

# Q&A BRIEFS



## Miami-Dade County's 2016 Judicial Candidates



Inside this Edition:  
2016 Gala Pictorial

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to and adequate representation of all minorities before the courts; facilitate the administration of justice; build close relationships among our members; provide mentoring and scholarship to law students nationally; and support the indigent community through the funding and administration of an effective pro bono legal assistance project and other community programs. Currently, CABA has in excess of 2,000 members in our organization. Reproduction in part of any text, photograph, or illustration without written permission of the publisher is strictly prohibited. To submit an article or ad to CABA Briefs, please contact Frances Guasch De La Guardia at cababriefs@hotmail.com.

# President's MESSAGE



It is hard to believe that it has been six months since I stood before you and took the oath of office as CABA's 42<sup>nd</sup> President! You can join me in reminiscing over that spectacular Night in Old Havana with the Gala Pictorial. A lot has occurred in my life and in the world around us since the Gala, some of which has brought great uncertainty and fear close to home—Brexit, numerous tragedies involving ISIS and police-involved shootings. Moreover, the electoral process that started one year ago with each major party putting forth a slate of presidential candidates has finally been narrowed down to Mr. Donald Trump and former Secretary of State Hillary Clinton.

As the national election in November draws near, let us not overlook our own judicial elections occurring on Tuesday, August 30, 2016. On that date, we will be electing four (4) county court judges in Miami-Dade, and five (5) circuit court judges to the Eleventh Judicial Circuit Court. There are eight candidates for the county court race: Judge Fred Seraphin vs. Milena Abreu; Judge Ed Newman vs. Lizzet Martinez; Ruben Alcobá vs. Linda Luce; Judge Wendell Graham vs. Antonia Jimenez. The circuit court race involve thirteen candidates: Judge Jason Bloch vs. Marcia Del Rey; Mark Blumstein vs. Renee Gordon vs. Denise Martinez-Scaziani vs. Luis Perez-Medina; Rosy Aponte vs. Carol "Jodie" Breece vs. Oscar Rodriguez-Fonts; Judge Robert Luck vs. Yolly Roberson; and Judge George Sarduy vs. Elena Ortega-Tauler. I encourage you to review CABA's 2016 Judicial Poll Results included within this edition, along with the Judicial Races Snapshot compiled by Jason Silver, Esq. Also, remember to join us on Friday, August 26, 2016 at 11:30 a.m. at The Biltmore Hotel in Coral Gables for the Annual Judicial Luncheon and 2016 Judicial Candidates Forum so you can meet many of those candidates in person and learn more about their qualifications to serve as jurists in this community. It is our civic duty and privilege, as both citizens and advocates, to become informed and exercise our right to vote. If we do not fulfill this important obligation, then we should not later complain about the outcome.

Lastly, as you may recall, one of my goals for this year was to present a conference on matters relating to and affecting Cuba. There have been many changes to U.S. and Cuba policies since the thawing of diplomatic relations in December 2014, more significantly in the last several months, including the re-opening of the American Embassy in Cuba, and the ease of travel and economic restrictions on visiting and doing business in Cuba. There are several pieces in this edition that will address some of these latest developments. If these articles pique your interest, then please be sure to join me at the upcoming CABA on Cuba Conference on Friday, September 23, 2016 and Saturday, September 24, 2016 at Florida International University College of Law where learned panelists will discuss topics such as: Developments in U.S. Law and Regulations Regarding Cuba, the U.S. Embargo, Resolution of Foreign Claims, Foreign Investment in Cuba, and Cuba After Castro. The discussions promise to be educational, informative and well-balanced.

Thank you for your continued support. I look forward to seeing you at one of our many upcoming events.

Cariños,

A handwritten signature in black ink, appearing to read "Anna Marie Hernandez".

Anna Marie Hernandez  
*President*

## Editor-In-Chief's MESSAGE



Dear CABA Members:

As summer comes to a close, I hope you have all had the opportunity to take some time off to spend with family and friends. With the beginning of fall around the corner, we are all undoubtedly focused—as my social media can attest—on who will be the next President of the United States. Before we elect our next President, however, we must go to the polls on August 30<sup>th</sup> to elect our local judges. The election of a judge is one of the most important decisions we make as attorneys and as citizens. A judge's rulings directly impacts not only our client's life, but ours as well. Indeed, judges make decisions that can affect our daily lives: who goes to jail, who gets alimony, whose case is dismissed, who gains an inheritance, etc. The list of judges' decisions is virtually endless, yet 30 percent of voters do not vote in judicial contests. We have a duty as members of the bar and officers of

the court to become informed (and inform others) about our judicial candidates and to vote. CABA Briefs has compiled a "Judicial Round-up" on all of the contested judicial races. Additionally, we have included the results of CABA's judicial poll conducted this summer rating the current judges.

This issue of CABA briefs also contains two thought-provoking articles that discuss the legal and moral consequences of the administration's decision to normalize relations with Cuba. Because the issue of Cuba continues to be part of our daily conversations, CABA would like to invite its members to participate in its "CABA on Cuba" conference, being held at Florida International University College of Law September 23-24<sup>th</sup>. The conference will provide insights from several experts on the Cuba-related issues and will include receptions to allow for networking opportunities.

Finally, this issue includes an article from the City Attorney of Coral Gables, Craig Leen, who has written a heartfelt and educational piece on Autism and Parental Leave. The article addresses two very important issues which share a common theme: to include individuals.

On a personal note, I would like to thank my co-chair Kristina Maranges who has been invaluable to the committee with both her knowledge and all the time she dedicates to CABA Briefs. Likewise, a thanks goes out to the entire Briefs committee, particularly co-editor Jorge Delgado, Miriam Agrait, and Jason Silver for always contributing and responding to my endless emails. Have a great summer!

A handwritten signature in black ink that reads "Frances Guast De La Guardia". The signature is written in a cursive, flowing style.

Un abrazo,

Frances

*Editor-in-Chief*



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# CABA BRIEFS Judicial Round Up: The 2016 Miami Dade Circuit and County Judicial Races

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The primary election will be held on August 30, 2016. The judicial round up provides a brief biography and photograph for each judicial candidate.<sup>1</sup>

## COUNTY COURT ELECTIONS:

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### Judge Fred Seraphin versus Milena Abreau for County Court Group 05:



Judge Fred Seraphin:

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**Current position:** County Court Judge, Miami, FL

**Legal Education:** Hofstra University, Hempstead, N.Y.

**Background:** Since 2001, he has served as a County Court Judge in Miami serving in both the Civil and Criminal divisions. While serving as a County Court Judge he has been a faculty member at the Florida Judicial College and the Florida College of Advanced Judicial Studies. Judge Seraphin spent ten (10) years as an adjunct professor at Barry University where he taught several undergraduate law courses.

**Personal note:** He is motivated to give back to the community and promote justice due to events of injustice in his life that occurred at a young age when his father was taken and murdered and his oldest brother was detained without due process by Haitian dictator Papa Doc Duvalier.



Milena Abreau:

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**Current position:** Attorney handling death penalty cases for the Office of Criminal Conflict and Civil Regional Counsel.

**Legal Education:** Loyola Law School in New Orleans, LA.

**Background:** From 2010 through 2015, Ms. Abreau served as a Traffic hearing officer. She worked at the Miami-Dade County Public Defender's Office and has handled complex civil insurance defense against civil claims on behalf of insurance companies.

**Personal note:** She is one of only 7 women and one of only 3 Hispanics certified to handle death penalty cases in all of Miami-Dade County. While at the Miami-Dade County Public Defender's Office she coached and mentored newly admitted lawyers on advanced trial techniques.

<sup>1</sup> Unless indicated with an asterisk, all biographies were submitted by the candidate or his/her campaign representative.



## Judge Ed Newman vs. Lizzet Martinez for County Court Group 07:

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Judge Ed Newman:

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**Current position:** County Court Judge, Miami, FL.

**Legal Education:** University of Miami School of Law, Coral Gables, FL.

**Background:** Prior to taking the bench in 1995, he practiced as a litigator for seven (7) years, with a focus on civil matters. He has served for twenty-one (21) years and has been assigned to the Criminal Division for the last sixteen (16) years.

**Personal note:** In 1984, while playing professional football, he enrolled in the University of Miami School of Law's night division. He played twelve (12) seasons for the Miami Dolphins, went to three Super Bowls, and was selected to the Pro Bowl four times.



Lizzet Martinez:

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**Current position:** Private Practitioner at the Law Offices of Damian & Martinez

**Education:** Drake University Law School, Des Moines, IA

**Background:** She has been practicing for the past 18 years in the fields of family law and bankruptcy. Ms. Martinez has handled over 1100 family law cases involving bench trials, evidentiary hearings, and domestic violence child support hearings and has also been involved with over 500 bankruptcy petitions filed on behalf of debtors.

**Personal note:** In 1980, Lizzet and her parents left Cuba to Venezuela where she turned eight years old at a refugee center for Cubans. A year and a half later, her family arrived in Miami where they settled in the Little Havana area.

## Linda Luce versus Ruben Alcoba for County Court Group 15:

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Linda Luce:

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**Current position:** Private practitioner and founder and partner of her own law firm.

**Legal education:** Interamerican University of Puerto Rico School of Law, San Juan, PR.

**Background:** She began her career in civil and criminal litigation working in the private sector. She is the founder and partner of Linda Luce, P.A. which specializes in family and civil litigation. She has previously worked as a Case Manager for the Juvenile Delinquency Unit with the Department of Children and Families. She practiced labor law with the Law Firm of Stokes and Murphy in Atlanta, GA, in 1991, and is certified by the Supreme Court of Florida as a Family Law Mediator.

**Personal note:** In April 1991, she moved to Miami and began to work at the Doral Ocean Beach Resort in Miami Beach focusing on the implementation of the American with Disabilities Act at the Resort. She was one of the framers of the Employee Handbook for the Resort of Casa De Campo in the Dominican Republic.



Ruben Alcoba:\*

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**Current position:** Private practitioner operating his own law firm.

**Legal education:** The University of Miami School of Law, Coral Gables, FL.

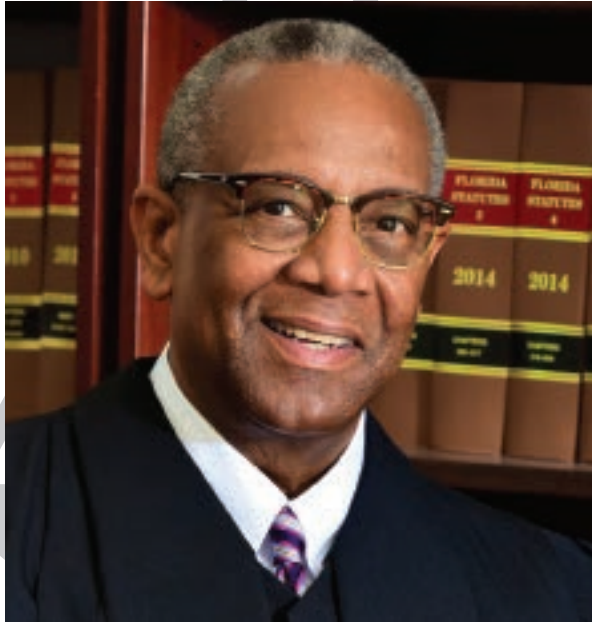
**Background:** He has been involved with various areas of the legal practice including commercial litigation and family, real estate, business and immigration law. He has personally handled over 500 patent and trademark law matters and focuses his practice on patent and trademark prosecution.

**Personal note:** He served in the United States Army from 1985 to 1988.

\* Candidate did not submit profile and biography to CABA editorial staff. Biography and background information is taken from candidate's campaign materials and/or website.

## Wendell Graham versus Antonio "Tony" Jimenez for County Court Group 35:

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Judge Wendell Graham:

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**Current position:** County Court Judge in Miami, FL.

**Legal education:** University of Miami School of Law, Coral Gables, FL.

**Background:** In 1994, Judge Graham took the bench and has served in both the criminal and civil divisions in the Civic Center, South Dade, Coral Gables, & Downtown Courthouse locations. He has also served as the acting Circuit Court Judge in the civil, criminal, delinquency, dependency and domestic violence divisions. Prior to becoming a judge, he was in private practice and served as an Assistant State Attorney in Miami.

**Personal note:** He is currently a Mentor in the Supreme Court of Florida's Judicial Mentor program and is an instructor in the Paralegal Program at Miami-Dade Community College.



Antonio "Tony" Jimenez:

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**Current position:** Private practitioner operating his own law firm.

**Legal education:** Stetson University College of Law, Gulfport, FL.

**Background:** He began his legal career as a prosecutor in the Miami-Dade Office of the State Attorney. In 2008, he transitioned to private practice. Throughout his career, he has participated in approximately 25 jury trials and has litigated over 1,000 cases.

**Personal note:** Upon graduating Coral Gables High School, he enlisted in the U.S. Navy where he served for five (5) years and earned his Bachelor's in Criminal Justice.

## CIRCUIT COURT ELECTIONS:

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### Judge Jason E. Bloch versus Marcia Del Rey for Seat 9:

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Judge Jason E. Bloch:

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**Current position:** Circuit Court Judge in Miami, FL.

**Legal education:** Georgetown University Law Center, Washington, D.C.

**Background:** He was an Assistant County Attorney in Miami-Dade practicing in the areas of tort law, civil rights defense, public housing, eminent domain, construction disputes and other commercial litigation. He also represented related County agencies, including the Public Health Trust, which owns and operates Jackson Memorial Hospital, the Cultural Affairs Department, and the Nuisance Abatement Board.

**Personal note:** He was awarded the John Edward Smith Child Advocacy Award by Lawyers for Children America for his pro bono work as an attorney.



Marcia Del Rey:

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**Current position:** Private Practitioner who operates her own law firm.

**Legal education:** Florida International University College of Law, Miami, FL

**Background:** Family law practice.

**Personal note:** She was President of the Hispanic Law Student Association in the FIU College of Law's inaugural class.

## Mark Blumstein versus Renee Gordon versus Denise Martinez-Scanziani versus Luis Perez-Medina for Seat 34



Mark Blumstein:

**Current position:** Private practitioner operating his own law firm.

**Legal education:** Shepard Broad Law Center at Nova Southeastern University in Fort Lauderdale, FL.

**Background:** He served in the United States Navy as a Lieutenant Commander in the Judge Advocate General's Corps for twenty (20) years where he remains an active reserve member. He has also practiced in trademark, counterfeit, business opportunity, real estate, family, unfair/deceptive trade practices and bankruptcy matters.

**Personal note:** He has volunteered in the community, including as an elected Commissioner for the Town of Surfside, Fla., and appointed member on County Advisory Boards.



Renee Gordon:

**Current position:** Assistant Public Defender in the juvenile division in Miami, FL.

**Legal education:** University of Connecticut, Hartford, CT.

**Background:** She worked with youth in the community by managing the Miami Halfway House, a delinquency facility for troubled youth. Also, she worked with distressed victims as a Disaster Reserve Attorney Advisor through the SBA's Office of Disaster Assistance after Hurricane Andrew, advocating for children who lost their homes. She served at the State of Florida's Department of Juvenile Justice as a participant in the initiation of the Department of Juvenile Justice's Quality Assurance Program.

**Personal note:** As a child advocate she has spent more than twenty years advocating for youth in the South Florida area.



Denise Martinez-Scanziani:

**Current position:** Private practitioner operating her own law firm.

**Legal education:** University of Florida, Gainesville, FL.

**Background:** She began her career as a staff attorney with Legal Aid and continued with pro-bono representation at the trial and appellate levels. She now operates her own law firm focusing on family law, real estate and civil litigation. She is AV® Preeminent Peer-Review Rated by Martindale-Hubbell.

**Personal note:** She is a former high school teacher, a first-generation American, and the first in her family to attend college.



Luis Perez-Medina:

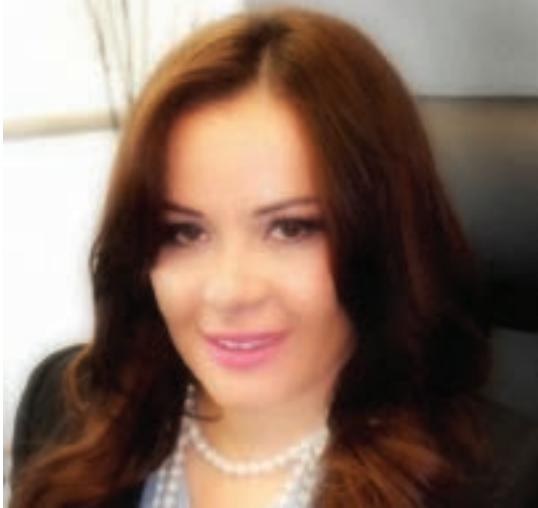
**Current position:** Assistant State Attorney in Miami assigned to the Public Corruption Unit.

**Legal education:** Florida International University College of Law, Miami, FL

**Background:** He has served as an Assistant State Attorney trying numerous homicides jury trials and serving as Division Chief for multiple Circuit Court judges. In 2013, he was promoted to the Public Corruption Unit where he investigated several high-profile cases. Prior to his admission to the Florida Bar, he was an insurance and securities agent and small business owner.

**Personal note:** He was born in Cuba and came to the United States when he was eight (8) years old. He has been a resident of Miami-Dade County since 1968.

## Rosy A. Aponte versus Carol "Jodie" Breece versus Oscar Rodriguez-Fonts for Seat 52:



Rosy A. Aponte:

**Current position:** Private Practitioner operating her own law firm.

**Legal Education:** Whittier Law School, Costa Mesa, CA.

**Background:** She began her career focusing on Civil Rights and Discrimination cases against employers for Race, Nationality, Gender, Age, Sexual Orientation and Religion. She then assisted the community by fighting and defending foreclosure actions. Since 2009, she has owned of R. Aponte & Associates, PLLC. located in Doral, Florida.

**Personal note:** Growing up in Little Havana across the street from Jose Marti Park, she was an elementary school teacher for the public school system for over seven (7) years and attended law school in the evening while teaching during the day.



Carol "Jodie" Breece:

**Current position:** Ethics Counsel to the Broward County Inspector General

**Legal education:** Columbus School of Law at The Catholic University of America in Washington, D.C.

**Background:** She has practiced for more than twenty-five (25) years as a prosecutor of complex criminal cases. For seventeen (17) years, she practiced as a defense attorney in civil and criminal cases brought by the government, a manager of receiverships, and a Traffic Hearing Officer. Currently, she is an Ethics Counsel enforcing ethics laws against public officials and employees.

**Personal note:** She was born in Seoul, Korea, to a Korean mother who was raised in a fishing village in southeast Korea and an American father who worked in the Colorado gold mines. After dropping out of college and working as a secretary, she returned to college and then went on to law school.

Oscar Rodriguez-Fonts:

**Current position:** Private practitioner and founding partner of Alvarez Rodriguez-Fonts, LLP.

**Legal education:** University of Miami School of Law, Coral Gables, FL.

**Background:** He has litigation experience serving the community as a government attorney and in the private sector. He tried a variety of cases as an Assistant City Attorney for the City of Miami while assigned to the Litigation Division within the City's Law Department. He was responsible for representing the City in complex federal, circuit and county court matters. He also served as an Assistant Public Defender in Miami and currently handles litigation matters at the law firm he founded.

**Personal note:** He served for nearly eight (8) years in the United States House of Representatives as a Congressional Aide to Congressman Lincoln Diaz-Balart and Congressman Lawrence J. Smith.





Judge Robert J. Luck:

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**Current position:** Circuit Court Judge, Miami, FL.

**Legal education:** University of Florida, Gainesville, FL.

**Background:** Before becoming a Judge, he was an Assistant United States Attorney in Miami where he tried nineteen federal jury trials. He prosecuted doctors, nurses and company owners for health care fraud, and chief executive officers and accountants for securities and investment fraud. His last position was as deputy chief of the major crimes section. He supervised the U.S. Attorney's Office's initiative against gun violence in the South Florida Community. He previously worked in the appellate department of Greenberg Traurig where he helped with appeals related to municipal law, contract disputes, tort actions and constitutional challenges. He began his legal career as a law clerk and staff attorney to Chief Judge Edward E. Carnes on the United States Court of Appeals for the Eleventh Circuit.

**Personal note:** Like his father before him, he was born and raised in Miami-Dade and is product of Miami-Dade's public school system, graduating from North Miami Beach Senior High. He still lives in North Miami Beach with his family.



Yolly Roberson:

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**Current position:** Private practitioner and operator of her own law firm.

**Legal Education:** New England School of Law in Boston, Mass.

**Background:** She began her legal career as an Assistant Public Defender in Boston, Massachusetts representing indigent defendants accused of felony charges. Upon relocating to Florida, she worked in the Haitian Refugee Center, representing indigent clients in immigration proceedings. She later served as a Senior Assistant Attorney General in Florida prosecuting individuals charged with child abuse and neglect. For more than 10 years, she operated a private law practice in Miami serving as a special public defender, attorney ad litem, family law attorney, and representing plaintiffs and defendants in civil litigation.

**Personal note:** She is a registered nurse and served as a Florida Legislator for eight (8) years.

## Judge George "Jorge" A. Sarduy versus Elena Ortega-Tauler for Seat 74:

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Judge George "Jorge" Sarduy:

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**Current position:** Circuit Court Judge in Miami, FL.

**Legal education:** Florida State University School of Law, Tallahassee, FL.

**Background:** Prior to becoming a Judge, he was an AV rated attorney in private practice, handling civil insurance defense cases, tort litigation, transportation law, products, premises liability and employer liability under the Workers' Compensation Act. Prior to becoming a lawyer, he was a legislative intern for the Florida Senate's Committee on Executive Business and Ethics and for U.S. Senator Connie Mack in Washington, D.C.

**Personal note:** He was selected for the Miami-Dade County Public Schools' 5000 Role Models of Excellence Project and currently serves as an Adjunct Professor at Miami Dade College.



Elena Ortega-Tauler:\*

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**Current position:** Private practitioner operating her own law firm.

**Legal education:** University of Miami School of Law, Coral Gables, Fla.

**Background:** She has operated her own law firm since 1988, litigating and representing individuals in foreclosure defense, consumer litigation and immigration law. She also is a Supreme Court of Florida Certified Civil Circuit Court Mediator, Family Mediator, and Foreclosure Defense Certified Mediator.

**Personal note:** She is the first in her family to graduate college and attend law school and has lectured as an adjunct instructor at Florida International University.

\* Candidate did not submit photo or biography to CABA editorial staff. Biography and photo is taken from candidate's campaign materials and/or website.



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# Official Results of the CABA 2016 Judicial Poll

The Cuban American Bar Association (CABA) would like to thank all members who took the time to take this year's Judicial Poll. As you know, CABA is dedicated to ensuring a well-qualified, and diverse judiciary, as well as to the fair treatment of Hispanics and other minorities in the legal system. The poll allows our members to express their views on the present and future judiciary, and is also designed to educate the electorate about the qualifications of judicial candidates. We believe that the results of this election cycle's poll reflect those goals.

CABA also extends its gratitude to the certified public accounting firm of **Hancock Askew & Co., LLP**, especially **Carlos F. Garcia** and **Brian Quintana** who tabulated the confidential and anonymous ballots.

## CUBAN AMERICAN BAR ASSOCIATION 2016 JUDICIAL POLL: MIAMI-DADE

### Voter Information

Eligible Voters	628
Cast Online Ballots	169

### Question 1: Is the Judge Qualified?

	Number of Votes	Percentage of Voters	Exceptionally Qualified	Qualified	Unqualified	Total
Almeyda, Edward R.	10	5.92%	10.00%	80.00%	10.00%	100%
Altfield, William I.	85	50.30%	44.71%	51.76%	3.53%	100%
Antonio "Tony" Jimenez (Circuit Court Group 35)	32	18.93%	15.63%	46.88%	37.50%	100%
Areces, Barbara	121	71.60%	41.32%	51.24%	7.44%	100%
Arzola, Antonio	116	68.64%	60.34%	36.21%	3.45%	100%
Bagley, Jerald	126	74.56%	56.35%	40.48%	3.17%	100%
Bailey, Jennifer D.	121	71.60%	56.20%	35.54%	8.26%	100%
Barakat, Michelle Alvarez	70	41.42%	38.57%	48.57%	12.86%	100%
Beovides, Gina	87	51.48%	51.72%	39.08%	9.20%	100%
Bernstein, Scott M.	103	60.95%	63.11%	33.01%	3.88%	100%
Blake, Stanford	120	71.01%	76.67%	20.83%	2.50%	100%
Bloch, Jason	97	57.40%	48.45%	36.08%	15.46%	100%
Breger, Eli	10	5.92%	10.00%	70.00%	20.00%	100%
Brennan, Victoria R.	74	43.79%	29.73%	52.70%	17.57%	100%
Brinkley, Tanya	62	36.69%	40.32%	53.23%	6.45%	100%
Brown, Karl	26	15.38%	26.92%	73.08%	0.00%	100%
Butchko, Beatrice	130	76.92%	49.23%	42.31%	8.46%	100%
Caballero, Marcia B.	87	51.48%	47.13%	50.57%	2.30%	100%
Cannava, Donald	62	36.69%	48.39%	45.16%	6.45%	100%
Capote, Betty	67	39.64%	49.25%	47.76%	2.99%	100%
Cardonne Ely, Gisela	112	66.27%	14.29%	49.11%	36.61%	100%
Carol "Jodie" Breece (Circuit Court Group 52)	58	34.32%	31.03%	55.17%	13.79%	100%
Castiello, Gerardo	14	8.28%	35.71%	35.71%	28.57%	100%
Cohen, Jeri B.	76	44.97%	36.84%	55.26%	7.89%	100%
Cohn, Don S	83	49.11%	42.17%	49.40%	8.43%	100%
Colodny, Yvonne	76	44.97%	55.26%	40.79%	3.95%	100%
Cuesta, Ivonne	82	48.52%	47.56%	47.56%	4.88%	100%
Cueto, Jorge E.	104	61.54%	42.31%	47.12%	10.58%	100%
Cynamon, Abby	109	64.50%	41.28%	47.71%	11.01%	100%
Davis, Joseph I. Jr.	55	32.54%	41.82%	49.09%	9.09%	100%
de la O, Miguel M.	97	57.40%	75.26%	23.71%	1.03%	100%

	Number of Votes	Percentage of Voters	Exceptionally Qualified	Qualified	Unqualified	Total
del Pino, Victoria	97	57.40%	61.86%	30.93%	7.22%	100%
Denaro, Dawn	63	37.28%	41.27%	57.14%	1.59%	100%
Denise Martinez-Scanziani (Circuit Court Group 34)	48	28.40%	43.75%	33.33%	22.92%	100%
Dennis, Maria Espinosa	86	50.89%	30.23%	54.65%	15.12%	100%
Diaz, Reemberto	90	53.25%	54.44%	37.78%	7.78%	100%
Diaz, Veronica	69	40.83%	20.29%	44.93%	34.78%	100%
Dimitris, Jason E.	77	45.56%	46.75%	48.05%	5.19%	100%
Echarte, Pedro P. Jr.	116	68.64%	42.24%	44.83%	12.93%	100%
Eig, Spencer	99	58.58%	19.19%	57.58%	23.23%	100%
Elena Ortega-Tauler (Circuit Court Group 74)	54	31.95%	1.85%	11.11%	87.04%	100%
Faber, Robin	60	35.50%	43.33%	50.00%	6.67%	100%
Fajardo Orshan, Ariana	76	44.97%	35.53%	52.63%	11.84%	100%
Fernandez, Carlos	34	20.12%	52.94%	44.12%	2.94%	100%
Fernandez, Jose L.	83	49.11%	38.55%	57.83%	3.61%	100%
Ferrer, Victoria	52	30.77%	36.54%	38.46%	25.00%	100%
Fierro, Eugene	36	21.30%	27.78%	47.22%	25.00%	100%
Figarola, Rosa C.	92	54.44%	54.35%	40.22%	5.43%	100%
Fine, Alan	76	44.97%	50.00%	38.16%	11.84%	100%
Francis, Mary J.	54	31.95%	48.15%	44.44%	7.41%	100%
Freeman, Gill S.	99	58.58%	54.55%	38.38%	7.07%	100%
Genden, Michael A.	95	56.21%	42.11%	52.63%	5.26%	100%
Gillman, Marvin	27	15.98%	18.52%	44.44%	37.04%	100%
Glazer, Mindy S.	78	46.15%	29.49%	55.13%	15.38%	100%
Glick, Leonard	41	24.26%	53.66%	39.02%	7.32%	100%
Glick, Stacy D.	63	37.28%	25.40%	63.49%	11.11%	100%
Gonzalez-Meyer, Gloria	62	36.69%	35.48%	46.77%	17.74%	100%
Gonzalez-Paulson, Michaelle	71	42.01%	52.11%	40.85%	7.04%	100%
Gonzalez-Whyte, Diana	37	21.89%	13.51%	64.86%	21.62%	100%
Gordo, Monica	121	71.60%	49.59%	45.45%	4.96%	100%
Gordon, Jon	42	24.85%	26.19%	45.24%	28.57%	100%
Graham, Wendell M.	75	44.38%	22.67%	52.00%	25.33%	100%
Guzman, Carlos	74	43.79%	52.70%	37.84%	9.46%	100%
Hague, Andrew S.	72	42.60%	29.17%	58.33%	12.50%	100%
Hanzman, Michael A.	91	53.85%	63.74%	32.97%	3.30%	100%
Hendon, Eric	95	56.21%	35.79%	55.79%	8.42%	100%
Hersch, Richard	76	44.97%	52.63%	44.74%	2.63%	100%
Hill, Charles M.	8	4.73%	25.00%	62.50%	12.50%	100%
Hirsch, Milton	89	52.66%	51.69%	34.83%	13.48%	100%
Hogan Scola, Jacqueline	125	73.96%	51.20%	43.20%	5.60%	100%
Howard, Carolyn	14	8.28%	14.29%	71.43%	14.29%	100%
Hubbart, Gerald	45	26.63%	35.56%	53.33%	11.11%	100%
Johnson, Charles K.	78	46.15%	58.97%	35.90%	5.13%	100%
Johnson, William	19	11.24%	21.05%	68.42%	10.53%	100%
Jones, Robert J.	34	20.12%	55.88%	38.24%	5.88%	100%
Kallman, Karen	21	12.43%	38.10%	57.14%	4.76%	100%
Kelly, Carroll J.	88	52.07%	67.05%	29.55%	3.41%	100%
Kimler, Lewis	20	11.83%	45.00%	50.00%	5.00%	100%
King, Lawrence D.	64	37.87%	31.25%	59.38%	9.38%	100%
Korvick, Maria M.	87	51.48%	29.89%	49.43%	20.69%	100%
Kravitz, Shelley J.	62	36.69%	40.32%	54.84%	4.84%	100%

	Number of Votes	Percentage of Voters	Exceptionally Qualified	Qualified	Unqualified	Total
Kreeger, Judith	46	27.22%	43.48%	50.00%	6.52%	100%
Krieger-Martin, Luise	49	28.99%	42.86%	53.06%	4.08%	100%
Leban, Mark King	59	34.91%	49.15%	42.37%	8.47%	100%
Lederman, Cindy S.	73	43.20%	58.90%	35.62%	5.48%	100%
Lehr, Myriam	64	37.87%	51.56%	45.31%	3.13%	100%
Leifman, Steve	82	48.52%	75.61%	21.95%	2.44%	100%
Lieberman, Steven	35	20.71%	54.29%	42.86%	2.86%	100%
Linda Luce (County Court Group 15)	40	23.67%	35.00%	42.50%	22.50%	100%
Lindsey, Norma S.	108	63.91%	35.19%	57.41%	7.41%	100%
Lizzett Martinez (Circuit Court Group 7)	39	23.08%	23.08%	43.59%	33.33%	100%
Lopez, Peter R.	125	73.96%	72.80%	25.60%	1.60%	100%
Luck, Robert J.	126	74.56%	79.37%	19.05%	1.59%	100%
Luis Perez-Medina (Circuit Court Group 34)	34	20.12%	17.65%	23.53%	58.82%	100%
Magid, Deborah	32	18.93%	34.38%	59.38%	6.25%	100%
Manno-Schurr, Valerie R.	88	52.07%	23.86%	59.09%	17.05%	100%
Marcia Del Rey (Circuit Court Group 9)	81	47.93%	7.41%	24.69%	67.90%	100%
Margret G. Kerr	10	5.92%	20.00%	70.00%	10.00%	100%
Marin, Antonio	104	61.54%	23.08%	49.04%	27.88%	100%
Marino Pedraza, Patricia	65	38.46%	33.85%	53.85%	12.31%	100%
Mark Blumstein (Circuit Court Group 34)	33	19.53%	12.12%	36.36%	51.52%	100%
Medina-Shore, Sylvia	11	6.51%	36.36%	54.55%	9.09%	100%
Milena Abreu (Circuit Court Group 5)	31	18.34%	19.35%	48.39%	32.26%	100%
Milian, Alberto	74	43.79%	27.03%	41.89%	31.08%	100%
Millan, Stephen	73	43.20%	42.47%	38.36%	19.18%	100%
Miller, Bronwyn C.	112	66.27%	58.04%	37.50%	4.46%	100%
Miller, David C.	107	63.31%	34.58%	50.47%	14.95%	100%
Miranda, Cristina	67	39.64%	32.84%	62.69%	4.48%	100%
Muir, Celeste H.	91	53.85%	36.26%	56.04%	7.69%	100%
Multack, Spencer	63	37.28%	42.86%	50.79%	6.35%	100%
Murphy, Dennis J.	64	37.87%	42.19%	46.88%	10.94%	100%
Murray, Gordon	30	17.75%	26.67%	56.67%	16.67%	100%
Nabat, Deborah	21	12.43%	23.81%	71.43%	4.76%	100%
Newman, Edward	79	46.75%	25.32%	54.43%	20.25%	100%
Ortiz, Maria D.	47	27.81%	17.02%	76.60%	6.38%	100%
Oscar Rodriguez-Fonts (Circuit Court Group 52)	68	40.24%	27.94%	58.82%	13.24%	100%
Pedraza, Yadira	33	19.53%	33.33%	60.61%	6.06%	100%
Petersen, Thomas	33	19.53%	39.39%	54.55%	6.06%	100%
Pooler, Catherine M.	47	27.81%	53.19%	46.81%	0.00%	100%
Pooler, Teresa	58	34.32%	29.31%	67.24%	3.45%	100%
Prescott, Orlando A.	70	41.42%	64.29%	32.86%	2.86%	100%
Rebull, Thomas J.	110	65.09%	62.73%	29.09%	8.18%	100%
Renee Gordon (Circuit Court Group 34)	43	25.44%	32.56%	53.49%	13.95%	100%
Robinson, Steven	25	14.79%	20.00%	60.00%	20.00%	100%
Rodriguez, Jose M.	123	72.78%	35.77%	43.09%	21.14%	100%
Rodriguez, Rosa I.	108	63.91%	26.85%	55.56%	17.59%	100%
Rodriguez-Chomat, Jorge	81	47.93%	19.75%	56.79%	23.46%	100%
Rosenbaum, Margaret Ann	43	25.44%	34.88%	55.81%	9.30%	100%
Rosinek, Jeffrey	48	28.40%	52.08%	43.75%	4.17%	100%
Rosy A. Aponte (Circuit Court Group 52)	44	26.04%	2.27%	13.64%	84.09%	100%
Rothenberg, Arthur L.	50	29.59%	48.00%	48.00%	4.00%	100%

	Number of Votes	Percentage of Voters	Exceptionally Qualified	Qualified	Unqualified	Total
Ruben Yury Alcoba (County Court Group 15)	23	13.61%	4.35%	0.00%	95.65%	100%
Rubenstein, Judith	56	33.14%	39.29%	50.00%	10.71%	100%
Ruiz, Mavel	62	36.69%	25.81%	61.29%	12.90%	100%
Ruiz, Rodolfo	97	57.40%	69.07%	25.77%	5.15%	100%
Ruiz-Cohen, Samantha	104	61.54%	52.88%	39.42%	7.69%	100%
Sampedro-Iglesia, Maria I.	63	37.28%	34.92%	55.56%	9.52%	100%
Sanchez-Llorens, Migna	96	56.80%	35.42%	47.92%	16.67%	100%
Santovenia, Maria de Jesus	57	33.73%	24.56%	57.89%	17.54%	100%
Sarduy, George A.	92	54.44%	41.30%	48.91%	9.78%	100%
Sayfic, Nushin G.	83	49.11%	60.24%	28.92%	10.84%	100%
Schlesinger, John	112	66.27%	57.14%	38.39%	4.46%	100%
Schwabedissen, Elizabeth	55	32.54%	70.91%	20.00%	9.09%	100%
Schwartz, Caryn C.	59	34.91%	38.98%	59.32%	1.69%	100%
Schwartz, Jacqueline	78	46.15%	0.00%	10.26%	89.74%	100%
Seraphin, Fred	75	44.38%	26.67%	56.00%	17.33%	100%
Shapiro, Bernard S.	73	43.20%	27.40%	61.64%	10.96%	100%
Shapiro, Martin	26	15.38%	15.38%	80.77%	3.85%	100%
Silver, Roger	22	13.02%	18.18%	72.73%	9.09%	100%
Simon, Lourdes	67	39.64%	53.73%	41.79%	4.48%	100%
Singer Stein, Linda	65	38.46%	50.77%	44.62%	4.62%	100%
Singer, Robert S.	26	15.38%	34.62%	53.85%	11.54%	100%
Singer-King, Kathleen	11	6.51%	36.36%	45.45%	18.18%	100%
Slom, Samuel J.	72	42.60%	61.11%	34.72%	4.17%	100%
Smith, Rodney	91	53.85%	39.56%	56.04%	4.40%	100%
Soto, Bertila	127	75.15%	82.68%	14.96%	2.36%	100%
Steinhardt, Raphael	16	9.47%	25.00%	43.75%	31.25%	100%
Stettin, Herbert	46	27.22%	60.87%	28.26%	10.87%	100%
Stuzin, Laura Anne	70	41.42%	50.00%	42.86%	7.14%	100%
Tenenbaum, Melissa G.	34	20.12%	29.41%	67.65%	2.94%	100%
Thomas, Teretha Lundy	52	30.77%	23.08%	57.69%	19.23%	100%
Thomas, William	104	61.54%	54.81%	41.35%	3.85%	100%
Thornton Jr., John W.	116	68.64%	76.72%	21.55%	1.72%	100%
Tinkler Mendez, Marisa	84	49.70%	46.43%	46.43%	7.14%	100%
Tobin, David	35	20.71%	28.57%	54.29%	17.14%	100%
Trawick, Daryl E.	83	49.11%	38.55%	55.42%	6.02%	100%
Tunis, Dava J.	61	36.09%	34.43%	60.66%	4.92%	100%
Venzer, Ellen Sue	77	45.56%	41.56%	49.35%	9.09%	100%
Verde, Maria Elena	65	38.46%	29.23%	58.46%	12.31%	100%
Vizcaino, Diana	86	50.89%	63.95%	32.56%	3.49%	100%
Walsh, Lisa S.	91	53.85%	65.93%	28.57%	5.49%	100%
Ward, Diane V.	82	48.52%	40.24%	51.22%	8.54%	100%
White-Labora, Deborah	55	32.54%	47.27%	47.27%	5.45%	100%
Wolfson, Andrea R.	78	46.15%	66.67%	30.77%	2.56%	100%
Yolly Roberson (Circuit Court Group 66)	49	28.99%	2.04%	6.12%	91.84%	100%
Zabel, Sarah I.	101	59.76%	36.63%	55.45%	7.92%	100%
Zayas, Angelica D.	66	39.05%	45.45%	46.97%	7.58%	100%
Zilber, Martin	82	48.52%	25.61%	50.00%	24.39%	100%

## CUBAN AMERICAN BAR ASSOCIATION 2016 JUDICIAL POLL: MIAMI-DADE

### Voter Information

Eligible Voters	628
Cast Online Ballots	169

### Question 2: Does the Judge / Candidate treat Hispanics fairly and equitably, as well as demonstrate a responsiveness to their needs?

	Number of Votes	Percentage of Voters	Yes	No	
Almeyda, Edward R.	9	5.33%	100.00%	0.00%	100.00%
Altfield, William I.	77	45.56%	98.70%	1.30%	100.00%
Antonio "Tony" Jimenez (Circuit Court Group 35)	23	13.61%	86.96%	13.04%	100.00%
Areces, Barbara	112	66.27%	97.32%	2.68%	100.00%
Arzola, Antonio	104	61.54%	97.12%	2.88%	100.00%
Bagley, Jerald	103	60.95%	95.15%	4.85%	100.00%
Bailey, Jennifer D.	97	57.40%	87.63%	12.37%	100.00%
Barakat, Michelle Alvarez	63	37.28%	92.06%	7.94%	100.00%
Beovides, Gina	78	46.15%	97.44%	2.56%	100.00%
Bernstein, Scott M.	87	51.48%	95.40%	4.60%	100.00%
Blake, Stanford	103	60.95%	99.03%	0.97%	100.00%
Bloch, Jason	82	48.52%	89.02%	10.98%	100.00%
Breger, Eli	5	2.96%	80.00%	20.00%	100.00%
Brennan, Victoria R.	56	33.14%	87.50%	12.50%	100.00%
Brinkley, Tanya	51	30.18%	92.16%	7.84%	100.00%
Brown, Karl	21	12.43%	100.00%	0.00%	100.00%
Butchko, Beatrice	111	65.68%	92.79%	7.21%	100.00%
Caballero, Marcia B.	76	44.97%	98.68%	1.32%	100.00%
Cannava, Donald	54	31.95%	96.30%	3.70%	100.00%
Capote, Betty	57	33.73%	98.25%	1.75%	100.00%
Cardonne Ely, Gisela	85	50.30%	90.59%	9.41%	100.00%
Carol "Jodie" Breece (Circuit Court Group 52)	39	23.08%	87.18%	12.82%	100.00%
Castiello, Gerardo	11	6.51%	81.82%	18.18%	100.00%
Cohen, Jeri B.	61	36.09%	85.25%	14.75%	100.00%
Cohn, Don S	71	42.01%	95.77%	4.23%	100.00%
Colodny, Yvonne	66	39.05%	96.97%	3.03%	100.00%
Cuesta, Ivonne	73	43.20%	98.63%	1.37%	100.00%
Cueto, Jorge E.	89	52.66%	94.38%	5.62%	100.00%
Cynamon, Abby	92	54.44%	94.57%	5.43%	100.00%
Davis, Joseph I. Jr.	44	26.04%	95.45%	4.55%	100.00%
de la O, Miguel M.	91	53.85%	97.80%	2.20%	100.00%
del Pino, Victoria	87	51.48%	95.40%	4.60%	100.00%
Denaro, Dawn	52	30.77%	98.08%	1.92%	100.00%
Denise Martinez-Scanziani (Circuit Court Group 34)	34	20.12%	94.12%	5.88%	100.00%
Dennis, Maria Espinosa	77	45.56%	93.51%	6.49%	100.00%
Diaz, Reemberto	81	47.93%	92.59%	7.41%	100.00%
Diaz, Veronica	57	33.73%	96.49%	3.51%	100.00%
Dimitris, Jason E.	67	39.64%	95.52%	4.48%	100.00%
Echarte, Pedro P. Jr.	101	59.76%	86.14%	13.86%	100.00%
Eig, Spencer	82	48.52%	86.59%	13.41%	100.00%
Elena Ortega-Tauler (Circuit Court Group 74)	21	12.43%	47.62%	52.38%	100.00%
Faber, Robin	52	30.77%	94.23%	5.77%	100.00%
Fajardo Orshan, Ariana	68	40.24%	92.65%	7.35%	100.00%
Fernandez, Carlos	31	18.34%	100.00%	0.00%	100.00%
Fernandez, Jose L.	71	42.01%	98.59%	1.41%	100.00%



	Number of Votes	Percentage of Voters	Yes	No	
Ferrer, Victoria	48	28.40%	93.75%	6.25%	100.00%
Fierro, Eugene	28	16.57%	78.57%	21.43%	100.00%
Figarola, Rosa C.	81	47.93%	97.53%	2.47%	100.00%
Fine, Alan	67	39.64%	91.04%	8.96%	100.00%
Francis, Mary J.	42	24.85%	95.24%	4.76%	100.00%
Freeman, Gill S.	85	50.30%	92.94%	7.06%	100.00%
Genden, Michael A.	78	46.15%	88.46%	11.54%	100.00%
Gillman, Marvin	17	10.06%	70.59%	29.41%	100.00%
Glazer, Mindy S.	61	36.09%	98.36%	1.64%	100.00%
Glick, Leonard	28	16.57%	96.43%	3.57%	100.00%
Glick, Stacy D.	50	29.59%	92.00%	8.00%	100.00%
Gonzalez-Meyer, Gloria	50	29.59%	94.00%	6.00%	100.00%
Gonzalez-Paulson, Michaelle	61	36.09%	96.72%	3.28%	100.00%
Gonzalez-Whyte, Diana	30	17.75%	83.33%	16.67%	100.00%
Gordo, Monica	106	62.72%	98.11%	1.89%	100.00%
Gordon, Jon	30	17.75%	70.00%	30.00%	100.00%
Graham, Wendell M.	58	34.32%	87.93%	12.07%	100.00%
Guzman, Carlos	65	38.46%	95.38%	4.62%	100.00%
Hague, Andrew S.	57	33.73%	91.23%	8.77%	100.00%
Hanzman, Michael A.	73	43.20%	91.78%	8.22%	100.00%
Hendon, Eric	77	45.56%	97.40%	2.60%	100.00%
Hersch, Richard	62	36.69%	98.39%	1.61%	100.00%
Hill, Charles M.	5	2.96%	100.00%	0.00%	100.00%
Hirsch, Milton	74	43.79%	89.19%	10.81%	100.00%
Hogan Scola, Jacqueline	106	62.72%	89.62%	10.38%	100.00%
Howard, Carolyn	10	5.92%	90.00%	10.00%	100.00%
Hubbart, Gerald	35	20.71%	94.29%	5.71%	100.00%
Johnson, Charles K.	70	41.42%	92.86%	7.14%	100.00%
Johnson, William	14	8.28%	92.86%	7.14%	100.00%
Jones, Robert J.	28	16.57%	92.86%	7.14%	100.00%
Kallman, Karen	18	10.65%	100.00%	0.00%	100.00%
Kelly, Carroll J.	73	43.20%	97.26%	2.74%	100.00%
Kimler, Lewis	15	8.88%	100.00%	0.00%	100.00%
King, Lawrence D.	54	31.95%	98.15%	1.85%	100.00%
Korvick, Maria M.	73	43.20%	91.78%	8.22%	100.00%
Kravitz, Shelley J.	54	31.95%	94.44%	5.56%	100.00%
Kreeger, Judith	38	22.49%	92.11%	7.89%	100.00%
Krieger-Martin, Luise	40	23.67%	90.00%	10.00%	100.00%
Leban, Mark King	50	29.59%	92.00%	8.00%	100.00%
Lederman, Cindy S.	66	39.05%	95.45%	4.55%	100.00%
Lehr, Myriam	55	32.54%	98.18%	1.82%	100.00%
Leifman, Steve	74	43.79%	97.30%	2.70%	100.00%
Lieberman, Steven	31	18.34%	100.00%	0.00%	100.00%
Linda Luce (County Court Group 15)	31	18.34%	87.10%	12.90%	100.00%
Lindsey, Norma S.	88	52.07%	96.59%	3.41%	100.00%
Lizzett Martinez (Circuit Court Group 7)	29	17.16%	82.76%	17.24%	100.00%
Lopez, Peter R.	116	68.64%	99.14%	0.86%	100.00%
Luck, Robert J.	112	66.27%	98.21%	1.79%	100.00%
Luis Perez-Medina (Circuit Court Group 34)	17	10.06%	82.35%	17.65%	100.00%
Magid, Deborah	26	15.38%	96.15%	3.85%	100.00%

	Number of Votes	Percentage of Voters	Yes	No	
Manno-Schurr, Valerie R.	74	43.79%	89.19%	10.81%	100.00%
Marcia Del Rey (Circuit Court Group 9)	35	20.71%	71.43%	28.57%	100.00%
Margret G. Kerr	7	4.14%	100.00%	0.00%	100.00%
Marin, Antonio	90	53.25%	96.67%	3.33%	100.00%
Marino Pedraza, Patricia	52	30.77%	92.31%	7.69%	100.00%
Mark Blumstein (Circuit Court Group 34)	16	9.47%	56.25%	43.75%	100.00%
Medina-Shore, Sylvia	10	5.92%	100.00%	0.00%	100.00%
Milena Abreu (Circuit Court Group 5)	18	10.65%	83.33%	16.67%	100.00%
Milian, Alberto	62	36.69%	83.87%	16.13%	100.00%
Millan, Stephen	60	35.50%	96.67%	3.33%	100.00%
Miller, Bronwyn C.	96	56.80%	93.75%	6.25%	100.00%
Miller, David C.	84	49.70%	90.48%	9.52%	100.00%
Miranda, Cristina	60	35.50%	96.67%	3.33%	100.00%
Muir, Celeste H.	81	47.93%	92.59%	7.41%	100.00%
Multack, Spencer	59	34.91%	94.92%	5.08%	100.00%
Murphy, Dennis J.	52	30.77%	88.46%	11.54%	100.00%
Murray, Gordon	21	12.43%	100.00%	0.00%	100.00%
Nabat, Deborah	14	8.28%	100.00%	0.00%	100.00%
Newman, Edward	63	37.28%	80.95%	19.05%	100.00%
Ortiz, Maria D.	39	23.08%	97.44%	2.56%	100.00%
Oscar Rodríguez-Fonts (Circuit Court Group 52)	45	26.63%	95.56%	4.44%	100.00%
Pedraza, Yadira	27	15.98%	96.30%	3.70%	100.00%
Petersen, Thomas	28	16.57%	96.43%	3.57%	100.00%
Pooler, Catherine M.	42	24.85%	100.00%	0.00%	100.00%
Pooler, Teresa	51	30.18%	96.08%	3.92%	100.00%
Prescott, Orlando A.	64	37.87%	98.44%	1.56%	100.00%
Rebull, Thomas J.	98	57.99%	94.90%	5.10%	100.00%
Renee Gordon (Circuit Court Group 34)	31	18.34%	93.55%	6.45%	100.00%
Robinson, Steven	21	12.43%	80.95%	19.05%	100.00%
Rodríguez, Jose M.	105	62.13%	92.38%	7.62%	100.00%
Rodríguez, Rosa I.	90	53.25%	91.11%	8.89%	100.00%
Rodríguez-Chomat, Jorge	73	43.20%	94.52%	5.48%	100.00%
Rosenbaum, Margaret Ann	35	20.71%	82.86%	17.14%	100.00%
Rosinek, Jeffrey	37	21.89%	100.00%	0.00%	100.00%
Rosy A. Aponte (Circuit Court Group 52)	17	10.06%	52.94%	47.06%	100.00%
Rothenberg, Arthur L.	45	26.63%	100.00%	0.00%	100.00%
Ruben Yury Alcoba (County Court Group 15)	8	4.73%	62.50%	37.50%	100.00%
Rubenstein, Judith	46	27.22%	89.13%	10.87%	100.00%
Ruiz, Mavel	54	31.95%	98.15%	1.85%	100.00%
Ruiz, Rodolfo	88	52.07%	95.45%	4.55%	100.00%
Ruiz-Cohen, Samantha	91	53.85%	97.80%	2.20%	100.00%
Sampedro-Iglesia, Maria I.	56	33.14%	96.43%	3.57%	100.00%
Sanchez-Llorens, Migna	84	49.70%	91.67%	8.33%	100.00%
Santovenia, Maria de Jesus	51	30.18%	90.20%	9.80%	100.00%
Sarduy, George A.	81	47.93%	96.30%	3.70%	100.00%
Sayfie, Nushin G.	73	43.20%	91.78%	8.22%	100.00%
Schlesinger, John	98	57.99%	92.86%	7.14%	100.00%
Schwabedissen, Elizabeth	42	24.85%	90.48%	9.52%	100.00%
Schwartz, Caryn C.	48	28.40%	97.92%	2.08%	100.00%
Schwartz, Jacqueline	53	31.36%	11.32%	88.68%	100.00%

	<b>Number of Votes</b>	<b>Percentage of Voters</b>	<b>Yes</b>	<b>No</b>	
Seraphin, Fred	60	35.50%	85.00%	15.00%	100.00%
Shapiro, Bernard S.	60	35.50%	90.00%	10.00%	100.00%
Shapiro, Martin	21	12.43%	95.24%	4.76%	100.00%
Silver, Roger	17	10.06%	88.24%	11.76%	100.00%
Simon, Lourdes	58	34.32%	96.55%	3.45%	100.00%
Singer Stein, Linda	53	31.36%	96.23%	3.77%	100.00%
Singer, Robert S.	20	11.83%	95.00%	5.00%	100.00%
Singer-King, Kathleen	7	4.14%	100.00%	0.00%	100.00%
Slom, Samuel J.	67	39.64%	95.52%	4.48%	100.00%
Smith, Rodney	76	44.97%	100.00%	0.00%	100.00%
Soto, Bertila	116	68.64%	97.41%	2.59%	100.00%
Steinhardt, Raphael	9	5.33%	77.78%	22.22%	100.00%
Stettin, Herbert	35	20.71%	85.71%	14.29%	100.00%
Stuzin, Laura Anne	58	34.32%	94.83%	5.17%	100.00%
Tenenbaum, Melissa G.	26	15.38%	96.15%	3.85%	100.00%
Thomas, Teretha Lundy	41	24.26%	90.24%	9.76%	100.00%
Thomas, William	85	50.30%	96.47%	3.53%	100.00%
Thornton Jr., John W.	100	59.17%	96.00%	4.00%	100.00%
Tinkler Mendez, Marisa	73	43.20%	95.89%	4.11%	100.00%
Tobin, David	24	14.20%	87.50%	12.50%	100.00%
Trawick, Daryl E.	66	39.05%	96.97%	3.03%	100.00%
Tunis, Dava J.	47	27.81%	97.87%	2.13%	100.00%
Venzer, Ellen Sue	68	40.24%	94.12%	5.88%	100.00%
Verde, Maria Elena	58	34.32%	96.55%	3.45%	100.00%
Vizcaino, Diana	79	46.75%	98.73%	1.27%	100.00%
Walsh, Lisa S.	82	48.52%	93.90%	6.10%	100.00%
Ward, Diane V.	63	37.28%	88.89%	11.11%	100.00%
White-Labora, Deborah	47	27.81%	95.74%	4.26%	100.00%
Wolfson, Andrea R.	70	41.42%	98.57%	1.43%	100.00%
Yolly Roberson (Circuit Court Group 66)	22	13.02%	22.73%	77.27%	100.00%
Zabel, Sarah I.	86	50.89%	95.35%	4.65%	100.00%
Zayas, Angelica D.	60	35.50%	95.00%	5.00%	100.00%
Zilber, Martin	65	38.46%	90.77%	9.23%	100.00%



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# Making Waves in U.S.-Cuba Business Endeavors

By Candice Balmori, Esq.

The announcement by the Carnival Corporation that it would soon begin scheduling cruises to Cuba made quite a splash in the headlines this spring. Capitalizing on renewed interest in the island nation, Carnival's newest Fathom brand business endeavor is facilitated by the people-to-people ("P2P") exchange program for social impact travel pursuant to the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC") regulations. *See* 31 CFR § 515.565(b). News that pursuant to a P2P OFAC license, Carnival would be taking U.S.-based travelers to Cuba aboard a cruise ship for the first time in more than 50 years served to highlight the shift in policy between the United States and Cuba announced in December of 2014. It also, however, served to underscore the lag between entrepreneurial policy-based initiatives and the substantive legal reform necessary for smooth implementation.

As news of Carnival's Cuban destinations spread, so did the growing reality that Cuba's long-standing ban on Cuban-born people returning to the island by sea would make it impossible for the corporation to sell its 7-day itinerary tickets (beginning at \$1,800 per person, excluding Cuban visas, taxes, fees and port expenses)<sup>1</sup> to Cuban-born Americans. Until April 26, 2016, Cuban law prohibited the entry or exit of Cuban citizens, regardless of their immigration status, as passengers and crew on commercial ships. For the purposes of Cuban law, the Cuban government does not recognize the American nationality of U.S. citizens who are Cuban-born.<sup>2</sup> Thus, at its inception, Carnival's business venture with Cuba effectively excluded a large class of would-be travelers from both the transaction itself, as well as from the benefit of any social-impact initiative under OFAC's P2P program.

In addition to sharp social reproach, Carnival faced challenges in federal

court relating to the violation of the Civil Rights Act of 1964, as well as Section 11A-19 of the Municipal Code of Miami-Dade County (wherein the corporation is headquartered) and provisions of the U.N. General Assembly Resolution 217.<sup>3</sup> The Civil Rights Act, for example, states in relevant part that "all persons shall be entitled to the full and equal enjoyment of goods, services, facilities, privileges, advantages, and accommodation of any place of public accommodation... without discrimination or segregation on the ground of...national origin." 42 U.S.C. Sec. 2000a, et seq. The place of accommodation so referenced was the cruise ship itself. Whether the legal backlash of Carnival's business decision was the result of a corporate calculated risk, or whether it was the unforeseen result of the race to an otherwise untapped U.S. market, the potential legal complications arising from the business's endeavor with the Cuban nation were on full display.

Before the Courts could evaluate the merits of the cases filed in U.S. federal court, Cuba abruptly amended its long-standing ban on Cuban-born individuals returning to the island by sea, effective April 26, 2016. This amendment to Cuban regulation thereafter enabled Cuban-born U.S. citizens to legally enter the country by port.<sup>4</sup> But, as the Carnival case so appropriately exemplifies, even the most innovative of entrepreneurial intentions with the island has the potential to be met with conflicting and perhaps unforeseen legal implications. Perhaps the most fundamental underlying issue confronting U.S. business endeavors on the island at present is the inherent conflict between systemic limitations and the practical expectations of business endeavors. Of Cuba, Raul Castro has said that "[t]he economic system that will prevail in our nation will continue to be based on

socialist property of the people of the fundamental means of production [in accordance with socialism]"<sup>5</sup>; the same determination can be inferred of the weakened legal system that presently protects those interests.

When attracting foreign investment, or contemplating engagement in business, there is a basic premise that predictable and enforceable commercial and contractual behavior, norms, and expectations are essential for both investment and engagement to develop. Certainly, in its continued business negotiations with the Cuban government, Carnival found itself beholden to unfavorable Cuban law that arguably ran contrary to U.S. legal norms and principles. The Carnival dealings exemplify the need for implementation of wide-ranging, legitimate, legal norms that may uniformly be applied to business ventures ranging anywhere from cruise line tourism to real estate ventures, and any additional entrepreneurship, alike. To-date, however, the security afforded by the predictability of business standards and contractual remedies in and with the island nation remains severely lacking. All things considered, the calculated risk of doing business in Cuba at present may, in the majority of cases, be offset only by the novelty of concept itself.

For example, with regard to broader business implications, dispute resolution on the island lacks transparency—not only are all Cuban lawyers technically employees of the state, there is no private practice of law in Cuba and the domestic arbitration system to which many foreign contractual parties are beholden leaves much to be desired, particularly as it has little experience in confronting complex international commercial disputes. While long-term leases are available in unique circumstances, the majority of real property is owned by the Cuban state,



which creates obvious risks for foreign companies seeking to do business in Cuba. Moreover, Cuba's dual currency and exchange rates complicate business dealings for foreign investors from the start. Additionally, companies must partner with Cuban state agencies to negotiate labor contracts and to hire and fire workers, which--apart from being an onerous process--removes a good portion of sovereignty from foreign corporate action. The majority of foreign trade and domestic distribution also is presently controlled by the Cuban state itself, providing little to no access for the foreign corporate involvement necessary for the desired industry to grow beyond bureaucratic bottle-necking.

Without strong legal infrastructure to support decision-making on very basic principles of mutual accountability, uniformity and expectation, most U.S. companies (and those who advise them) will be reluctant to engage in the U.S.-Cuban market as freely or as fully as proponents of renewed policy change initiatives would hope. The Carnival case is merely a recent example of the importance of weighing all of the ramifications of doing business

with and on the island in determining both risk and potential for reward. There is always the argument that with continued joint ventures, the evolution of business between actors of the two nations can evolve norms of practice and legal accountability acceptable to both the totalitarian regime and private U.S. capitalistic interests. However, the reality is Cuba's totalitarian system requires the partnering of U.S. businesses with unilateral government regulation that, without reform to basic structural standards of mutual business incentive and accountability, presently serves to dis-incentivize entry into the market. Carnival's luck in spearheading a business endeavor *in anticipation* of Cuban regulatory change may not play out so favorably for future business ventures on the island.

<sup>1</sup> Shivani Vora, "Carnival Will Begin Cruises to Cuba in May," New York Times, March 22, 2016.

<sup>2</sup> See website of the Embassy of the United States, Havana, Cuba: <http://havana.usembassy.gov/service.html>.

<sup>3</sup> Amparo Sanchez et al. v. Carnival Corp. et. al, Case No. 2016-CV-021319,

(S.D. Fla. 2016); Angelo Castillo, Jr. v. Carnival Corp. et. al, Case No. 2016-CV-21353, (S.D. Fla. 2016).

<sup>4</sup> In furtherance of Cuban policy, Cuban-born Americans will have to present Cuban passports, even if they are American citizens, and present the proper visas.

<sup>5</sup> Raul Castro, Speech to the Cuban National Assembly (December 20, 2014).



**Candice Balmori** is an attorney with RG Law Group, P.A. in Miami and practices primarily in the fields of corporate law, commercial and real property litigation and transactions, and probate. She holds a bachelor's degree from Harvard University, as well as a J.D. and Certificate in International and Comparative Law from Tulane University Law School.

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# Declarations of Inclusion and Parental Leave Continuances: Two Causes, One Mission

by Craig E. Leen, City Attorney, City of Coral Gables

Maya Angelou once said, “It is time for parents to teach young people early on that in diversity there is beauty and there is strength.” I love this quote. It speaks to the example we must set for children and others, through words and deeds, regarding diversity and inclusion in our communities. I have been lucky to be part of two recent efforts to promote diversity and inclusion- one involving inclusion of individuals with autism and special needs in all aspects of life, and one involving protection of an attorney’s ability to take parental leave upon the birth or adoption of a child.

As a parent of two children with autism, I know what it is like to wait anxiously to see whether my daughter (who is on the severe part of the autism spectrum) will be treated with respect and tolerance in a restaurant, church, or theater, even though she does not always sit still and often makes loud (and happy) noises. I also know what it is like to ask that my daughter be able to participate in a swimming or gym program that she would love, and be told no because of the special accommodations she would need.

Of course, like any parent, I want my children to be accepted and cherished for exactly who they are. As you might imagine then, one of the proudest moments in my career was when the Coral Gables City Commission unanimously adopted the *Resolution Declaring Principles of Inclusion for Individuals with Autism and other Special Needs*. This Resolution was based on the core principles established in the United Nations Convention on the Rights of Persons with Disabilities, namely:

- a. Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;
- b. Non-discrimination;
- c. Full and effective participation and inclusion in society;
- d. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- e. Equality of opportunity;
- f. Accessibility;
- g. Equality between men and women;

Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities

These principles of inclusion are universal and apply to all people whether or not they have special needs. There was one principle that needed to be added to this list though: the principle that “inclusion is an attitude, an approach, and a mindset, which welcomes and facilitates participation by those with disabilities and special needs, and **encourages accommodations beyond those required by law.**” This addresses the concern that individuals with special needs and their families should not always have to assert their legal rights to an accommodation, and should instead be proactively engaged and assisted. It should not always be about the minimum requirements (i.e. the law); it should be about helping our

fellow human beings (i.e. inclusion and love).

The benefit of the Declaration is twofold: awareness and empowerment. The Declaration raises awareness by bringing attention to autism and other special needs and the importance of governments, businesses, residential developments, and places of learning to proactively and joyfully accommodate these individuals so they can be fully included in our society. As part of this awareness, the Declaration draws attention to a number of City programs for individuals with special needs, including the Wallet Card (a program of the Disability Independence Group in collaboration with the Coral Gables Police Department and UM-NSU CARD), which is an identification/information card and police training program to help facilitate interactions between individuals with autism or cognitive disabilities and the police. The Declaration also empowers City staff to take action to accommodate disabled individuals proactively without having to obtain further approval, and to go beyond the requirements of law in doing so. Coral Gables Television even created a beautiful, award-winning documentary on the efforts being taken in Coral Gables to be inclusive of individuals with autism called, “Embracing Autism: A Coral Gables Story,” which is available on YouTube.

Coral Gables was the initial city to adopt the Declaration. Since that time, the Declaration has been adopted by Miami-Dade County, Miami, West Miami, Miami Gardens, Palm Bay, and the Miami-Dade County League of Cities. A number of other local governments statewide will be



considering the Declaration soon. My desire is that every city and county in the United States eventually will adopt this Declaration.

This brings me to a second initiative, which also is leading to a statewide, and hopefully, nationwide discussion. As a member of the Rules of Judicial Administration Committee (RJAC), I recently proposed a rule of procedure that would require the granting of a continuance for an attorney taking parental leave except in extraordinary circumstances. I did so out of a

concern female attorneys at law firms or government agencies often are forced to give up their cases to fellow attorneys when having a baby -- which could set back a career -- and because there appears to be a negative stigma when male attorneys seek continuances based on parental leave, an issue that needs to be combated in our profession.

I also sought the rule because of a real life example. A fellow government attorney informed me she had sought a continuance so she could represent her clients -- two police officers -- in

an upcoming trial scheduled during her maternity leave. It was the first continuance she sought. Nevertheless, the request for continuance was denied because she was told she could transfer her case to another attorney at the government agency she represented. She was very disappointed by this experience, as she wanted to both handle the case and take parental leave, which seemed very reasonable to me.

I then spoke with the Miami-Dade Chapter of the Florida Association of Women Lawyers, which informed me

it knew of three similar motions for continuance based on parental leave that were denied for the same reasons. This made me even more resolute that this issue needs to be addressed. In fact, as this proposed rule has progressed, I have spoken to many attorneys, both women and men, who have informed me of similar experiences. It seems to me there is a problem here, namely that it is unfair to expect attorneys to give up all of their cases to another attorney in order to take parental leave, a move which can have a negative effect on a career or lead an attorney to take very little parental leave. This situation could be addressed by a rule of procedure that establishes a continuance must or should be granted except in limited circumstances.

The proposed mandatory rule I have drafted reads as follows:

#### RULE 2.570 PARENTAL LEAVE

A motion for continuance based on parental leave of the attorney, when consistent with the parental leave policy of the firm or governmental entity for which the attorney works, or for a reasonable time when the attorney is a solo practitioner, shall be granted unless exceptional circumstances are shown. If the court denies the continuance, the specific grounds for denial shall be stated in the order, and the court shall exercise its discretion to grant as much leave as would be reasonable under the circumstances.

#### Comment

The profession is committed to parental leave and to the importance for attorneys to be able to balance work and family. This rule provides a presumption that a continuance for parental leave will be granted unless an exceptional reason is shown. An exceptional reason could be the need for emergency or time-sensitive relief, or the fact that many continuances have already been granted and the substantial rights of the parties may be affected.

The underlying premise is that there is always “good cause” to seek a continuance based on parental leave

(namely, spending time with a newborn or newly adopted child, which is something the Florida Bar should encourage and support), and that the only question should be whether there would be a substantial harm to the other side by granting a continuance (i.e. emergent or time sensitive matters). Even then, the court should grant as much of a continuance as reasonable under the circumstances.

For law firms and government agencies, parental leave generally must be provided by law to employees, including attorneys, under the Family and Medical Leave Act. This federal statute demonstrates the will of Congress, and ultimately the American people, that the ability to take such leave is very important. This right to take leave can be frustrated, however, if an attorney expecting a child is unable to get a continuance of upcoming cases, which is what would allow the attorney to take the leave from work. The only way to meaningfully ensure an attorney can both take the leave and not be set back in his or her career is to require the continuances be granted. The mandatory rule ensures this will occur in most cases. Of course, there will be cases where time sensitive or emergency relief is required, and a continuance cannot be granted. In my opinion, the rule strikes the appropriate balance.

The proposed rule did well in the RJAC subcommittee that considered it, being recommended in concept twice (each time the subcommittee recommended a more discretionary version of the rule). Before the full RJAC, however, it was first tabled and then rejected in concept. Most members of the full RJAC felt it was more appropriate as a policy than a rule. Although the RJAC voted down the proposed rule, there was a general consensus on the entire committee that parental leave for attorneys was very important, resulting in a unanimous vote to send a letter to the Florida Supreme Court, the judicial conferences, and judiciary education program, to encourage training and the establishment of a policy in favor of granting continuances based on parental leave. This letter has been sent and has generated a lot of positive attention and discussion about the parental leave issue.

At the same time RJAC considered the rule, the Diversity & Inclusion Committee of the Florida Bar considered it as well. Coral Gables Deputy City Attorney and CABA Board member, Miriam Soler Ramos, serves on Diversity & Inclusion and sponsored a resolution in favor of the mandatory version of the proposed rule. Then-Florida Bar President Ray Abadin and I attended the Diversity & Inclusion meeting and spoke in strong support. Then-Chair Kirsten Norse and present Chair Brittany Maxey have both strongly supported the rule as well. The Committee unanimously adopted the resolution, recommending the mandatory version of the rule to the Florida Supreme Court and Board of Governors, and made the following important findings, among others:

WHEREAS, anecdotal evidence exists that female lawyers, in the State of Florida, are often denied continuances in anticipation of taking maternity leave; and

WHEREAS, it is assumed that these lawyers, especially those who work in large firms or agencies, can simply have a colleague “cover” for her; and

WHEREAS, the affects of having another lawyer cover a case are often detrimental to the lawyer’s career advancement, the attorney-client relationship, and the client; and

WHEREAS, there is a stigma attached to both female and male lawyers asking for a continuance in anticipation of maternity or paternity leave; and

WHEREAS, the legal profession as a whole, and the judiciary in particular, should acknowledge the importance of child-rearing and support members of the Bar who choose to practice law and build families;

Ultimately, the parental leave rule was supported by Diversity & Inclusion and not supported by RJAC. This posed the dilemma of how the Florida Bar should proceed with such clear disagreement between committees as to whether a rule should be adopted. Board of Governors member Deborah Baker-Egozi took the lead in raising this matter with the Board of Governors, requesting a joint task force between RJAC and Diversity & Inclusion

be created to draft a parental leave continuance rule that could receive the support of both committees. Florida Bar President Bill Schifino was supportive of this effort and brought the matter to the Executive Committee and then the full Board of Governors, which supported creation of a joint task force between Diversity & Inclusion and RJAC to address this important matter. The task force is in the process of being created. A special committee to address gender and diversity bias was also created, with President Schifino appointing President-Elect Michael Higer to lead the effort. I am hopeful these efforts will lead to tangible and positive change.

The discussion over the parental leave rule has generated significant attention in the press, including articles in the Daily Business Review, Law.com, the ABA Journal, Above the Law, and the Florida Bar News. It also has led to a broader discussion on gender equity, and the importance of ensuring equal pay and treatment of women in the legal profession. Florida is now in the position of being able to take the lead nationwide on both continuances for parental leave and the broader issue of gender equity in the legal profession.

Although inclusion of individuals with special needs and continuances based on parental leave may be different topics, they are united by a common theme and purpose. It is important to include individuals and make them feel welcome, and to go beyond the present requirements of law in doing so. The anxiety felt by a parent waiting to know if a government official will grant an accommodation for a child with autism is a similar anxiety to the one felt by an expectant parent hoping a judge will grant a needed trial continuance so the parent can take a meaningful parental leave with a newborn child. In both of these situations, the parent feels as if he or she is being judged, which should not be the case. We should work to relieve this anxiety by adopting declarations and rules that promote inclusion, by calling on officials to go beyond the requirements of law, and by never being satisfied with the status quo. In this way, we will set an example for our children of a civil society that is welcoming of them in all their uniqueness and that helps ensure their parents can be with them as they enter this world.



**Craig E. Leen** is the City Attorney of Coral Gables and is Board Certified by the Florida Bar in City, County, and Local Government Law. He serves on the adjunct faculty of the University of Miami School of Law and the Florida International University College of Law. He also serves on the Constituency Board for the University of Miami-Nova Southeastern University Center for Autism & Related Disabilities (UM-NSU CARD).

Prior to being City Attorney, Mr. Leen worked for the Miami-Dade County Attorney's Office as an Assistant County Attorney, where he served as Chief of the Federal Litigation Section and previously as Chief of the Appeals Section. In addition, Mr. Leen has worked in the private sector for international law firms in New York, Boston, and Miami. Mr. Leen also served as a Law Clerk to the Honorable Robert E. Keeton, United States District Judge for the District of Massachusetts.

Mr. Leen is the husband of Dr. Ana Maria Muniz-Leen, M.D., an adult, adolescent, and child psychiatrist, and they are the parents of Alexandra, 11, and Pierce, 5.

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# President Obama's Visit to Cuba: Constructive Overture or Empty Gesture?

by Michael A. Pinciro

December 17, 2014, is now a historic day in American and Cuban history—one that dramatically, and likely permanently, altered the course of U.S. relations with Cuba. On that day, President Barack Obama announced that the U.S. would restore full diplomatic relations with Cuba and ease U.S. restrictions on travel, commerce, and banking between the two countries. President Obama's announcement has ushered in a new era in U.S.-Cuba relations, normalizing diplomatic relations that had been severed since 1961, dramatically opening up the flow of U.S. travelers to the island, and creating a rush of American companies looking to enter the untapped Cuban market. This is a dramatic break from our more than fifty-year policy of diplomatic and economic isolation of Cuba.

As described by President Obama, his Administration's new approach to Cuba is intended to promote U.S. interests and to assist "the Cuban people," with particular emphasis on the latter objective. Indeed, when he first announced the new policy, President Obama repeatedly referenced helping the Cuban people through U.S. engagement, noting that the policy sought to "support the Cuban people," "empower the Cuban people," "help the Cuban people help themselves," "create more opportunities for the . . . Cuban people," and achieve "a better future for the Cuban people." White House, Office of Press Secretary, *Statement by the President on Cuba Policy Changes* (Dec. 17, 2014). Importantly, this new Cuba policy—and the achievement of its stated goals—is based on a key assumption: that the free-flow of American people, goods, companies, and ideas to Cuba will spur democratic and free market forces on the island

and create an irresistible groundswell of support for fundamental human rights and market reforms.

I was therefore not surprised that President Obama decided to visit Cuba in March 2016—the first visit to the island by a sitting U.S. President since President Calvin Coolidge in 1928. Although a highly controversial decision in our community, President Obama's Administration likely viewed his landmark visit to the island as an essential component of his new policy of engaging Cuba. Today still, there is no greater political force in the world than a sitting U.S. President. Through his visit to the island, President Obama ostensibly sought to employ the unmatched platform of the U.S. Presidency to promulgate his new Cuba policy, forcefully pushing forward the rapprochement between the two countries (and their peoples) and seizing the historic opportunity to communicate directly to the Cuban people about America's founding ideals of individual liberty and representative democracy. In the Administration's view, there was no more powerful a symbol of U.S. engagement with Cuba than a Presidential visit—one that would serve both as a capstone to President Obama's historic December 2014 announcement and as a groundbreaking diplomatic exchange that would forge ahead a new epoch of U.S.-Cuban relations.

This article examines President Obama's visit to Cuba—the decision to visit and the substance of the visit itself. It does not opine on the merits of President Obama's general foreign policy towards Cuba, specifically the decision to normalize relations with Cuba versus maintaining a policy of unilateral isolation. That is a larger

debate for another day. Instead, this article simply discusses whether President Obama's visit to Cuba furthered the aims of his policy of engagement, right or wrong. Put another way, was President Obama's historic visit to Cuba a well-reasoned diplomatic overture consistent with the aims of engagement or, more cynically, an empty, misplaced, and ill-timed gesture whose sole aim was to add luster to President Obama's foreign policy legacy?

President Obama's decision to visit Cuba merits close examination. When he first announced the new policy, President Obama did not indicate that he would be visiting the island during his term. In fact, at a press conference held two days after he announced his new Cuba policy, President Obama tried to shut down talk of a visit to Cuba, stating that "we're not at a stage here where me visiting Cuba . . . is in the cards." Mike Dorning, *Obama Says Opening to Cuba Will Take Years to Pay Off*, BLOOMBERG POLITICS, Dec. 20, 2014. But the language he employed in demurring on the question of a potential visit was telling: it was not a matter of "if," but "when." A year later, President Obama further expounded on the issue, explicitly conditioning a visit to Cuba on marked and verifiable improvement in Cuba's human rights practices. "[I]f, in fact, I, with confidence, can say that we're seeing some progress in the liberty and freedom and possibilities of ordinary Cubans, I'd love to use a visit as a way of highlighting that progress," President Obama said. "If we're going backwards, then there's not much reason for me to be there." Kristen Holmes, *Obama 'Very Much' Wants to Go to Cuba*, CNN Politics, Dec. 14, 2015.





It is clear that these human rights preconditions were never satisfied or present before President Obama's visit to Cuba. In 2015, the Cuban Government carried out more than 8,600 politically motivated detentions or arrests. *Annual Report on Cuba 2015-2016*, Amnesty International. The individuals who were detained were "often beaten, threatened, and held incommunicado for hours or days." *World Report 2016, Cuba: Events of 2016*, Human Rights Watch. By comparison, there were approximately 4,100 such arrests or detentions in 2011, and 2,074 in 2010. Notably, the Cuban Government also re-arrested or detained a significant number of the 53 Cuban political prisoners who were released as part of Cuba's deal to restore relations with the U.S.; in fact, five of those individuals received new, politically-driven, long-term prison sentences. And these arrest figures do not account for the other repressive measures employed by the Cuban Government, including threats of violence, termination of employment, and the countless beatings administered by the Cuban state police. *See, e.g., Fabiola Santiago, U.S.-Cuba Relations Improve, But Castro Keeps Beating Dissidents*, Miami Herald, July 7, 2015. Moreover, before the President's visit, the Cuban Government did not enact any democratic reforms or other meaningful human rights measures, or even take significant steps to increase the Cuban people's access to the internet, as promised.

In its open letter to President Obama, CABA's Board of Directors pointed out these troubling statistics and urged

him to reconsider his decision to travel to Cuba. The letter stated, "A visit at this moment runs contrary to the explicit human rights prerequisites you established and could be perceived as largely driven by a desire to make a historically significant diplomatic overture before the end of your term, no matter the conditions in Cuba and the Cuban Government's continued repression of the Cuban people." Letter from CABA Board of Directors to President Obama (March 14, 2016). CABA's letter was correct: a visit to Cuba under those circumstances would completely contradict President Obama's own words. But, in announcing his decision to visit Cuba, the rationale for President Obama's visit changed. Rather than commemorating Cuba's progress in human rights—none of which appeared to have occurred—the visit's stated purpose was to "advance our progress and efforts [towards complete normalization between the countries] that can improve the lives of Cuban people." Jim Scott, *Obama Announces Cuba Visit*, CNN POLITICS, Feb. 18, 2016. Ben Rhodes, a deputy national security advisor who spearheaded the Administration's negotiations with Cuba, described the visit as one that would advance President Obama's policy of engagement with Cuba. "We believe the best way to try to push this forward is for the president to go," said Rhodes. *Id.*

One could certainly criticize President Obama for changing the underlying aim of his visit to Cuba, or for failing to extract concessions from the Cuban Government in exchange for

the visit. For example, in his letter to President Obama concerning the visit, U.S. Senator Marco Rubio argued that President Obama should not visit Cuba "in the absence of the [Cuban] government taking meaningful reforms," because doing so would surrender U.S. "leverage" over the Castro regime "in exchange for virtually nothing." Letter from Senator Marco Rubio to President Obama (Feb. 18, 2016). This point is well taken. It is also fundamentally at-odds with a key tenet of the Obama Administration's overarching foreign policy: that American engagement with the international community, including with non-democratic regimes, provides us with the invaluable opportunity to promote abroad our values of democracy and human rights, which have largely transformed the world following World War II, while isolation "denies us the ability to shape outcomes." Obama Administration, *National Security Strategy*, May 2010. The Obama Administration's view is that through engagement with non-democratic regimes like Cuba (which includes promoting American ideals in those states), the U.S. can assist in "creat[ing] permissive conditions for civil society to operate," a crucial prerequisite for grass root democratic and free market reforms, and can "plainly demonstrate to the public within those nations that their governments are to blame for their isolation." *Id.*

Based on this foreign policy philosophy, President Obama's likely response to criticism about failing to obtain concessions in advance of his visit

is simple: it doesn't matter what the Cuban Government does or doesn't do. President Obama's doctrine on Cuba is not one that emphasizes *quid pro quo* in negotiations between the countries, *i.e.*, we will ease these restrictions if you implement these measures or give us this in return. For President Obama, what the Cuban Government gives us in return for our engagement with Cuba is largely secondary. This is because the President believes that full-blown American engagement with Cuba will eventually bring about the type of long-lasting democratic, human rights, and free market reforms that far supersede any superficial, transient reform measures negotiated by the U.S. and allegedly enacted by the Cuban Government as part of a *quid pro quo*. In other words, he believes that American democratic and free market ideals are so over-powering, so dynamic, and so capable of generating significant change that we should unleash them in Cuba through a policy of diplomatic, commercial, and cultural engagement regardless of what the Cuban Government gives us in return. Moreover, in President Obama's view, visiting Cuba and extending a hand of friendship to the Cuban people shows them that, contrary to the Castro regime's propaganda, the U.S. is not their enemy, that it is not to blame for their impoverished conditions; rather, it is the Castro regime that chooses to subject the Cuban people to poverty and to isolate them from the rest of the world. By removing the Castro regime's primary scapegoat for its brutal economic failures—the U.S. embargo—the Cuban people will be able to correctly identify and hold accountable the responsible party: the Cuban Government.

There are, of course, valid counter-arguments to President Obama's position. Many have pointed out that Cuba has not remotely changed despite long-standing diplomatic and commercial relationships with Western Europe and other democracies, and that any positive externalities of American engagement will be stymied by the Cuban Government, which tightly controls the island. Surely, therefore, a two-day visit by a U.S. President cannot bring about any real, lasting change. These are good points. The Administration's

rebuttal, I imagine, would be that U.S. engagement is different than European engagement, that there is no more potent transformational force in the world than U.S. engagement, especially in dealing with a neighboring country sitting 90 miles from American shores, and that there is no more powerful a messenger of American ideals than a sitting U.S. President. This too is true.

In the end, it will be bottom-up reforms, stemming from the will of the Cuban people, rather than top-down, artificial measures handed down by Cuba's communist government, which will lead to transformative change in Cuba. President Obama's new Cuba policy posits that American engagement creates the necessary conditions for those type of grass roots reforms on the island and that, as a result, such engagement should not be premised on the extraction of concessions from Cuba. Consequently, President Obama's decision to visit Cuba in order to firmly establish and advance his policy of engagement—irrespective of Cuban concessions or temporary improvements in human rights—was philosophically consistent with his foreign policy. Right or wrong, the visit was not an empty, legacy-chasing gesture, but rather a diplomatic overture squarely consistent with his foreign policy principles.

I suspect that the Administration would assert that there is another pivotal consideration supporting President Obama's visit to Cuba: that engaging Cuba and establishing strong ties between the two countries furthers American self-interest. As Cuban Americans, we are emotionally invested in U.S.-Cuba relations. A U.S. President shaking hands with Raul Castro, the restoration of diplomatic relations, American companies doing business in Cuba—for many of us in our community, we view these as moral issues. To recognize the Cuban Government is to legitimize a savage dictatorship that has murdered and incarcerated thousands of Cubans for political reasons, including members of our family and friends; that has repressed and brutalized the Cuban people for nearly 60 years; and that stripped our families of their businesses, their property, and their country. To

shake hands and sit down with Raul Castro is to affirm his dictatorial rule, and to acknowledge an unelected leader whose policies deny Cubans their basic human rights and force them to live mired in poverty. These are completely legitimate feelings. Though I was born in the U.S., I deeply empathize with them. I cannot imagine what it was like to be forced to flee my country, where I established a profession, a business, and, more importantly, a life with my family, and to have it all ripped from my hands. So I do not blame Cuban Americans for viewing U.S.-Cuba relations not as a routine foreign policy issue, but as a deeply personal matter implicating serious moral and ethical concerns. This is what this country has at times failed to understand about us—that it is more than politics for us because we lived it.

But, the reality is that American foreign policy is not formulated based on these types of feelings or solely predicated on moral considerations—nor should it be. American foreign policy is supposed to be acutely focused on achieving one fundamental objective: promoting U.S. national security, economic, and other interests around the world. We have a strong trade relationship with China despite its human rights practices and communist government because it is a massive market for our exports (which is important for U.S. companies), because it provides us with cheap imports (allowing American consumers access to cheaper consumer goods), and because further entrenching China in economically interdependent relationships with Western countries curbs its inclinations to undertake bellicose actions in Southeast Asia, which adversely impact U.S. interests in the region and global stability. We have strong relationships with Middle Eastern countries such as Saudi Arabia, which has a deplorable human rights record, because we have substantial economic interests in the region and need strong alliances that allow us to project military power into the area and keep it stable. Conversely, if a country engages in conduct that legitimately poses a national security threat to us and threatens global stability (*e.g.*, Iran, Russia, North Korea), we sometimes choose to isolate and sanction them. Regardless of whether it is engagement

or isolation, the driving force for these foreign policy decisions is American self-interest.

We often lose sight of this when it comes to Cuba because we are personally and emotionally vested in the issue. We view U.S. engagement of Cuba as an immoral betrayal of American principles and the Cuban people. But the Obama Administration would likely assert that in deciding whether to aggressively push forward with engagement of Cuba through a Presidential visit, it has an obligation to all Americans, not just Cuban Americans, and that engagement is squarely in U.S. interests. Indeed, in his December 2014 announcement, President Obama alluded various times to furthering U.S. interests through his new Cuba policy.

The most obvious potential benefit to the U.S. of the new Cuba policy is that through commercial engagement with Cuba, American companies and investors may have access to a new, undeveloped market 90 miles from American shores. This is the aspect of the new U.S.-Cuba relationship that everyone wants to talk about. However, in addition, and I believe this is overlooked, the Administration would likely argue—though not publicly—that engaging Cuba is the correct geopolitical strategy. For example, one potentially important reason for engaging Cuba—and cementing the fledgling relationship through a Presidential visit—may have been to prevent a full-blown rapprochement of the dangerous Russian-Cuban Cold War alliance. It may not be a coincidence that a few months before President Obama announced his new Cuba policy, Vladimir Putin, the Russian president, paid a visit to Cuba, and that the two countries appeared to agree that Russia would be allowed to re-open a key Russian spying post in Cuba in exchange for forgiving almost \$30 billion in Cuban debt. Lucy Westcott, *Why Russia and Cuba Are Partying Like Its 1962*, NEWSWEEK, Aug. 12, 2014. And this on the heels of Russia's annexation of Crimea in March 2014 and in the midst of Russian military interventions in eastern Ukraine.

Confronted with a Russian state determined to recapture the glory

of the old Soviet empire through territorial expansion in Eastern Europe and re-establishing Cold War alliances, one cannot blame the Obama Administration if it concluded that maintaining our unilateral isolation of Cuba would simply invite a strengthening of the dangerous Cuba-Russia relationship, which has always been adverse to American geopolitical interests. Thus, it is very possible that the Obama Administration viewed engagement with Cuba as beneficial to U.S. interests because it countered Putin's efforts and disincentivized Cuba from further linking itself with Russia. The reasoning for this decision is consistent with President Obama's philosophy on engagement: if we enter into a productive diplomatic and economic relationship with Cuba, Cuba is much less likely to undertake conduct with Russia that could destabilize and upset its nascent American ties. This is just one example of several such relevant geopolitical considerations.

While President Obama's decision to visit Cuba (and his broader policy of engagement) is certainly controversial, my sense is that the substance and tenor of his visit to Cuba and his statements during the visit were viewed favorably by both proponents and opponents of his new Cuba policy. We can use the CABA Board's well-reasoned letter as a guidepost by which to assess President Obama's visit. In the letter, the CABA Board stated that if President Obama forged ahead with his visit to Cuba, the visit could "promote liberty and freedom for the Cuban people if . . . you use the opportunity, the platform of [the] visit, to properly highlight the plight of the Cuban people and the need for change in Cuba." Letter from CABA Board of Directors to President Obama (March 14, 2016). The letter specifically cited three measures that President Obama needed to take during the visit: (1) to meet with Cuban dissidents (but not those hand-picked by the Castro regime); (2) to speak directly to the Cuban people and express his disapproval of the Castro regime's human rights practices and other related issues; and (3) to acknowledge the substantial suffering of Cuban Americans who were forced into exile and to disabuse the Cuban people of the false Castro propaganda

regarding Cuban Americans. *Id.* I believe that President Obama's visit to Cuba emphatically checked all of these important boxes.

First, President Obama met with a group of leading dissidents and members of Cuban civil society for over two hours at the U.S. Embassy. The meeting included Berta Soler and Miriam Leiva, the leader and founder of the Ladies in White, respectively; Antonio Gonzalez Rodiles, a leading dissident and founder of Estado de SANTS (also a speaker at CABA's upcoming conference on Cuba); Elizardo Sanchez, the founder of the Cuban Human Rights and National Reconciliation Commission; and other prominent Cuban bloggers and advocates for human rights. There were no accusations from opponents of President Obama's visit that he met with fake dissidents who are stooges for the Castro regime, or that he met only with dissidents who support U.S. engagement with Cuba. The Cubans in attendance at the meeting are known as some of the most committed, well-respected dissidents and members of civil society in the opposition movement, and included dissidents opposed to President Obama's new Cuba policy and his visit. In fact, Soler and Rodiles were listed in CABA's letter to President Obama as dissidents with whom the President needed to meet. By all accounts, the meeting involved a very frank discussion of the Castro regime's repressive measures and the opposition's efforts to obtain human rights reforms. However, "the most important thing of the meeting was the meeting itself," according to Leiva, who noted that no head of state had ever met with prominent Cuban dissidents. Frances Robles, *Cuban Dissidents Praise 'Closeness and Trust' After Meeting with Obama*, NEW YORK TIMES, Mar. 22, 2016.

Second, President Obama's public statements during his visit—those broadcast to and heard by the Cuban people—conveyed a powerful, unequivocal message directly to the Cuban people: that they should fight for and aspire to representative democracy and open markets, because the Cuban people—a hard-working, talented, innovative people—have the right to "decide their own future."

White House, Office of Press Secretary, *Remarks By President Obama and President Raul Castro of Cuba in a Joint Press Conference* (Mar. 21, 2016). For those who call President Obama an apologist for America, this was no apology tour. Quite the opposite, President Obama's speeches were an ode to American democracy and how our land is one of limitless progress, hope, and opportunity because it is premised on individual rights, self-representation, and free markets, as opposed to Cuba's statist and closed political and economic systems.

In his speeches, President Obama juxtaposed the two countries, emphasizing that one is based on individual liberty and the other on state authority. Cuba is a "one-party system," the U.S. is a "multi-party democracy"; Cuba has a "socialist" economy, the U.S. is an "open market"; Cuba "emphasizes the role and rights of the state," the U.S. is "founded on the rights of the individual." These were not explicit attack lines, but they clearly presented a fundamental contrast between freedom and repression using carefully chosen words. He also deftly made his case that the Cuban people should pursue democracy without using hostile, abrasive language, which would have undermined his credibility, but rather by repeatedly emphasizing his "hope" that the Cuban people would take control over their lives and shape their own future. "I want the Cuban people . . . to look to the future with hope . . . that is rooted in the future that you can choose and that you can shape, and that you can build your country." White House, Office of Press Secretary, *Remarks By President Obama to the People of Cuba* (Mar. 22, 2016). Further, echoing the sentiments of proponents of maintaining the U.S. embargo, President Obama noted that even if the embargo is lifted, the Cuban people will only thrive if there is corresponding "change here in Cuba"—if it is made easier to open a business, if Cuban workers can be employed directly by foreign companies rather than through the state, if the internet is available across the island, and if there is a "free and open exchange of ideas." *Id.* And he made clear that these changes cannot be imposed by the U.S.; they will "depend" on the will of the Cuban

people. *Id.* He went through a laundry list of individual freedoms denied by the Castro regime—freedom of speech, "to organize," "to criticize their government," "to protest peacefully," freedom from "arbitrary detentions," the ability of voters to "choose their governments in free and democratic elections"—and stated that these are "universal" human rights belonging to Americans and *the Cuban people*. And finally, President Obama discussed how democracy and individual liberty is the most powerful vehicle for positive change in the world, alluding to the civil rights movement and his own personal story.

Make no mistake, though partially cloaked in subtlety, President Obama's speech was an explicit call to the Cuban people, at the grass roots level, to demand fundamental changes, to demand democracy and human rights. "El futuro de Cuba tiene que estar en las manos del pueblo Cubano," he stated to applause from Cuban Americans in attendance. The message could not be clearer: the Castro regime is the past and Cubans must now decide on their own political future. This was an unprecedented event in Cuba, for a foreign head of state—no less the U.S. President—to urge the Cuban people to rise up and demand recognition of their individual rights, to demand to have their voices heard and their votes counted, and to demand to decide their own political fate. Democrat or Republican, pro- or anti-embargo, these were extraordinary, moving, unbelievably powerful words from a U.S. President speaking on Cuban soil. They were bold words—which is exactly what was morally required from him as the leader of history's greatest democracy.

Third, President Obama hit the right notes in addressing our community, making clear that we support the Cuban people and that our passion regarding Cuba is borne of love of country and the painful circumstances under which Cuban Americans were forced into exile. "Cuban exiles . . . came to America in pursuit of freedom and opportunity, sometimes leaving behind everything they owned and every person that they loved," President Obama stated to the Cuban people.

Describing us as "Cuban exiles," referencing our "pursuit of freedom and opportunity," these words were used to explain to the Cuban people that we are not disloyal "gusanos," but rather that many members of our community are political exiles who were forced to leave behind a country they loved and cherished in search of freedom and the opportunity to dictate their own future and that of their family. His message about our community was also one about love, a shared love of country between us and the Cuban people. "Cuban exiles . . . love Cuba. A part of them still considers this their true home. That's why their passion is so strong. That's why their heartache is so great," President Obama stated. Here, President Obama captured a misunderstanding between us and our Cuban brothers and sisters: our actions here regarding Cuba stem not from hatred, resentment, or political obduracy, but from love and compassion for the Cuban people. Our community may have passionate disagreements about the appropriate policy approach to Cuba, but we all invariably desire the same end: the freedom and well-being of the Cuban people.



**Michael A. Pineiro** is a partner at Marcus Neiman & Rashbaum LLP, where his practice focuses on complex business litigation, government enforcement defense, and white collar criminal defense and investigations. Michael is a member of CABA's Board of Directors and is co-chair of the CABA on Cuba Committee. He received his B.A. in Government, with a focus on international studies, from Harvard University, and his J.D. from Columbia Law School.



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# CABA Probono Joins Efforts with Amores Dental Care to Benefit Teens in NEED

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Agustina Goldbaum





CABA Pro Bono alongside Amores Dental Care brightened up the smiles of 15 teens by providing teeth cleanings, fillings and even surgical procedures, at no cost. The team's generosity benefitted teens that had never been to a dentist or had a dental exam.

"We cannot thank Dr. Jennifer Martinez-Amores and Dr. Dennis

Amores enough for their outstanding service and devotion. It was inspiring to see individualized attention go to such a deserving group of kids. I would like to encourage other private businesses in the community to follow in the footsteps of Amores Dental Care. Working together we can truly improve the lives of children," said Lesley Mendoza, Executive Director at CABA Pro Bono.

Dr. Jennifer Martinez-Amores and her husband, Dr. Dennis Amores brought along their team of hygienists and turned a small act of charity into a mission to improve the health of teens in need. The Amores Dental Care Group did not hesitate to go the extra mile and as a result the teens were beaming.

"As dentists and Miami residents, we are more than happy to be giving back to the community, especially to such a worthwhile cause. Dental care is of the utmost importance, and everyone should have access to regular checkups," stated Dr. Amores.

### About CABA Pro Bono

CABA Pro Bono was established in 1984 by several of CABA's past presidents to assist the needs of poor and indigent Spanish-speaking individuals in Miami-Dade County by connecting them with Spanish-speaking attorney volunteers. In 1992, CABA Pro Bono was nationally recognized by former President George H.W. Bush as a Points of Light affiliate. It is funded in part through grants awarded by the Florida Bar Foundation and proceeds raised at CABA's annual "Art in the Tropics" fundraising cocktail party. In 2013, CABA Pro Bono also began collaborating with other organizations to provide additional services to veterans, active members of the armed forces, victims of human trafficking and unaccompanied immigrant minors. For additional information visit the website [www.cabaonline.com](http://www.cabaonline.com).

### About Amores Dental Care

Amores Dental Care is a family-owned dental office that places a high value on patient relationships. Their friendly staff and accessible dental plans deliver quality care to informed patients in a comfortable and convenient setting. Dr. Jennifer Martinez-Amores and Dr. Dennis Amores pride themselves on building a wholesome and educational practice; when making decisions about dental health, they act as advocates, to guide their patients as they would friends.

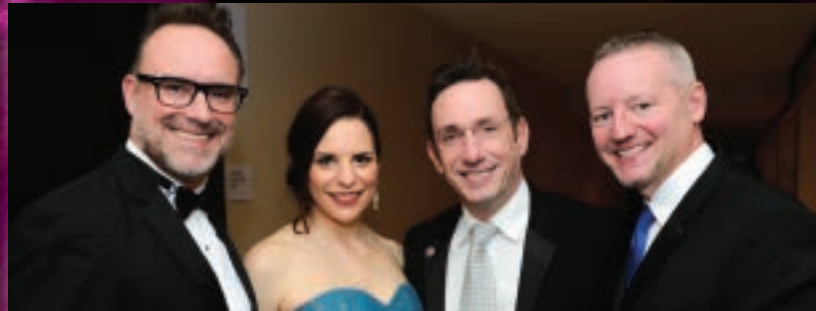


**Yeleny Suarez** manages client development and market research, targets media contacts, and pitches key media for firm clients. She handles media and crisis communications for a prison health-care company, and media relations for a real estate firm. In addition, she helps design, plan and execute communications strategies and collateral for clients, including crisis communications, press releases and pitches in English and Spanish, media events, advertorials, and editorial content. Yeleny is fluent in English and Spanish, and has a Bachelor of Science degree in communication from Florida International University.

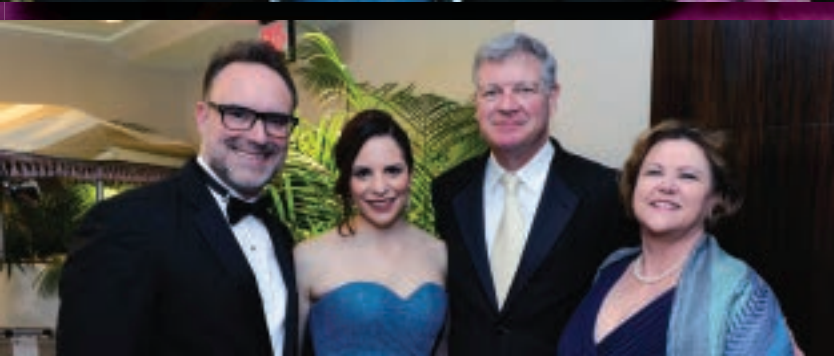
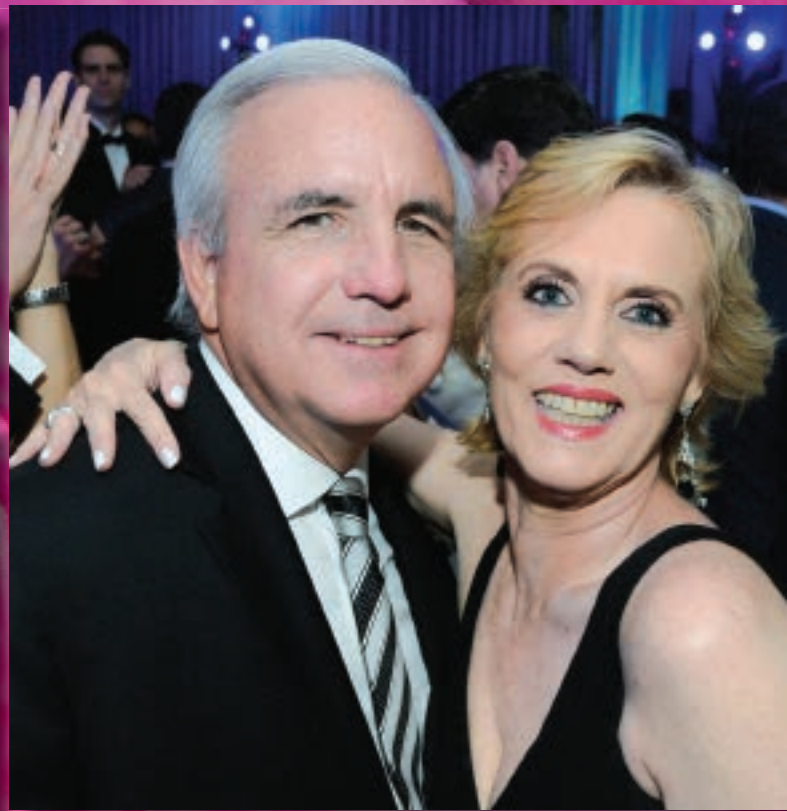


# 2016 GALA

CABA's 42nd Installation Gala & Foundation Benefit Dinner was held at the Fontainebleau Miami Beach on Saturday, February 6, 2016. Anna Marie ("Annie") Hernandez-Gamez was installed as President along with the 2016 Board of Directors: Nory Acosta-Lopez, A. Dax Bello, Manuel L. Crespo Jr., Maria Garcia, Frances Guasch De La Guardia, Giselle Gutierrez Madrigal, Javier A. Lopez, Yara Lorenzo, Kristina G. Maranges, Jennifer J. Perez, Jorge L. Piedra, Michael A. Pineiro, Miriam S. Ramos and Olivia Rodriguez.



# 2016 GALA



# 2016 GALA



# 2016 GALA



# MENTORING

On Thursday, February 18, 2016, CABA held its annual, "Membership, Mentoring & CABF Scholarship Reception." It was hosted by Gibraltar Private at their Coral Gables Branch. The event was a great evening where CABA members and law students were able to connect and become a part of the "CABA Mentoring Program" as mentors and mentees, respectively. Additionally, the Cuban American Bar Foundation awarded its yearly "At-Large" Scholarships to law students from across the state of Florida.



# MENTORING



# CABA NIGHT WITH THE MARLINS

CABA's First Annual "Night with the Marlins" benefiting the CABA Pro Bono Project was a tremendous success. On "el 20 de mayo," CABA members and their families and friends got together at Marlins Park to celebrate Hispanic Heritage night and CABA's Pro Bono Project. Over 500 people attended the event, generously sponsored by Stearns Weaver Miller, Holland & Knight, Interamerican Bank, CC Homes, Carlton Fields, Genovese Joblove & Battista, Akerman LLP, the Law Offices Mendez & Mendez, P.A., Esquire Deposition Solutions, Friedman Rodman & Frank P.A., and the Miami Marlins.

Several sponsors and community members donated game tickets to the Pro Bono Project's minor clients, allowing those children to see a professional baseball game for the first time. The Marlins donated several fan experiences that allowed CABA members to give the "Play ball!" announcement, join the grounds crew on the field to change the bases during the third inning, and join the team manager as he delivered the lineup card to the umpires and the opposing team's manager.

Along with the sponsors, the event was made possible through the hard work of the "Night with the Marlins" committee members: Giselle Gutierrez Madrigal (Chair), Olivia Rodriguez (Chair), Mariel Acosta (Volunteer Liaison), Nory Acosta-Lopez (Sponsorship Liaison), Anika Milian (Marketing Co-Chair), Isis Pacheco (Logistics Co-Chair), Miriam Ramos (Volunteer Liaison), Karen Cespedes, Elizabeth Estrada, Elizabeth Fernandez, Jessica Haayen, Anastasios Kamoutsas, Javier Ley-Soto, Kristina Maranges, Daniel Mendez, Lesley Mendoza, Jorge Perez Santiago, Diana Powell, and the CABA Board of Directors.

With the help of our sponsors, our committee, and our generous CABA community, CABA raised nearly \$13,000 for the Pro Bono Project! Look out for details on next year's Marlins games and CABA sponsorship opportunities.

Giselle Gutierrez Madrigal

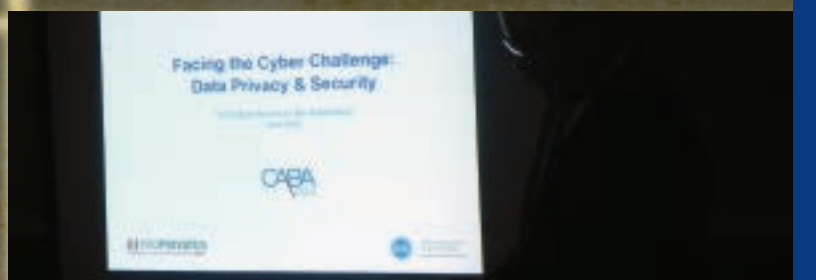






# Desayuno con CABA

The Desayuno con CABA CLE came back full force in 2016! The series aims to offer members those last few hard-to-get CLE general and ethics credits over a great breakfast. This year's series has, thus far, featured such timely topics as Attorney Competence and Confidentiality in the Digital Age, the Ethics of Referral Fees, an Overview of Fiduciary Duties in Business Relationships, and Data Privacy and Security for Attorneys. Each month's topic features prominent speakers discussing how practitioners can better protect themselves and their clients. Be sure to mark your calendar for the last Thursday of each month at CasaCuba Restaurant in South Miami. This year's Desayuno con CABA is sponsored by Barakat Law, P.A.





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Akerman congratulates 2016 CABA President Annie Hernandez and the Board of Directors.

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# LEGAL ROUND UP

By: W. AARON DANIEL & WILLIAM D. MUELLER

*Soffer v. R.J. Reynolds Tobacco Co.*, 187 So. 3d 1219, 1227 (Fla. 2016)

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## The Smoke Has Yet to Clear in the *Engle*-Progeny Cases

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In *Soffer*, the Florida Supreme Court this past March issued another decision in the ongoing *Engle* saga. The *Engle*-progeny cases, of course, originated from a class action suit in Florida against the major tobacco companies. The class was eventually decertified by the Third District Court of Appeal, and the Florida Supreme Court then issued its decision that has been the subject of much debate in the many individual cases that have followed — the seemingly never-ending *Engle*-progenies. See *Engle v. Liggett Group, Inc.*, 945 So. 2d 1246 (Fla. 2006).

The *Engle*-progenies, pursuant to the Florida Supreme Court's decision, were afforded several conclusive factual findings — given the effect of *res judicata* — going forward in the individual lawsuits. The factual findings relieved the individual *Engle*-progeny plaintiffs of the substantial burden of proving many of the tortious-conduct elements of their actions against the tobacco companies. But, while the *Engle*-progenies could rely on the factual findings made in *Engle* to pursue damages under claims of negligence and fraudulent concealment, the question remained whether they could also pursue punitive damages in their individual lawsuits.

The Florida Supreme Court addressed this predicament in *Soffer*. The Court held that “the res judicata effect of the [factual] findings addressed in *Engle* has no application to claims for punitive damages sought by *Engle* progeny plaintiffs.” 187 So. 3d at 1227. This, however, did not preclude the *Engle*-progeny plaintiffs from putting on additional evidence to prove their right to an award of punitive damages. That is, as the Court explained, the *Engle*-progeny plaintiffs could present additional evidence, which overlapped with the factual findings established by the original *Engle* decision, to prove entitlement to punitive damages.

This is good news for the many thousands of *Engle*-progeny plaintiffs who are in line for their lawsuits to go to trial, who have a green light to seek larger jury verdicts based on the inclusion of punitive damages for negligence claims. But stay tuned!

*Merchant v. State*, No. 3D13-3119, 2016 WL 1357707 (Fla. 3d DCA Apr. 6, 2016)

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## Don't Just Do Something, Stand There (A Lesson in Double Jeopardy, But Not Preservation)

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In early 2013, Dwaine Merchant was indicted for first-degree murder and attempted first-degree murder, and he went to trial. Unbeknownst to either the prosecution or Merchant's defense team, the jury venire included two siblings. Despite having the same surname, and despite both having aunts that worked as domestic violence prosecutors, and despite both residing in Kendall, it was not discovered before they were empaneled that these jurors were brother and sister.

It was the bailiff who eventually learned (*during the jury's deliberations*) that there were siblings sitting on the jury. By then, however, it was too late: jury deliberations were

# LEGAL ROUND UP



underway. But not taking the news sitting down, the judge immediately declared a mistrial, and did so without questioning the siblings. And, there was no objection by either the State or the defense to the judge's ruling of mistrial. Either too stunned by the very unusual turn of events, or perhaps as a matter of strategy, no one objected.

Following the mistrial, the State sought to retry the case. Not so fast, argued the defense. Mr. Merchant's defense team moved to dismiss the indictment, contending that the retrial was barred by double jeopardy because Mr. Merchant did not consent to the mistrial. The trial court denied the motion, and Mr. Merchant took his argument to the Third District Court of Appeal. The appeal turned on whether the defendant had a duty to object to the mistrial, or if staying silent was sufficient.

On appeal, the Third District held that the trial judge made the call too quickly. The Third District found dispositive the lack of record evidence demonstrating the manifest injustice of having the two siblings serving on the same panel. In other words, upon learning that the juror were siblings, the judge should have questioned the siblings regarding any communication they may have had about the case, or examined the bailiff, instead of immediately declaring a mistrial. Without any inquiry on the record (and recall that the record is the holy grail in appeals), there were no facts to support the trial court's ruling of a mistrial.

And so, a rare instance in which an issue presents better on appeal when trial counsel does not just do something, but stands there.

*Valladares v. Bank of Am. Corp.*, SC14-1629 (Fla. June 2, 2016).

## Recklessly Report Innocent Activity to the Police? You're Liable.

Rodolfo Valladares walked into a Bank of America intending to cash a check. The teller mistook Mr. Valladares for a bank robber described in an internal bank memorandum and called the police. But then it became clear to the teller that Mr. Valladares, having acted innocently and politely, was not the guy. All was well. Except, the teller did not inform the police of this case of mistaken identity. The SWAT team arrived to take down Mr. Valladares, who was badly injured in the process.

Valladares sued Bank of America for negligence, battery, and false imprisonment. And he later sought punitive damages. A jury returned a verdict finding the bank liable only for negligence, but not liable for the intentional torts of battery and false imprisonment. The jury did, however, award punitive damages.

The Third District Court of Appeal reversed the verdict and remanded for judgment in the Bank's favor. Relying on the Florida Supreme Court's decision in *Pokorny v. First Federal Savings & Loan Association of Largo*, 382 So. 2d 678 (Fla. 1980)—which involved an action for false imprisonment, not negligence—the Third District held there is no cause of action for negligently calling the police to report a crime. There is a qualified privilege attached to those who make a good faith mistake in reporting a crime, said the Third District. Thus, a showing of malice was required to maintain any tort action.

### CABA BRIEFS

*Soffer v. R.J. Reynolds Tobacco Co.*

*Merchant v. State*

*Valladares v. Bank of Am. Corp.*

# LEGAL ROUND UP

The Florida Supreme Court accepted jurisdiction based on a conflict between the Third District's decision and *Harris v. Lewis State Bank*, 492 So. 2d 1378 (Fla. 1st DCA 1986)—a case where the First District held that negligent reporting actions could be maintained. *See* Art. V, Section 3(b)(3), Fla. Const. The Court ultimately quashed the Third District's decision “[A] cause of action is available to one injured as a result of a false report,” explained the Court, “when the report is made by a party which has knowledge or by the exercise of reasonable diligence should have knowledge that the accusations are false or acts in a gross or flagrant manner in reckless disregard of the rights of the party exposed, or acts with indifference or wantonness or reckless equivalent to punitive conduct.” Opinion at 2.

The Court clarified its holding in *Pokorny*, which the Third District misapplied. *Pokorny* did not concern an action for negligence. Any discussion of negligent reporting was merely *dicta*. And, *Pokorny*, the Court continued, certainly did not hold that there was a blanket ban on all actions for false reporting. Rather, it merely discussed the application of the “good faith mistake” qualified privilege to an action for false imprisonment. The Third District's infusion of a malice requirement into that qualified privilege, held the Court, went too far.

The Court agreed that some form of a qualified privilege was necessary to protect those who reported crimes falsely, but in good faith. Otherwise, fear of recrimination or liability would deter reporting. But the Third District's malice requirement left recklessly accused and harmed individuals without redress.

Thus, the Court held that “[b]y requiring something more than simple negligence, but less than intent or malice, a requirement that the conduct rise to the level of punitive conduct in cases of incorrect reports to law enforcement accomplished the task of encouraging legitimate criminal reports while providing a safeguard against abuse.” Opinion at 24. Such safeguards, the Supreme Court noted, were ever more necessary “in a world that has become increasingly violent,” where “officers at times respond with what may appear to the layman as significant force.” Opinion at 24.

As applied to Mr. Valladares, the Court seemed to indicate that he had asserted allegations sufficient to clear this standard of reporting “with indifference or wantonness or reckless equivalent to punitive conduct.” But the Court found error and remanded for a new trial because Mr. Valladares had not initially pled punitive conduct, and because of an inconsistency in the jury's verdict.

## Jurisdiction: Perennial Traps for the Unwary (You Really Should Consult an Appellate Specialist)

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*Gold King Apartments, LLC v. Dumornay*, 190 So. 3d 650  
(Fla. 3d DCA 2016)

---

**Do not** ask the trial court to reissue the final judgment you wish to appeal.

Gold King Apartments was slapped with a final judgment imposing sanctions, and failed to appeal within the 30-day jurisdictional deadline for doing so. Hoping it could restart the 30-day clock, Gold King Apartments asked the trial court to re-enter the final judgment. But the “amended” final judgment merely re-stated the amount of sanctions as set forth in the final judgment. The trial court made no substantive change to the final judgment; indeed, the amended final judgment was identical to the original final judgment, save its date of entry. Without a “material



# LEGAL ROUND UP



change between the original final judgment and an amended final judgment,” there is no amended order for appeal purposes. And the 30-day jurisdictional clock does not restart. Gold King Apartment learned this lesson the hard way when its appeal was dismissed as untimely.

## *Medley Plaza, Inc., v. The Rama Fund, LLC*, No. 3D16-1403 (Fla. 3d DCA 2016)

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**Do not** add mailing days to your 30-day deadline for appeal.

Medley Plaza almost got it right as it traveled the road to the Third District Court of Appeal for review of an adverse final summary judgment. Step one: timely file your motion for rehearing within 15 days of the Court’s entry of the final summary judgment. Check. This suspended rendition and the deadline for filing the notice of appeal. So far so good.

But then the trial court denied the motion for rehearing, which rendered the final judgment. Step two: timely file your notice of appeal within 30 days of rendition of the final judgment. Unfortunately, Medley Plaza counted 35 days. Medley Plaza thought it had five “mailing days” under Florida Rule of Judicial Administration 2.514(b). Not so. When the deadline is triggered by the entry of a court order there are no “mailing days.” An order requiring you to act within a deadline means what it says.

So, what to do? Well, Medley Plaza tried to save the day by prevailing on the trial court to enter a new order, and then argued to the Third District Court of Appeal that the new order restarted the clock. Again, that is not so. The Third District rejected the argument, reminding us all to be cautious with those mailing days. Please remember: when it comes to the filing of your notice of appeal, 30 days mean 30 days! There is no forgiving a counting error, so be careful.

And by the way, everyone should be aware that Florida Rule of Judicial Administration 2.514(b)’s provision for mailing days is likely to be stricken from the rules as obsolete. It is the view of your Rules of Judicial Administration Committee that these extra days have no place in this age of instant e-service.

## *Hewett v. Wells Fargo Bank, N.A.*, No. 2D15-1074, 2016 WL 3065014 (Fla. 2d DCA June 1, 2016)

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**Do not** file your notice of appeal during a bankruptcy stay (*file it before*, or else!).

In *Hewett*, the mortgagee in a foreclosure action sought to appeal a final judgment of foreclosure in favor of the bank. But prior to filing the notice of appeal, the mortgagee filed a petition for bankruptcy. That filing effectuated a bankruptcy stay in the State court, of course. Days after the bankruptcy stay materialized, the mortgagee filed his notice of appeal. The Second District Court of Appeal, analyzing whether the filing of the notice of appeal during a bankruptcy stay has any legal effect, concluded it does not. The court determined that the filing was, in effect, a nullity.

But what about the 30-day jurisdictional deadline?

Well, the Second District went on to discuss the effect that waiting for the conclusion of the bankruptcy stay would have on the timeliness of the appeal. The court

### CABA BRIEFS

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*Gold King Apartments, LLC v. Dumornay*

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*Medley Plaza, Inc., v. The Rama Fund, LLC*

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*Hewett v. Wells Fargo Bank, N.A.*

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# LEGAL ROUND UP

explained that the bankruptcy stay does not extend the jurisdictional deadline for filing the notice of appeal; in other words, if the stay lasts longer than thirty days, the intended appealing party could be foreclosed. So, the lesson here for practitioners is to file the notice of appeal first (always a good rule of thumb, whatever the circumstance) before filing a petition for bankruptcy if you want to preserve appellate rights.



**Elliot Kula**, board certified in appellate practice, is the principal at Kula & Associates, PA., and together with attorney W. Aaron Daniel and their law clerk William Mueller, the Firm works collaboratively with trial lawyers to provide appellate service and trial strategy consultations

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# DICHOS DE CUBA

By Monica M. Cacace

**Mas vale un pájaro en mano que cien volando.** *One bird in hand is worth more than one hundred birds in the sky.* There is certainly great value in something that can be guaranteed. I think I will use this *dicho* when advising clients to consider accepting a fair settlement offer instead of taking their chances before the judge or jury. I recently watched a documentary about John Thompson, a death row inmate in Louisiana who was granted a new trial after spending 18 years in prison. The DA offered him a plea deal which included a conviction to a lesser offense in exchange for a sentence of time served. The evidence was circumstantial, but he faced staying in prison for the rest of his life without parole. He decided to go to trial. His lawyers advised him that he risked losing, but should he accept the plea deal, despite his innocence of the crime he's charged with, his immediate release would be guaranteed and he would be able to hug his mother and kids for the first time in almost two decades. John Thompson took the risk and demanded a new trial which he won. Despite the *dicho*, Mr. Thompson's values dictated that he reach for the hundred birds in the sky, and prevailed against the odds.

**En casa del herrero, cuchillo de palo.** *At the blacksmith's house, his knives are made of wood.* Some sources, both in English and Spanish, believe this *dicho* is like the English saying "the shoemaker's son always goes barefoot." If this is true, then this *dicho* means that family and close friends of someone with a profession, skill, or trade usually do not benefit from their family member's expertise. An example would





be, if one was married to a massage therapist but had to have a membership to Massage Envy because their talented spouse cannot not make the time to give them a massage. My *abuelita* recalls the meaning to be slightly different. She uses this *dicho* to describe a professional who doesn't practice what they do for a living, whether it affects the individual personally or their family and friends. With her interpretation, you could picture a dentist with bad teeth, a butcher who is a vegan, or a culinary chef whose refrigerator is filled with microwave dinners.

**A caballo regalado no se le mira el colmillo.** *If they gift you a horse, you don't inspect the tusks.* This *dicho* is like saying "it's the thought [behind the gift] that counts" and it is a well-established rule of etiquette. A similar famous English saying most of us are familiar with is: "You don't look a Gift Horse in the Mouth." We all know to accept a gift with a smile, and show your appreciation and interest in the gift. You're are not supposed to look for the price tag, the brand, or the quality of the gift. A few years ago when I moved to Destin, I learned the importance of this rule. I was introduced to the game "Dirty Santa" at our Christmas party. This is a gift

exchange where appreciation and thoughtfulness is out the door, and stealing gifts and greed is the modus operandi. Not only are you allowed to steal gifts, you can also criticize them. It makes for a very unpleasant work party.

**La promesa es deuda.** *A promise is a debt.* Legal professionals know too well that a promise can be relied upon to someone's detriment. A promise may not always be legally enforceable, but it continues to be a debt owed to another. Why is that? Because the person whom you made a promise to will likely collect on that promise. Should you break your promise, your actions will hang over your head like unpaid debt. The lesson here is if you make a promise, you make good on your promise.



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## Co-Chair's MESSAGE



Friends,

Where has the summer gone? I hope you all have enjoyed these last few months with your families and friends, spending time together and making memories! While the next few weeks will surely be filled with back-to-school activities and transitions into the Fall, please join me in enjoying this edition of CABA Briefs. With so much going on in our world, both at home and abroad, we have put together an edition of CABA Briefs we hope you find to be both enjoyable and informative.

It seems these days it is hard to turn on the T.V., listen to the radio, or scroll through social media without being bombarded with information, ads, and (sometimes unsolicited) opinions about the upcoming Presidential election. While come November, this undoubtedly will be one of the most important

Presidential elections of our time, on Tuesday, August 30th, our local judicial election will elect four county court judges in Miami-Dade and five circuit court judges to the Eleventh Judicial Circuit Court. To help our members make educated decisions at the polls, in this edition, we have included the results of CABA's 2016 Judicial Poll, as well as a "Judicial Round up" on all the contested judicial races. We hope you take the time to review this information in anticipation of exercising your privilege to vote. To that end, please don't forget to join us for CABA's Annual Judicial Luncheon and 2016 Judicial Candidates Forum at the Biltmore Hotel in Coral Gables on Friday, August 26th at 11:30 a.m. You will have the opportunity to meet many of the candidates, learn of their qualifications, and be prepared to make an educated choice at the polls days later. We hope you can join us, and look forward to seeing you!

In addition to our usual columns like "Dichos" and a pictorial of this year's beautiful CABA Gala, you will find this edition includes several timely articles. Two of these will share perspectives on the ever-changing ramifications and opportunities of the decision to embark on the path toward normalization of relations with Cuba. Another article will center on the importance of inclusion as it relates to Autism and Parental Leave in the legal profession. We trust you will find all of these articles to be informative, heartfelt, and timely.

We look forward to an eventful and productive last few months in 2016. Please be sure to join us for the CABA on Cuba Conference at FIU in September (all the information is on our CABA website), and save the date for our annual Art in the Tropics on October 15, 2016 at the Coral Gables Museum!

Personally, I would like to thank all of our authors for their continued hard work; my co-chair, Frances Guasch-de la Guardia, for her hard work, support, and guidance; and our President, Annie Hernandez, for her unwavering leadership this year!

May you all have a blessed end of summer!

Kristi Maranges



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*"I've learned that you shouldn't go through life with a catcher's mitt on both hands. You need to be able to throw something back."*  
- Maya Angelou

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