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## Inaugural “Lawyers on the Run” 5K

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# MEET THE BOARD

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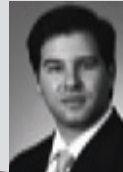
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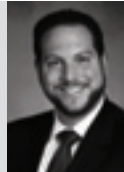
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SUMMER 2012 | PRINTED IN THE USA  
www.cabaonline.com

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# PRESIDENT'S MESSAGE



As I reach the mid-year point of my presidency, I, along with our board of directors, continue to work tirelessly to ensure that we continue to fulfill our organization's mission and that I am on track to fulfilling many of the goals I spoke about at the Installation Gala.

CABA has hosted some exceptional events this past quarter. We had our Inaugural "Lawyers on the Run" 5k on June 2nd, where thanks to approximately over 400 runners/walkers and many generous sponsors, we raised over \$13,000 for CABA's Pro Bono Project – a project at the core of CABA's mission. We are already looking forward to next year's event. We also hosted our annual Corporate Counsel Seminar & Networking Event in Key West from June 7th through June 9th. The three-day conference took place at the amazing San Carlos Institute, the site where José Martí united the Cuban exile community in 1892 to launch the final stages of his move for Cuba's independence. The conference included a diverse group of panelist such as in-house counsel from MasterCard, Sony Pictures Television, NBC Universal and Telemundo, Target Corporation, Ryder System, Chevron, TotalBank, Carnival Corporation, Time Warner/Warner Bros. Company, and Del Monte Fresh Produce Company, among others. The conference allowed for genuine conversations between panelists and members regarding key issues that exist in our profession today, such as the importance of diversity in law firm leadership and the difficulties in generating and retaining business.

I am also happy to report that our state legislator once again awarded CABA \$50,000 for its Pro Bono Project so that it may continue to service our community and provide legal assistance to the less fortunate. I want to thank the members of the Dade Delegation for their support, as well as the Governor's Office. The Pro Bono Project continues to need as much help and support as it can receive from our members and we continue to encourage our members to provide their time to the Project.

In this issue of *Briefs*, we cover the current legislative and judicial elections. There are many contested races occurring in our community. Given that elections are the basis of our democratic system, it is important that we, as attorneys, go to the polls and vote for a candidate. It is also important that we educate and get others to vote. Please vote for your commissioners, representatives, judges and state attorneys (in the upcoming primary elections) and assist your family and friends to do the same.

It is also important that we educate others on the merit retention system for our Florida Supreme Court justices and appellate court judges. Three Florida Supreme Court justices and 15 appellate court judges will be on the ballot this upcoming November. In a merit retention election, judges are ethically prohibited from discussing policy views (unlike those running for elected office). This is why it is so important for us, as attorneys, to educate ourselves and others about these judges and their rulings and to also educate non-lawyers about the merit retention system and about the work performed by these judges.

I am really looking forward to my remaining time as president of this great organization. We have some truly amazing events planned. As promised, we will be expanding the organization beyond South Florida by hosting events in Orlando and New York for CABA members. We will also be hosting a rain making event, a mentee cocktail event the day before the Minority Mentoring Picnic and a mentor-mentee pairing speed dating event. Our annual Art in the Tropics, benefiting our Pro Bono Project, is scheduled to take place on October 13th at Fairchild Tropical Botanic Garden. We will continue to raise money to make sure we have \$100,000 endowed in our CABA scholarships by the end of this year. We will also be refocusing our efforts on law schools and will be opening individual CABA law school chapters. There is no doubt that it will be a busy, but enjoyable, six months!

Sincerely,

Vivian de las Cuevas-Díaz  
President

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# EDITOR'S MESSAGE



Dear colleagues:

After completing my second issue as Editor-in-Chief, I would like to start by thanking all of you who have contributed to making this year of *Briefs* as successful as it has been. Previous editors have set the standard quite high and without each *Briefs* committee member and writer, releasing an issue of this quality would not be possible. I particularly want to thank our amazing Articles Editor, Jorge A. Perez Santiago, who is willing to help me regardless of the date and time and without whom I would not be able to get this done.

There are many significant issues taking place in our (legal) community. Immigration continues to be a hot topic, especially in light of the upcoming presidential election. In this issue, we learn about Jose Godinez-Samperio, a Florida State University College of Law graduate, who despite having passed the Florida Bar exam, is still waiting to be admitted to the Florida Bar given that he is here illegally. Jose legally arrived in the United States from Mexico with his parents when he was only nine years old. Their visas, however, expired, and they remained here illegally. Do you believe Jose should be granted admission to the Florida Bar? Or do you believe attorneys, despite the benefits they can provide to the community, should be legal residents? It will be interesting to see what the Florida Supreme Court decides.

In this issue, we also cover the controversy of affirmative action in higher education. This fall, the U.S. Supreme Court will revisit affirmative action in colleges in *Fisher v. University of Texas*, a case by a white applicant who was reviewed in an applicant pool where race was considered and racial minority status was rewarded. While I was in college I remember a white acquaintance making a comment that had she had a Hispanic surname, she would not have been denied admission to a top New York law school which a Hispanic acquaintance had been admitted to. The two had attended the same undergraduate school, had taken a similar curriculum, and had received similar grades and LSAT scores. While some may believe the comment to have been inappropriate, I have no doubt it is a sentiment felt by many who are denied admission despite having excellent grades and exam scores. How do you feel about the issue? Do you believe individuals benefit from having a diverse student body that can share racial perspectives with one another? Or do you believe that affirmative action should no longer be permissible in colleges?

Lastly, please do not forget to go out and vote in the upcoming local and judicial elections, which we cover in this issue. Please urge others you know to vote, such as friends and family. Share with them this copy of *Briefs* so that they too can learn about the candidates.

As always, I hope you enjoy reading this issue as much as I have enjoyed putting it together. Please send your comments and suggestions to [cababriefs@hotmail.com](mailto:cababriefs@hotmail.com).

Sincerely,

Diane P. Perez  
Editor-in-Chief



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# CHAIR'S MESSAGE



Dear Friends,

Thank you for taking the time to read our CABA Briefs. I want to thank those that put forth the effort to provide us the interesting content that we find in this latest issue. This issue highlights hot button legal areas we are currently facing relating to immigration and affirmative action. I invite anyone who is interested in being published in our next issue regarding the U.S. Supreme Court's latest decision on Obamacare to contact me as soon as possible. I am privileged to be a part of this publication and invite all input on how we can make it better. Feel free to contact me with any questions or concerns at [jal@kttlaw.com](mailto:jal@kttlaw.com).

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# LEGAL ROUNDUP

by Elliot Kula and Daniel Samson



## Choice of Law Provisions, the Offer of Judgment Statute, and Public Policy Choices

*The Southeast Floating Docks decision is likely to dramatically increase the scope of any dispute related to public policy choices by authorizing courts to peer behind the legislature's stated intent for a particular statute and to analyze whether that intent has been realized in practice.*

In *Southeast Floating Docks, Inc. v. Auto-Owners Insurance Co.*, Case No. SC11-285 (Fla. Feb. 2, 2012), the Florida Supreme Court opened a new door for addressing public policy choices. On a certified question from the Eleventh Circuit Court of Appeals, the Court held that Florida's offer of judgment statute, section 768.79, Florida Statutes (2006), has no application where a dispute is governed by a choice of law provision that applies the substantive law of a foreign jurisdiction. In reaching its determination, the Court analyzed the offer of judgment statute's mandatory language, which requires a trial court to award attorney's fees where certain conditions set forth in the statute are met. The Court also considered that the statute contains a mixture of substantive and procedural aspects, such that it provides a substantive right to attorney's fees to a party that has satisfied the procedural conditions. Then, having determined the statute to be substantive, the Court conducted a conflict of laws analysis and found that parties are free to contract on attorney's fees.

Interestingly, the Court's conflict of law analysis appears to focus almost exclusively on the offer of judgment statute's fee shifting nature, and compared the statute to section 57.105, Florida Statutes (2006). The Court, however, did not consider the legislative intent behind the enactment of the offer of judgment statute, which is to promote settlements. Yet, as recognized by the Court, a conflict of laws analysis necessarily entails a public policy choice and the promotion of settlements is certainly more favored in Florida law than mere fee-shifting provisions.

The apparent disconnect might be bridged by reference to the Court's discussion on the offer of judgment statute's purpose, which is subsumed with the Court's discussion of the statute's substantive nature. That is, the Court wrote: "This statute, however, has not produced the desired outcome [of promoting settlement] as the validity and applicability of [the statute] have produced a significant amount of independent litigation." And so it appears that the Court, having found the statute not to operate according to its legislatively stated purpose, determined that such a public policy analysis would be unavailing and therefore performed its conflict of laws analysis based upon the Court's determination of the effectiveness of the statute's stated purpose.

Unless limited to its facts, the *Southeast Floating Docks* decision is likely to dramatically increase the scope of any dispute related to public policy choices by authorizing courts to peer behind the legislature's stated intent for a particular statute and to analyze whether that intent has been realized in practice.

# Insurance Law

*The Court examined the common law evolution of an insurer's duty of good faith to settle within policy limits in the third-party context and found that no corresponding duty to act in good faith arose in the first-party context.*

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In *QBE Insurance Corp. v. Chalfonte Condominium Apartment Ass'n, Inc.*, Case No. SC09-441 (Fla. May 31, 2012), the Florida Supreme Court significantly narrowed first-party causes of action against insurance companies. The Court held that there is no common law first-party cause of action for breach of the implied covenant of good faith and fair dealing, and that substantial compliance with statutory provisions with no attendant penalty is sufficient to avoid liability. On certified questions from the Eleventh Circuit Court of Appeals, the Florida Supreme Court first addressed the question whether Florida recognizes a first-party claim by an insured for the breach of the covenant of good faith and fair dealing (the Covenant). The lawsuit arose out of property damage from Hurricane Wilma. The insured contended that QBE breached the Covenant by failing to investigate and assess the insured's claim within a reasonable time. The insured further claimed that QBE's failure to comply with statutory type-face requirements rendered a hurricane deductible provision unenforceable.

The Court examined the common law evolution of an insurer's duty of good faith to settle within policy limits in the third-party context and found that no corresponding duty to act in good faith arose in the first-party context. The Court then examined the creation of section 624.155, Florida Statutes (1982), which codified the third-party bad faith cause of action and created a statutory first-party bad faith action. Based on the legislative history attending the statute's enactment in 1982, as well as the common law development, the Court held that there is no common law first-party bad faith action in Florida, and that an action for breach of

the Covenant is merely a different term for a first-party bad faith action. Agreeing that the absence of "good faith" constitutes "bad faith," the Court held that the two actions are two sides of the same coin and that any action based on bad faith or the Covenant, in the first-party context, must comply with the strict requirements of section 624.155.

Addressing the insured's claim that QBE's failure to comply with type-size requirements rendered the hurricane deductible unenforceable, the Court first examined whether section 627.701(4) (a), Florida Statutes (2012), creates a private cause of action to enforce the type-size requirements. The Court examined whether such a right will be judicially implied because the statute does not explicitly create such a private right, or identify a penalty for non-compliance. Although courts historically have focused on whether a statute imposed a duty to benefit a class of individuals to determine whether a private cause of action is to be judicially implied, the Court noted that recently there has been a shift in focus to a pure legislative intent analysis. After reviewing the scant available evidence of legislative intent, the Court held that the statute relates merely to a notice provision which "merely makes provision to secure the safety or welfare of the public." Therefore, the statute could not be interpreted as creating civil liability, and in that absence, the Court held that, without a legislative penalty ascribed to the statute, the hurricane deductible would not be deemed void, especially where QBE had "substantially complied" with the notice requirement.

# Class Action Law

---

It is difficult to imagine how one would ascertain the intentions, wants, and desires of putative class members, but in *Leibell v. Miami-Dade County, Florida*, Case No. 3D09-1476 (Fla. 3rd DCA Mar. 7, 2012), the Third District held that such inquiry is permissible in determining the numerosity prong of the class certification analysis. In *Leibell*, the Third District reviewed an order denying class certification of a putative class of homeowners on the Venetian Causeway who sought to challenge the annual fee they were required to pay as a toll for traversing the causeway. The putative class representative, who had paid the annual fee under protest, contended that the annual fee charged to residents of the Venetian Islands “is an exaction in violation of a deed restriction in a 1927 warranty deed,” which deed provided that the successors and assigns of the Biscayne Bridge Company could not exact toll charges for use of the Venetian Causeway.

In affirming the denial of class certification, the Third District held that the numerosity analysis includes within it the question whether it is likely the putative class members wished to seek the remedies asserted in the lawsuit. The Third District reasoned that the proposed class definition was overbroad because no other resident paid the annual charge under protest. By fashioning such a rule, the Third District appears to have left open an avenue for class defendants to fight class certification on the ground that it is unlikely the putative class members would be interested in joining the lawsuit. It is probable, however, that *Leibell* would be limited to its facts as it is fairly easy to ascertain the desires of a closed set of putative class members residing on the Venetian Causeway, whereas it would require near clairvoyance to divine the desires of class members in a consumer class action.

# Estates and Trusts

*...the Third District held that the common law rule that statutes of limitations are “inapplicable to shield trustees from their responsibilities to their beneficiaries” remains in full force and effect in Florida with two readily recognizable exceptions.*

---

Wading through the morass of statutes of limitations has become a bit easier for the trusts and estates practitioner. In *Taplin v. Taplin*, Case No. 3D10-2919 (Fla. 3rd DCA May 9, 2012), the Third District held that the common law rule that statutes of limitations are “inapplicable to shield trustees from their responsibilities to their beneficiaries” remains in full force and effect in Florida with two readily recognizable exceptions. Section 736.1008, Florida Statutes (2007), provides those exceptions as imposing a six-month limitations period where the beneficiary received an accounting “fully disclosing the matter” in dispute, and a four-year limitations period where the beneficiary received an account statement and the trustee informed the beneficiary of the location of trust records. The Third District held that no limitations period could apply, at least at the motion to dismiss phase, because the beneficiary alleged that he never received any accounting.

# Expert Testimony

Where do appellate courts draw the line in determining whether a trial court's rejection of expert testimony has been arbitrary? The First District has provided some guidance in *Beach Community Bank v. First Brownsville Co.*, case No. 1D11-4596 (Fla. 1st DCA Mar. 14, 2012). *Beach Community Bank* offered the testimony of an expert appraiser in support of its motion for a deficiency judgment after a foreclosure. The expert utilized numerous methods of calculation to determine the property's value, which on cross-examination was found to be nearly half the value the same expert had appraised the property only a year earlier. The expert's methodology went unchallenged and no contrary expert was offered by *First Brownsville*. The trial court rejected the testimony because the difference between the appraisals "was simply 'too dramatic.'" The First District reversed and held that the trial court was required to accept contradicted expert testimony where the expert's methodology went unchallenged. **The lesson:** impugning an expert's credibility is insufficient if a practitioner seeks to avoid the expert's opinion.

# Attorney's Fees

*... parties should scrutinize contractual fee provisions and statutory fee-shifting provisions for broad language that can permit recovery of attorney's fees for litigating the amount of fees recoverable.*

In *Waverly at Las Olas Condominium Ass'n, Inc. v. Waverly Las Olas, LLC*, Case No. 4D11-2180 (Fla. 4th DCA May 16, 2012), the Fourth District continued to chip away at *State Farm Fire & Casualty Co. v. Palma*, 629 So. 2d 830 (Fla. 1993), the Florida Supreme Court's seminal decision on attorney's fees. In *Palma*, the Florida Supreme Court held that, regarding the statutory fee-shifting provision on disputes pertaining to insurance coverage, attorneys may not recover fees for litigating the amount of fees. Consistent with its prior holdings, the Fourth District has interpreted *Palma*, and its progeny, as interpreting the statutory language at issue, and not announcing a rule with regards to any fee-shifting statute or contractual provision. The Court held that fees for litigating the amount of fees were recoverable in this instance because the contractual fee-shifting provision in *Waverly* stated that the prevailing party was entitled to fees for "any litigation." It is important to note that this holding does not create a sea change in the law. Contractual bargains are ordinarily

upheld unless they violate public policy and the word "any litigation" is broad enough to cover "any litigation." The statute at issue in *Palma*, of course, contains very different language, authorizing fees for "prosecuting the suit in which the recovery is had." § 627.428(1), Fla. Stat. (2012). Thus, parties should scrutinize contractual fee provisions and statutory fee-shifting provisions for broad language that can permit recovery of attorney's fees for litigating the amount of fees recoverable. **CB**



*Elliot Kula, board certified in appellate practice, and Daniel Samson, have been practicing appellate law for a combined twenty-six years. Having recently formed Kula & Samson, LLP, Elliot and Dan continue to practice in all areas of appellate law, as well as provide litigation support for trial lawyers throughout Florida.*

## Cuban Issues

# Rumors of lifting travel restrictions for Cuban citizens

by Monica M. Albarello

In recent news, Cuban Parliament Chief Ricardo Alarcon mentioned that “radical and profound” changes with respect to travel restrictions of Cuba’s citizens were forthcoming. To date, however, nothing “radical and profound” has occurred because, simply put, rumors are just rumors.

If some change does occur, which Cubans will benefit? It is hard to believe that medical doctors, scientists, and professionals will be allowed to leave the country. For many years the Cuban government has sent doctors to Venezuela and South Africa. The doctors are sent for a contractual period of time and are to return to Cuba when it expires. When South Africa was not enforcing these contractual terms, Cuba threatened to withdraw the remaining doctors working there and cease their healthcare relationship.<sup>1</sup> Cuba has always tried to prevent individuals that constitute “the brain” of the country from leaving in fear that they will not return. In this respect, the Cuban government is not going to change. The Cuban government receives too much of a financial benefit from sending their medical doctors abroad and educating foreigners in Cuba to allow “the brain” to leave the country without ensuring their return. Even if these rumors prove to be true, it is unlikely to become a reality for the country’s “brain.”

Aside from “the brain,” who else will benefit? Cuban citizens make an average of \$20 a month.<sup>2</sup> How are they going to afford the cost of an exit visa? According to one article, exit visas presently cost \$150.<sup>3</sup> A reduction in the cost of an exit visa would not be significant enough given the average





“...the Cuban government’s motivation is self-preservation; it is not the good of the people.”

monthly income of a Cuban citizen. Further, leaving Cuba has never been a simple task because an exit visa must be granted by the government. There are many Cubans who have been waiting up to five or six years for permission to travel outside the island and have yet to receive it. Thus, leaving Cuba to travel abroad is likely to remain difficult.

One restriction that is not subject to change is the “carne” or personal identification card one must wear to talk about baseball—or anything else for that matter—at the park. In fact, Cubans are required to carry their personal identification card with them at all times. If an individual is caught undocumented, they may very well be arrested and sometimes charged for conspiring to overthrow the government.<sup>4</sup> Freedom of speech is not up for negotiations.

As noted above, rumors are just rumors. When the Cuban government stirs up their citizens’ emotions by feeding them false hope, the government revives itself—the people believe in their government and that aids the government in preventing “un golpe de estado” or coup d’état. In short, the Cuban government’s motivation is self-preservation; it is not the good of the people. **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](mailto:Monica@miamiattys.com).*

<sup>1</sup> CUBANET NEWS, INC., *SA/Cuba contract: What the doctors say*, CUBANET.ORG (February 16, 2003, 4:30 PM), <http://www.cubanet.org/CNews/y03/feb03/19e9.htm>.

<sup>2</sup> Paul Haven, *Cuba Travel Embargo: After 50 Years Of Restrictions, Cubans Hope To Travel Freely* (May 1, 2012, 6:04 PM), [http://www.huffingtonpost.com/2012/05/01/cuba-travel-embargo-cubans-hope-travel-freely\\_n\\_1468382.html](http://www.huffingtonpost.com/2012/05/01/cuba-travel-embargo-cubans-hope-travel-freely_n_1468382.html).

<sup>3</sup> *Id.*

<sup>4</sup> Dmitri Prieto, *Cuba and Having to Carry an ID Card* (January 9, 2012), <http://www.havanatimes.org/?p=59413>.

# Inaugural “Lawyers on the Run” 5k Run/Walk

**Co-chaired by: Isabel Diaz & Yara Lorenzo**

The 2012 Inaugural “Lawyers on the Run” 5k to benefit CABA’s Pro Bono Project was a huge success! As a runner myself, I could not have been more proud to see so many members of the bench and bar in shorts and sneakers on Saturday, June 2, 2012, at Tropical Park to support our inaugural event. This family-friendly event was open to everyone in our community with a dual purpose: to raise awareness 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. In addition to having Kiss Country providing a great all-American soundtrack to keep us moving, we had Univision’s own Sandra Peebles serving as the mistress of ceremony.



by Yara Lorenzo

Despite the large number of 5k runs/walks taking place across South Florida, our community came out in full support of our inaugural event. By all accounts, the run was well-organized and our participants had a lot of fun. Notable attendees included the United States Attorney for the Southern District of Florida, Wifredo A. Ferrer, Miami-Dade County Court Judge Fleur J. Lobree, Eleventh Judicial Circuit Court Judge Milton Hirsch, and Eleventh Judicial Circuit Court Judge Beatrice Butchko. Also deserving special praise, Miami-Dade County Commissioner Joe Martinez was present that morning. Through the generous support of the Miami-Dade County Commissioner’s Office, the fees for our venue, stage, sound system, and police officer support were waived.

In sum, through the 5k, we had over 500 members of our community present, 380 run/walk participants, and raised approximately \$13,000 for our Pro Bono Project.



## THE TOP TEN OVERALL WINNERS OF OUR INAUGURAL RUN WERE AS FOLLOWS:

### Top Overall Females:

1. Guadalupe Merlos, 18:05
2. Silver Deutch, 21:17
3. Denise Daire, 21:29
4. Rossemarie Del Aguila, 22:43
5. Ashleigh Walton, 22:49
6. Adriana Collado-Hudak, 24:12
7. Marina Comas-Gallart, 25:09
8. Ana Ruiz, 25:04
9. Ginger Nipper, 25:18
10. Jacci Seskin, 25:21

### Top Overall Males:

1. Soelleer Fajardo, 15:55
2. Jean-Louis Beaudonnet, 18:26
3. Alfredo Gonzalez, 19:13
4. Adam Wick, 19:28
5. Gabriel Velasco, 19:43
6. Karl Ross, 20:03
7. Alexander Gort, 20:03
8. William Diaz-Rousselot, 20:10
9. Michael Carmona, 20:32
10. David Bixby, 20:32

### Top Teams:

1. **We’re Masochists**, with nineteen total members (headed by Team Captain Norma Pacheco).
2. **Barely Legal**, with sixteen total members (headed by Team Captain & 5K Committee Member, Olivia Rodriguez).

### Top Law Firm:

1. **Gamba & Lombana, P.A.** takes the cake this year fielding a team of fourteen runners!

# CABA 5K



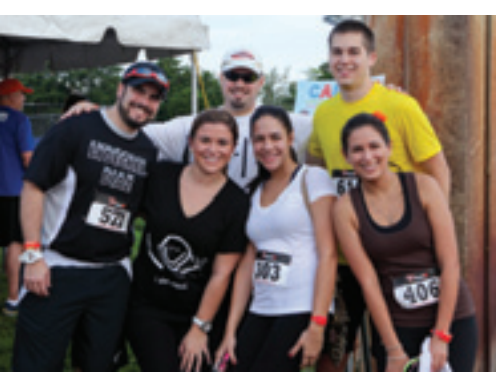
Through the help of our industrious running committee, we put together a seamless event in less than five months. A much deserved thank you and congratulations go out to: Dax Bello, Javier Ley-Soto, Jason Silver, Juan D'Arce, Olivia Rodriguez, Miriam Ramos, Gina Beovides, and Diana Vizcaino. In addition, this event could not have been possible without CABA's always-supportive Past-Presidents, who fielded a team of fourteen runners—in addition to several more who ran under their law firm teams—headed by Team Captain Manny Morales.

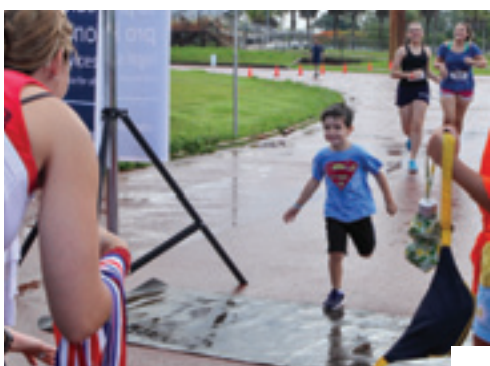
As most of our membership knows by now, the Pro Bono Project, which offers free bilingual legal services to our local indigent community, was formed by CABA in 1984 to provide indigent minorities with access to our court system and adequate voluntary legal representation. In order to sustain and expand this worthwhile cause, we need your continued support at events like this.

It is our hope that throughout the years, Lawyers on the Run becomes one of the premier events in our legal community, in the same way that the Corporate Run has become one of the premier events in the business world. You cannot go wrong with an event that combines raising funds to provide access to justice and reminding the bar to keep health and personal fitness at the top of their daily agendas.

Our next event will be in the fall for our Annual Art in the Tropics event at Fair Child Tropical Gardens. We hope everyone will come out for this event as well. As with our 5k, proceeds will go towards expanding our reach of service in this community. Thank you for your continued support. *Until next year, keep running!*







# Kristi House

## A Local Not-For-Profit Organization Doing Great Things

In May, one of our members, Nelson David Diaz of Becker & Poliakoff, was elected board president of Kristi House, a private not-for-profit organization, which serves as the Children's Advocacy Center responsible for Miami-Dade County and is dedicated to providing a healing environment for child victims of sexual abuse and their families. Founded in 1996, Kristi House is named after a young girl who, at the age of nine, was eight-months pregnant—impregnated by her stepfather. Kristi's pregnancy actually brought her the attention and help she needed and could not ask for. More often than not in situations like these, there is no physical evidence of sexual abuse so the trauma children endure is locked away in the family's conspiracy to try to ignore, deny, avoid, and forget. Since 1996, Kristi House has served more than 9,000 victims of child sexual abuse and their families. Thousands more are reached every year with education and prevention outreach programs offered by the organization.

Kristi House's approach includes coordinating client families' involvement with legal, medical, and mental health systems, limiting the number of interviews to reduce the trauma associated with each retelling of the story, and ensuring that no child falls through the gaps in our complex child welfare system. Kristi House provides a full continuum of wrap-around services and care for victims and their families free of charge including mental health services, critical for recovery from the trauma of sexual abuse for most survivors.<sup>1</sup>

### PROJECT GOLD

Kristi House's Project GOLD is a specialized program addressing the commercial sexual exploitation of children that provides intervention, prevention, and advocacy services and help to these previously overlooked child sex abuse victims. Seed funding support from World Childhood Foundation USA, Women's Fund of Miami-Dade and the Miami Foundation enabled Kristi House to begin developing the program almost five years ago.

Project GOLD started with a gathering of social service, law enforcement and other related agencies that come into contact with children living dangerous lives under the control of traffickers. No dedicated services or shelters existed for these children, many of whom are fleeing abusive situations at home or in foster care and are as young as eleven and twelve years of age. Service providers and law enforcement agencies agreed to work together on building a system of care for these children.

Since launching Project GOLD in 2007, Kristi House has witnessed a slow dawning in the public consciousness, where people are only now beginning to understand the gravity of the situation. These children are as equally violated and exploited as the more than 800 child sexual abuse victims Kristi House sees each year, who are not victims of sex trafficking. This public awareness led to the Florida Legislature passing the Florida Safe Harbor Act, authored by Kristi House, this past session.<sup>2</sup>



*Nelson David Diaz  
of Becker & Poliakoff,  
was elected board president  
of Kristi House.*



Diaz pushed for this legislation in Tallahassee and is credited with leading the organization's efforts. When the effort began three years ago, few elected officials had given the problem much thought, believing "sex slavery" was something that happened to foreign girls brought to the United States – not something that happened to our own children. "It has been a long and, at times, arduous road, but it has certainly been a victorious conclusion and the beginning of many, many success stories for the children we serve," Diaz said after the rigorous 2012 session. The Florida Safe Harbor Act finally recognizes commercially sexually exploited children as victims of a crime, not criminals. The legislation will also provide services and protection rather than punishment to these victims.<sup>3</sup>

Kristi House's Executive Director Trudy Novicki explains the measure further: "The commercial sexual exploitation of children and human sexual trafficking of children is an increasing pandemic in this country. The Florida Safe Harbor Act will allow first responders the option of treating commercially sexually exploited children as child-victims by placing them at private treatment centers, or Safe Harbors, if available, to treat these children and offer them hope for a future." In addition, Attorney General Pam Bondi stated, "The Florida Legislature has passed a bill that will help end human trafficking, a form of modern-day slavery... I greatly appreciate our state leaders taking a firm stance that human trafficking will not be permitted in Florida."

For more information on Kristi House, please visit [www.kristihouse.org](http://www.kristihouse.org). **CB**

<sup>1</sup> Kristi House also offers training on recognizing signs and symptoms of child sexual abuse and victims of sex trafficking.

<sup>2</sup> The legislation was sponsored by Representatives Jeanette Nuñez and Erik Fresen in the House and by Senator Anitere Flores in the Senate. It was also supported by Florida's United States Senator Marco Rubio and locally by the Miami-Dade County Board of Commissioners led by Commissioners Pepe Diaz, Esteban Bovo, and Audrey Edmonson.

<sup>3</sup> In addition to this legislation, harsher penalties for pimps were passed this last session.



# CABA's CLE Series

## Remaining Legally Ethical in a Digital World

*by Javier Lopez*

Professor Jan Jacowitz, along with two of her students, gave an interactive CLE presentation on the fine ethical line that attorneys are faced with in this new digital world. Professor Jacowitz's presentation provided the attorneys present with real life ethical situations and had the attendees role playing the various scenarios, which led to a fun, fresh, and educational approach to the "typical" CLE.





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# AFFIRMATIVE ACTION IN COLLEGES

Race  
and Ethnic  
Preferences in  
College Admissions

*by John M. Kang*






The words are  
memorable,  
eleven years  
later.

“So, . . .

ummm . . .



can you guys  
take over?”

Thus asked Lee Bollinger, president of the University of Michigan, after he had scanned the lecture hall and, finding whom he sought, rested his eyes on me and the other teaching assistant for his First Amendment class. Neither my partner nor I could fill the eminent scholar's shoes, but Bollinger had bigger fish to fry. The *New York Times* was on the phone and needed a response from him about the ruling that came out that day from the Sixth Circuit Court of Appeals regarding the University of Michigan's affirmative action cases.

And these were extraordinary cases. *Grutter v. Bollinger* and *Gratz v. Bollinger* would wind up in the United States Supreme Court.<sup>1</sup> They were the long-awaited corrective to the Court's first, and morbidly confusing, foray into affirmative action in college admissions, back in 1978, in *University of California v. Bakke*.<sup>2</sup> *Grutter* and *Gratz* were decided by the Supreme Court in 2003 and as we approach their tenth anniversary, we may wish to reflect on what they meant. Such reflection is especially appropriate given that the Court is slated to review a case—*Fisher v. University of Texas*—that may very well diminish, perhaps severely, the constitutionality of affirmative action.

The story of affirmative action in colleges begins with a 32-year-old Vietnam veteran named Allan Bakke. In 1973, Bakke applied to the medical school at the University of California, Davis (U.C. Davis).<sup>3</sup> His credentials were impressive: a 3.46 overall GPA and Medical College Admissions Test (MCAT) scores that placed him in the ninety-sixth, ninety-fourth, and ninety-seventh percentiles for the verbal, quantitative, and science sections, respectively.<sup>4</sup> Nonetheless, U.C. Davis rejected him. Bakke later learned that U.C. Davis had allocated 16 of its 100 seats in the incoming class for racial minority candidates.<sup>5</sup> Those admitted under this quota had an overall average GPA of 2.88 and average MCAT scores that placed them in the forty-sixth, twenty-fourth, and thirty-fifth percentiles for the verbal, quantitative, and science sections.<sup>6</sup> Angry, Bakke sued U.C. Davis for violating both his federal civil rights and the Equal Protection Clause.

In 1978, the Supreme Court decided a five-to-four victory for Bakke, but the Court failed to produce a majority opinion. Offered instead were two combative plurality opinions, each commanding four justices. To complicate matters, Justice Powell penned a lone opinion, different parts of which were joined by the two camps.

Lawyers and judges scratched their heads: When was affirmative action permissible in college admissions and when was it not? They had to wait until the Court would take up *Grutter* and *Gratz* in 2003 for clarification. The facts of their cases follow.

Barbara Grutter was a white Michigan resident who was rejected from the University of Michigan Law School.<sup>7</sup> She, like Bakke, had a strong record, with a 3.8 GPA from Michigan State and a 161 Law School Admission Test (LSAT) score.<sup>8</sup> And like Bakke, Grutter discovered that certain racial groups were given preferences in the admissions process. She too claimed that her Equal Protection Clause rights were violated.



The Court rejected Grutter's claim, arguing that race may be considered as one factor, among several, by the admissions committee.<sup>9</sup> The Court's reasoning hinged on the idea that a school, especially a law school, benefited richly from a diversity of perspectives, including a diversity of racial perspectives.<sup>10</sup> According to the Court, lawyers were immersed in a world that was racially diverse, and knowledge about the perspectives of different racial groups would be crucial for effective legal representation. In this sense, although racial minorities are generally the direct beneficiaries of affirmative action, the Court suggested that white students could benefit also from a racially diverse class.

Twenty-five years after *Bakke*, *Grutter* finally settled it: race-based affirmative action in colleges was justifiable but only to advance a diversity of perspectives, never to compensate for a history of societal discrimination. Racial quotas like that used by U.C. Davis, the Court hastened to stress, were not indicative of a serious interest in a diversity of perspectives.<sup>11</sup> They were indicative of the school's desire to compensate minorities for societal discrimination.

Michigan's law school was able to show that its admissions policy was aimed at the former, not the latter, end. First, the law school did not rely on racial quotas.<sup>12</sup> Second, the law school persuasively argued that it had in years past accepted white candidates who had lower GPAs and LSAT scores than those of black and Latino applicants who were turned down, thus preempting the charge that the law school sought to compensate victims of racial discrimination.<sup>13</sup>

While Michigan's law school was able to retain in tact its admissions policy, the Court struck down in *Gratz* the admissions policy in Michigan's undergraduate college.<sup>14</sup> Jennifer Gratz, a white resident of Michigan, applied to the undergraduate College of Letters, Science, and the Arts (LSA) at the University of Michigan and was not admitted.<sup>15</sup> She argued that the LSA gave undue preference to racial minority candidates, thus violating her rights under the Equal Protection Clause. Unlike the law school, which seemed to rely supply on a set of factors, the LSA used a rigid point system in its admissions process. An applicant could score a maximum of 150 points, earning points for high school GPA, standardized test scores, in-state residency, and so on.<sup>16</sup>

Applicants who were identified as black, Latino, and Native American would be allotted an additional twenty points, a policy that riled the Court.<sup>17</sup> In the Court's words, the LSA would allot to a racial minority the same number of points as a white candidate who possessed the "extraordinary artistic talent" comparable to "Monet or Picasso."<sup>18</sup> With irritation, the Court remarked that such intense racial preference was a smoke-screen for the sort of discrimination that U.C. Davis had implemented in *Bakke*, not an attempt to further a diversity of perspectives.<sup>19</sup>

Next fall, the Court is set to revisit affirmative action in colleges in *Fisher v. University of Texas*.<sup>20</sup> Currently, the University of Texas has an admissions policy that automatically admits the top ten percent of a high school's graduating class.<sup>21</sup> Abigail Fisher, a white Texan, fell a bit below the top ten percent of her school

and was thus reviewed in an applicant pool where racial minority status would be rewarded.<sup>22</sup> She has argued in her brief that the Equal Protection Clause forbids a public college from giving any consideration to an applicant's race.

The chief aspect that makes Fisher's case intriguing is that the Court's membership has changed, rendering it a forum that is potentially less sympathetic to affirmative action. There are now four conservative justices, who probably will vote against Texas's affirmative action—Roberts, Scalia, Thomas, and Alito. And there are three liberals who will almost certainly vote for it—Ginsburg, Breyer, and Sotomayor. (Justice Kagan has recused herself, although she would have probably voted against Fisher).<sup>23</sup> All eyes will turn, as they often do, to Justice Kennedy, the swing vote. Based on his comments in previous cases, it is unclear how he will decide.

I want to conclude with what critics of affirmative action have said. The critics have charged that the fabled sharing of racial perspectives hardly ever happens in college. They have also suggested that too many minority students, accepted largely because of their race, struggle in colleges for which they were not prepared. And the critics also charge that there is something odd in the Court's claim that racial perspectives—and only those of black, Latino, and Native American students (not those of Asian, Arab or European)—are uniquely valuable in a university.

Whatever happens in *Fisher*, the high tide for affirmative action is, given the Court's composition, probably waning. **CB**

*John Kang is a professor of law at St. Thomas University. He has a B.A. from U.C. Berkeley, a J.D. from UCLA, and a Ph.D. from Michigan. His articles have appeared in, among other places, the Harvard Journal of Law and Public Policy, the Harvard Journal of Law and Gender, and he is presently working on a book entitled Manliness and the Constitution (under contract with NYU Press). Kang would like to thank Ms. Monica Albarrelo of CABA for inviting him to write the article.*

<sup>1</sup> See *Grutter v. Bollinger*, 539 U.S. 306 (2003); see also *Gratz v. Bollinger*, 539 U.S. 244 (2003).

<sup>2</sup> *Regents of University of California v. Bakke*, 438 U.S. 265 (1978).

<sup>3</sup> *Id.* at 276.

<sup>4</sup> *Id.* at 277 n.7.

<sup>5</sup> *Id.* at 279.

<sup>6</sup> *Id.* at 277 n.7.

<sup>7</sup> *Grutter*, 539 U.S. at 316.

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

<sup>9</sup> *Id.* at 335.

<sup>10</sup> *Id.* at 328-33.

<sup>11</sup> *Id.* at 335.

<sup>12</sup> *Id.* at 335-36.

<sup>13</sup> *Id.* at 338.

<sup>14</sup> *Gratz*, 539 U.S. at 250.

<sup>15</sup> *Id.* at 251.

<sup>16</sup> *Id.* at 255.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 272-73.

<sup>19</sup> See *id.* at 272-74.

<sup>20</sup> *Fisher v. University of Texas at Austin*, 631 F.3d 213 (5th Cir. 2011), cert. granted, 132 S.Ct. 1536 (2012).

<sup>21</sup> *Fisher*, 631 F.3d at 216-217.

<sup>22</sup> See *id.* at 229-30.

<sup>23</sup> *Fisher v. University of Texas at Austin*, 132 S.Ct. 1536 (2012).



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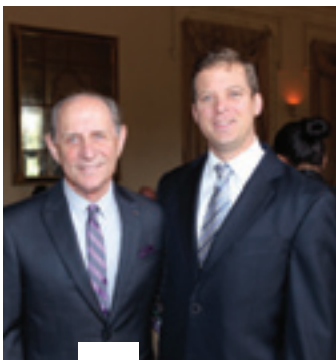
# CABA Annual Legislative Luncheon



*by Maria Garcia*

On April 5, 2012, CABA thanked and honored the various members of the Dade Delegation for the Florida State Senate and House of Representatives. This annual event brought together over 100 judges and attorneys to celebrate those that dedicate their lives to public service. The luncheon took place at the Biltmore Hotel in Coral Gables, Florida. Most of the legislators in the Dade Delegation attended and were given an opportunity to update the CABA membership on their accomplishments and goals for the recent legislative session.

Special recognition was given to Senator Ellyn Setnor Bogdanoff, Representative Jose Felix Diaz, Senator Anitere Flores and Representative Erik Fresen and for their assistance to CABA and dedication to our community. Awards were presented by CABA President Vivian de las Cuevas-Diaz and Legislative Chairs Maria D. Garcia and Jorge Piedra.



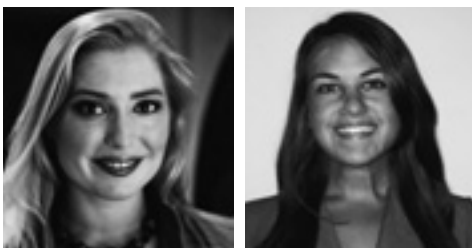


# You Be the Judge

## *A History and Comparison of Judicial Selection Methods*

### “MERIT” SELECTION

The Florida Bar defines “merit selection” as “[a] method for selecting judges solely on the basis of merit rather than through the popular election process.”<sup>1</sup> The implication of the Bar’s definition is that a competitive election process seeks to select judges by some criteria other than merit. By extension, no democratic election will select candidates based on merit. This is a difficult definition to accept in a society that favors democratic elections. As Thomas Jefferson said, “I know of no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform them with education.”<sup>2</sup> Then again, as Alexander Hamilton argued, “[I]ndependence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors, which the arts of designing men or the influence of particular conjunctures sometimes disseminate among the people themselves; and which, though they speedily give place to better information and more deliberate reflection, have a tendency, in the meantime, to occasion dangerous innovations in the government, and serious oppressions of the minor party in the community.”<sup>3</sup>



by Jane W. Muir and Renee B. Kramer



There is no question that one should select judges based on merit. However, consistent with the different priorities described by Jefferson and Hamilton, much controversy surrounds the question of which method of selection produces the most qualified, impartial, and responsible judiciary. Inevitably, choosing a judicial selection and retention method requires balancing different objectives and comparing relative strengths and weaknesses of the available alternatives. In order to make an informed decision, it is important to be aware of the history of judicial selection, the evolution of the objectives of the process, and the arguments for and against the available methods.

## HISTORY

Originally, “court” came to be used to refer to a judicial assembly because the word referred to an enclosed area where a sovereign and his entourage heard disputes. The verb “to court,” meaning to win favor, derives from the same source.<sup>4</sup> Later, medieval kings delegated their authority to resolve disputes to judges outside the king’s court. These judges exercised the king’s authority under his direct supervision.<sup>5</sup> As a result, loyalty to the king, rather than knowledge, skill or experience, determined judicial selection.<sup>6</sup>

Later, in colonial times, the English king held absolute control of the appointment and removal of judges. The American colonists found the practical results of this arrangement unacceptable, and the appointment of judges by the monarch was among the causes for separation from England. You may recall that the Declaration of Independence refers to King George III’s treatment of colonial judges among its grievances: “He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.”<sup>7</sup>

The Declaration of Independence proclaimed that Americans were endowed with unalienable<sup>8</sup> rights that governments are instituted to protect. Where the consent of the governed, rather than the divine right of kings, is the government’s source of power, credibility and popular support of the judiciary are vital. The authority derived from these permits the judiciary to effectively challenge the legislative and executive branches and maintain a balance of powers.

The thirteen original states struggled with improving the procedure for judicial selection. Their experiences under English rule compelled them to do away with judicial appointment by executive officers. With their newly acquired independence, they adapted the appointment process. Eight of the thirteen original colonies placed appointment power in the hands of one or both houses of the legislature, while five of the colonies provided for

either joint selection by a governor and council or gubernatorial selection with council confirmation.<sup>9</sup>

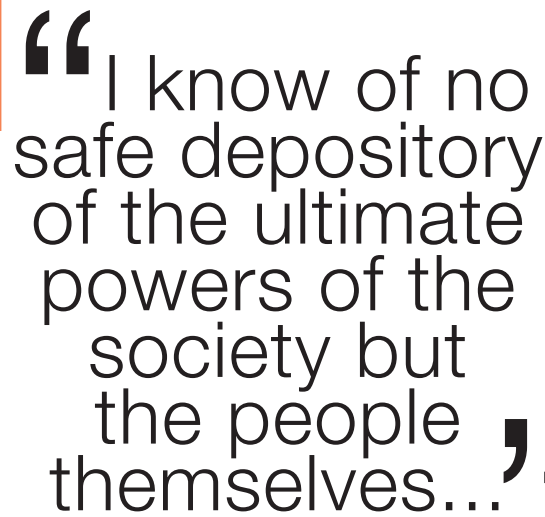
Beginning in the 1830s, there began a shift toward increased suffrage and broader popular control of public office inspired by Andrew Jackson’s populist democratic ideologies.<sup>10</sup> This democratization movement focused on the judiciary because the public already elected governors and legislators.<sup>11</sup> However, to some extent there was also a feeling that judges were being appointed “too frequently from the ranks of the wealthy and privileged.”<sup>12</sup> By the Civil War, twenty-two of thirty-four states elected their judges. Only the older states continued to use the appointive method subject to legislative approval.<sup>13</sup>

Between 1870 and 1930, political parties began to exert considerable influence over identification of judicial candidates, their elections and their retention. Widespread dissatisfaction arose, and by 1880, the American Bar Association (“ABA”) and other bar associations made the effort to restore public confidence in the courts. At the 1906 annual meeting of the ABA,

Roscoe Pound made a famous speech, entitled “The Causes of Popular Dissatisfaction with the Administration of Justice,” where he proposed that, “[p]utting courts into politics and compelling judges to become politicians, in many jurisdictions, has almost destroyed the traditional respect for the bench.”<sup>14</sup>

The Progressive Era, from 1900 through 1917, saw the promotion of alternatives to partisan elections: nonpartisan elections, direct judicial primaries, shortened ballots, and nominating committees were proposed or adopted by many states. The goal of progressives was to promote

efficiency because, as legal scholar Roscoe Pound argued, inefficiency in the courts caused “[u]ncertainty, delay and expense, and above all the injustice of deciding cases upon points of practice, which are the mere etiquette of justice.”<sup>15</sup> Elections were considered inefficient because of the expense of political campaigns. To solve this and other problems associated with the election of judges, Albert Kale, founder of the American Judiciary Society, suggested a plan using the chief judge and presiding justices to form a judicial counsel to seek out the most qualified candidates.<sup>16</sup> Kale’s plan was inspired by the idea of selecting judges based on their merit. Almost twenty-five years after Kale’s proposal, the ABA adopted its own version of this “merit plan” in 1937. Missouri was the first state to adopt this system for its appellate courts in 1940, and so it came to be known as the Missouri Plan.<sup>17</sup>



“I know of no safe depository of the ultimate powers of the society but the people themselves...”

*Thomas Jefferson*

## COMPETING OBJECTIVES

The history of judicial selection reflects the tension between the objectives of independence and accountability. Independence is the most important concern for those who believe that judges are depositories of the law or “living oracles” who, as William Blackstone, English judge of the 18th century, commented, are responsible for knowing customs and rules and abiding by precedents and “sworn to determine, not according to his own private judgment, but according to the known laws and customs of the land; not delegated to pronounce a new law but to maintain and expound the old one.”<sup>18</sup> Blackstone’s primary concern was “to keep the scale of justice even and steady, and not liable to waver with every new judge’s opinion...”<sup>19</sup> The assumption is that independence of the judiciary will produce fair results because the law itself is fair, and judges are above individual bias, corruption or ignorance. Therefore, independence permits the judiciary to protect the rights of individuals and minorities by making unpopular decisions that the majority would oppose.

Those who view judges as lawmakers consider accountability to be the most important goal of a judicial selection method. Judges may affect the law subtly or change it dramatically by making decisions. The common law has been extended and modified by judges for hundreds of years, thereby shaping and giving meaning to legislatures’ work. Interpretation of statutes permits judges to fill voids left by the legislature or determine whether a statute should apply to a factual scenario not directly contemplated by the law, perhaps an even greater power. Invalidation is the ultimate authority—a judge’s power to strike down a law altogether because it is found invalid. Some critiques consider their discretion unbridled. David Kairys, author of *The Politics of Law: A Progressive Critique*, argues that judges make their decisions based on social, political, institutional, or experiential factors and find confirming legal rationalizations that often distort or ignore contrary arguments or authorities.<sup>20</sup> By his logic, a judge should be expected to rule in a manner consistent with the majority political opinion and if the rulings are unpopular, be accountable to the people. In the same respect that medieval judges’ loyalty to the king was paramount, contemporary judges should obey the will of the people according to this theory.



## JUDICIAL SELECTION METHODS

Controversy continues over the advantages, disadvantages and effects of the various judicial selection methods because the passage of time and experience have not revealed a visibly superior method.

The appointment process addresses the weaknesses of elections: (1) the general public is ill-informed about judicial candidates, leaving the majority of voters to rely on racial or ethnic name recognition to make voting decisions<sup>21</sup>; (2) elections are usually issueless and have low voter turnout; and (3) incumbents are typically never opposed or reelected easily, but if they are opposed there are significant problems associated with accomplishing court business while fundraising and campaigning during election time.<sup>22</sup>



Elections also often deter qualified candidates from seeking judicial office. “Many attorneys ... have a philosophical distaste for politics and political campaigning, and thus refrain from seeking office.”<sup>23</sup> Elections may also compromise the independence of the judiciary—“judicial officers, unlike other elected officials, should not be governed by the transient whims of the public which is likely to vote an unpopular, although competent, judge out of office for rendering correct but controversial decisions.”<sup>24</sup>

However, appointment has its own shortcomings. The main concern, as voiced by Charles Tiffany of Kissimmee in his letter to the Florida Bar News, is that it deprives citizens of their right of franchise.<sup>25</sup> Judges are virtually guaranteed life-tenure because they are rarely removed in retention elections. Even worse, without elections, the public is never educated about the candidates by information acquired during a campaign cycle.

Moreover, it is naive to suggest that appointment “takes the politics out” of judicial selection. Judicial selection is still highly political. However, the appointment process is designed to involve interest groups that are thought to have a legitimate concern in judicial selection. Interest groups have the power to devise their own campaigns to sway the opinion of the judicial selection committee. Those groups that are involved in the process of appointment will still maneuver to influence the choices for seats on the bench because judgeships are prestigious and because their decisions inevitably affect the destiny of those involved in the litigation process. The key issue is whether the unique kind of politics that affect the appointment process adequately represents public, political, legal and judicial perspectives.<sup>26</sup>

## FLORIDA'S JUDICIAL SELECTION PROCEDURE

Florida implemented a merit selection and retention program by constitutional amendment in 1972 after four out of seven justices of the Florida Supreme Court left office in disgrace by retirement or resignation.<sup>27</sup> Trial court judges are elected, but vacancies on the trial bench are filled by appointment. Forty to ninety percent of judges are appointed to fill vacancies, so a significant majority of trial judges are appointed to the bench.<sup>28</sup>

The Florida Bar News reports that well-funded campaigns are targeting the retention elections of appellate judges that fail to rule in favor of the majority on controversial subjects. These campaigns have been designed to essentially permit the people to step into the role of the king and demand loyalty from the judiciary to them.<sup>29</sup> Members of the judiciary are being condemned for ruling against the will of the people—or perhaps some of the people. In an effort to calm the fury of a vocal segment of the population, the Florida Bar has made a significant effort to educate the general public about the purpose of merit retention elections. Their efforts have received mixed reviews from members of the bench and bar who actively participate in the appointment process.

Perhaps the anti-retention campaigns are a warning sign that our current judicial selection procedures inadequately balance the public perspective with other political and legal interests. Transparency of process and promotion of the quality of our judiciary to the non-legal community may be sufficient to include the people in the appointment process enough to stop the vocal critics from detrimentally affecting the judicial system. The issue now is how to balance the need for the articulation of interests by a variety of segments of society, including the general public, and minimize the problem politics that jeopardize the fairness of the process.

**To learn more about Florida's merit retention process please visit:** [www.floridabar.org/thevotesinyourcourt](http://www.floridabar.org/thevotesinyourcourt) **and for more information about Miami-Dade County's judicial elections please visit:** <http://www.miamidadegov/elections/>. **CB**

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*Renee B. Kramer is a student at the University of Miami School of Law. A graduate of Washington University in St. Louis, she is working as a summer law clerk at Gersten & Muir, P.A. and as a judicial intern for Hon. Don Cohn and Hon. Adalberto Jordan before beginning her second year of law school.*

<sup>1</sup> Madison McClellan, Merit Appointment Versus Popular Election: A Reformer's Guide to Judicial Selection Methods in Florida, 43 Fla. L. Rev. 529, 541 (1991) (citing Young Lawyers Division of the Florida Bar, Merit Retention of Judges Handbook 1976).

<sup>2</sup> Id. at 545.

<sup>3</sup> Peter Webster, Selection and Retention of Judges: Is There One "Best" Method, 23 Fla. St. U. L. Rev. 1, 2 (1995).

<sup>4</sup> Douglas Harper, Online Etymology Dictionary, (June 14, 2012), <http://www.etymonline.com>.

<sup>5</sup> McClellan, supra note 1, at 529.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> The final version of the Declaration uses the word "unalienable." Some earlier drafts used the word "inalienable," which is the term our modern dictionaries prefer. The two words mean precisely the same thing.

<sup>9</sup> Jona Goldschmidt, Merit Selection: Current Status, Procedures, and Issues, 49 U Miami L. Rev. 1, 7 (1994).

<sup>10</sup> Id., at 5.

<sup>11</sup> McClellan, supra note 1, at 534.

<sup>12</sup> Goldschmidt, supra note 9, at 4 (citing Edgar Bodeneheimer, The Growth of American Law: The Law Makers, by James W. Hurst, 26 Ind. L.J. 118 (1950), available at <http://www.repository.law.indiana.edu/ilj/vol26/iss1/11>).

<sup>13</sup> Goldschmidt, supra note 9, at 3.

<sup>14</sup> Id. at 4.

<sup>15</sup> Id.

<sup>16</sup> Id. at 8.

<sup>17</sup> Id.

<sup>18</sup> Webster, supra note 3, at 4.

<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> Goldschmidt, supra note 9, at 14.

<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Id.

<sup>25</sup> Charles Tiffany, Letters, The Florida Bar News, <http://www.floridabar.org/> (last updated June 18, 2012).

<sup>26</sup> See generally John V. Orth, Who Judges the Judges?, 32 Fla. St. U. L. Rev. 1245 (2005).

<sup>27</sup> Gerald Richman, The Case for Merit Selection and Retention of Trial Judges, 72 Fla. B.J. 71, 72 (1998), available at <http://www.floridabar.org/divcom/jrn/journal01.nsf/Author/CB614C898FE5814485256ADB005D6207>.

<sup>28</sup> Goldschmidt, supra note 9, at 11.

<sup>29</sup> Webster, supra note 3, at 4.

# 2012 JUDICIAL CANDIDATES

*Learn about the  
Judicial Candidates  
through bios they  
submitted to the  
organization –  
Please do not  
forget to vote  
on August 14,  
2012.*



# MIAMI-DADE CIRCUIT COURT RACES

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## GROUP 8:

### **HON. DAVID C. MILLER (INCUMBENT)**

**Current Position: Circuit Court Judge**

**Biography:** Judge David C. Miller was born in Miami-Dade County where he has resided for 58 years. Married his Coral Gables high school sweetheart, Marilyn, in 1973 while attending University of Florida – 39 years ago. Two sons: Jason and daughter-in-law Victoria Otero Miller, Aaron and daughter-in-law Jessica Calderon Miller. Proud grandparents to: Scott, Isabella, Sophia and Lucas. Lucky owner to “Penney the Wonder Dog” - 13 year old Jack Russell Terrier. Serving legal community for 34 years; 12 years as Circuit Court Judge; 22 years as lawyer and shareholder/equity partner at a well respected law firm. Judge David C. Miller is known for his intellect, integrity, stability, independence, and patience. His hard work ethic includes arriving at the courthouse by 6 am and allowing hearings as early as 7 am. He has been known to give lawyers his vacation days and holidays if needed to have their cases heard.

### **MAURICIO PADILLA**

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## GROUP 15:

### **ROBERT COPPEL**

**Current Position:**

**Assistant Public Defender**

**Biography:** I have been a trial attorney for twenty-eight years since graduating from Nova Law School in 1983. I was a solo practitioner from 1983 – 1987, specializing in juvenile defense and also handled criminal and civil matters. I have been an assistant public defender for twenty-three years. My roles have included felony trial attorney, juvenile and felony training attorney, and for the past four years the Director of Training and Professionalism. Throughout my career, I have represented clients of all ages, races and ethnicities. For the past fifteen years I have mentored, coached and trained over two hundred attorneys, many of whom are some of the finest trial attorneys in South Florida. Additionally, I teach professionalism, ethics and trial skills to all of our new attorneys and certified legal interns. On a personal note, if fortunate to be elected on August 14, the title of judge will not define me as a person. It is the essence of who I am that defines me. I am compassionate, patient and open-minded. When a situation calls for it I am strong and decisive. I take pride in my organizational skills and my punctuality. I have the skills and the temperament to be a good courtroom judge, both in the day-to-day operations and as a trial judge. I have been married to Judy Garcia for eighteen years and we live in Miami Lakes. I have 3 step-children and four granddaughters.

### **MARIA ELENA VERDE**

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## GROUP 47:

### **ALEX JIMENEZ LABORA**

**Current Position:**

**Private Law Practice / Hearing Officer**

**Biography:** During 18 years in private practice I have successfully represented clients in a wide variety of legal matters including class actions, family, dependency, bankruptcy, personal injury and wrongful death cases. I have owned small businesses and worked in a variety of industries including banking, engineering, consulting and data communications. In addition to being a proud graduate of the University of Miami School of Law, I received my MBA from the Wharton School of Business at the University of Pennsylvania and have an engineering degree from Iberoamericana University in Mexico City, the city of my birth. In 2010 I was appointed to serve as a Civil Traffic Hearing Officer and have presided over thousands of matters. I have lived in Miami for over 25 years and my wife, Deborah, and I have three children. I am also a long time Boy Scout volunteer and currently serve as an Assistant Scoutmaster. I promise to be fair, treat everyone with respect, follow the law and work hard. I would be grateful and honored to have your support.

### **MARIA DE JESUS SANTOVENIA**

**Current Position: Private Law Practice**

**Biography:** I have been a member of CABA for many years. It has been my goal to become a judge since my first legal job as a judicial law clerk to an excellent judge, role model and mentor in the Philadelphia Court of Common Pleas. I graduated from the University of Pennsylvania Law School in 1988. I am board certified in City, County and Local Government Law since 2005 and am the only board-certified candidate in my race. I have quasi-judicial experience as a court-appointed arbitrator in Philadelphia. There, I heard civil cases with values up to \$50,000, including the presentation of evidence, legal arguments, evidentiary rulings and damages awards. My practice has focused primarily in complex commercial litigation. I am proud to have contributed to Everglades restoration in my representation of an Indian tribe and environmental interests in federal Clean Water Act suits. In addition to complex cases, I have handled volume cases such as asbestos and foreclosure litigation. I also have appellate experience. My background defending municipalities and representing clients suing government agencies shows that I can handle both sides of an issue and would be fair and impartial as a judge. I have received the endorsements of the Miami Herald, the League of Prosecutors and Save Dade. I have dedicated over half of my twenty-four-year career to public service as an assistant city attorney for Miami and North Miami Beach. With your support, I hope to continue that public service as a judge.

## GROUP 49:

### **VICTOR H. DE YURRE**

**Current Position:**

**Private Law Practice / Hearing Officer**

**Biography:** I have been a practicing attorney in Miami-Dade County for 35 years conducting a commercial and real estate practice. I have a BBA (accounting), University of Miami (1974), a Juris Doctor, St. Mary's University School of Law (1976) and a Master of Laws in Taxation, University of Miami School of Law (1978) degree. I served as a City of Miami Commissioner and Vice Mayor from 1987-1995. Also, I served as Chairman of the Miami Sports and Exhibition Authority, as well as, the Downtown Development Authority. As a Commissioner and Chairman of the Miami Sports and Exhibition Authority I was the government lead and negotiated with Major League Baseball and the National Hockey League in bringing the Miami Marlins and the Florida Panthers to Miami. I was also a plaintiff and unofficial co-counsel against Dade County Government and the Dade County School Board to create district elections in the early '90s. In addition to practicing law, I am a Traffic Court Hearing Officer wherein I have

presided over 1000 trials and have obtained the experience necessary to run a courtroom and further, a Certified Mediator. My legal experience, knowledge and education allow me to provide expertise, to complement the Judiciary. Having been a public servant for decades in this community, I have a deep sense of understanding of the many cultures that make up this County and can impart justice in a fair, respectful and dignified manner.

## **TERESA MARY POOLER**

### **Current Position:**

**Private Law Practice / Hearing Officer**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

# **MIAMI-DADE COUNTY COURT RACES**

## **GROUP 1:**

### **FRANK A. HERNANDEZ**

#### **Current Position:**

**Assistant State Attorney**

**Biography:** Frank Hernandez was born and raised in Miami, Florida. He is of Cuban descent with his parents coming from Santiago and Havana. He attended Florida State University for undergraduate, and began law school at St. Thomas School of Law. Frank transferred from St. Thomas, giving up a 75% scholarship, and in order to be with his wife and graduated from Florida Coastal School of Law in Jacksonville. Upon graduation the Hernandez's returned home to Miami, and Frank started his career at the Miami-Dade State Attorney's Office. Frank started the SAO in County Court. He decided to stay longer in County and became a training attorney. In this capacity he was responsible for the daily operations of one courtroom for the State and training of a new class of prosecutors. He moved on through the office until he reached the level of Felony 'B' attorney. At this point in the Hernandez's lives, they decided to undergo IVF treatments, and Frank left the courtroom to spend more time at home to support his wife. The Hernandez's ended up with twin boys and Frank was in the Felony Screening Unit. In FSU he was responsible for the review and investigation of felony arrests before arraignment. This included daily interviews with all the players in a case (witnesses, victims, police, and defendants). Recently Frank has been working with the Economic Crimes Unit in order to devise a strategy for investigating and prosecuting the rash of Federal income tax fraud plaguing Miami in State Court.

### **HON. PATRICIA MARINO-PEDRAZA (INCUMBENT)**

**Current Position: County Court Judge**

**Biography:** I have been a member of the Florida Bar for the past 21 & 1/2 years was elected to the bench in 2006. I have served in both the criminal and civil divisions of the County Court and I have also been specially appointed as an acting Circuit Court Judge to handle civil domestic violence hearings as well as uncontested divorces. I currently preside in the Coral Gables Courthouse where I have both a civil and criminal division. My current pending caseload for my civil division is over 6,500 cases with additional new filings of well over 500 cases per month. The majority of my docket includes landlord/tenant evictions, personal injury protection cases, collections, and small claims matters. As a Judge I am experienced, hard working, decisive, well versed in the law, respectful, compassionate and committed to equal justice. I have received admirable bar poll

ratings from the attorneys who appear before me and I am honored to say that my re-election efforts are supported by both the Plaintiff's and Defense Bar. In addition to my commitment to justice, I remain extremely active in our community. I have been a guest speaker at local bar associations, lectured at school career day events, presided over mock trials and hosted student courthouse visits. I am also a mentor for law students. On a personal note, I am a member of the Cuban American Bar Association, a member the Family Law Inns of Court, and a member of the PTA.

## **GROUP 10:**

### **CAROL "JODIE" BREECE**

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

### **DIANA GONZALEZ**

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

### **HON. ANA MARIA PANDO (INCUMBENT)**

**Current Position: County Court Judge**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## **GROUP 20:**

### **MICHELLE ALVAREZ BARAKAT**

**Current Position: Private Law Practice**

**Biography:** I began my legal career and love of the courtroom as a student law clerk while assisting Judge Margarita Esquiroz. That profound experience catapulted my desire to work in litigation. Following my graduation from UM School of Law I have worked exclusively as a trial attorney. I first worked for eight years as a criminal defense attorney. Then as my family grew I had the opportunity to work on a contract basis with the Public Defender's Office in their mental health unit. Currently, I am Of Counsel at Barakat Law, P.A. where I have rounded out my trial and appellate experience to include cases dealing with commercial litigation matters. Now, after over 12 years as an attorney I have filed to run for judicial office. It has been at the behest of my colleagues that I have chosen "The People's Court." I am respectful, patient and sensitive to the diversity of individuals, which makes up our community. I wish to give back to this community, which has given me so much. I have worked in both the Public and Private sectors, and in the criminal and the civil courthouses. As Bar Counsel at the Florida Bar I gained a unique perspective on the pressures and responsibilities facing attorneys, while also handling the frustrations of people dissatisfied with their lawyer's service. Finally, if honored with your vote, I hope to bring my singular experience, love of this community, knowledge of the courtroom and well-balanced practical perspective to our judiciary.

### **HON. FLEUR JEANNINE LOBREE (INCUMBENT)**

**Current Position: County Court Judge**

**Biography:** Judge Fleur Lobree was appointed to serve in County Court in April 2011. She is assigned to the civil division, after ten months in the criminal division. She is also an acting Circuit Judge presiding over administrative appeals, domestic violence injunctions and uncontested divorces. Prior to her work on the bench, Judge Lobree was an Assistant State Attorney from 2002-2011. From 2001-2002, she was an associate at Hicks, Anderson and Kneale in civil practice. From 1997-2001, she was Senior Law Clerk to the Hon. Rodolfo "Rudy" Sorondo, Jr. at the Third DCA. From 1992-1997, she was an Assistant Attorney General, acting as lead counsel in over 350 appeals. In service to her profession, Judge

Lobree spent six years as a member of the Florida Bar Criminal Procedure Rules Committee, including serving as its Chair. She also volunteered for three years on a Florida Bar Grievance committee, evaluating cases of lawyers accused of wrongdoing. She has trained attorneys and law enforcement officers on topics such as Appellate Practice, Constitutional Law, Ethics and Professionalism, and Search Warrants. Judge Lobree devotes her free time to mentoring high school students and newly-diagnosed breast cancer patients. She is a founding member of Save Our Sisters, DBT Inc., a non-profit created to raise awareness about breast health and enable survivors to discover or regain fitness after diagnosis and treatment as a part of South Florida's first breast cancer survivor dragon boat racing team. She would greatly appreciate your vote for retention as a County Court Judge.

## **WILLIAM PENA WELLS**

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## **GROUP 24:**

## **ARTHUR SPIEGEL**

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## **GREER ELAINE WALLACE**

**Current Position: Private Law Practice**

**Biography:** My name is Greer Elaine Wallace, and I am a candidate for County Court Judge in Miami-Dade County, Group 24. I am a native Floridian; born in St. Augustine and raised in New Smyrna Beach, where I graduated 2nd in my high school class, and was a National Achievement Scholar. I received an academic scholarship to Michigan State University, where I obtained a BS in Psychology. My law degree is from University of Florida; In March 1979, I was admitted to the Florida Bar. For the last 33 years, I have practiced law in Miami as a government attorney and as a private practitioner (since 1996), in legal matters related to adoption, appeals, juvenile dependency and delinquency, divorce, child support, custody, time-sharing, paternity, landlord/tenant, domestic violence, probate, guardianship, small claims, and administrative hearings. I approximate having over 250 trials. My passion and strengths have been dedicated to protecting children and representing the most vulnerable members of our community, i.e. persons mentally ill, poor, and those addicted to alcohol and drugs. I am a former HRS dependency and termination of parental rights attorney; former attorney for SFETC--a facility for the criminally insane; and former Guardian Ad Litem Program staff attorney. I am qualified, experienced, and I promise to serve with a commitment to fairness, integrity, and respect for all.

## **HON. ANDREA R. WOLFSON (INCUMBENT)**

**Current Position: County Court Judge**

**Biography:** Judge Andrea Wolfson was appointed to the County Court bench in May 2010. Initially, she served in the Criminal Division at the Hialeah Branch Courthouse where she presided over criminal traffic and misdemeanor cases as well as civil domestic violence injunction hearings and uncontested divorces. Presently, Judge Wolfson presides over DUI, criminal traffic, and misdemeanor cases at the Richard E. Gerstein Justice Building. Judge Wolfson volunteers her time by participating in Town Hall Meetings, mentoring young people in the KAPOW Program as well as the Hialeah Early Prevention and Intervention (EPI) Program, and sitting in an appellate capacity over administrative matters. She also sits on the Eleventh Judicial Circuit Professionalism Committee. Prior to her judicial appointment, Judge Wolfson served our community as a prosecutor with the Miami-Dade State Attorney's Office. In that capacity, Judge Wolfson prosecuted criminal cases, including the most serious felonies. Judge Wolfson also served as a Special Assistant United States Attorney with the U.S. Attorney's Office for the Southern District of Florida where she prosecuted firearms-related cases.

During her time as a prosecutor, Judge Wolfson was universally respected by her colleagues and the defense bar. Judge Wolfson holds a Bachelor of Science Degree in Pre-Professional Studies from the University of Notre Dame. Following her undergraduate studies, Judge Wolfson received a Master of Science in Biological Sciences from Southern Illinois University at Edwardsville. Judge Wolfson received her Juris Doctor from the Chicago-Kent College of Law, where she excelled in the Moot Court Honor Society.

## **GROUP 27:**

## **YVONNE CUESTA**

**Current Position:**

**Assistant Public Defender**

**Biography:** My decision to run for judicial office comes as a result of my life experience as a first generation immigrant. At the age of seven, I, along with my mother, became part of an unprecedented mass exodus from Cuba known as the Mariel Boatlift. My father, however, was prohibited by the Cuban government from leaving with us. He was asked by Cuban militants not to allow me to come to the United States. His immediate response, however, was that he did not want his daughter to grow up in the communist island. At that point he was turned back from the Mariel port. When he returned to Havana, he was jailed without due process and without a trial. Upon his release, he was fired from his job and paraded through the streets of Havana where he was publicly shamed and beaten. Because of my father's choice, I grew up in a free and democratic country. This country and this community afforded me enormous rights and opportunities: the right to enjoy great individual freedoms and the opportunity to obtain an education. I wish to give back to this community as a public servant while engaged in the profession I love- the law. Moreover, as a judge, I want to ensure that unlike my father, everyone who comes before me is treated fairly, respectfully and receives due process under the law.

## **JACCI SUZAN SESKIN**

**Current Position:**

**Assistant State Attorney**

## **GROUP 28:**

## **TANYA BRINKLEY**

**Current Position:**

**Private Law Practice / Hearing Officer**

**Biography:** I graduated from University of Miami School of Law and Howard University. I have more than 16 years of litigation experience in civil and criminal law. Since 2004, I have been a Traffic Hearing Officer and presided over more than 500,000 citations and 1,000 trials. I also serve in an administrative capacity adjudicating motions for relief, and participating in training new Hearing Officers and County Court Judges. I have served the legal needs of this community since 1996, and I understand what makes a successful jurist. I believe that everyone deserves their day in court, where they must be treated with dignity and respect, and the role of the judiciary is limited to the law and its application. This makes me well-prepared to excel as a County Court Judge. As a Traffic Hearing Officer, I have demonstrated the essential qualities of fairness, consistency, and the ability to adjudicate, without hesitation. Patience, understanding, and respect have always been paramount while rendering a solid and well-reasoned decision that comports with the evidence and the law. I strongly believe that in addition to my solid qualifications, the value of my personal experiences will contribute to my success on the bench, and service to the community. I have been nominated numerous times to the Governor for appointment as a County Court Judge. I am endorsed by the League of Prosecutors, Concerned Citizens of Northeast Dade County, SAVE Dade, and Dade County Police Benevolent Association for election as County Court Judge in Group 28.

## ENRIQUE “RICK” YABOR

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

### GROUP 33:

## JOHN “JOHNNY” RODRIGUEZ

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## HON. TEREHA LUNDY THOMAS (INCUMBENT)

**Current Position: County Court Judge**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

### GROUP 40:

## LOURDES CAMBO

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## HON. DON S. COHN (INCUMBENT)

**Current Position: County Court Judge**

**Biography:** I was born in a small rural town in Connecticut. My family always instilled in me an extremely hard work ethic as well as the necessity to always treat people fairly and to discriminate against no one. My grandfather, who was an attorney for over 50 years, was an extremely strong influence on my life and always taught me to respect the robe. After graduating with a BA degree from the University of Connecticut in 1972, I graduated from the University of Miami Law School with a JD degree in 1975. I then practiced primarily criminal defense solely as a private attorney for over 31 years and had my own firm during the majority of such time. Since being elected as a County Court Judge in 2006 I have presided in the civil and domestic violence divisions and was the only judge to preside in the domestic violence/civil back up division. I have consistently given back to the community not only by speaking to local schools and various groups but also as a member of service organizations such as Lions Club International. Judges must always remember the following, First the courts belong to the people, Second a judge must be fair, Third litigants must feel they have had their day in court, Fourth a judge should always explain her or his ruling. As a judge I have always shown these attributes and ask for your support of my re-election.

# BROWARD CIRCUIT COURT RACES

### GROUP 19:

## MICHAEL I. ROTHSCHILD

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## JULIE C. SHAPIRO-HARRIS

**Current Position:**

**Staff Attorney, Broward County Clerk**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

### GROUP 31:

## TIM BAILEY

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## ALAN S. BERNSTEIN

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

### GROUP 35:

## HON. DALE ROSS (INCUMBENT)

**Current Position: Circuit Court Judge**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## MICHAEL “MICKEY” ROCQUE

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

### GROUP 45:

## JULIO E. GONZALEZ, JR.

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## OLIVER PARKER

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## RHODA SOKOLOFF

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## LAURA MARIE WATSON

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

# BROWARD COUNTY COURT RACES

### GROUP 5:

## OLGA LEVINE

**Current Position:**

**Assistant Public Defender**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## ROBERT NICHOLS

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## RICHARD A. SACHS

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

### GROUP 6:

## GARETT M. BERMAN

**Current Position: Attorney, Florida Traffic Safety Resource Program**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## FRIEDA M. GOLDSTEIN

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)



## **ROBERT ABRAHAM JAKOVICH**

**Current Position:**

**Assistant Public Defender**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## **ILENE LIEBERMAN**

**Current Position:**

**Private Law Practice / Broward County Commissioner**

**Biography:** I am the only candidate in the Broward County Court Group 6 race with a combination of legal experience and public service. I have been an attorney for 22 years with a civil practice including Probate, Guardianship, commercial transactions, appeals, as well as appearing before the Florida Commission on Ethics and the Florida Elections Commission in Tallahassee. I taught Local Government Law at Nova Southeastern Shepard Broad Law Center. There are 2 reported decisions on appeals to the District Courts in which I am cited as counsel of record. One of them, *Mierzwa v. Florida Windstorm Underwriting Association*, 877 So. 2d 774 (Fla. 4th DCA 2004), resulted in relief to thousands of homeowners across the state due to the District Court's interpretation of the Valued Policy Law. During my public service of 28 years, I have served as a City and County Commissioner and eight and one-half years as the Executive Mayor of the City of Lauderhill. As a public servant, I have applied my legal skills in reviewing thousands of contracts, deciding numerous quasi-judicial matters, and drafting municipal ordinances. I have been active in several community service organizations. I am on the Board of Directors of the Transplant Foundation of South Florida and the Boys and Girls Club. I am endorsed by the Broward County PBA, the Broward County Council of Professional Firefighters, the AFL-CIO, the 10-13 club, and the BSO Professional Supervisory Association, International Union of Police, AFL-CIO Local 6006.

## **KATHLEEN MARY MCHUGH**

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## **GROUP 10:**

### **ROSHAWN BANKS**

**Current Position: Private Law Practice**

**Biography:** I run my own practice and am an adjunct professor at Nova's Law School. I practice in both State and Federal Court, with both civil and criminal experience. With my undergraduate degree in Social Work, I worked in the mental health field. I served my country in the US Navy and am part of the prison ministry in my church. I have volunteered with senior citizens and children through the TJ Reddick Bar Association. I worked with teens in school, fund-raised for the American Stroke Association, built homes with Habitat for Humanity and gave the keynote address to college graduates. I also participated with the Caribbean Bar Association when they held their immigration help booth in the park. I have a diversity of experience with a proven record reflecting a commitment to service. If a good Judge needs legal acumen and the ability to serve others, then I believe I will certainly make a great Judge.

### **HON. ROBERT F. DIAZ (INCUMBENT)**

**Current Position: County Court Judge**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

### **RANDY GOODIS**

**Current Position: Private Law Practice**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

## **GROUP 32:**

### **MELANIE GOLDEN**

**Current Position: Private Law Practice**

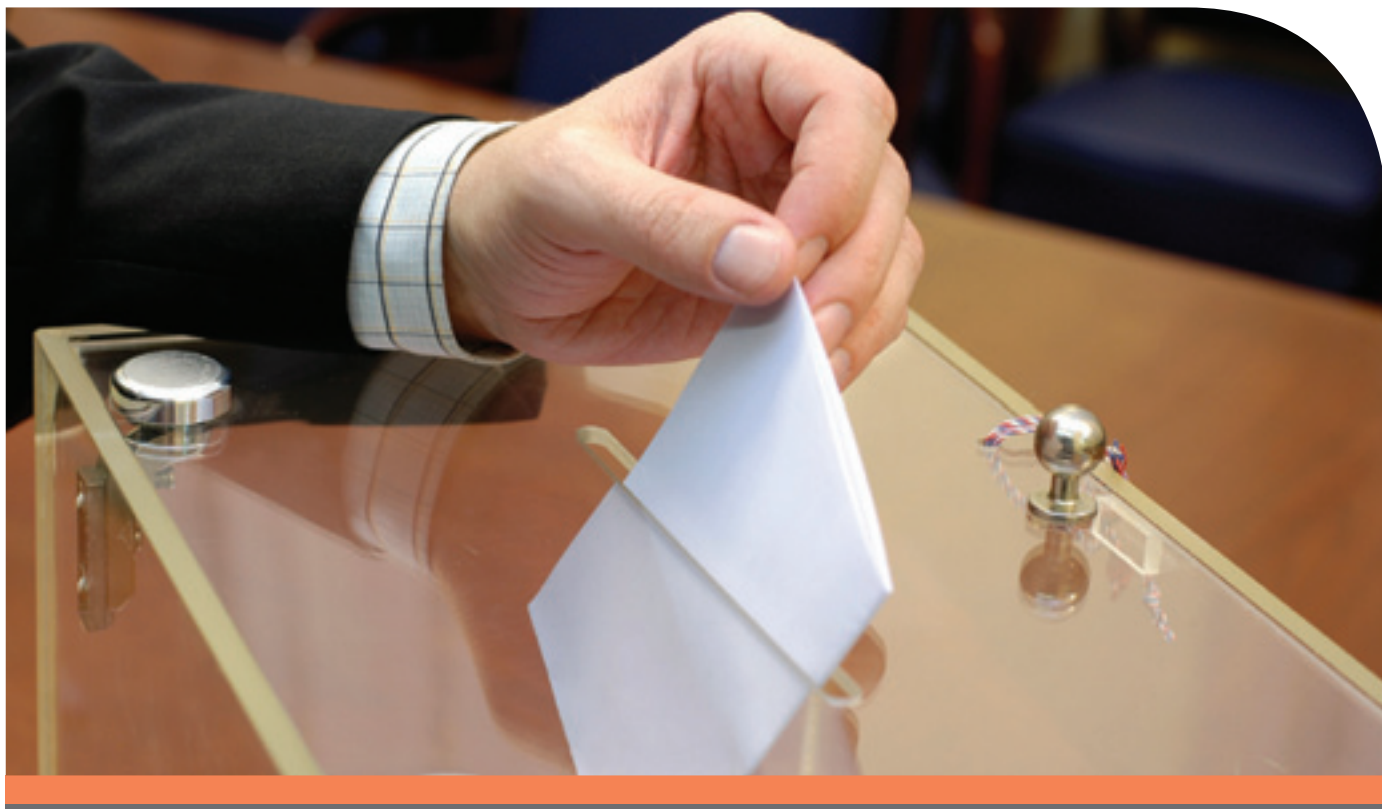
(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

### **HON. TERRI-ANN MILLER (INCLUMBENT)**

**Current Position: County Court Judge**

(INFORMATION REQUESTED; NOT SUBMITTED BY CANDIDATE)

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# 2012 Judicial Polls Miami-Dade County Results

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Next are CABA's judicial polling results from its 2012 judicial poll. The poll, designed to educate the electorate about the qualifications of judicial candidates, is an effective way for CABA members to express their views on the present and future judiciary.

The polling questions not only pertained to qualifications, but also to the fair and equitable treatment of hispanics by the judge/candidate.

| CIVIL (CIRCUIT)         |                         |           |             |            | Does the Judge treat Hispanics fairly and equitably, as well as demonstrate a responsiveness to their needs? |    |            |
|-------------------------|-------------------------|-----------|-------------|------------|--|----|------------|
| Judges                  | Exceptionally Qualified | Qualified | Unqualified | No Opinion | Yes  | No | No Opinion |
| Bagley, Jerald          | 41                      | 22        | 1           | 8          | 54   | 1  | 15         |
| Bailey, Jennifer D.     | 33                      | 30        | 1           | 6          | 47   | 3  | 19         |
| Butchko, Beatrice       | 18                      | 36        | 10          | 7          | 52   | 5  | 13         |
| Caballero, Marcia B.    | 16                      | 30        | 3           | 20         | 51   | 0  | 20         |
| Cardonne Ely, Gisela    | 9                       | 37        | 20          | 6          | 48   | 2  | 21         |
| Cueto, Jorge E.         | 7                       | 32        | 8           | 23         | 44   | 1  | 24         |
| Cynamon, Abby           | 10                      | 38        | 9           | 14         | 44   | 1  | 26         |
| Dresnick, Ronald        | 26                      | 31        | 6           | 7          | 43   | 8  | 18         |
| Eig, Spencer            | 8                       | 41        | 8           | 13         | 47   | 1  | 23         |
| Farina, Joseph P.       | 35                      | 21        | 5           | 9          | 52   | 2  | 16         |
| Genden, Michael A.      | 22                      | 35        | 6           | 6          | 47   | 5  | 17         |
| Hogan Scola, Jacqueline | 25                      | 29        | 7           | 11         | 47   | 8  | 16         |
| Langer, Lester          | 24                      | 29        | 5           | 13         | 48   | 5  | 19         |
| Leesfield, Ellen        | 25                      | 31        | 4           | 13         | 48   | 1  | 23         |
| Lopez, Peter R.         | 33                      | 25        | 1           | 12         | 56   | 0  | 14         |
| Miller, David C.        | 28                      | 29        | 9           | 7          | 52   | 5  | 16         |
| Platzer, Victoria       | 24                      | 32        | 7           | 9          | 45   | 6  | 20         |
| Rodriguez, Jose M.      | 16                      | 34        | 14          | 8          | 54   | 2  | 16         |
| Rodriguez, Rosa I.      | 12                      | 34        | 5           | 19         | 46   | 1  | 21         |
| Schumacher, Marc        | 31                      | 25        | 1           | 13         | 48   | 1  | 22         |
| Thornton Jr., John W.   | 39                      | 20        | 1           | 13         | 54   | 0  | 18         |
| Trawick, Daryl E.       | 17                      | 37        | 3           | 13         | 43   | 2  | 23         |
| Ward, Diane V.          | 16                      | 32        | 3           | 20         | 41   | 4  | 25         |
| Zabel, Sarah I.         | 9                       | 36        | 9           | 17         | 43   | 4  | 23         |

| FAMILY (CIRCUIT)         |                         |           |             |            | Does the Judge treat Hispanics fairly and equitably, as well as demonstrate a responsiveness to their needs? |    |            |
|--------------------------|-------------------------|-----------|-------------|------------|--|----|------------|
| Judges                   | Exceptionally Qualified | Qualified | Unqualified | No Opinion | Yes  | No | No Opinion |
| Areces, Barbara          | 18                      | 26        | 8           | 11         | 48   | 0  | 13         |
| Bernstein, Scott M.      | 27                      | 21        | 5           | 9          | 49   | 1  | 11         |
| Blake, Stanford          | 33                      | 19        | 0           | 9          | 47   | 1  | 12         |
| Brown, Joel H.           | 30                      | 20        | 3           | 9          | 43   | 3  | 15         |
| Dennis, Maria Espinosa   | 10                      | 25        | 15          | 13         | 46   | 4  | 12         |
| Diaz, Reemberto          | 18                      | 24        | 2           | 18         | 42   | 1  | 18         |
| Echarte, Pedro P. Jr.    | 21                      | 30        | 4           | 8          | 38   | 5  | 17         |
| Freeman, Gill S.         | 34                      | 21        | 1           | 8          | 43   | 3  | 16         |
| Glazer, Mindy S.         | 15                      | 33        | 6           | 9          | 40   | 2  | 18         |
| Karlan, Sandy            | 18                      | 25        | 2           | 16         | 37   | 2  | 22         |
| Manno-Schurr, Valerie R. | 6                       | 32        | 11          | 14         | 34   | 9  | 19         |
| Marin, Antonio           | 12                      | 28        | 8           | 15         | 44   | 2  | 14         |
| Sarduy, George A.        | 8                       | 28        | 9           | 17         | 38   | 5  | 18         |
| Schlesinger, John        | 24                      | 30        | 1           | 7          | 48   | 2  | 11         |
| Shapiro, Bernard S.      | 10                      | 30        | 5           | 18         | 32   | 3  | 24         |

## JUVENILE (CIRCUIT)

| Judges                  | Exceptionally Qualified | Qualified | Unqualified | No Opinion |
|-------------------------|-------------------------|-----------|-------------|------------|
| Cohen, Jeri B.          | 14                      | 27        | 4           | 9          |
| Figarola, Rosa C.       | 19                      | 24        | 1           | 10         |
| Hanzman, Michael A.     | 13                      | 18        | 3           | 21         |
| Hersch, Richard         | 10                      | 25        | 3           | 16         |
| Lederman, Cindy S.      | 24                      | 22        | 2           | 9          |
| Lindsey, Norma S.       | 8                       | 32        | 3           | 15         |
| Prescott, Orlando A.    | 23                      | 20        | 1           | 13         |
| Sampedro-Iglesia, Maria | 14                      | 24        | 2           | 17         |
| Zayas, Angelica D.      | 9                       | 18        | 2           | 25         |

Does the Judge treat Hispanics fairly and equitably, as well as demonstrate a responsiveness to their needs?

| Yes | No | No Opinion |
|-----|----|------------|
| 32  | 9  | 15         |
| 40  | 1  | 14         |
| 30  | 2  | 25         |
| 28  | 2  | 26         |
| 38  | 4  | 14         |
| 33  | 2  | 22         |
| 37  | 1  | 19         |
| 38  | 1  | 18         |
| 29  | 1  | 26         |

## CRIMINAL (CIRCUIT)

| Judges                  | Exceptionally Qualified | Qualified | Unqualified | No Opinion |
|-------------------------|-------------------------|-----------|-------------|------------|
| Arzola, Antonio         | 24                      | 25        | 1           | 10         |
| Bloom, Beth             | 30                      | 16        | 1           | 11         |
| Brennan, Victoria R.    | 12                      | 27        | 4           | 15         |
| Colodny, Yvonne         | 10                      | 22        | 5           | 21         |
| Fajardo, Ariana         | 6                       | 19        | 3           | 30         |
| Fernandez, Jose L.      | 18                      | 28        | 3           | 12         |
| Firtel, Leon M.         | 11                      | 32        | 3           | 13         |
| Gayles, Darrin P.       | 25                      | 25        | 2           | 9          |
| Glick, Stacy D.         | 10                      | 30        | 5           | 14         |
| Gordo, Monica           | 14                      | 28        | 3           | 14         |
| Hirsch, Milton          | 13                      | 27        | 9           | 11         |
| Miller, Bronwyn C.      | 21                      | 30        | 5           | 5          |
| Murphy, Dennis J.       | 16                      | 28        | 3           | 13         |
| Rebull, Thomas J.       | 10                      | 25        | 2           | 22         |
| Rodriguez-Chomat, Jorge | 5                       | 26        | 6           | 22         |
| Ruiz-Cohen, Samantha    | 13                      | 32        | 4           | 11         |
| Sanchez-Llorens, Migna  | 12                      | 26        | 6           | 15         |
| Sayfie, Nushin G.       | 19                      | 22        | 5           | 14         |
| Sigler, Victoria S.     | 15                      | 30        | 2           | 12         |
| Soto, Bertila           | 27                      | 21        | 2           | 12         |
| Thomas, William         | 23                      | 28        | 1           | 10         |
| Tinkler Mendez, Marisa  | 12                      | 31        | 6           | 11         |
| Tunis, Dava J.          | 13                      | 28        | 5           | 16         |
| Venzer, Ellen Sue       | 20                      | 23        | 6           | 12         |
| Walsh, Lisa S.          | 23                      | 22        | 2           | 13         |
| White-Labora, Deborah   | 17                      | 26        | 2           | 17         |

Does the Judge treat Hispanics fairly and equitably, as well as demonstrate a responsiveness to their needs?

| Yes | No | No Opinion |
|-----|----|------------|
| 46  | 0  | 12         |
| 42  | 0  | 16         |
| 31  | 4  | 23         |
| 32  | 3  | 23         |
| 27  | 1  | 32         |
| 42  | 1  | 18         |
| 36  | 1  | 22         |
| 44  | 1  | 15         |
| 35  | 1  | 24         |
| 38  | 0  | 21         |
| 30  | 8  | 22         |
| 42  | 4  | 14         |
| 35  | 2  | 22         |
| 35  | 0  | 23         |
| 34  | 3  | 21         |
| 42  | 2  | 14         |
| 38  | 3  | 18         |
| 39  | 3  | 18         |
| 39  | 1  | 18         |
| 46  | 0  | 15         |
| 44  | 0  | 15         |
| 38  | 1  | 19         |
| 30  | 4  | 25         |
| 37  | 4  | 18         |
| 39  | 1  | 20         |
| 36  | 0  | 24         |

## PROBATE (CIRCUIT)

| Judges                | Exceptionally Qualified | Qualified | Unqualified | No Opinion |
|-----------------------|-------------------------|-----------|-------------|------------|
| Korvick, Maria M.     | 19                      | 30        | 2           | 6          |
| Muir, Celeste H.      | 22                      | 29        | 1           | 5          |
| Rothenberg, Arthur L. | 19                      | 30        | 1           | 6          |
| Schwartz, Lawrence A. | 17                      | 28        | 2           | 9          |

Does the Judge treat Hispanics fairly and equitably, as well as demonstrate a responsiveness to their needs?

| Yes | No | No Opinion |
|-----|----|------------|
| 47  | 0  | 10         |
| 47  | 0  | 10         |
| 45  | 1  | 10         |
| 35  | 4  | 16         |

## APELLATE (CIRCUIT)

| Judges           | Exceptionally Qualified | Qualified | Unqualified | No Opinion |
|------------------|-------------------------|-----------|-------------|------------|
| Cynamon, Abby    | 9                       | 28        | 7           | 9          |
| Leban, Mark King | 15                      | 23        | 3           | 10         |

Does the Judge treat Hispanics fairly and equitably, as well as demonstrate a responsiveness to their needs?

| Yes | No | No Opinion |
|-----|----|------------|
| 35  | 2  | 15         |
| 34  | 5  | 13         |

## CIVIL (COUNTY)

| Judges                      | Exceptionally Qualified | Qualified | Unqualified | No Opinion |
|-----------------------------|-------------------------|-----------|-------------|------------|
| Cohn, Don S                 | 19                      | 22        | 7           | 11         |
| Gonzalez-Meyer, Gloria      | 16                      | 22        | 6           | 15         |
| Gonzalez-Paulson, Michaelle | 9                       | 24        | 4           | 20         |
| Graham, Wendell M.          | 12                      | 24        | 5           | 20         |
| Hendon, Eric                | 20                      | 20        | 1           | 18         |
| Johnson, Charles K.         | 20                      | 19        | 1           | 18         |
| Kravitz, Shelley J.         | 12                      | 25        | 2           | 20         |
| Lehr, Myriam                | 10                      | 24        | 1           | 23         |
| Lobree, Fleur J.            | 19                      | 20        | 2           | 17         |
| Marino Pedraza, Patricia    | 14                      | 23        | 8           | 16         |
| Perez, Gladys               | 21                      | 23        | 5           | 11         |
| Saenz, Nuria                | 12                      | 26        | 1           | 20         |
| Schwartz, Caryn C.          | 9                       | 32        | 0           | 17         |
| Schwartz, Jacqueline        | 5                       | 21        | 10          | 22         |
| Schwartz, Sheldon R.        | 3                       | 24        | 8           | 23         |
| Simon, Lourdes              | 14                      | 22        | 3           | 19         |
| Stein, Linda Singer         | 12                      | 25        | 1           | 19         |
| Thomas, Teretha Lundy       | 15                      | 21        | 12          | 12         |

Does the Judge treat Hispanics fairly and equitably, as well as demonstrate a responsiveness to their needs?

| Yes | No | No Opinion |
|-----|----|------------|
| 37  | 5  | 13         |
| 38  | 2  | 17         |
| 35  | 0  | 20         |
| 35  | 2  | 19         |
| 36  | 1  | 18         |
| 35  | 0  | 19         |
| 32  | 2  | 21         |
| 33  | 1  | 21         |
| 34  | 1  | 18         |
| 31  | 5  | 19         |
| 41  | 1  | 14         |
| 36  | 0  | 19         |
| 33  | 1  | 19         |
| 27  | 4  | 19         |
| 24  | 7  | 22         |
| 34  | 0  | 20         |
| 31  | 1  | 23         |
| 31  | 5  | 18         |

**CRIMINAL (COUNTY)**

| Judges                | Exceptionally Qualified | Qualified | Unqualified | No Opinion |
|-----------------------|-------------------------|-----------|-------------|------------|
| Altfield, William I.  | 17                      | 19        | 1           | 14         |
| Denaro, Dawn V.       | 15                      | 19        | 5           | 15         |
| Faber, Robin          | 11                      | 28        | 4           | 8          |
| Francis, Mary J.      | 13                      | 24        | 2           | 12         |
| Hague, Andrew S.      | 13                      | 28        | 3           | 11         |
| King, Lawrence D.     | 13                      | 22        | 3           | 12         |
| Krieger-Martin, Luise | 18                      | 16        | 4           | 14         |
| Leifman, Steve        | 21                      | 16        | 2           | 12         |
| Miranda, Cristina     | 11                      | 24        | 1           | 15         |
| Newman, Edward        | 4                       | 30        | 10          | 8          |
| Ortiz, Maria D.       | 10                      | 25        | 4           | 13         |
| Pando, Ana            | 8                       | 13        | 27          | 9          |
| Pooler, Catherine M.  | 16                      | 23        | 1           | 11         |
| Ruiz, Rodolfo         | 8                       | 13        | 1           | 30         |
| Seraphin, Fred        | 16                      | 27        | 3           | 8          |
| Slom, Samuel J.       | 24                      | 21        | 1           | 7          |
| Smith, Rodney         | 16                      | 23        | 1           | 13         |
| Wolfson, Andrea R.    | 22                      | 18        | 1           | 14         |

Does the Judge treat Hispanics fairly and equitably, as well as demonstrate a responsiveness to their needs?

| Yes | No | No Opinion |
|-----|----|------------|
| 30  | 0  | 18         |
| 25  | 2  | 24         |
| 34  | 3  | 13         |
| 33  | 1  | 15         |
| 32  | 5  | 15         |
| 29  | 2  | 19         |
| 30  | 2  | 18         |
| 34  | 0  | 15         |
| 29  | 0  | 21         |
| 25  | 5  | 20         |
| 33  | 0  | 19         |
| 29  | 9  | 15         |
| 31  | 1  | 18         |
| 22  | 0  | 29         |
| 34  | 2  | 13         |
| 39  | 0  | 12         |
| 32  | 0  | 19         |
| 32  | 2  | 17         |

**DOMESTIC VIOLENCE (COUNTY)**

| Judges               | Exceptionally Qualified | Qualified | Unqualified | No Opinion |
|----------------------|-------------------------|-----------|-------------|------------|
| Cannava, Donald J.   | 7                       | 14        | 4           | 27         |
| Davis, Joseph I. Jr. | 12                      | 11        | 3           | 25         |
| del Pino, Victoria   | 18                      | 22        | 6           | 8          |
| Kelly, Carroll J.    | 29                      | 10        | 3           | 7          |
| Multack, Spencer J.  | 12                      | 17        | 1           | 21         |
| Rubenstein, Judith   | 10                      | 20        | 4           | 17         |

Does the Judge treat Hispanics fairly and equitably, as well as demonstrate a responsiveness to their needs?

| Yes | No | No Opinion |
|-----|----|------------|
| 25  | 3  | 22         |
| 24  | 1  | 26         |
| 42  | 1  | 10         |
| 37  | 3  | 11         |
| 27  | 1  | 23         |
| 29  | 3  | 19         |

**JUDGES OF COMPENSATION CLAIMS**

| Judges               | Exceptionally Qualified | Qualified | Unqualified | No Opinion |
|----------------------|-------------------------|-----------|-------------|------------|
| Castiello, Gerardo   | 5                       | 4         | 0           | 31         |
| Harnage, Henry H.    | 9                       | 12        | 1           | 19         |
| Hill, Charles M.     | 6                       | 1         | 0           | 33         |
| Kuker, Alan M.       | 3                       | 5         | 1           | 31         |
| Medina-Shore, Sylvia | 3                       | 5         | 0           | 32         |

Does the Judge treat Hispanics fairly and equitably, as well as demonstrate a responsiveness to their needs?

| Yes | No | No Opinion |
|-----|----|------------|
| 9   | 0  | 33         |
| 20  | 0  | 24         |
| 6   | 0  | 35         |
| 8   | 1  | 33         |
| 8   | 0  | 34         |

| MAGISTRATES (COUNTY)     |                         |           |             |            | Does the Judge treat Hispanics fairly and equitably, as well as demonstrate a responsiveness to their needs? |    |            |
|--------------------------|-------------------------|-----------|-------------|------------|--|----|------------|
| Magistrates              | Exceptionally Qualified | Qualified | Unqualified | No Opinion | Yes  | No | No Opinion |
| Brown, Karl              | 4                       | 7         | 1           | 33         | 10   | 2  | 31         |
| Fernandez, Carlos        | 4                       | 9         | 0           | 32         | 15   | 0  | 30         |
| Gamboa, Alejandro        | 13                      | 6         | 1           | 27         | 21   | 0  | 27         |
| Howard, Carolyn          | 2                       | 6         | 2           | 35         | 10   | 1  | 34         |
| Jones, Robert J.         | 13                      | 7         | 0           | 26         | 17   | 1  | 28         |
| Kallman, Karen           | 8                       | 8         | 1           | 30         | 14   | 2  | 31         |
| Kimler, Lewis S.         | 6                       | 4         | 0           | 32         | 11   | 1  | 33         |
| Lieberman, Steve         | 13                      | 7         | 0           | 25         | 17   | 0  | 28         |
| Lukacs, Maryanne         | 5                       | 6         | 0           | 35         | 11   | 1  | 33         |
| Magid, Deborah           | 4                       | 13        | 0           | 29         | 17   | 1  | 28         |
| Pedraza, Yadira          | 7                       | 9         | 2           | 29         | 15   | 1  | 29         |
| Rosenbaum, Margaret Ann  | 5                       | 14        | 2           | 26         | 15   | 3  | 28         |
| Schwabedissen, Elizabeth | 11                      | 10        | 2           | 25         | 19   | 3  | 26         |
| Singer, Robert S.        | 2                       | 8         | 1           | 34         | 10   | 1  | 34         |
| Tenenbaum, Melissa G.    | 5                       | 12        | 3           | 25         | 13   | 4  | 28         |
| Tilson, Thomas A.        | 6                       | 9         | 0           | 31         | 14   | 0  | 28         |

| CANDIDATES FOR CONTESTED JUDICIAL RACES                |                         |           |             |            | Does the Judge treat Hispanics fairly and equitably, as well as demonstrate a responsiveness to their needs? |    |            |
|--|-------------------------|-----------|-------------|------------|--|----|------------|
| Candidates   | Exceptionally Qualified | Qualified | Unqualified | No Opinion | Yes  | No | No Opinion |
| Hernandez, Frank A.<br>(County Court Group 1)          | 1                       | 5         | 18          | 36         | 12   | 2  | 40         |
| Gonzalez, Diana (County Court Group 10)                | 6                       | 15        | 13          | 25         | 20   | 3  | 33         |
| Alvarez-Barakat, Michelle<br>(County Court Group 20)   | 5                       | 23        | 9           | 23         | 24   | 3  | 29         |
| Spiegel, Arthur (County Court Group 24)                | 2                       | 4         | 24          | 27         | 11   | 6  | 38         |
| Wallace, Greer Elaine<br>(County Court Group 24)       | 5                       | 13        | 12          | 26         | 19   | 5  | 30         |
| Cuesta, Ivonne (County Court Group 27)                 | 18                      | 20        | 5           | 14         | 30   | 5  | 20         |
| Seskin, Jaci S. (County Court Group 27)                | 3                       | 13        | 23          | 18         | 15   | 7  | 34         |
| Brinkley, Tania (County Court Group 28)                | 12                      | 22        | 10          | 13         | 25   | 4  | 26         |
| Yabor, Enrique (County Court Group 28)                 | 1                       | 11        | 18          | 28         | 13   | 5  | 35         |
| Rodriguez, John (County Court Group 33)                | 5                       | 17        | 13          | 24         | 21   | 6  | 29         |
| Cambo, Lourdes (County Court Group 40)                 | 6                       | 10        | 19          | 26         | 19   | 3  | 34         |
| Padilla, Mauricio (Circuit Court Group 8)              | 3                       | 4         | 25          | 28         | 14   | 5  | 37         |
| Coppel, Robert (Circuit Court Group 15)                | 15                      | 18        | 1           | 23         | 20   | 3  | 31         |
| Verde, Maria Elena<br>(Circuit Court Group 15)         | 8                       | 20        | 6           | 22         | 22   | 3  | 29         |
| Jimenez Labora, Alex<br>(Circuit Court Group 47)       | 3                       | 14        | 18          | 25         | 19   | 3  | 33         |
| Santovenia, Maria de Jesus<br>(Circuit Court Group 47) | 8                       | 25        | 6           | 19         | 23   | 2  | 29         |
| De Yurre, Victor (Circuit Court Group 49)              | 6                       | 17        | 19          | 17         | 24   | 6  | 24         |
| Pooler, Teresa Mary<br>(Circuit Court Group 49)        | 8                       | 23        | 11          | 16         | 21   | 5  | 29         |

# Inside the World of Corporate Counsel

The Keys to Going Beyond the Velvet Rope  
**Corporate Counsel Seminar &  
Networking Event**

*Co-chaired by: Jennifer Perez and Nelson Bellido*



*by Gina Beovides*







This year's Corporate Counsel Conference focused on bringing together diverse minority attorneys and national and local counsel to create opportunities for communication among in house and outside counsel. The event took place at the San Carlos Institute, located in the heart of Key West's historic district. The San Carlos Institute is a historical site affiliated with the Smithsonian Institution, considered to be the cradle of Cuba's independence movement, and the site where Jose Marti united the exile community in 1892 for his drive for Cuba's independence.

The three-day seminar included a diverse panel of in-house and outside counsel, who spoke about the challenges of expanding into Latin America and litigation issues faced by corporations and how law firms can position themselves to assist with those issues. Additionally, the panels focused on the challenges that minority in house and outside counsel have faced throughout the years, as well as the milestones that we have reached in promoting diversity in all areas of the law. Panelists included in house counsel for MasterCard, Sony Pictures Television, NBC Universal and Telemundo, Target Corporation, Fox International Channels, Ryder System, Chevron, TotalBank, Prudential Real Estate Investors, Carnival Corporation, Time Warner/Warner Bros. Company, Del Monte Fresh Produce Company, and Motorola Solutions, among others. We were also fortunate enough to gain some precious insight into the world of litigation from the perspective of some of our fine jurists from the Circuit Court of the Eleventh Judicial Circuit—the Honorable Judge Jose M. Rodriguez, Complex Business Litigation Division, and the Honorable Judges Marcia B. Caballero and Spencer Eig, both of whom sit in the General Jurisdiction Civil Division.



In addition to the conference, we hosted several cocktail receptions and dinners so that our members could socialize and network with the panelists, moderators, and sponsors. Nearly 100 participants attended the main dinner on the second evening of the conference, which featured Joseph K. West, President and Chief Executive Officer of the Minority Corporate Counsel Association.

“... the panels focused on the challenges that minority in-house and outside counsel have faced throughout the years, as well as the milestones that we have reached in promoting diversity in all areas of the law.”



Through the help of moderators, panelists, sponsors, and the corporate counsel committee, the conference was a huge success. A special thank you goes out to the following committee members for their service: Jennifer Perez, Nelson Bellido, Nory M. Acosta-Lopez, Annie Hernandez, and Diana Powell.

Lastly, this event could not have been possible without the help of Rafael Peñalver, who opened up the doors, and our eyes, to the historical significance and ideals of the San Carlos Institute, which stands for “truth, liberty, justice, self-determination and the dignity of the individual.” These very same principles are at the core of CABA’s foundation and are what we strive to promote. In appreciation, CABA has donated \$2,500 to the institute and looks forward to hosting a Cuba cultural awareness event at the institute.

Thank you to all who attended. We hope next year’s conference will be even greater!





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## *Undocumented Bar Applicants*

# THE AMERICAN DREAM?



*by Vivian M. Reyes and Javier A. Reyes*

Sixteen years ago, nine-year-old Jose Godinez-Samperio and his parents legally entered the United States from Mexico, but overstayed their visas. Jose began his journey by first graduating from Armwood High School in Seffner, as their valedictorian.<sup>1</sup> He then received a bachelor's degree from New College with a major in anthropology and his Juris Doctorate from Florida State University College of Law.<sup>2</sup> However, after accomplishing so much, Jose has one last obstacle to overcome prior to admission to The Florida Bar as a licensed attorney. Unlike his studies, this last obstacle is largely out of Jose's control and tied together with some of the most divisive political discourse in the United States.

Although Jose has been completely honest and forthright about his immigration status during the course of his undergraduate and law school education, he still had to address his status in his Florida Bar application because of a policy enacted in January 2008 by the Florida Board of Bar Examiners (the "Board") that requires Florida Bar applicants to provide valid citizenship or immigration documents.<sup>3</sup> The fact it is a policy is of importance given that there appears to be a distinction between a policy and a rule. As stated in Rule 1-12 of the Rules of the Supreme Court Relating to Admissions to the Bar (the "Rules"), the Rules are reviewed, approved, and promulgated by the Supreme Court of Florida.<sup>4</sup> Modifications to the Rules require the filing of a petition with the Supreme Court of Florida and subsequent order by the Court. According to Rule 1-13, the Board is an administrative agency of the Supreme Court of Florida created by the Court to implement the Rules relating to admission to the Florida Bar.<sup>5</sup>

Jose, determined to make his dream a reality, sought a waiver from the Board's policy requirement so that he could complete his Florida Bar application and sit for the Florida Bar Exam. The Board granted the waiver and allowed Jose to sit for the Florida Bar Exam. Unsurprisingly, he passed.

Jose, however, has yet to be admitted to the Florida Bar. Depending on how you interpret the Rules of the Florida Supreme Court Relating to Admissions to The Florida Bar, Jose has arguably earned the privilege of admission. He has met the basic qualifications that are expected of all applicants: (1) he graduated from an ABA-accredited law school; (2) passed the Florida Bar Exam; and (3) the Board has not indicated that he has not produced satisfactory evidence of good moral character.<sup>6</sup> The one major impediment that remains is Jose's status as an undocumented immigrant.

Sensitive to the larger issues presented by Jose's case, the Board petitioned the Florida Supreme Court for an Advisory Opinion regarding the following question: "Are undocumented immigrants eligible for

admission to The Florida Bar?”<sup>7</sup> Of course, with the politically divisive immigration issues serving as a back-drop, the legal issues are narrower for Jose. He is represented in his petition for admission by the former President of the ABA, President Emeritus and Professor of the Florida State University, the distinguished Talbot “Sandy” D’Alemberte,

Mr. D’Alemberte argues to the Florida Supreme Court in his Response to The Petition of The Florida Board of Bar Examiners that the Board’s policy requiring Florida Bar applicants to provide valid citizenship or immigration documents is simply a policy, not a rule, and cannot be the basis for denying Jose admission.<sup>8</sup> He argues that Jose should be granted admission to the Florida Bar pursuant to the Rules of the Florida Supreme Court Relating to Admissions to The Florida Bar. The Board, however, disagrees that the resolution of this issue is as clear as Mr. D’Alemberte argues and therefore requested that the Florida Supreme Court address Jose’s petition for admission.

One of the issues is the Board’s policy requiring information on the applicants’ immigration status that was adopted in January 2008 Bar.<sup>10</sup>

An Amicus Curiae brief in support of Jose’s petition for admission was filed by three former ABA Presidents: Martha W. Barnett, William Reece Smith, Jr., and Stephen N. Zack. The former ABA Presidents make the broader argument that the Florida Bar should adopt a policy allowing undocumented immigrants who came to this country as children to be admitted to the Florida Bar so long as they have met all the other admissions criteria.<sup>11</sup> The Amicus Curiae brief of the ABA Presidents cites to a letter

from then-President Zack, who is of Cuban-American descent and has championed the plight of immigrants, to U.S. Senators in support of the Development, Relief, and Education for Alien Minors Act (“DREAM Act”). In his letter, Mr. Zack highlights that the DREAM Act is consistent with American ideals of fairness and opportunity.

Regardless of the Supreme Court’s ruling on Jose’s particular case, the broader policy question highlighted by Mr. Zack and his colleagues remains. That is, what is a profession that is grounded in the rule of law going to do with cases such as Jose’s? Is it going to shut the door on future hard-working, bright, and honest applicants whose only strike against them is their parents’ zeal to provide a better life for them? Unfortunately, there is no easy answer. The United States’ immigration policy has become a flashpoint for political debate.

The Board’s request for an Advisory Opinion from the Florida Supreme Court on the eligibility for admission of undocumented applicants had not been decided at the time of publication of this issue. However on April 4, 2012, the Florida Supreme Court entered an order in this case that designates it as “High Profile.”<sup>12</sup>

Meanwhile, Jose waits to see if his dream of admission to the Florida Bar will become a reality. His only obstacle, having been brought to this country by his parents when he was only nine years old, seems so remote. Unfortunately, it is an issue that is tied to one of the United States’ most politically charged debates, and Jose and his dream are caught right in the middle.

CB

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*Contributor Javier A. Reyes, former business owner, practices commercial litigation with the law firm of Murai Wald Biondo & Moreno, PA. He is also a C.P.A.*

<sup>1</sup> Rafael A. Almeida, *Illegal Immigrant Seeks Admission to Florida*, SUN SENTINEL (Florida), April 15, 2012, available at [http://articles.sun-sentinel.com/2012-04-15/news/fl-illegal-immigrant-lawyer-20120415\\_1\\_immigration-status-william-gheen-americans-for-legal-immigration](http://articles.sun-sentinel.com/2012-04-15/news/fl-illegal-immigrant-lawyer-20120415_1_immigration-status-william-gheen-americans-for-legal-immigration).

<sup>2</sup> *Id.*

<sup>3</sup> Godínez-Samperio’s Resp. to Fla. Bd. of Bar Exam’rs Pet. for Advisory Op. 3.

<sup>4</sup> Fla. Bar Admiss. R. 1-12.

<sup>5</sup> Fla. Bar Admiss. R. 1-13.

<sup>6</sup> *Id.* 4.

<sup>7</sup> Fla. Bd. of Bar Exam’rs Pet. For Advisory Op. 4.

<sup>8</sup> Godínez-Samperio’s Resp. 4.

<sup>9</sup> Fla. Bar Admiss. R. 1-12.

<sup>10</sup> Fla. Bar Admiss. R. 1-13.

<sup>11</sup> Amicus Brief in Support of Godínez-Samperio’s Resp. to Fla. Bd. of Bar Exam’rs Pet. for Advisory Op. 4.

<sup>12</sup> Almeida, *supra* note 1.

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# Local Elections



*by Jason Silver*

As Election Day 2012 quickly approaches, campaigns for Miami-Dade County are running at full speed for the primary elections on August 14, 2012. This election season has been fast paced, interesting, and hard fought – as usual.

First, the Miami-Dade County Mayor's seat is a contested election, with the current incumbent Mayor, Carlos Gimenez, facing at least eight challengers, the main one being County Commissioner and Chairman Joe A. Martinez.

Mayor Gimenez, who was elected in June 2011, says CABA's role in the community is important in his campaign efforts. "My re-election campaign is about continuing a fundamental shift in the way [Miami-Dade County] does business. It's about working with organizations like CABA—reaching out and listening to one of our largest professional communities—that we will move forward. I have no doubt that together we can make Miami the world's next greatest city."



*Joe Martinez*  
County Commissioner

County Commissioner Joe Martinez, who helped make the recent CABA "Lawyers on the Run" 5K possible, stated his campaign is about reform and improving the economy. "As a supporter of reform and accountability in our local government, and being an advocate for change as the twice-elected Chairman of the Board of County Commission, I heard the residents of our community loud and clear. Reforms, although slow in coming, are happening in Miami-Dade County; however, the real reform needed is not only transparency and accountability, it is also creating job opportunities for all our small businesses – the backbone of financial stability and prosperity for our County."

Second, there are also Miami-Dade County Commission seats up for grabs with seats 1, 3, 5, 7, 9, and 13 at stake as incumbents and challengers all vie for the opportunity to shape policy and lead in one of the biggest counties in the State of Florida.

Additionally, there are races set for Property Appraiser, Clerk of the Courts, and School Board seats 1, 3, 5, 7, and 9.

One thing is certain – with Election Day 2012 right around the corner, members of CABA will once again have the opportunity to shape the future of Miami-Dade County and continue their strong relationships with community leaders. As County Commissioner Joe Martinez said, "CABA members can certainly do more of what they already do – that is, bolster their pro bono service to the poor, be civically involved in the issues that impact this community at the municipal, county, state, and federal levels, and also be a conduit of information to the community in general." **CB**





# Demystifying The JNC

On May 11, 2012, CABA held a seminar and luncheon for its members educating them on the judicial nomination and appointment process at the Ritz Carlton in Coconut Grove. Members were given the opportunity to learn about the process directly from current members of the Eleventh Judicial Circuit and the Third District Court of Appeals Judicial Nominating Commissions. Panelists included Hector Lombana, Esq., Marlene Quintana, Esq., Raquel Rodriguez, Esq., Mark Romance, Esq., and Lily Ann Sanchez, Esq. Panelists also included members of the judiciary that were successful in obtaining a judicial appointment. The luncheon featured keynote speaker Jesse Panuccio, Esq., acting General Counsel for Governor Rick Scott, who addressed and informed members of the Governor's criteria for his judicial selection process.

The seminar and luncheon was organized by Judicial Committee Chair Annie Hernandez and Vice-Chair A. Dax Bello. A special thank you goes out to TotalBank for sponsoring this valuable and insightful seminar.



*by Gina Beovides*







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# Dichos de Cuba

by Monica M. Albarello

Many Cuban sayings are quite visual. If you can picture the statement, then you will understand the meaning of the saying. The following are a few of the most visual Cuban sayings my family, Cuban friends, and I could recall.

## “Se llevó la cerca.”

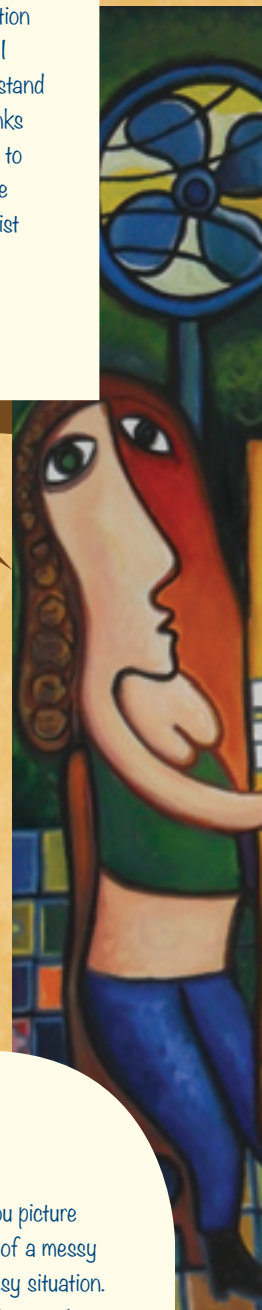
**English translation:** “He took the fence.”

Imagine a man driving his car through a wooden fence. What you have just envisioned was a not-so-smart, but extraordinary act, and that is what the saying means. For instance, “se llevó la cerca” would appropriately describe the April 2012 statement of Miami Marlins Manager, Ozzie Guillen, regarding his admiration and respect for Fidel Castro. Guillen may know baseball, but I question if he has any common sense. Guillen failed to understand that being a manager of a major league baseball team also links him to the team’s community. The Miami community is home to many Cuban exiles that had no choice but to immigrate to the United States to avoid the consequences of Cuba’s communist regime. Guillen “se llevó la cerca” when he made his wildly unpopular comment of admiration toward Fidel Castro.

## “Arroz con mango.”

**English translation:** “Rice with Mango.”

Rice and mango is not a traditional Cuban dish. However, if you picture slices of mango mixed with white rice, then you have an image of a messy meal. The saying “arroz con mango” is used to describe a messy situation. The song “Maria Teresa y Danilo” by Hansel y Raúl is not just a great salsa song, it is also an “arroz con mango” song. The song is about a love story between Maria Teresa and Danilo (el siempre viste de traje, y ella se viste de hilo) (he is always dressed in a suit and she is dressed in linen). Unbeknownst to them, however, they shared the same father! These messy situations create an “arroz con mango.”





## “A paso jicotea.”

English translation: “At a turtle’s pace.”

It is well known that turtles, with their heavy shells, move at a slow pace. That is why this saying is used to describe a person who lacks motivation, ambition, or is a procrastinator. The expression is most commonly used as follows: “Al paso de jicotea que va, nunca lo va lograr.” English translation: “At the turtle’s pace he is going, he is never going to accomplish anything.” There are people who love to talk about all the things they are going to do, but never come around to accomplishing it. We have this saying to describe those people. But let us not forget that in the classic fable of “The Tortoise and the Hare,” the slow-moving tortoise still wins the race! Procrastinators are not necessarily quitters.

## “Le das un dedo y te coje la mano.”

English translation:

“You give him a finger and he takes the whole hand.”

We all know this saying pretty well. The expression refers to people who take advantage of others. A perfect example touches close to home. My aunt has a neighbor who is unemployed and has too much free time on his hands. His hobby is to sell junk outside his home and the junk is quite pricey. Last summer, my aunt’s mango tree was bountiful all season long. My aunt told her neighbor that he could get some mangos to share with his family. When she left to her timeshare for a week, the neighbor took over sixty mangos – more than half the bloom! Upon her return, she found her mango tree almost bare. We later found out her neighbor sold the mangos for profit outside of his home. This is a prime example of someone “que le das un dedo y te coje la mano.” This summer, my aunt’s mango tree is already in bloom, but she will not be offering mangos to her greedy neighbor. **CB**



Painting by José Rodríguez Fuster

*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.*

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# MOVING FORWARD

In this issue, we focused on immigration, affirmative action, and the upcoming local and judicial elections. We also covered several exceptional CABA events from this past quarter, such as the first ever “Lawyers on the Run” 5k and our annual Corporate Counsel Seminar & Networking Event in Key West – both a huge success.

In the next issue, we will focus on the Supreme Court’s recent opinion on Obamacare, *National Federation of Independent Business et al. v. Sebelius, et al.*, and other key issues that are likely to affect the upcoming presidential election. As always, we will offer both sides of the issues. We will also continue to highlight the work of CABA and its members, such as the upcoming annual Art in the Tropics event (among other events) and the great work the CABA Foundation has been doing for the community. **CB**



by Diane Perez



*Diane P. Perez is an attorney and CABA Briefs’ 2012 Editor-in-Chief.  
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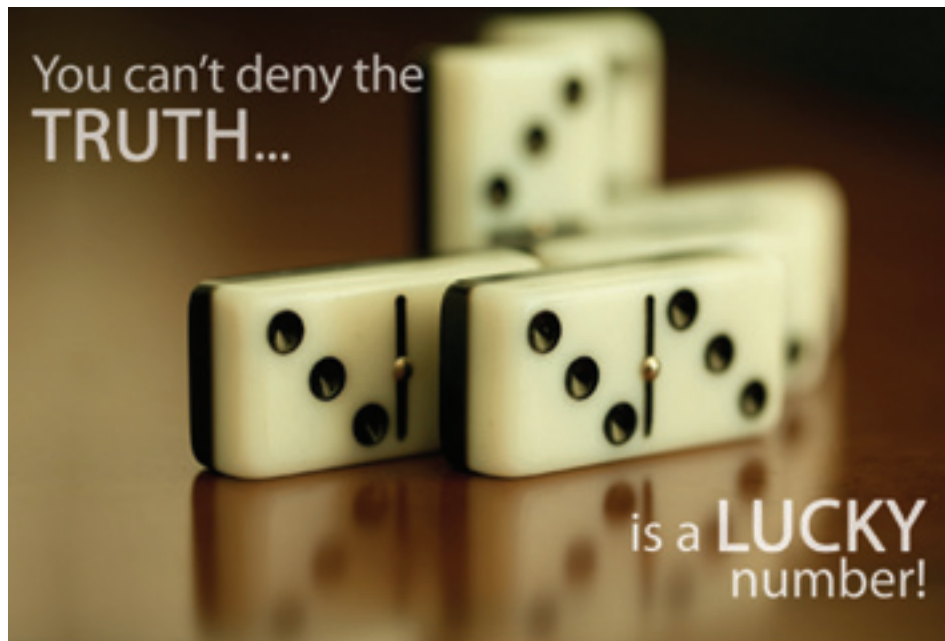
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We also continue to support our partner, CABA President Vivian de las Cuevas-Díaz and our attorneys and CABA board members Isabel C. Díaz (Secretary) and Annie Hernandez (Treasurer) in their ongoing initiative to make CABA a truly statewide organization.



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