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 Due Process  
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**The Evolution of Our Mission**  
 And the Passion That Drives it

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CABA celebrates and honors its Past Presidents at the Annual Past Presidents' Dinner which took place on November 9, 2011.

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ON THE COVER

**32** THIS ISSUE LOOKS AT THE EVOLUTION OF CABA'S MISSION AND THE PASSION THAT HAS DRIVEN OUR GROWTH FOR THE PAST 38 YEARS.

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**Victoria Méndez**  
Past President

## PAST PRESIDENT'S MESSAGE WINTER 2012

I cannot believe 2011 has come and gone. It seems like it was just yesterday that I was installed as CABA's 37th President. It has been an amazing ride – one I will never forget. I hope this year has been as memorable for you as it has been for me.

As I mentioned at my installation, this past year was intended to be a tribute to our past as an organization of great leaders and a celebration of our rich history and great accomplishments in achieving recognition and diversity in the legal profession. Moreover, 2011 was meant to be a year of reflection on the status of Cuba and education on the human rights violations that continue to occur in Cuba. I can honestly say that we accomplished our 2011 goals.

This past year, we commemorated the 50th Anniversary of the Bay of Pigs Invasion. Many elected officials, jurists, and community leaders attended, all recognizing the importance of our Cuban heroes.

We educated the community and the nation through several issues of CABA Briefs, which were dedicated to what we are currently doing for Cuba and what remains to be done.

In an effort to do our part throughout the state and nationally to help minorities grow in the legal profession, we held two diversity seminars jointly with other bar associations in Miami-Dade County and Broward County. I also testified at the American Bar Association's Hearings on Hispanic Rights and Responsibilities.

CABA is dedicated to diversity. Although we have made progress in our efforts to increase the role of minority attorneys on both a state

and national level, there continues to be a lot more that we must do.

In addition to commemorating our past and focusing on diversity for the future, we also traveled to Capitol Hill to meet with congressional leaders and members of the State Department to brief them on the rule of law in Cuba and the atrocities that continue to overwhelm the island and people that live there. It was an amazing trip with many beneficial results. With the help of your incoming president, Vivian de las Cuevas-Díaz, and Human Rights Committee Co-Chairs Raul Chacon, Jr., Yara Lorenzo and others, I can proudly say that we commissioned and issued our first ever Human Rights report to inform all that violations of Human Rights continue to occur in Cuba.

I would be remiss not to mention the great work that was done with regard to mentoring and scholarships for our law students and concentrating young lawyers. Our focus on our past reminds us of all we need to do for our future CABA leaders.

I give great thanks to our past presidents, my 2011 board, and our incoming president for all their support and hard work. I owe a wonderful year to all of you. And with that, I say thank you for an amazing experience.

Hope to see you soon!

Victoria Méndez  
Your 2011 CABA President



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Vivian de las Cuevas-Díaz  
President

## PRESIDENT'S NOTE

### WINTER 2012

As I begin my year as President of this great organization, I would like to thank CABA's outgoing president, Victoria Mendez for her service and dedication throughout the last year. I would also like to give thanks to CABA's board of directors who selflessly give of their time week after week to keep to make everything that we do possible.

In the coming year with the help of our board, committee leadership and members-at-large, I have big goals for CABA. As you will read in this issue of CABA Briefs our mission as an organization has evolved throughout the last several decades. We may be a local organization—but we have the resources and talent to address the major national issues facing our Hispanic community. Though we have much to celebrate in South Florida, a lot remains to be done nationally. CABA is answering that calling. I hope to expand this organization beyond South Florida to establish chapters in colleges and universities across the country as well as other bar organizations in metropolitan cities with large Hispanic populations.

Another area of expansion will be our scholarship program. Currently, we have scholarships at every university in the state of Florida. By endowing our foundation with \$100,000 by 2013, I hope to open our scholarship program to Hispanic students across the country. Never forgetting our own, I plan on strengthening CABA's Pro Bono project and raising awareness on the work that we do. Finally, we will continue to advocate for human rights in Cuba and educate those who are not aware of the plight Cubans on the island face every day.

I am looking forward to the year ahead. I am open to ideas and invite our members to reach out, get involved and suggest areas where CABA can continue to grow and improve. This is your organization, therefore we need to hear from you to make this organization what you need it to be. Remember our Hispanic community needs our leadership more than ever.

Warm regards,

Vivian de las Cuevas-Díaz





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**Yara Lorenzo**  
Editor-in-Chief

## EDITOR'S NOTE

### WINTER 2012

How fast a year goes by! It has been a challenging but fulfilling experience serving as the Editor-in-Chief of *CABA Briefs*. When I took this position, I had the goal of focusing on the issues at the core of CABA's mission: mentoring, Cuba's history, the state of human rights in Cuba, and our very own Pro-Bono Project. I wanted to bring the focus back to our roots. Having done that, my final issue as Editor is dedicated to the evolution of our organizational mission. As you will read in this issue, CABA is not what it was five or ten years ago. Today, we have the resources and leadership to go beyond local issues and address many of the critical issues facing our Hispanic community nationally. I am proud to be a member of an organization that is answering that call to service.

Throughout this last year, I have learned so much about this organization and my admiration for our founders and leaders has grown immensely as a result of being Editor. Everything we do today is because of their struggle to create this space for us. We stand on their shoulders and owe it to them to carry on this tradition. This coming year, I look forward to continuing my service to CABA as Vice-Chair of CABA's Pro-Bono Project, along with Isabel C. Diaz. I encourage others to get involved - for everyone to whom much is given, of him shall much be required.

In closing, I could not have been successful this year without the help of next year's Editor-in-Chief, Diane Perez, and her consummate dedication to perfection. I would also like to thank our committee members, Vanessa Bertran, Maria D. Garcia, Jane Muir, and Raul Chacon Jr., and our advisor, Manny Crespo Jr. for the countless hours they put in producing timely quarterly issues. ¡Que siga la tradicion!

Warmest regards

Yara Lorenzo



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Miguel de la O was born and raised in Miami. He’s been a member of the Florida Bar for over 20 years, tried more than 40 criminal and civil jury trials, and more than 30 appeals. He volunteers in CABA’s Pro Bono program.

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# MEET YOUR 2012 CABA BOARD

On December 6th, 2011, the Cuban American Bar Association held its annual elections at Regions Bank in Coral Gables. Over 950 members cast their ballots in this year's election. CABA would like to recognize all the candidates for their desire to serve this organization and congratulate those elected to the 2012 board.



## **President, Vivian de las Cuevas-Díaz**

Vivian de las Cuevas-Díaz is a partner in the Miami office of Broad and Cassel and a member of the Firm's Banking and Institutional Lending, Real Estate and Special Assets Practice Groups. She has extensive experience in complex real estate transactions for both private and public clients.

De las Cuevas-Díaz was recently appointed by Florida's U.S. Senators Bill Nelson and Marco Rubio to the Florida Judicial Nomination Commission (JNC), and was also selected to serve on the Board of Directors for the Florida Chamber of Commerce. She was named to the Space Florida Board of Directors earlier this year, and Florida Trend magazine lauded her as a "Must-Know Floridian."

In addition to serving seven terms on the CABA Board of Directors, she has served as a member of the Enterprise Florida Board of Directors since 2007 and as Legislative Chair in 2009 and 2010. She is a member of the Latin Builders Association and serves on the Board of Directors for both the Kristi House and the American Red Cross. Her additional civic participation includes the Greater Miami Chamber of Commerce, the Builders Association of South Florida, the Florida Association of Women Lawyers, the National Association of Professional Women and Commercial Real Estate for Women (CREW).

She has also accumulated a variety of honors and awards. Most recently, she was named among the Miami Herald's elite "20 Under 40" list. She has been repeatedly listed as a Florida Trend magazine "Legal Elite – Up & Comer" and Law & Politics magazine "Florida Super Lawyer – Rising Star." In 2010, she was named among "40 Under 40" by the South Florida Business Journal.

De las Cuevas-Díaz is a graduate of Florida State University and received her Juris Doctor from the Tulane University School of Law. During her tenure at Tulane she served as president and conference chair for the International Law Society from 1997-2000, and was also a member of the European Civil Law Journal.



## **President-Elect, Sandra Ferrera**

Sandra Ferrera is a partner at Meland, Russin and Budwick Attorneys At Law handling a wide range transactional real estate matters along with probate and guardianship matters. She graduated Cum Laude from the University of Miami School of Law in 1999 and received a Bachelor of Arts in 1996 from Florida International University. Ms. Ferrera was named Top Up & Comer Lawyer in South Florida by South Florida Legal Guide and Florida Trend's Legal Elite from 2007 through 2011. She was also named Rising Star by Super Lawyers from 2009 through 2011. In 2010, Sandra was honored as one of the "40 under 40" Outstanding Lawyers of Miami-Dade County, by the Cystic Fibrosis Foundation.



## **Immediate Past President, Victoria Méndez**

Victoria Méndez is the Supervising Assistant City Attorney for the General Government, Quality of Life, and Administration Division of the Office of the City Attorney, City of Miami. She joined the office in 2004 and her main areas of practice are land use and environmental law. She is also the Internship and Recruitment Coordinator for the Office. Prior to joining the City of Miami, Ms. Méndez was a Prosecutor with the Miami-Dade office of the State Attorney.

Ms. Méndez is a member of The Florida Bar and the United States District Court for the Southern District of Florida. Ms. Méndez is

the Immediate President of the Cuban American Bar Association (CABA). She is President of the CABA Foundation and on the Board of the League of Prosecutors. She is a Trustee for the Miami-Dade County Law Library and former Chair for a Florida Bar Grievance Committee. Ms. Mendez is a member of the American Bar Association; Dade County Bar Association; Florida Association for Women Lawyers; National Association of Women Lawyers; Spellman-Hoeveler American Inn of Courts; National Association for Professional Women, a Florida Bar Foundation Fellow, and an American Bar Association Fellow.

## 2012 Board of Directors

### A. Dax Bello



Dax Bello is an Assistant State Attorney currently prosecuting a wide range of felony matters. Prior to being a prosecutor he worked as an in-house attorney in the legal department of MasTec, Inc., a publicly-traded government, utility and telecommunications contracting company. He graduated from the University of Miami with a Bachelor of Arts in 2005, and with honors from St. Thomas University School of Law in 2008. He has chaired a number of Carnaval Miami events as a member of the Kiwanis Club of Little Havana. In 2010, Dax was honored as a "Power 30 Under 30" by the Apex Society for his commitment to community service. He has served as Vice-Chair of CABA's Young Lawyer's Committee, and was awarded a CABA Outstanding Member award in 2011. Mr. Bello was elected as a CABA Board of Director in 2011.

### Gina Beovides



Gina Beovides is a Staff Attorney at Dade Legal Aid Society representing victims of domestic violence. Ms. Beovides is also a Traffic Hearing Officer for the 11th Judicial Circuit of Florida. She graduated cum laude with a Bachelors in Business Administration from the University of Miami and received her Juris Doctor degree from the University of Miami School of Law in 2005. In 2011, the Office of the Attorney General and the Coral Gables Police Department honored Ms. Beovides with the "Justice for All Award" for her dedication to community advocacy. Ms. Beovides is also the Co-Vice Chair of the Florida Bar's Family Law Section Domestic Violence Committee, a member of the Florida Bar Family Law Rules Committee, and was elected to the CABA Board of Directors in 2011.

### Nelson C. Bellido



Nelson C. Bellido is a partner and trial attorney at Concepción, Martínez & Bellido. Mr. Bellido's main areas of practice are in business and complex commercial litigation, products liability and creation of commercial contracts. He also has substantial experience in lender liability, insurance defense, insurance coverage, construction litigation, real estate litigation, warranty claims, complex asset recovery and employment law matters. Mr. Bellido has successfully achieved multi-million dollar settlements for Fortune 100 Companies as well as judgments and settlements in favor of many small businesses and individuals from the U.S., Latin America, Europe and the Caribbean Islands. He has defended financial institutions, property owners, technology companies, construction contractors, suppliers and individuals in litigation and trial matters.



### **Vice President, Manuel L. Crespo, Jr.**

Manuel L. Crespo, Jr., is a partner at Sanchez-Medina, Gonzalez, Quesada, Lage, Crespo, Gomez & Machado, LLP. Mr. Crespo concentrates in the following areas of practice: residential and commercial real estate transactions, and real property dispute litigation.

Mr. Crespo received his Juris Doctor in 1991 from Boston College Law School. Mr. Crespo received his undergraduate degree of Bachelor of the Arts, with honors, from Duquesne University in 1988.

Mr. Crespo is admitted to practice in Florida. Mr. Crespo is currently serving his third term on the Board of Directors of the Cuban American Bar Association. He also serves on the Board of Directors Legal Services of Greater Miami, Inc., and the Dade County Bar Association.



### **Internal Secretary, Isabel C. Diaz**

Isabel C. Diaz is an associate in the Miami office of Broad and Cassel. She is a member of the firm's Banking and Institutional Lending, Real Estate and Special Assets Practice Group. She received her Juris Doctor degree from the University of Miami School of Law in 2004 and graduated Summa Cum Laude from Florida International University with a Bachelor of Arts in 2001. In 2008, she was named Guardian Ad Litem Volunteer of the Year by the 11th Judicial Courts Division 01. That same year, she was recognized as one of the Cuban American Bar Association Outstanding Members. In 2009, she was one of 12 honorees among the "Hispanic Women of Distinction," which is an honoree for significant contributions to the tri-county community while maintaining culture and traditions. Ms. Diaz is also an active member of the Florida International University Alumni Association Board of Directors.



### **Maria D. Garcia**

Maria D. Garcia is an attorney with the full service firm of Zumpano, Patricios & Winker, P.A. She focuses her practice on health care law and international matters. Maria provides legal counsel to health care providers, including hospital systems, physicians, specialty facilities, and provider networks, in both transactional and litigation matters, including breach of contract, corporate governance, business torts, practice formation, managed care contracting, and state and federal regulatory issues.

Currently, Maria serves on the Board of Directors of the Cuban American Bar Association (CABA), and had the honor of serving as the President of the Florida International University College of Law Alumni Association. She also works with Best Buddies Miami on the Business Buddies Board of Directors.

Maria graduated from the Florida International University College of Law, where she served as President of the Moot Court and received the Appellate Advocacy Award upon graduation. Her skills and efforts as an attorney were recognized in 2010, when the Cystic Fibrosis Foundation named her one of the 40 Under 40 Outstanding Attorneys of Miami Dade County.



## **Treasurer, Anna Marie "Annie" Hernandez**

Anna Marie "Annie" Hernandez is of counsel in the real estate litigation and commercial litigation departments at Broad and Cassel. Ms. Hernandez's areas of practice include commercial foreclosures, including protection of creditors' rights in related bankruptcy actions, commercial lease disputes, title insurance litigation, collection actions, and general real estate and business litigation.

Ms. Hernandez received her Juris Doctor, cum laude, in May 2001 from University of Miami School of Law. While at the University of Miami, Ms. Hernandez served as the Executive Vice President of the Moot Court Board, received the Book Award in Bankruptcy, and competed in the Duberstein National Bankruptcy Competition. Ms. Hernandez obtained her undergraduate degree in History and Political Science from Florida International University.

Ms. Hernandez is admitted to practice in Florida, United States District Court, Southern, Middle and Northern Districts of Florida. Ms. Hernandez has served on the Board of Directors of the Cuban American Bar Association since 2006, and is currently its Treasurer. She also serves on the Board of Directors of The Spellman-Hoeveler American Inns of Court and serves on the Florida Bar Voluntary Bar Liaison Committee. Ms. Hernandez is also a member of the Florida Bar, Dade County Bar Association, and Florida Association for Women Lawyers. She is also part of the "Host Committee" for the Miami City Ballet's Upper Room, which seeks to cultivate interest in ballet and other arts among South Florida's growing class of young professionals, and is involved with the Easter Seals of South Florida.

Ms. Hernandez is rated "AV" by Martindale-Hubbell, the highest rating available and has the distinction of being recognized as an "Up & Coming Attorney" in the 2007 Edition of Florida Trend's Florida Legal Elite, as well as a "Rising Star" in the 2009, 2010 and 2011 Editions of Florida Super Lawyers. She was also recognized by the Cystic Fibrosis Foundation as one of "40 Under 40 Outstanding Young Lawyers of Miami-Dade County" in 2009, and now serves on its Selection/Host Committee since 2010. She is a frequent lecturer on various litigation topics including landlord and tenant law, and debt collection practices.



## **Javier López**

Javier López is an attorney in Kozyak Tropin and Throckmorton's litigation department. Prior to joining Kozyak Tropin and Throckmorton, Mr. López was an associate at Squire Sanders & Dempsey LLP. While there, he represented clients in both state and US courts in all phases of the dispute resolution process in areas such as breach of contract, unfair competition, tortious interference and patent infringement. Mr. López also served as a mediator for the 800 MHz Transition Administrator in connection with the movement of a major telecom to new frequency bands to eliminate interference to public safety and other licensees, the largest such realignment of radio spectrum in the history of the FCC.

Mr. López was also a legal intern in the White House Counsel's Office for Alberto Gonzalez and also at the United States House of Representatives for Congressman Lincoln Diaz-Balart.

In 2007, Mr. López was honored as a Golden Angel for his support of the Jackson Memorial Foundation through JUNTOS, the philanthropic foundation he co-founded. Since 2005, he has been a member of the Harvard Alumni Association's Interviewing Committee. In 2010, he was named a "Rising Legal Star" by Florida Super Lawyer's Magazine and a "Top 40 Under 40" by the Cystic Fibrosis Foundation. He was elected to the Cuban American Bar



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Association's Board of Directors in 2009. Mr. López earned his J.D. degree from The George Washington University School of Law in May 2005, where he was Executive Articles Editor for the Business Law Journal. He received his B.A., cum laude, in Social Anthropology from Harvard University.



### **Vice President, Ricardo M. Martinez-Cid**

Ricardo M. Martinez-Cid is a partner at Podhurst Orseck, P.A. in Miami and is Board Certified in Aviation Law. He earned his undergraduate degree at the University of Miami (B.A. cum laude 1997) and his Juris Doctor at Yale Law School (J.D. 2000) where he was the William S. Beinecke Scholar. While a law student, Ricardo was a director of Yale's renowned clinical program, and was an editor of the Yale Journal of International Law. Before joining the firm, Ricardo served as a law clerk to the Honorable James Lawrence King, former Chief Judge of the United States District Court for the Southern District of Florida.

Ricardo is Chair of the Aviation Law Section of the American Association for Justice; Co-Chair of the Aviation and Space Law Committee of the American Bar Association; Co-Chair of the Aviation Subcommittee of the Mass Torts Litigation Committee of the American Bar Association; Vice-President of the Cuban American Bar Association; and formerly a board member and Secretary of the Belen Jesuit Preparatory School Alumni Association. The Daily Business Review has named him one of the most effective lawyers of 2011.

Ricardo has authored and published work for the American Bar Association and the American Association for Justice. He is a frequent lecturer on aviation law and general trial tactics. He has also served on the faculty of the Al J. Cone Trial Advocacy Institute.



### **External Secretary, Nicole Mestre**

Nicole Mestre – a member of the Florida Bar since 1999 – practices exclusively in the areas of Family and Marital Law. Nicole has been a member of the Cuban American Bar Association since 1999 and has been on the Board of Directors since 2008. She also serves on the CABA Pro Bono Board. Nicole is committed to helping her community through pro bono work. In acknowledgement of this commitment, she was awarded the Pro Bono Advocate Award by the Cuban American Bar Association. Nicole was recently elected to the University of Miami Law School Alumni Board and she has served as the Chair on Family Law for the Hispanic National Bar Association on two separate occasions. She is also a member of the Family Law Section of the Florida Bar and the American Bar Association.



### **Jennifer Perez**

Jennifer J. Perez currently serves as Corporate Governance Counsel for Bupa Latin America ("Bupa") a/k/a Bupa Insurance Company, a leading international insurer and a division of Bupa International, one of the largest medical insurers worldwide. Ms. Perez provides Bupa with legal support not only in the area of corporate governance, but also in the areas of health insurance, contracts and employment law. Prior to joining Bupa, Ms. Perez was an associate at the Miami firm of Broad and Cassel, where she practiced corporate and health care law. While at Broad and Cassel, Ms. Perez was published in the ABA Health Law's January 2009 eSource issue as well as South Florida Hospital News' February 2009 issue with article "When a Hospital Enters into an Exclusive Provider Contract: Do the Adversely Affected Physicians Have a Right to a Fair Hearing Pursuant to the Hospital's Bylaws."

A Miami native and of Cuban descent, Ms. Perez is a long-standing CABA member and currently serves on the Board of Directors of CABA, where she is the Board Historian and Vice-Chair of the Events Committee. In 2008, Ms. Perez was also honored as a CABA Outstanding Member.

Ms. Perez is a member of the Florida Bar as well as a member of the United States District Court, Southern District of Florida Bar. She graduated magna cum laude from Vanderbilt University in 2002 and Emory University School of Law in 2005.



## **Jorge L. Piedra**

Jorge L. Piedra is a trial lawyer specializing in commercial litigation and is the managing partner of his law firm, Piedra & Associates, P.A. Mr. Piedra has been awarded the prestigious AV rating from Martindale-Hubbell. Additionally, Mr. Piedra was selected and listed in Florida Super Lawyers magazine as one of the top 5% attorneys in the state from 2007 through 2011. In 2009, 2010 and 2011 Mr. Piedra was selected as Florida's "Legal Elite" in commercial litigation by Florida Trend Magazine.

Mr. Piedra serves on the board of directors of the Cuban American Bar Association (Co-Chairman of the Legislative and Membership Committees), the Latin Builders Association (General Counsel and Chairman of the Legislative and Community Affairs Committees) and previously served on the board of directors of the Kiwanis Club of Little Havana.

Mr. Piedra resides in Miami with his wife, Cristina, and their five children. Mr. Piedra is also a professional fisherman participating in more than 15 fishing tournaments each year. He is the owner and founder of the Rock Star Fishing Team which has been featured in numerous nationally televised fishing shows and national magazines. Rock Star Fishing Team won the 2008 World Sailfish Championship, the 2009 Sailfish Pro Series, the 2010 Miami Open Billfish Series and the 2010 Miami Billfish Tournament.

# CABA's Committees for 2012

## THE TIME TO JOIN **IS NOW!**



**C**ABA's committees are a key component to our success. Serving on a committee also offers the opportunity to build a network of valuable professional contacts and friendships. Participation in committees is open equally to all members and encouraged.

This year's committee leaders were selected because of their exemplary service to CABA in the past. We look congratulate our new leaders and look forward to another successful year of service.

For more information about getting involved, contact the committee chairs or co-chairs directly.

### **Broward Liaison Committee**

The Broward Liaison Committee is responsible for coordinating CABA's efforts with bar associations in Broward.

**Chair:** Ricardo Martinez-Cid—[mcid@podhurst.com](mailto:mcid@podhurst.com)  
**Vice-Chair:** Manuel Crespo—[Mcrespo@smgqlaw.com](mailto:Mcrespo@smgqlaw.com)

### **CABA on Cuba Human Rights Committee**

The purpose of the CABA on Cuba Human Rights Committee is to recommend to the CABA Board what CABA's position and role, if any, would be when a political transition occurs in Cuba. It is CABA's belief that CABA not only has a right, but the obligation, as a not-for-profit organization whose members are primarily Cuban American lawyers, to promote a peaceful transition to democracy in Cuba. Moreover, this committee will also serve to address human rights violations that occur in Cuba and make recommendations on them on a local and national level.

**Chair:** Ricardo Martinez-Cid—[mcid@podhurst.com](mailto:mcid@podhurst.com)  
**Co-Vice-Chair:** Raul Chacon—[rchacon@houckanderson.com](mailto:rchacon@houckanderson.com)  
**Co-Vice-Chair:** Nilda Pedrosa—[nildapedrosa@gmail.com](mailto:nildapedrosa@gmail.com)

### **Corporate Counsel Committee**

This Committee is established to organize an annual seminar and networking event for our members to have the opportunity to hear from and meet and greet corporate counsel from companies nationwide.

**Chair:** Jennifer Perez—[jperez@bupalatinamerica.com](mailto:jperez@bupalatinamerica.com)  
**Vice-Chair:** Nelson Bellido—[nbellido@cfclaw.com](mailto:nbellido@cfclaw.com)

### **Ethics, Professionalism, CLE, and Diversity**

**Co-Chair:** Nelson Bellido—[nbellido@cfclaw.com](mailto:nbellido@cfclaw.com)  
**Co-Chair:** Nicole Mestre—[nmestre@mestrelaw.com](mailto:nmestre@mestrelaw.com)  
**Vice-Chair:** Vivian Reyes—[vivian@vivianreyeslaw.com](mailto:vivian@vivianreyeslaw.com)

### **Events Committee**

The Events Committee's purpose is to develop events that bring our membership together for the exchange of information and ideas that relate to the practice of law and to issues that affect the Cuban-American community. In that regard, the Committee is responsible for planning and overseeing monthly events throughout the year that our general membership will have interest in for professional and/or social development. The Events Committee works closely with other CABA Committees, and often, other voluntary bar organizations, in developing programs, including luncheons with featured speakers, cocktails, seminars, and other special events. For a list of upcoming events, please visit our calendar of events please visit our website at [www.cabaonline.com](http://www.cabaonline.com).

**Chair:** Maria Garcia—[garcia1134@msn.com](mailto:garcia1134@msn.com)  
**Vice-Chair:** Gina Bevides—[gbevides@dadelegalaid.org](mailto:gbevides@dadelegalaid.org)

### **Growth and Expansion**

**Chair:** Manuel Crespo—[Mcrespo@smgqlaw.com](mailto:Mcrespo@smgqlaw.com)  
**Co-Vice-Chair:** Maria Garcia—[garcia1134@msn.com](mailto:garcia1134@msn.com)  
**Co-Vice-Chair:** Nicole Mestre—[nmestre@mestrelaw.com](mailto:nmestre@mestrelaw.com)

### **Judicial Committee**

CABA's Judicial Committee is responsible for conducting the Judicial Performance Poll, promoting voter education (both within and outside of our profession) and hosting the Annual Judicial Luncheon, wherein CABA provides a forum to educate its members about important judicial issues. In particular, every other year CABA releases its Judicial Performance Poll of sitting judges and prospective candidates seeking judicial election. The poll was developed by CABA in an effort to help maintain the high quality of our judiciary and to educate voters during an election year. In particular, the poll rates the qualifications and sensitivity of the judges and candidates toward practitioners and litigants. Additionally, CABA takes an active roll in informing the community about the qualifications of judicial candidates running for judicial positions. To

that end, CABA publishes a document informing the public about all judicial candidates running for office. CABA does not, however, endorse any candidates

**Chair:** Annie Hernandez—ahernandez@broadandcassel.com

**Vice-Chair:** Dax Bello—daxbello@aol.com

## Legislative Committee

The Legislative Committee is responsible for monitoring legislation of interest that affects the legal profession and Cuban-American community. The Legislative Committee is responsible for advocacy before local and state governmental bodies on issues of interest to our membership. Special emphasis is given to the need to promote greater diversity in the judicial profession and state court judiciary. The Committee is also responsible for maintaining strong ties to local legislators and political leaders and keeping them informed of CABA's activities and viewpoints.

**Chair:** Victoria Mendez—victoriamentendez@aol.com

**Co-Vice-Chair:** Jorge Piedra—jpiedra@piedralaw.com

**Co-Vice-Chair:** Augusto Lopez—alopez@diazpartners.com

**Co-Vice-Chair:** Maria Garcia—garcia1134@msn.com

## Membership, Business Development, Benefits Committee

The Membership Committee's primary goal is to organize and implement strategies that expand the membership by reaching out to non-members in new and creative ways. The Membership Committee also works to retain and cultivate the existing Association's membership. In furtherance of its goals, the Membership Committee is responsible for keeping accurate and updated member information, mail annual dues reminders, and hold receptions and social events for the purpose of sharing information on the benefits of being affiliated with CABA.

**Chair:** Jorge Piedra—jpiedra@piedralaw.com

**Vice-Chair:** Dax Bello—daxbello@aol.com

## Mentoring Committee

The Membership Committee's primary goal is to organize and implement strategies that expand the membership by reaching out to non-members in new and creative ways. The Membership Committee also works to retain and cultivate the existing Association's membership. In furtherance of its goals, the Membership Committee is responsible for keeping accurate and updated member information, mail annual dues reminders, and hold receptions and social events for the purpose of sharing information on the benefits of being affiliated with CABA.

**Co-Chair:** Raul Chacon—rchacon@houckanderson.com

**Co-Chair:** Isabel Diaz—idiaz@broadandcassel.com

**Vice-Chair:** Nicole Mestre—nmestre@mestrelaw.com

## Pro Bono Project

Part of CABA's stated mission is to give back to the community by providing legal assistance to the indigent community. In furtherance of that mission, CABA established the CABA Pro Bono Project (the "Project"). In support of the Project, the Arts in the Tropics Sub-committee is responsible for organizing every aspect of the Project's annual chief fundraising event, Art in the Tropics.

**Chair:** Isabel Diaz—idiaz@broadandcassel.com

**Vice-Chair:** Yara Lorenzo—yara.lorenzo@gmail.com

## Art in the Tropics Sub-Committee:

**Chair:** Jennifer Perez—jperez@bupalatinamerica.com

**Vice-Chair:** Gina Beovides—gbeovides@dadelegalaid.org

## Rapid Response Committee

The Rapid Response Committee is responsible for responding on CABA's behalf on pressing issues demanding prompt attention.

**Chair:** Ricardo Martinez-Cid—rmcid@podhurst.com

**Vice-Chair:** Manuel Crespo—m Crespo@smgqlaw.com

## Retreat

This Committee will be responsible for planning the annual membership retreat typical held in the summertime.

**Chair:** Javier Lopez—jal@kttlaw.com

## Public Relations Committee

This Committee will be comprised of the following sub-committees, which together will function as the source of communication to the membership: Website Sub-Committee, Que Pasa CABA E-newsletter Sub-Committee, Social Media Sub-Committee and CABA Briefs Sub-Committee. The CABA Briefs Sub-Committee is responsible for the creation and approval of general policies relating to the content, advertising, budget, and production of our magazine, CABA Briefs. CABA Briefs is published quarterly and is circulated to approximately 2,000 individuals including all of our members, subscribers, judges, law schools and civic leaders across the state. Additionally, CABA Briefs is distributed at select events and is also posted to our website at [www.cabaonline.com](http://www.cabaonline.com).

**Chair:** Annie Hernandez—ahernandez@broadandcassel.com

## Website Sub-Committee Vice-Chairs:

Victoria Mendez—victoriamentendez@aol.com

Gina Beovides—gbeovides@dadelegalaid.org

Dax Bello—daxbello@aol.com

## Que Pasa CABA Sub-Committee Vice-Chairs:

Victoria Mendez—victoriamentendez@aol.com

Gina Beovides—gbeovides@dadelegalaid.org

Dax Bello—daxbello@aol.com

## Social Media Sub-Committee Vice-Chairs:

Victoria Mendez—victoriamentendez@aol.com

Gina Beovides—gbeovides@dadelegalaid.org

Dax Bello—daxbello@aol.com

## CABA Briefs Sub-Committee:

**Chair:** Javier Lopez—jal@kttlaw.com

**CABA Briefs Editor-in-Chief:** Diane Perez—

diane.perez@jacksonlewis.com

## Young Lawyers Committee

The Young Lawyers Committee is responsible for coordinating events and organizing CABA's young attorneys and law students.

**Chair:** Maria Garcia—garcia1134@msn.com

**Vice-Chair:** Dax Bello—daxbello@aol.com

# LEGAL

# ROUNDUP

## What's happening in the Courts?

By: Maria D. Garcia



Arbitration  
Criminal law  
Tort Law - Defamation  
Insurance Law

### Arbitration

*Gayle Shotts v. OP Winter Haven, Inc.*, No. 08-1774, 2011 Fla. LEXIS 2764 (Fla. 2011).

As to the enforceability of an arbitration clause, the Florida Supreme Court found that it is for the court, not the arbitrator, to determine whether an arbitration agreement “is enforceable on public policy grounds.”

Petitioner personal representative appealed the decision of the Second District Court of Appeal, which found that an arbitrator had to decide whether an arbitration agreement that existed with respondent nursing home violated public policy. The personal representative had brought suit for negligence and breach of fiduciary duties and represented the estate of a decedent, who had died while a resident of the nursing home.

Following the filing of the complaint, the nursing home moved to compel arbitration based on an agreement the personal representative had signed when admitted to the nursing home. The Supreme Court reversed the decision of the district court holding that: (1) the district court erred by failing to rule that the court, not the arbitrator, had to decide whether the arbitration agreement violated public policy; (2) the district court erred in failing to rule that the limitations of remedies provisions in the agreement violated public policy because the provisions directly undermined the specific remedies created by Florida Statutes that addressed the rights of residents of nursing homes; and (3) the district court erred by ruling that a provision of the agreement that called for imposition of certain association procedures was severable since such procedures went to the very essence of the agreement forcing a trial court to rewrite the agreement if the provision was severed.

Lastly, the Florida Supreme Court concluded that the United States Supreme Court’s recent decision in *Rent-A-Center, West, Inc. v. Jackson*, 130 S. Ct. 2772 (2010), which held that where there has been no specific challenge to a “delegation provision” in which the parties specifically agreed to arbitrate the enforceability of an arbitration agreement, the arbitrator, not the court, must decide the issue, was inapplicable in the case because no delegation provision existed.

## Criminal Law

*Florida v. Lucson Carry*, No. 5D10-3838, 2011 Fla. App. LEXIS 19191 (Fla. 5th DCA 2011).

In *Lucson Carry*, Florida sought review of a decision by the Circuit Court for Orange County (Florida), dismissing under Fla. R. Crim. P. 3.190(c)(4) information charging a defendant with possession of more than 20 grams of cannabis. The Fifth District Court of Appeal reversed the trial court, holding that the State presented sufficient evidence to establish a *prima facie* case. Based on the fact that the defendant was the driver of the vehicle, the owner of the firearms located in the car, and had possession of the key to the trunk of the vehicle, the State was entitled to the inference that he had dominion and control over the contraband.

With regard to the knowledge element, because knowledge in a possession case is a question of fact, the element is generally not a proper consideration on a motion to dismiss. Furthermore, given a deputy's testimony that he had detected an extremely strong odor of cannabis emanating from the vehicle, the State was entitled to the inference that the defendant had knowledge of the marijuana's presence.

## Tort Law - Defamation

*Gregory M. Blake v. the City of Port Saint Lucie*, No. 4D11-74, 2011 Fla. App. LEXIS 18119 (Fla. 4th DCA 2011).

The Fourth District Court of Appeal addressed whether Florida Statute Section 768.095 abrogates the absolute immunity which common law provides to public officials that make statements within the scope of their job duties. The appellate court found that Section 768.095 does not abrogate such absolute immunity and affirmed the trial court's order granting the public officials' motion to dismiss the plaintiff's amended complaint for defamation and libel or slander per se with prejudice.

Florida Statute Section 768.095 provides that "[a]n employer who discloses information about a former or current employee to a prospective employer of the former or current employee upon request of the prospective employer or of the former or current employee is immune from civil liability for such disclosure or its consequences *unless it is shown by clear and convincing evidence that the information disclosed by the former or current employer was knowingly false or violated any civil right of the former or current employee protected under chapter 760.*" § 768.095, Fla. Stat. (2009) (emphasis added). The court found that nothing in the emphasized language suggests that the legislature intended to abrogate or limit the absolute immunity, which the common law provides to public officials who make statements within the scope of their job duties

## Insurance Law

*State Farm v. Robin Curran*, No. 5D09-1488, 2011 Fla. App. LEXIS 19186 (Fla. 5th DCA 2011).

The Fifth District Court of Appeal affirmed a lower court's decision and certified the following question to the Florida Supreme Court as one involving great public importance: "When an insured breaches a CME [compulsory medical examination] provision in an uninsured motorist contract, (in the absence of contractual language specifying the consequences of the breach) does the insured forfeit benefits

under the contract without regard to prejudice, or does the prejudice analysis described in *Bankers Insurance Co. v. Macias*, 475 So. 2d 1216, 1218 (Fla. 1985), apply? If prejudice must be considered, who bears the burden of pleading and proving that issue?"

In *Robin Curran*, the plaintiff insured had filed an action against the defendant, her uninsured motorist insurer, seeking uninsured motorist benefits. The insurer then filed a motion for summary judgment on the issue of coverage, which was denied. A jury found for the insured. The trial court entered judgment against the insurer for its policy limits, and the insurer appealed.

The policy required the insured to undergo a CME. The insurer reasonably attempted to schedule a CME, but the insured's attorney imposed many conditions on the insured's attendance. As a result, the insured did not undergo a CME until after she filed suit against the insurer. By that time, the insurer asserted that the insured's failure to cooperate and submit to a CME was a breach of the policy, allowing it to deny coverage.

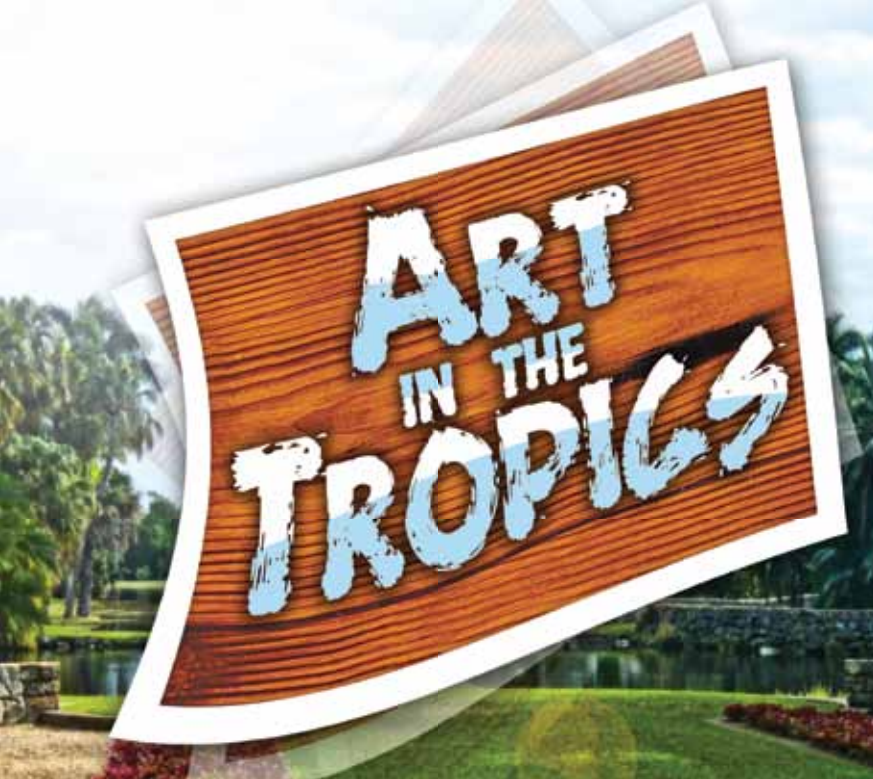
The appellate court determined that while the policy provided that no right of action against the insurer existed until all policy terms had been met, the policy did not impose a forfeiture of benefits in the event of a breach of the duty to submit to a CME. According to the Fifth District Court of Appeal, the insurer failed to plead and prove that it was prejudiced by the failure to attend the CME. **CB**

Maria D. Garcia is an attorney at Zumpano, Patricios, and Winker, P.A. in Coral Gables. She focuses her practice on health care law, international matters, and litigation and arbitration. She serves on CABA's Board of Directors and earned her J.D. from FIU College of Law and B.A. in political science, magna cum laude, from FIU.









On November 5, 2011, CABA members and guests ironed their guayaberas shirts and dresses for a fun-filled evening of dancing, picaditos and art at the Fairchild Tropical Botanic Gardens.

Attendees enjoyed tastings from Edda's Cake, El Carajo, The Local Craft Food & Beer, Ortanique, Pilon, Shula's 347, Sports Grill, Sugarcane and Versailles. The beautiful art for the evening was supplied by local artists and auctioned off to benefit CABA's Pro Bono project. The evening and the auction raised over \$50,000 towards providing legal services for the poor.

# Hola CABA!

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- Our Lady of Lourdes Academy High School Alumnus
- Married and Mother of Two Children

**Campaign Committee Chair: Jesse Diner**

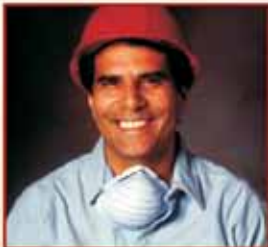
**Vice Chairs: Ramon Abadin & Larry Handfield**

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## WHEN IT COMES TO

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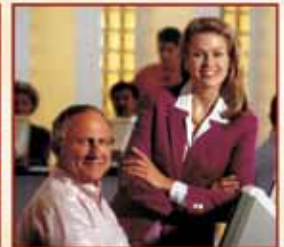
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# THE RIGHTS OF THE STATE versus THE STATE OF RIGHTS

BY: ROBERT R. JIMENEZ

## **CABA Releases its First Annual Report on the Cuban Legal System, the Political Situation, and the State of Human Rights in Cuba.**

**O**n December 10, 2011, International Human Rights Day, CABA released its First Annual Report on the State of Human Rights in Cuba, titled: The Rights of the State versus the State of Rights. As indicated in this report, at the conclusion of 2011, the Cuban legal system continues to be an appendage to the powers of the State and the Communist Party. Among other things, Cuba continues to lack partisan diversity, a system of civil rights, and separation of powers.

Throughout 2010 there were no significant changes to the legal/judicial structures in Cuba. Indeed, judicial and legislative powers continue to be subordinated by executive power, and vigilant figures within the Penal Code continue to punish the exercise of the freedom of expression, the freedom of association, and other rights recognized by the Universal Declaration of Human Rights. The Socialist Constitution of 1996 remains in full effect, as does its establishment of the Communist Party as the fuerza rectora of society.

The one-party system vigorously continues with a unicameral legislative assembly selected via a principle that is premised upon loyalty to the Communist Party. In April 2011, Raul Castro was unanimously elected as First Secretary of the Party, officially finalizing the succession of power from the hands of his brother, Fidel Castro. Opposition parties are still not allowed in Cuba, nor are independent civil societies.

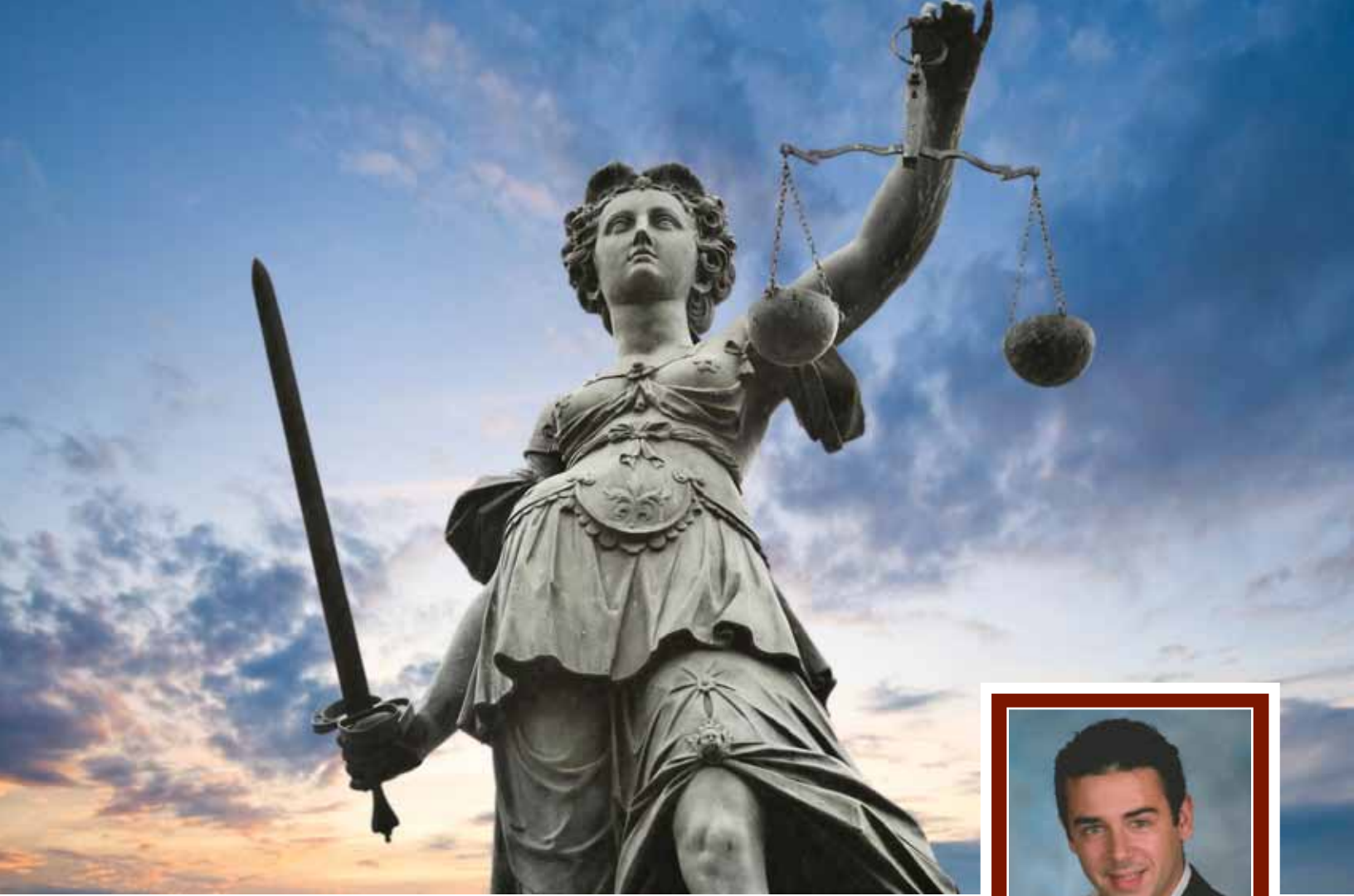
This year, independent legal associations achieved two victories – one was the preliminary recognition of the “Asociacion Juridica Cubana,” presided over by Wilfredo Vallin; the other was the recognition of the injurious crime by a functionary of the Communist Party against independent attorney Ernesto Vera in Santiago de Cuba. Another significant event was the demand put forth by activist Jose Alberto Alvarez against two officials of the political police for illegally confiscating a photo camera. Also, on August 25, 2011, Rene Gomez Manzano, leader of the “Corriente Agraromontista,” issued three public accusations directed at Ruben Remigio Ferro, the president of the Supreme Tribunal, Maria Esther Reus, the

Minister of Justice, and Dario Delgado Cura, the Attorney General. These instances represent the rise of a new culture of empowerment within the opposition movement. Nonetheless, the Cuban government maintains a campaign of accusation and intimidation against members of the opposition, whose labor consists primarily of educating the citizenry and confronting the government with its own laws. No legal process against human rights activists culminated in absolution. On the contrary, within the analyzed period of this report there is an observed increase in arbitrary detention, solitary confinement, and residential prohibitions.

Habeas corpus is not recognized in Cuba, and the accused may remain incarcerated for years without trial. The most infamous example is that of American Alan Gross, who was incarcerated for a year and five months before trial. In what was one of the most notorious judicial processes of the year, on August 6, 2011, the Supreme Tribunal ratified Gross's fifteen-year prison sentence for providing free internet access to Jewish communities on the island. The Gross case continues to be a principal contemporary obstacle within relations between the Cuban and American governments.

The Regime's callous indifference and suspicious activities also caught the attention of the international community in 2011. On June 9, 2011, Reyna Luisa Tamayo arrived in Miami. She is the mother of Orlando Zapata Tamayo, a prisoner of conscience whose death in a hunger strike caused international protest against the Cuban government. Luisa and her family were also victims of constant harassment by the government's repressive institutions, which included impeding her ability to attend her son's funeral. Even

**No legal process  
against human  
rights activists  
culminated in  
absolution.**



the United Nations recognized failings of the Cuban government this year when its Committee on the Rights of Children, in an attempt to protect children in the country from pornography and prostitution, recommended that the age of majority be raised from 16 years of age to 18 years of age.

Most conspicuously, on October 14, 2011, Laura Pollan, leader of the dissident group Ladies in White, died of what is believed to have been hemorrhaging with respiratory-related effects. Her body was cremated without the performance of an autopsy, and as such, there is no medical confirmation of her cause of death.

The happenstances and information outlined in this report demonstrate the continued existence in Cuba of a legal system that functions as an instrument of repression at the service of those individuals in power. Cubans laws do not seek to conform to the concept of a system of rights. Rather, the legal system attempts to impose the State's will and self-serving interests at the cost of the Cuban people. Furthermore, and in a similar vein, calls for economic reforms have not had any significant impact upon the populace's quality of life.

In conclusion, the legal and political framework in Cuba constitutes the central obstacle to the promotion of an authentic reform toward a system of rights based upon the exercise of representative democracy and the separation of powers. Sadly, throughout the course of 2011, there has been no observable indication of any

Robert R. Jimenez is a graduate of the University of Florida's Levin College of Law. In the summers of 2006 and 2007 he studied international and comparative law abroad at Magdalen College, Oxford University. He is a member of the Florida Bar Association's Appellate Practice Section and his practice areas also include real estate and commercial litigation, constitutional law, and condominium affairs.

legitimate or genuine nature on the part of the Cuban government to move in such a direction.

The report is available in English and Spanish, on the Cuban American Bar Association's website, [www.cabaonline.com](http://www.cabaonline.com). Prospectively, this report will be released every year on International Human Rights day until Cuba enjoys the same freedoms as we do in America. **CB**

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artist and member of  
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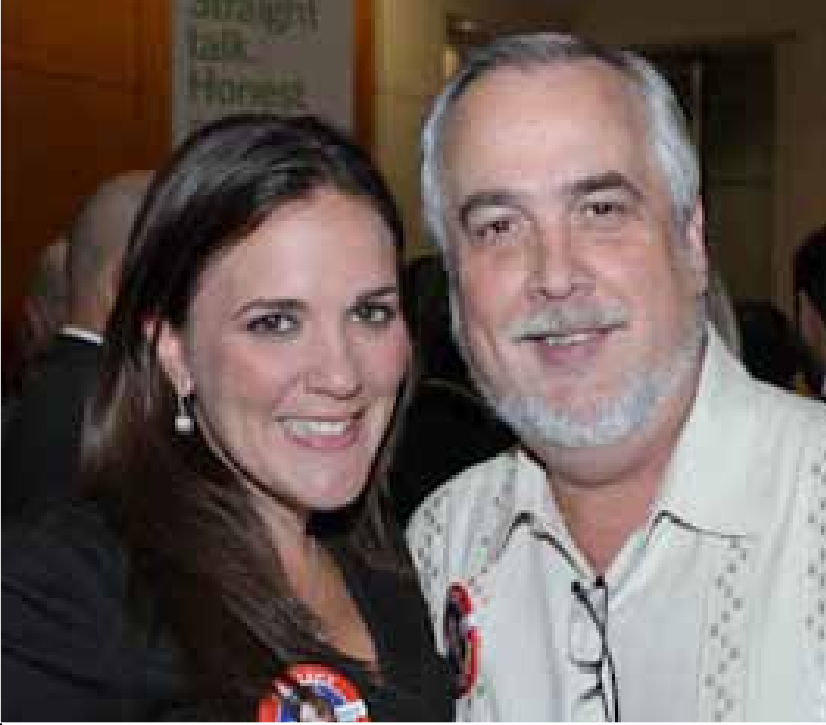
# CABA's

## ANNUAL ELECTIONS

CABA's Annual Elections were held on Tuesday December 6, 2011 at the Regions Bank Tower in Coral Gables. CABA members voted on amendments to the Bylaws and elected the President-Elect for 2012 and six members for the 2012 Board of Directors.

After all ballots were cast, and absentee votes submitted, CABA members elected Sandra M. Ferrera as its 2012 President-Elect and A. Dax Bello, Gina Beovides, Isabel C. Diaz, Nicole E. Mestre, Javier A. López, and Ricardo M. Martínez-Cid to serve on CABA's 2012 Board of Directors. In addition to the election, CABA concluded its Six Annual Toy Drive. Toys were collected for the boys and girls of various organizations including Abriendo Puertas, KristiHouse, and Centro Mater.





# The Evolution of Our Mission

## AND THE PASSION THAT DRIVES IT

BY: YARA LORENZO

Founded in 1974, the Cuban American Bar Association (“CABA”) was established to, among other things, promote the equality of our members. At the time, we had a real need to come together because there were few of us. Today, one could ostensibly say that CABA accomplished what it set out to do — to establish an influential organization where CABA members have ample networking opportunities, and we are able to provide strong advocacy on the issues that are important to us. Many will say that ethnic voluntary bar associations, such as CABA, are no longer necessary or relevant because Cuban Americans and Hispanics alike, especially those in South Florida, enjoy being among the majority.

Today, there are other options. Most CABA members are also members of other bar associations, such as the Dade County Bar Association and the Florida Association of Women Lawyers. With so many barriers eliminated and options available, why is CABA still necessary today? Because the work we do is important. Organizations die when they lose their reason for existing. Many said that twenty-five years into being, CABA might one day become obsolete. After 37-strong years, CABA has not fizzled. Instead, thanks to our leaders, CABA has evolved from being a local organization to one having national impact. In this piece, I will look at our evolution. Rather than put ourselves out of business, our leaders chose to tackle national problems facing the Hispanic community. CABA needs to exist because the work we are doing is important. With an ambitious year of expansion ahead, we need new members to join our efforts.



## Our Founding and Impact in South Florida

It is hard to imagine that when CABA was first founded, discrimination against Hispanics in South Florida was rampant. Those who served on CABA's board during the early years emphasized that combating discrimination was their priority because it was a matter of survival. It was felt not just on the streets but also in the courtroom. Tom Gamba, CABA President, 1983, relayed that after finishing a trial in which he received an outcome favorable to his client, opposing counsel said to him, "I didn't know you people tried cases so well." This was opposing counsel's attempt at paying a compliment. Hector Lombana, President during the 1999 term, reminded me that if it were not for what the older generations went through to pave the way for those coming, we would be hearing those same comments with the same frequency today.

As I pieced together our history and the barriers confronted in each decade of CABA's existence, at each turn, rather than closing our doors to concentrate on our own issues, our leaders did just the opposite. Grateful for every opportunity they were afforded, they gave back. CABA's Pro Bono Project ("the Project") was established in 1984. Our leaders recognized the need to do more.

If it were not for the efforts of several Past Presidents, Junior Garrido, Manuel Morales, Jr., and Rene Murai, the Project would have never gotten off the ground. Junior shared that when the Project first started, it was him and his rolodex of contacts. Slowly the organization gained sophistication because each of them had a strong belief that CABA, through its membership base, was ideally situated to help indigent Spanish speaking individuals, who did not otherwise have access to Spanish speaking lawyers to assist them with legal matters. With the assistance of long-time director of the Legal Services of Greater Miami Marcia Cypen, CABA was able to hire a paralegal to perform intake duties at various locations throughout Little Havana, including, San Juan Bosco, Gesu, and the Little Havana Activity Center. These individuals were to be placed for pro bono legal representation with CABA members. In 1992, the Project was nationally recognized as a Point of Light by President George H. W. Bush. And in 1996, it partnered with the Florida Immigration Advocacy Center ("FIAC") and for several years, specialized in placing immigration and uncontested divorce matters with the assistance of a paralegal and managing attorney of FIAC. During this time, the Project also conducted quarterly divorce clinics at no cost to pro se litigants.

With heartfelt conviction and the desire to expand the Project's reach to provide representation in other legal areas and to serve more clients, on March 29, 2007, CABA's Board incorporated it as a separate 501(c)(3) entity, the "Cuban American Bar Association Pro Bono Project, Inc." Today the Project is funded in large part through grants awarded by the Florida Bar Foundation and through proceeds raised at our annual "Art in the Tropics" event. Understanding the work that CABA has done and the many people CABA has helped through the Project is understanding why the organization is stronger today than it has ever been – because we have filled voids in our community and serviced people that have had no other recourse in this country.

## National Expansion

In that same vein, CABA addressed another area of need in our community: the lack of guidance and support for Hispanics that desire to go to law school. Through hard work, CABA established several at-large scholarships and endowed them at every law school in the state. The establishment of CABA's mentoring program matched the financial support with guidance. For so many of CABA's members, who have come up through CABA's mentoring program, like I did, it is hard to imagine beginning my legal career without it.

By the end of 2012, CABA's current President, Vivian de las Cuevas-Diaz, hopes to open our scholarship program to students across the country by raising \$100,000 for CABA's endowment. With some work and creativity CABA may be able to do the same with CABA's mentoring program, as well. In addition, Vivian hopes to expand CABA to other metropolitan cities with large Hispanic populations. A Bureau of Labor report released in 2010 shows that in 2009, only 2.8 percent of all employed lawyers in the country were Hispanic. Yet, Hispanics make up roughly 16 percent of the U.S. population. So many of the barriers that exist nationally are not obstacles in South Florida. This year's leadership team is making it their business to help change that number. We have a gift, and through CABA's mentoring and scholarship programs, there is a lot that CABA members can do.

## Educating Others on Cuba

Another issue at the core of CABA's existence is our duty to educate others about Cuban issues. Nationally, CABA's job as an educator on Cuban issues has taken on new dimensions. When CABA's founders got the organization on its way, did they envision that one day CABA would be organizing a Congressional Briefing on the status of human rights in Cuba? Or releasing its own report on the rise of independent attorneys on the island? This year, CABA was able to do both.

CABA is also always vigilant of issues pertaining to Cuba's justice system. Currently, there are three sections of the American Bar Association planning to send delegations of lawyers to Cuba. Upon finding out about these delegations, a unanimous Board of Directors sent a letter to the President of the ABA admonishing the trips and explaining what we in South Florida understand. The Cuban government will undoubtedly use these visits by the world's largest voluntary professional lawyers association to bolster their shameful justice system. As this issue develops, CABA will remain vigilant in informing the ABA and the world-community of the usual ploys of Castro's regime to gain legitimacy.

## International Duties

Finally, CABA's Past Presidents made it clear that since the beginning the organization has always had a duty to the Americas. We have the resources to engage and facilitate interactions with lawyers from Spanish-speaking countries across the world. In the past, CABA hosted conferences where they brought in lawyers from the Americas to train them on our system and provide networking opportunities with attorneys in South Florida. This, just like so many of the other issues CABA has addressed, has given CABA a reason for being throughout the years.

As a new president takes the helm of CABA's leadership, we can expect to see high goals for the coming year. Vivian will continue to remind us that we are here thanks to the path that was blazed by past leadership. It is our duty to continue CABA's work. As Hector Lombana said, "anyone who thinks our work is done is fooling themselves." We have a lot to do. I, along with those in my generation, look forward to breaking down existing barriers and seeing to it that our mission continues to evolve when the day comes that we can help Cuban transition into a democracy.

Twenty-five years into existence, CABA could have faded away and its members could have grown complacent with its accomplishments. Instead, CABA's mission evolved organically. As a young attorney, seeing this evolution brings me great excitement. It allows us, the next generation, to take the work of CABA's founders and to a new level. The reason CABA's mission has evolved, and our work is just beginning, is because our sense of duty is stronger than ever. **CB**

<sup>1</sup> U.S. Dep't of Labor, U.S. Bureau of Labor Statistics, Current Population Survey, Table Employed and experienced unemployed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity, Annual Average 2000; available at <http://www.bls.gov/cps/cpsrace2009.pdf>.



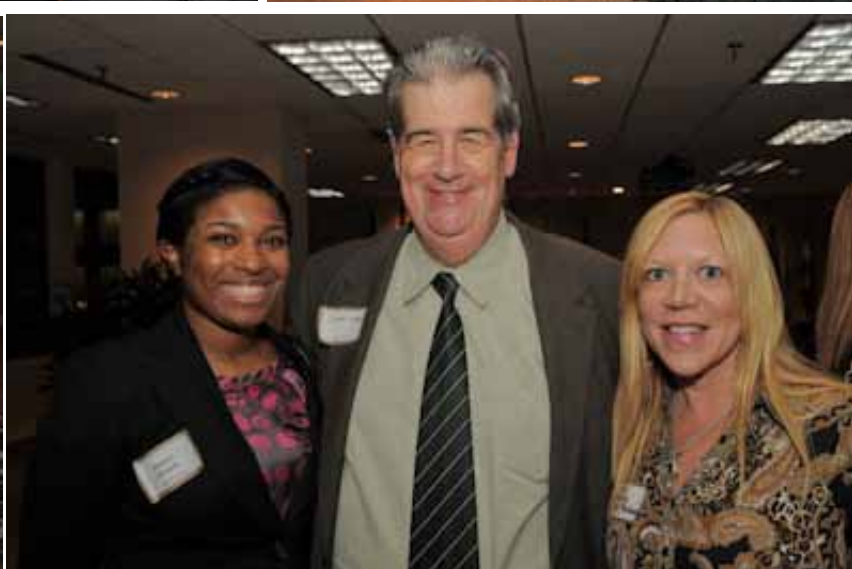
# ANNUAL FALL

## MENTOR RECEPTION & SCHOLARSHIP AWARDS PRESENTATION

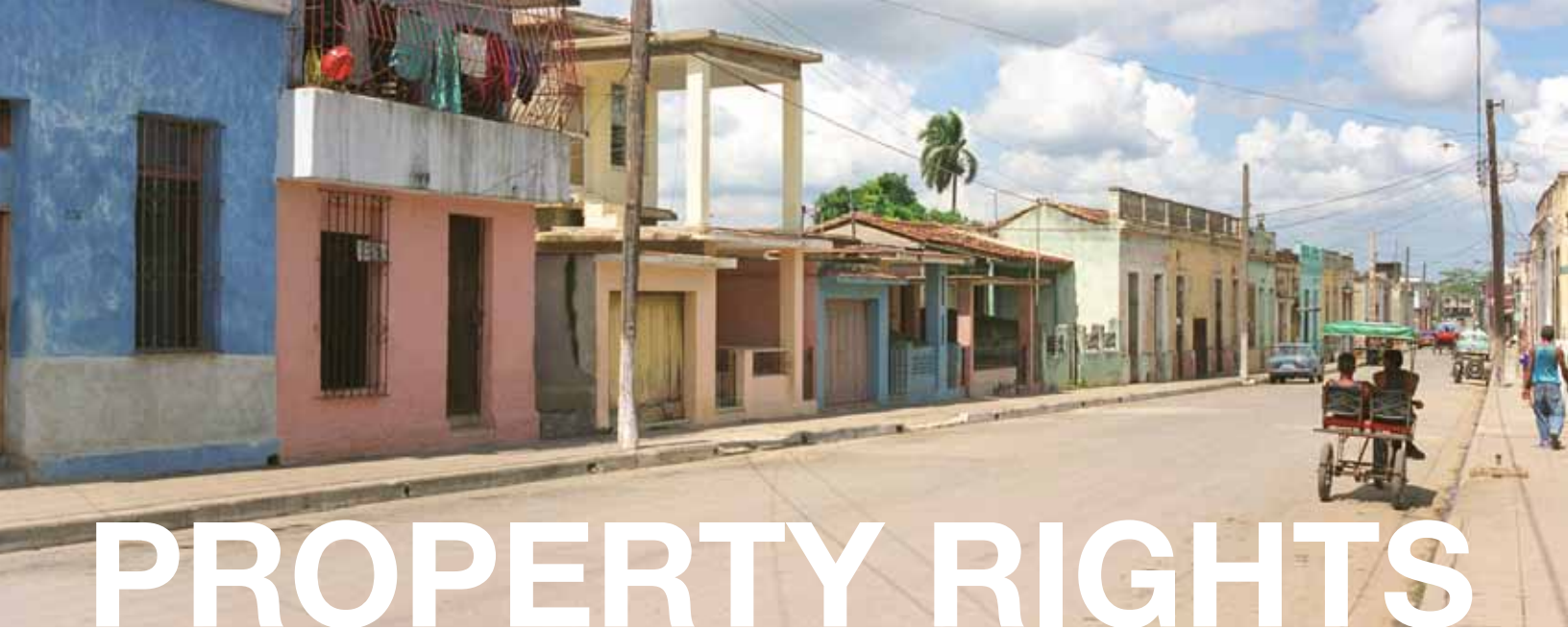
On October 12, 2011, Northern Trust hosted our Fifth Annual Fall Mentor Reception and Scholarship Awards Presentation. CABA's Mentoring Program seeks experienced lawyers who are willing to share their insight and knowledge with young lawyers and law students from across the state. CABA matches mentors with mentees based upon interest and the mentor's area of practice.

This year CABA paired over 50 mentees with mentors. At the kick-off reception, CABA also honored students from every law school in Florida with scholarships for achievements in law school. This evening was a kick-off for the professional relationships that will in time foster a stronger CABA community.









# PROPERTY RIGHTS IN CUBA

## AND THE IMPACT OF RECENT “REFORMS”

BY: JANE W. MUIR

Shortly after the Cuban revolution brought Fidel Castro to power in 1959, the new regime abolished virtually all private property rights. Most homes effectively became the property of the state.<sup>1</sup> Automobile sales were severely limited. U.S. citizens and companies lost roughly \$8 billion, at today's prices, in confiscated property.<sup>2</sup> The revolutionary government nationalized property ownership in the hopes of pursuing the communist premise that all of society would own all property and a “new man” would emerge who was communal in outlook and sacrificial for the common good.<sup>3</sup> Because home ownership was forbidden, home sales were likewise impermissible. Without the ability to buy, sell or rent property, the practical result of the Communist program was the cultivation of a booming black market economy based on using *permutas* (or “swaps”) to operate within the regime's socialist strictures.<sup>4</sup>

### Real Property Swaps

In the absence of property ownership, the Castro regime assigned residency of homes to families. Parents could pass their residency to their children. Sale of residency rights was not permitted. The revolutionary government, however, did allow residents to trade, *permutar*, their assigned homes for other homes of “equal” value with approval of the regime's regulatory authority. For example, a family looking for an apartment with an extra bedroom for a new baby might swap with an older couple whose children have moved out.<sup>6</sup> The federal Housing Institute evaluated properties to ensure that the homes were of “equal value.”<sup>7</sup> Because finding properties of equal value was nearly impossible, the system forced residents to break the law in order to trade homes.<sup>8</sup>

The system for appraising home values was flexible, taking into

account such factors as an existing telephone line, and permitting one party to make repairs and improvements to meet the other party's needs. Even so, bribes to officials and additional payments often changed hands to ensure the completion of the deal.<sup>9</sup> The frustrations of the *permuta* are so ingrained in Cuban culture that it serves as a reliable plot device. A Cuban comedy in the 1980s titled *Se Permuta* featured a farcically complex *permuta* chain of six separate links that falls apart at the last moment.<sup>10</sup>

In light of the prevalence of the *permuta*, a new Cuban profession developed: the *corredor* is the closest thing Cuba has to a real estate agent.<sup>11</sup> *Corredores* charge as little as five pesos, the equivalent of 20 cents, for each lead on a potential swap and keep notebooks full of addresses and phone numbers of people willing to swap properties.<sup>12</sup> One of the most popular websites for Cuban residents, curious in a country with few computers, is [www.sepermuta.com](http://www.sepermuta.com), where people can search for swaps online.<sup>13</sup> The operator of the site created it to help other Cubans attempting to swap properties after going through his own *permuta*.<sup>14</sup> The site still has an inventory of thousands of properties and includes photographs and comments from former customers.<sup>15</sup>

<sup>1</sup> Andrew Hamilton, “Cubans Hail a Private Property Revolution,” *The Guardian*, November 5, 2011

<sup>2</sup> Tom Brown, “Thorny Property Rights Dispute Looms over Cuba,” *Reuters*, February 21, 2008

<sup>3</sup> Jose Azel, “Cuba: A Tragedy of the Commons” *Miami Herald*, October 9, 2011

<sup>4</sup> David Adams, “In Cuba, Houses Never Sell, Just Swap,” *St. Petersburg Times*, June 4, 2008

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

## Automobile Swaps

Sale of automobiles had also been restricted, with the exception of used cars built before the 1959 revolution, which have been widely traded in a booming black market for years.<sup>16</sup> Because they could be legally traded among Cubans, old cars fetched prices many times what their value would be off the island.<sup>17</sup> Often times, these cars would sell for thousands more than modern cars. Buyers would hand over large amounts of cash under what amounted to handshake agreements – titles never changed hands. As a result, Cuba's streets are still occupied by 1950's American classics like Chevrolet Bel Aires and Chrysler Imperials.<sup>18</sup> Only those sent abroad on official business, including doctors, athletes, artists and others, were allowed to bring cars back or to purchase a Eastern Bloc-made cars. Until 1990, state workers were allowed to purchase new Eastern Bloc-made cars. Since 1990, only state institutions had been buyers of new automobiles.<sup>19</sup>

## Property Rights “Reform”

When then 81-year-old Fidel Castro retired in 2008 and turned control over to his brother Raul,<sup>20</sup> the regime began to hint at property rights reform. Raul Castro repeatedly said that the Soviet-style system in Cuba had not been working but vowed that Cuba would remain a socialist state.<sup>21</sup> In one of his first moves after taking office in 2008, Raul Castro allowed Cubans to purchase cellphones, DVDs, and other items that were once restricted. That same year, the government leased land to private farmers. In 2011, the administration expanded opportunities for Cubans to start their own businesses. In October, 2011, the administration legalized the purchase and sale of cars, and in November, 2011, it proclaimed that homes could be bought and sold legally.<sup>22</sup>

The changes in real property sales, implemented in November after being announced by the state daily newspaper *Granma*, provide that Cuban citizens and residents may own homes.<sup>23</sup> Ownership is limited to one permanent residence and one holiday home.<sup>24</sup> Buyers and sellers will have to split an eight percent tax on the assessed value of the homes, and all real estate transactions must be completed through Cuban bank accounts.<sup>25</sup> The money used must be proven to have a legitimate government-sanctioned source. The new system will eliminate the need for approval from the state Housing Authority, which previously approved the equality of value when Cubans were swapping properties. Instead, buyers and sellers will need the seal of a *Notario*,<sup>26</sup> to complete a sale.<sup>27</sup> The state retains the right to nullify any sale. Cuban exiles continue to be barred from owning property.<sup>28</sup>

Under the new regulations, automobile sales, which were legalized in September 2011, are allowed for all models and years. Ownership of more than one automobile is also allowed at a higher tax rate, but buyers may only buy one automobile every five years. Buyers and sellers must each pay a four percent tax. Buyers must make a sworn declaration that the money used for purchase was obtained from an approved source, and not from remittances sent from relatives abroad.<sup>29</sup> Dealerships are state-owned.<sup>30</sup> Importantly, buyers must gain approval from the Ministry of Transport and must register the sale with the Ministry, which is also in charge of state security and the secret police. Sellers must provide notarized documents for the Vehicle Registry of the Interior Ministry that include the sale price and an oath that the funds used to buy the car were of legal provenance.<sup>31</sup>

One issue with the new declaration that purchase and sale of property will henceforth be legal is that Castro's regime has no complete registry of post-revolutionary property assignments.









Without property records, as Coral Gables attorney Nicolas Gutierrez notes, there is a serious problem with developing any system for transferring property. “The problem from their perspective is that there is no property registry today, other than the legitimate one that pre-existed this regime. There have been some efforts over the years to create a registry of possessors, but it has never been completed.”

Aside from the record-keeping issue, there will be major problems untangling the chain of title. Gutierrez, who practices in the areas of business and corporate international law and represents victims of property seizure in Cuba, wonders, “How are they going to verify chain of title? This is the same government that forcibly seized the property from its legitimate owners without any compensation in the first place. How enforceable will these transfers be when the chain of title has obviously been broken?”

According to Aldo M. Leiva, Miami commercial litigator and Cuba policy analyst whose credits include briefing the U.S. State Department, U.S. Representatives and Senators, and U.S. Presidential candidates on Cuban law and policy, “the regime’s requirement that Cuban citizens ‘prove up’ the source of income from exclusively government sources serves two vital purposes for the regime: (1) to maintain a de facto limit on the access of Cuban citizens to means of transportation (and increased mobility of citizens among provinces); and (2) to attempt to incentivize productivity and work hours from Cuban citizens, who are paid meager salaries that barely keep them at subsistence levels.” Cuba’s government employs about 80% of the workforce, paying wages of only \$20 per month.<sup>32</sup> Some doctors and others serving abroad earn more, but the regime retains the money for them in state-managed bank accounts to which they do not have access until they have completed their missions.<sup>33</sup> There are no private banks in Cuba, since all of the banks are state-operated. “It is a fiction that people have accounts in Cuba that are not directly controlled by the government,” says Gutierrez. “Historically, such accounts have constantly been susceptible to confiscation by the government for any pretense at all, not just theoretically, but in practice against anyone, including foreign investors.”

## Impact

The “free market reforms” are clearly designed to rescue the island from economic ruin by addressing sectors of the economy that have mainly been dealt with by the black market since the revolution. The regime has been starved for income by the prevalence of black market activity. As Jorge F. Pérez-López in his book *Cuba’s Second Economy: From Behind the Scenes to Center Stage* notes:

**Every day, almost every Cuban I know does something illegal just to get by. They may buy black market coffee or shoes for their kids, call in sick at work so they can have time to shop for food, swipe supplies from the office to use at home, or get their toilet fixed by a plumber working illegally. They might be members of the Communist Party or staunch supporters of the revolution, but they break the law as a matter of course...<sup>34</sup>**

Where there exists only a black market economy, the government cannot participate in the process by regulating, taxing, or resolving disputes. Participation by residents of Cuba in black market economic activities has been a form of resistance to government control and an exercise of personal freedom. The new property rights reforms create a parallel market to compete with the permuta system, where the government can be a participant after years of having been excluded from perhaps a majority of the country’s financial transactions. However, it can hardly be recognized as a move towards a free market economy. The reality is that the changes permit closer inspection of income, registration of property with the state, rescission of sales and confiscation of property. Along with taxation, all of these changes result in deeper involvement by the government in the daily activities of Cuban residents and may result in a reduction, not improvement, of personal freedom for Cuba. **CB**

Jane W. Muir is a civil trial attorney, who recently joined Adam J. Gersten to form Gersten & Muir, P.A., located in Miami. She earned her J.D. from the University of Miami and B.A., magna cum laude, from the University of Florida where her studies focused on politics and international relations, especially post-communist reconstruction in former Soviet states.

<sup>16</sup> Paul Haven, “Cuba: Car Sales Legalized,” Associated Press, September 28, 2011

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Cubastandard.com – no author cited

<sup>20</sup> Paul Haven, “Cuba: Car Sales Legalized,” Associated Press, September 28, 2011

<sup>21</sup> “Cuba Passes Law Allowing Private Home Sales,” BBC News, November 3, 2011

<sup>22</sup> Sara Miller Liana, “For Cubans, New Property Rights- and the Return of an Old Anxiety,” Christian Science Monitor, November 22, 2011

<sup>23</sup> David Luhnow, “Cuba Legalizes Sale of Private Property,” Wall Street Journal, November 4, 2011

<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> Notarios are not comparable to notaries in the United States.

A Notario is a professional who maintains records of transactions, nearly as important as a judge.

<sup>27</sup> Id.

<sup>28</sup> Id.

<sup>29</sup> Paul Haven, “Cuba: Car Sales Legalized,” Associated Press, September 28, 2011

<sup>30</sup> Id.

<sup>31</sup> Cubastandard.com – no author

<sup>32</sup> David Luhnow, “Cuba Legalizes Sale of Private Property,” Wall Street Journal, November 4, 2011

<sup>33</sup> Paul Haven, “Cuba Legalizes Sale, Purchase of Real Estate,” Associated Press, November 4, 2011

<sup>34</sup> Pg. 115



# Member Appreciation Cocktail

Trulucks on Brickell hosted CABA's Member Appreciation Happy Hour on Tuesday November 29, 2011. Members gathered to network and enjoy each other's company. Several of our CABA members were honored as being CABA's 2011 Outstanding Members. Those members were: Yara Lorenzo, Miriam Ramos, Diana Vizcaino, Marie Mato, Mariel Acosta Garcia, Anthony "Dax" Bello, Nilda Rodriguez Pedrosa, Richard Montes de Oca, and N. Sacha Reyes. In furtherance of our main goal of giving back to the community, toiletries and clothes were collected for donation to Camillus House.





identify, but also support employees that fit the needs of a company without incurring any cost to the employer.

Best Buddies Jobs is able to provide such services for free due to receiving grants from foundations such as The Miami Foundation, The Able Trust and working with the Department of Education's Vocational Rehabilitation Division, among other supporters.

Several employers partnered with Best Buddies Miami for the first time in 2010 joining the ranks of such pioneering companies as Holland & Knight, Publix, Sodexo, Ocean Drive Magazine/Niche Media, The Loews Hotel and Whole Foods. Some of the newest Best Buddies Jobs employers include The Fontainebleau Hotel, Turnberry

# Best Buddies & CABA

## TEAM UP to highlight Best Buddies' Employment Program

On November 29, 2011, CABA was pleased to welcome Robert Friedman, Partner at Holland and Knight, and Barbara Torres, Best Buddies Program Participant, to share their experience working with Best Buddies' Employment program. Currently operating out of Boston, Massachusetts, Los Angeles, California, and Miami, Florida, Best Buddies Jobs works with more than 120 individuals with intellectual and developmental disabilities and is partnered with more than 90 employers nationwide.

These are both numbers that have begun to grow more quickly each year as current employer partners and potential employers alike turn their attention to the enormous potential within the intellectually and developmentally disabled population.

Much like the movements of growth and empowerment that have taken place within various other demographics, a movement towards empowerment and recognition of the intellectually disabled community is currently under way. Historically speaking, this is a community that has been a largely untapped population that is filled with capable and eager workers.

Beyond the workplace potential of individuals with intellectual disabilities, agencies such as Best Buddies that facilitate the rise of the intellectually disabled workforce offer benefits that current mainstream staffing agencies are unable to provide.

The biggest notable difference is that staffing agencies generally need to charge fees for their services in order to run their businesses, whereas Best Buddies and similar agencies are able to not only

Associates at Aventura Mall, SSA at Zoo Miami, and BrandsMart USA. Most recently in 2011, Pizza Patron, Florida Linen Services and LongHorn Steakhouse of Darden Restaurants partnered with Best Buddies by providing opportunities for employment.

Businesses of all sizes and industries have benefited by hiring individuals with intellectual disabilities and, in 2010 alone, Best Buddies helped 20 such individuals acquire employment.

Anyone can help to push this movement forward and foster more inclusiveness in our collective workforce. Current Best Buddies Jobs participants are seeking work in movie theaters (ripping tickets/cleaning), bookstores/libraries (shelving), retail (backroom stock/sales floor customer service), supermarkets/grocery stores (shelving items/bagging), fitness clubs (cleaning), and offices (mailroom/copy Room/filing).

Although these positions match the interests of current Best Buddies Jobs participants, any and all interested potential employers are encouraged to come forward as Best Buddies Jobs can locate employees outside of their current participants who fit many other company needs as well.

If you are an interested employer, an individual with an intellectual disability seeking employment, or if you know of someone who would like to get involved, please contact Best Buddies Jobs Program Supervisor Karen Reyes at (305) 374-2233 or [karenreyes@bestbuddies.org](mailto:karenreyes@bestbuddies.org) for more info. **CB**



# CONGRATULATIONS

Sandra Ferrera  
President-Elect

&

The Newly Elected Members of the  
Cuban American Bar Association  
Executive Board



August 14, 2012

ALL VOTERS IN MIAMI-DADE COUNTY CAN

**ELECT**

**Jacci Suzan Seskin**

**For**

**County Court Judge**

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# ANNUAL

## Past Presidents' Dinner

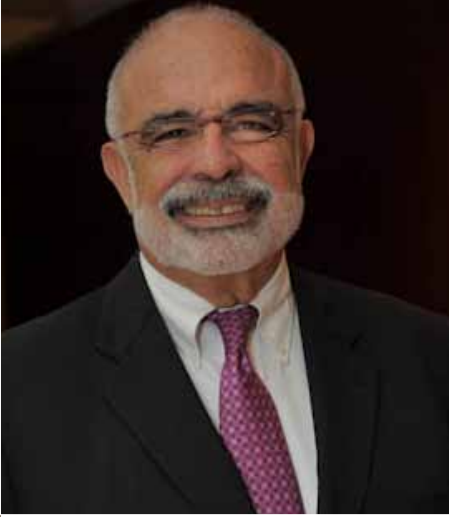


Following with our tradition to recognize and honor our founders, on November 9, 2011, Sabadell and CABA's Board hosted the Annual Past Presidents' Dinner.

CABA's Past Presidents and attendees included: The Honorable Mario P. Goderich, Guillermo F. Mascaro, Manuel Vazquez, Osvaldo N. Soto, Luis Figueroa, Jose Villalobos, Manuel A. Crespo, Frank Angones, Rogelio Del Pino, Tomas F. Gamba, Rene V. Murai, Armando J. Bucelo, Jr., Manuel R. Morales, Jose A. Garrido, Jorge Hernandez-Torano, Robert Fleitas, Katherine Fernandez-Rundle, J. Raul Cosio, Antonio Marin, Arturo Alvarez, Fernando S. Aran, Luis N. Perez, Eduardo Cosio, Hector J. Lombana, Sergio Mendez, Oscar Marrero, Michael Diaz, Jr., Eugenio Hernandez, Victor M. Diaz, Ramon A. Abadin, Antonio C. Castro, Corali Lopez-Castro, Elizabeth Hernandez, Marlene Quintana, Roland Sanches-Medina, Manuel Garcia Linares and Victoria Mendez.

Honoring our founders and past leaders for their dedication throughout the years keeps our mission going strong.











# FELICIDADES

TO THE 2012-2013  
CUBAN AMERICAN BAR ASSOCIATION  
EXECUTIVE BOARD  
&  
SANDRA FERRERA  
PRESIDENT-ELECT

*CAMPAIGN TO RETAIN JUDGE LOURDES SIMON  
FOR COUNTY COURT JUDGE*




- ❖ Appointed in February 2010
- ❖ Presided over Criminal, Civil, and Family Court Cases
- ❖ Former Assistant Public Defender for 16 years
- ❖ Adjunct Professor at University of Miami School of Law

*Thank you for your support!*

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# MOVING FORWARD



In this issue, we answered a critical question: “Why does CABA still matter today?” With the stage set, in the coming year we will take a look back to remind our members about the important events in our history and the leaders who led us through them. In the 37 years of its existence, CABA has not only impacted the legal profession but also the Cuban community at-large.

We look back and remember that CABA was founded as a resource for Cuban-American attorneys adapting to a different culture. Throughout time, however, CABA has evolved as a platform for an array of projects that have influenced the way people view the importance of Cuban legal rights and the importance of having equal access to and adequate representation before the court as minorities. CABA has also played an important role in facilitating the administration of justice.

One of CABA’s main focuses has always been the importance of the legal rights of Cubans. This goal has been exemplified, for example, by Eugenio Hernandez, who traveled to Cuba to expedite the legal rights of detained Cuban rafters. CABA also fought for the release of two women arrested in Havana for publicly protesting the lack of food and milk for children and has rallied in support of the Ladies in White in both Miami and Cuba.

In order to better provide equal access to and adequate representation of minorities before the court, CABA began its Pro Bono Project in 1984. CABA’s Pro Bono Project’s mission was to assist the poor and indigent community by providing a referral source between individuals in need of legal services and attorneys willing to do pro bono work. The project provides legal services to the Miami-Dade community regardless of an individual’s race, creed, color, gender, sexual orientation, or national origin. As a result of its many successes, the Pro Bono Project was nationally recognized as a Point of Light by United States President George Bush in 1992.

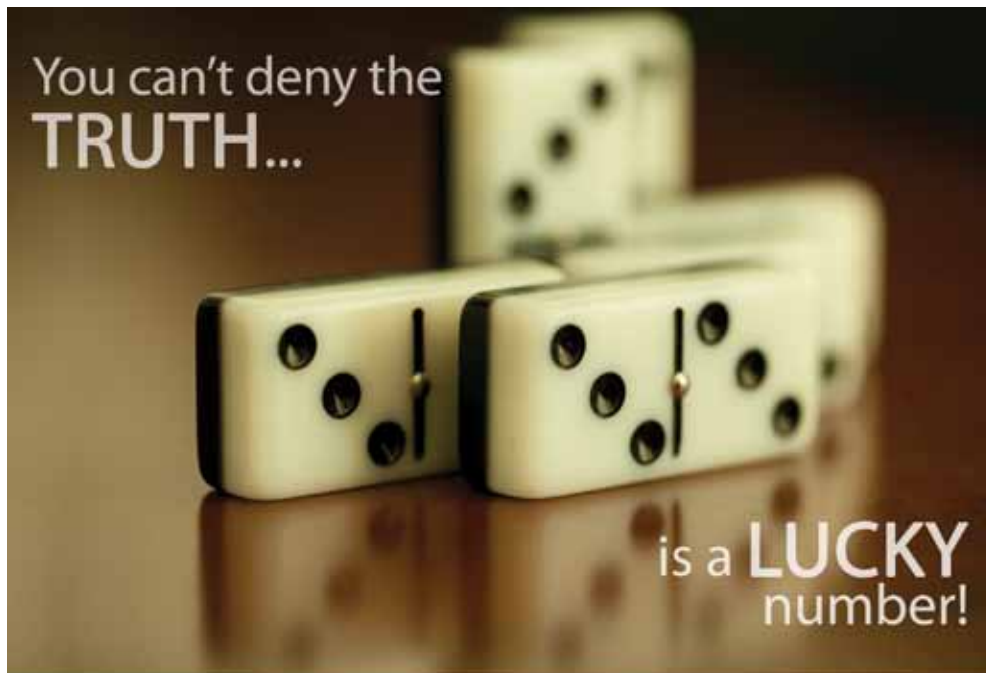
As a legal organization, our members are best suited to help facilitate the administration of justice. On September 22, 2011, CABA hosted a Congressional Briefing on the conditions in Cuba in Washington, DC. As a part of the briefing, conference calls were held with independent attorneys in Cuba that are working to establish the rule of law.

In the next year, we will further highlight these and many other remarkable events that exemplify CABA’s service to this community and abroad. Moreover—we will look at our goals of national expansion and the impact we hope to have on issues affecting Hispanics everywhere. **CB**



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President

**Sandra M. Ferrera**

President-Elect

*Congratulations to CABA on its tradition  
of Excellent Leaders.*