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CABA BRIEFS

SUMMER 2007



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President's Message



PROVIDING FOR THE COMMUNITY AND THE LESS FORTUNATE

CABA has a long and impressive history of service such as helping the less fortunate in community events, promoting equal opportunity, joining other bar organizations to help them reach their goals, and providing opportunities for our members. CABA always sets its sights high and surpasses its goals year after year.

The board's dedication to service on behalf of its members and the community is illustrated by the achievement of its individual directors — Bob Pardo was named to the Florida Bar Foundation; Marlene Quintana will be CABA's representative serving as a non-voting member at The Florida Bar; and Luis Suarez was recently appointed to serve on Florida's Standing Committee on Fairness and Diversity. Of course, we cannot forget that our very own Past President, Francisco "Frank" Angones, is now President of the Florida Bar, serving the entire state.

CABA not only serves but also seeks to provide you, its members, with opportunities. Our seminar in Key West was a tremendous success! Corporate counsel from all over the United States, as well as local corporate counsel, gave great tips on how to market your law firm. CABA members were able to meet these experts one on one and introduce themselves and their firms to corporate America. Equally important, CABA once again was able to make a contribution towards the preservation of the San Carlos Institute, a beautiful historic facility in downtown Key West which served as host for most of the activities during the seminar. Event participants from our sister organizations were able to visit the San Carlos Institute and learn about our traditions and the incredible talent of our members.

For those of you who have not had the time to get involved, don't worry as opportunities abound. Our Pro Bono Committee is gearing up for our annual fundraiser which serves as the primary source of revenue for the pro bono clinic. The fundraiser will be held at Fairchild Tropical Gardens in October and the list of participating artists and restaurants continues to grow! Be on the look out for the invitation. This will be one of our premier events for the year. For those men and women who have already volunteered and accepted pro bono cases throughout the year to help the less fortunate, my deepest gratitude.

I also want to thank all our members who got down on the ground and worked up a sweat on Saturday, June 9th during the Hands On Miami Project. CABA's team was one of the largest! We painted, landscaped, and cleaned the grounds of the W.I.N.G.S. for Life Program, a safe haven for girls between the ages of 13-17 who are pregnant and facing legal troubles. By doing so, we made a difference in their lives. CABA's team included sponsors such as Lyan Fernandez of Total Bank and Judges Steve Leifman, Bob Diaz, Catalina Avalos, George Sarduy, and Tony Arzola.

If you want to get involved, call me. I am here to serve you.

Sincerely,

Elizabeth Hernandez
President

Editor's Note



Dear Readers,

I received the following letter from one of our members and decided to share it with you:

Dear Editor,

I thought this letter would be appropriate for your consideration at this time. My family arrived in South Florida many years ago with nothing but our personal belongings. My father was a professional who wound up working as a janitor. My mother found a job cleaning floors. I spent my early years working at a fast food franchise and continued to work my way through law school. I joined your organization and found many other persons, men and women, who had similar life experiences.

Today, I belong to CABA and am very successful. I bought a new BMW, have a Rolex watch, and live in a gated community. I just want to assure everyone that the American dream is alive and well. There is justice in America.

Sincerely,

Name Withheld by Request

The letter begs the question: What is the American dream? What is justice in America? How do you define success? Do you measure success by the car you drive? the clothes you wear? where you live? how many trials you win? how much money you make? your job title? the awards you receive? Or, do you define success by how much you love and serve?

Years ago, as a high school student at Our Lady of Lourdes Academy, I vividly remember the sisters telling us, "To whom much is given, much is expected." They emphasized the importance of becoming a person of value, not of success. In the words of Albert Schweitzer: "I don't know what your destiny will be, but one thing I do know: the only ones among you who will be really happy are those who have sought and found how to serve."

This issue is all about service. We highlight just some of those who have heeded the call to serve such as Francisco Angones, our past President, who fills us with pride as he takes over the reins as President of the Florida Bar. We recognize those who serve as mentors to our community's law students and those attorneys who donate their time and expertise to CABA's Pro Bono Project. We remember Ken Feldman, a longtime member of CABA who recently passed away and served as Director of Pro Bono Services at St. Thomas University School of Law. These are just a few examples that hopefully inspire all of us to go outside ourselves and get more involved. If we all take the time to look around at our world, I am sure we can all agree that we are truly blessed. If you don't believe me, just take a drive down to some parts of Little Havana and Liberty City. If that does not move you to serve, nothing will.

Remember, to whom much is given, much is expected.

Sincerely,

Marie E. Mato
Editor-in-Chief

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CABA'S PRO BONO PROJECT

by Manuel L. Crespo*



As the largest minority bar association in the State of Florida, one of CABA's stated missions is to give back to the community by providing legal assistance to the indigent Hispanic/Cuban-American community. In furtherance of this mission, CABA established the CABA Pro Bono Project (the "Project") in 1984, to serve indigents in Miami-Dade County (those meeting 125% of Federal Poverty Guidelines).

For a period of time prior to September 2006, the Project had been housed and administered by the Florida Immigration Advocacy Council (FIAC) and focused on immigration issues. CABA's Board of Directors had a grander vision for the Project and hoped to marshal the resources of its membership to provide a greater scope of services to its population. To that end, CABA partnered with Abriendo Puertas, a non-profit organization which provides social services to the indigent community. Abriendo Puertas now provides the necessary office space in Little Havana for CABA to better and more directly serve the community. In 2007, the independently-run project has, to date, more than doubled its case intake. It has accepted 416 cases, closed 165, and logged over 156 attorney pro bono hours.

CABA's vision is to supplement the efforts of the other legal service and pro bono legal programs in Miami-Dade County, such as Legal Services of Greater Miami and the Put Something Back Program. As a minority voluntary bar association well known in the Hispanic community, there is a natural gravitation by the Spanish-speaking indigent demographic to seek help from a group they perceive can identify with them linguistically and culturally. Otherwise, many of these same people might not seek help, believing that they may not be understood, literally and figuratively.

The challenges of establishing this type of program are significant, but not insurmountable. The biggest challenge is funding. Funding is necessary to hire administrative staff to assure prompt referrals and placement with volunteer member attorneys. CABA receives assistance from the Florida Bar Foundation, which is itself partially funded by interest from the trust accounts of Florida attorneys. Based on its objectives and results, CABA has received grant money from the Florida Bar Foundation. Additionally, CABA holds an annual fundraiser for which all net proceeds go directly to the pro bono project. CABA members also make donations to the project when they pay their annual dues or at different events throughout the calendar year. Florida's Office of the Attorney General has recognized our efforts and last year awarded the Pro Bono Project a service contract of \$100,000.00 to help its expansion. Funding this type of project is a creative endeavor and it is imperative to explore all possible state funding allowances or contracts, partnerships with indigent service organizations, and grants.

There is also the challenge of obtaining commitments from attorneys to volunteer their time. However, by focusing recruitment efforts to its own membership, CABA's Pro Bono Project is enjoying a positive response. While anecdotal in nature, we believe our success in finding volunteers to take pro bono cases rests in the pride our members take in their organization and the wish to see this initiative grow and succeed. Perhaps the more intimate nature of a smaller bar organization makes the expense of donating time more palatable.

CABA strongly believes that voluntary bars, particularly minority volunteer bars, can serve a larger purpose than providing networking opportunities or advancing the interests of its members. Providing pro bono services is a practical and tangible way to fulfill a volunteer bar's mission of raising awareness of issues facing its community, assuring the protection of legal rights for those most vulnerable, and fostering trust and respect for the legal profession. CABA is always honored to assist any other organization interested in establishing similar projects as well as learning from others with established programs.

You can get involved as a volunteer lawyer by contacting Gigi Wolf-Blanco at 305-646-0046 or gigi@cabaonline.com. For more information, you can also visit CABA's website at www.cabaonline.com.

*Manuel L. Crespo serves on CABA's Board of Directors and chairs the Pro-Bono Committee. He is a solo practitioner specializing in residential and commercial real property transactions and litigation concerning contract and property disputes.

EL DIA DEL ABOGADO CUBANO

On Friday, June 8, 2007, CABA celebrated with attorneys from the Havana Bar Association in Exile (“El Colegio de Abogados de La Habana en el Exilio”) El Día Del Abogado Cubano (The Day of the Cuban Attorney) with a happy hour at Caramelo Restaurant in Coral Gables. El Día del Abogado Cubano is celebrated every year on June 8. The day was conceived in 1945 by Jose Humberto Gomez Quintero to honor the legacy of Ignacio Agramonte y Loynaz (1841-1873), a Cuban attorney and soldier who fought for Cuban independence from Spain.



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The firm is committed to diversity and was most recently recognized by the Defense Research Institute in 2006 with its presentation of the Law Firm Diversity Award. Other diversity accolades have come from the Minority Corporate Counsel Association, which has twice honored the firm with the Thomas L. Sager Award.

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PRACTICE POINTERS:



TEN COMMON ASSET PROTECTION AND LIABILITY MINIMIZATION MANEUVERS

by Eduardo R. Arista*

Your clients worked hard to get to where they are, but life is not fair, and there are a lot of people out there who want what they have. The following is a non-exhaustive list of some common asset protection and liability minimization maneuvers. These tactics should be made "by prescription" only. In other words, if not carefully planned and executed by an asset protection expert, you could end up doing your clients more harm than good. For example, there are numerous income tax, sales tax, documentary stamp tax, insurance, estate tax, estate planning, regulatory, business, personal and practical considerations that must be carefully evaluated before implementing any of these maneuvers. Additionally, one must analyze the facts and circumstances existing at the time to gauge whether any of these moves might be considered a fraudulent conveyance. That being said, here is a list of items that you may want to consider discussing with your clients:

1. Convert Corporations to Limited Liability Companies or Limited Partnerships to limit the owners' judgment creditor to a charging order remedy. If carefully planned and implemented, this can be a tax-neutral transaction in which the only change your client sees is the suffix in the entities name (e.g. "Inc." to "LLC").
2. Minimize or eliminate personal involvement in business operations to avoid personal or vicarious tort liability. Avoid signing any personal guarantees, or at least carefully draft limitations on their scope and duration. The "corporate veil" won't protect your client if they step in front of it.
3. Retitle most property (e.g. non-homestead real estate) in the name of a Limited Liability Company with a properly drafted operating agreement. The LLC statute provides a specific set of comprehensive rules governing the relationship among the owners and the Company. Educate your clients as to the default LLC rules, such as non-transferability of interests without the unanimous consent of the remaining members. Unless by chance all those rules exactly mirror the actual agreement of the parties, carefully draft out of the default rules while understanding the statutory limitations. Be especially careful not to draft a provision (or use a form with provisions) that an owner's judgment creditor might use to creatively circumvent the default asset protection provided by statute.
4. Convert non-exempt assets such as cash, stocks, and bonds into exempt assets such as retirement accounts, annuities, and life insurance. After conducting a financial analysis of the relative interest rates, pay off any mortgages on homestead property by leveraging investment property.
5. Get married, stay married and don't let your spouse die. Tenancies by the Entirety are an excellent asset protection tool, but they last only as long as the marriage and there are exceptions. Enforceable pre and post-nuptial agreements are also an excellent tool for both asset protection and estate planning, with full disclosure to your client regarding their limitations and the potential tax consequences when the agreement is invoked.
6. Establish and maintain adequate internal documentation for all business entities, including minutes of annual meetings, resolutions, consents, bylaws and operating/shareholder/partnership agreements, as applicable.
7. Separate business assets and operations into distinct legal entities, and separate investment properties into individual legal entities (i.e. don't keep all your eggs in one basket). This structuring must be carefully designed, implemented, and maintained in order to ensure a court will respect the separate legal existence of the entities, as well as to avoid any tax impact.
8. Avoid or incorporate any form of joint venture, general partnership or joint tenancy. One of the most common pro se asset protection mistakes is to retitle property in a joint tenancy with another family member expected to inherit the property in lieu of proper estate planning.
9. Consider using domestic and/or foreign asset protection trusts understanding what can and cannot be accomplished. A popular misconception is that a client's Revocable / Living Trust provides asset protection and/or tax benefits. The purpose of that estate planning technique is to keep those assets held by the trust out of your client's probate and guardianship estates.
10. Purchase enough of the right insurance with adequate coverage limits, including general business, business interruption, property and casualty umbrella, and, if applicable, malpractice insurance. However, remind your clients that: 1) what their insurance agent told them is covered may not be what their policy says; 2) their coverage has deductibles and limits that may not be practical considering the amount of their premiums; and 3) if their policy accidentally expires, they could have a gap in coverage.

*Eduardo R. Arista, CPA, Esq., is a CABA member practicing in Coral Gables, FL and Washington, DC. (www.AristaLaw.com) in the areas of business, tax, and estate planning.

THE LAW REVIEW

by Edward G. Guedes*



This column is intended to provide CABA members with an update of recent case law decided by the state and federal appellate courts, which might be of interest. The listing is by no means intended to be exhaustive.

Some preliminary remarks seem appropriate in light of some the reported attorney's fee decision discussed in this article (see *De Vaux*, below). Florida's appellate courts appear to be focusing more intently on the issue of awarding appellate fees under revised section 57.105, Florida Statutes, when a litigant pursues an appeal which the court believes is without legal foundation. As can be seen from the cited decision, what constitutes a reasonable basis for an appeal is not always easy to ascertain. The danger is particularly heightened when a litigant and his or her attorney have become convinced of the righteousness of their cause and are unable to step back from the litigation and consider with a cold eye how an appellate court might view the appeal. If ever there was a reason to consult appellate counsel to look objectively at a case, this is it. Otherwise, what was merely a disappointing trial court loss might become a financially onerous appeal.

Florida Decisions

***Horowitz v. Plantation Gen. Hosp. Ltd. P'ship*, 2007 WL 1498968 (Fla. May 24, 2007)**

In a unanimous decision, the Florida Supreme Court held that hospitals have no civil liability for the failure of its staff physicians to comply with section 458.320, Florida Statutes, which is intended to ensure the financial responsibility of physicians. The plaintiff had recovered a judgment against her doctor, but could not collect on it because the doctor failed to obtain malpractice insurance or otherwise comply with the requirements of section 458.320. The plaintiff then sued the hospital for the first \$250,000 of the judgment, asserting that it had a duty to ensure that physicians with staff privileges at the hospital were in compliance. The court eschewed the opportunity to issue a narrower ruling on the facts of the case – specifically, that the services rendered by the doctor were rendered at his private office and not at the hospital – and instead adopted the categorical rule that the Legislature did not intend to make hospitals liable for physicians' failure to meet statutory financial obligations. In doing so, the Court effectively declined to expand the corporate negligence doctrine – which holds hospitals liable for negligent hiring of staff physicians – to the financial responsibility arena.

***Nevin v. Palm Beach County School Board*, 2007 WL 1518269 (Fla. 1st DCA May 25, 2007)**

The court reaffirmed that an expert who is retained by a party to provide advice but who is not going to testify is not required to submit to deposition or disclosed his reports. The expert's opinions are considered work-product and are privileged. What is interesting about the case is that the court refused to find a waiver of the privilege resulted from the party's failure to serve a privilege log, as required by Fla. R. Civ. P. 1.280(b)(5). The court held that "[w]aiver for failure to file a privilege log should not apply where assertion of the privilege is not document-specific, but category specific and the category itself is plainly protected." The court also justified its holding by concluding that the filing of the privilege log would have been a futile gesture since its sole purpose was to allow the other party to evaluate the validity of the privilege asserted and the party knew from the motions for protective order that the privilege asserted was based on the status of the retained expert as a non-witness.

***Gray v. Gray*, 2007 WL 1213676, 32 Fla. L. Weekly D1093 (Fla. 1st DCA Apr. 26, 2007)**

If a temporary injunction is entered against you, you had best decide whether you are going to appeal the decision or seek to have the trial court dissolve the injunction. You cannot, however, do both. In this case, once the enjoined party moved to dissolve the injunction and participated in the hearing, the appellate court dismissed the appeal as moot.

***De Vaux v. Westwood Baptist Church*, 953 So. 2d 677 (Fla. 1st DCA Apr. 4, 2007)**

The plaintiff attempted to obtain specific performance of an alleged contract for the sale of land that was evidenced by a written offer containing a number of specific terms and a copy of the church's board minutes reflecting acceptance of the offer and directing the church's trustees to work out the details. The trial court dismissed the complaint with prejudice, concluding the alleged agreement violated the statute of frauds and lacked critical terms. The plaintiff rashly appealed. The First District affirmed on all grounds and held that because the plaintiff and his lawyer "made objectively groundless arguments on appeal, a monetary sanction is appropriate." The purpose of the sanction was to "encourage lawyers to give thoughtful consideration as to whether there are non-frivolous grounds for an appeal...and discourage lawyers from raising meritless appellate arguments on the chance they will 'stick.'" The court concluded its opinion quoting caustically from a 1987 Seventh Circuit decision: "The filing of an appeal should never be a conditioned reflex. 'About half the practice of a decent lawyer consists in telling would-be clients that they are damned fools and should stop.'" Take heed.

For other relevant recent cases, see *Bierlin v. Lucibella*, 2007 WL 1342534 (Fla. 4th DCA May 9, 2007) (reversing trial court's refusal to award section 57.105 fees and noting an earlier award of appellate fees in the case); *Morales v. Marques*, 931 So. 2d 169 (Fla. 5th DCA 2006) (awarding appellate fees) and, of course, the case that started this new trend, *Boca Burger, Inc. v. Forum*, 912 So. 2d 561 (Fla. 2005), and Justice Cantero's at times scathing opinion.

***Fleck v. State of Florida*, 2007 WL 1484491 (Fla. 2d DCA May 23, 2007)**

In this case, the Second District reaffirmed that the proper inquiry when a criminal defendant seeks to represent himself or herself at trial is not whether the defendant is competent to represent him or herself, but rather whether he or she is competent to waive the right to counsel. The court reversed a conviction after the trial court erroneously declared that the defendant was not competent to represent himself and imposed a public defender's assistance.

***LeFave v. Bordonaro*, 2007 WL 1484999 (Fla. 2d DCA May 23, 2007)**

Just a reminder: you can't have your cake and eat it, too. At least, not when it comes to the positions you take in court. Defense counsel objected to a plaintiff's attempt to get a second independent medical examination in a traffic accident case because nothing had changed factually that would have justified the new examination. The trial court agreed and prohibited the second IME, but then defense counsel gilded the lily by arguing to the jury during closing that the failure of the plaintiff to bring in another neurosurgeon must have meant that the plaintiff was afraid of what the second doctor might have said. Even under an abuse of discretion standard, the appellate court found that this argument constituted jury deception and reversed the \$968,000 verdict.

***South Motor Co. of Dade County v. Doktorczyk*, 2007 WL 1217922, 32 Fla. L. Weekly D1074 (Fla. 3d DCA Apr. 25, 2007)**

Be careful when you decide how to plead a particular claim because the courts are not necessarily going to salvage your claim from a fatal error by re-couching it in other terms. In this case, the plaintiff asserted a county court claim under the Florida Deceptive and Unfair Trade Practices Act, but did so outside the limitations period and lost on summary judgment. The circuit court appellate division reversed the county court's summary judgment finding that because the deception involved a written instrument (a financing agreement) and payments had been made under the agreement, the partial payment tolling exception found in section 95.051(1)(f), Florida Statutes, was applicable. The Third District on certiorari review quashed the circuit court's decision finding that the statutory FDUPTA claim pled in the complaint, governed by a four-year limitations period, could not be reworded and converted by the court into an action based on a written instrument subject to the partial payment tolling exception.

***Lazcar Int'l, Inc. v. Caraballo*, 2007 WL 837197, 32 Fla. L. Weekly D769 (Fla. 3d DCA Mar. 21, 2007)**

A word to the wise who submit briefs to the Third District: in reinstating a final default judgment that the trial court had vacated because the complaint arguably did not state a definitive claim because of its use of the term "and/or," the court took the opportunity to decry the practice: "In another era, our high court commendably denounced the use of the phrase 'and/or' as 'one of those inexcusable barbarisms...sired by indolence and dam[n]ed by indifference [which] has no...place in legal terminology.... The coiner of it certainly had no appreciation for terse and concise English." Indeed.

***Regalado v. Cabezas*, 2007 WL 1062974 (Fla.App. 3 Dist.), 32 Fla. L. Weekly D939 (Fla. 3d DCA Apr. 11, 2007)**

We all know that arbitration awards are notoriously difficult to set aside. If we needed a reminder, this case provides it. In this shareholder derivative action, the parties presented to the arbitrator the issue of whether payments improperly made should be returned to the health services corporation on behalf of which the action was brought. The arbitrator entered an award finding improper payments had been made, but awarded the damages to the individual shareholders and not the corporate entity. Even after noting that an arbitration award may be vacated when the arbitrator exceeds his or her authority, the appellate court upheld the award because the mere fact that the arbitrator had crafted relief which the court, itself, could not have provided, was not a basis to vacate the award.

***Whitney Info. Network v. Council of Better Bus. Bureaus, Inc.*, 2007 WL 1425504 (Fla. 4th DCA May 16, 2007)**

In denying a certiorari petition seeking review of an order precluding discovery on the grounds that relief could later be obtained on direct appeal, Judge Klein concurred specially to point out that the Second, Third and Fifth Districts all review orders denying discovery by means of a certiorari petition, while the First District does so on occasion. While not urging so in the particular case, the judge expressed a willingness in an appropriate future case to have the Fourth District revisit its "hard and fast rule" against such petitions. There's still hope for a kindler, gentler Fourth in terms of discovery disputes.

***Hayes v. State of Florida*, 2007 WL 1223452, 32 Fla. L. Weekly D1096 (Fla. 5th DCA Apr. 27, 2007)**

Don't forget: if you have an issue with the selection of the jury, it is not enough merely to make a contemporaneous objection. If you wish to preserve the issue for appeal, you must renew the objection (or motion to strike) before the jury is sworn in, otherwise the prior objection is waived. This has been a long-established rule of error preservation, but it merits repeating given the significant, adverse consequences that result from failing to take the appropriate steps to preserve the jury selection issue.

***Thorpe v. Gelbwaks*, 953 So. 2d 606 (Fla. 5th DCA Mar. 16, 2007)**

A plaintiff who seeks to assert personal jurisdiction over an out-of-state defendant on the grounds that the defendant committed a tort against the plaintiff within the state is not, at the initial pleading stages, required to prove that the tort was actually committed. In reversing the trial court's order of dismissal, the Fifth District observed that the proper inquiry in such circumstances is whether the complaint adequately alleges that the tort was committed by the defendant within the state. The filing of an affidavit by the defendant disavowing any tortious activity does not shift the burden back to the plaintiff to establish that the tort occurred. If a defendant is going to oppose personal jurisdiction in a tort claim, what he or she submits needs to target the fundamental allegation that a tort occurred in the state rather than the fact that he or she did not commit it. For example, an affidavit could be filed that acknowledged that the incident occurred, but that it occurred elsewhere. Or, an argument could be raised that the facts alleged do not establish a tort claim.

The Last Word...

Finally, although this Fourth District decision – *Funny Cide Ventures, LLC v. The Miami Herald Pub. Co.*, 2007 WL 1426986 (Fla. 4th DCA May 16, 2007) – does not commend itself for its broader holding, the unique and separate opinion (interestingly, neither a concurrence nor a dissent) filed by Judge Farmer merits a read, if for nothing else than the interest it has generated. In a case already distinct for its involvement of horse racing and allegations of defamation and horse exhaustion, Judge Farmer took it to a new level in his special opinion. Rather than fall short in an effort to characterize the opinion, I recommend it to you all. You will not regret it.

*Edward G. Guedes is a Shareholder in the Appellate Practice Group at Greenberg Traurig, P.A. He is currently co-chair of the Third District Court of Appeal's 50th Anniversary Committee and is Board Certified by the Florida Bar in Appellate Practice.



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INCREASING DIVERSITY IN THE LEGAL PROFESSION”**

by Annie Hernandez*

On May 17, 2007, CABA and other host voluntary bar associations kicked off the Opening the Doors for Minorities Seminar at the San Carlos Institute in Key West, Florida with a cocktail party and welcoming remarks by CABA Past President and Florida Bar President, Francisco Angones. Nearly 80 attorneys and a score of panelists, moderators, and guests attended the three-day conference. The seminar began on Friday morning with a breakfast at the Westin Hotel and remarks by Key West Mayor, the Honorable Morgan McPhearson, CABA President Liz Hernandez, and leaders from the Broward County Women Lawyers Association, the Caribbean Bar Association, the Equal Opportunity Section of the Florida Bar, Gwen S. Cherry Black Women Lawyers Association, and the Puerto Rican Bar Association of Florida. Following breakfast, attendees engaged in a debate about minority hiring practices moderated by Randy Eaddy, a partner at Kilpatrick Stockton. The meaning of diversity was discussed during lunch with a colorful presentation by Reggie Clyne who told stories of growing up in the white suburbs of Virginia and his efforts as leader of the Equal Opportunity Section of the Florida Bar to integrate disabled attorneys into our courts.

The seminar included a panel discussion titled “How to Win a Beauty Contest” led by national and local counsel who provided tips on developing successful relationships with corporate counsel. Attendees were also able to unwind over cocktails and dinner at the Pier House and watch the spectacular sunset. The People’s Court Judge Marilyn Milian wowed the crowd with her story of her rise to TV fame, which included jumping the hurdles of ethnic stereotyping. The seminar concluded with a thought-provoking presentation by Eleventh Circuit Court Judges Scott Bernstein and Gill Freeman who discussed the diversity and sensitivity training provided to Florida’s judiciary by exploring perceptions of fairness in the courts through the use of the 2005 Florida Bar survey.

*Annie Hernandez, an associate at Pathman Lewis, LLP, serves on CABA’s Board of Directors as its Secretary, and is the Co-Chair of the San Carlos/Diversity Seminar Committee.

**CABA IN TALLAHASSEE: THE JUSTICE RAOUL CANTERO III
DIVERSITY ENHANCEMENT SCHOLARSHIP**

by Raul J. Chacon, Jr.*



As chair of CABA’s Scholarship Committee, I am proud to report that on March 13, 2007, CABA traveled to Tallahassee to present the Florida State University School of Law with a check for \$50,000 to endow the Justice Raoul G. Cantero III Diversity Enhancement Scholarship. Lt. Governor Jeff Kottkamp, Justice Raoul Cantero and his family, state legislators, FSU faculty, and CABA members attended the event. FSU School of Law Dean Don Weidner gave the opening remarks, followed by CABA president Elizabeth Hernandez, Lt. Governor Jeff Kottkamp and Justice Raoul Cantero, and myself.

The Justice Raoul G. Cantero III Diversity Enhancement Scholarship was created to financially assist those who share in CABA’s mission which is to promote equality of our members; serve the public interest by increasing awareness to the study of jurisprudence; foster respect for the law; preserve high standards of integrity, honor and professional courtesy among our peers; provide equal access to and adequate representation of minorities before the courts; facilitate the administration of justice; build close relationships among our members; support the Cuban-American indigent community; and increase diversity in the judiciary and in the legal community. Applicants for the scholarship must demonstrate that they have distinguished themselves academically and/or in service-oriented activities and/or activities of importance to the Cuban-American community. Applications are reviewed by both the law school and CABA’s Scholarship committee.

With the endowment of the Justice Raoul G. Cantero III Diversity Enhancement Scholarship, CABA has reached the half-million dollar mark in scholarship awards. To date, CABA has endowed scholarships at the law schools of the University of Miami (\$140,000), Florida International University (\$180,000), University of Florida (\$30,000), St. Thomas University (\$50,000), and Nova Southeastern University (\$50,000). CABA’s quest to increase these endowments continues through fundraisers, individual member donations, and membership drives. For more information on the CABA scholarships, please contact me at Rchacon@houckanderson.com.

*Raul J. Chacon, Jr. is a partner at Houck Anderson, P.A., where he specializes in admiralty, maritime, and commercial litigation. He serves on CABA’s Board of Directors and is the Chair of the Scholarship and Mentoring Committees.

CABA IN TALLAHASSEE: *THE JUSTICE RAOUL CANTERO III DIVERSITY ENHANCEMENT SCHOLARSHIP*



SAN CARLOS INSTITUTE HOSTS OPENING THE DOOR FOR MINORITIES MAY 17-19, 2007



KEY
WEST
FLORIDA

CABA'S SPRING MENTOR PROGRAM

by Raul J. Chacon, Jr.



On April 27, 2007, CABA held its annual Spring Mentor Program reception. This year the event was changed from an evening reception to a beautiful and well-attended luncheon at the Biltmore Hotel in Coral Gables. Over 100 members participated. The luncheon's title sponsor was Northwestern Mutual Bank, who in addition, contributed \$10,000 to CABA's scholarship fund. Coconut Grove Bank was the event's Amigo sponsor.

The luncheon's featured speaker was Justice Angel A. Cortiñas of the Third District Court of Appeal. Justice Cortiñas spoke about mentoring and provided tips to both mentors and mentees. (Check out page 21 for his mentoring tips.) Former CABA President and President of the Florida Bar Frank Angones was recognized with the CABA Passing On Leadership Award while Dean Alfredo Garcia of St. Thomas School of Law was given a special award for his achievements.

The Mentor Program/Scholarship Committee will meet this summer to designate this year's scholarship winners who will be announced at the annual fall reception scheduled for November 1, 2007. Please mark your calendars.





*The Cuban American Bar Association
congratulates
our very own*

Francisco R. Angones

*on his swearing in as the
first Cuban American President
of the Florida Bar*

FELICIDADES AMIGO!!!!

**WE SALUTE AND PRAISE
THIS TRIUMPH AND
ACCOMPLISHMENT
YOU MAKE US PROUD**



SPOTLIGHT ON DEAN ALFREDO GARCIA

When Alfredo Garcia was appointed Dean of St. Thomas University School of Law in January 2007, he became the first Cuban-born dean of a U.S. law school. Dean Garcia previously served the law school as Associate Dean for Academic Affairs from 2003-2006 and as Interim Associate Dean from 1993-1994. In addition to his administrative experience, Dean Garcia brings to his new role over 17 years of law faculty teaching experience and more than 20 years of higher education teaching experience. As a member of the law school's faculty, he taught Criminal Procedure, Evidence, Torts, Criminal Law, Sixth Amendment Seminar, and Clinics. He also taught as a visiting professor at American University College of Law and the College of William and Mary Marshall-Wythe School of Law, among others.



In addition to his academic and administrative experience, Dean Garcia served as an Assistant State Attorney in Miami, trying felony and narcotics-related cases including attempted murder, burglary, kidnapping, drug trafficking, and white collar crimes. He also practiced as a private criminal defense attorney in Miami. His litigation experience also includes appellate work preparing briefs and arguing cases at the United States Eleventh Circuit Court of Appeals and the Third District Court of Appeals in Florida.

Dean Garcia is also a published author. He has written three books, *Criminal Law: Concepts and Practice*, with Podgor, Henning, and Taslitz (Carolina Press, 2005); *The Fifth Amendment: A Comprehensive and Historical Approach* (Greenwood Press, 2002); and *The Sixth Amendment in Modern American Jurisprudence: A Critical Perspective* (Greenwood Press, 1992). He has also served as Vice Chair of the Race and Racism in Criminal Justice Subcommittee of the American Bar Association's Criminal Justice Committee and on the Editorial Board of Human Rights Magazine, published by the American Bar Association.

CABA REMEMBERS KENNETH N. FELDMAN

On May 11, 2007, CABA lost one of its own, a dear friend and longtime member. Ken Feldman was a trial lawyer in private practice and a professor of law at St. Thomas University School of Law. He was the Director of Pro Bono Services for the law school and worked as an adjunct professor for over a decade teaching Trial Advocacy Practice and Interviewing, Counseling and Negotiation. Ken also taught as an adjunct professor at Florida International University's Legal Studies Institute. Ken was a former chairman of the Florida Bar Grievance Committee for the Eleventh Judicial Circuit and former co-chair of the Code Enforcement Board of the City of South Miami. He also taught at the Miami-Dade Community College Police Academy.



Above all, Ken will be remembered as a person who was deeply committed to public service and helping those less fortunate. At the law school, he instilled in students the importance of recognizing and responding to the needs of the underprivileged. Ken embodied the spirit of pro bono service. He spent many hours building homes for Habitat for Humanity and assisting shelters such as Women in Distress. His work with victims of domestic violence was recognized in 1990 with the Miami-Dade County Pro Bono Award for Domestic Violence. Ken was also very active in Lawyers for Legal Literacy, a program created by The Honorable Ursula Ungaro-Benages, United States District Judge for the Southern District of Florida. Lawyers for Legal Literacy seeks to educate the homeless at the Miami-Dade County Community Homeless Shelter about their legal rights and help them understand different areas of the law. Ken also served as a mentor in CABA's Mentor/Mentee Program.

Friends and colleagues remembered Ken during a memorial service held at St. Thomas law school on June 11th. We will miss our honorary Cuban. Rest in peace, dear friend.

Member Profile:

Carlos Martinez



Carlos Jesus Martinez Landa was born in Marianao, Cuba in 1959. When he was just 9 years old, he fled Cuba on one of the Freedom Flights with his family, which included his mother Yara, father Celedonio, brother, sister, and aunt. Carlos arrived at the Opa-Locka airport wearing his corduroy jacket and pants which his aunt had sewn for this special trip. At the airport, his family was greeted with a welcome package and lunch, which consisted of a ham and cheese sandwich. Carlos loved his sandwich. It was the first time he had tasted ham. Less than two weeks later, Carlos watched the U.S. lunar landing on TV. Thirty-seven years later, he is Miami Dade's Chief Assistant Public Defender.

As a youngster, Carlos often helped his dad who worked as the maintenance man at St. John Bosco Church. Together they mopped floors and cleaned the church and its offices. His mom worked as a snack bar attendant and later became the church's receptionist. Carlos convinced the pastor, Father Vallina, to let him work at the church in exchange for his tuition at Immaculata LaSalle High School. "My mom and dad taught me that if you work hard, you will be rewarded-either through money or personal satisfaction," said Carlos.

After working at the church, 16-year-old Carlos took a job as a car wash attendant at an Exxon car wash. Two years later, he was promoted to manage one of Exxon's first self-serve stores in Miami. Eventually, Carlos was overseeing six stores in Miami-Dade and Broward counties. In 1986, Carlos was recognized for achieving over a million dollars in annual sales and recording the highest profit in the Southeast for Exxon.

Carlos continued to work full time to pay for college. He attended Miami-Dade College, the University of Texas-Austin, and Florida International University, where he graduated in 1985 with a Bachelor of Arts degree in Political Science. After college, Carlos attended law school at the University of Miami. In June 1988, Carlos participated in the school's summer honors program by interning at the Public Defender's Office. Two years later in 1990, Carlos received his *juris doctor* from the University of Miami and was hired as an assistant public defender.

In 1992, Carlos moved to Bellingham, Washington to become a Deputy Public Defender. The following year he returned to the Miami-Dade Public Defender's Office where he continued to try felony cases and represented clients in the drug court program. In 1995, Public Defender Bennett Brummer promoted Carlos to help him administer a 200-attorney office. Carlos has distinguished himself by designing and implementing management reforms, drafting and analyzing legislative and budget proposals, initiating law reform, and overseeing community relations.

"Few people are as committed and tireless in the pursuit of a more just society. Carlos is the epitome of a talented and dedicated public servant," said his boss and mentor, Public Defender Bennett Brummer, who credits Carlos with creating numerous initiatives such as the "Redemption Project" for ex-felons, "Play It Smart," a program teaching young people how to interact with law enforcement, and the creation of a statewide public defender management training program.

Carlos Martinez has a long list of achievements. His most recent recognition occurred in August 2006 when he was elected Vice President of the Florida Public Defender Association and was awarded the prestigious Craig Stewart Barnard Award for Outstanding Service. Carlos also co-authored "*The Best Defense is No Offense: Preventing Crime Through Effective Public Defense*," published in the New York University Review of Law and Social Change. Carlos is an active member of numerous civic groups as well as local, state, and national legal organizations. Currently, Carlos is spearheading the statewide effort to ban the indiscriminate shackling of detained children in juvenile courts. His interest in children's issues also extends to addressing the crisis of minority children being cycled from the school house to the jail house as well as protecting the confidentiality of juvenile records.

Carlos credits his parents and his Catholic faith for his passion for social justice and helping the poor. He also thanks Bennett Brummer for encouraging and supporting his personal and professional growth. "I feel blessed to be an American and to work in an office where we can be proud of what we do every day – helping people who are less fortunate. By working at the Public Defender's Office, I'm honoring my mother and father and the sacrifices they made when they left their dreams and aspirations in Cuba."

The Honorable Marina Garcia Wood

by Luis E. Suarez*



Judicial Profile

In November 2006, a Cuban female became the first Hispanic female to be elected to the Circuit Court in the Seventeenth Judicial Circuit. Yes, it took a *cubana* to win a contested election north of the Miami-Dade County border. She won even though her opponent outspent her by more than \$40,000. She won even though she actively campaigned with her Hispanic last name, Garcia Wood. Indeed, she used her full last name in everything except the actual ballot, where she appeared as Marina G. Wood, upon the advice of her consultants who said she could not win with “Garcia” on the ballot. She won while being a hands-on mother of two children, one of whom has autism.

Marina Garcia Wood was born in Santiago de Cuba, in the province of Oriente, Cuba. Her father was an auto mechanic who was forced to cut sugar cane in a Cuban labor camp. In 1969, at the age of eight, Judge Garcia Wood boarded a Freedom Flight to Miami with her five siblings. With the help of her mother, who worked as a maid, Judge Garcia Wood worked her way through Miami-Dade Community College and Florida International University. She later earned her *juris doctor* from the University of Florida. After law school, she practiced for fourteen years in Broward, primarily as a family law attorney, before being appointed General Magistrate in Broward’s Juvenile Dependency Division.

Her commitment to the bench began in 1996, when she first applied to the Judicial Nominating Commission (JNC) for an appointment. Over the course of the next ten years, she applied over ten times and each time she was denied appointment by the Governor. Ultimately, she figured she would have to run for a seat. “Even though I was more than qualified, I had a difficult time having our JNC recommend me to the Governor for judicial vacancies. I attributed that to a backlash from Broward’s establishment because, since I came to Broward county [in 1988] I pushed for change in our legal community (among other things she founded the Broward County Hispanic Bar Association) and people sometimes do not accept change well. I felt it was time for me to make a statement by getting myself elected.”

She is deeply appreciative to those in CABA who helped her with her election. “I will never forget former CABA President Cori Lopez-Castro telling [one of my opponents] last year, [in an] in your face sort of speak, ‘you see this lady here, referring to me, I will do anything I can to make sure that she is our next Circuit Court judge in Broward County.’”

What’s in store in the future? Judge Garcia Wood states, “My next professional goal is to be an Appellate Court Judge in the Fourth District Court of Appeal or on the Florida Supreme Court.”

*Luis E. Suarez is an associate at Boies Schiller & Flexner, LLP, where he specializes in litigation concerning high-risk product liability and large, complex commercial matters. He is on the CABA Board of Directors. He chairs the Broward Liaison Committee and co-chairs the CABA Briefs Committee.



The Cuban American Bar Association
cordially invites you to its annual

Judicial Luncheon

Friday, August 17, 2007

Registration 11:30 am
Lunch 12:00 pm - 1:30 pm

JW Marriott
1111 Brickell Avenue
Miami, Florida

\$35 CABA members, \$40 non-members,
Tables available - call for more information

Cuban American Bar Association

October 5, 2007
Fairchild Botanic
Tropical Garden

a taste of Cuba

Art in the Tropics

The Cuban American Bar Association

invites you to attend



**CABA's Annual
Fall Mentor/Mentee Reception**

November 1, 2007
For more information, please contact
Raul J. Chacon, Jr.
at Rchacon@houckanderson.com.

*Past
Presidents
Dinner*

The Cuban American Bar Association

invites you to the

Past Presidents Dinner

November 9th, 2006
6:00 p.m - 9:00 p.m.



Mellon Financial Center
1111 Brickell Avenue, 30th Floor
Miami, Florida

RSVP by November 1st, 2006 to 786-245-8123

Que Pasa CABA? [kay passa cah-ba]



Upcoming CABA Events:

CABA's Annual Judicial Luncheon

August 17, 2007

JW Marriott

11112 Brickell Ave., Miami, FL

For more information, please contact
Gigi Wolf-Blanco at gigi@cabaonline.com

CABA's Annual Golf Tournament

September 28, 2007

Doral Resort & Spa Golf Course

More information to follow.

CABA's Third Annual Pro Bono Fundraiser

October 5, 2007

Fairchild Botanic Tropical Garden

More information to follow.



CABA's Annual Fall Mentor/Mentee Reception

November 1, 2007

For more information, please contact Raul J. Chacon, Jr. at Rchacon@houckanderson.com.

Upcoming Events of Interest:

Light the Night Walk to Cure Cancer

September 29, 2007 (Miami-Bayfront Park)

October 6, 2007 (Ft. Lauderdale-Hoizenga Park)

October 20, 2007 (Miramar-Memorial Hospital)

For more information please visit www.LightTheNight.org/SFL

Third Annual Minority Picnic

October 27, 2007

Amelia Earhart Park

More information to follow or contact John Kozyak at jk@kttlaw.com

For detailed information on the above and other CABA events, please visit www.cabaonline.com.

Membership:

Membership in CABA is open to all lawyers in good standing with the Florida Bar and law students who have an interest in, and wish to contribute to, the purposes of the association. To join CABA, please fill out the membership form on the next page and return it along with your membership dues, as indicated.

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(Last) (First) (Middle)

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BUSINESS ADDRESS: _____

BUSINESS PHONE: _____ FAX: _____

CITY: _____ STATE: _____ ZIP: _____

E-MAIL ADDRESS: _____

PROFESSIONAL INFORMATION

JURISDICTION(S) AND YEAR(S) OF BAR ADMISSIONS: _____

BAR NO.: _____ STATE: _____

AREAS OF PRACTICE: (MAX OF 3)
1. _____
2. _____
3. _____

LAW SCHOOL: _____ YEAR OF GRADUATION: _____

UNDERGRADUATE: _____ YEAR OF GRADUATION: _____

MEMBERSHIP DUES PLEASE CHECK ONE OF THE FOLLOWING:

Annual Membership is from October 1 thru September 30

STUDENT \$30

ATTORNEY 0-5 years in practice/GOVERNMENT ATTORNEY \$60

ATTORNEY >5 years in practice \$90

I certify that I am a lawyer in good standing with the Bar of the State of _____ and qualify for membership in the Cuban American Bar Association. I further certify that the information provided above is true and correct.

SIGNATURE

DATE

Payment for my annual membership is enclosed.
Please make checks payable to CABA and send, along with completed application,

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Proud Sponsor of CABA'S
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event held on May 17-19, 2007 in Key West



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