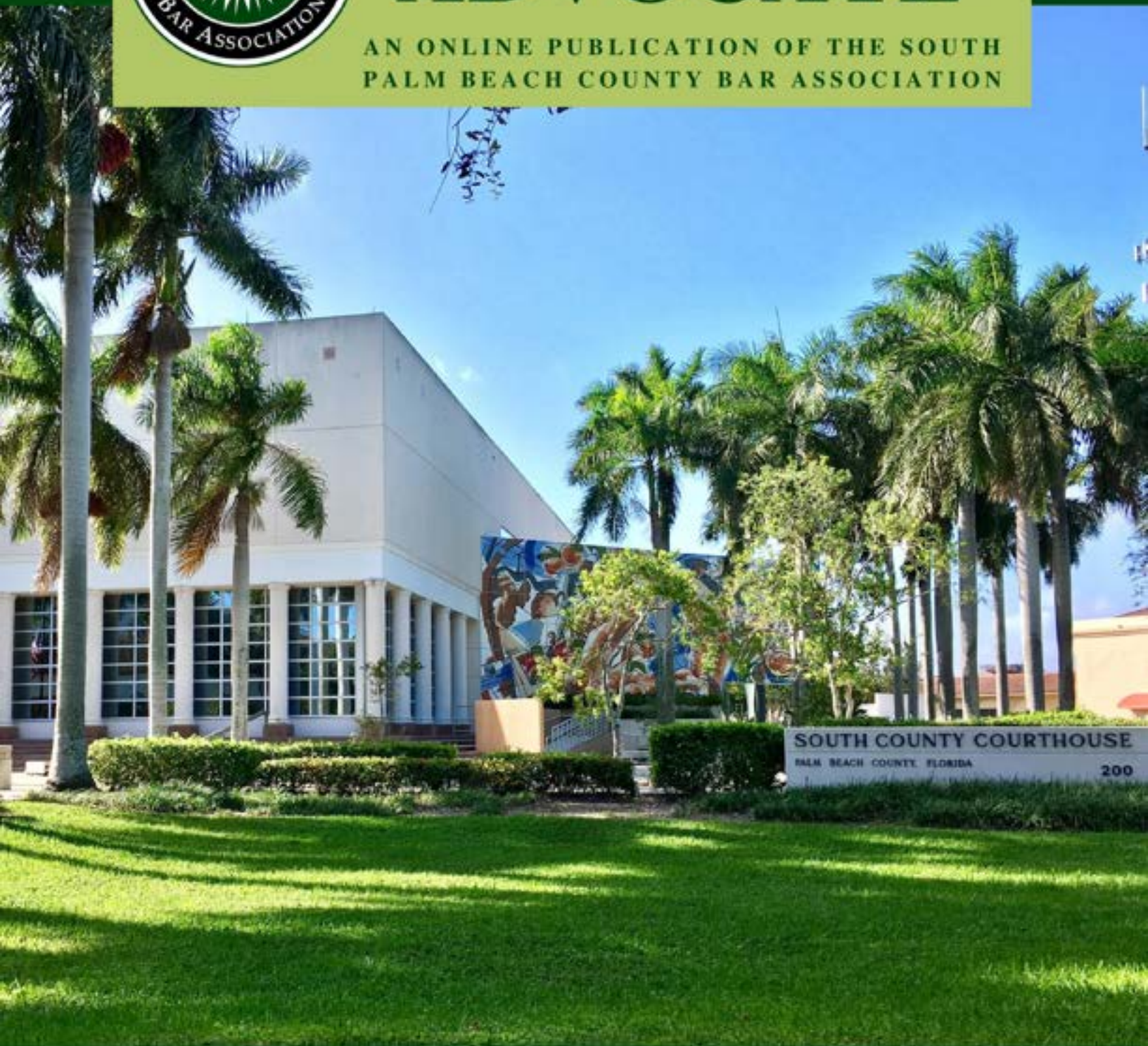




# THE ADVOCATE

AN ONLINE PUBLICATION OF THE SOUTH  
PALM BEACH COUNTY BAR ASSOCIATION



WINTER 2023 EDITION





# THE ADVOCATE

An Online Publication of the South Palm Beach County Bar Association

WINTER 2023 EDITION

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## Message from Our President

### Ellen M. Leibovitch

Welcome to the Winter 2023 Edition of  
The Advocate!

It's hard to believe that 2023 is already upon us, but here it is. As we turn to a new year, the SPBCBA is excited to continue offering exceptional educational, social, and networking programs to our members. We recently held our Diversity & Inclusion Cocktail Reception (back for the first time since 2019!), recognizing Judge Bradley Harper and dedicating a portion of the proceeds from the event to the Legal Aid Society's Children's Emergency Fund in the name of the late Harreen Bertisch. In February, we will have our annual joint lunch with the South Palm Beach County Chapter of the Florida Association for Women Lawyers, where The Florida Bar President Gary Lesser will be speaking on the State of the Bar.

I am sure you are all looking forward to our biggest event of the year – the SPBCA's 61st Annual Installation Gala on May 6, 2023. Incoming president Christopher Sajdera is planning an elegant evening at Woodfield Country Club, one of our favorite venues, and we are so pleased to present Judge Louis Delgado with our Jurist of the Year award for his undying passion and commitment to the SPBCBA. You will be hearing more about the gala, as well as sponsorship opportunities and more, in the days and weeks to come. This is one soiree you do not want to miss!

All of our committees are planning a variety of webinar and in-person CLE events, so please check out the website and read your weekly Mindful Monday to stay on top of the latest and greatest. Speaking of the website, I hope all of you have taken the opportunity to update your membership information, upload your headshot, and add some details about your practice. We are really proud of the look of the website, the ease of use, and the additional features that are now at your fingertips, and I hope you are pleased with the result as well.

As always, whether you have a question or just feel like chatting, you can reach me by email or cell phone. Thank you for your support and commitment to the SPBCBA, and a belated Happy New Year to all!





# Editor's Corner



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**Elissa Fitzmartin, Esq.**  
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Change is a constant in the practice of law. The articles in this issue address several recent developments in the law, including the creation of a new District Court of Appeal, and an overhaul of Florida's property insurance statutes. The South Palm Beach County Bar Association is proud to help the legal community keep up with these changes by sharing the knowledge of its incredible members and our local judiciary through our CLE events, the Advocate, and articles on our web site.

## The South Palm Beach County Bar Association's Mission Statement

The South Palm Beach County Bar Association is committed to excellence in the legal profession through education, member interaction and collaboration, and community outreach. The Association welcomes diverse perspectives, ideas and experiences. We strive to create an environment where individuals of all races, colors, ethnicities, cultures, religions, genders, sexual orientation, gender identity and expression, nationalities, ages, disabilities, and marital and parental status thrive professionally and contribute to our goals. In fulfilling this mission, the Association seeks to uphold the highest degree of civility, ethics and professionalism.

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# FLORIDA'S NEW SIXTH DISTRICT COURT OF APPEAL

BY: SCOTT EDWARDS | SCOTT J. EDWARDS, P.A.



**T**his summer, the Florida Legislature enacted legislation that created a new Sixth District Court of Appeal. The Sixth DCA began operations in January. The Sixth DCA has jurisdiction over appeals arising from the Ninth (Orlando area), Tenth (Lakeland area), and Twentieth (Fort Myers/Naples area) Judicial Circuits, and is headquartered in Lakeland.

There are nine judges on the new Sixth DCA, making it the smallest District Court of Appeal in Florida. Judge Meredith Sasso, formerly a judge at the Fifth DCA, is the first chief judge of the Sixth DCA. Four other judges joined the court from the Fifth DCA, and one judge joined the court from the Second DCA. The governor also appointed three new judges to the court.

The legislation creating the Sixth DCA also changed the jurisdictions of several other district courts of appeal. To counterbalance the Fifth District's loss of the Ninth Circuit, the Fourth Judicial Circuit (Jacksonville Area) has moved from the First DCA's jurisdiction to the Fifth DCA. Four new judges have also been appointed to the Fifth DCA. The Second DCA, with its smaller jurisdiction over circuits in the Tampa Bay area, is now temporarily headquartered in Tampa. A new Second DCA courthouse is expected to open in 2025 in St. Petersburg.

The Sixth DCA has also issued its first set of administrative orders governing practice before the court.



Most significantly, the Sixth DCA has implemented additional briefing requirements. All merits briefs must contain a statement of the basis for jurisdiction in the court. If the appeal is of a final order, the statement must state the basis for claiming that the judgment or order being appealed is final. If the appeal is nonfinal, the statement must cite the rule or law allowing the nonfinal appeal, along with a concise statement of facts establishing jurisdiction. Each issue presented in a merits brief must also contain a statement as to where in the record the issue on appeal was raised and ruled on. The applicable standard of review for each issue must also be identified.

The Sixth DCA has also issued administrative orders setting forth procedures for extensions of time on briefs, requesting remote video oral arguments, and appellate mediation.

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# NEW PROPERTY INSURANCE LAWS WIPE OUT HOMEOWNERS' RIGHTS

**By: Rina Feld, Esq | Law Offices of Rina Feld**



In December 2022, for the second time this year, Governor Ron DeSantis called the Florida Legislature to a Special Session to address the property insurance crisis in Florida. The Florida Legislature produced two new bills, SB 2-A and SB 4-A, both signed into law by the Governor in late December 2022, both of which leave many people questioning whether these new laws have stripped away homeowners' access to Courts and many rights, in favor of deepening insurance companies' pockets.

In early 2022, the Florida Office of Insurance Regulation approved two insurer's requests to include binding arbitration language in their policies; the request was quickly met with lawsuits challenging the approval. Despite the outpouring of opposition to the Florida Office of Insurance Regulation's administrative authorization, this bill, SB 2-A, created statutory authorization for insurers to include mandatory binding arbitration language in their policies on a conditional basis. One such condition is that a homeowner can agree to the arbitration provisions in exchange for an "actuarially sound credit or premium discount" for the policyholder signing the endorsement. What an "actuarially sound credit or premium discount" includes is yet to be determined. If precedent tells us anything, it's that the discount will be minimal compared to the cost of losing the right to sue an insurance company for their bad faith actions.

Continued on following page



Additionally, most homeowners rely on vendors who operate on an assignment of benefit agreement to mitigate their loss, as required by their homeowners policy. After years of insurance companies alleging much of their litigation stemmed from assignment of benefits, for policies effective after January 1, 2023, the Florida Legislature has entirely banned the ability of homeowners to enter these contracts in exchange for services they may not be able to afford out-of-pocket. Any assignment agreement entered into under a residential or commercial property insurance policy after January 1, 2023, will be rendered "invalid, void, and unenforceable." This now means that homeowners will be responsible to pay for the costs of emergency dry out, mold remediation, or other urgent and necessary services out-of-pocket, wherein they could previously obtain these services without out-of-pocket expenses via an assignment of benefits.

In another hit to homeowners, the statutory attorney's fees provision has also been abolished. Previously, if an insured was placed in a position in which they had to sue their property insurance carrier for nonpayment, delay in payment, or underpayment of a claim, the insurer was responsible for the homeowner's attorney's fees. The purpose of this statutory fee provision was to level the playing field between insurance companies and individual homeowners. Now, homeowners who are already dealing with a wrongfully denied, delayed, or underpaid insurance claim and are paying for repairs out-of-pocket, will also have to pay out-of-pocket for attorney's fees and costs if they want to challenge the coverage decision. This is simply an infringement on the right to access to courts. The insurer will always have the deep pockets to fund their defense, while an individual homeowner may not. Even more, if a homeowner wants to challenge an insurance company for their bad faith actions, they need to first obtain an adjudicated final judgment against the carrier. This means that a homeowner must take their case all the way to a trial verdict before they can allege any bad faith actions in a subsequent law suit, which may cost tens, or hundreds, of thousands of dollars in legal fees. Most homeowners will be deterred and will simply continue to pay premiums to an insurer who is acting in bad faith.

Furthermore, the Legislature has slashed the time allowed for homeowners to report a claim. Previously, the time to report a claim was reduced from three-years to two-years. Now, homeowners have one-year to report a claim and eighteen (18) months to report a supplemental claim. It is an undisputed fact that damages caused by hurricanes or tropical storms can often lay dormant and unnoticed by insureds for a significant period of time. Specifically, if a roof is damaged by a hurricane or tropical storm which is followed by a dry season, water resulting from the damaged roof will not be noticed for over a year, in some cases. This time limitation will result in numerous barred claims, by no fault of homeowners.

Continued on following page



Policyholders of Citizens Property Insurance Corporation, the state-backed “insurer of last resort,” perhaps got the worst of these new laws, with many changes becoming effective this year. Citizens’ policyholders with policies renewing after April 1, 2023, must show that other insurers’ premiums are more than 20% of Citizens’ renewal premium to maintain their policy with Citizens. Additionally, in a roll-out provision based on property values, all Citizens policyholders will be required to obtain flood insurance from a private insurer to maintain coverage with Citizens, regardless of the property’s location. These new laws also require Citizens’ policyholders making a claim for water damage to prove the damage was not caused by flooding – a burden many insureds will not be able to meet without assistance from costly experts in the field.

There is only one change that could minimally benefit homeowners. Insurers must now make a coverage decision within sixty (60) days after receiving a notice of a claim, decreased from the previous ninety (90) days. However, even this potential benefit is offset by a negative. This time period is now tolled while alternative dispute resolution is ongoing, such as appraisal or mediation. Moreover, homeowners are required to respond to insurer’s requests for material claims information within ten (10) days of the request, or the time for the insurer’s coverage decision will be further tolled.

There are many unanswered questions remaining as to the applicability of these new laws. At the forefront, it is obvious that these new laws strip homeowners of their inherent ability to fight insurance companies’ wrongful denials or underpayments and gives insurers the ability to engage in bad faith practices with minimal repercussions. During the Special Session’s testimony, it became apparent that insurers have been getting away with numerous questionable tactics, such as wrongfully analyzing claims. Independent adjusters who had previously worked for insurers alleged that their names were used in fraudulent estimates and evaluations. Homeowners have repeatedly complained of insurers engaging in bad faith, failing to adequately investigate claims, and difficulty in resolving claims. Moreover, despite insurers and the Florida Legislature pointing their fingers at roofers, homeowners, and attorneys as the causes for insurers leaving the state and increased premiums, insurance companies chairmen and CEO salaries have continued to increase in the millions.

*This article is current as of January 11, 2023.*



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# HOW TO PREPARE FOR SB 2A: THE LEGISLATIVE OVERHAUL OF FLORIDA'S PROPERTY INSURANCE LAWS

**By: Aaron Warner | Warner & Fitzmartin, PLLC**



A 105 page bill, referred to as SB 2A and proposing a drastic overhaul of Florida's property insurance laws, was introduced on Friday, December 9, 2022 ahead of a special legislative session for the Florida House and Senate. On December 14, 2022, the bill was approved with ease after majority voting but not without opposition as proponents of the bill rejected every proposed amendment. SB 2A was signed into law on December 16, 2022.

The state's top insurance regulator, David Altmaier, submitted his resignation the previous day. Deputy Commissioner Susanne Murphy had also just announced that she would be stepping down from her position with the Office of Insurance Regulation. David Altmaier supported the legislation despite being unable to answer some questions due to outstanding reports and data required from insurance companies that supposedly is due this spring as part of SB 76 passed in 2021.

Like many things with politics, some applauded the signing of SB 2A while others expressed deep concerns. Some Florida lawmakers believe that Floridians may expect to see lower property insurance premiums in 18 months or 2 years as they expect SB 2A will reduce litigation exposure, create a better market for insurers, and increase competition by offering additional options for insureds. Others have shown their disappointment that this legislation stripped away rights and failed to

Continued on following page

provide any relief for homeowners, despite providing another \$1 billion of taxpayer funds to insurance companies after the approval of a \$2 billion during 2022's regular session. Some homeowners and families felt betrayed due to their nightmarish insurance claim experiences while speaking to Florida lawmakers during the 3-day special session as SB 2A would have prohibited their ability to recover after disaster.

There's no sugarcoating the fact that SB 2A is tort reform that reduces and eliminates rights Florida policyholders had before 2023. SB 2A and other recent legislation will eliminate access to courts for many Florida homeowners and families depending on the claim and policy provisions. More of Florida's insurance claims will be shifted to appraisal and arbitration, which are expensive, time-consuming, and difficult. To make matters worse, SB 2A strips away the rights Florida policyholders previously had to expose bad-faith insurer conduct and recover the extra expenses they were forced to spend to prevail in their claim dispute.

Florida Senator Lori Berman proposed an amendment to SB 2A that would have required informing Florida homeowners of the changes made by this legislation and how the new laws will affect them in the event of a claim. The Florida Senator who introduced the bill opposed this amendment. Below are some of SB 2A's provisions and changes to Florida Law that policyholders should be aware of to adapt and prepare:

- Assignment of benefits are eliminated for any property insurance policy issued on or after January 1, 2023.
- Florida policyholders no longer have the right to recover their attorney fees from a property insurance company that wrongfully denies or underpays a claim. This is a shift away from long-standing Florida law that provided a level playing field for Florida homeowners. The Florida Supreme Court once wrote, "It is an undue hardship upon beneficiaries of policies to be compelled to reduce the amount of their insurance by paying attorney's fees when suits are necessary in order to collect that to which they are entitled."
- Bad faith damages or extracontractual damages cannot be sought absent summary judgment or a jury verdict followed by entry of a final judgment. For the majority of property insurance claims, policyholders will no longer have the ability to prevent bad acting insurance companies who fail to follow the law or policy and delay an insurance claim. The state's insurance regulators will now be the main individuals responsible for monitoring insurers conduct and enforcing penalties.
- Property insurance policies can now include mandatory arbitration provisions, which will eliminate policyholders access to the courts for a limited premium reduction.

Continued on following page



- Many Citizens' policyholders will see an increase in their property insurance rates as they will be forced to switch to a private insurer that offers premiums up to 20% more than their existing rate.
- Citizens' policyholders will be required to obtain flood insurance as a condition of having windstorm coverage.
- The law will also apply differently for Citizens' policyholders who will now bear more a more difficult burden of proof with respect to claims involving wind damage and flood.
- Reduces the claim filing deadlines for policyholders to report a claim from 2 years to 1 year for a new or reopened claim.
- Policyholders will now have 18 months instead of 3 years to complete repairs and submit a claim supplement regardless of how the insurance company has acted or how long it took to investigate and make a claim determination.
- Reduces the time for insurance companies to pay or deny a claim from 90 to 60 days. Yet this legislation provides zero relief for policyholders if and when an insurance company takes longer. Just before resigning, Florida's Insurance Commissioner, David Altmaier, stated he was aware of bad actor insurance companies who abuse these deadlines.
- Property insurance companies will now be allowed to investigate the entire claim remotely via electronic methods.

Understanding what's in your insurance policy is now more important than ever with the rising price of property insurance and tricky policies that include limited caps on damages, roof schedule endorsements, exclusions and endorsements that regularly change upon renewal. With the passage of SB 2A, Florida homeowners should start saving rainy day funds in case of an emergency.

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March 3, 2023



All attorney members in good standing who are interested in joining the Board of Directors of the South Palm Beach County Bar Association (the "Board") are invited to submit a letter of interest by March 3, 2023.

In your letter, please include a history of your involvement with the SPBCBA, the community, and any other voluntary bar associations.

Please email your letter to Kristin Litten, the Executive Director, at [kristin@southpalmbeachbar.org](mailto:kristin@southpalmbeachbar.org) and include "SPBCBA Board Application" in the subject line.

The Board will vote to recommend one (1) applicant to join the Board at its March 7, 2023 meeting and will ask the full membership to approve the applicant at SPBCBA's March 16th, 2023 monthly membership luncheon.

Thank you in advance for your interest in serving!

Ellen Leibovitch, President

# HOW TO GET MORE OUT OF THE TIME YOU ALREADY SPEND NETWORKING



By: Daniel Haverman | Board Certified Civil Trial Lawyer

**M**ost of us rely on referrals from others as a primary source of business. However, not everyone who relies on referrals is successful. Those of us who are not successful have only "surface level" referral relationships. We know just enough about our referral sources' businesses to get by. But we don't actually know a lot about the people themselves. If asked, we tend to say vague things such as: "He is really nice" or "If you just meet with her, I am sure you'll like her." If pressed, further, we probably couldn't tell you much more about those people -- and we almost certainly could not count on them when we really need something from the relationship.



Building the deep referral relationship -- the kind of relationship that leads to referrals -- is almost completely dependent upon the connection you have built with someone.

If you can answer yes to most or all of the following points about a person and her business, you would have a pretty deep referral relationship:

- You trust them to do a great job and take great care of your referred prospects.
- You understand at least three major products or services within their business and feel comfortable explaining them to others.
- You would not feel awkward asking them for help with either a personal or business challenge.
- You enjoy the time you spend together.
- You have regular appointments scheduled, both business and personal.
- You enjoy seeing them achieve further success

You may be shocked at the level of personal knowledge required for a deep referral relationship, and you may want to argue that referrals should be all about business. I completely disagree. Referrals are personal. When you give a referral, you give a little of your reputation away. You need to know the person that is going to affect your reputation. It takes a lot to develop this type of relationship, but those who do will certainly succeed at building a business from referrals.





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- Mark R. Osherow

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# PROTECTING TRADE SECRETS IN A REMOTE WORK WORLD

BY: ELLEN M. LEIBOVITCH | BOARD CERTIFIED IN LABOR & EMPLOYMENT LAW |  
ASSOULINE & BERLOWE, P.A.



The recipe to make Coca Cola is one of the oldest trade secrets, but do you know what is a trade secret and how to protect it?

The Defend Trade Secret Act (DTSA) was signed into federal law in 2016. Since being enacted, the parameters detailing how to interpret the DTSA has worked its way through the federal court system, as is typical for any new federal law.

However, with the proliferation of remote work starting in 2020 due to the Covid-19 pandemic, maintaining trade secrets by remote workers has become a challenging task. The safeguards required for on-site employees must be revised to account for employees accessing trade secrets remotely.

## **The DTSA defines a trade secret as:**

**"all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if**

- **(A) the owner thereof has taken reasonable measures to keep such information secret; and**
- **(B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information."**

The DTSA requires an owner to take "reasonable measures" to keep trade secret information secret, but the term "reasonable measures" is not defined in the DTSA. Courts have held that "reasonable measures" include implementing written confidentiality policies, execution of nondisclosure agreements, limiting access to the trade secrets to personnel on a "need to know" basis using multi-layer credentialed access, and placing restrictions on the unauthorized transfer and use of company owned data.

Continued on following page



Before addressing how such reasonable measures can be extended to employees working remotely, the following should be considered:

- Is the employee at a home office or in a public setting?
- Do other persons have access to the employee while viewing the trade secret?
- Is the trade secret being accessed on an open Internet connection?
- How long is the trade secret available for viewing once opened?
- Is the trade secret downloaded or stored on the remote employee's local computer indefinitely?
- Is the trade secret itself password protected and not only credentialed access for downloading the trade secret?
- Should certain trade secrets only be accessible on-site at the employer's facilities?

Failure to take reasonable measures to protect a company's trade secrets could result in the trade secret losing its protected status. If that occurs and the trade secret is made public and accessible to competitors without recourse, the company may lose its competitive advantage.

An employer should have a robust employee manual that details how trade secrets are treated, who should have access to the trade secret depending on their status/role within the company, and other industry-specific factors to ensure the trade secret remains secret.

Another aspect of the DTSA is a safe harbor provision for employees (whistleblowers) who disclose a trade secret solely for the purpose of reporting or investigating a suspected violation of law or in a lawsuit made under seal. Employers are advised to pay close attention to the notice provision within the whistleblower section of the DTSA since compliance with the DTSA whistleblower notice provision could affect the ability of the employer to seek certain remedies. To be clear, employers must notify employees of the existence of whistleblower immunity under the DTSA in order to seek punitive damages and attorney's fees against a former employee for trade secret misappropriation.

Notice of whistleblower immunity under the DTSA should be included in employee manuals, policies, confidentiality and other employment-related agreements. Employers should look at the language in these materials to ensure protection of trade secrets in the new remote work world, which certainly appears to be here to stay. If proper safeguards are not in place, the employer may lose trade secret protections and leave their trade secrets unprotected.

For any questions about the DTSA and complying with its requirements to protect your important trade secrets, feel free to contact me.



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Jennifer Maraia is a member of IACP, trained in collaborative dispute resolution, and has been a speaker for Wife.org "Second Saturday™", an organization dedicated to educating people contemplating divorce with financial, emotional, and legal advice.

Robert Maraia has led a chapter of DTP, Divorce Transitional Professionals™, and has completed course work at the American Institute of Mediation. He is also a Seniors Real Estate Specialist.

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Florida Bar President  
Gary S. Lesser  
South Palm Beach  
County Bar Association  
Special

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## What Does "Life's Legal Moments" Actually Mean?



The Florida Bar recently launched a public education program called "Life's Legal Moments." What does this phrase mean? It refers specifically to important life moments when a person really needs legal representation — such as executing a will or buying or selling a home. In these pivotal life moments, "going it alone" can result in serious financial or other consequences.

Given the ever-increasing gap between the legal profession and the public, this program is one of many important initiatives The Florida Bar is working on. The increasing lack of connection between knowing you have a legal issue and the knowledge that a lawyer can help protect you and your family has been growing for decades. The good news is that there are several things Florida lawyers can do about this.

The data points are well known. A significant and increasing majority of the population no longer retain lawyers for legal matters, even for important life moments when retaining counsel can protect themselves and their families.

On the other hand, there is clear data that shows the path to follow. In a Florida Bar survey, 91% of respondents thought retaining a lawyer would help protect their rights or interests, and 84% believed it would reduce the stress of dealing with a legal issue.

The new initiative's website, [www.floridalawyerscanhelp.com](http://www.floridalawyerscanhelp.com), has numerous resources to educate the public and point them in the right direction on how to hire a lawyer for a specific life legal challenge.

This is only the beginning, and there's a lot more that Florida attorneys can do to help educate the public. First, look for the regular social media posts from The Florida Bar about Life's Legal Moments, and take a moment to share this information. This is an easy "grassroots" way to get this information out to the people we know and to the public we serve.

It is very important that lawyers be "in the public square" talking about these issues. I have been a longtime member of my local Chamber of Commerce and encourage other lawyers to join their local chambers. This remains one of the best ways to connect with people in your community, particularly those in the business community. We plan on collaborating with these local business organizations and supplying Life's Legal Moments materials to many local chambers of commerce. One chamber CEO pointed out to me that small businesses face similar challenges in terms of not hiring a lawyer for significant legal matters. Many business owners think they don't need a lawyer or that they can't afford one; however, a decision to forego legal counsel can result in losses where a small business may have to close its doors, and we don't want to see that happen.

Our goal is to reach members of the public, as well as civic groups, charities, and other organizations. I have already made brief presentations on these topics to several groups, and any Florida lawyer willing to do so can be given talking points and other resources by The Florida Bar. A good friend of mine pointed out that this information would be of great interest to her sorority whose members range in age from 18 to almost 100 years old. I am speaking soon to my synagogue and to a local business development group.

Simply put, while there is no "magic wand" that can instantly fix the growing disconnect between the legal profession and the public, there are many things that lawyers can do to move the needle back in the right direction with this type of public engagement and communication.

Separately, The Florida Bar, at the request of the Florida Supreme Court, has prepared a detailed report regarding greater access to legal services in Florida. The focus of those efforts was threefold: making it easier for pro se clients to utilize our system of justice; increasing resources in the world of pro bono and legal aid; and providing solutions for more affordable and accessible legal representation for the general public. Although the Life's Legal Moments campaign is about helping the public identify significant moments where a lawyer would be helpful, this important report looks at circumstances where the legal need is apparent but feels beyond reach for too many Floridians. We look forward to working with the Florida Supreme Court on evaluating and implementing these recommendations. This will be a long-term project that potentially can make Florida a model for the rest of the country to follow.



I am certain that Life's Legal Moments will be an ongoing part of The Florida Bar's efforts to help increase knowledge and accessibility of legal services, as this program is all about lawyers helping and serving the residents of Florida.

Many other states are addressing these same challenges. Florida will be a national leader with this approach and avoid the dangerous and data-less approach of fee-sharing with non-lawyers and profit-driven companies.

Florida's lawyers, working with the Court, are best positioned to help increase public access to legal services, and together we will change the trajectory to make sure that more Floridians are able to identify how to hire a lawyer during important life moments when they want to protect themselves and their families.

*Gary S. Lesser, the 74th president of The Florida Bar, is the managing partner of Lesser Lesser Landy & Smith in West Palm Beach.*

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TRUIST

# SEEKING TO STAY COLLECTION WITH A BOND LESS THAN THE JUDGMENT AMOUNT

BY: MARK OSHEROW | BOARD CERTIFIED BUSINESS LITIGATION ATTORNEY |  
OSHEROW, PLLC



A litigation party obtains a money judgment after trial. The judgment is properly recorded and docketed. The party then engages in post judgment efforts to collect on its judgment. The debtor does not initially post a supersedeas bond and essentially ignores the collection efforts. After failing to post a supersedeas bond for some time, the debtor files a post-judgment motion claiming entitlement to “emergency” relief and to thwart appropriate post-judgment collection rights.

The Court had denied other efforts by the debtor to attack post judgment collection on numerous occasions but none of those efforts sought to post a bond to stay post judgment proceedings, including when the judgment creditor garnished a remaining bank account held by the debtor.

Through ongoing post judgment discovery, the judgment creditor identified and levied on a commercial (non-homestead) property owned by the judgment debtor. On the eve of the property’s sheriff’s sale, the judgment debtor filed a so-called emergency motion to stay seeking to stop the sale and stay all post judgment discovery without posting any bond as required under Fla. R. App. P. 9.310(b). The Judgment Debtor seemingly made no effort to have its “emergency” motion heard prior to the sale and did not attend the sale. In short, the levy sale proceeded with the Defendant ultimately obtaining the property with its opening credit bid.

At no time did the judgment debtor post a statutory supersedeas bond, and at no time since entry of the judgment did the judgment debtor seek to have the court adjudicate the amount or conditions of the required bond until filing of the debtor’s belated emergency motion. Of course, the judgment creditor’s position is that the judgment debtor’s request for stay, and temporary injunction must be denied as these facts do not justify the entry of a stay without requiring the judgment debtor to post a bond in accordance with Rule 9.310(b)(1).

Continued on following page



The Legislature's 2006 enactment of Florida Statutes §45.045(2), authorizes a trial court to, under appropriate circumstances and showing, and with adequate conditions, reduce a supersedeas bond to some amount less than "the principal amount of the judgment plus twice the statutory interest" as otherwise required for an automatic stay under rule 9.310(b)(1).

Some debtors have argued *Capital Dev. Group, LLC v. Buena Vista Terminal, LLC*, 306 So. 3d 342, 344 (Fla. 3d DCA 2020), stands for the proposition that the posting of a bond should not be required in order to stay the post judgment proceedings. Review of *Capital Dev. Group* reveals that the Third District instructed the trial court to determine the amount of the bond to be posted based on enumerated factors, not to dispense with the bond requirement altogether.

In *Platt v. Russek*, 921 So.2d 5 (Fla. 2d DCA 2004) the judgment debtor had no identifiable assets beyond a homestead residence. A careful reading of *Platt* reveals the trial court's discussion of whether a Court has discretion to grant a stay on conditions that vary from those required for an automatic stay under Fla. R. App. P. 9.310(b)(1), was extremely limited. In fact, the Second District vacated the stay in *Platt* holding a trial court does not have the authority to stay a judgment without imposing any conditions upon the judgment debtor. The Second District's analysis below is particularly illuminating:

If a trial court cannot stay a judgment without imposing some conditions, the next question is whether a trial court can stay a judgment upon conditions that do not necessarily guarantee the full payment of the judgment at the conclusion of the appeal. With some hesitation, we conclude that the trial court has this authority but that it should be exercised with great care. A trial court should not grant a stay that prejudices a judgment holder's realistic opportunities to collect upon the judgment or that prevents a creditor from establishing a lien and priority to collect upon the judgment in the event that the debtor eventually has assets. Both the burden of proof and persuasion to impose conditions that do not guarantee the full payment of the judgment at the conclusion of the appeal should be upon the judgment debtor.

The Second District went on in *Platt* to state: "Without a full bond, the trial court should not grant a stay that prevents a judgment holder from establishing liens against real and personal property or that prevents a judgment holder from obtaining priority over subsequent creditors." *Id.* at 8.



With these principles in mind, Florida case law makes clear that the purpose of a supersedeas bond is to insure the payment of the full amount of the monetary judgment under review including costs, interests, fees, and damages for delay, if the review is dismissed or order affirmed. See Fla. R. App. P. 9.310(c)(2); *Cohn v. Reiss*, 615 So. 2d 173 (Fla. 4th DCA 1993); *Dice v. Cameron*, 424 So. 2d 173 (Fla. 3d DCA 1983), *dismissed on other grounds*, 434 So. 2d 887 (Fla. 1983).

"[T]he guiding principle in setting a supersedeas bond is to protect the party in whose favor judgment was entered by assuring its payment in the event the judgment is affirmed on appeal." *Pabian*, 469 So. 2d 189, 191 (Fla. 4th DCA 1985); see also *Knipe v. Knipe*, 290 So. 2d 71 (Fla. 2d DCA 1974). As such, "the proper amount and conditions of the supersedeas bond are determined by the facts of the particular case." *Pabian*, 469 So. 2d at 191. What those specific facts might be that would support anything other than a bond in the applicable statutory mandated amount, to secure full payment of the judgment, remains largely unspecified.

Historically, the Third and Fourth District Courts of Appeals both have held the posting of a bond in accordance with Fla. R. App. P. 9.310(b)(1) is the exclusive method of obtaining a stay of a money judgment, and that trial courts have no discretion to stay a money judgment absent the posting of a full bond. *Mellon United Nat'l Bank v. Cochran*, 776 So. 2d 964 (Fla. 3d DCA 2000); *Caruso v. Caruso*, 932 So. 2d 457 (Fla. 4th DCA 2006). More recently, however, in *Waves of Hialeah, Inc. v. Machado*, 300 So.3d 688 (Fla. 3d DCA 2018) the Third District thoroughly analyzed a court's discretion with respect to the bond requirement under Fla. R. App. P. 9.310(b)(1)), particularly in light of the amendment to Florida Statutes §45.045(2) and although it declined to reduce the bond amount, recognized the conflict between the districts on the issue of the court's discretion.

In *Waves*, the Third District concluded that the court does have the discretion, under certain circumstances and upon a proper showing, to alter the conditions of the bond if the appeal involves a review of the amount of the money judgment. See *Waves*, 300 So.3d at 691. What those circumstance and showing consist of remains to be seen in future cases.

The facts presented above, do not suggest that the judgment debtor could make a proper showing that circumstances exist which warrant the court removing the requirement of a bond in accordance with Fla. R. App. P. 9.130(b)(1). On those facts, the judgment debtor waited a significant period of time to seek a stay, instead not objecting to its bank account being garnished and not immediately acting when the subject levy sale was noticed.



Under the facts presented, the judgment debtor's emergency motion would likely fail to demonstrate how the sale of a commercial property in satisfaction of the judgment would materially harm the debtor's rights or deny the judgment debtor effective relief. Simply put, if a judgment debtor wants to stay post judgment proceedings, it must follow the Florida Rules and be required to post the requisite bond in accordance with Fla. R. App. P. 9.310(b)(1) or make an affirmative showing under proper circumstances that some modification of the bond amount or the conditions of the bond should be altered. Absent such a showing, the judgment creditor should argue that the motion to stay post judgment proceedings, must be denied as it would substantially prejudice the judgment creditor's realistic opportunities to collect upon the judgment.

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# UNBUNDLING AND THE COLLABORATIVE LAW PROCESS

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OF COUNSEL, SHAPIRO, BLASI, WASSERMAN & HERMANN, P.A.



Little did I know that when Judge Ray McNeal and I argued the case for Unbundling of Legal Services before the Florida Supreme Court, (I was Chair of the Family Law Rules Committee of the Florida Bar at the time), that it would be used in the Collaborative Law Process, which had not yet become law. I was a litigation attorney back then, and Collaborative Law was not on my radar screen. Since then, Florida has adopted Statutes and a Family Law Rule on the Collaborative Law Process.

How does Florida Family Law Rule of Procedure 12.040 apply to Collaborative Law? Under the Statutes and Family Law Rule on the Collaborative Law Process, clients may move from litigation to the Process with the same attorney, but not vice versa. There is a disqualification provision in the Statutes and Rule preventing collaborative counsel in a Process to participate in litigation. There are a couple of exceptions. A Collaborative matter may terminate and the parties may return to the collaborative law process with the same attorneys, but if there is a termination, there is a required disqualification of the attorneys continuing to represent the clients beyond the Process.

Not all divorce cases begin with the parties using the Process. It is not unusual for a Petition for Dissolution of Marriage to be filed and the parties later agreeing to use the Process to move forward in resolving their divorce matter. If this occurs, under Rule 12.745(b)(1)(B), titled, Collaborative Law Process, upon the filing of a fully executed Participation Agreement with the Court, it shall operate as an application for a stay of the proceeding in Court. A fully executed Participation Agreement is required for the commencement of the Process.

Under Rule 12.745(b)(1)(B), if the court stays the proceeding in favor of the parties proceeding with the use of the Process to resolve their matter, the court can require the parties and collaborative lawyers to provide a status report on the Process during the stay of the court proceeding. The status report may only indicate whether the process is ongoing or concluded with no other information to be provided. The status report may not include a report, assessment, recommendation, finding, or other communication regarding a collaborative matter. This acknowledges the confidentiality of the Process so that neither the parties nor their attorneys are permitted to nor required to disclose what is happening in the pending Process.

Continued on following page



The court may deny the original application for stay or decide to dismiss the case during the term of the stay based on delay or failure to prosecute. This would be after giving notice to the parties for the opportunity to indicate to the Court why the matter should remain pending.

Unless the attorneys simultaneously file a Notice of Limited Appearance under Rule 12.040(a) when applying for a stay, those attorneys become attorneys of record for the parties in all proceedings in the litigation matter. And although being disqualified under the law from representing the parties in the litigation matter, without the Notice of Limited Appearance, the attorneys can find themselves in a legal bind by having to participate as attorneys of record. Withdrawal from representation is not automatic once attorneys file papers in court on behalf of a client. However, with the Notice of Limited Appearance being filed properly, if the Process terminates, the Order of Withdrawal should be entered upon the filing of a Notice of Termination of the Process and without the need for a court hearing. And if, for whatever reason, the court wishes to conduct matters beyond asking for a status report, the Notice of Limited Appearance should protect the collaborative attorney from participating in the court action.

If a status report is requested, the collaborative attorneys must follow the provisions of Rule 12.040(e) in signing off as attorney for the limited appearance of seeking a stay in the litigation proceeding for purposes of proceeding with the Process. As the litigation will have been stayed or dismissed upon the filing of the Participation Agreement, no court activity should occur while the Collaborative Process is pending. If the parties proceed with litigation, with or without new counsel, before an announced termination of the Process, it will operate as an automatic termination of the Process.

Exceptions to the disqualification of collaborative counsel handling matters in the court proceeding are to obtain the entry of an Order on a Partial Agreement reached in the Process. In this case, a Notice of Limited Appearance should be filed simultaneously with the application for the entry of an Order. Another exception is upon a full resolution having been reached in the Process where the parties need only obtain a Final Judgment of Dissolution of Marriage, having the Court adopt the final agreements reached in the Process. In this case, as the court will close the file upon the entry of the Final Judgment of Dissolution of Marriage, the filing a Notice of Limited Appearance would not appear to be needed.

For the reasons stated herein, it is recommended that collaborative attorneys use the law on unbundled legal services under Rule 12.040 to protect themselves from becoming counsel of record for all purposes in a court action.





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If you've built a healthy nest egg for your retirement, you may not be relying on Social Security benefits to cover expenses when you stop working. Still, there are important considerations to keep in mind around when and how to claim Social Security that can help you make the most of your benefits for retirement and other financial goals.

Many people have both practical and emotional considerations regarding when to claim Social Security, a system many of us pay into our entire working lives. Still, you should consider your complete financial picture in retirement before making such a big decision, however.

Maximizing your benefits, which can include postponing when you begin claiming, can help you in achieving other financial goals in retirement, such as estate planning and gifting, paying for health care expenses and giving back through philanthropy. Here's what to keep in mind when considering when to claim and how to use your benefits.

### **The Basics of Social Security Benefits**

Who can claim Social Security benefits? Generally, you're eligible to receive benefits if you've worked and paid Social Security taxes for at least 10 years prior to claiming your retirement benefits. For each year you work and pay into Social Security through taxes, you earn a minimum of four credits toward your benefits, meaning you need a minimum of 40 credits to qualify.

Though you can begin collecting Social Security benefits as early as age 62, doing so may cost you, as your permanent benefit amount could be reduced by 25% to 35%. At Full Retirement Age (FRA), which for most retirees is 66 or 67, you will be entitled to full Social Security benefits.

Continued on following page

If you can wait even longer to claim you can further boost how much you will receive each month. Your benefit may increase by an additional 8% each year you delay past your FRA, up to age 70. The maximum benefit for those who begin claiming at age 70 is currently \$4,194 a month, \$1,830 a month more than for those who start claiming at age 62.<sup>(1)</sup>

### **Social Security and Your Other Financial Goals**

If you don't need your Social Security benefits to live on in retirement, the money can be put toward other financial goals. For example, your benefits can be used to assist family members financially, can support your overall charitable giving or could be used to help defray expenses that may crop up in retirement.

The benefits can help fund a broader gifting strategy for heirs. You can use the funds to supplement outright gifts made to family members or use the money to help fund a 529 education savings plan for grandchildren or even great-grandchildren.

Social Security benefits can also be used to help fund retiree health care costs or pay for a long-term care insurance policy, both of which can be expensive even for those with a sizable nest egg.

Also, knowing you will draw steady income from Social Security can free you to invest some of your retirement nest egg more aggressively than you would have otherwise, possibly generating higher gains. Unlike other potential sources of retirement income, such as drawing down from your own savings, Social Security provides a source of funds that are indexed to inflation and will last as long as you live.

((1) Source: Social Security website, <https://www.ssa.gov/oact/cola/examplemax.html>

### **The Social Security Decision**

While no one has a crystal ball to see into the future, your personal situation should play into when you look to claim benefits. Health issues or other concerns about longevity may be a catalyst for some to claim their benefit sooner.

How and when you claim Social Security benefits is a complex decision that may have important income and tax implications. Be sure to discuss your situation with your Tax and Financial Advisors to make the best possible decision for you and your family.

Continued on following page



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Eliot Popper is a Financial Advisor in Boca Raton, FL at Morgan Stanley Smith Barney LLC ("Morgan Stanley"). He can be reached by email at [eliot.popper@morganstanley.com](mailto:eliot.popper@morganstanley.com) or by telephone at 561-393-1570. His California and/or Arkansas Insurance License # is N/A. His website is <http://www.morganstanleyfa.com/eliot.popper>.

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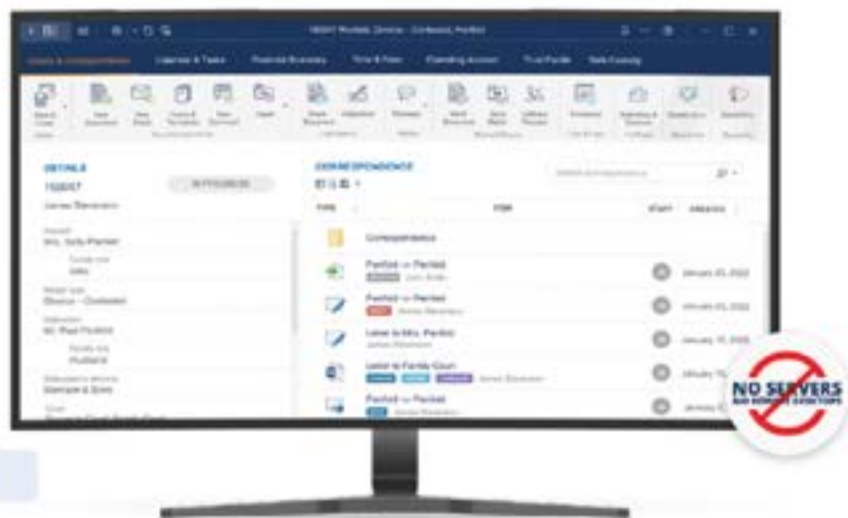
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# VOLUNTEER TO BE A MOTIVATIONAL SPEAKER TO STUDENTS

KEN STERN, ESQ. | PAST SPBCBA PRESIDENT | RETIRED CIRCUIT JUDGE

Since December 2014, The South Palm Beach County Bar Association has conducted an ongoing Community Outreach program that provides motivational speakers to address troubled youngsters as part of a day-long program periodically conducted in the Juvenile Court at the South Palm Beach County Courthouse in Delray Beach. Their appearance is part of the Alternatives to Suspension Program conducted by the Palm Beach County School Board. The students in the program are enrolled in Inlet Grove High School, a magnet school in Riviera Beach, which serves promising minority students. The Alternatives to Suspension Program is a substitute for discipline of students who have been involved in problematic behavior, and is designed to impress upon them the potential consequences for people who stray from the constructive lifestyle the school tries to instill in them.

Our Bar Association contributes to this program by having members of our Bar Association speak to these students, who have already been lectured by the Judge and have watched a "scared straight" movie presentation featuring a convicted felon who lets them know what prison life is like, and what harm wrongful behavior can do to the dreams of people who do not live constructive lives. The many South County Bar members who have been speakers over the years have discussed what factors in their own lives involved dealing with adversity and setting meaningful goals to pursue, and the fact that success is available to everyone who chooses to lead a purposeful life.

Our involvement as speakers was suggested by Judge Moses Baker, when he was presiding in the Juvenile courtroom in Delray Beach, when I asked him how our members could serve the needs of young people in our community. He told me of the alternatives to Suspension Program and asked that we provide three motivational speakers at each session. Since December 2014, except for a hiatus due to Covid, we have been providing speakers at sessions conducted before Judge Baker and his successor Judge Luis Delgado, both of whom stated that they felt our speakers were very persuasive to the students. The Hon. Melanie D. Surber is now the Juvenile Court Judge in Delray Beach, and she is enthusiastically continuing the program. We had the pleasure of providing speakers on December 14th upon the program's resumption after Covid. Gordon Dieterle, John Howe and Lee-Ann Perkins spoke at this session.

The sessions scheduled for the current school year are to be held on February 15, March 15, April 12, and May 17. If you would like to participate in any of these sessions, please contact me by email to [kdstern@gmail.com](mailto:kdstern@gmail.com). Please indicate on which dates you are available.



# Tennis Tournament



## Meet the Winners



Dozens of our Members gathered on Saturday, November 5, 2022 to spectate and play in the annual SPBCBA Bench & Barristers Tennis Tournament.

Congratulations to Sean Lebowitz, Jay Berkowitz, and Jamie Pressly, who were the individual winners of their respective brackets!





## CONFIDENTIAL, ROUND-THE-CLOCK SUPPORT IS AVAILABLE THROUGH YOUR FLORIDA LAWYERS HELPLINE

Everyone occasionally experiences problems. The helpline provides counseling resources that quickly and professionally assist you in handling problems affecting your personal or work life. Why allow problems to weigh you down? Completely confidential help is just a call away. Counselors answer the phone 24/7 to provide immediate support and assistance.

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# Signature Membership Luncheons

November

In November, 15th Judicial Circuit Chief Judge Glenn Kelley spoke about the state of the Fifteenth Judicial Circuit to a sold-out room.



January

In January, Denise Gamez with Atticus Advantage, spoke regarding 'killing the hero' mindset of small law firm owners which prohibits growth, as well as productivity tips.



Investiture of Judge Ori Silver    Hurricane Ian Relief Efforts





# Holiday Party





# COMMITTEE EVENTS

## PROBATE & GUARDIANSHIP COMMITTEE

### CLE: RAISING THE BAR WITH JUDGES BURTON AND JOHNSON

The SPBCBA's Probate and Guardianship Committee held its first CLE Luncheon of the year on October 13 at the Delray Beach Courthouse. The luncheon, which featured Judge Charles Burton and Judge Laura Johnson, was sold out with over 60 attorneys in attendance, to hear firsthand from the Judges about the changes in the Palm Beach County Circuit Court's Probate Division. Here are some bullet points in case you missed this insightful event:

- Judges Burton and Johnson have disposed of over 1,500 cases and filed, between them, more than 15,000 orders, in the 3 months since taking over the division.
- Zoom is here to stay, and the Judges are willing to hear hybrid matters if both sides agree
- Attorneys must use the Probate checklist, or else you will receive a status order
- If you've filed a Last Will and Testament, be sure to check with the clerk that the Will case is merged into the Probate. If your motion is emergent, and you're filing an accompanying order, note the urgency in the comments in OLS.
- To cut down on time to receive orders, all motions and orders must be labeled. Additionally, if you upload your proposed order in OLS prior to your motion or petition appearing on the docket, it will be rejected. To avoid that, you may simply wait for your motion to be docketed, or attach your e-filed motion with the order on OLS and explain in the comments section what you've done.
- You can set 15- and 30-minute hearings online. However, once you set a hearing, your pleading is taken out of the normal course, and your requested order will be delayed. Longer hearings are offered online in 30-minute blocks, but you must call the JA if you need more than that—you cannot simply take 4 blocks for a two-hour hearing. If you have a hearing coming up and wish to file proposed orders, do it one day before the hearing, otherwise, it will be rejected. If you file your agreed orders after the hearing, put the date of the hearing in the comments in OLS.



### THANK YOU TO OUR PROBATE & GUARDIANSHIP COMMITTEE SPONSORS!





# COMMITTEE EVENTS

## LABOR & EMPLOYMENT COMMITTEE

### SUIT UP! JOINT EVENT WITH SOUTH PALM BEACH COUNTY CHAPTER OF FAWL

The Labor and Employment Law Committee of the SPBCBA and South Palm Beach FAWL hosted a professional clothing drive on January 26, 2023. The event was attended by many community members and over 60 suits, along with other professional clothing and accessories, were donated to Dress for Success. The Executive Director of Dress for Success, Ms. Joe Ann Fletcher, was also in attendance and said a few words about the organization and its mission. The event was sponsored by Scott Law Team and First Citizens Bank.



# COMMITTEE EVENTS

## CIVIL PRACTICE COMMITTEE

### CLE: RECENT CHANGES TO THE FLORIDA RULES OF CIVIL PROCEDURE

On October 25, the Civil Practice Committee hosted a luncheon CLE titled: "Recent Changes to the Florida Rules of Civil Procedure," featuring a detailed discussion of the changes in the Rules of Civil Procedure by Max Rudolf and Jenny Bautista of Akerman LLP, and a view from the bench presented by Judge Luis Delgado. The event was live, at the offices of Sachs Sax & Caplan in Boca Raton. The event was sponsored by Lesser, Lesser, Landy & Smith, PLLC.

The changes to the Rules focus on communications technology post-Covid. Our speakers described amendments to procedures for conducting (and noticing) hearings and depositions, issuing subpoenas, taking evidence, administering oaths and managing jurors, as well as changes to mediation and arbitration practice, county court actions, small claims matters, criminal procedure, probate matters and traffic trials. Mr. Rudolf and Ms. Bautista also addressed new rules affecting pro se litigants, who now must designate an email address for service. They then addressed amendments to the Rules of Appellate Procedure, also focused upon communications technology.



**THANK YOU TO OUR CIVIL PRACTICE COMMITTEE SPONSORS!**





# COMMITTEE EVENTS

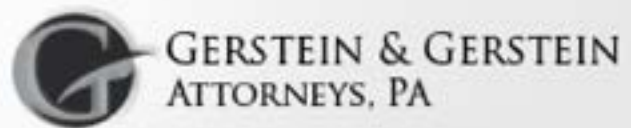
## SOLO & SMALL FIRM COMMITTEE

### CYBERSECURITY AND BANKING

In October, the Small & Solo Firm Committee hosted a luncheon at The Capital Grille, in Boca Raton. The event was sponsored by First Citizens Bank and Gerstein & Gerstein Attorneys, P.A. Chantal Brassard, from First Citizens Bank, spoke about cyber security & banking and discussed how attorneys can better protect their bank accounts. Some of the red flags touched on were that attorneys should be aware of cashier's checks drawn on foreign banks, requests for funds to be wired to a foreign country, no face-to-face contact with clients, email addresses designed to look legitimate and clients that do not pay upfront.



**THANK YOU TO OUR SOLO & SMALL FIRM COMMITTEE SPONSORS!**



# COMMITTEE EVENTS

## FAMILY LAW COMMITTEE & ALTERNATIVE DISPUTE RESOLUTION COMMITTEE

### JOINT NETWORKING HAPPY HOUR!

Members of the Family Law and Alternative Dispute Resolution Sections mixed, mingled, and enjoyed a fantastic selection of wine and food at the Second Annual Joint Family Law/ADR Happy Hour on January 11, 2023. This pilot happy hour at Sixty Vines in Boca Raton proved to be a great success and both sections are excited to host events here in the future.



**THANK YOU TO OUR FAMILY LAW COMMITTEE SPONSOR!**





# COMMITTEE EVENTS

## MENTORSHIP COMMITTEE

### TABLE FOR TEN WITH FORMER JUDGE JESSICA TICKTIN

In October, the Mentorship Committee hosted a "table for ten" dinner at Max's Grille in Mizner Park, hosted by Former Judge Jessica Ticktin. Ms. Ticktin offered advice about using time management skills to achieve goals, and encouraged attendees to give themselves credit for even small accomplishments.



# COMMITTEE EVENTS

## CRIMINAL LAW COMMITTEE

### WHEN TESTIMONY IS NOT PEACHY...PRESERVE IT THE RIGHT WAY

In November, the Criminal Law Committee held a CLE event with the Palm Beach Association of Criminal Defense Lawyers. The speaker was Scott Pribble, Assistant Public Defender and Major Crimes Division Chief. Mr. Pribble presented on the topic of impeachment, giving examples of how to structure questions, and providing relevant case law.





# COMMITTEE EVENTS

## JAVA WITH THE JUDGES

Members of the Young Lawyers Section, Probate Section, and the Family Law section gathered for Java with the Judges on October 26th for good conversation and breakfast with the South County judiciary. Thank you to Judges Scher, Burkhardt, Burton, Silver, and Surger for attending!



# YOUNG LAWYERS SECTION

## OFFICERS & BOARD OF DIRECTORS FOR 2022-2023



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# YLS President's Message

It is hard to believe that we are halfway through our Bar Year! As I reflect back on the last quarter, I am grateful for all those who have continued to support our Young Lawyer's Section (YLS), whether it is through our social media accounts, contributing and/or attending our YLS events, assisting with our fundraising efforts, or mentoring any of our members. Because of all of your continued support, our YLS is proving to have another successful year of growth, and in the spirit of giving, has also continued to advance its philanthropic efforts in the community.



**Emily Pineless**

Our YLS continues to host a variety of events from continuing legal education courses, networking happy hours, mentorship opportunities, and gathering items for those in need. For instance, in October 2022, our YLS held a CLE as a part of its "Adulting 101" seminar series, a presentation about "Claims, Claims, Claims", which discussed the ins and outs of handling a property and personal injury claims. Then, in November 2022, despite Hurricane Nicole trying to steal our thunder, we were able to reschedule our YLS Thanksgiving Food Drive & Happy Hour at Tap 42, which was a great turnout for networking with lovely company, fantastic Florida "winter" weather, and amazing food. With everyone's contributions, we were able to donate a large amount of food to benefit families of students at Pine Grove Elementary located in Delray Beach, Florida. In December 2022, our YLS also collected toys at the annual holiday party for our South Palm Beach County Bar Association, which were also donated to Pine Grove Elementary. Additionally, our YLS hosted a 50/50 raffle at the SPBCBA annual holiday party, where the proceeds also benefitted Pine Grove Elementary for their Safety Patrol Fund! Our contribution assisted ten (10) Safety Patrol students to attend a trip to Washington D.C. this February.

After some well-deserved time to relax with family to enjoy the holidays and reflect on how thankful we are for everyone's continued support, our YLS is planning some incredible events for this second half of our Bar Year, so please be on the lookout! In January, we held an event with the Health & Wellness Committee to kick start our fitness goals and learn all about Orangetheory Fitness. On February 8th our YLS and the Small & Solo Committee are also hosting an important CLE with a representative of the Florida Bar to learn how to tackle issues with the Florida Bar, which includes an overview of the disciplinary process and avoiding/limiting bar grievances. Not to worry, we also have some fun social events coming down the pipeline, so we can enjoy even more our Florida "winter" weather and will host our annual Law Day later this Spring, so be on the lookout for our upcoming events!

Thank you all for your continued support and attendance at our YLS events. We are excited to keep our momentum going, meet new people, and host a number of other meaningful events!

Warmest wishes,

*Emily Pineless*



# YLS EVENTS RECAP

## ADULTING 101 SERIES: CLAIMS CLAIMS CLAIMS

Our YLS hosted its bi-annual Adulting 101 Series called "Claims, Claims, Claims", a CLE dedicated to learning about how to navigate the process of handling a personal injury and/or property damage claim. We were able to gain valuable information about this process from the perspective of pre-suit claims to those in litigation from our esteemed speakers, Wilnar Julmiste of Julmiste Legal, Anya Greenberg of Greenberg & Strelitz, P.A., Rachel Schrager of Kogan & DiSalvo, and Chad Robinson of Chad Robinson, PLLC. This lunch and learn event at Sachs Sax Caplan had a well-attended, intimate group of lawyers of a variety of backgrounds who benefited from learning about the claims process for their clients on a professional level, but also took away valuable information to take with them into their personal lives. Thank you again to our sponsors Greenberg & Strelitz, P.A. and Chad Robinson, PLLC for their support of this incredibly informative event!



## THANKSGIVING FOOD DRIVE & HAPPY HOUR

Despite Hurricane Nicole trying to ruin our plans, we were able to reschedule our annual YLS Thanksgiving Food Drive & Happy Hour at Tap 42 on November 15, 2022, where we got to see some old friends and a number of new colleagues to our YLS! It was a wonderful way to kick start the holiday season by networking and relaxing for a great cause. In the spirit of giving, all those who attended (and even those who were unable to attend, but wanted to still contribute) donated Thanksgiving food items, which our YLS donated to Pine Grove Elementary to ensure that the students and their families had a nice Thanksgiving meal. Thank you again to all those who donated and to our event sponsor, Sachs Sax Caplan! We had a great time for a meaningful cause.





# YLS EVENTS RECAP



## TOY DRIVE & SAFETY PATROL DONATION

Our YLS collected toys to donate for its Annual Toy Drive at the SPBCBA Holiday Party on December 1, 2022 at Bocaire Country Club. With all the donations, we were able to add to the holiday spirit by giving students at Pine Grove Elementary a wide variety of toys for all ages. As a YLS Board, we also donated two (2) bikes with safety helmets to Pine Grove Elementary!

At our marvelous SPBCBA holiday party, we also collected money from a 50/50 raffle to benefit Pine Grove Elementary Safety Patrol students for their upcoming trip to Washington D.C.! Thank you again to all those who donated and dropped off items for these philanthropic efforts.

## THANK YOU YLS ANNUAL SPONSORS!





# APPLY TO SERVE ON THE SPBCBA YOUNG LAWYERS SECTION BOARD OF DIRECTORS

Applications Being Accepted Until March 3, 2023  
For South Palm Beach County Bar Association  
YLS Board Position

All attorney members who are interested in joining the Board of Directors of the Young Lawyers Section of the South Palm Beach County Bar Association are invited to submit a letter of interest and resume by noon on March 3, 2023.

Please send your materials via email with "YLS Board Application" in the subject line to: [emily.pineless@gray-robinson.com](mailto:emily.pineless@gray-robinson.com) and [jdicker@ssclawfirm.com](mailto:jdicker@ssclawfirm.com)

You must meet the following requirements to be on the YLS Board of Directors:

1. Be a member in good standing with the South Palm Beach County Bar Association.
2. Be under the age of 40 as of May 1, 2023, or be admitted to a state Bar for a period of under ten (10) years as of May 1, 2023 (whichever is later).
3. Be able to attend monthly board meetings by Zoom or in Boca Raton at 12:00 p.m. once a month.
4. Be able to attend the SPBCBA YLS events, of which there are approximately 10 throughout the course of the year.
5. Be able to chair at least one YLS event during the course of the year.

The Board will consider all submissions and schedule zoom interviews the week of March 6, 2023. The Board will make its determination at the March 2023 board meeting. YLS Board of Directors members are encouraged to attend the SPBCBA Gala on May 6, 2023 where they will be sworn in as members of the YLS Board.

Thank you for your interest,  
Emily L. Pineless, YLS President



# IN MEMORIUM

## PAST PRESIDENT MICHAEL GORA

BY JEFFREY WASSERMAN, ESQ.

Michael Gora, a past President of the South Palm Beach County Bar Association, passed away on December 24, 2022. Mike was born in 1941 and was sworn into the practice of law in Florida in 1965. He practiced for 56 years before retiring in 2021.

Mike began his legal career in Broward County, where he became a partner with Art Wolfe at Wolfe and Gora in Ft. Lauderdale. He moved his practice to Boca to become a partner with Hodgson, Russ in 1990 where he stayed until 2005 when he joined Shapiro, Blasi, Wasserman & Gora and where he remained until he retired. Mike was the President of the South Palm Beach County Bar Association in 2003-04.

Mike was Mr. Boca Raton, having been president of the Chamber in 2001 and an active member of many organizations in Boca Raton for many years. He was well known throughout the Boca community and looked up to as a leader.

Mike was extremely bright and the consummate professional. He could have been whatever he had chosen to be in life. He was the sportswriter for the University of Florida newspaper in college; and became an excellent photographer in his later years. He was Board certified in Marital and Family Law and he was extremely meticulous in his practice. He was highly regarded as an attorney and respected as a gentleman in our profession. We lost a friend when he passed in December.



# IN MEMORIUM

## **HARREEN BERTISCH**

**BY ROBIN BRESKY, ESQ.**



We fondly remember Harreen Bertisch, a wonderful friend and colleague to us all. Harreen supported the Legal Aid Society of Palm Beach County for over 28 years where she became their Development Director. Harreen worked diligently to raise funds to support the legal needs of the underprivileged in our community. She planned countless events to assist in that endeavor. Her kindness and compassion were an inspiration to us all. When Harreen was not at the Legal Aid Society, she was spending time with her loving family, her husband Bob of 54 years, their children, and grandchildren. Harreen was truly one of a kind and will be forever missed.





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Jessica Tickin, Esq.

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THE SOUTH PALM BEACH COUNTY  
BAR ASSOCIATION

# SAVE THE DATE

## 61st Annual Installation Gala

*And Recognition of Our Jurist of  
the Year-*

*The Honorable Luis Delgado*

Please plan to join us for the installation of the 2023-2024  
President, Christopher A. Sajdera,  
Officers and Directors of The South Palm Beach County  
Bar Association, the Young Lawyers Section, and  
honoring of the 2023 Jurist of the Year.

SATURDAY MAY 6TH, 2023 AT WOODFIELD COUNTY CLUB



# **SOUTH PALM BEACH COUNTY BAR ASSOCIATION'S**

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