NIL) College Athletes
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No later than Thursday, November 10, 2023

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