

CABA BRIEFS

CUBAN AMERICAN BAR ASSOCIATION
DECEMBER 2003



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By Elizabeth M. Hernandez

This is the last newsletter of the year! And what a year it has been! We have worked hard to represent your interests and to make you an important component of all discussions and debates. We hope you are pleased with the efforts of the board thus far.

The results of the survey membership included in Issue No.1 this year indicate that you are satisfied with CABA's leadership. Many of you are solo practitioners. However, there are also many members from mid and large sized firms. You have indicated a willingness to be speaker at CABA CLEs and other events. You believe that CABA represents your interests; that CABA's efforts advance diversity on the bench; and most importantly, that CABA should have a voting seat on the Florida Bar Board of Governors.

It is our hope that this newsletter will encourage your participation in CABA. Get involved, volunteer on committees, run for the board make your presence known! I have enjoyed serving as the Newsletter Editor and hope that you have enjoyed the articles, pictures and information.

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PRESIDENT'S MESSAGE

By : Victor M. Diaz, Jr.



Some Parting Observations Regarding the Future of CABA

 In January 23rd, the new Board of Directors of the Cuban American Bar Association will be installed along with our 2004 President, Ray Abadin. Congratulations to Ray and our new Board and thank you to the outgoing Board for your service this year. As I reflect on this past year and my four prior years of membership on the CABA Board of Directors, I marvel at the growth of the organization both in terms of our membership as well as our level of activity. This growth is the product of many years of effort by a diverse group of Directors, good leadership and — most importantly — an energized membership. In order to sustain and promote further growth, we need to recruit strong leaders for the future and get our membership even more involved in the work of the organization. Exercising my final prerogative to comment on the work of our organization and in no particular order, I offer the following parting observations regarding the future of CABA:

1. Developing Future Leaders For CABA: The best sign of the maturity of any organization is the matter in which it identifies and promotes its leaders. I have always believed that membership on the Board of Directors and, most importantly, the presidency of CABA should follow from committed work on behalf of the organization. The individuals who aspire to positions of leadership within CABA should have demonstrated commitment to the mission of this organization and a willingness to roll up their sleeves and work hard in order to make the programming of the association successful. It seems to me that our current election process does not facilitate this objective by placing an insufficient focus on substance. There is no forum for candidates to explain their substantive involvement in the organization and outline their vision for the future. We need to revise our election procedures to emphasize substance and reward past effort. Despite the flaws in our current system, we have been blessed that, year after year, we have elected committed Directors and excellent Presidents. However, in order to take CABA to the next level of seriousness and professionalism, we owe it to our membership to develop an election process which places greater emphasis on merit and effort.

2. Energizing Our Membership: Another thing we owe our membership is to facilitate their ability to get more involved in the substantive work of the organization. During the past several years, CABA has done a much better job communicating with our membership regarding our programming and substantive advocacy. First and foremost in this effort has been the development our e-mail system, which has been emulated by most of the other voluntary bar organizations in this community. We have tried to limit our member e-mails to matters of substance and to important membership announcements in order to avoid having our e-mails discounted as spam. We encourage your feedback regarding the frequency of our e-mail communications and your ideas for other effective means of communicating with our membership. In addition to our e-mail system, we have developed a website, which is increasingly utilized as a means of communicating comprehensive CABA news. Finally, we continue publication of CABA Briefs which affords those of us who are less technologically adept a means of staying informed about the work of the organization. All of these means of communication depend upon the volunteer efforts of our Board of Directors. I want to thank those Directors who worked on our e-mail system, website and newsletter for their efforts throughout the year. There is a lot of unseen sweat that goes into each of these initiatives, but without them, we would not be as effective in keeping our membership engaged and informed.

Despite our successes, we are challenged to do more in the future. In particular, our committee structure needs to be reinvigorated in order to promote more opportunities for participation by individual members. I am not a fan of top heavy organizations. We have tried this year to introduce more deliberation on more topics by the entire Board of Directors. We also tried to reinvigorate without as much success our committee structure. The substantive work of CABA should not be done solely by the President, an Executive Committee or even the Board of Directors,

we need to keep our membership informed of what we are doing and recruit their substantial talents to our efforts. Although greater participation by more people necessitates greater administrative coordination by the President and the Board, it also is the sign of a mature and energized organization.

3. CABA has a very diverse mission: This year, as a result of the dissident crackdown in Cuba, we have focused a great deal of energy in condemning the absence of an independent judicial system in Cuba. These efforts are consistent with CABA's desire to work towards the reestablishment of democracy in Cuba and the restoration of an independent and impartial judicial system.

However, we must not lose sight of our domestic agenda as well. For years, CABA has led the fight to promote judicial diversity in the State of Florida. To our credit, we have advocated not only for the appointment of additional Hispanic judges, but also for greater representation of women and other minorities. We have helped educate all lawyers regarding the process for becoming a judge. We also have worked to appoint good people of diverse backgrounds to all levels of the judicial selection process. These efforts have resulted in some substantial process. In particular, we are grateful for the record of Governor George Bush in appointing women and minorities to the County and Circuit Courts in Miami Dade County.

However, the progress in Dade County has not been tracked elsewhere in the state. There is only one county in the State of Florida that holds the auspicious honor of having no women judges, and three counties that have no African-American judges. **Yet half of the counties in the State have no Hispanic representation in their state judiciaries.** CABA must continue our efforts to raise awareness about the gross under representation of women, minorities and Hispanics at all levels of our judicial system.

In addition, CABA continues to press other issues related to diversity sensitivity. We have been working for over a year with the Chief Judge to develop diversity sensitivity training for the judges of the Eleventh Judicial Circuit. It is our sincere hope that this judicial sensitivity training will occur this coming year. In addition, we have ongoing conversations with the Chief Judge regarding the lack of meaningful opportunities being afforded women and minority lawyers in lucrative court appointments and fee generating assignments. We have urged the Chief Judge to develop a mechanism to gather information regarding these appointments so that they can be scrutinized for their diversity and so that opportunities can be created for more lawyers to participate in these lucrative assignments. It is our hope that this Circuit will develop a model which can be implemented state wide.

Finally, CABA for some time has been pressing The Florida Bar to address its historic under representation of Hispanic and minority lawyers. As a mandatory bar organization, The Florida Bar has a responsibility and duty to ensure that it is representative of all segments of the legal community. It has been the view of the CABA Board of Directors that the Florida Bar has not fulfilled its responsibilities in this respect. We will continue our policy of constructive engagement with The Florida Bar in order to encourage them to do more to involve Hispanic and other minority lawyers in positions of responsibility. Meaningful participation by minority lawyers in the work of the Florida Bar will only follow when the Florida Bar addresses the current perception regarding historic patterns of exclusion.

In order to achieve these domestic policy goals, this year CABA continued our recent tradition of working closely with the Florida Association for Women Lawyers, the Wilkie Ferguson Bar Association (formerly known as the Black Lawyers Association), the Haitian Lawyers Association, the Caribbean Bar Association and other voluntary bar organizations, to encourage more communication and cross-collaboration between voluntary bar organizations representing women and minority lawyers. The fact is that women and minorities are new comers to the judicial system and many of the issues and obstacles that we confront in achieving full integration of the legal profession are common to all groups. By combining our efforts and promoting greater communication, the force of our advocacy is stronger and our chances of success are improved. CABA has been a leader in promoting this cooperation between voluntary bar organizations and should continue these efforts in the coming year.

4. Farewell: It has been my honor to serve as President of CABA during this past year. I look forward to one last year of membership on the Board of Directors as Immediate Past President and then to moving on as a senior statesman of this organization. I am excited by the young and enthusiastic new members that have joined our organization and our Board of Directors. CABA mission remains as relevant today as it was when we were founded many years ago. Our ability to influence the system is greater today due to our growth and strong membership support. For this, and for the individual support that I have received during this past year, I thank you all.

Victor M. Diaz, Jr. Esq

“A life of Accomplishments”



Cecilia Maria Altonaga is a shining example of the remarkable contributions being made by Cuban-American lawyers. Judge Altonaga was appointed to the United States District Court for the Southern District of Florida by President, George W. Bush. Prior to that time she served as a Circuit Judge in the Juvenile and Criminal Divisions, and has handled appeals from the County Court. She has also served as an Associate Judge on the Fourth Circuit of Florida, having been appointed in 1996 by the late Florida Governor LAWton Chiles, following nomination by the JNC. As a County Judge she served in the Civil, Criminal and Domestic Violence Divisions.

Judge Altonaga received her J.D. degree in 1986 from the Yale Law School, where she was an Articles Editor of the Yale Journal of International Law and member of the Yale Moot Court Board. She graduated with highest honors from Florida International University (F.I.U.), with a B.A. in Political Science, a minor in English and a Certificate in Latin American and Caribbean Studies, and recipient of scholarships in Political Science.

Prior to her judicial appointments, Judge Altonaga worked as a law clerk for now-retired Chief Judge Edward B. Davis of the United States District Court, Southern District of Florida. She was admitted to the Florida Bar in 1986 and practiced law as Assistant County Attorney for the Miami-Dade County Attorney's Office. Her practice specialized in local government law, with an emphasis in complex commercial and construction litigation, including appellate work in the state and federal courts. She also represented Miami-Dade County in constitutional law claims, sovereign immunity and personal injury litigation, bid disputes in administrative hearings and in court, and drafted and defended legislation and contracts for the County Commission and County Manager's Office and its various departments.

Judge Altonaga is a member of the Supreme Court Committee on Standard Jury Instructions in Civil Cases, the F.I.U. Law School Advisory Board, and the Eleventh Judicial Circuit Professionalism Committee. She belongs to the Dade County Bar Association, the Cuban American Bar Association, and the Florida Association of Women Lawyers. She has served as a member of the National Advisory Committee for Cultural Considerations in Domestic Violence Cases, Governor Jeb Bush's Select Task Force on Election Procedures, Standards and Technology, and the First Family Law American Inns of Court.

Judge Altonaga has lectured and presented course materials as an attorney and judge on a range of subjects including the juvenile system, domestic violence, local government law, professionalism and the economic loss rule. She was born in Baltimore, Maryland and is the daughter of Cuban immigrants. She lives Coral Gables, Florida with her husband, George Mencio, Jr., a lawyer specializing in international law, and their three daughters.

CABA Honors Judges Altonaga and White



Over 250 lawyers and judges joined CABA in honoring United States District Court Judge Cecilia Altonaga and United States Magistrate Judge Patrick White on their recent appointments.

The event, part of CABA's ongoing efforts to highlight the accomplishments of our best and brightest, was held at the Grove Isle Hotel and Resort on October 9, 2003. CABA wishes to thank Board members Ena Diaz and Araly Herrera for helping to organize the event and the law firms of Ackerman Senterfitt; Kozyak Tropin and Throckmorton; Law Offices of Gonzalo Dorta, Esq. and Eagle Brands for helping to underwrite the reception.



CABA Honors Judges Altonaga and White



CABA: The Dream Is A Reality

*By: Katherine Fernandez Rundle
Miami-Dade State Attorney.*

As a former president of Cuban American Bar Association (CABA), I am proud of the pivotal part CABA now plays in the legal establishment of Miami-Dade County. Each year our local legal environment gets progressively more complex. Granted, society overall has become evermore complicated but here in the Miami area, as a result of our central position as a meeting ground of the economies, and of the problems, of central and south America and the Caribbean basin, we must be prepared to deal with an ever-changing legal atmosphere. With Miami-Dade County as the doorway to the region, each CABA member must be prepared to deal with issues that were never envisioned when my father, Carlos Benito Fernandez along with a handful of prominent Cuban attorneys helped start CABA in 1974. Those visionary men, and I do stress the word men since there were no women attorneys yet in the picture, recognized the essential need to create a bicultural atmosphere and a bicultural appreciation so that future young Cuban attorneys could adapt, merge and eventually help lead this community.

However the core reason for creating CABA is as true today, as it was in 1974—the need to bring together our Cuban attorneys, and now our broad range of Hispanic attorneys, together to insure that the doors of Miami-Dade’s legal institutions remain open to all this community’s minorities. During my 1991 tenure as the first female president of CABA, I was able to get a first hand sense of the issues and concerns that were on the mind of our legal practitioners, not just as lawyers but also as residents and citizens of this community. The opportunity to interact with lawyers who rarely dealt with the world of criminal law allowed me to gain a sense of their concerns and a sense of the type of solutions they saw as necessary to effectively fight the battle for greater public safety even as this community underwent the crime turmoil of the early 1990’s. Upon becoming State Attorney in 1993, I undertook to unify our local police/prosecutorial approach with tremendous results. Even though Miami-Dade County has grown more than 15% in the last decade, murders have decreased 42%, robberies are down 52%, aggravated assaults down 19%, burglaries down 41%, thefts down 18% and motor vehicle thefts down 30%. In fact, in the past 10 years Miami-Dade County has had a larger percentage decrease in crime than has the rest of the State of Florida. Good policing and good courtroom work, we have led Florida in the incarceration of career criminals since July 1, 1993, have made this community safer. CABA lawyers have been a part of the solution of our local problems with their advice and their actual participation in the courtroom and in the development of effective crime prevention strategies.

So I know that today’s CABA membership is fulfilling the dream of those visionaries of 1974. Your efforts and successes have validated CABA’s founding board members dreams of making our Cuban American Bar Association, the voice for Hispanic attorneys in South Florida.



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CABA / Key West CLE Member Retreat: The past,

On October 3-5th, CABA and the San Carlos Institute gathered together judges, lawyers and legal scholars from across the country to discuss the past, present and future of the Cuban legal system. The event was hosted by the San Carlos Institute in Key West, Florida. Panelists included distinguished author and historian Carlos Alberto Montaner; Dr. Rogelio de la Torre, former professor of law at the University of Havana School of Law; The Honorable Maria Korvick; Rolando Amador, Esq.; Enrique Zamora, Esq., Sergio Mendez, Esq. and others. One of the highlights of the CLE was a direct telephone link to Cuba with Elsa Morejon, wife of Cuban political prisoner, Dr. Oscar Elias Bisset. Ms. Morejon updated the attendees regarding the current detention of Dr. Bisset, as well as the plight of the other Cuban dissidents imprisoned by Fidel Castro.

At the conclusion of the retreat, the CABA Board voted to make a significant gift to the San Carlos Institute in order to support its outstanding programming. In addition, the CABA Board voted to make the member retreat at the San Carlos Institute an annual event. It is our sincere hope that by drawing more Cuban professionals to the San Carlos Institute, CABA can help expand community support for this outstanding cultural institution and monument to the Cuban exile community.

CABA wishes to thank outgoing President, Victor M. Diaz, Jr., and San Carlos Institute President, Rafael Peñalver, Esq. for their efforts in organizing this highly successful conference.



present and future of the Cuban Legal System





“In his own words”

Interviewed By: Roland Sanchez Medina

The story of Justice Raoul G. Cantero III, is a story that can be told in many Cuban-American homes, yet there is no denying his unique dedication to achievement and service. Raoul's parents escaped the Cuban revolution for Madrid, Spain, where Raoul was born 42 years ago. The grandson of Fulgencio Batista, Raoul moved with his family to Miami when he was 9 months old. Raoul attended Catholic schools in Miami, but visited his grandfather in Spain most summers until his death in 1973. Raoul graduated from Florida State University, where he earned a B.A. in English and business and finished in the top 2% of his class. After graduating from Harvard Law School, he was awarded a Fulbright Scholarship for creative writing.

Raoul's career in private practice, almost exclusively as an appellate lawyer, began and most likely ended, at Adorno & Yoss, where Raoul served as Chairman of the Appellate Group. Raoul is married to Ana Maria, and has three children, Christian, Michael, and Elisa.

Roland: Can you tell me a little bit about yourself, about your background, and give some of our readers an indication of how you started and where you came from and where you are right now?

Raoul: Well, I was born in Spain. My parents are Cuban, as everybody knows by now. My grandfather, Fulgencio Batista, was the President of Cuba and he had to flee in January 1959. He fled the country with my parents, and my parents fled to Spain with him. I was born there. Nine months later we came to the United States and moved into Coral Gables, which then was not the ritzy area it has become. It was a lot more affordable. My parents were divorced when I was about two years old and I lived with my mother during the weekdays and my father during the weekends. I went to St. Theresa's School and then Columbus High School. I met my wife when I was a senior at Columbus and she was a junior at Lourdes and we kept dating after that. Then I went to Florida State undergrad and Harvard Law School. I then clerked for Judge Edward B. Davis, here in Miami Federal District Court. After that, I got a Fulbright Scholarship to study Latin American history and literature in Panama, and my wife and I spent a year in Panama. Then, when we moved back to Miami, I started working at the firm where I'm still working which is Adorno & Yoss. Back then

it was Adorno and something else, and then it went through various incarnations. Now it is Adorno & Yoss. I've been there since.

Roland: Within the law, how did you decide to become an appellate lawyer?

Raoul: Well, I majored in English writing and I wrote a lot of short stories, and what I really wanted to do was be a writer – write novels, short stories, things like that, which is what I did in college, and my thesis in law school was a novel about a Cuban-American lawyer in Miami, so I guess the appellate process was what was the closest to somebody who likes to write. When I first came to the firm, I was an associate, and most of the partners were former state prosecutors, you know, who loved to handle trials and be in front of juries but hated to be in front of a computer and writing things, so they threw me all the appeals because they didn't want to do it and I loved to do it, so as the firm started growing, getting bigger and having more appellate work, I was naturally the person to do the appellate work and, as the firm became a big firm, I was handling, almost all appeals.

Roland: As a young attorney growing up here in Miami, in South Florida, what's the best advice you can a young attorney? What are the elements necessary to become a successful attorney?

Raoul: Well, I think the important thing is not to wait for a mentor. Mentoring is important and we want mentors, but a lot of associates don't have mentors and, when I came in, even though I had people I looked up to here, there was nobody that handled appeals that I could look to to teach me how to do an appeal, how to write a brief, so I ended up reading every book that I could get my hands on about writing briefs, legal writing, handling appeals, things like that, and essentially educated myself in that process. So I think that to be a good lawyer, you need to be self-motivated to try to be the best you can.

Roland: In the time that you've been an attorney, have you seen a change in the practice of the law? Is it becoming less civil? What are your thoughts on that?

Raoul: I think it's true. I think it has become much less civil. I think we can't take people at their word. I'm not sure that that's something that's happened recently or that's been a change because it really was happening while I started practicing also. I think it's gotten worse. I don't see it as much in the appellate field. I think the great thing about appellate practice is that most of the attorneys are very professional and courteous and there is really a small bar of attorneys who all know each other and all respect each other, so it's been a privilege to practice appellate law in that sense and I think that there's one thing I want to get across to my Cuban-American friends that are lawyers, is that we need more Hispanic appellate lawyers. I'm one of the few Hispanics in the State that practices primarily appeals and we need more people who want to go into that area so that we can have more Hispanic appellate judges.

Roland: You've attained a tremendous personal achievement. However, I remember reading that the Daily Business Review where it was suggested that you could potentially be considered for the U.S. Supreme Court. How would you feel about that,

Raoul: It's something that I certainly wouldn't turn down, actually, I would have to talk to my wife first. I would have to negotiate the trip to Washington.

Roland: Much as been said about your faith, the devout man you are. How does this affect the way you practice law, your life?

Raoul: Well, it's helped me immensely in all aspects of my life. It's made me put my family first other than my job, to pay attention to my children; it's made me realize that one can only really be happy when one forgets his own happiness and seeks the happiness of others, which is kind of like the paradox of Christianity. It's helped me in my conduct toward opposing counsel and other attorneys. I try to be as professional as I can but not make cases a personal thing between one attorney and the other, recognize that we're simply role players within a system, and that we can still be friends even if we're litigating against each other, and I've made many friends who were first opposing counsel, and many of those people have supported me in this process which was very gratifying.

Roland: What has been the impact of being the grandson of Fulgencio Batista?

Raoul: It's impacted me the same way it's impacted all Cuban-Americans, that we've been ripped out of the country where our fathers were born and our fathers long to return the country that they left for freedom for the country, it has helped me in my small way, to try to write for the freedom of our people there, but other than that, it really hasn't affected me. I think many of my friends didn't even know who my grandfather was until all the newspaper articles started coming out, so it really doesn't have bearing one way or the other.

Roland: If you could predict your future over the next ten or fifteen years, where would you be?

Raoul: I'd probably, uh, as a well-respected member of the Florida Supreme Court whose kids have grown up in a place that they loved and went off to college and had successful careers, as long as I'm respected for whatever I'm doing, that I've done a good job and been a good person, and that's all that matters to me. ■

The Lack Of Judicial Diversity: A Status Report

Achieving a qualified and diverse state court judiciary has been a historic goal of CABA. Printed below are graphic maps compiled by Linda C. Sweeting, Esq. and Charles A. Morehead, IV, with the assistance of the Governor's Office of the State of Florida, and the State Court Administrator's Office which outline the current status of judicial diversity. While one county in this state still has no woman judge and three counties still have no African-American judge, one half of the counties in this State have no Hispanic judges. Given the fact that Hispanics are this state's largest minority group, this statistic remains a source of great concern. In fact, Hispanics are the only group that is still under-represented in the state court judiciary given our percentage in both the general population and in the ranks of the legal profession. Some progress has been made in recent years, but the maps reproduced on these pages demonstrate that for Hispanics at least much work remains to be done and substantial equity still has not been achieved.



The Lack Of Judicial Diversity: A Status Report



No Black Judges

County and Circuit Courts

2001-2002



2003



47



No Female Judges

County and Circuit Courts

2001-2002



2003



48

CABA LAUNCHES MENTOR PROGRAM WITH A BANG!

On September 30th, CABA launched our mentorship program with a well attended reception for mentors and mentees. CABA members have offered to help

orient nearly 100 area law students and ease their transition into the legal profession. More students wish to participate in this program; therefore, if you are willing to volunteer to serve as a CABA mentor, please contact program coordinator, Marlene Morales, Esq. at 305 358-5500.



SUMMARY JUDGMENT IN WORKERS' COMPENSATION CASES: SOMETHING NEW

By: Judge Gerardo Castiello¹

Rule 60Q-6.120 et. seq., effective February 23, 2003, now provides for summary proceedings in workers' compensation cases via Motion for Summary Final Order. This is a departure from prior well-established caselaw precedents disapproving of summary proceedings in workers' compensation matters. See, *Bee Gee Shrimp v. Carreras*, 516 So. 2d 1121, 1122 (Fla. 1st DCA 1987); *Geiger-Ricketts Dev. Co. v. Alzman*, 499 So. 2d 40 (Fla. 1st DCA 1986).

(I) WHAT IS DIFFERENT

Fla. R. Civ. P. 1.510 et. seq. and Rule 60Q-6.120 are conceptually similar but procedurally different.

(a) Fla. R. Civ. P. 1.510 (c) requires that a hearing on the motion be set and that the non-moving party be given at least 20 days notice of same. A party seeking summary relief under Rule 60Q-6.120 is not required to set the matter for hearing. A Judge of Compensation Claims may wait the requisite seven days allowed for a response (See Rule 60Q-6.115(4)) and rule.

(b) Fla. R. Civ. P. 1.510 (c) allows the non-moving party to file a response up to five days prior to the hearing. Under Rule 60Q-6.115(4), the non-moving/opposing party must file a response - which includes all materials in opposition - within seven days of the Motion for Summary Final Order. This effectively establishes a shorter window for responses - seven days vs. fifteen days - in workers' compensation proceedings than under Fla. R. Civ. P. 1.510(c).

(c) The motion for Summary Final Order must be filed no later than 30 days before final hearing. 60Q-6.120(2). Fla. R. Civ. P. 1.510 (a) allows a party to move for summary judgment after 20 days have expired since the commencement of the action.

(II) WHAT IS PERSUASIVE

Decisional law under Fla. R. Civ. P. 1.510 et. seq. may be persuasive, if not controlling, when similar issues under similar provisions contained within Rule 60Q-6.120 et. seq. For example:

(a) the general rule that evidence which would be inadmissible at trial should not be considered in a summary proceeding, *Lake v. Konstantinu*, 189 So. 2d 171 (Fla. 2nd DCA 1966), would appear applicable.

(b) Likewise, the general rule that live testimony is generally not allowed at a Motion for Summary Judgment hearing, *Ogden Trucking Co. v. Heller*, 130 So. 2d 295 (Fla. 3rd DCA 1961), would likewise appear applicable.

(c) Fla. R. Civ. P. 1.510(f) instructs that entry of summary judgment is inappropriate if relevant discovery is still pending - a position strictly adhered to by decisional authorities. *Smith v. Smith*, 734 So. 2d 1142 (Fla. 5th DCA 1999); *Giroux v. Ronald Williams Construction Co.*, 705 So. 2d 663 (Fla. 1st DCA 1998). Though the same provision is not specifically a part of rule 60Q-6.120 et. seq., a worker's compensation practitioner should be aware of same in evaluating the propriety of filing a Motion for Summary Final Order.

(III) WHAT WILL BE THE SAME

The fundamental principals guiding summary judgment proceedings will be the same in workers' compensation as they are in general civil practice. For example:

(a) the general, well-established rule that factual inferences must be viewed in the light most favorable to the non-moving party, *Bruckner v. City of Dania Beach*, 823 So. 2d 167 (Fla. 4th DCA 2002); *Menendez v. Palms West Condominium Assn.*, 736 So. 2d 58 (Fla. 1st DCA 1999), should be adhered to.

(b) Likewise, the general rule that any dispute over a material fact bars summary determination, *Craig v. Gage Maritime Properties, Inc.*, 631 So. 2d 375, 377 (Fla. 1st DCA 1994); *Hancock v. Dept. of Corrections*, 585 So. 2d 75 (Fla. 1st DCA 1991), rev. denied, 598 So. 2d 75 (Fla. 1992) will applied as is it understood in general civil practice.

(IV) APPEALS

Order denying summary judgment is interlocutory and not readily appealable. Order granting summary judgment is appealable if it contains words of finality. An Order granting Partial Final Summary Judgment is appealable under Fla. R. App. P. 9.110(k).

CONCLUSION

Rule 60Q-6.120 et. seq. now allows parties in workers' compensation proceedings to seek summary resolution of issues not materially in dispute. Conceptually, Rule 60Q-6.120 et. seq. and Fla. R. Civ. P. 1.510 et. seq. are similar. As such, workers' compensation practitioners may seek guidance from Fla. R. Civ. P. 1.510 et. seq. and decisional authorities based on same. However, they should also become cognizant of the procedural guidelines unique to Rule 60Q-6.120 et. seq.

¹ The author is a Judge of the Worker Compensation Court, Miami-Dade county and CABA Member.



CABA

INVITES YOU TO JOIN US FOR THE FOLLOWING
UPCOMING EVENTS:

December 4th: Annual Elections
Place: Monty's Bayshore
Time: 6-9 pm

January 23rd: 2004 Installation Dinner
Place: Parrot Jungle Ballroom
Time: 7:30-midnight

Visit our website, www.cabaonline.com, for further updates.



The Cuban American Bar Association

cordially invites you to our Annual Installation Dinner
to welcome the 2004 President and 2004 Board of Directors
on Friday, January 23rd, 2004 at The Parriot Jungle Island.

Cocktail 7:30 p.m. - 8:45 p.m.
Dinner: promptly at 9:00 p.m.
Black Tie Optional

Sponsorship levels available
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Visit our website, www.cabaonline.com, for further updates.



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