

CROSSING BARRIERS



**Half-A-Million
Cuban Americans
Traveled to Cuba
Last Year**

BRIEFS

*"I'm so pleased to be the incoming
President and look forward to a year
filled with accomplishments and success,
particularly with the effort to take
CABA statewide."*

— Vivian de las Cuevas-Diaz

Taking CABA *Statewide.*

Broad and Cassel is proud to support the efforts of the Cuban American Bar Association to improve the legal profession through greater diversity and equality of opportunity throughout Florida. We congratulate our Partner **Vivian de las Cuevas-Diaz** on her installation as President of CABA, and our attorneys **Isabel C. Diaz** and **Annie Hernandez** on their appointment to the Board of Directors, and wish them well in the coming year.

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44 The historic Miami Beach Fontainebleau Resort was the site of CABA's Annual Installation Gala, which took place on February 4, 2012. Sworn into office on that night were CABA's 38th president, Vivian de las Cuevas-Diaz, and CABA's 2012 board.



ON THE COVER

22 THIS ISSUE LOOKS AT THE EASED TRAVEL RESTRICTIONS TO CUBA, WHICH RESULTED IN HALF-A-MILLION CUBAN AMERICANS TRAVELING TO CUBA LAST YEAR.



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PRESIDENT'S NOTE



We have experienced an active start to 2012 at CABA. I am grateful for all of the members who continue to support our events and am excited about our many networking opportunities. We started the year with a Kick-Off Cocktail Reception where we shared CABA's vision for 2012. Our Installation Gala was a marvelous event and I want to thank everyone who attended and all of our sponsors for making it a huge success. Just recently, we hosted a reception honoring Judge Adalberto Jordan on his confirmation to the United States Court of Appeals for the Eleventh Circuit. CABA is delighted to have one of our own sit as the first Cuban ever on the Eleventh Circuit. Judge Jordan reminds us that we must continue to work hard to pave the way for new opportunities for all.

As always, CABA remains at the forefront of the fight to stop the human rights violations occurring in Cuba and is working to raise awareness as a vehicle to impact change. We encouraged the Pope to meet with dissidents and discuss the ongoing human rights violations during his visit to Cuba. We are also continuing our dialogue with the American Bar Association to ensure that any delegation that they send to Cuba does not lend support or help perpetuate the government's disgraceful legal system. In fact, we encouraged the American Bar Association to visit the jails, meet with dissidents, and ask the Castro regime the tough questions. Because of our efforts, two of the three ABA sections that were planning to visit Cuba have cancelled their trips. We also went to Tallahassee and met with Florida legislators to discuss various issues affecting our organization and community. I want to commend all of the senators and representatives who pushed to ensure that CABA's Pro Bono Project receive \$50,000 in funding, especially Representatives Diaz and Fresent, Senator Bogdanoff, and Senator Flores.

We have some great events planned for the rest of the year. CABA is having our inaugural "Lawyers on the Run" 5k on June 2, 2012. All of the proceeds will benefit CABA's Pro Bono Project, which continues to provide legal services to less fortunate members of our community. We are also very excited about our Corporate Counsel Seminar and Networking Event at the San Carlos Institute in Key West on June 7, 2012, to June 9, 2012. It is a unique event where guests will have the opportunity to meet and mingle with in-house counsel from both local and national companies. Just a few of the companies confirmed to attend are: Kaufman, Rossin & Co., Sony Pictures, Motorola, NBC Universal, Chevron, Mastercard, Total Bank, Carnival Cruise Lines, Target...and many more!

This year I am also glad to announce CABA will be working with its CABA chapters of each of our law schools to create two judicial internships paid by CABA. The selected participants will serve as judicial interns for half of the summer and will provide service to the CABA Pro Bono Project for the other half of the summer.

I want to encourage you to come out and support CABA and each other at our many events. I am looking forward to seeing you soon and hearing about your ideas to expand CABA and continue fulfilling our mission.

Warm regards,

Vivian de las Cuevas-Díaz
President



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EDITOR'S MESSAGE



It is such a pleasure to be serving as your Editor-in-Chief for this year. I hope you enjoy reading this issue as much as I have enjoyed putting its content together.

Like most Cuban exiles, my grandparents came to this country with very little money in their pockets, small children in tow, and the inability to speak the language. Had it not been for the generosity of other Cuban exiles, it would have been a lot harder for them to have made a life for themselves here in America.

Despite all of the wonderful things America had to offer, they would have given anything to have been able to return to a free Cuba. They believed their stay in America was temporary until Castro's regime was removed from power. Each New Year's Eve my grandfather would tell the family that the following year they would kick in the New Year in their beloved Cuba.

Both of my grandparents died without ever having had the opportunity to return to Cuba. While my grandfather was very ill and dying, he actually believed he was in Cuba with my grandmother rather than in their Miami home. That was the kind of love he had for his country. Out of respect for my grandparents, my mother made a promise to never return to a communist Cuba. We all made the same promise.

My story is not unique, as demonstrated by the editorial piece written by Jonathan Torrens. Many Cuban Americans have made similar promises and to date, have yet to visit Cuba. It has been over fifty years though, which leaves me wondering—at what point do we accept that things may never change? That change may not happen in our generation or in the next? That if we ever want to visit the country our parents and grandparents were born in the promises we made may have to be broken?

With the passage of time, some Cuban Americans have started traveling to Cuba. In fact, with eased travel restrictions, approximately half-a-million Cuban Americans (many Cuban-born) visited the island last year. Should they have visited? Have your views changed on how we should handle relations with Cuba, such as travel to the country? Do you believe it time to break the crime scene tape and visit the crime scene? I would love to hear from you regarding your thoughts on the issue (cababriefs@hotmail.com).

Enjoy!

Diane P. Perez
Editor-in-Chief

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CHAIR'S MESSAGE



It is with great pleasure that I take on the role this year of CABA Briefs' Committee Chair. I want to thank our President, Vivian de las Cuevas-Diaz, for giving me the opportunity to be a part of such a wonderful publication. I hope to continue the tradition of our past editors and produce a very high quality product that encourages discourse on issues that we may not always be comfortable discussing. As we seek to push the envelope, I truly hope that you provide your honest feedback on the magazine so that we can continue to try and make it better. As always, please feel free to contact me directly at JAL@kttlaw.com with any thoughts or concerns.

Sincerely,

Javy Lopez
Chair

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LEGAL ROUNDUP

Asset Protection

*After the Florida Supreme Court opinion of **Olmstead vs. F.T.C.**, 44 So. 3d 76 (Fla. 2010), a revision to section 608.433 of The Florida Limited Liability Company Act makes clear that multiple member LLCs are still asset protected.*

by Ed Arista

Why LLCs Provide Better Asset Protection

A judgment creditor executing on a judgment debtor's stock in a corporation, for example, may levy that stock and step into the shoes of the judgment debtor-shareholder to exercise shareholder rights, such as inspecting the corporate books, calling and attending shareholder meetings, transferring stock and controlling the corporation if they have a majority interest. In contrast, the only collection remedy available against the judgment debtor's interest in an LLC is a charging order commanding the LLC to pay to the judgment creditor any distributions that are otherwise payable to the judgment debtor until the judgment is satisfied. Meanwhile, the judgment debtor's status, rights, and powers as an owner remain intact. Instead of making distributions, the LLC can accumulate and/or reinvest its capital and continue paying its ordinary and necessary business expenses, including salaries. In *Olmstead*, due to the absence of a non-debtor "partner," the Court found that the charging order limitation typically applicable to LLCs would not apply to single member LLCs, and thus, cleared the way for a judgment creditor to obtain total control of the LLC.

Restructuring Single Member LLCs to Accommodate a Second Member

Concerned that *Olmstead* could be broadly interpreted to also apply to multimember LLCs, a "legislative fix" was adopted to make clear that multiple member LLCs are still asset protected. As such, single member LLC owners should consider adding a second owner to be asset protected. The original owner, however, must carefully restructure the LLC with a specialized operating agreement that minimizes the original owner's obligations, while maximizing their control, and that limits the second owner's rights to those required by applicable law. Some other issues that must be analyzed include whether the transfer to the second owner could be considered a fraudulent conveyance, whether the existence of a second owner would change the federal tax profile of the LLC, the impact on the first owner's estate plan, what transfer taxes may apply, and whether the second owner might be considered a nominee or alter ego of the first owner.

Eduardo "Ed" R. Arista, CPA, Esq. practices in the areas of business, international tax, real estate, asset protection, and trust and estate planning. He is also a member of The Florida Bar LLC Statute Drafting Task Force and teaches Federal Wealth Transfers in the FIU graduate tax program. Visit <http://www.AristaLaw.com> or contact Mr. Arista at Ed@AristaLaw.com or 305-444-7662.

State Practice

Florida's revised mediation rule, Fla. R. Civ. P. 1.720, requires that parties present at mediation, including insurance adjusters, have full settlement authority to settle a matter and that counsel for each party file and serve a certification 10 days prior to mediation.

by Thomas Mead Santoro

Revised Fla. R. Civ. P. 1.720 provides that in order for a party to be deemed to have appeared at a mediation conference, unless otherwise permitted by court order or stipulated by the parties, a party or party representative must have full settlement authority to settle a matter without further consultation. If a party is insured, the representative of the insurance carrier must have full authority to settle in an amount up to the amount of plaintiff's last settlement demand or the *policy limits*, whichever is less, without further consultation. Both have to be physically present. Thus, the consequences of imprecise mediation practice appear now to be much greater than was previously the case.

The rule also requires that 10 days before attending a mediation conference, counsel file and serve a certification identifying who will be attending the mediation conference as a party representative

or as an insurance carrier representative *and confirming* that they have full settlement authority. The revised rule also provides for the imposition of sanctions against a party who fails to appear at a duly noticed mediation conference without good cause. Failure to file the required certification or failure of the persons identified in the certification to appear at the mediation conference creates a rebuttable presumption of a failure to appear. The operation of this rule change is fraught with problems for attorneys and clients and will doubtless, in time, generate some interesting situations.

Thomas Mead Santoro, Esq., a partner at Jackson Lewis LLP, and a Florida Supreme Court Certified Appellate and Circuit Mediator, both mediates and represents management in a wide array of labor and employment law issues. Visit www.jacksonlewis.com or contact Mr. Santoro at santorot@jacksonlewis.com.

Family Law

Crawford v. Barker, 64 So. 3d 1246 (Fla. 2011), making clear that general language in a marital settlement agreement designating ownership of a plan, policy, or account is simply not enough to ensure that the death benefits of the same will be retained by the designated owner and his or her estate.

by Lindsay Agranoff

Imagine this scenario: You represent the husband in his dissolution of marriage proceedings. After an all-day mediation, the parties finally reach an agreement as to the distribution of their marital assets, including the husband's pension plan. The wife is currently listed as the designated beneficiary of this plan. The parties agree that your client will retain sole ownership of his pension plan and language is put into a mediated settlement agreement to this effect. The agreement does not state who is to receive the death benefits, who the beneficiary should be, or provide a requirement that your client change or reaffirm the designated beneficiary of the pension plan. The parties subsequently sign the mediated settlement agreement and breathe exhausted sighs of relief. Have you adequately ensured that your client, and his estate, will retain his pension plan? According to the recent Florida Supreme Court case of *Crawford v. Barker*, 64 So. 3d 1246 (Fla. 2011), you have not. *Crawford* teaches us it is a terrible mistake to assume that general language in a marital settlement agreement will override the plain language of a separate beneficiary designation.

In *Crawford*, the husband opened a deferred compensation fund and listed his wife, to whom he had been married since 1984, as the designated beneficiary. In August 2005, the husband filed for divorce. At mediation, the parties reached an agreement as to the distribution of their assets, including the husband's deferred compensation fund, pension plan, and annuity. The agreement provided in relevant part: "Husband shall retain retirement money with the Town of Surfside and the Deferred Compensation Fund f/k/a [sic] Pepsco." The

agreement did not contain a general waiver or any other provision referencing the deferred compensation fund, the pension plan, or the annuity. The husband died approximately one year after the divorce was final. Prior to his death, he did not change the named beneficiary on the deferred compensation fund.

Litigation ensued over the death benefits of the deferred compensation fund between the personal representative of the husband's estate, his daughter, and the wife. The circuit court found that because no reference was made in the agreement to the wife's beneficiary rights to the proceeds, as the designated beneficiary, she was entitled to the proceeds. The husband's personal representative appealed to the Third District Court of Appeal, which reversed the circuit court's decision. The Third District Court of Appeal construed the statement in the agreement that the "Husband shall retain retirement money with the Town of Surfside and the Deferred Compensation Fund f/k/a [sic] Pepsco" as a sufficient waiver of the husband's pre-dissolution designation of the wife as the beneficiary. The wife then sought review by the Florida Supreme Court. The issue presented to the Florida Supreme Court was whether language in a marital settlement agreement, which specifically referred to a beneficiary-designated deferred compensation fund, but did not state who is or is not to receive the death benefits and did not specify the beneficiary, trumped the pre-dissolution beneficiary designation in the separate document. The Florida Supreme Court ultimately reversed the Third District Court of Appeal's decision.

The Court stated, “[t]he spouse who owns the policy, plan, or account following the dissolution of marriage, is otherwise free to name any individual as the beneficiary; however if the spouse does not change the beneficiary, the beneficiary designation in the separate document controls,” and that “[a]bsent the marital settlement agreement providing who is or is not to receive death benefits or specifying the beneficiary, courts should look no further than the named beneficiary on the policy, plan or account. General language such as language stating who is to receive ownership is not specific enough to override the plain language of the beneficiary designation. Magic words are not required; however if the parties wish to specify in a marital settlement agreement that a spouse will not receive the death benefits or wish to specify a particular beneficiary, this should be done clearly and unambiguously.” *Crawford*, 64 So. 3d at 1248, 1256 (emphasis added).

The parties’ settlement agreement did not specify that the husband was to receive the death benefits. It also did not state who should be the beneficiary of the deferred compensation fund and did not contain a general release clause. However, the contract with the deferred compensation fund clearly designated the wife as the beneficiary. According to the Court, as the agreement gave the husband ownership of the deferred compensation fund, he had the right to designate the beneficiary of his choosing and was not obligated

by the agreement to either maintain or change the beneficiary. *Id.* at 1257. As a result of the husband’s failure to change the wife as the designated beneficiary, and the lack of specific language in the agreement as to who was to receive the death benefits, the Court held that the wife, as the designated beneficiary, was entitled to the proceeds of the deferred compensation fund.

Crawford presents an excellent lesson to be learned. General language in a marital settlement agreement designating ownership of a plan, policy, or account is simply not enough to ensure that the death benefits of the same will be retained by the designated owner and his or her estate. Marital settlement agreements must contain specific language outlining who is to receive the death benefits of the subject policy, plan, or account and/or who should be the beneficiary and whether the party should maintain or change the beneficiary designation. These relatively simple inclusions will help ensure that the proper party and/or proper beneficiary receive the proceeds of a plan, policy, or account.

Lindsay Agranoff, Esq., an attorney at Elser Foster-Morales, LLC, practices in the area of family law. Visit www.elser-law.com or contact Ms. Agranoff at lagranoff@elser-law.com.

Federal Practice

Recent Amendments to the Federal Removal Statute Significantly Alter Previous Removal Rules

by Jason D. Berkowitz

Litigators should be aware of recent amendments to the federal removal statutes, 28 U.S.C. §§ 1441, 1446. The removal amendments were codified in the Federal Courts Jurisdiction and Venue Clarification Act of 2011 (hereinafter, the “Act”) and apply to all actions “commenced” in state court on or after Jan. 6, 2012, and that invoke the federal district courts’ diversity jurisdiction. The following are some of the most significant changes:

Under the previous removal scheme, a defendant had thirty days “after receipt . . . through service or otherwise, of a copy of the initial pleading setting forth the claim for relief” to file a notice of removal to federal district court. 28 U.S.C. § 1446(b). While ostensibly this is a simple requirement, the waters get muddied in cases involving multiple defendants who have been served at different times. Prior to passage of the Act, there was a split amongst the circuits as to when the thirty-day clock should begin to run. The Act resolved this dilemma and adopted the “later-served defendant” rule. The new section 1446 provides that “[e]ach defendant shall have 30 days after receipt by or service on that defendant of the initial pleading or summons . . . to file the notice of removal.” 28 U.S.C. § 1446(b) (emphasis added). Therefore, plaintiffs cannot avoid removal by delaying service on a particular defendant. Moreover, if two defendants are served at different times and a later-served defendant files a notice of removal, the first-served defendant can consent to the removal even if that earlier-served defendant did not previously initiate the removal proceedings. 28 U.S.C. § 1446(b)

(2)(C). Nevertheless, all defendants that have been properly joined and served must consent to the removal of the action. 28 U.S.C. § 1446(b)(2)(A).

Second, the Act strips federal courts of jurisdiction over unrelated state law claims. A federal district court no longer has discretion to hear state law claims in a removed action if they are not otherwise “within the original or supplemental jurisdiction of the district court.” 28 U.S.C. § 1441(c). Procedurally, a defendant would remove the entire action, but then the federal district court “shall sever” the non-removable claims and remand them to state court. Consequently, defendants could be forced to litigate a dispute in two judicial forums. *Id.*

Next, the Act adopts a “bad faith” provision, which prevents plaintiffs from concealing the amount in controversy in order to avoid removal. Previously, an action could not be removed on the basis of diversity jurisdiction more than one year after its commencement. Under the Act, the one-year period can be extended if the district court finds “that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action.” 28 U.S.C. § 1446(c)(1).

Finally, the Act contains significant changes to how the amount in controversy is established for purposes of removal. The Act provides that when a defendant is faced with a state court pleading that lacks specific allegations of an amount in controversy, the defendant

may still remove the lawsuit, even after the 30-day period expires, if it receives discovery or “other papers” from the plaintiff indicating that the jurisdictional amount is met. 28 U.S.C. § 1446(c)(3)(A). The Act also provides that a notice of removal can assert the amount in controversy if the initial pleading seeks nonmonetary relief or a money judgment. Lastly, the Act adopts the majority view that a defendant needs to demonstrate that the amount in controversy exceeds the jurisdictional threshold by “the preponderance of the evidence.” 28 U.S.C. § 1446(c)(2)(B).

Jason D. Berkowitz, Esq., an attorney at Jackson Lewis LLP, practices labor and employment law. Visit www.jacksonlewis.com or contact Mr. Berkowitz at berkowitzj@jacksonlewis.com.

Employment Law

Approved Legislation Revises Florida's Unemployment Compensation Law

by David E. Block and Diane P. Perez

On March 28, 2012, Governor Scott signed into law legislation revising Florida's unemployment compensation law. The new law, which renames the state's unemployment compensation program in chapter 443 to the “reemployment assistance program,” makes significant changes of which employers and employees should be aware.

The law makes several changes related to employer contributions. First, it provides tax relief through two changes. It lowers the wage base (the amount of wages subject to unemployment tax) from \$8,500 to \$8,000 for tax years 2012 through 2013. It also increases the recoupment period used in the calculation from three years to five years through tax year 2018. The law also allows employee leasing companies to make a one-time election to report and pay contributions under the tax identification number and contribution rate for each client of the employee leasing company.¹ Under the client method, the leasing company pays contributions at the rates assigned to each client company.² If an employee leasing company opts to use the client method, it must notify the Department of Revenue by July 1, 2012 in writing.³ These changes go into effect immediately, 2012 *Employer's Quarterly Report* (Form UCT-6).

The revised law also requires the Department of Economic Opportunity (DEO) to prescribe a numeric score for the initial skills review that demonstrates a minimal proficiency in workplace skills.⁴ An initial skills review is an online education or training program approved by the DEO that is designed to measure an individual's mastery level of workplace skills.⁵ Should an individual fall below the minimal proficiency score established by the DEO, the individual will be offered and encouraged to attend training free of charge.⁶ The DEO must then evaluate the use, effectiveness, and costs associated with the training and report its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2013.⁷

The law clarifies that the work search requirements of Fla. Stat. Sec. 443.091 do not apply to individuals who are unemployed as a result of a temporary layoff or who are claiming benefits under an approved short-time compensation plan.⁸ A short-time compensation plan is a voluntary employer program designed to help employers maintain their staff during temporary slowdowns by reducing their

weekly working hours instead of laying employees off with partial unemployment compensation payments by the state. The law also clarifies that union members who customarily obtain employment through a union hiring hall may satisfy the work search requirements of the section by reporting on a daily basis to their union hall.⁹

Prior to these revisions, the law provided that an individual could be disqualified for making a false or fraudulent representation for the purpose of obtaining benefits for no more than one year from the date of the discovery of the fraud by the DEO. The revisions now increase the period of disqualification until one year from the date the DEO discovers the fraud or until all fraudulent overpayments are repaid in full.¹⁰ Other changes include a reduction in the number of required work search contacts from five to four for individuals living in small counties¹¹ and an incorporation of federal provisions (20 C.F.R. Part 603) relating to the release of confidential information,¹² among others. These changes take effect July 1, 2012. **CB**

¹ Fla. Stat. Sec. 443.1216 (2012).

² Id.

³ Id.

⁴ Fla. Stat. Sec. 443.091 (2012).

⁵ Fla. Stat. Sec. 443.036 (2012).

⁶ Id.

⁷ Fla. Stat. S. 443.091 (2012).

⁸ Id.

⁹ Id.

¹⁰ Fla. Stat. Sec. 443.101 (2012).

¹¹ Fla. Stat. Sec. 443.091 (2012).

¹² Fla. Stat. Sec. 443.1715 (2012).

David E. Block and Diane P. Perez represent management in a wide variety of labor and employment matters. For more information, please visit www.jacksonlewis.com or email Mr. Block at David.Block@jacksonlewis.com or Ms. Perez at Diane.Perez@jacksonlewis.com.

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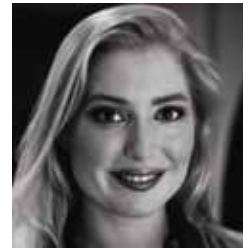
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The Women of CABA

Successful Leadership in a Male-Dominated Profession



by Jane Muir

The challenges presented by the current economy cannot explain the uneven progress made by women lawyers compared to their male colleagues.

Men overwhelmingly occupy the most prestigious, influential, and lucrative positions in law firms. Nationally, women represent only fifteen percent of equity partners at the two hundred largest law firms, according to an annual survey on the status of women in law firms conducted by the National Association of Women Lawyers.¹ Women are also underrepresented in the leadership of these firms. In fact, the survey found that eleven percent of the firms surveyed do not have any women on their highest governing committee, and thirty-five percent have only one. There appears to have been little, if any, gains in the status of women in the largest firms over the past twenty years.

Generally, women lawyers in Florida appear to be gaining status at a more encouraging rate than their “BigLaw”² counterparts. The Florida Bar’s Annual Membership Opinion Survey, which was released in January 2012, reveals that fifty-six percent of Florida’s male attorneys are sole practitioners, partner/shareholders, or managing partners, compared to thirty-four percent of female attorneys. The Florida

Bar’s survey also found that twenty-one percent of female attorneys are employed in local, state, or federal government practice positions, as compared to ten percent of male attorneys and that twenty-eight percent of women in Florida identified themselves as associates, as opposed to only fourteen percent of the men surveyed.³

In stark contrast to the underrepresentation of women in “BigLaw” and law practice partnership and management in Florida, the Cuban American Bar Association has a proud history of elevating women to leadership positions since it was founded in 1974. Currently, sixty-four percent of the members on the board of directors are women. The immediate past-president, president, president-elect, secretary, and treasurer are all women. Five of our past-presidents were women, and they have moved forward to occupy new, interesting, and prestigious roles in the community.



Katherine Fernandez-Rundle

Was the first woman to serve as CABA president when she served in 1991. An Assistant State Attorney for fifteen years and Chief Assistant State Attorney, she was elected State Attorney for the Eleventh Judicial Circuit in 1993. She helped lay the foundation for the women who followed her in serving the association as leaders and still maintains strong ties to CABA.



Corali Lopez-Castro

Was the second woman to serve as CABA president. She explains, "I was on the board of CABA for six years before I was president. Only one woman came before me, and that was Katherine Fernandez-Rundle, but gender didn't matter. What mattered was how you did the job—your talent, your ability." Ms. Lopez-Castro found that being a woman lawyer was more difficult than being a Hispanic lawyer in Miami. Wanting to provide clients with the most effective possible advocacy, she found that serving as CABA president elevated her status in the eyes of her male colleagues. Moreover, Ms. Lopez-Castro acquired leadership skills that she continues to use as managing partner of Kozyak Tropin Throckmorton and as co-chair of the Pro Bono Standing Committee of the Florida Bar. "The lessons that you learn and the connections that you create while you are involved stay with you. You remember to build consensus and make decisions in the interest of the whole group."



Elizabeth Hernandez

Known for serving as Chief Legal Officer for the City of Coral Gables for sixteen years, is another high-achieving former CABA president, who served in 2007. Recipient of the City Attorney of the Year Award from the Florida League of Cities in 2005 and the Paul S. Buchman Award from the Florida Municipal Attorneys Association, she is currently a shareholder at Akerman Senterfitt. When asked what it was like to be female president of CABA, Ms. Hernandez shared that as to the board "It was similar

to what men experience; some of my best allies and supporters were women; some of my most critical board members and obstructionists were also women. I think it has more to do with the character of the person and not the gender of the individual. There are self-confident supportive people and there are people that are self-centered, and need to tear you down in order to feel better about themselves." Ms. Hernandez believes that being a female president really advanced the organization because CABA had always been perceived as very male-dominated and exclusive. "The number of women presidents has truly made an impression on not just this community, but the state, on FAWL, the ABA and the political bodies. It has also encouraged other minority females and that is the most important accomplishment."



Marlene Quintana

CABA President in 2008, served on CABA's board of directors from 2003 to 2009. Board certified in Labor & Employment Law, Ms. Quintana is a shareholder at Gray Robinson. Since the end of her CABA presidency, Ms. Quintana has continued to achieve prominence, serving as the current Chairperson of the Eleventh Judicial Circuit Nominating Commission.



Victoria Méndez

CABA's immediate past-president, is the Supervising Assistant City Attorney for the General Government, Quality of Life, and Administration Division of the Office of the City Attorney for the City of Miami, having joined the office in 2004 after serving as an Assistant State Attorney. She served on the board of directors beginning in 2004 and chaired many of CABA's committees. "One of the most important things that I love about CABA is that it is a mentoring and leadership organization. I am the first attorney in my family. If it were not for CABA, I wouldn't have been able to do many of the things that I have done in my career. CABA has contributed greatly to the attorney I am today, and I am truly grateful." She continues to play an active role in CABA as president of the Cuban American Bar Foundation, as well as in the community as a trustee for the Miami-Dade County Law Library, and former chair of a Florida Bar Grievance Committee.



Our current president,

Vivian de las Cuevas-Diaz

Has been a member of CABA since the beginning of her legal career. Since 2005, she has served on the board of directors and has occupied a variety of leadership roles including vice president, treasurer, and chair of many committees. Ms. de las Cuevas-Diaz also established the Art in the Tropics event, which has raised over \$200,000 for CABA's Pro Bono Project to support pro bono legal services in the community. A partner at Broad and Cassel, she practices in the areas of Banking and Institutional Lending, Real Estate, and Special Assets. When asked what her experiences as president of CABA have been like, Ms. de las Cuevas-Diaz said, "This has been an amazing experience. I can tell you that I feel no different leading CABA as a female versus as a male." While Ms. de las Cuevas-Diaz believes that within the profession inequality still exists between men and women, she does not believe that to be the case within the organization, which is "extremely supportive of its women leaders." "We are still not equals but as more of us lead organizations and make partner or open our own firms, we pave the way for other women lawyers to have a nicer road and path."



President-elect

Sandra Ferrera

Is a real estate transactional partner at Meland Russin & Budwick. During her tenure at CABA, Ms. Ferrera served in virtually all CABA committees and as an officer for six of those years. Most notably, however, was Ms. Ferrera's role as chair of CABA's Pro Bono Project from 2008 through 2011. As chair of the Project, she oversaw and expanded CABA's 501(c)(3) Pro Bono Project ensuring that justice is afforded to the neediest members of our community. When asked how her leadership positions in CABA helped her develop herself as a female attorney, she responded that "being a leader in CABA has given me the opportunity to network and stay abreast of important legal issues affecting our legal community. This type of access and exposure builds confidence and is invaluable to progression as a female lawyer in what is otherwise still a male-dominated profession."

The Women of CABA



CABA's women leaders serve as an example to women in the legal profession. They have earned the support of their male colleagues by having the talent and drive to deliver great work and the diplomacy and tact required to generate consensus in promoting CABA's mission. Their experiences as CABA leaders help them polish the leadership skills they already possess and to create opportunities to serve in public office, as community leaders, and as partners and shareholders in law firms. There is no doubt that these women will continue to be extraordinary

in their roles as attorneys. Their service to CABA and the community at large will continue to have a positive effect on the advancement of women lawyers in South Florida. **CB**

Jane W. Muir is a partner at Gersten & Muir, P.A. A graduate of the University of Miami School of Law and the University of Florida, she practices civil litigation. For more information, please visit www.gerstenmuir.com. You can reach Ms. Muir at jane@gerstenmuir.com.

¹The National Association of Women Lawyers, *Report of the Sixth Annual National Survey on Retention and Promotion of Women in Law Firms*, October 2011, available at <http://nawl.timberlakepublishing.com/files/NAWL%202011%20Annual%20Survey%20Report%20FINAL%20Publication-ready%2011-14-11%281%29.pdf>

²"BigLaw" is a term commonly used to refer to firms with more than two hundred partners, particularly in blogs regarding the legal profession

³The Florida Bar, *Results of the 2011 Membership Opinion Survey*, February 2012, available at [http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/9ECF9A7ACAD7F4B785257997007A213B/\\$FILE/2011%20Membership%20Opinion%20Survey%20-%20Final.pdf?OpenElement](http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/9ECF9A7ACAD7F4B785257997007A213B/$FILE/2011%20Membership%20Opinion%20Survey%20-%20Final.pdf?OpenElement)

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CROSSING BARRIERS

by Diane Perez & Kim Lucas



EASED TRAVEL
RESTRICTIONS
TO CUBA RESULT IN
HALF-A-MILLION
CUBAN AMERICANS
TRAVELING TO CUBA
LAST YEAR

CAUTION

It has been more than fifty years since Fidel Castro came to power on January 1, 1959. Many Cuban exiles remember that day as if it were just yesterday—the loss they endured when they had to leave their family, property, and country behind and start a new life elsewhere. But for Cuban-American exiles that arrived in the United States after 1994 and Cuban Americans born in this country, the passage of time may mean it is time for change in U.S. relations with Cuba—at least in terms of travel.

According to figures released by the National Statistics Office (ONE) relating to Cuban travel in 2010 and 2011, the majority of visitors to Cuba are from the U.S.¹ In fact, according to the released figures, the U.S. is the second largest source of tourism in Cuba behind Canada, and of the number of U.S. visitors that traveled to Cuba in 2010, the Havana Consulting Group estimates that 496,235 were Cuban Americans.² That number increased 3.85 percent in 2011 when 515,354 Cuban Americans traveled to the country.³ While Juan Antonio Blanco, Ph.D., Visiting Assistant Director of the Cuban Research Institute at Florida International University, agrees that after Canadians, the Cuban Diaspora (not just Cuban Americans) make up the second largest group of visitors to Cuba, he does not believe the figures to be accurate in terms of the number of Cuban Americans that visit each year. “Those figures reflect the number of tickets sold to persons of Cuban-American identity but a considerable segment of that total are repeated travelers going back and forth three and even twenty times—the so-called ‘mules,’” said Blanco.

He may be right. In 2009, the Obama administration eased restrictions on family travel and travel related to marketing and the sale of agricultural and medical goods to Cuba. Two years later,

the Obama administration further eased restrictions on travel and remittances by allowing purposeful travel to Cuba related to religious, educational, and people-to-people exchanges and allowing any U.S. person to send remittances to non-family members in Cuba. The eased restrictions have resulted in a significant number of Cuban Americans traveling to the country to visit family and carrying with them food and medicine, among other items.

The increase in travel to Cuba begs the question of whether the increase should be attributed to a change in views among the Cuban-American community or to some other reason. A study conducted last year of 648 randomly selected Cuban Americans in Miami-Dade County by the Cuban Research Institute of Florida International University found that over 60 percent of American-born Cuban Americans would support unrestricted travel by all to Cuba and 72 percent of them would oppose a law that further restricts the current travel policy. The study also found that 75 percent of Cuban Americans that arrived in the U.S. after 1994 would support unrestricted travel and 76 percent of them would oppose additional restrictions to the current travel policy.

Some argue the biggest reason for the turnaround is the change in the profile of the Cuban-American community.⁴ There are now approximately 300,000 Cuban Americans in the U.S. who arrived after the mid-1990s, outnumbering the number of Cuban exiles that first arrived in the U.S. in the early 1960s.⁵ While they oppose communism, family is more important to them than politics.⁶ By comparison, older Cuban Americans who came shortly after the revolution have fewer connections to the island and support limited travel and remittances. As further proof,

a poll conducted in 2009 by Miami’s Bendixen & Associates found that 48 percent of Cubans who arrived in the U.S. prior to 1980 supported lifting travel restrictions to Cuba compared to an outstanding 69 percent of Cubans who arrived after 1980.

Whatever the reason for the increase in travel to Cuba, one thing is clear: the Cuban-American community is split on whether travel restrictions to Cuba should be entirely lifted. Those in favor of lifting restrictions on travel to Cuba argue the travel band hinders U.S. efforts to influence the political and economic conditions in the country. According to these individuals, a flood of U.S. citizens to Cuba, who will engage in conversations with a representative sample of native Cubans, is the best way to effectuate change.

Blanco shares this view. “Ten thousand Cubans visiting the island have a totally different impact than 500,000 Canadian tourists,” said Blanco. “Canadian tourists—and other foreign visitors—do not have the same social networks within the island and do not enjoy the same potential to influence the perspectives of Cubans living there nor are they interested in doing so.”

Proponents of lifting Cuba travel restrictions also argue that the restrictions abridge the rights of ordinary Americans to travel to Cuba – Americans who can travel to other communist and authoritarian governments around the world, such as the People’s Republic of China and Vietnam. These proponents also point to human rights activists in Cuba, like Elizardo Sanches and Miriam Leiva, who also argue for the lifting of such restrictions.



Opponents of lifting travel restrictions, on the other hand, believe that there are already significant provisions in U.S. law permitting Americans to travel to Cuba for legitimate reasons that support the Cuban people and not the regime. They argue that the reality of the human rights situation in Cuba would not permit American tourists to engage in exchanges with a representative sample of native Cubans. They also argue that lifting the travel ban entirely will open the floodgates to American tourist travel, which will support the regime by providing the government with millions in tourism dollars. Similar arguments are made regarding remittances. For example, Jorge Salazar-Carrillo, a Professor of Economics at Florida International University, argues that “Over 400,000 Cuban Americans traveled to Cuba last year, which when added to the remittances from the U.S., constitute a greater aid to the regime than the oil coming from Venezuela.”

While Blanco agrees that the Cuban government receives a significant portion of the remittances from abroad and money spent in Cuba by travelers, he does not agree with an outright ban on remittances and travel. “When a group of criminals enter a bank, take hostages, and are surrounded by SWAT, the police do not prevent the supply of food and medicines to those inside until the hostages are free. The notion that the criminals will eat from the same food sent inside is not a valid consideration in such situation. And no one dares to raise the idea that perhaps if they deny water, food, and medicines to everyone inside the building, the hostages may feel inclined to rebel. Humanitarian considerations come first,” said Blanco.

“I consider that while the people of Cuba are hostage to the present regime, similar humanitarian considerations should be respected. Stopping the flow of remittances, food, medicines, and other basic products such as soap, cloth, etc. may place us under a very unpleasant perspective if we were in the shoes of those inside Cuba.”

If the Republicans are successful in the upcoming election, travel and remittance restrictions may tighten as they did in June 2004 under the Bush Administration. Since 2009, there have been attempts to limit travel to Cuba. U.S. Rep. Mario Diaz-Balart, for example, proposed an amendment to the spending package late last year, which would have returned U.S. regulations to those under Bush. Even so, for now it seems travel to Cuba will remain an option for those who want to visit or return. **CB**

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1 http://www.thebarvanaconsultinggroup.com/index.php?option=com_content&view=article&id=317%3Athe-usa-is-the-second-largest-source-of-tourism-in-cuba&catid=36%3Atourism-&lang=en (last visited April 4, 2012).

2 Id.

3 Id.

4 <http://www.nytimes.com/2011/11/22/us/cuban-americans-take-lead-in-building-ties-with-cuba.html?pagewanted=all> (last visited April 4, 2012).

5 Id.

6 Id.




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EDITORIAL

In Defense of Discourse



by Jonathan Torrens

Preface:

I offer this brief preface to place the words that follow in context. I was born in Hialeah Hospital. I attended Champagnat Elementary School for five years and spent seventh grade through high school at Belen Jesuit. I consumed many teaspoons of *Jarabe* as a child. I roast a *lechón* every Christmas Eve with my family, prefer *guayaba y queso pastelitos*, and have played countless hours of dominos. I have no intention or desire to run for political office. I do, however, believe that I may somewhat authentically present myself as having been born and raised in the Cuban-American community and credibly may offer a view from that perspective (although by the end of this article perhaps some will disagree with that assertion).

“...it is to advocate that we elevate the level of our discourse to allow for serious and meaningful discussion of how some level of strategic engagement, on terms dictated by this community, might hasten regime change ...”

Position:

Attorneys are trained to consider and deconstruct both sides of an issue—to analyze the relative strengths and weaknesses of opposing perspectives. The purpose of this dialectic is to arrive at truth and achieve justice. Yet on the issue of Cuba policy, it seems that for decades any discourse, analysis, or consideration of policies that involve any sort of engagement with the country have been viewed as disloyal. It is Cuban American apostasy. If such a suggestion originates from a Cuban American born in the United States, the perspective is viewed as especially naïve—typically derided as the impertinent musings of a self-important upstart, spoiled and led astray by the comforts of this country, ungrateful of the struggles and sacrifices endured by the Cuban Americans who have preceded him or her.

I believe this view is profoundly unfair. It denies this community a source of creativity and energy on how more effectively to tackle the issue of achieving freedom in Cuba. It discourages constructive dialogue and silences vibrant voices that yearn for a free Cuba as eagerly as any member of this community.

Many people of good will genuinely support the embargo as a principled position for freeing Cuba. I also believe, however, that throughout the history of this debate, many political leaders have engaged in demagoguery and pandering, adhering to a dogmatic support of the embargo, regardless of whether it actually is an effective policy for Cuba and the freedom of its people.

Similarly, the ritual of national politicians visiting Versailles and offering assurances they will never lift the embargo, coupled with trite and poorly pronounced chants of “Cuba Si, Castro No,” always has struck me as condescending and simplistic. That ceremonial rote—likely to repeat itself in the current election cycle—presumes a homogeneity of thought within this community and assumes our vote may be swayed with a single throwaway line. In my opinion, we deserve better, and we are in a position to demand better. Cuban Americans represent the most potent swing vote in the most important swing state in the country. We punch above our weight in nearly every measurable political and socioeconomic metric.

The purpose of this article is not to advocate lifting the embargo. Rather, it is to advocate that we elevate the level of our discourse to allow for serious and meaningful discussion of how some level of strategic engagement, on terms dictated by this community, might

hasten regime change—how it might energize a generation that knows Cuba only by anecdote and craves a deeper and more tangible connection with its heritage.

The Cuban Americans born in this country have grown up in almost total isolation from Cuba. There is no reliable or politically tolerable conduit through which to form any bond or engage in any sustained communication with our kin living on the island. Unquestionably, the ultimate blame for that state of affairs lies in the repression of the tyrannical regime. However, a five-decades-long policy of isolation has further foreclosed any such opportunities.

Cuba is only ninety miles from Florida, but it may as well be on another planet. We largely are cut off from any events on the island, and other nations and interest groups happily have filled the void for their own profit, without concern for advancing the cause of freedom. Meanwhile, for most Cuban Americans, especially those born in the United States, the reality of life in Cuba remains as remote as North Korea, despite being within rafting distance of our shores.

The embargo has become an intrinsic element of Cuban-American identity. It has assumed a role that transcends policy. Entire generations have been born and raised in its shadow. Its persistence and the fight to keep it in place have become culturally synonymous with the struggle against the regime in Cuba. Given this great historical inertia, it is not surprising that any easing of sanctions would be perceived as a weakening of our resolve.

Two questions, however, must be asked. Might there be a more effective way? And who truly is suffering as a result of this policy? After expending so much emotional and political capital on sanctions, these may be difficult questions to ask. The answers may be even more uncomfortable. Perhaps this is where a new generation can contribute. In an era of Arab Springs and Twitter revolutions, maybe it is time to unleash the latent energy of engagement. I wonder what our generation could achieve if we could fully enter the fray, utilizing the tools and resources we know.

This perspective is shared by Tony Jimenez, Co-Chairman of *Raices de Esperanza*, an organization that “seeks to empower Cuban youth to be the authors of their own futures through cultural, academic, technological, and leadership development programs.” Speaking for the group, Mr. Jimenez stated that “we take pride in fostering a culture based on ‘smart passion.’ There is no denying that debate around Cuba is a highly emotional one, but we as a diaspora cannot let this blind us to our shared values of free expression, tolerance, and dialogue. As citizens of a free country, we must honor our liberty by modeling and promoting respectful debate among differing opinions; anything less would be a grave dishonor to the parents and grandparents who sacrificed so much for us to enjoy these freedoms, as well as to our counterparts in Cuba.”

In recent years the taboo against travel to the island slowly has been diminishing and an increasing number of families have traveled to Cuba to reconnect with their history. There also have been increasing signs that the regime may be weakening. Now may be an opportune moment to consider how some increased level of engagement by and exposure to the Cuban-American community may further weaken the government’s grip. Local and national attention on this issue has been heightened by the recent papal visit. While this event may yield only marginal benefits in terms of advancing the goal of regime change, it at least temporarily has served to spur conversation once again on the best course forward.

Many argue that given this apparent weakening, harsh sanctions against Cuba are more important now than ever. This view was

expressed by Carlos L. Curbelo, the youngest current Miami-Dade County School Board member, who is actively involved in Cuban-American issues: “All passion aside, there is no logic in unilaterally affording Cuba’s brutal dictatorship the myriad benefits of free trade and open tourism with the US. The regime trades with the rest of the world, and people are still being unjustly imprisoned and tortured on the island. We do not want to return to the days when the Castros had ample resources and used them to aggressively export ‘revolution’ and anti-Americanism.”

This position also has merit. The overarching point is that all these perspectives are worthy of consideration as long as they are directed toward the same common purpose. Moreover, the easing of sanctions is not an all or nothing proposition. A nuanced and level-headed conversation may yield common ground and identify shrewd and calculated levels of engagement, specifically targeted to exploit the weaknesses of the regime. Such efforts cannot take place, however, if any suggestion of engagement is met with outright or *ad hominem* denouncement.

Conclusion

For my part, I intend to honor a promise made to my grandmother before she passed away that I not visit Cuba until the country achieved democracy. That conversation poignantly conveyed to me the depth of emotion involved in these issues. She perished never having returned to the land of her birth. Given the sacrifices she made and my inability ever to revisit the topic with her, my decision is an easy one. I believe, however, that I also honor her memory by advocating discourse within this community and among my generation about how, most swiftly, to achieve the emergence of democracy so that other families may enjoy a return to a free Cuba which my grandmother was denied.

The greatest gift we possess as Cuban Americans, as citizens and residents of the United States, is our fundamental understanding of freedom—the innate and zealous belief that governments are made to serve their people and that freedom is the natural state of man. That idea and its unrelenting defense, denied to so many around the world but which we have the privilege of enjoying as naturally as the air we breathe, is one we actively should strive to share with the Cuban people.

Emotions on this issue understandably run high. However, rather than engage in internecine sniping, which only serves to fracture this community, we should encourage and demand a more substantive dialogue. I do not presume omniscient knowledge that any degree of strategic engagement would meet with success. I only suggest that people of good will within this community should be able to discuss these various perspectives openly, intelligently, cooperatively, and with an unwavering eye to the swiftest possible elimination of tyranny in Cuba. **CB**

Jonathan Torrens received his bachelor's degrees in Economics and Computer Science from Duke University and his Juris Doctor from Northwestern University. He practiced law for several years and is currently pursuing a start-up venture. He may be contacted at jtorrens@metamiami.com.

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Hofstra Study Abroad Program in Cuba

Cigars and Law Schools in Havana

by Keith Fernandez



Genuine academic exchange has long been lauded in American culture with the belief that this interchange leads to personal and professional growth for all parties involved. When academic exchange, however, is severely impacted by limiting conditions in the host country, it begs the question of whether the exchange ceases to be a true exchange and morphs into something not contemplated by authorizing statutes. With this in mind, Hofstra Law School will sponsor a spring break study abroad program for law students in Havana, Cuba. Sponsored activities include tours of Havana, the surrounding suburbs, the Hemingway museum, and the museum of the Cuban Revolution. In addition, participants will attend receptions likely designed to orient or ease the participants' transition into their surroundings.¹ Students will also attend presentations on Cuba's constitution and trade law, as well as American trade law.² Whether this program fulfills the intent of the authorizing statute or societal goals is dubious.

Current regulations are content-neutral on what can be taught on university-sponsored academic trips to Cuba. As long as legitimate academic instruction is the primary activity of the professor teaching the class and the institution sponsoring the trip, regulations do not interfere with the academic materials being proffered.³ Although it is curious as to how American law students would benefit by studying American trade law in Cuba, one of the least economically free countries in the world, it is the prerogative of the person or institution to determine their course of study as long as it not proscribed by law. This, however, brings us to the question of whether this particular trip falls within the intent of current regulations, and, more importantly, the fundamental ideals associated with true academic exchange.

It may be the case that participants will fulfill the ideals of academic exchange by meeting with foreign law professors and touring a country with a unique system of laws. Additionally, it is

not inconceivable that participants could benefit from education on U.S. trade in Cuba, most notably cash-only agricultural sales, by using the information to structure future business deals for clients.⁴ Further, participants may gain an understanding of the culture that fosters the current jurisprudential regime in Cuba.

Notwithstanding these perceived benefits, many of the program-sponsored and independent activities are inherently tourist activities. While Americans generally cannot travel to Cuba, Hofstra law students will travel to Havana under the guise of studying law.⁵ Thus, while most Americans cannot smoke a cigar, drink a mojito, and see the Malecon, program participants are enjoying these privileges on an educational visa despite the dearth of jurisprudential value.⁶ In addition, regime-approved Cuban academics will likely extol the "virtues" of the Cuban constitution without discussing the Cuban government's consistent violation of the document, the undue restrictions it places on its citizens, or the infamous Cuban penal code, which grants the state almost unlimited authority to imprison its own people.

This trip is a missed opportunity to implement the intent of the regulatory scheme: genuine academic exchange. The fact that an institution is unable or unwilling to promote true academic freedom leads one to question the utility of a license that can be used to contravene the intention behind its creation.⁷

Hofstra Law's trip to Cuba under their current program shows true exchange was not a priority. By choosing to take students to Cuba instead of other more open environments for academic exchange, Hofstra Law squandered an opportunity for academic growth in favor of a Potemkin village tour for their students. As law students, we have the opportunity to question, to analyze, and to seek input from diverse sources in order to arrive at an informed legal conclusion. It is sad and ironic that Hofstra Law would not choose to afford their students those same opportunities for genuine academic exchange when it scheduled a trip to one of the world's least free countries. **CB**

Keith Fernandez, an American of Cuban descent, is currently a second-year law student at the University of Florida Levin College of Law and may be reached at keith.fernandez1@gmail.com.⁸

¹ Hofstra Law, Cuba Field Study: Export Laws and Export Controls, http://law.hofstra.edu/Academics/Programs/InternationalLaw/intlaw_cfs.html (last visited March 31, 2012).

² *Id.*

³ See Emergency Coal. to Defend Educ. Travel v. U.S. Dept. of the Treasury, 545 F.3d 4, 13 (D.C. Cir. 2008); see also 31 C.F.R. § 515.565 (a)(1) – (3) (Regulations governing academic travel to Cuba as it relates to this article).

⁴ See 22 U.S.C.A. §7207 (2000) (Governing cash-only agricultural sales to Cuba); see also 22 U.S.C.A. §6032 (1996) (Codifying the economic embargo against Cuba).

⁵ See 31 C.F.R. § 515.560 (f) (2011).

⁶ See Commission for Assistance to a Free Cuba, Report to the President 30 (2004) ("...other travelers and academic institutions regularly abuse this license category and engage in a form of disguised tourism."); see also Brief for Appellees at 53, Emergency Coal. to Defend Educ. Travel v. U.S. Dept. of the Treasury, 545 F.3d 4, 13 (D.C. Cir. 2008) (No. 07-5317); Commission for Assistance to a Free Cuba, Report to the President 30 (2004) ("A large number of programs are for a short duration, allow for limited interaction with the Cuban people, and include lengthy unscheduled time periods to permit largely tourist activities to be accomplished. Such travel does not promote a genuinely free exchange of ideas between Cubans and American students.")

⁷ Roger Noriega, How Obama Can Make Cuba Freer, Faster, The American, January 19, 2011, <http://www.american.com/archive/2011/january/how-obama-can-make-cuba-freer-faster> ("decision to issue blanket licenses to universities and churches make such isolated abuses more likely, not less").

⁸ Professional and personal thanks are due to Rob Gidel, Jr., Christopher Miles, John-Paul Ovadia, Maytee Sanz, and Justin York for their help in compiling this article.

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Schlackman Photos of Cuba

These photos were taken by Steven Schlackman, a patent attorney and graduate of the University of Miami School of Law, as part of a long-term video documentary entitled "Habana Now." The project, conceived by Preston Clark, also an attorney and graduate of the University of Miami School of Law, began filming in 2004 and follows a family of Afro-Cuban percussionist in Havana, Cuba. The documentary explores several themes not seen by many outside of Cuba. Through the thoughts and music of two brothers, Damien and Kimbo, and their uncle, Jose, "Habana Now" provides a glimpse into the rich musical traditions of Santeria, and its raw rhythmic pattern known as "La Clave," which underlies many popular musical forms such as rumba, mambo, salsa, and Latin Jazz. At the same time, this rich culture is juxtaposed against a backdrop of Afro-Cuban second-class citizenry and poverty in a country that portrays itself as the model of social and racial equality. The still images presented here were taken in early 2011 and show a far different, older, and more mature group of people than those found in 2004. Jaded and hardened to the realities of a Cuba greatly affected by the global economic downturn and the shackles of the Castro era, these Cubans nevertheless find solace and hope through their music, their religion, and their family and friends. A short film based on the 2011 footage is expected later this year.







Schlackman Photos of Cuba





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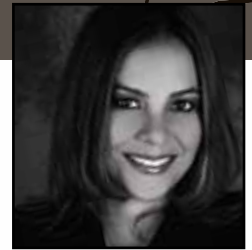


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Judge Jordan (first Cuban)



Confirmed to the Eleventh Circuit Court of Appeals



by Sandra Ferrera

Judge Adalberto Jordan is the first Cuban to serve on the Eleventh Circuit Court of Appeals. His dedication to the legal profession is an inspiration to all of us.

Born in Havana, Cuba, Judge Jordan came to the United States as a young boy in 1968. Upon arriving in Miami, Judge Jordan's father took a job at an aluminum manufacturing company called "Precision Industries" until he became an accountant for the Archdiocese of Miami, where he worked until his death in 1980.

Following his father's death, Judge Jordan and his brother were raised by their mother, who, as a single mother, had no choice but to work to support her children, first, in the cafeteria of Corpus Christi, where Judge Jordan attended grade school through the eighth grade, and later at SunBank.

While he graduated from Saint Brendan in 1980, Judge Jordan spent the first three years of his high school experience at Archbishop High School. After graduation, and given that his father had recently passed away, Judge Jordan decided to undergo his undergraduate studies close to home at the University of Miami. There, he received a B.A. in politics, *magna cum laude*, in 1984. During his undergraduate studies, Judge Jordan recalls taking a couple of constitutional classes with a great professor, whose method of instruction was very similar to the way a law school class would be taught. Inspired, Judge Jordan decided to apply to law school. He again decided to stay close to home because he did not want to leave his mother

QUESTION & ANSWER SESSION WITH JUDGE JORDAN

and brother. Judge Jordan attended the University of Miami School of Law where he earned his J.D., *summa cum laude*, in 1987 and graduated second in his class.

Judge Jordan started his legal career clerking for Judge Thomas Alonzo Clark of the United States Court of Appeals for the Eleventh Circuit in Atlanta, Georgia from 1987 to 1988. From there, he went to Washington, D.C., where he clerked for the first female appointment to the U.S. Supreme Court, Justice Sandra Day O'Connor, from 1988 to 1989. He recalls fondly his time as a clerk for Justice O'Connor. He remembers how she used to treat her employees, as if they were her own family, making a point to remember every clerk's spouse's and children's names.

Although he knew his passion was in public sector work, following his Supreme Court clerkship in 1989, Judge Jordan returned home to Miami to work as a litigation associate for Steel, Hector & Davis. Judge Jordan considers his experiences at Steel, Hector & Davis invaluable, where he was able to work alongside a group of excellent lawyers, such as Sandy D'Alemberte, Donald M. Middlebrooks, and Tom Julin, who focused on First Amendment and appellate work. At that time, Steel, Hector & Davis did a fair amount of libel and defamation defense work for the Miami Herald, Knight Ridder, and for a local ABC Channel 10 affiliate.

In 1994, Judge Jordan jumped at an opportunity to return to the public sector. The U.S. Attorney's Office was opening an appellate division and needed attorneys to handle all of the appeals. Judge Jordan served as a U.S. Attorney for about five years. On March 15, 1999, President Bill Clinton nominated Judge Jordan to a seat on the United States District Court for the Southern District of Florida that had been vacated by Judge Lenore Carrero Nesbitt. On September 8, 1999, Judge Jordan was confirmed by a vote of ninety-three to one to the federal bench by the United States Senate. Judge Jordan received his commission on September 9, 1999, and has served as a District Court Judge for the Southern District of Florida for nearly thirteen years.

On August 2, 2011, President Barack Obama nominated Judge Jordan for the judicial vacancy on the United States Court of Appeals for the Eleventh Circuit that had been created after Eleventh Circuit Court of Appeals Judge Susan H. Black went on senior status in February 2011. On February 15, 2012, the United States Senate once again confirmed Judge Jordan in a ninety-four to five vote. Judge Jordan received his judicial commission on February 17, 2012, and has since returned to the court where he started his legal career twenty-five years earlier. This time, however, as the first Cuban to ever sit on the Eleventh Circuit Court of Appeals.

Judge Jordan has known his wife, Esther, since the second grade. They have two daughters, Diana, who will be starting law school at the University of Miami later this year, and Elizabeth, who is a freshman at Florida International University in an intensive science and math program.

Q: *What has been your most memorable experience serving as a district court judge?*

A: There have been so many. I have seen thousands of cases, and hundreds of lawyers, and people I have sentenced. Most people remember big cases in terms of publicity and importance and things like that, but every experience you have here is a learning one. You learn every day because in this District you handle all types of cases every day.

Q: *Is there anything you miss about private practice?*

A: I miss the friends I worked with. District Court is more isolated. The interaction in court is different than in private practice. I also miss the ability to deal with clients.

Q: *Before making a decision, you have read all the briefs and have a good sense of where the ruling will lie. How much do oral arguments play a role in your decisions?*

A: Oral arguments do play a factor and can sway a decision. Typically, I set certain cases for oral arguments because I have questions or want to find out from the attorneys how far the principle they're advocating goes. I might have missed something in a very big record, or I want to ask them where I can find something. I don't have the luxury to set oral arguments in every single case because there is no time for that. I think oral arguments do matter and serve a purpose. It also helps in shaping not just how you will decide on a case, but also how the decision will be written.

Q: *Is there a guiding motto you strive for when serving as a judge?*

A: No, you just try to do your best in reaching the right decision; one that you think is appropriate in every given case.

Q: *Looking at the books on your bookshelf, you seem to have an appreciation for war and art. Is that correct?*

A: Not necessarily about war, but I am interested in the Napoleonic era because of all the things that were happening at the time; not only the French Revolution, the introduction of the democratic ideals, but also the clash between the ideologies at the time in Europe between what was happening with Napoleon's France and all the monarchies in Europe. At the same time, Britain was still essentially having problems with the United States, culminating with the war of 1812. So for me it is a very interesting time. Some of the volumes you see up there deal with that issue.

Q: *If you would not have decided to become a lawyer, what other profession do you think you would be interested in?*

A: I've taught at UM and now at FIU for a number of years, so I think I probably would have ended up teaching at some level.

Q: *Is there anything you think that can be done to the profession to improve upon it?*

A: That is a difficult question because it has so many facets. I don't even know how to begin answering. You've got issues dealing with the issues we see that lawyers talk about all the time— civility in the profession, civility toward each other even though you may have antagonistic viewpoints or clients that can't destroy completely the civility between attorneys, so that's one issue. Then, heaven knows that groups like American Inns of Court and bar associations like CABA, the Florida Bar, and others have tried and tried and over again to make that issue sort of go away or become less of a problem, but it persists to some degree, and I think that if you ask me about one overarching problem, I think that would probably be the one I would tackle first, but I do not have any solutions for it. I mean there are a lot of others too. It is a difficult legal market, you've got all these kids that are coming out of law school and not being able to find a job that they were once able to find. That's going to create a huge strain on the profession as well, but I don't know how that's going to end up either.

Q: *What are you looking forward to most in your new position?*

A: That it's a whole new challenge; a whole new experience. I have sat with the Eleventh Circuit on some occasions, but I don't know what it's like to do it on a day-to-day basis. It will be a completely new and exciting experience for me.

Q: *I asked another appellate attorney, former judge, what he thought about the Caperton v. A.T. Massey Coal Co. U.S. Supreme Court decision. Any thoughts you'd like to share on this case?*

A: It is a difficult decision because you have a number of states where judges are elected and those judges, if running an election, whether they're partisan elections or non-partisan elections, they have to raise money and so the difficult questions always becomes:

"When does that practice create recusal issues?"

Those are very difficult issues.

If you are going to have that sort of a system then what sort of checks do you put in place?

Those are tough calls.

Q: *Is there anything you want to say on the record?*

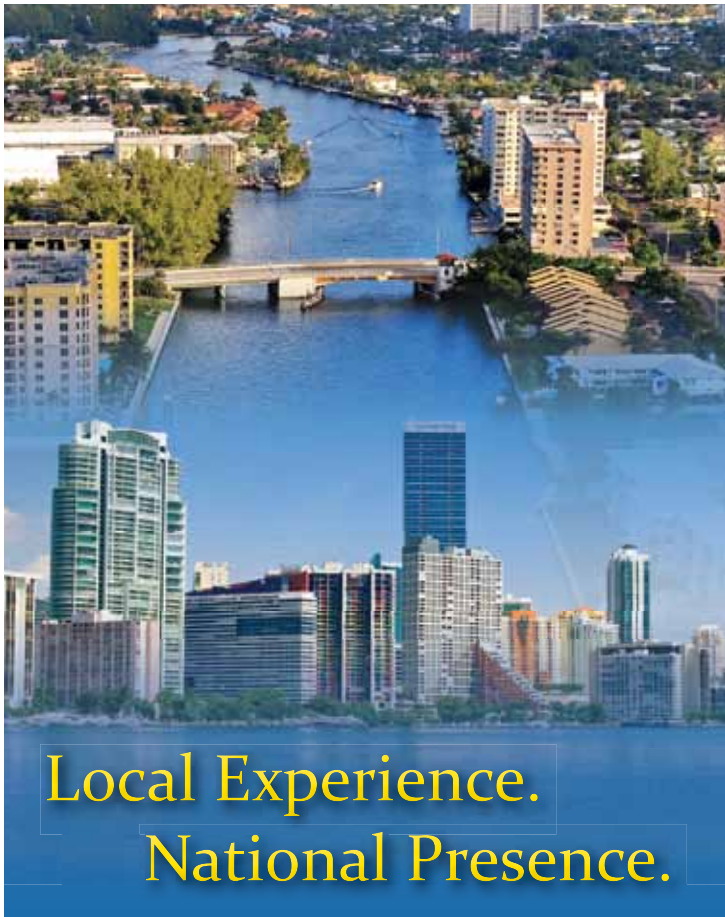
A: Yes, I want to give them a heartfelt thanks because having CABA's support meant a lot to me as a Cuban-American and I know it certainly helped in the process. They were there from the beginning—from writing all those letters from the past presidents on my behalf was very welcome and very kind so just a heartfelt thanks to everyone, and all the phone calls, the emails and everything else that I got from friends and CABA members. It meant a lot. It really did. **CB**



“I have sat with the Eleventh Circuit on some occasions, but I don't know what it's like to do it on a day-to-day basis. It will be a completely new and exciting experience for me.”

Judge Jordan.

Sandra M. Ferrera is CABA's President-Elect. She practices real estate law at Meland Russin & Budwick, P.A. You can contact Ms. Ferrera at sferrera@melandrussin.com.



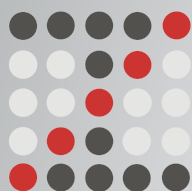
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CABA 5K

LAWYERS ON THE RUN

BENEFITING CABA'S PRO BONO PROJECT



by Yara Lorenzo



With an exciting new fundraising event, a new Board of Directors to help guide us, and a staff that keeps the office running smoothly, CABA's Pro Bono Project has its biggest year ahead of it!

CABA's Pro Bono Project is off to a big start. With so many CABA activities and events throughout the year, we sometimes overlook what I believe is at the core of CABA's mission: the organization's Pro Bono efforts. This year we will officially be hosting our inaugural 5k Run/Walk, "Lawyers on the Run," which, in addition to our signature event, "Art in the Tropics," will serve as a fundraiser for the Project. Both events will ensure our stability during these financially difficult times for all non-profit legal service providers. The run is scheduled for June 2, 2012, and will take place at Tropical Park.

"Lawyers on the Run" is a family-friendly 5K run/walk, open to lawyers and non-lawyers alike with a dual purpose: (1) raising funds to help the Project keep its office open without cutting services; and (2) raising awareness of the importance of health and well-being in the legal profession. The course will be walker and stroller friendly. Hopefully, law firms will use this opportunity to bring together families, team-build within each firm, and help the Project raise funds to ensure that access to justice remains a reality for all in South Florida.

There is no question about it—"Lawyers on the Run" is an ambitious undertaking, which is why CABA has formed a committee to help get it done. If you are interested in serving, please contact

me at yara.lorenzo@gmail.com or my co-chair, Isabel Diaz, at idiuz@broadandcassel.com. We need your help to make this event a success. For more information on the run and to register, please visit: www.cabaprobonoproject.com.

In addition to our run, highlights for this year would be incomplete without mentioning the Project's 2012 Board of Directors. Without them, the Project would not be operating at such a high level. Each year, they give their time and effort. The Project is grateful to them for all that they do. The 2012 Board of Directors consists of: Isabel Diaz (Chair), Yara Lorenzo (Vice-Chair), Vivian de las Cuevas-Diaz (President), Sandra Ferrera (President-Elect), Victoria Mendez (Immediate Past-President), Juan Carlos Zapata, Saif & Amira Ishoof, Eddy Dominguez, Raquel Regalado, and Ralph McNamara. In the future, we will share their biographies and talk about the various projects that they are taking on for the Project.

Finally, most CABA members know the Project is a yearly project, helping those that need legal assistance most. Few, however, know the individuals behind the Project, who day in and day out give their time to make sure we keep CABA's mission of service to the community alive and strong. We are lucky to have such a great team and truly appreciate their efforts.



Raul Flores, Esq., Executive Director

Our Executive Director, Raul Flores, Esq. received his J.D. from the University of Miami School of Law in 1996 and has an M.S. in Criminal Justice from Florida International University. Prior to joining the Project, Raul worked as a sole practitioner with a focus on civil litigation, such as corporate, labor, family, and real property litigation. For over ten years, Raul also represented juveniles in the area of juvenile justice. For the past several years, Raul has been managing the Project's administrative and referral functions, which are vital to effectively providing the Project's services.



Elizabeth Gonzalez, Esq., Staff Attorney

Since 2009, Elizabeth Gonzalez, Esq., has served as Staff Counsel to the Project. She provides legal representation in the areas of foreclosure defense, loan modifications, family law, consumer law, and bankruptcy. Prior to working at the Project, she worked as an associate for Richard S. Gendler & Associates with a focus on foreclosure defense, commercial litigation, and small disputes. Elizabeth has gained invaluable experience managing and directing her cases as a young attorney.



Rosalba Penaherrera, Paralegal

Rosalba Penaherrera, Esq., has been with the Project since March 2008. She is the legal assistant to Raul and Elizabeth. She also helps pro se clients complete simple dissolution of marriage packages from the Family Court's Self Help Center. Prior to working at the Project, she worked as a title processor for Manuel L. Crespo, Esq., a CABA Board Member.



Maria Jacqueline Rodriguez, Intake Specialist

Maria Jacqueline (Jackie) Rodriguez has been working with the Project even before the Project was officially incorporated as a 501(c) (3) in 2007. Since September 19, 2006, Jackie has served as the Intake Specialist, assisting clients with immigration applications. Prior to working at the Project, Jackie worked in Cuba as a family law attorney for fifteen years. Her proficiency in Spanish and legal background makes Jackie an integral part of the office because so many of the Project's clients only speak Spanish. **CB**

Yara Lorenzo serves as vice-chair of CABA's Pro Bono Project. She can be reached at YaraLorenzo@gmail.com.

CABA 5K

LAWYERS ON THE RUN

BENEFITING CABA'S PRO BONO PROJECT



The inaugural Lawyers on the Run is a 5K Run/ Walk open to everyone in our community (lawyers and non-lawyers alike) with a dual purpose: to raise awareness of the importance of health and well-being in the legal profession and to raise funds to ensure that access to justice remains a reality for all in South Florida. The course will be walker and stroller friendly.

Through this event, we are raising money for the Pro Bono Project, which offers free bilingual legal services to our local indigent community. The Pro Bono Project was formed by CABA in 1984 and over the past six years has handled more than 3,000 cases for indigent families, the elderly, the disabled, women and children throughout Miami-Dade County. In order to sustain and expand our services, we need your support. Register today!

We are accepting individual and team registrations!

Date: Saturday, June 2nd, 2012

Location: Tropical Park, 7900 S.W. 40th Street
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Race start-time: 8:00 A.M.

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We will have prizes for the top three individual finishers, top three Judges, as well as the top three law firms.

For information on sponsoring the run or to volunteer on the 5K committee, contact Yara Lorenzo at yara.lorenzo@gmail.com or 305-726-3999 or Isabel C. Diaz at idiaz@broadandcassel.com or 305-373-9418.

Call (305) 726-3999 or email yara.lorenzo@gmail.com to request material in accessible format, information on access for persons with disabilities, or a sign language interpreter (7 days in advance).



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CABA'S Annual Installation Gala

by Jason Silver

With the financial support of our title sponsor Sabadell United Bank and many other sponsors, the historic Miami Beach Fontainebleau Resort was the site of the Installation Gala of the year, which took place on February 4, 2012. Sworn into office on that night were CABA's 38th president, Vivian de las Cuevas-Diaz, and CABA's 2012 board.

The installation dinner had an amazing turnout of over 1,000 attendees and set a record for the most ever Patron de Honor gala sponsors. The event raised over \$100,000 for the organization's projects.

It was also the first time that all of CABA's past presidents were honored in a pinning ceremony—a special moment that allowed us to recognize those individuals that have made CABA the organization it is today.

This year's gala was also the first time the organization had a video on its Pro Bono Project, a project that provides free legal services to the indigent in Miami-Dade County by serving as a nexus and providing a referral source between needy clients and pro bono attorneys, and a pledge drive that raised over \$10,000 dollars for the Pro Bono Project.







CABA would like to give a big thanks to all of the sponsors and all those who attended CABA 38th Gala; each and every one of you contributed to making this year's Gala an amazing one. Thanks to you, CABA was able to raise over \$100,000 for its projects.

"It was a wonderful night that rejuvenated CABA, and I could not have imagined it any other way," Ms. de las Cuevas-Diaz said.





“It was a wonderful night that rejuvenated CABA, and I could not have imagined it any other way”

Vivian de las Cuevas-Díaz





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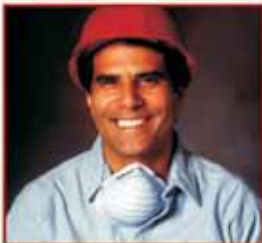
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Kick-Off Cocktail Reception



On Thursday, January 26, 2012, CABA kicked off the year in a great way with its **2012 Kick-Off Cocktail Reception**. The event, sponsored by City National Bank, and hosted at their beautiful building on Brickell Avenue, brought together attorneys and members of Miami's business community.

Jason Silver, Esq., is an associate in the Fort Lauderdale office of Morris | Hardwick | Schneider, a national real estate law firm.







Foreclosure CLE

On Thursday, February 16, 2012, CABA hosted a CLE event titled **"How Foreclosure Affects Your Practice."** The event was held at the GreenStreet Café in Coconut Grove. The course was yet another example of how CABA organizes events relating to pertinent South Florida legal issues.

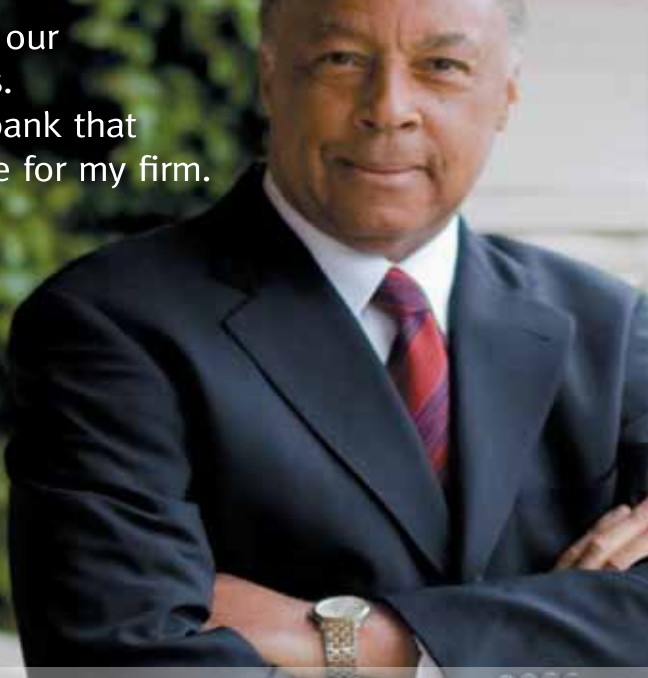
Attendees had the opportunity to hear from The Honorable Peter Lopez, Ilida Alvarez, Esq., a Certified Circuit Civil Mediator, Barbara Sanjurjo, Esq., and Ryan Tables, Esq. Nicole Mestre, Esq., the event's chairwoman and a CABA Board of Director, said the event was meant to help attorneys specializing in all areas of the law.

"The purpose of it was not just to discuss foreclosures, but how it affects different areas of practice," Mestre said.

Jason Silver, Esq., is an associate in the Fort Lauderdale office of Morris | Hardwick | Schneider, a national real estate law firm.



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CABA'S YOUNG LAWYERS COCKTAIL RECEPTION



On March 8, 2012, at the popular rooftop pool lounge of The Mayfair Hotel in Coconut Grove, young lawyers had the opportunity to get together and network at the **CABA Young Lawyers Cocktail Reception**.

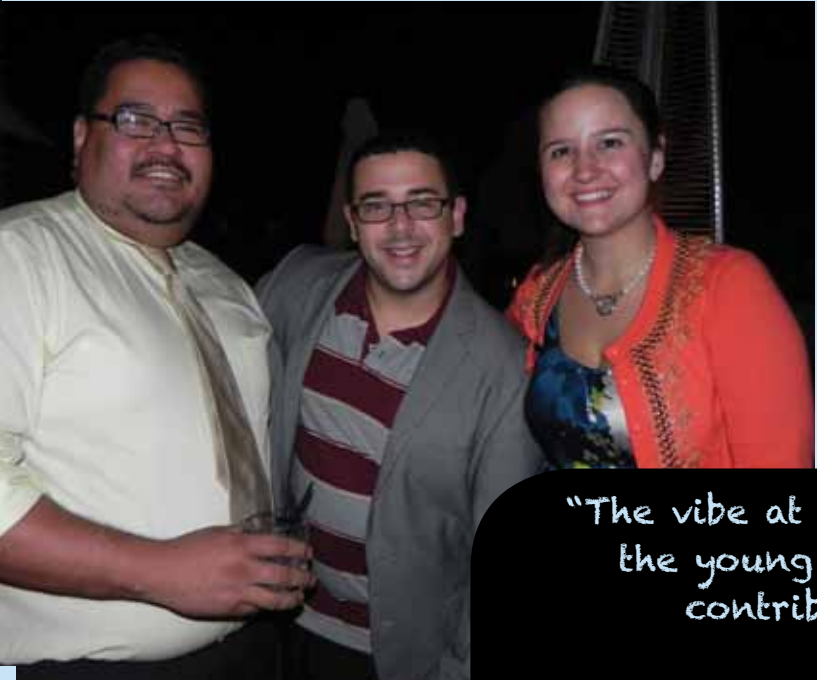
CABA members enjoyed complimentary drinks and hors d'oeuvres while mingling on a beautiful Miami evening. The event gave members of the Young Lawyers Division the chance to meet and network with leaders in the community, said Olivia Rodriguez, an active young lawyer and CABA member. "The vibe at the Mayfair Hotel demonstrated that the young lawyers are motivated and ready to contribute to the ongoing success of CABA," Rodriguez said.

This event was a great example of CABA's goal of bringing together young attorneys and creating the next generation of South Florida leaders.



Jason Silver, Esq., is an associate in the Fort Lauderdale office of Morris | Hardwick | Schneider, a national real estate law firm.





"The vibe at the Mayfair Hotel demonstrated that the young lawyers are motivated and ready to contribute to the ongoing success of CABA"

Olivia Rodriguez



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*Inside the World of Corporate Counsel –
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June 7th - June 9th, 2012

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All Guests:

Price for dinner at the Pier House on June 8: \$35 per adult / \$12 per child

CLE Credits Applied for

For more information please contact Jennifer J. Perez, Esq. at 305-275-1416 or jeperez@bupalatinamerica.com
To RSVP and/or to Sponsor this event please contact Diana Powell at Diana@cabaonline.com or 786-210-5984

AGENDA

Inside the World of Corporate Counsel – The Keys to Going Beyond the Velvet Rope

THE CONFERENCE

The Cuban American Bar Association is hosting a seminar for the purpose of bringing together diverse minority attorneys and national and local counsel to create opportunities for communication among in house and outside counsel.

PROGRAM

Most of the events will be held at The San Carlos Institute, which is a historical site affiliated with the Smithsonian Institution. The San Carlos was founded in 1871 to preserve Cuban culture and promote the freedom of Cuba, and where in 1892, José Martí united voices for the drive for Cuba's independence. The San Carlos stands as a monument to the persistence of a people committed to the cause of freedom and determined to preserve their culture. The Institute's real value lies in the principles and ideas for which it stands for: truth, liberty, justice, self-determination and the dignity of the individual. These are timeless values that enrich the human spirit and give the San Carlos universal appeal. The San Carlos has been restored to serve as an educational center dedicated to the preservation of Cuban culture and democratic ideals.

The panels below have been confirmed to date. Additional panels are expected, but could not be listed due to printing time constraints.

Day One — June 7, 2012

6:00 pm – Westin Resort-Sunset Pier

Cocktail Reception

Opening Remarks by Vivian de las Cruces-Díaz, Esq., CABA President

8:00 pm – Westin Resort

VP Dinner for all Sponsors, CABA Board of Directors and Patron Sponsors only

Day Two — June 8, 2012

Corporate Seminar: Part I

8:00 – 9:30 am – San Carlos Institute

Registration and Continental Breakfast

9:30 am – 9:45 am

Opening Remarks by Vivian de las Cruces-Díaz, Esq., CABA President

10:00 – 11:00 am

Expansion into Latin America and the Caribbean: Challenges of Operation

Moderator:

Hugo V. Alvarez, Esq., Partner, Alvarez & Barrera, LLP, Miami, FL

Panelists:

Melina Camejo Longria, Esq., Senior Vice President, Managing Regional Counsel, Latin

America and Caribbean Region, MasterCard Worldwide, Miami, FL

Sea Wicks-Mullin, Esq., Executive Director of Business Affairs, Latin America and Brazil

Networks, Scrymgeour Tobolski, Miami, FL

Open Question & Answer Period

BREAK

11:30 am – 12:30 pm

Bridging the Gap: Litigation Issues Corporate Counsel Face and How Firms

Can Help

Moderator:

Antonio C. Casco, Partner, Co-Chairman Litigation Department, Innate Zampare, Coral Gables, FL

Panelists:

Steven M. Benwick, CPA, CMA, CTR, Principal, Kaufman, Hoerns & Co., Miami, FL

Robert U. Finkbe, Esq., Executive Vice President, Chief Legal Officer and Corporate

Secretary, Ryder System, Inc., Miami, FL

Mayra Prado, Esq., Senior Counsel, Chevron Africa and Latin America Exploration and

Production Company, Houston, TX

Open Question & Answer Period

12:45 – 1:45 pm – Lunch

2:00 – 3:30 pm

Diversity: Challenges and Milestones

PROGRAM (Cont.)

Moderator: Vivian de las Cruces-Díaz, Esq., CABA President and Partner at Broad and Cassel, Miami, FL

Panelists:

Lynita A. (Lynn) Fernandez, Esq., Chief Operating Officer, TotalBank, Miami, FL

Ernest Cobelli, Esq., Vice President and Deputy Chief Legal Officer, Prudential Real Estate

Investors, Parsippany, NJ

Joe Muñoz, Esq., Senior Group Counsel, Target Corporation, Minneapolis, MN

Open Question & Answer Period

BREAK

4:00 – 5:30 pm

General Counsel Roundtable: How to Get Invited to the Table and Stay There

Moderator:

Nelson Bellido, Esq., Partner, Conception Martinez & Bellido, Miami, FL

Arnoldo Perez, Esq., General Counsel and Senior Vice President – Legal, Carnival Corporation,

Miami, FL

Nancy Elena Pilo, Esq., Vice President & General Counsel, Warner Charned Latin America, a

Time Warner/Warner Bros. Company, Miami, FL

Manuel Cuevas-Trilla, Esq., Vice President, Labor & Employment Law, Privacy & Data

Security, Motorola Solutions, Inc., Chicago, IL

Open Question & Answer Period

7:00 pm – Pier House

Cocktail Reception and Dinner

Day Three — June 9, 2012

Corporate Seminar: Part II

8:00 – 8:30 am – San Carlos Institute

Registration and Continental Breakfast

8:45 am – 9:45 am

A View from the Bench

Moderator:

Israel U. Iruya, Partner, The Hayes Law Firm, P.A., Miami, FL

Panelists:

The Honorable Judge Jose M. Rodriguez, The Eleventh Judicial Circuit Court, Complex

Business Litigation Division, Miami-Dade County, FL

The Honorable Judge Marcos B. Caballero, The Eleventh Judicial Circuit Court, Civil Division,

Miami-Dade County, FL

The Honorable Judge Spencer Eg. The Eleventh Judicial Circuit Court, Civil Division, Miami-

Dade County, FL

Open Question & Answer Period

10:00 am – 11:30 am

Valuing Diversity and Valuing Litigation: How Can these Principles Co-Exist?

Moderator: (TBA)

Panelists:

Alexander Booth Lopez, Esq., President, Florida Association for Women Lawyers (FAWL), Miami-Dade

County and Hispanic, Global Product Liability Group, Shock, Hertz, & Bacon, LLP, Miami, FL

Lynn D. Carillo, Esq., Senior Media Counsel, NBC Universal and Telemundo, Hialeah, FL

Zoltan Pinter, Esq., Associate General Counsel, Del Monte Fresh Produce Company, Coral

Gables, FL

Open Question & Answer Period

End of Session

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QUESTIONS?

For further information, please contact: Jennifer J. Perez, Esq., Corporate

Counsel Event Chair, at jennifer.j.perez@ymail.com.

For more information on how to sponsor this event or to RSVP, please contact

Diana Powell at diana@cababar.com or 786-210-5994

*CLE Credit applied for

Dichos de Cuba

by Monica M. Albarello



Painting by José Rodríguez Fuster

A great part of the Cuban culture is our language, proverbs, and sayings, more commonly known as “dichos” or “refranes.”

Typically, Cuban sayings are an integral part of our Cuban upbringing, passed down from generation to generation to maintain a sense of Cuban culture here in America.

Here is a refresher on a few “dichos”:

“Eso cayó como un 20 de mayo”

English translation: “That fell like a 20th of May.”

Many Cuban exiles continue to celebrate and honor Cuba’s independence day of May 20, 1902—the day Cuba gained its independence from the United States after the 1898 Treaty of Paris. Usually, if something falls on you like a 20th of May, it means you have received news that is unanticipated and jaw-dropping.

The first time I heard the saying was when I was interviewing a client, who happened to be Cuban. After I gave him a long list of documents the defendant had requested he produce, I explained I needed them within two weeks. He looked at me and said, “esta noticia me cayó como un 20 de mayo.” Apparently, he was not expecting the lengthy homework assignment.

“Por si las moscas”

English translation: “Just in case of the flies.”

This saying basically means “Just in case...because you never know what can happen.” It is used by motherly-type figures.

Here’s an example: You’re going to an outdoor lounge and you eat a light dinner before going to the party. Grandma, being a true Cuban “abuela,” is not satisfied with the small amount of food you ate. As you’re out the door, she stops you and says, “Mijo, llévate una banana para comer en el camino por si las moscas.” (English translation: Dear, take a banana to eat on the way to the party just in case of the flies.). Abuela thinks that this banana will make all the difference because, with such a light dinner, one will surely grow hungry. Abuelas never believe people have had enough to eat.

“Estiró la pata”

English translation: “He/she stretched out his/her leg.”

This Cuban “dicho” is not to be confused with “break a leg” because you are better off with a broken leg than stretching out your leg. Cubans use this saying to inform others that someone has passed away.

I remember I was playing dominos with my grandparents one day at their house. My grandfather, who was in the process of throwing down a double five, stated, “Vaya, la monja, doble cinco” (English translation: There you go, the nun, a double five) when the phone rang. It was Maria, the daughter of my grandfather’s friend, Fernando, calling to inform my grandmother her father had suddenly passed away. My grandmother, with her hand placed on top of her head in shock, rhetorically stated “mentira?” (English translation: That’s a lie?). “Hay María, mis más sinceras pésames.” (English Translation: Maria, my sincere condolences.). Immediately my grandfather asked “Bueno, quien estiró la pata?” (English translation: Well, who stretched out their leg?). Because we knew so many Marias, my grandfather honestly did not know who had passed away. My grandmother responded, “Hay Alba, Fernando fue quien murió.” (English translation: Oh Alba, Fernando was the person who died.).

“No hay mal que por bien no venga”

English translation: “Something bad is always accompanied by something good.”

This “dicho” is the equivalent of the saying “Everything happens for a reason.” This saying is used to cheer someone up. My mom strongly believes there is truth to this saying. I remember telling her that I did not get an interview with a public service agency, which made me unhappy. My mom said, “Monica, créeme que no hay mal que por bien no venga.” (English translation: Monica, believe me, that something good always surfaces from something bad.). Sure enough, a couple of weeks later, I was offered a great associate position at my current firm and am enjoying what I am practicing. **CB**

This article was written by Monica M. Albarello, Esq. Ms. Albarello is an associate at the Shaked Law Firm, P.A., a small boutique firm in Aventura, Florida handling personal injury, wrongful death, and medical malpractice matters.

Ms. Albarello may be contacted at Monica@miamiattys.com.

The tradition continues



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MOVING FORWARD

by Wendy Jauregui

In this issue, we focused on the transformation of ideals regarding U.S. relations with Cuba among the Cuban-American community. While visiting Cuba remains a distant and elusive idea for many despite its close proximity to Florida, more Cuban Americans are traveling now to Cuba than ever before, and some have begun questioning whether the embargo is an effective method of freeing Cuba. By exploring the transformation of ideals, we hope for open discourse on the topic.

We also profiled the women of CABA and their successes as leaders in what polls find to be a male-dominated profession. These women are role models for all female lawyers in our community. CABA is a better organization for having had them as its leaders. Their work is paving the way and raising the expectations for the next generation of women entering our profession.

This year in Briefs, we will continue to highlight the work of CABA and its members, such as CABA's Pro Bono Project, and CABA's amazing events, such as its Inaugural "Lawyers on the Run"

5k and its Corporate Counsel Seminar and Networking Event. We will also continue confronting the many critical issues affecting our community, both nationally and abroad.

In our next issue, we will focus on the topic of affirmative action in light of the fact that this fall, the U.S. Supreme Court will be deciding whether to overturn prior decisions permitting public universities to consider an applicant's race as one factor in the applicant's favor. It will be the first time the U.S. Supreme Court revisits the issue of affirmative action in higher education since 2003. As always, we will offer both sides of the issue.

We are very excited about 2012 and look forward to working with our members! **CB**

Wendy Jauregui is a graduate from the Florida International University College of Law and works as a Central Staff Attorney at the Fourth District Court of Appeal.



Vote for Miguel de la O on August 14, 2012

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Named "Best of the Bar" by the *South Florida Business Journal*, 2005
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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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Congratulations to CABA's new Officers and Board of Directors!

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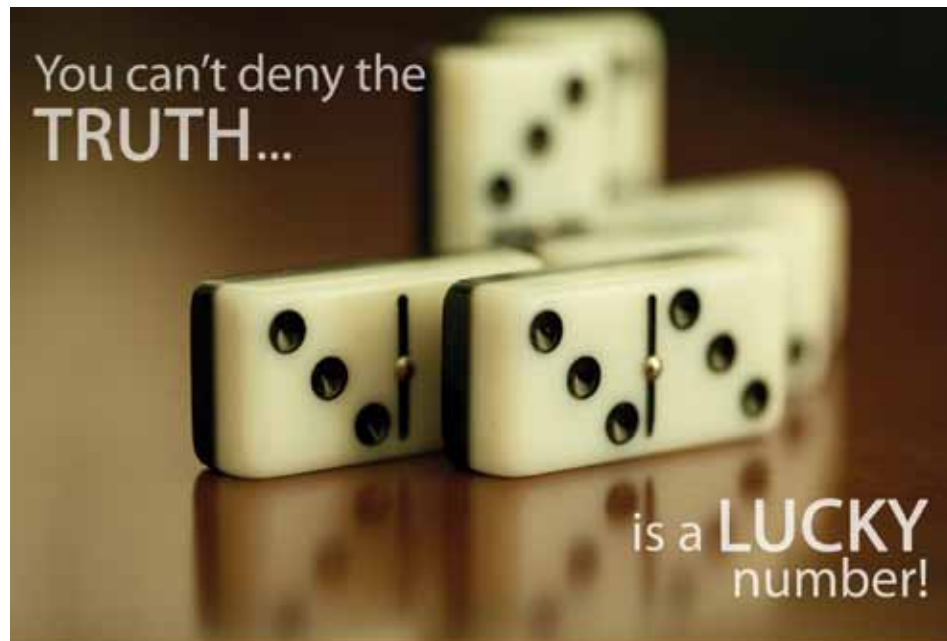


Sabadell United Bank congratulates CABA's incoming President, **Vivian de las Cuevas-Díaz** and the 2012 Board of Directors. We have always valued our long-standing relationship with CABA, and are honored to be the Title Sponsor of CABA's Annual Installation Gala.



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