

PALM BEACH COUNTY BAR ASSOCIATION

BULLETIN

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July/August 2015

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Mark your calendar for upcoming Membership Events

July 16:

Young Lawyers Section
Summer Intern Happy Hour

August 13:

Young Lawyers Section/
Federal Bar Association Happy Hour

September 22:

Membership Luncheon with guest speakers
Florida Bar President Ramon Abadin and
Immediate Past Florida Bar President Greg
Coleman "The Future of the Practice of Law:
Challenges and Opportunities"

Congratulations to our Board of Directors!

The Board of Directors was recently sworn into office during our annual Installation Banquet held at the beautiful Breakers Hotel in Palm Beach. Close to 500 guests attended the event to celebrate this special occasion. Grier Pressly was sworn into office as our 93rd president and third member to serve in his father's footsteps as leader of our association. No doubt, this will be another stellar year!



Standing left to right: Directors Ned Reagan, Julia Wyda, Scott Smith, Dean Xenick, Sia Baker Barnes, Lee McElroy, Jessica Callow Mason, YLS President Lou Delgado, NCS President Larry Buck and Greg Huber. Sitting left to right: Immediate Past President Theo Kypreos, (Ret.) Judge Stephen Rapp who performed the Oath of Office, President Grier Pressly and President Elect John Whittles

YLS Joint Happy Hour with Federal Bar Association

We hope you can join us for our annual joint happy hour with the Federal Bar Association scheduled for Thursday, August 13 at Ruth's Chris at City Place. Pre-registration is required and can be done by going to the Bar's website, palmbeachbar.org. Thank you to our YLS Annual Sponsor, U.S. Legal Support.

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THE
BULLETIN
PALM BEACH COUNTY
BAR ASSOCIATION

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The mission of the Palm Beach County Bar Association is to serve its members, foster professionalism and enhance the public's understanding and awareness of the legal system.

LETTERS TO THE EDITOR

The Palm Beach County Bar Association Bulletin welcomes your comments on topics relating to the law, the legal profession, the Palm Beach County Bar Association or the Bar Bulletin. Letters must be signed, but names will be withheld upon request. The editor reserves right to condense.



Send letters to:
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Palm Beach County Bar Association
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West Palm Beach, FL 33406

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SOUTHERN DISTRICT OF FLORIDA
701 CLEMATIS STREET
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KENNETH A. MARRA
UNITED STATES DISTRICT JUDGE

TEL: (561) 514-3780

May 19, 2015

Gregory M. Yaffa, Esq.
President
North County Section
Palm Beach County Bar Association
1507 Belvedere Road
West Palm Beach, FL 33406

Re: 2015 Jurist of the Year Award

Dear Greg:

I am writing to express my sincerest thanks to you and the Officers of the North County Section of the Palm Beach County Bar Association for bestowing on me the 2015 Jurist of the Year Award. I am truly humbled and honored to be the recipient of this prestigious award. I am confident that my receipt of this award will further motivate me to perform my duties consistent with the high ideals and standards expected of a member of the federal judiciary.

With warmest regards and sincerest thanks,


Kenneth A. Marra

cc: Patience A. Burns, Executive Director



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President's Message



Standing on the Shoulders of Giants

by Grier Pressly

I have an awesome amount of respect for the office with which I've been entrusted.

The reputation of our Bar Association as one of the very best in the country was forged, in part, through the efforts of our past presidents. So much of our Association's proud legacy today is revealed by the character and accomplishments of those who have served as its president before.

When is the last time that you studied our Association's list of past presidents? Go ahead. Flip to the back page of the Bulletin and take a look. It reads like a "Who's Who" of Palm Beach County legal luminaries. Seven past presidents of The Florida Bar. Six past presidents of The Florida Bar. A former Florida Supreme Court Justice. Two former federal court judges. A number of current and former state circuit and appellate judges. A former U.S. Congressman. At least two former Mayors of West Palm Beach. A former Palm Beach County sheriff. A former special counsel to a U.S. Senator. A former president of the Florida Senate. And scores of others who practiced law at the highest echelons of our profession and whose historical contributions to our legal community are immeasurable, from early pioneers of Palm Beach County jurisprudence to today's trailblazers. Several of our early presidents served as First Lieutenants and Army Colonels in World War I and World War II! Another of our early presidents was at the end of his life the oldest member of The Florida Bar at 103, and was still going to the office to practice law almost every day!

While I can't help but feel wholly inadequate to fill the shoes of the presidents who served this Association before me, I find inspiration in their memory (in some cases) and in the examples they set (in all cases). We are in the process of building out a dedicated page to our past presidents on our Bar website (www.palmbeachbar.org/past-presidents/); if you can help us locate photographs of those former past presidents whose photograph we are

missing please contact Patience at the Bar office). The Bar Association will continue to find ways to honor our past presidents.

As I begin my year as president, I also appreciate the opportunity to draw upon the wisdom of my predecessors. Our past presidents are to be commended not only for their level of commitment to our organization while serving as president, but also for their level of support of our organization long after their service as president is over. Many past presidents have already reached out to me to offer me counsel and encouragement this year. The genesis of their undying loyalty to this Bar Association must be found in the richness of their experience while serving as its president. I am looking forward to my own rich experience in serving as your president this year. Thank you sincerely for the opportunity.

I am humbled and honored to stand on the shoulders of giants.

Speaking of respected past presidents, I want to congratulate Theo Kypreos for his extraordinary leadership of the Bar Association this last year. The Board of Directors, our Bar committees, and particularly the president-elect, benefitted from Theo's servant-leadership style. Please be sure to congratulate Theo for a job well done the next time you see him!

Finally, a big thank you to everyone who attended the Installation Banquet on June 6. It was another special evening for our Bar Association, and on a personal level, a very memorable occasion for me and my family. Based on conversations that I have had with leaders of other bar associations in the state, our Bar should not take for granted that our members are able to come together year after year - hundreds in number at a world class venue - to enjoy each other's company, to celebrate the conclusion of another successful Bar year, and to kick off a new Bar year. It simply doesn't happen everywhere else and it is another grand tradition that sets our Bar Association apart from our peers. Retired Judge Steve Rapp swore in a Board of Directors that is as dedicated as any board that I have had the pleasure of serving with. I look forward to working with them, as well as with you, in the coming year!

Please don't hesitate to contact me this year if I can be of service.

Phone: (561)659-4040.

E-mail: gpressly@presslyandpressly.com

Congratulations to these PBCBA members recently honored by The Florida Bar for their 50-year membership: Theodore Babbitt, David Bludworth, Walter N. Colbath, Jr., John F. Flanigan, Michael H. Gora, Gerald Richman and Michael Small

Board Meeting Attendance

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY
Barnes	x	x	x	Phone	Phone	x	x	x	x	x	x
Demmery	x	x	x	x	x	x	x	x	x	x	x
Huber	x	x	x	x	x	x	x	x	x	x	x
Kypreos	x	x	x	x	x	x	x	x	x	x	x
Mason	x	x	x	x	x	x	x	x	x	x	x
McElroy	x	x	x	Phone	Phone	x	x	x	Phone	Phone	x
Pressly	x	x		x	x	x	x	x	x	x	x
Reagan	x	x	x	x	x	x	x	x	x	Phone	x
Weiss	x	x	x	x	x	x	x	x	x	x	x
Whittles	x	x	x	x	x	x	x	x	x	x	x
Wyda	x	x	x	x	x	x	x	x	x	x	x
Xenick	x	x	x	x	x	x	x	x	x	x	x
Yaffa	x		Buck	x	x	x	x	Phone	x	x	Buck

Law Week It's A Wrap!

It literally takes hundreds of volunteer hours to coordinate our annual Law Week program. For the community, our members provided 56 schools with mock trials; three days of Shadow a Judge for 100 high school students; three full days of Dial A Lawyer, plus we collected hundreds of ladies and men's suits, dresses, ties, purses, shoes and shirts for charity.

For our members, there was our annual Judicial Reception at the Harriet, followed by our Law Day Luncheon featuring Mark Curriden, a dynamic speaker and award winning author of "Contempt of Court: A Lynching and Two Lawyers Made Legal History and Forever Changed the Practice of Law." Curriden tells us his book will soon to be made into a movie.

To all members who presented programs in classrooms, answered phones, or cleaned their closets – thank you for supporting Law Week and making a difference!

Law Day Luncheon



President Theo Kypreos with our Law Day Keynote speaker Mark Curriden



Curriden graciously signed his book and talked with members after the luncheon. Pictured: Judge Janis Keyser and Judge Don Hafele

**Law Week Chair
Kirsten Herndon and
Chair of our school
program Sherry Ingram**



**David Tadros and
Kurt Wyland**



**Federal Magistrate Judge James
Hopkins and Patricia Lowry**

Judicial Reception



**4th DCA Judges Spencer Levine, Judge
Dorian Damoorgian and (Ret) Judge Fred
Hazouri**



Sarah Cortvriend and Tom Warner



**Mike Kranz and
Kim Rommel-Enright**



**4th DCA Judge Alan Forst, Andrea McMillan
and Diego Asencio**



**Roberto Vargas, Circuit Judge Joe Marx
and PBCBA Director Scott Smith**



Sean Domnick and Darryl Lewis

Law Week It's A Wrap!

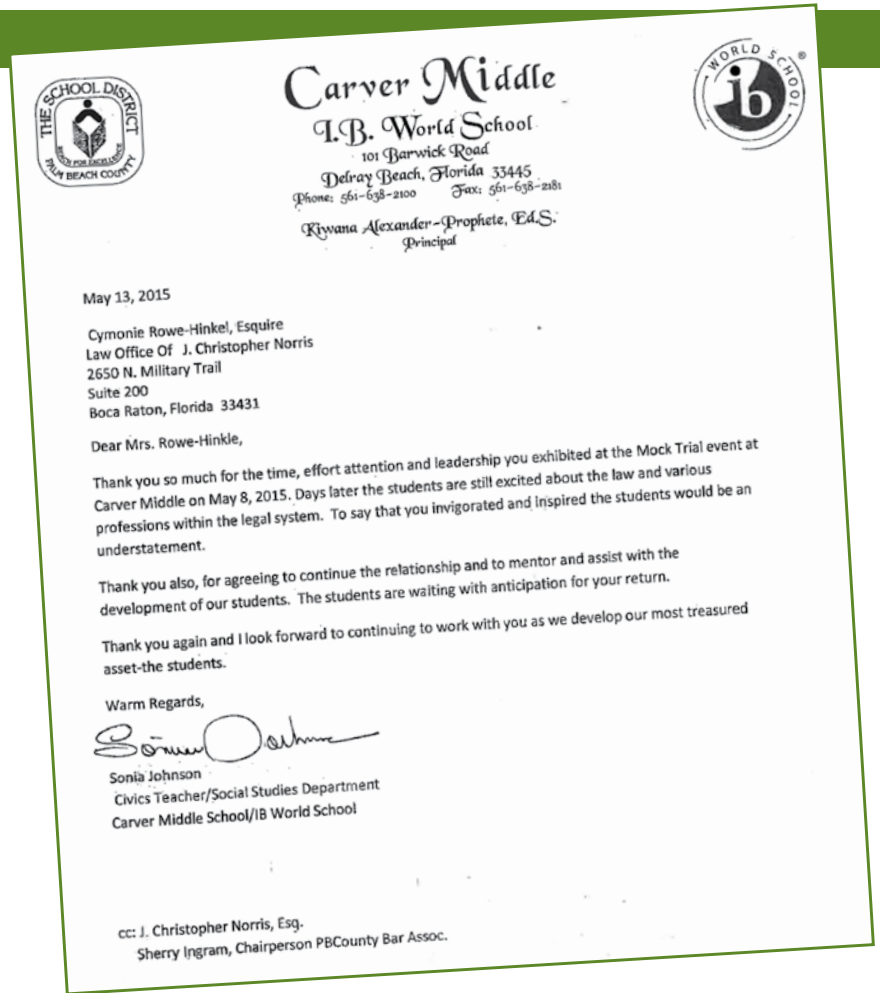
Helping the Community



Nadine White-Boyd answered calls during Dial a Lawyer



Jason Lazarus was one of many members who donated clothes to our Law Suit Day Clothing Drive



Highlights of the Annual Dennis P. Koehler Judges vs Attorneys Softball Game

by Judge James Martz

The annual Dennis P. Koehler Judges vs Attorneys softball game was held in the usual location and time. The usual suspects took part with a few notable additions and exceptions. The outcome, **not so usual!** The Judges took home a 14 to 7 victory over the Lawyers this year!! (And no one went to the hospital, but to be fair, Judge Wennen did not play). I have been playing in this game for many years and it will take a better historian than I to remember a Judges victory. Like A-Rod's 660th home run, this stat is not without an asterisk though; the Judges were buoyed by the help of a few loaned lawyers and the son of one of the Judges to pull off the victory. Now that we are no longer the perennial losers of this event we hope that we will see more judges turn out as we try to keep the streak alive with more judges in the lineup.

This is always a great event with some good natured ribbing and healthy competition between the judiciary and the bar. Let's see some of the new blood turn out and show their pride next year.



And a special thanks to the folks from the Bar for providing the opportunity, the food, drink and moral support that made the day great.

Don't miss this event in 2016 if for no other reason than to see Judge Cohen

make his Billy Martin style debut as team manager and we go for two in a row!!!

Retiring team manager,
Jim

YLS Hosts Backstage Tour of the Kravis Center



Matt Schwencke, Erica Francis, Lindsay Warner and Chase Nugent



Greg Huber and his daughter Jade



Rachel Belcher and Sean Fahey



Joshua Plager, Madhavi Menon and Santo DiGangi



Stephanie Zachary and Nicole and Matthew Turko

About 40 members enjoyed a wine and cheese reception and a behind-the-scenes tour of the Kravis Center. What fun it was to access the orchestra pit, the green room, the Founders room and the rest of the Kravis Center!



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Dewsnup is Alive and Well

by Jason S. Rigoli

On May 11, 2012, the Eleventh Circuit issued its opinion in *McNeal v. GMAC Mortgage, Inc. (In re McNeal)*, 735 F.3d 1263 (11th Cir. 2012). This opinion allowed Chapter 7 debtors to “strip-off” wholly-unsecured junior liens. *McNeal* was reached by narrowly interpreting *Dewsnup v. Timm*, 502 U.S. 410 (1992) to apply only to the “stripping off” of partially unsecured liens. Under this interpretation the Eleventh Circuit determined that its earlier decision in *Folendore v. United States Small Bus. Admin.*, 862 F.2d 1537 (11th Cir.1989), which held that a wholly-unsecured claim was voidable under the plain language of Section 506(d), was not overruled. *McNeal*, at 1265. Under *McNeal* and *Folendore*, Eleventh Circuit debtors have reaped

the benefit of “stripping off” wholly-unsecured junior liens on their over-encumbered real property.

However, on June 1, 2015, the United States Supreme Court took back this “stripping off” benefit upon issuance of its opinion in *Bank of America, N.A. v. Caulkett*, – S.Ct. –, 2015 WL 2464049 (2015).¹ In *Caulkett*, the Supreme Court held that under Section 506(d) of the Bankruptcy Code, a debtor in a Chapter 7 proceeding cannot void a junior mortgage lien when the debt owed on the senior lien is greater than the value of the collateral, provided that the creditor’s claim is both secured and allowed, under section 502 of the Bankruptcy Code.

In *Caulkett*, both parties agreed that the junior lien holders’ claims met the requirements set forth in Sections 502(a)–(b). The debtors argued that the

¹ Decided together with *Bank of America v. Toledo-Cardona*, Case No. 14-163.

plain reading of the text in Section 506 suggested that the junior lien holders’ claims were not secured. Relying on the language in Section 506(a)(1) that “[a]n allowed claim of a creditor secured by a lien on property ... is a *secured claim* to the extent of the value of such creditor’s interest in ... such property,” and “an *unsecured claim* to the extent that the value of such creditor’s interest ... is less than the amount of such allowed claim.” *Caulkett*, at *3 (Emphasis added in original). The debtors relied on the “... application of the normal rule of statutory construction that identical words used in different parts of the same act are intended to have the same meaning.” *Id.* (internal citation omitted). “Unfortunately for the debtors, [the Supreme] Court has already adopted a construction of the term ‘secured claim’ in § 506(d) that forecloses this textual analysis.” *Id.*

“*Dewsnup* defined the term “secured claim” in § 506(d) to mean a claim supported by a security interest in property, regardless of whether the value of that property would be sufficient to cover the claim. Under this definition, § 506(d)’s function is reduced to ‘voiding a lien whenever a claim secured by the lien itself has not been allowed.’” *Id.* Under this construction, the claim of a junior lien holder whose claim is fully allowed under Section 502, and is secured by a lien, cannot be voided under Section 506(d).

The debtors put forth additional arguments attempting to limit the application of *Dewsnup*. Alternatively, the debtors provided different definitions with respect to the term “secured claim.” The Court rejected each of these arguments in turn. The Court expressly addressed the fact that the debtors had not requested that the Court overrule *Dewsnup* and “despite [the Court’s] criticism, the debtors have repeatedly insisted that they were not asking [the Court] to overrule *Dewsnup*.” *Id.* at *4 FN [†].

Accordingly, the Court reversed the Eleventh Circuit’s judgments ending the reign of *McNeal* in the Eleventh Circuit.

This article submitted by Jason S. Rigoli, Furr and Cohen, P.A., One Boca Place, Suite 337W, 2255 Glades Road, Boca Raton, FL 33431, jrigoli@furrcohen.com

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Palm Beach County Bar ADR Committee Member





The Bankruptcy Law CLE Committee of the
Palm Beach County Bar Association
presents:

“Individual Chapter 11 Cases - Practice, Procedure and Pitfalls”

Friday, September 25, 2015 - 12:00pm - 6:00pm
PBCBA Offices - 1507 Belvedere Rd., WPB

Program Schedule

- 11:45 am - 11:55 pm **Check In / Late Registration / Lunch**
- 11:55 pm - 12:00 pm **Welcome - Opening Remarks** - Tina M. Talarchyk, Esq.,
The Talarchyk Firm, Bankruptcy CLE Committee Chair
- 12:00 pm - 1:00 pm **Pre-filing Issue to Analyze** - Brad S. Shraiberg, Esq.,
Shraiberg, Ferrara & Landau
- 1:00 pm - 2:00 pm **The Individual Chapter 11 Process: Bumps in the Road** -
Paul L. Orshan, Esq., Orshan, P.A., Board Certified Business Bankruptcy Lawyer
- 2:00 pm - 2:10 pm **Break**
- 2:10 pm - 3:00 pm **Confirming an Individual Chapter 11 Plan** - Brett D. Lieberman, Esq.
Messana, PA
- 3:00 pm - 3:50 pm **Ethical Considerations** - Tina M. Talarchyk, Esq., The Talarchyk Firm
- 3:50 pm - 4:00 pm **Break**
- 4:00 pm - 5:00 pm **Panel Discussion** - Judge Erik Kimball, Judge Paul Hyman, and seminar
speakers. Moderated by Tina M. Talarchyk, Esq.
- 5:00 pm - 6:00 pm **Reception**

This course is expected to receive 4.5 CLER including 1.0 Ethics credits from The Florida Bar. The cost of the seminar is **\$ 125** for PBCBA members/paralegals, **\$165** for non-PBCBA attorney members/paralegals. **After 9/18/15, add \$10.00 late fee. All refund requests must be made no later than 48 hours prior to the date of the seminar.** ☐ Please check here if you have a disability that may require special attention or services. To ensure availability of appropriate accommodations, attach a general description of your needs. We will contact you for further coordination.

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☐ I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (Bankruptcy Seminar 9/28/15) Cost is the same as listed above, **in addition to \$10 for shipping and handling.**

Palm Beach County Bar Association, 1507 Belvedere Road, West Palm Beach, FL 33406



Inconsistent Verdict

by Ted Babbitt

In Florida failure to object to an inconsistent verdict before discharge of the jury so that the jury can resolve the inconsistency results in a waiver of the inconsistency. *Cocca v. Smith*, 821 So. 2d 328 (Fla. 2d DCA 2002), *Gup v. Cook*, 549 So. 2d 1081 (Fla. 1st DCA 1989).

Notwithstanding this general law, the Third District in *Tricam Industries, Inc. v. Coba*, 100 So. 3d 105 (Fla. 3d DCA 2012) and the Fourth District in *Nissan Motor Co. v. Alvarez*, 891 So. 2d 4 (Fla. 4th DCA 2004) as well as the Fifth District in *North American Catamaran Racing Ass'n v. McCollister*, 480 So. 2d 669 (Fla. 5th DCA 1985) all applied what was termed the "fundamental nature" exception in product liability cases when the jury found both that there was negligence on the part of the defendant concerning the design of a product but also found the lack of a design defect.

In *Coba v. Tricam Industries, Inc.*, 40 Fla. L. Weekly S257 (Fla. May 14, 2015), the Supreme Court reversed the Third District and disapproved the other cases upholding the "fundamental nature" exception and concluded that failure to object to an inconsistent verdict prior to the jury's discharge was, indeed, a waiver of the inconsistency regardless of the content of the verdict or the nature of the case.

Coba v. Tricam, supra, was a wrongful death case in which plaintiff's decedent fell from a ladder which collapsed and the plaintiff sued the ladder manufacturer. The jury entered an interrogatory verdict in which it found that Tricam did not place the ladder on the market with a design defect that was the legal cause of death but that there was negligence on the defendants' part which was the legal cause of the death. Neither party objected to the verdict and the jury was discharged and the defendant subsequently filed a motion to set aside the verdict asserting fundamental inconsistency in the verdict. The trial court refused to set aside the verdict and the Third District found that the jury's inconsistent verdict was of a "fundamental nature" and returned the case to the trial court instructing it to enter a verdict in favor of the defendants.

The whole idea of requiring a party to object to an inconsistent verdict is to prevent that party from denying the jury the option of curing the inconsistency and allowing the jury to reconcile the inconsistency rather than having an appellate court do so on conflicting evidence.

The reasoning of the district courts seems to flow from *Murphy v. Int'l Robotic Sys., Inc.*, 766 So. 2d 1010 (Fla. 2000) in which the Supreme Court held that a party's failure to object to improper argument could be excused if the argument consisted of fundamental error. However, in that case the Supreme Court explained that the fundamental error must implicate a constitutional right or be so significant that requiring a new trial is essential to maintain the public trust in the jury system. This would include arguments about race or religion as examples.

An example as to why carving out a "fundamental nature" exception in product liability cases is illogical is the Third District's decision that the verdict had to be construed in favor of the defendant. As pointed out by Judge Schwartz in his dissent allowing such an exception to the general rule is illogical because

"there is no fundamental nature" exception to the inconsistent verdict law in a civil case that applies only to product liability cases, because there is no conceptual or reasonable basis for the distinction and no cognizable way to apply it." *Tricam Industries*, 100 So. 3d at 115.

At 261, the Supreme Court holds: For all these reasons, we hold that a timely objection is required to an inconsistent verdict in a civil case and disapprove the use of the "fundamental nature" exception to the general law pertaining to inconsistent verdicts as has been carved out for products liability cases. In circumstances involving an inconsistent verdict, a party is still obligated to object prior to the time that the jury is discharged so the parties and the trial court can consider whether the jury's confusion can be rectified through additional jury instructions or a new verdict form. If a party fails to timely object to an inconsistent verdict, that party waives the objection and unless there is no evidence to support one finding, the trial court may properly enter judgment pursuant to that verdict.

Our reaffirmation of the requirements of an objection serves numerous important policy concerns. First, the requirement of a timely objection discourages gamesmanship by precluding objections that a party sat on, in an effort to obtain a calculated benefit by raising it later. Second, our ruling enhances the efficiency of judicial proceedings, requiring the error to be raised immediately so that it can be rectified as soon as possible without increasing the likelihood that a new trial will be required. Third, the requirement of a timely objection promotes the sanctity of the jury verdict and permits a jury to correct a clearly erroneous verdict that may be based on some underlying confusion brought on by the parties, the court, or the jury instructions.

Failure to raise an objection to an inconsistent verdict in Florida waives the inconsistency in every case.

NOTE: BECAUSE A NUMBER OF PEOPLE HAVE REQUESTED COPIES OF PAST ARTICLES, A COMPILATION OF THESE ARTICLES IS NOW AVAILABLE TO MEMBERS OF THE PALM BEACH COUNTY BAR ASSOCIATION, FREE OF CHARGE, BY CALLING (561) 684-2500.



Surcharge

by David M. Garten

What is a Surcharge? A “surcharge” is the amount that a court may charge a fiduciary that has breached his duty. The purpose of such an award is to make the estate whole when the fiduciary’s actions cause loss or damage. With regard to trusts, a surcharge is essentially the same as a breach of trust. *See*, §736.1001(1), F.S.

Statutory/Common Law basis for Surcharge:

Probate	§733.609 (improper exercise of power; breach of fiduciary duty), §733.619 (individual liability of personal representative); <i>Kozinski v. Stabenow</i> , 152 So. 3d 650 (Fla. 4 th DCA 2014); <i>In re Estate of Winston</i> , 610 So. 2d 1323 (Fla. 4 th DCA 1992)
Guardianship	§744.361(powers and duties of guardian), §744.446(3) (conflicts of interest); <i>Reed v. Long</i> , 111 So. 3d 237 (Fla. 4 th DCA 2013); <i>Sugarman v. Galbut</i> , 666 So. 2d 266 (Fla. 3 rd DCA 1996) (Surcharge actions are utilized for the recovery of assets which have been mishandled or misappropriated by the guardian.)
Trust	§736.1001(remedies for breach of trust); §736.1013(limitation on personal liability of trustee); <i>Miller v. Miller</i> , 89 So. 3d 962, 962 n.1 (Fla. 5 th DCA 2012) (A surcharge action seeks to impose personal liability on a trustee for breach of trust through either intentional or negligent conduct.)

Pleading Surcharge: The petitioner must show (1) the existence of a fiduciary duty, (2) breach of that duty, and (3) that the breach was the proximate cause his damages. *See*, *Reed v. Long*, *supra*.

Burden of Proof: Who has the burden of proof depends on the basis for the surcharge action. For example, §733.6175, F.S. places the burden of proof on the PR as to the propriety, reasonableness and necessity of payments to himself, attorneys, accountants, appraisers and other agents employed by him. *Accord*, *Beck v. Beck*, 383 So. 2d 268 (Fla. 3rd DCA 1980).

Service of Process: A proceeding seeking an order or judgment imposing a surcharge against a fiduciary is tantamount to a judgment for damages requiring personal service on the fiduciary as an individual, and not in any representative capacity.

- **Estates & Guardianships:** A petition to surcharge a guardian or a personal representative is considered an adversary proceeding under the Florida Probate Rules; therefore, the action is conducted similar to suits of a

civil nature and the Florida Rules of Civil Procedure govern. *See*, Fla. Prob. R. 5.025(a), (d)(2). The petitioner is required to serve his petition by formal notice on the fiduciary in his individual capacity. *See Kozinski v. Stabenow, supra*.

- **Trusts:** If the surcharge action is against a fiduciary as a result of payment of excessive fees to himself or his agents, §736.0206(1) allows for the review to be filed in the settlor’s probate proceeding [§736.0206(2)], in which case the Florida Probate Rules regarding formal notice apply. *See*, §736.0206(6), F.S. If action is not filed in probate, then the Florida Rules of Civil Procedure and service of process procedure under Chapter 48, F.S. applies. *See*, §§736.0201(1), 736.02025, F.S. In either case, the surcharge action must be served on the fiduciary in his individual capacity.

Damages: A fiduciary is liable for all economic damages proximately caused by his breach of fiduciary duty. Pursuant to §736.1002(1), F.S., a trustee who commits a breach of trust is liable for the greater of: (a) The amount required to restore the value of the trust property and trust distributions to what they would have been if the breach had not occurred, including lost income, capital gain, or appreciation that would have resulted from proper administration; or (b) The profit the trustee made by reason of the breach. In addition, a surcharge proceeding can be pursued when a fiduciary pays excessive fees to himself or his agents. *See*, *Kozinski v. Stabenow, supra*. A surcharge action does not apply to purely noneconomic losses (i.e. pain and suffering). *See*, *Sugarman v. Galbut, supra*.

Attorney’s Fees & Costs: A fiduciary may be liable for all attorney’s fees and costs incurred in pursuing damages caused by his breach of fiduciary duty. *See*, §§733.609, 736.1004, F.S.

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PRICES ARE SUBJECT TO CHANGE

Rules of Civil Procedure Corner

by Matt Triggs and Jonathan Galler

There is a rule of civil procedure for every scenario, right? Well... not quite.

Recently, the Fourth District Court of Appeal reversed a trial court order because the rule of procedure upon which it was based was inapplicable, and there was no alternative rule for the Court to rely upon instead.

In *CB Condominiums, Inc. v. GRS South Florida, Inc.*, 2015 WL 2393329 (Fla. 4th DCA May 20, 2015), the Fourth District reviewed a trial court order granting a motion for sanctions under rule 1.380(b)(1). The plaintiff had filed the motion against several non-parties and their attorney in connection with post-judgment proceedings to collect on a judgment.

The motion for sanctions arose out of the plaintiff's efforts to obtain discovery from the non-parties. The plaintiff served subpoenas for deposition duces tecum on the records custodian of the non-party entities and, in response, the non-parties filed a motion to quash or, alternatively, for a protective order precluding the production of the records sought and relieving the records custodian from any obligation to appear for deposition. The trial court denied the motion to quash and ordered the deposition to take place within 60 days.

The records custodian appeared for the deposition but did not bring any of the requested records with him. The custodian testified at his deposition that, based on instructions from the non-parties' attorney, he had not even looked for the requested records but that they were at his office and that he could print copies and return with them within an hour. The defendant's attorney, however, "refused to cooperate, directed the records custodian not to retrieve the documents, and argued that the [non-parties] would not produce the documents without a court order." *CB Condominiums*, 2015 WL 2393329 at *1. This led to the filing of the motion for sanctions.

Rule 1.3801(b)(1), upon which the motion for sanctions was premised, provides that "[i]f a deponent fails to be sworn in or to answer a question after being directed to do so by the court, the failure may be considered a contempt of the court." The trial court granted the motion for sanctions on the grounds that it had previously denied the non-parties' motion to quash and "court orders can't be ignored." *CB Condominiums*, 2015 WL 2393329 at *2.

The Fourth District reversed because the records custodian did not refuse to be sworn in and did not fail to answer any questions – the requisite misconduct under rule 1.380(b)(1). Indeed, the plaintiff was forced to concede that neither of the events described in rule 1.380(b)(1) had occurred, but it argued that the sanctions order was nevertheless appropriate as "compensatory civil contempt sanctions" for failure to comply with the trial court's order denying the motion to quash. The Fourth District rejected that argument, holding that it could not affirm a sanctions order entered against a non-party on those grounds in the absence of a finding of contempt.

The Court relied on *Pevsner v. Frederick*, 650 So. 2d 262 (Fla. 4th DCA 1995). There, the Fourth District held that

even where a non-party witness failed to answer deposition questions, the trial court's imposition of sanctions was improper

because the trial court had declined to hold the non-party witness in contempt as provided for under rule 1.380(b)(1). The alternative option of awarding sanctions under rule 1.380(b)(2) was unavailable because that subsection is limited in its application to parties and their agents.

Similarly, in *CB Condominiums*, the Fourth District was compelled to reverse the sanctions order at issue because the specific misconduct described in rule 1.380(b)(1) had not occurred, and the alternative sanctions under rule 1.380(b)(2) are unavailable as to non-parties.

Recognizing the merits of the trial court's instincts that "court orders can't be ignored," but frustrated by the lack of a rule of procedure applicable to the instant circumstances, the Fourth District's opinion expressly encourages the civil rules committee to propose an amendment to rule 1.380 to address this apparent gap in the rules governing sanctions for discovery-related violations.

Matt Triggs is a partner in the litigation department of Proskauer Rose LLP and the head of the department in Boca Raton. Jonathan Galler is a senior counsel in the department. Both concentrate their practices in commercial and probate litigation.



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Honorable Cheryl Caracuzzo

by Karen E. Terry, on behalf of the
Judicial Relations Committee

A native Floridian, Judge Cheryl Caracuzzo was born in Sebring and moved to West Palm Beach when she was four years old. After graduating from Twin Lakes High School, Judge Caracuzzo became a Seminole at Florida State University. She excelled academically and earned a Bachelor's Degree in 1992. Judge Caracuzzo then earned her Juris Doctorate from Nova Southeastern School of Law in 1996.

Growing up, Judge Caracuzzo's mother taught her the importance of a strong work ethic. Instead of relaxing during her summer vacations from college, Judge Caracuzzo worked at the Palm Beach County State Attorney's Office as a secretary and data entry clerk. Even when she started law school at Nova Southeastern, Judge Caracuzzo was determined to work at nights and on weekends, even with a full time school schedule. She attended classes during the day in Fort Lauderdale and then drove up to West Palm Beach to work.

Upon graduating from law school, Judge Caracuzzo was offered a position as a prosecutor in the State Attorney's Office's County Court division. Due to her confidence and tenacity, she quickly rose up the ranks, first earning a position in the Felony division and, shortly thereafter, accepting a coveted spot in the Crimes Against Children Unit. This assignment was particularly meaningful to Judge Caracuzzo, as she always had a passion for protecting those who could not protect themselves.

While in the midst of a thriving career as a prosecutor, Judge Caracuzzo and her husband received the blessing of a baby boy, Kyle, who was born in 2002. Kyle became the light of Judge Caracuzzo's life and she made it a point to spend as much time with him as possible while he was young. As a result, she took a break from the courtroom and accepted a position in the Felony Intake division, where her work schedule was more flexible.

Once Kyle began attending school, Judge Caracuzzo shifted back into a trial role in the Homicide division. From there, she transitioned to Deputy Chief of Felony and then to the Chief of the Gang and Gun Unit. Although each area of the State Attorney's Office holds special significance to her, some of Judge Caracuzzo's fondest



memories were advocating for the victims of homicides. Consequently, Judge Caracuzzo followed her heart back to the homicide division, where she remained until her appointment to the bench.

Judge Caracuzzo worked at the State Attorney's Office under five State Attorneys—Bludworth, Krischer, McAuliffe, Antonacci and Aronberg. She is an extremely talented and experienced trial attorney, who has prosecuted well-over 100 cases. Her long and impressive

career as a prosecutor has earned her a great deal of respect amongst her peers, opposing counsel, and the judiciary.

Kyle, now twelve years old, attends Jupiter Middle School and is an active fisherman. When not spending time with Kyle or handling the over 1,300 civil cases in her division, Judge Caracuzzo enjoys skiing and running. We warmly welcome Judge Caracuzzo to the Fifteenth Judicial Circuit!

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Welcome New Members!

The following represents each new member's name, law school, and date of admission to The Florida Bar and law firm association.

James R. Bell: Stetson University, 1989; Associate in Osborne & Associates, West Palm Beach.

Dianne B. Bonfiglio: University of Miami, 2002, Legal Response Center, Palm City.

Wendy Borrego: Nova Southeastern University, 2013; Office of State Attorney, West Palm Beach.

Robert Bradshaw: FL Registered Paralegal Membership, Lytal Reiter Smith Ivey & Fronrath, West Palm Beach.

Victoria Brown: FL Registered Paralegal Membership, Lytal Reiter Smith Ivey & Fronrath, West Palm Beach.

Charles Alexander Carrington: Boston College, 2012; Associate in Nason Yeager Gerson White & Lioce, P.A., West Palm Beach.

Joshua A. Christensen: Penn State University, 2014; Solo Practitioner, Boynton Beach.

Sinead E. Daly: University of Florida, 2014; Associate in Wicker, Smith, O'Hara, McCoy & Ford, P.A., West Palm Beach.

Stephen D. Deitsch: Stetson University, 1999; Partner in Deitsch & Wright, P.A., Greenacres.

Nicholas Francis Demes: American University, 2013; Associate in Reynolds & Reynolds, P.L., West Palm Beach

Catherine I. Favitta: Florida State University, 1983; Solo Practitioner, Boca Raton.

Nancy A. Ferraro (Barrood): Affiliate Membership, New Jersey.

Lawrence Gordon: FL Registered Paralegal Membership; Lytal Reiter Smith Ivey & Fronrath, West Palm Beach.

William J. Keeley: FL Registered Paralegal Membership; Lytal Reiter Smith Ivey & Fronrath, West Palm Beach.

H. Davis Lewis, Jr: St. Thomas University, 2009; Associate in the Law Offices of J. Christopher Norris, Boca Raton.

Andrew D. Lockton: Southwestern University, 2014; Associate in McHale & Slavin, P.A, Palm Beach Gardens.

Susan Moore: FL Registered Paralegal Membership, Gunster, West Palm Beach.

Laitil Ovinicy: Florida A&M University, College of Law, 2014; Greenacres.

Emilie Pearson-Moore: FL Registered Paralegal Membership, Your Paralegal Help Desk, LLC, Lakeworth.

Joshua L. Plager: University of Miami, 2013; Associate in Jones Foster Johnston & Stubbs, P.A., West Palm Beach.

Ananta Rampersad: St. Thomas University, 2011; Associate in Roig Lawyers, Deerfield Beach.

Taniquea C. Reid: St. Thomas University, 2011; Solo Practitioner, Royal Palm Beach.

Tate Morgan Russack: Affiliate Membership, Boca Raton.

Camilla Battaglini Russack: Affiliate Membership, Boca Raton.

Taryn G. Sinatra: Nova Southeastern University, 2005; Partner in Gladstone & Weissman, P.A., Boca Raton.

Karla M. Southam: FL Registered Paralegal Membership, Cynthia M. Pyfrom, P.A., Boynton Beach.

Edward H. Stickles, III: Thomas M. Cooley Law School, 2015; Office of State Attorney, West Palm Beach.

Brian Michael Streicher: Case Western Reserve University, 2011; Associate in Lazer, Aptheker, Rosella, & Yedid, P.C., West Palm Beach.

Michael J. Wester: Nova Southeastern University, 2012; Delray Beach.

Jayson J. Wiggil: Nova Southeastern University, 2013; Associate in Kelley, Kronenberg, P.A., West Palm Beach.

Jennifer A. Yasko: Hofstra University, 2002; Associate in Carlton Fields Jorden Burt, P.A., West Palm Beach.



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North County Section Inaugural “Pass the Gavel”

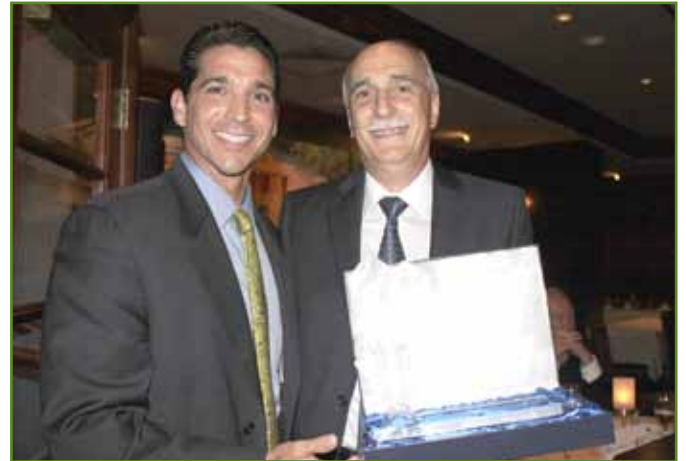
The North County Section started a new tradition with its inaugural “Pass the Gavel.” The program was recently held at III Forks in Palm Beach Gardens for past and new board members. Greg Yaffa, immediate past president, thanked the board for their hard work and gave a toast welcoming the new directors for the upcoming year. A special thank you to North County Judge Laura Johnson for attending the event and performing the Oath of Office.



NCS Immediate Past President Greg Yaffa, County Court Judge Laura Johnson, NCS President Larry Buck and President-Elect Rosemarie Guerini

North County Section Honors Federal Judge Kenneth A. Marra

The North County Section recently recognized United States District Judge Kenneth A. Marra with its 13th Jurist of the Year award. The award is presented each year to a local jurist who has a reputation for sound judicial decisions with an unblemished record of integrity. More than 125 members, including 30 judges attended the annual reception and dinner at Ruth’s Chris Steak House in North Palm Beach. **CONGRATULATIONS JUDGE MARRA!**



NCS President Greg Yaffa congratulates Judge Ken Marra and presents him with a crystal gavel



Federal Judge Robin Rosenberg, Federal Magistrate Dave Brannon; Senior Federal Judge Daniel Hurley; Federal Judge Don Middlebrooks; Federal Magistrate William Matthewman and Federal Judge Ken Marra



Tanique Lee, County Court Judge Sheree Cunningham and Byrnes Guillaume



Circuit Judge Amy Smith and Stan Klett



Greg Cohen and Stephen Walker



Katie Richter, NCS Director Wayne Richter and NCS Director Bettie Collister



(Ret) Judge Lucy Brown, 2014 Jurist of the Year recipient, shows Judge Marra the Jurist of the Year plaque, which is seen by everyone who visits the Bar Office. Judge Brown described Judge Marra as a “mensch,” meaning a person of integrity and honor.

Banquet memories...



Kristy Pressly and PBCBA's 93rd President Grier Pressly



Past PBCBA Presidents: Richard Schuler, Theo Kypreos, Manny Farach, Judge Lisa Small, Michael Napoleone, current president Pressly, Jerry Beer, Judge Amy Smith, John Howe, Michael Kranz, Greg Coleman, Adam Rabin, Michelle Suskauer, Jay White, Jamie Pressly with Judge Stephen Rapp



Judge Kirk Volker and Lisa Volker

Skip Randolph, Matt Ferguson, Chrissie Ferguson, Heath Randolph, Grier Pressly, Cater Randolph and Leslie Randolph



Natalia Datena and Scott Perry

Photos Courtesy of Tracey Benson Photography



Diane and Retired Judge Stephen Rapp



1987 PBCBA President Jamie Pressly with current PBCBA President and son Grier. They are the third father-son presidents of the PBCBA including Harry Johnston and his father as well as Skip Smith and his father.



Immediate Past Florida Bar President Greg Coleman, John Wendall and Nellie King



Edrick Barnes, Rosalyn Baker, Sia Baker-Barnes and Judge Moses Baker

Real Property and Business Litigation Report



by Manuel Farach

Cypress Fairway Condominium Ass'n, Inc. v. Cypress Madison Ownership Co., – So.3d –, 2015 WL 1942943 (Fla. 5th DCA 2015).

An “agreed order” on defendant’s motion to dismiss the complaint does not count as a “dismissal” for purposes of the “two dismissal rule,” Florida Rule of Civil

Procedure 1.420(a)(1), as such is not a “voluntary” dismissal.

Gonzalez v. Barrenechea, – So.3d –, 2015 WL 1940784 (Fla. 3d DCA 2015).

An appraiser’s failure to make a proper adjustment between different properties goes to the weight, not the legal sufficiency, of the appraiser’s opinion.

In re Valone, – F.3d –, 2015 WL 1918138 (11th Cir. 2015).

Chapter 13 bankruptcy debtors who do not claim the homestead exemption may instead choose the “wildcard” exemption” under Florida Statute section 222.25(4) even if they protect their home through the use of the Chapter 13 bankruptcy process.

Ekins v. Harbourside Funding, LP, – Fed.Appx. –, 2015 WL 1898451 (11th Cir. 2015).

A settlement agreement is a different contract than the underlying contract or claim, and does not impact Florida Statute 475.11 (real estate commissions can only be paid to licensed agents) even if the underlying claim is one for payment of real estate commissions.

Branch Banking and Trust Co. v. Tomblin, – So.3d –, 2015 WL 2259463 (Fla. 5th DCA 2015).

A foreclosing mortgagee is entitled to a credit bid at foreclosure sale, but is not available to a senior mortgagee that has not been joined or has not foreclosed its mortgage.

Condron v. Arey, – So.3d –, 2015 WL 2364301 (Fla. 5th DCA 2015).

The addition of the words “upon” and “across” to a ten-foot easement that is “over, upon and across” makes the easement coterminous with the ten-foot area.

Planned Parenthood of Greater Orlando v. MMB Properties, – So.3d –, 2015 WL 2414382 (Fla. 5th DCA 2015).

A party who is aware of a covenant and proceeds at their own risk cannot later argue it would be harmed by an injunction enforcing the restrictive covenant.

Le v. U.S. Bank, – So.3d –, 2015 WL 2414456 (Fla. 5th DCA 2015).

A prior mortgage servicer’s testimony contains the elements of trustworthiness and may be admitted into evidence if the witness is generally knowledgeable about the industry and can testify about the prior servicer’s practices, can testify the records were tested and the specifics of the verification process.

Vasilevskiy v. Wachovia Bank, Nat. Ass’n, – So.3d –, 2015 WL 2414502 (Fla. 5th DCA 2015).

Absent some prejudice, failure to satisfy a condition precedent is not a defense to an otherwise enforceable contract such that giving only 28 days’ notice to cure (when 30 is called for under the contract) and not taking any action under the notice for four years demonstrates a lack of prejudice.

Eiman v. Sullivan, – So.3d –, 2015 WL 2432024 (Fla. 2d DCA 2015).

Presuming *Johnson v. Davis* applied to a claim for the sale of vacant land, claimants are not entitled to damages for subsurface conditions (layers of muck) that increased the cost of construction if claimants did not investigate the subsurface conditions prior to purchase, did not prove that defendants knew of the subsurface conditions, and purchased the property under an “as is” contract.

Christopher N. Link, P.A. v. Rut, – So.3d –, 2015 WL 2405650 (Fla. 4th DCA 2015).

A law firm charging lien is an equitable right, and cannot relate back to the date of the signing of the law firm engagement so as to gain priority over other recorded rights.

Browning v. Poirier, – So.3d –, 2015 WL 2458005 (Fla. 2015).

The statute of frauds bars only those contracts which cannot be performed within the space of one year; those contracts that are even remotely possible to perform within the space of one year are not subject to the statute of frauds.

Taylor Morrison Services, Inc. v. Ecos, – So.3d –, 2015 WL 3407929 (Fla. 1st DCA 2015).

Whether a contractor is licensed or unlicensed under Florida Statute section 489.128 is determined as of the effective date of the construction contract.

Torocsik v. HSBC Bank USA, – So.3d –, 2015 WL 3387916 (Fla. 4th DCA 2015).

A bank may dishonor payment on a cashier’s check based only on the real or personal defenses the bank has, and may not rely on the defenses of a third party to the check.

Pudlit 2 Joint Venture, LLP v. Westwood Gardens Homeowners Ass’n, Inc., – So.3d –, 2015 WL 3388254 (Fla. 4th DCA 2015).

Florida Statute section 720.3085 unconstitutionally impairs the contract rights of owners in an association whose declaration states that present owners are not jointly responsible with prior owners for unpaid assessments.

Froonjian v. Ultimate Combatant, LLC, – So.3d –, 2015 WL 3388387 (Fla. 4th DCA 2015).

A member of an LLC that does not have an operating agreement may be expelled pursuant to a majority vote of the members, but his membership interest may not be distributed among the remaining members as the result of his expulsion.

Daniels v. Sorriso Dental Studio, LLC, – So.3d –, 2015 WL 3404071 (Fla. 2d DCA 2015).

The discharge in bankruptcy of a defendant’s debt to a plaintiff does not also discharge a garnishee’s independent, statutory liability to a plaintiff under a writ of garnishment.

Wellness Intern. Network, Ltd. v. Sharif, – S.Ct. –, 2015 WL 2456619 (2015).

Article III of the United States Constitution permits bankruptcy courts to adjudicate *Stern v. Marshall*, 564 U.S. —, —, 131 S.Ct. 2594, 2618, 180 L.Ed.2d 475, claims when the parties consent to the bankruptcy court doing so.

Magical Legal Aid Society Pro Bono Celebration

On May 9, over 750 members of the legal community, together with friends and supporters of the Legal Aid Society of Palm Beach County, gathered at the Palm Beach County Convention Center to honor 9 attorneys, 1 law firm and a community volunteer at the 27th Annual Pro Bono Recognition Evening. The 11 award recipients were recognized for their extraordinary pro bono contributions in 2015. The theme of this year's gala was "Cirque." Three artists entertained the capacity crowd with both aerial performances and a ground act that mixed Brazilian capoeira and hand balancing.



Jennifer and Theo Kypros



Back Row: Emcees - Mariano Garcia and Michelle Suskauer, Avery Chapman (Elder Law Award), Legal Aid President Miriam Acosta-Castriz, Alan Burger (Real Property Law Award), Hosts Jeffrey Liggio and Karen Benrubi, Host Jerry Beer, Margaret Bichler (Appellate Law Award), Mitchell Kitroser (Guardianship/Probate Law Award), Alison Brown (representing Holland & Knight for the Law Firm Award), William Cavanaugh (Immigration Law Award), Legal Aid Executive Director Bob Bertisch

Front Row: Jack Scarola (Community Service Award), Matthew Thibaut (Employment Law Award), Amy Devore (Suzanne Foley "Serving Justice" Award), Host Katie Beer, Linda Spector (Juvenile Law Award) and Jason Lazarus (Civil Litigation Award).

Photo by Tracey Benson Photography



Judge Robin Rosenberg and her daughter, Madison

Professionalism Committee Member Amy Borman, Margaret Greco, Chief Judge Jeffrey Colbath, Tom Collery, Brittany Dancel, Professionalism Committee Chair Joanne O'Connor, Josh Dockus, Dominque Sciuillo. Attorneys Greco, Collery, Dancel, Dockus and Sciuillo were recognized for successfully completing the 2014-2015 15th judicial circuit/Palm Beach County Bar Association new attorney seminar series





The Year in Review: Our Diversity Report Card

By Lisa Kohring

Over this past year the members of our Committee for Diversity and Inclusion have continued to make significant strides towards promoting the integration of individuals with diverse backgrounds into our legal community. The Committee spearheaded a number of grass roots projects and participated in a number of outreach initiatives to promote diversity on the local level such as the Annual Diversity Event, the Florida Bar Leadership Academy, the 12th annual Kozyak Minority Mentoring Picnic, the Road to the Bench Mentor Program to connect diverse judicial candidates with mentors for the JNC appointment process, the Diversity Placement Database to assist employers in recruiting diverse candidates for employment and the Diversity Internship Program, to place diverse student interns with local law firms to gain exposure practicing in Palm Beach County.

The Committee also took a specific interest in invigorating the Diversity Corner articles through mini-brainstorming sessions and discussing topics that would hopefully make the members of our community “lean in,” become inspired and want to learn about diversity and its impact on our community. Many of our colleagues volunteered to author articles involving a broad spectrum of topics involving conventional and unconventional types of diversity, such as:

- The July 2014 Executive Order, reporting on the implementation of federal protections prohibiting discrimination against lesbian, bisexual, gay, transgender and questioning intersex and asexual Americans in the workforce;
- The Ban the Box movement, reporting on the changes in legislation around the Country prohibiting employers from asking conviction questions during the initial interview process;

- A statistical analysis and reflection on the impact of Hispanic women in our local legal community;
- The Florida Rural Legal Services, educating our community about local resources used to assist local residents of diverse backgrounds; and
- Expert power, examining the ways in which gender stereotypes may affect the impact of expert testimony,

All of the authors who contributed to the Diversity Corner helped our Committee push the envelope by providing thought provoking, insightful, educational and poignant articles focused on promoting diversity awareness. The attorneys who volunteered their time and resources to author these articles were instrumental in helping the Committee achieve its goal of bringing “top-of-the mind” type awareness to the Diversity Corner.

This year, the Committee also partnered with a number of local bar associations and organizations, including the F. Malcolm Cunningham Bar Association, the Hispanic Bar Association, the Florida Association for Women Lawyers, the Caribbean Bar Association and the Haitian Lawyers Association. The Committee greatly values these relationships and the integral role that these local bar associations and organizations have played in the Committee’s impact. We look forward to continuing these associations and making a bigger, broader impact this coming year.

The Diversity Report Card would not be complete without mentioning Julia Wyda and Kalinthia Dillard, this year’s Committee Co-Chairwomen, for their leadership skills and hard work. Under Kalinthia and Julia’s leadership, the Committee was able to continue working hard and smart towards its goals. Kalinthia and Julia exhibited unwavering dedication towards the

committee, its members and all of its endeavors and the Committee sends a huge shout-out and heartfelt thank you to Kalinthia and Julia for their services and strong leadership.

Closing Remarks:

This past year was impressive and now, more than ever, is the time to double our efforts to ensure we can properly maintain the solid foundation we have created and start sketching the plans for our future. Let’s continue to send a powerful message that our community and our profession are dedicated to diversity.

The Committee for Diversity and Inclusion made significant strides this year, but it needs to recruit more active members from our legal community to expand its reach and make a larger impact. The Committee meets on a monthly basis to discuss upcoming events that affect diversity on local and national levels, to organize and implement local projects focused on diversity, to consider local partnerships and to brainstorm about new projects. Please review the Bar Association’s website on the Committee for Diversity and Inclusion to learn more about this year’s monthly meeting schedule, the benefits the Committee can offer to you and your firm and how you can get involved.

Lisa Kohring served as the Diversity Corner Article Sub-Committee Chair this past year and is a litigation associate with Schwarzborg & Associates. Lisa focuses her practice on commercial litigation and employment law and compliance and can be reached at lkohring@schwarzborglaw.com.

We are proud to announce that
Glenn Siegel and Chad Hastings
have been named Partners at
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*We commend Glenn and Chad for their
commitment to our clients and our community,
and we are pleased that we can work together*



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LAURIE G. MANOFF, ESQ. AND MARGARET "MICKI" YOUNG, ESQ.
TO OUR FULL SERVICE FIRM OF MEDIATORS & ARBITRATORS.



Laurie G. Manoff, Esq.*

Ms. Manoff is an attorney in Palm Beach County, FL practicing law since 1991. Ms. Manoff has been practicing in the area of community association law since 1993 and handles all aspects of condominium, homeowners and cooperative associations, including foreclosures and document enforcement. Her practice also includes contract disputes, collections, and landlord tenant matters.

Ms. Manoff became a Florida Supreme Court Certified Circuit Civil mediator in 2008. She has participated in the mediation process both as a mediator and in the representation of litigants.



Margaret "Micki" Young, Esq.*

Margaret (Micki) Young has been a member of the Florida Bar since 1989, and is licensed by the Florida Supreme Court as a circuit civil, county, and dependency mediator. Previously she served as Director of Underwriting Assurance for the National Council on Compensation Insurance, Inc., providing alternative dispute resolution services to the workers compensation industry in over 30 states. She has also served as Director of the Division of Workers Compensation for the State of Florida; and as an attorney for the firm of Roberts, Baggett, LaFace and Richards (now Greenberg Traugott) in Tallahassee, Florida. Ms. Young graduated from Florida State College of Law with honors, and earned an undergraduate degree in Marketing from Florida Atlantic University. She is a member of the Elder Law and Alternative Dispute Resolution sections of the Florida Bar.

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POSITIONS AVAILABLE

ATTORNEY: Family law firm seeking attorney for 4- 5 month position commencing mid-August. Candidates must have at least one year of litigation employment, experience in legal research, drafting and arguing motions, discovery requests and responses, and communicating with clients and opposing counsel. Excellent research, communication and writing skills and Florida Bar license are required. Prior family law experience is preferred. Send your resume and a cover letter wpblawyer@gmail.com.

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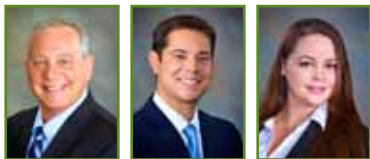
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HEARSAY



The Marital & Family Law group of Greenspoon Marder Law's West Palm Beach office welcomes three new attorneys. The firm is joined by **SHAREHOLDER STUART R. MANOFF, SENIOR COUNSEL ASSOCIATE WILLIAM N. LAZARCHICK, JR.,** and **ASSOCIATE CASEY M. REITER.**

The Law Firm of Osborne and Associates is pleased to announce that **ANNE HINDS ESQ.** has joined the Firm. Anne comes to the practice with substantial litigation and professional experience after practicing at Boies, Schiller and Flexner, LLP. She is the recent recipient of the President of the Florida Bar's 2014 Pro Bono Service Award. Osborne and Associates is located in Boca Raton, specializing in products liability, medical device and pharmaceutical litigation as well as personal injury litigation.

GLEN J. TORCIVIA of Torcivia, Donlon, Goddeau & Ansay, P.A., was presented with the award "Associate Member of the Year" at the League of Cities' 2015 Installation Gala for exemplary involvement and support to the priorities and programs of the League of Cities.



The General Practice, Solo and Small Firm Section of The Florida Bar has announced that **PATRICIA C. DERAMUS, ACP, FRP** is the recipient of their Paralegal of the Year award. Ms. DeRamus is the current president of the Paralegal Association of Florida, Inc. This prestigious award recognizes one outstanding Florida paralegal for above-and-beyond efforts in achieving a high standard of professionalism in the delivery of paralegal services, and who has also contributed significantly to the community and his/her law firm.



Jones, Foster, Johnston & Stubbs, P.A. announces that **JOSHUA L. PLAGER** has joined the firms Probate and Trust Litigation Group as an Associate. Plager, who practices in the areas of probate and trust litigation, trust and estate administration, guardianship law, and fiduciary litigation, graduated magna cum laude from the University Of Miami School Of Law, where he served as Senior Notes and Comments Editor of the University of Miami Law Review.

GARY S. LESSER recently received the 2015 Jurisprudence Award from the Anti-Defamation League



JEFFREY D. KIRBY, ESQ. has joined the Law Offices of Craig Goldenfarb, P.A. as an associate Civil Trial Attorney. Mr. Kirby's litigation practice will focus on the plaintiff rights of injured clients in negligence matters involving automobile and premises accidents, and nursing home abuse or neglect. Mr. Kirby has been practicing plaintiff personal injury law for twenty-five years.



The Harvey Milk Foundation presented its inaugural Diversity Honors Award to retired **JUDGE RAND HOCH** of the Law and Mediation Offices of Rand Hoch, P.A. The honor was bestowed in recognition of Judge Hoch's efforts which resulted in the enactment of more than 70 laws and policies extending equal rights and benefits to lesbian, gay, bisexual and transgender (LGBT) Floridians.



OLIVIA LIGGIO, of Fountain, La Vista, Prather, Keen and Littky-Rubin has been named co-chair of the Informed Voters Project Committee for the Florida Association for Women Lawyers (FAWL). This committee focuses on developing critical materials for statewide presentations and coordinating civic education on the important independent role the judiciary must maintain as one of the three branches of government.

JOHN F. SCHUTZ of Schutz & White, LLP, was recently chosen as the Nation's TOP ONE PERCENT by the National Association of Distinguished Counsel for the year 2015. Schutz & White, in West Palm Beach, limits its practice exclusively to Marital and Family Law.



The Broward County Hispanic Bar Association recognized **MARIANO GARCIA**, a shareholder with Searcy Denney Scarola Barnhart & Shipley, as one of the inaugural recipients of the "BRAVO" award for "Dedication and Leadership in Public Service and Promoting Hispanic Diversity" in the tri-county area of Dade, Broward and Palm Beach Counties.





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CALENDAR July/August 2015

Tuesday, July 7, 1
2 noon – 1:00 pm

**North County Section
Board Meeting**

Friday, July 10 –
Saturday, July 11

**The Florida Bar Bar
Leaders' Conference**
The Eau Hotel, Palm Beach

Tuesday, July 14,
12 noon – 1:00 pm

**Young Lawyers Section
Board Meeting**
Bar Association Office

Thursday, July 16,
5:30 – 7:00 pm
**Young Lawyers Section
Summer Intern
Happy Hour**
Copper Blues, City Place

Tuesday, July 21,
12 noon – 1:00 pm
CDI Committee Meeting
Bar Association Office

**Florida Bar Board of
Governors Meeting**
July 22 – 24
Coral Gables

Friday, August 7
11:00 – 1:00 pm
Committee Chair Meeting
Bar Association Office

Tuesday, August 11,
12 noon – 1:00 pm
**Young Lawyers Section
Board Meeting**
Bar Association Office

Thursday, August 13,
5:30 – 7:00 pm
**Young Lawyers Section/
Federal Bar Happy Hour**
Ruth's Chris, City Place

Tuesday, August 18,
12 noon – 1:00 pm
**North County Section
Board Meeting**

August 21,
12 noon – 1:00 pm
**President's Council
Meeting**
Bar Association Office