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BRIEFS

Summer/Fall 2017

Inside this Edition:
2017 Gala Pictorial

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CABA

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the Next Level

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CABA Briefs is published quarterly by the Cuban American Bar Association, Inc. ("CABA"). CABA is a non-profit voluntary bar association founded in 1974 by lawyers of Cuban descent. CABA's members include judges, lawyers, and law students of all backgrounds interested in issues affecting the Cuban community, as well as broader legal and human rights issues impacting minority communities as a whole. CABA's mission is to promote equality of our members; increase diversity in the judiciary and legal community; serve the public interest by increasing awareness to the study of jurisprudence; foster respect for the law; preserve high standards of integrity, honor, and professional courtesy among our peers; provide equal access

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. 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



Dear CABA Family,

What an incredible journey we have had so far, this year. As promised, this year has not been “business as usual” and we have taken our beloved CABA to the next level. On this issue’s cover, we feature our new logo for CABA, which was released a few months ago. With the design of the new logo we celebrate CABA’s past and also mark entry into the next generation of growth. We continue to recognize and honor all the work of Past Presidents and Board Members which have tirelessly contributed to CABA’s mission.

At the mid-point of my year of service, as your President, I am happy to share with you the milestones we have reached and our future goals for CABA. Thank you to our new Director of Operations, Daniel Espinosa, who has helped reshape our infrastructure and secured CABA’s growth for the future. Some of these improvements include updating our member management software, enhancing our online presence by making the website more user friendly and functional, ordering top of the line CABA

giveaways (i.e. swag) and signage with our new logo and more. These changes have improved our relationship with our members, allowing them to stay aware and connected to CABA, always.

Our Judicial Luncheon was truly special this year, where CABA tackled the issue of Mental Health, head-on. It was an amazing success with its highest level of attendance in our history, notwithstanding the fact that it is a non-election year. Brian Cuban was an incredible speaker and helped open our eyes, along with both psychologists, to the signs of mental health in our community. Educating ourselves about these issues will allow us to be more receptive, knowledgeable, accepting, and most importantly, loving about dealing with these issues. Seeking help is not a sign of weakness, but a sign of courage.

I am happy and proud to announce that one of my goals as President was accomplished with a 150% increase in membership since January 2017!! Thank you to all who joined or renewed their memberships. The membership dues make it possible for CABA to function, to promote our mission and to organize events for our members. Our CABA respectful manner to focus on the issues plaguing Cuba, rather than taking a “vacation” to the Island.

Our membership is our best tool to affect the mission of CABA and, with that mind, we have enhanced email marketing strategies for more effective communication with members and the community. We have also significantly increased CABA’s digital presence across multiple social media platforms including Facebook, Twitter, Instagram & LinkedIn. These efforts have increased interest in/attendance at CABA events, including our Desayuno con CABA CLE program.

I am especially proud of the funds we have raised for CABA Pro Bono and CABA Foundation, for example, CABA was able to raise \$20,000 for CABA Pro Bono at the 2nd Annual CABA Night with the Marlins. Thank you to all the sponsors and members who attended and gave back to the community. CABA also raised, and awarded, \$30,000 in law school scholarships at this year’s Scholarship Awards Reception.

We will continue to build on the past and grow CABA’s footprint as we proceed into the next generation.

Yours in Service,

Javy Lopez
President, CABA

Editor-In-Chief's MESSAGE



Dear Members:

I am pleased to share with you the 2017 summer issue of the CABA Briefs. This issue features CABA's new logo and everyone's favorite: the GALA pictorial. Because this year's GALA was bigger than in previous years, we super-sized the pictorial accordingly based on requests from our readers "for more pictures." I hope you enjoy the GALA pictorial as well as the pictures of our many other events this year. The new logo not only celebrates CABA's past, it marks a new generation of growth of our membership, events and giveaways offered to our members. As with any growth, it cannot have been achieved without the groundwork of our Past Presidents and Board members. Thank you for your contributions and hard work promoting the mission of CABA and leading us to where we are today.

In this issue we profile and honor Congresswoman Ileana Ros-Lehtinen and her years of service to Florida's 27th Congressional District. This edition we feature an article authored by two law students from Florida International University Law School on the past, present and future of US immigrant policy towards Cuba. Additionally, we included the legal case summaries and the judicial profiles of the Honorable Judges Robert Luck and Norma Lindsey who were appointed to the Third District Court of Appeal this summer.

CABA is happy to also introduce you to our new Director of Operations, Daniel Espinosa. Danny has provided CABA with an enhanced member management software that has helped to increase our online presence. His service and dedication and unparalleled enthusiasm breathes new life into the operations section of CABA. You can always find him at one of our many events working tirelessly registering and greeting guests while implementing our new technology to communicate more effectively with our members. Thank you Danny for all you do and welcome to the CABA family!

I close on a more serious note. This past summer we lost a long time CABA member and great trial attorney, Ervin Gonzalez. Our thoughts and prayers are with his wife Janice, his law partners, friends, and colleagues. This tragic loss reminds us that we need to be ever present and aware of our friends, family and colleagues who may be suffering in silence. Let us all try and listen more closely to these soft calls for help. If you, or someone you know, need help; you are not alone. The National Suicide Prevention Hotline is 1-800-273-8255.

Thank you,

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

Frances De La Guardia
Editor-in-Chief

Director of Operations' MESSAGE



“Daniel’s Road to CABA’s Director of Operations”

The first time I heard of CABA, it was 2012 and I was working as the Promotions Coordinator for KISS Country Radio. I received a call from CABA asking if the radio station could do a free event at their inaugural Lawyers on the Run 5K. All I could do was laugh at that name... The irony! Nevertheless, I agreed to host and promote the event.

As I was setting up the morning of the race, and as the event began, I could not help but think about how all those lawyers and judges got up at the crack of dawn and came together to support this cause. The camaraderie was contagious, the excitement was overpowering. It made me second guess my own career choice! To top it off, the event was a success—raising over \$30,000 for CABA Pro Bono Legal Services.

I was so moved by the event that I wrote an article about it that was published by the Miami Herald. I also made it a point for KISS Country to partake in every Lawyers on the Run 5K, going forward. When my time at KISS Country ended, I still maintained a relationship with CABA, often designing flyers for CABA and attending CABA events.

Fast-forward 7 years ... I was living in Cleveland (LeBron is a sore subject I would rather not discuss!). While living in Ohio, I started my own marketing and communications consulting practice. It was not until a few months ago that my amazing wife, Natalie, and I returned to Miami following a job offer she received from the University of Miami. Shortly after, I learned of a career opportunity with CABA, and I instantly knew this would be a great fit.

Now, after three full-time months as CABA’s Director of Operations, I feel right at home. People always say you should love what you do, but what they don’t mention is that you must love who you do it for, as well. This organization is truly one of a kind; helping so many people in our community with legal aid, giving the next generation of lawyers the financial assistance they need, and giving its members an abundance of benefits insurmountable to those other bar associations offer. The fact that we’re all like one giant extended family doesn’t hurt either.

In my “first 100 days” as Director of Operations, we have accomplished so much; from updating our member management software to enhancing our online presence to ordering new swag and signage with our newly unveiled logo and more. Some changes are more drastic and noticeable than others, but everything we do is to better the relationship we have with our members and our community, and to give our members a better experience overall.

That is why we chose to go with “Next Gen CABA” for this issue of CABA Briefs. It is not about forgetting the past or rewriting our history, but about using the knowledge and experiences we have gained to solidify our foundation and build a better future for CABA and our community. The future of CABA is brighter than ever because of the progress we’ve made today.

Looking ahead, we are working on hosting exciting and varied events; including the 13th Annual Art in the Tropics benefiting CABA Pro Bono, CABA Night at On your Feet! the Musical, a Domino Night with CACPA, our annual elections and the much anticipated 44th Annual CABA Gala on January 27th, 2018... Nuestro Miami! You will also see an increase in CLEs with coinciding webinars, for those who cannot attend in person. Lastly, we are extending our reach through collaborations with people across the country who want to be involved but cannot be physically present. This new element will help CABA reach the next level in connectivity, provide a national presence, and will extend our reach to Cubans living outside of Florida (we know we are everywhere!).

I feel honored and blessed to be part of this incredible organization. I am committed to doing all that I can and work with our Past Presidents, our Board of Directors, and our members to help CABA grow and become better than it has ever been. That is my goal for CABA and I hope that, with the support of all our members, we can reach new heights.

I look forward to seeing you at our upcoming events!

Sincerely,



Daniel Espinosa
Director of Operations



NUESTRO MIAMI



C A B A
BENEFIT &
INSTALLATION
G A L A

SAVE THE DATE 01 . 27 . 18

A Profile in Public Service: Congresswoman Ileana Ros-Lehtinen

By: Candice Balmori, Esq.



When Congresswoman Ileana Ros-Lehtinen enters a room, her vivacity immediately captures attention. A leader both in personality and profession, the Congresswoman for Florida's 27th Congressional District has consistently paved the way for groundbreaking endeavors. Setting out to break barriers, however, seems merely to be the admirable byproduct of an interest in policymaking that originated rather naturally. "I was the owner/principal of a small elementary school in Hialeah and many of the families that had children enrolled in the school would come to me

with problems they faced. Although I helped many of them individually, I thought the best way for me to help would be to address the problem as a policymaker and ran for the Florida House of Representatives." Her political campaign proved successful.

Elected the first Hispanic woman to the Florida House of Representatives in 1982, Ileana Ros-Lehtinen was thereafter elected the first Hispanic woman to serve in the Florida Senate in 1986. In 1989, she again achieved a milestone when she was elected the first Cuban-American to serve in the U.S. House of Representatives. The Congresswoman was also the first woman of any background to serve as Chair of a Regular Standing Committee of the House. Undeniably, each step of Congresswoman Ros-Lehtinen's professional endeavors has paved the way for unique constituent representation.

Born in Havana, Cuba, Congresswoman Ros-Lehtinen immigrated to the United States with her family as a political refugee at the age of eight and is today known on the national political stage as a Cuban-American U.S. politician who is outspoken against Cuba's totalitarian government. She is an avid supporter of human rights initiatives on the island and one of the Castro Regime's most ardent critics. While her personal background has helped shape her political outlook, it has also given her the ability to understand the interests of her constituency and to serve those interests with unrivaled passion. "My family always valued integrity, hard work, and a dedication to our principles," she

states. "Public service requires all three since very rarely are there easy policy decisions to be made. However, through evaluating all the options and ensuring they square with your principles you can make the right decision for your community."

Representing culturally diverse and demographically unique populations in Miami-Dade County, Florida, Representative Ros-Lehtinen's keen interest in international affairs has distinctively positioned her over the years to support initiatives of interest to a geographic region of the United States exceptionally impacted by the international climate. Presently, the Congresswoman is Chairman Emeritus of the House Committee on Foreign Affairs (and was the first Hispanic woman to serve the position). She also serves as Chairman of the Subcommittee on the Middle East and North Africa. In this role she is able to voice strong support for the state of Israel and for human rights generally. She has also supported free trade agreements with Colombia, Panama, and South Korea and has led campaigns in the U.S. House of Representatives to impose sanctions on human rights violators in Venezuela. She has worked tirelessly on legislation related to education and women's rights and, most recently, the Congresswoman has, together with her family, led by example in her support of LGBT rights.

While tackling these big-ticket items among and between big-ticket political names is an admirable achievement within a dynamic career in public service, an example

of her approachability can be found in what the Congresswoman considers to be her greatest professional accomplishments to date. “Many will talk about major bills and meeting accomplished people, and all that is wonderful, but my most prized accomplishment is the constituent service my office has provided to so many in South Florida. Helping my constituents get lost Social Security checks, assisting with immigration issues, and working to ensure our veterans have access to the care they need are what I consider to be the most important part of my legacy.”

With a career in public service that has spanned 35 years in elected office, Congresswoman Ros-Lehtinen has been uniquely positioned to observe to the changing needs of the communities she represents. “When I was first elected to office, South Florida was beginning to grow into the

With the passage of time, not only has the Congresswoman noted marked changes in the needs of her congressional constituency, but she has also borne witness to change in the culture of the Congress itself. “When I first arrived in Congress, it was a much more collegial body since Members of Congress socialized more and many moved their families to Washington so there was a great deal of interaction outside the halls of the Capitol building. However, as time has gone on, Congress has become a much more partisan place where scoring political points has taken precedence. While politics has always been a contact sport, there’s no reason we can’t disagree without being disagreeable. I always come to work with a smile on my face because there’s no better job and I hope that more Members have a positive, collegial outlook so we can work on more issues that help our constituents.”

on television and radio shows for what the implementation of a new statute will mean for our community, lawyers can inform our community through words and acts. Additionally, they can help many non-profits that assist our community through ensuring they are compliant with all relevant laws and helping lead these organizations in both law-related and non-law related roles.” The form of ambassadorship that the Congresswoman references is exactly of the type of stewardship the legal profession aspires to provide to members of the community.

When presented with inquiry as to how Cuban-American attorneys, in particular, might assist in contributing to building democratic civil society and institutions that support the rule of law in Cuba, the Congresswoman is equally forthcoming in her advice. “The best way to contribute to building civil society that supports

“From working to help resolve claims and cases for indigent clients *pro bono* to providing relevant context on television and radio shows for what the implementation of a new statute will mean for our community, lawyers can inform our community through words and acts. Additionally, they can help many non-profits that assist our community through ensuring they are compliant with all relevant laws and helping lead these organizations in both law-related and non-law related roles.”

cosmopolitan city it is today. The focus was much more on how we can establish Miami as a world-class city. Now that it is internationally recognized on so many fronts, we are working on smart growth and also how to incorporate a much more diverse cultural landscape. Some issues—such as jobs, education, and transportation—are timeless but compared to even 5 years ago, South Florida has changed tremendously over the years.”

In the spirit of providing help to the communities that she and her fellow Members represent, Congresswoman Ros-Lehtinen provides insight as to how lawyers (and not just elected lawmakers) might use their skill and expertise to make a positive impact on their own communities. “Lawyers are uniquely positioned to help our community in many ways,” she begins. “From working to help resolve claims and cases for indigent clients *pro bono* to providing relevant context

the rule of law in Cuba is to lead by example. A free and democratic Cuba will need judicial expertise and Cuban-American lawyers are well-positioned to assist any transition with establishing an equitable code of laws and regulatory scheme that preserves human rights and helps improve the island’s economy.” Grounded in an understanding of Cuba’s politics, culture and history, while practicing law within a system of checks, balances, and democratic law-making, Cuban-

American attorneys do seem, as the Congresswoman observes, well-situated to offer this assistance. "Attorneys would also be wise," she continues, "to focus on giving voice to civil society groups and people who work for basic human rights, such as Las Damas de Blanco and their leader Berta Soler, and other leaders who advocate for what is natural to Cuban-American lawyers, the right to free speech and assembly." The Congresswoman places great emphasis on the value of assistance and support, qualities that she has consistently exhibited both outside of the Congressional halls and on the House Floor itself. In a statement on the House Floor in May of 2016, for example, Congresswoman Ros-Lehtinen condemned the arbitrary arrest in Cuba of Berta Soler of Las Damas de Blanco.

Anyone who meets Congresswoman Ros-Lehtinen knows the energy with which she tirelessly approaches her work schedule. In constant communication with her staff and the first to invite visiting constituents to take a photograph with her, the determined advocacy she advances is perhaps both the product of an effervescent personality and a cafécito. When on Capitol Hill, the Congresswoman is constantly darting between votes, appointments to speak with fellow Members of Congress, meetings with constituents, and spending time educating herself on nearly every cause to walk through her doors. Admired by her interns and respected by Congressional colleagues, it is hard to imagine either Florida's 27th Congressio-

nal District or the Rayburn House Office Building's halls without her.

On May 1, 2017, after 35 years in service of elected office, Congresswoman Ros-Lehtinen announced that she would be retiring at the end of her term next year. This does not, however, mean that she will be slowing down in the months preceding her exit from office. "I hope to continue working arduously to help my constituents with their issues regarding federal agencies and programs, continuing to be a voice for those whose human rights are oppressed in my native homeland of Cuba and around the world, and work to help ensure that Holocaust survivors receive their just and deserved compensation for the unspeakable horrors they endured."

That is not to say that the Congresswoman isn't looking forward to the next chapter. "I'm looking forward to the best job in the world: being an abuela to my grandkids! I plan to continue to advocate for the oppressed around the world - be it in my native homeland of Cuba, Venezuela, or elsewhere. I'll also finally be able to accomplish my goal of walking every day with Dexter and our beautiful rescue pup, Zoey."

In 2010, on the eve of that year's CABA Installation Gala, Congresswoman Ros-Lehtinen recognized the Cuban American Bar Association for its successes and contributions to the community on the House Floor. As the Congresswoman prepares to leave her position of public service in Congress, her diligent efforts on behalf of the Cuban-American

community, which find their basis in our shared experiences and hopes for the future of the island nation, should be equally praised. "Being a Member of Congress has been the highest honor of my life," she shares. That is quite a statement from a woman who has had the distinction of so many laudable firsts in her career.¹

¹ The Author would like to thank Congresswoman Ros-Lehtinen for taking the time from her busy schedule to address interview questions in connection with this article. She would also like to thank Keith Fernandez, Esq., Legal Counsel and Director of Communications for Congresswoman Ros-Lehtinen at the U.S. House of Representatives, for his assistance in coordinating and facilitating the interview.



Candice Balmori is an attorney with RG Law Group in Miami and practices primarily in the fields of corporate law, commercial and real property litigation 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.

Judge Norma Lindsey Appointed to Third District Court of Appeal

Jason Silver



Recently appointed to the Third District Court of Appeal in Miami by Governor Rick Scott on May 26, 2017, Judge Norma Lindsey brings a unique background and skill set as someone who has served as both County Court Judge and Circuit Court Judge before arriving to handle appeals.

Judge Lindsey received her undergraduate degree from Marshall University and her J.D. from the University of Miami. Her service to the community began back when she was a Miami-Dade County Court Judge from 2005-11. She then was appointed to the circuit court in 2011 and served there until starting her new role at the appellate court.

Judge Lindsey is happy to be part of the Third District Court of Appeal and knows she is joining a great group of judges already on the court. "I am honored, humbled, thrilled to be here. It is really wonderful to work with such a talented, committed group of professionals that we have here on

experience both at the county and circuit level is helpful here. I started in the County Criminal Division in the Justice Building for three years and rotated over to County Civil and spent three years there," Judge Lindsey said. "Once I was appointed to the Circuit Court I spent a year in Juvenile Delinquency at the old juvenile courthouse and then in the beginning of 2013 I rotated to the Circuit Civil Division so I draw on all of those experiences here at the Third."

Judge Lindsey's desire to become Judge was rooted in her love for the law. "As attorneys you have clients. As judges, our client is the law. That's what we're duty bound to follow, just as attorneys are duty bound to zealously represent their clients," Judge Lindsey said. "I love the law. I love studying it, thinking about it, writing about it, and it's just a joy to go to work every day."

So far, Judge Lindsey's favorite experience at the Third District Court of Appeal was her first oral

I am honored, humbled, thrilled to be here. It is really wonderful to work with such a talented, committed group of professionals that we have here on the court. I'm just really humbled by the opportunity to serve.

the court. I'm just really humbled by the opportunity to serve."

She is excited to apply her knowledge from her prior experiences and comes to the court feeling ready to do so. "I think that my

argument. "I really enjoyed my first oral argument. It was really rewarding to read the briefs and then have the opportunity to hear from the attorneys at oral argument and ask them questions about

points that were important to the case. I just really enjoyed it very much.”

Judge Lindsey is enjoying the experience of being on a panel of appellate judges. “Being on a panel is very different from being a trial judge. As the trial judge, we make all of our own decisions. Being on

less people. On any given motion calendar as a trial Judge I might see as many as 50 people coming through at a time. Here I see less people and spend more time in my office working, reading, where as a trial judge I spent more time in front of people in open court, hearings, trials, special sets.”

successful in the practice of law in general can certainly learn from Judge Lindsey. “I think it is important to always take your work seriously as a professional. Preparation is the key to everything you do. It’s also important to be active in the community. If you do those things, if you know your case,

I think it is important to always take your work seriously as a professional. Preparation is the key to everything you do. It’s also important to be active in the community. If you do those things, if you know your case, are courteous to opposing counsel, and candid with the court, you will find success in this profession and a rewarding career.”

a panel, if you are making a decision on a case, at least one other person has to agree; otherwise you’re writing a dissent,” Judge Lindsey said. “It’s very collegial here. Everyone is wonderful to work with and I enjoy being part of this collegial body.”

At that first oral argument, Judge Lindsey recalls how Judge Thomas Logue, who was presiding, made very kind and generous comments with regard to it being her first oral argument session. “I thought that was very kind and special,” said Judge Lindsey.

While the trial and county courts present busy days with lots of interaction with litigators, it is a difference atmosphere at the Third District Court of Appeal. “It’s definitely much quieter. You see

Judge Lindsey has been involved with the Cuban American Bar Association and discussed its great programming. “I’ve been a member of CABA for many years. I enjoy their panel discussions and events on timely topics. Their Judicial Luncheon is always a highlight every year,” Judge Lindsey said.

She recalls finding out when she was selected by the Governor and was humbled by the special experience. “It’s many things. So many emotions go through your mind. Just very humbling. Very exciting. I felt very honored. It was just a really special experience that I will remember probably the rest of my life,” Judge Lindsey said.

Those who one day may want to apply to be a judge or just be

are courteous to opposing counsel, and candid with the court, you will find success in this profession and a rewarding career.”



Jason D. Silver is an Associate Attorney at Greenspoon Marder, P.A. He represents financial institutions, corporations, individuals and municipalities prosecuting and defending actions in litigation across the State of Florida.

Judge Robert J. Luck Appointed to the Third District Court of Appeal

Jason Silver



When Governor Rick Scott appointed Judge Robert J. Luck to the Third District Court of Appeal in Miami back on February 8, 2017, he not only was appointing someone who gained a great level of respect from the legal community during his time on the Circuit Court, but also someone who is getting the opportunity to revisit the appellate level of the judicial system, which is where he was first inspired to be a judge one day.

“I came to the bench slowly. The first thought I had about possibly being a judge and what it would mean for serving the community was when I clerked for Judge Ed Carnes on the Eleventh Circuit Court of Appeals,” Judge Luck said. “I think seeing him in action and seeing his dedication to serving the rule of law and the community made me think that that’s something maybe that I could do and when the opportunity came its something that I thought that I would really want to do.” said Judge Luck.

Judge Luck received his undergraduate degree from the

starting his career as a law clerk for Judge Ed Carnes of the U.S. Court of Appeals for the Eleventh Circuit, he practiced with Greenberg Traurig from 2005 to 2006 and then served as an assistant U.S. Attorney for the Southern District of Florida before his appointment to the circuit court in 2013.

In his new role, Judge Luck now handles appeals from Miami-Dade and Monroe Counties. While the Third District Court of Appeal court is very busy, it has a different pace from the daily circuit court schedule.

“I think the public at large would be surprised about how much work the Judges here have on a daily basis. Not just what is seen by the public through oral argument and the released opinions, but the motion practice, the writs for prohibitions and certiorari we get on an almost daily basis, the amount of post conviction work from Florida state prisoners and work that goes on a daily basis that isn’t seen by the public.”

I came to the bench slowly. The first thought I had about possibly being a judge and what it would mean for serving the community was when I clerked for Judge Ed Carnes on the Eleventh Circuit Court of Appeals.

University of Florida and his J.D. from the University of Florida College of Law. He had a variety of experiences before becoming a judge. After

There’s certainly a difference from the day-to-day life of the circuit court. “At the circuit court both in the Civil Division at the

Dade County Courthouse and the Criminal Division at the Gerstein Courthouse by Jackson Memorial Hospital, every day sort of feels like you are in a hurricane. There is a whirlwind of activity of lawyers and litigations and judges and court staff," Judge Luck said. "Whereas here, its very quiet. You could go

for the litigants that there are three great minds thinking these difficult issues through to reach a decision consistent with the facts and the law."

It's safe to say Judge Luck knows about the great things the Cuban American Bar Association does for the community on a daily basis and

Judge Luck certainly felt the gravity of the privilege when he got the call from the Governor. "Its very humbling to get a call from the Governor to tell you that you have the privilege of getting to serve your community in any capacity let alone on this Court which I've revered and looked up to for years," he said.

I can tell you that it is comforting to know that there are two brilliant people sitting besides me also reading the same things I'm reading and hearing the same arguments I am hearing in making the decision,

hours without seeing or hearing from someone and that's great to be able to do your work here but its very different from the day to day hustle and bustle of the trial court," he said.

Judge Luck enjoys having more time to review the issues. "Having the luxury of getting to sit down and think about the decision before having to actually make a decision is a great part of the job. It is a luxury I did not have and that trial judges do not have. I think getting to have that really is a different part of the job and a part of the job I like the best. I have more time to read and to research the issue before I have to make a decision because there aren't 15 people in line to be heard like in the trial court."

Judge Luck now gets to work with two other judges on the appeals he hears, and he is enjoying that aspect of his new role. "I can tell you that it is comforting to know that there are two brilliant people sitting besides me also reading the same things I'm reading and hearing the same arguments I am hearing in making the decision," Judge Luck said. "Having them there helps to confirm and make a better decision

that it has had a big role in his legal career so far.

"I can tell you for certain that I would not be a judge at all without the support of CABA and its dedicated members," Judge Luck said. "I can tell you that I certainly would not have won my reelection without the support and help of many of those in CABA. It truly is a gem for the voluntary bar associations here in Miami-Dade County and I look forward to many years of being involved with CABA," he said.

While the application is the same, one interesting difference from the application process from the county or circuit court is that the process for the District Courts of Appeal actually requires the three finalists to have an interview with the Governor.

"I think it's humbling any time you're meeting the chief executive of the State of Florida," Judge Luck said. "I can tell you that I don't know that I've ever met a Governor before and I'd certainly have never been in the Executive Office of the Governor prior to that. It's a very humbling and a very intimidating experience."

"It's hard to describe the feeling. I can only say that I was humbled by it and felt the weight of wanting to do a good job for the Governor, for those that have supported me and for the community."

As someone who has reached great success at a young age, Judge Luck's message to young lawyers and law students who one day may want to be a judge is certainly helpful. "Make sure to work hard, to treat everyone the same way you would want to be treated and to continue to work on your goals to one day be here or on one of our courts."



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Un Barco Sin Destino: The Past, Present, and Future of U.S. Immigration Policy Towards Cuba

15

Arturo F. Hernández and Andrea M. Piloto

HISTORY

Cuban Adjustment Act

Following the revolution and the subsequent deterioration of US-Cuba relations, Cubans began fleeing the island in droves in what would later become known as the “freedom flights” era of migration. During this period, thousands of Cubans who had fled to, and were living in, the United States without the intention of remaining could not return to Cuba for fear of political persecution and general lack of opportunity.¹ With Cubans like these in mind, Congress passed

the Cuban Adjustment Act (CAA) on November 2, 1966. The CAA provided a way for these Cubans to seek United States residency. For aliens who had been on U.S. soil for at least two years after January 1, 1959, this law meant they could apply for legal permanent residence.² If the applicant had a spouse and children who resided with applicant, the spouse and children also benefitted from the applicant’s adjustment.³ Regardless of the nation of origin of the spouse and children, they were adjusted along with the applicant.⁴ For Cuban parolees who were already permanent residents, their first day of permanent residence was also the first day they arrived

on U.S. land as a nonimmigrant, or parolee, or whatever date was thirty months prior to the enactment of the CAA—whichever was later.⁵ The modern iteration of the CAA would later essentially provide that those Cubans who had been admitted to the U.S. under the status of parolee could adjust their status to that of legal permanent resident after a year and a day of continuous physical presence within the U.S.⁶ With the enactment of the CAA, Cubans became the beneficiaries of a unique and favorable position amongst all immigrants groups—a status that would be well utilized and that would not go unnoticed.

1994 and 1995 Agreements

In response to the mass Cuban exodus that had steadily been arriving to the United States on homemade rafts and boats, the Clinton administration sought to establish more formal migration guidelines in an attempt to stabilize the escalating situation. This period would later be referred to as the Cuban Rafter Crisis.⁷ On September 9, 1994, Cuba and the United States met to discuss ways of ensuring that “migration between the two countries [was] safe, legal, and orderly.”⁸ Their discussions were materialized as the Cuban migration agreement of 1994.⁹ In sum, if migrants were intercepted voyaging through high seas with the goal of reaching the United States, they would not be permitted to do so. Through the 1994 document, the United States ensured that a minimum of 20,000 Cubans would be allowed into the United States in a program that would later be called the “Lottery System” or “*La Loteria*” in Cuba.¹⁰ The Lottery provided that “those without direct family ties to the U.S. Candidates selected through the lottery would be allowed to bring their spouses and minor children with them to the U.S.”¹¹ The 1994 document also provided that the United States would ensure throughout a one-year period that Cubans on the immigrant visa waiting list would be provided documentation to be permitted to migrate to the United States.¹²

The agreement was implemented on October 12, 1994. The twenty-eight years during which the United States granted Cubans automatic asylum were over upon the implementation of the 1994 agreement.¹³ The 20,000 who were to be admitted were the equivalent of “refugees,” a word which at that time meant “former political prisoners.”¹⁴ Pursuant to the 1994 agreement, the definition of “refugee” was expanded to include “religious minorities, human rights activists, forced labor conscripts, persons deprived of

their professional credentials, or [those who were] subjected to other disproportionately harsh or discriminatory treatment,” and any other Cuban with a “credible claim that [he or she] will face persecution.”¹⁵

Less than a year later, both countries met again to follow up on their September 1994 agreement. The 1994 agreement was amended to provide that Cuban migrants intercepted at sea while trying to reach the United States would be returned to Cuba.¹⁶ The 1995 Amendments established what is colloquially referred to as the “Wet-Foot/Dry-Foot” policy. Under Wet-Foot/Dry-Foot, Cuban nationals who arrived on U.S. soil were allowed to stay in the United States.¹⁷ After being physically present within the U.S. for a year, the Cuban Adjustment Act allowed parolees to adjust their immigration status to lawful permanent resident if they reached the United States.¹⁸ Those Cubans who were not fortunate enough to reach U.S. soil were considered “wet-foot” Cubans—Cubans who were usually intercepted at sea and sent back to Cuba. In order to identify and process those detained at sea, the Coast Guard conducted on-board interviews to determine whether any detainees could establish a credible fear of persecution. Additionally, medical screenings would be conducted. The detainees who could establish credible fear or who otherwise needed emergency medical care were also typically paroled into the United States. In regards to the migrants that were sent back to Cuba, the United States would attempt to ensure that the migrants did not suffer consequences when they arrived back in Cuba.¹⁹

Following the 1994/1995 agreements, the admission and entry doctrines were further restructured by the passing of the Illegal Immigration Reform and Responsibility Act of 1996 and a change in policy in 1999 by the acting Immigration and Naturalization Service Commissioner. In conjunction

with the previous agreements, the change in policy essentially meant that nearly all Cubans were theoretically eligible to adjust their status under the Cuban Adjustment Act regardless of whether they were born on the island or whether they had acquired Cuban citizenship through a Cuban parent. These developments ultimately represented a broad expansion of the group of people who could receive permanent status simply by reaching the United States.

OBAMA ADMINISTRATION

Ubiquitous to nearly all events involving Cuba and the United States, the change in immigration policy was destined to occur in dramatic fashion. In a stark departure from over a half-century of precedent, and with merely ten days left in his presidency, Barack Obama eviscerated the status quo and rescinded nearly all Immigration policies unique to Cuban Nationals. On January 12, 2017, the Department of Homeland Security published a memorandum outlining the changes to policy in regards to Cuban immigration.²⁰ Most notably, the memo nullified the Wet-Foot/Dry-Foot policy, which had by then become customary practice between both nations.²¹

Additionally, the Policy memorandum mandated that effective immediately, Cubans would thereafter be subject to expedited removal proceedings.²² In 1996, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) created the process of expedited removal wherein the government could immediately remove any noncitizen attempting to enter the country with no documentation.²³ Pursuant to IIRIRA, an Immigration officer possessed the discretion to order a non-citizen removed from the United States without a hearing or any further review unless the noncitizen sought asylum or could otherwise establish a well-founded fear of persecution.²⁴ Traditionally, Cubans were exempt from expedited removal. The lack of a

functional removal or deportation mechanism for Cubans historically meant that once a Cuban arrived in the U.S., he or she was likely here to stay. Cubans were specifically exempted from expedited removal due to the lack of diplomatic relations between the two nations. The new Obama administration regulation commanded the Department of Homeland Security (DHS) to place Cubans who were apprehended either at ports of entry or near the border into expedited removal proceedings like immigrants from all other nations.²⁵

The Governments of the U.S. and Cuba published a joint statement in conjunction with the DHS memo, establishing that, in light of the strengthening of bilateral relations, and in furtherance of the goal of establishing “new understandings,” both nations agreed to honor a new migration framework.²⁶ In a drastic change from years of practice, Cuba was now pledging to accept their citizens who were thereafter ordered deported from the U.S. Cuba also agreed to consider and decide on a “case-by-case” basis whether to accept Cuban nationals that had been ordered removed from the United States prior to the enactment of the new policies.²⁷ Simply put, Cubans who either accepted or were ordered removed during the time that Cuba was not accepting their nationals could now be sent back to Cuba.

According to the Obama administration, the changes in policy reflected the “normalization” of U.S.-Cuba relations.²⁸ Newly established diplomatic relationships and changes in circumstance warranted the rescission of immigration policies favorable to Cubans. The Obama administration also cited safety concerns as a motivating impetus.²⁹ Following Barack Obama’s 2014 announcement of normalization between the two nations, Cubans began taking to the seas and also to crossing the border in Mexico in order to arrive into the United States before immigration policies would change. The Obama administration claimed that it

did not want Cubans making the dangerous journey in order to beat the timeline.³⁰

TRUMP ADMINISTRATION

On October 25th, 2016, President-elect Donald Trump stood among *la vieja guardia* in the enclave of the Anti-Castro movement, the Bay of Pigs Veteran’s Museum in *La Pequeña Habana*.³¹ The venue was familiar; he had been there before. While running as a Reform Party candidate in 1999, Mr. Trump delivered a speech in the Museum reviling the Castro regime and calling for heavy-handed tactics towards the Cuban Government.³² Seventeen years later, he would reanimate the rhetoric in the same location—the place where it was appreciated the most.³³

Set amidst a backdrop of the portraits of Battalion 2506 Veterans, President-elect Trump alluded to a return to the familiar—strong sanctions against the Communist government that the group had fought against in the early sixties. Ultimately, Trump’s position would earn him an endorsement from the Veterans Association—a first in the organization’s history.³⁴ Days earlier, Trump vowed to undo the policies enacted by the Obama administration towards Cuba calling it a “very weak” agreement and reiterating the hardline position he had taken at a campaign rally earlier that September.³⁵ In regards to immigration policy however, Mr. Trump provided few—if any—specifics. When pressed to answer a question in regards to his approach to Wet-Foot/Dry-Foot by the Miami Herald in August, Mr. Trump finessed the response, answering that he was waiting to hear how the Cuban American community felt before taking a position on the issue. Specifics to that effect were never subsequently provided.³⁶

What was clear, however, was the general policy towards immigration that the newly elected President Trump planned to put into action. Mr. Trump seemingly predicated his campaign on stringent application

of immigration laws, closure of the borders, and the famous, “big, beautiful wall” which he promised to commission on the United States’ southern border.³⁷ Now empowered by his ascension to office, President Trump wasted no time in materializing that vision into fruition.

Five days after taking the oath of office, President Trump obliterated years of immigration policy with a stroke of a pen and thereby set the stage for what was to come. On January 25, 2017, the President signed an executive order titled “Enhancing Public Safety in the Interior of the United States.”³⁸ On February 20, 2017, the Secretary of the Department of Homeland Security issued a memorandum implementing the policies articulated within the executive order. Concertedly, the order and memorandum embodied the message that President Trump had been proclaiming throughout his campaign: nearly all previously existing immigration “privileges” were to be eliminated, and nearly all persons apprehended by DHS would be detained.³⁹ The DHS memo constituted “guidance for all Department Personnel regarding the enforcement of the immigration laws of the United States.”⁴⁰

The memo began by rescinding any and all existing immigration regulations which conflicted with the January 25th order regarding enforcement of immigration laws and priorities for removal.⁴¹ It continued by stating that effective immediately, DHS would no longer “exempt classes . . . of removable aliens from potential enforcement.”⁴² The Department was now to prioritize the removal of those considered inadmissible on criminal, national security, or fraud grounds.⁴³ Additionally, “arriving aliens” who were deemed inadmissible were to be prioritized for deportation through expedited removal.⁴⁴

The memorandum also prioritized removal for any “removable alien” who has been convicted of any



criminal offense; has been charged with any criminal offense that has not been resolved (regardless of guilt); and most conspicuously, those who “have committed acts which constitute a chargeable criminal offense.”⁴⁵ DHS was now to prioritize the removal of all undocumented persons, considering that improper entry is a chargeable offense.

To achieve the detention of such a large amount of people, the memo called for the expeditious hiring of 10,000 U.S. Immigration and Customs Enforcement (ICE)

officers and agents.⁴⁶ ICE was also to reallocate resources into, and expand, the Criminal Alien Program, which focuses on locating, identifying, and removing an alien while he or she is still subject to criminal detention.⁴⁷ Lastly, the memo called for the expansion of the infamous 287(g) Program, a program which allows local law enforcement officers to act as “immigration officers” and investigate, detain, and apprehend aliens or suspected aliens.⁴⁸

Following the Obama administration annulment of the Wet-Foot/Dry-

Foot policy, Cubans who arrived after the date of rescission started to be taken into ICE custody and processed for removal.⁴⁹ Some were left in legal limbo, as their date of arrival into the U.S. had not yet been ascertained.⁵⁰ Others were shocked by what was unfolding—the detention of their *abuelos* and *abuelas*. As unfathomable as such a policy once seemed, the reality of the situation caught many in South Florida off guard and unprepared. Due to the Trump administration’s seemingly close ties to the Cuban-American community, some held

out hope that President Trump would restore the status quo. Those people would soon be disappointed.

After a few cancelled dates and many swirling rumors, President Trump announced that he would reveal his new policy towards Cuba on June 16, 2017.⁵¹ On that day, Trump took the stage at the Manuel Artime Theater and announced that he would undo all of the Obama administration normalization policies towards Cuba—all policies, except the rescission of Wet-Foot/Dry-Foot, of course.⁵² Citing the “untold thousands” of Cubans that risked their lives to come to the U.S. as a result of the policy, President Trump closed the last remaining open door in his immigration scheme; our day in the sun had finally come to an end.

AN UNCERTAIN FUTURE

While to immigrants from other nations the change in policy by the Obama and Trump Administrations represents the end of what some perceived as an aggravating double standard, to Cuban Americans, the change represents the bitter end of an era of a special status that Cubans enjoyed within the immigration process. Accordingly, the breakup is bound to be painful. In today’s America, Cubans must now become acquainted with the immigration system that they had been largely unaffected by for so long—the immigration system that, for decades, all but Cubans decried as deeply flawed. The deviation in immigration policy regarding Cubans is so sweeping and far-reaching, that even experienced immigration attorneys are not certain of its outer limits. Preliminarily, the changes appear to mean as follows.

First, those Cubans who physically arrived to the United States prior to the January 12, 2017, repeal of Wet-Foot/Dry-Foot policy, were likely paroled into the U.S. pursuant to the privileges created by the CAA and its progeny.⁵³ Accordingly, those who were either admitted or paroled should generally be

able to adjust to lawful permanent resident after a year and a day of “continuous physical presence” within the United States unless they are found to be inadmissible under the INA.⁵⁴ If you fall into this group of immigrants, it behooves you not to travel outside of the United States for any purpose—as doing so may result in the automatic revocation of your parole status.⁵⁵ Furthermore, any Cuban National who has a criminal conviction and who travels to Cuba, runs the risk of being accepted by Cuba if the person is ordered removed from the U.S.⁵⁶ Lastly, a Cuban immigrant within this group is advised to adjust his or her status to that of lawful permanent resident as soon as he or she is eligible. Cuban permanent residents should consult with an attorney about naturalizing as soon as possible.

The Cuban immigrants who physically arrived to the United States after January 12, 2017, will be treated like persons of all other nationalities.⁵⁷ Accordingly, this means that if these Cuban immigrants do not have visas or any other legal document authorizing them to be within the U.S., they are subject to detention by ICE and will likely be placed in expedited removal proceedings per the new DHS priorities for removal—unless these Cuban immigrants are able to meet the “credible fear of persecution” standard required in order to establish an asylum claim.⁵⁸ If they cannot establish a credible fear of persecution, they will likely face removal proceedings like any other asylum seeker.⁵⁹ This group of Cuban immigrants should hire an experienced immigration attorney as soon as possible in order to contest the removal process and should explore options utilized by immigrants of other nations.

Cuban nationals who were paroled into the U.S. under prior policies and were subsequently ordered removed by DHS will unquestionably be the group of Cuban immigrants most strongly affected by the change in policy and are also those who will likely face the full brunt of the

oncoming storm. For years, Cuban nationals and lawful permanent residents of Cuban origin who ran into immigration issues as a result of criminal convictions would simply accept orders of removal as a way to avoid paying immigration attorneys to fight their cases as well as to avoid being detained by ICE. At the time, the practice was widespread in light of the fact that Cubans were not being returned to Cuba, and also because Cuba was not willing to accept them.⁶⁰ These Cuban nationals who had been ordered removed remained in the U.S. under Orders of Supervision, which required them to report to DHS on a yearly basis.

The Obama administration’s January 12th order calling for normalization of bilateral relationships opened the door to the possibility that the people who had been issued an order of removal in the past could now actually be returned to Cuba. This was true even if their removal proceedings had occurred twenty years earlier.⁶¹

The Trump administration’s refusal to reinstate Wet-Foot/Dry-Foot essentially keeps that portion of the Obama joint resolution in place; although it remains to be seen whether the Castro government will rescind the joint resolution in light of President Trump’s June 16 announcement. If in fact Cuba begins accepting expatriates who have been ordered removed in the past, the expatriates are faced with difficult choices—none of which are particularly appealing. The first option is that, if the Cuban immigrant previously ordered removed does nothing, he or she may be flagged for removal at any time and for any reason. This includes during situations as arbitrary as renewing a license or attempting to obtain any official government document. The second option is for the Cuban immigrant to attempt to reopen his or her immigration case in order to contest the basis for the order of removal that he or she had previously accepted based on the understanding that removals were rarely ever enforced. This option is

risky, but it carries the potential to have the removal order against the person lifted. The most significant risks in choosing the latter option are borne by those who have been ordered removed due to a crime which constitutes an “aggravated felony.”⁶² Pursuant to the INA, in attempting to challenge the validity and grounds of the removal order against them, they run the risk of flagging themselves for removal upon the reopening of their case.⁶³

Regardless of what immigration situation non-citizens of Cuban origin find themselves, the current state of immigration law in the United States mandates the obligatory retention of a knowledgeable and experienced immigration attorney in case a problem should arise. Citizens of Cuban origin can no longer take lightly their decisions regarding criminal law matters and accepting pleas. Accordingly, those immigrants accused of a crime should consult with an immigration attorney prior to accepting any plea deals that may make them subject to removal. Those immigrants who are unable to afford immigration representation should inquire into the various pro-bono legal organizations throughout South Florida, most notably CABA pro bono, Catholic Legal Services, Americans for Immigrant Justice, and Legal Clinics of FIU, St. Thomas University, and University of Miami law schools. Whatever happens next in the saga that is U.S.-Cuba relations, the fact of the matter is that we, as Cubans, have been brought back down to reality, a reality that every other immigrant group was all too familiar with, a reality that we better start getting used to.

¹ See 23.11 Cuban Adjustment Act Cases, U.S. Citizenship and Immigration Services (last visited June 20, 2017), <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>.

² See Cuban Adjustment Act, S. 1161, 89th Cong. (1966).

³ See Dep’t of State, Statement by Christine Shelly, Acting Spokesman Cuba: Implementation of Migration Agreement, (October 12, 1994), <http://balseros.miami.edu/pdf/Oct12StateDept.pdf>.

⁴ See Cuban Adjustment Act, *supra* note 2.

⁵ See *id.*

⁶ See The Cuban Rafter Phenomenon, UM Libraries (last visited June 20, 2017), <http://balseros.miami.edu/>.

⁷ See *id.*

⁸ U.S.-Cuba Joint Communique on Migration, (September 9, 1994), <http://balseros.miami.edu/pdf/September9.pdf>.

⁹ See *id.*

¹⁰ See *id.*

¹¹ Dep’t of State, Statement by Christine Shelly, Acting Spokesman Cuba: Implementation of Migration Agreement, (October 12, 1994), <http://balseros.miami.edu/pdf/Oct12StateDept.pdf>.

¹² See U.S.-Cuba Joint Communique on Migration, *supra* note 8.

¹³ See The Cuban Migration Agreement: Implications of the Clinton-Castro Immigration Policy, 8 Geo. Immigr. L.J. 667, 667 (1994).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See U.S.-Cuba Joint Communique on Migration, *supra* note 12.

¹⁷ See U.S.-Cuba Joint Communique on Migration, Dispatch Magazine (May 2, 1995), <http://dosfan.lib.uic.edu/ERC/briefing/dispatch/1995/html/Dispatchv6no19.html>.

¹⁸ See Cuban Adjustment Act, *supra* note 4.

¹⁹ See U.S.-Cuba Joint Communique on Migration, *supra* note 12.

²⁰ See Changes to Parole and Expedited Removal Policies Affecting Cuban Nationals, U.S. Dep’t of Homeland Sec. (Jan. 12, 2017), <https://www.dhs.gov/publication/changes-parole-and-expedited-removal-policies-affecting-cuban-nationals>.

²¹ See *id.*

²² See *id.*

²³ See *id.*

²⁴ See *id.*

²⁵ See *id.*

²⁶ See Kate Terán, Obama Puts His Foot Down: U.S. Ends “Wet Foot, Dry Foot” Policy, (Jan. 18, 2017), <http://www.coha.org/wp-content/uploads/2017/01/wetfootdryfoot.pdf>.

²⁷ See *id.*

²⁸ See *id.*

²⁹ See *id.*

³⁰ See *id.*

³¹ See Donald Trump Receives Bay of Pigs Veterans Ass’n’s First Ever Endorsement, Breitbart (Oct. 26, 2016), <http://www.breitbart.com/national-security/2016/10/26/donald-trump-receives-bay-pigs-veterans-associations-first-ever-endorsement/>.

³² See Donald J. Trump, From the Herald Archives: Donald Trump on the Embargo and Casinos, The Miami Herald (Sept. 30, 2016), <http://www.miamiherald.com/news/local/community/miami-dade/article105154971.html>.

³³ See *id.*

³⁴ See Donald Trump Receives Bay of Pigs Veterans Ass’n’s First Ever Endorsement, *supra* note 31.

³⁵ *Id.*

³⁶ See Patricia Mazzei and Douglas Hanks, Trump Tries, Once Again, to Win over Miami Cubans, The Miami Herald (Oct. 25, 2016), <http://www.miamiherald.com/news/politics-government/election/donald-trump/article110344912.html>.

³⁷ Trump Wants to Build 30-Foot-High Wall at Mexican Border, U.S. News (Mar. 19, 2017), <http://www.cnn.com/2017/03/19/trump-wants-to-build-30-foot-high-wall-at-mexican-border.html>.

³⁸ Exec. Order No. 13,768, 82 Fed. Reg. 8799 (Jan. 25, 2017).

³⁹ See *id.*

⁴⁰ Memorandum from John Kelly, Sec’y, Dep’t of Homeland Sec., to Kevin McAleenan, Acting Comm’r, U.S. Customs & Border Prot. et al. (Feb. 20, 2017), https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf [<https://perma.cc/BY5F-L56V>].

⁴¹ See *id.*

⁴² *Id.*

⁴³ See *id.*

⁴⁴ See *id.*

⁴⁵ Exec. Order No. 13,768, *supra* note 38.

⁴⁶ See *Memorandum from John Kelly, Sec'y, Dep't of Homeland Sec., to Kevin McAleenan, Acting Comm'r, supra* note 40.

⁴⁷ See *id.*

⁴⁸ See *id.*

⁴⁹ See *Changes to Parole and Expedited Removal Policies Affecting Cuban Nationals*, U.S. Dep't of Homeland Sec. (Jan. 12, 2017), <https://www.dhs.gov/publication/changes-parole-and-expedited-removal-policies-affecting-cuban-nationals>.

⁵⁰ See *id.*

⁵¹ See Donald J. Trump, *National Sec. Presidential Memorandum on Strengthening the Policy of the United States toward Cuba*, WhiteHouse.gov (June 16, 2017), <https://www.whitehouse.gov/the-press-office/2017/06/16/national-security-presidential-memorandum-strengthening-policy-united>.

⁵² See *id.*

⁵³ See *Cuban Adjustment Act, supra* note 18.

⁵⁴ *Id.*

⁵⁵ See INA § 212.5(e)(1)(i).

⁵⁶ See *id.*

⁵⁷ See *Changes to Parole and Expedited Removal Policies Affecting Cuban Nationals, supra* note 49.

⁵⁸ *Id.*

⁵⁹ See *id.*

⁶⁰ See *U.S.-Cuba Joint Communique on Migration, supra* note 19.

⁶¹ See 8 C.F.R. 241.5.

⁶² See INA § 237.

⁶³ See *Id.*



Arturo F. Hernández *Juris Doctor Candidate 2018, Florida International University College of Law. Student Attorney, FIU College of Law Immigration and Human Rights Clinic.* Arturo Hernandez was born to Cuban parents in Miami, Florida, and has lived in South Florida his entire life. As a law student and future lawyer, Arturo seeks to extend to his clients the opportunities that the United States has offered to him and his family. As a Student Attorney for the Carlos A. Costa Immigration and Human Rights Clinic at FIU College of Law, Arturo represents indigent adults that are facing removal from the United States before the Immigration Courts. He additionally assists in the representation of undocumented children who have been abandoned, neglected, and abused by their parents. His primary focus of study and practice is the defense of immigrants facing removal proceedings arising out of criminal convictions. Arturo also serves as President of the FIU Law Society of Immigrant Advocates, Pro Bono Committee Head of the FIU Law Chapter of CABA, Student Bar Association Class Representative for the Class of 2018, Notes Editor for the *World Arbitration and Mediation Law Review*, and Secretary of the Veterans and Military Law Students Association. Prior to entering law school, Arturo worked at the Miami office of Broad and Cassel. He has also served as a legal intern within the Miami-Dade County Public Defender's Office in the County Court Division. Arturo currently works in the Law Office of Martin Beguiristain, a law firm that specializes in immigration removal defense.



Andrea M. Piloto *Florida International University College of Law, Juris Doctor Candidate 2018.* Andrea Piloto was born in Miami, Florida, in 1993 from parents of Cuban descent. Having grown up with stories and traditions that accompanied her grandparents over the Florida Straits and into the Roads, Andrea is a very proud Cuban-American. Now, while in law school, she is keeping her Cuban roots alive through her Presidency of the FIU Law Chapter of CABA. Additionally, Andrea is the President of the Catholic Law Student Association (CALSA). Andrea is on the Trial Advocacy Team, and she is a Student Ambassador for the FIU Law Admissions Office. Andrea is also currently the Secretary of the FIU Law Student Bar Association (SBA). Over the summer of 2017, Andrea completed a judicial internship with the United States District Court of the Southern District of Florida and an internship with the Miami-Dade State Attorney's Office. She has also completed internships with the General Counsel of the Department of Children and Families (DCF) and with Senator Marco Rubio's Office. This fall semester, Andrea returned to the Miami-Dade State Attorney's Office as a Certified Legal Intern. As a part of CABA, Andrea has been in the crux of discussions arising as a result of the new U.S.-Cuba immigration relations, which is what brought her to participate in the production of this brief. She and co-author, Arturo, look forward to sharing this final product with you.

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Observations on Floridians' Access to Civil Justice

By: Viviana Mendiola, Esq.

While volunteering at Miami-Dade County's Law Library, I learned two truths: First, an overwhelming majority of its patrons are litigants, as evidenced by the lengthy queues to meet with the CABA pro bono attorney at the Law Library. Second, as rightly pointed out to me by the Law Library's director, we lawyers are greatly benefitted by remaining abreast of Florida Bar news and trade publications. After reviewing The Florida Bar's newsletter, I learned of the Commission on Access to Civil Justice (the "Commission"), created in 2014 by Florida Supreme Court Chief Justice Jorge Labarga to address barriers of access to civil justice faced by hundreds of thousands of low and moderate-income Floridians. According to a Bloomberg study, Miami ranks eighth among the nation's cities with the greatest inequality between its residents' incomes and housing prices. In Florida, there is also a comparatively large elderly population, hundreds of thousands of whom will suffer emotional or physical mistreatment or neglect. Additionally, Florida's population is comparatively vulnerable to human trafficking due to our economy, demographics, large number of immigrants and industrial sectors.

As indicated by Chief Justice Labarga, most people living in poverty face a civil justice issue every couple of years, and over 3 million Floridians live at or below the poverty line. Their inability to get legal help often threatens their health or safety, undermines their family structure or puts their housing or employment at risk, and barriers also block people with

moderate incomes from meaningful access to civil justice.

In my current position as Case Manager at the Eleventh Judicial Circuit's Family Court, I have seen that the lion's share of the cases on our family court dockets involve *pro se* litigants, and so I have attempted to develop a greater understanding of the issue of access to civil justice. In a timely and optimistic turn of events, I was pleased to learn that the Commission has become permanent. This is especially meaningful in view of the proposed defunding of Legal Services Corporation, which according to William J. Schifino, Jr., President of The Florida Bar, would result in a loss of over \$21 million a year to Florida's legal aid system, which various studies have shown delivers more in benefits than it costs. Schifino further states that the defunding of the Legal Services Corporation would also hamper *pro se* litigants' ability to navigate courts.

So far, the Commission's recommendations have included an online portal that serves as a conduit to existing legal resources, modifications to Rules of Civil Procedure to establish class-action lawsuit residual funds to be designated to legal aid programs, and modifications to Rules Regulating the Florida Bar to permit law professors and retired judges to serve as "emeritus attorneys" in certain cases and on a *pro bono* basis. The online portal, known as the Florida Legal Access Gateway (FLAG), was launched at the October 20, 2016 Florida Bar Fall Meeting and is a pilot project underway in Clay County, Florida through June

30, 2017. FLAG directs a user to free or low-cost legal services or online forms after the user anonymously answers simple questions about divorce or eviction issues. FLAG is hosted by the Florida Justice Technology Center, in coordination with the Commission, The Florida Bar and The Florida Bar Foundation. If successful, FLAG is expected to be implemented statewide and would connect users to legal aid organizations, court self-help centers, Florida's Elder Law Hotline, law school clinics, law libraries, the Florida Bar lawyer referral service and other resources.

Another memorable experience garnered at Miami-Dade County's Law Library was when representatives from the Florida Bar Foundation, including Ericka Garcia, Director of Pro Bono Partnerships, visited while I was at the reference desk. They were seeking to learn about resources available to unrepresented Floridians and happened upon the Law Library. By following up on their efforts, I learned that, aside from assisting with the FLAG pilot program, the Florida Bar Foundation undertook an initiative called "Everyone Counts" to gauge the number of people representing themselves in court and the number of *pro bono* attorneys needed. On Everyone Counts Day, held on March 20, 2017, volunteer lawyers observed court proceedings in various courthouses in Miami-Dade County, focusing on uncovering the needs of *pro se* litigants. The information gathered will be useful to groups working to expand access to justice. The Everyone Counts initiative is believed to be the first project of

its kind. The Florida Bar Foundation has used the data collected to underscore the need for attorneys to take a pro bono case and encourage them to do so.

To this end, during the Commission's public quarterly meeting on June 2, 2017, the Florida Bar Foundation's Ericka Garcia spoke about their interactive website, Florida Pro Bono Matters, where qualifying pro bono programs, including but not limited to CABA's, may display cases where pro bono services are needed. The pilot site was launched in Miami and will be going statewide in September 2017. Only available cases are displayed, and attorneys have the option of receiving updates on cases meeting their defined criteria.

Other topics discussed at the Commission's June 2nd meeting in Miami included the following:

- The establishment of a Council of Business Partners that will collaborate with the business community to narrow the civil justice gap, which has been said to affect employees facing legal issues such as divorce, child custody and child support, foreclosure, landlord-tenant disputes, as well as access to health care and government benefits. Such problems are not only worrying for employees facing them, but they may also affect performance and the workplace environment. While lower-earning employees may qualify for legal aid, legal aid addresses about 20% of their needs; what is more, many Floridian employees earn too much to qualify for legal aid but not enough to afford a private attorney.
- The proposed defunding of Legal Services Corporation, which funds seven programs in Florida that extend to 61 counties. The proposed defunding would affect a very

large population. Geographic information system ("GIS") technology was used by the Commission to provide a visual representation of the effects of defunding on Florida's legislative districts and was shared with elected representatives. GIS technology will be used prospectively by the Commission in furthering its mission.

- A survey posted on the Commission's website and completed by 6,000 to 7,000 pro se litigants; such survey will be used to analyze barriers to civil justice.
- Florida Free Legal Answers, an online platform controlled by the ABA and administered and marketed by the Florida Bar. On such website, pro se users can post legal questions that may be answered by Florida-barred attorneys who are qualified to engage in pro bono work. Malpractice insurance is provided for participating attorneys for online interactions (but not for representation in court).

The next meeting will be held in the fall in the Villages in an effort to more broadly disseminate the Commission's message.

In late June, I communicated with the Florida Bar Foundation's Ericka Garcia to ascertain her thoughts on recent developments in access to justice. In her role as Director of Pro Bono Partnerships, she observed that the current Florida Bar leadership has made pro bono a priority. What is more, she sees a trend toward technology being embraced more than ever in recent years and is also starting to see more partnerships amongst the legal service organizations, not only in local communities, but even across the state: "An issue you may think is only occurring in Miami might very well be occurring in

Orlando too. The more brainpower we put together, the more it'll help Floridians in need of legal services." She also mentioned to me that law students across Florida can probably be utilized further, and that would be helpful in two ways: "First, it allows the law student to gain legal skills which will be critical when they begin their practice. Secondly, we believe that law students exposed to legal service organizations during their law school career are more likely to give back as pro bono attorneys in their communities. It's a great time to expose our future legal colleagues to the need for legal assistance for those most vulnerable."

It is worth noting that the foregoing efforts of Florida's legal leadership may strike a chord with CABA members in view of one of our primary missions, which has been described as assisting "the most vulnerable among us, those who cannot afford counsel and require legal representation."



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Bilingual Trials

By Javier A. Lopez and Maia Aron

With the growth in international commerce and diversity of the United States population, general counsel are increasingly finding themselves dealing with bilingual trials. Perhaps the company witnesses speak only English, while the opponent witnesses speak only Spanish; it's likely that a significant percentage of the documents produced are in another language; and the case is litigated in the United States, so depositions and trials must be conducted in English.

In these situations, it is critical that general counsel work with outside attorneys experienced with conducting bilingual trials, along with all the difficulties and challenges these types of trials present. Here 's some advice for general counsel who are working with out side counsel to win a bilingual trial.

1. Never underestimate the importance of having an attorney on your trial team who speaks the language. There is no substitute for having an attorney on your trial team who speaks the language. That attorney must have full command of the syntax and must be able to communicate with the clients directly—both before and during trial. Just as important is for that attorney to understand the opposing party's cultural and linguistic idiosyncrasies. This attorney can also help to:

- Check whether the interpreter is translating correctly—both documents and at depositions before and at trial. Many attorneys might overlook the importance of a relationship with your interpreter for trial.

Tone, cadence, and accuracy are critical and can determine the outcome.

- Translate documents: Having a certified interpreter translate documents is an expensive endeavor. You may want to consider working out an arrangement with opposing counsel where attorneys for each side translate documents, turn them to the other side for review, and attempt to negotiate translation disagreements. If disagreements persist, then an interpreter can translate the documents. This arrangement can save your company thousands of dollars.
- Review documents in the foreign language: the attorney can review all documents and decide which documents to translate for use at depositions and trial.

The more attorneys on your team that speak the language, the more efficient and cost-effective your team will be.

2. Ensure that you're comfortable with the interpreter who will be used at trial. Consider working with the same interpreter you worked with at depositions for the case that is going to trial. That way, the interpreter will be familiar with the names and subject matter of the case. You also need to be comfortable with the interpreter's skills. Different interpreters have different skills . Get to know your interpreter before trial.

3. Make sure the interpreter has the tools necessary to

translate a document at trial. If documents were not translated for trial for whatever reason (this situation should be the exception), make sure the interpreter has access to a laptop and a printer. The interpreter can translate the documents for you, print them, and certify them on the spot.

4. Make sure your outside counsel knows what to do at trial when the interpreter hired by your opposing counsel is interpreting unfairly. The interpreter hired by your opposing counsel can use wrong words in his or her translation, or change the tone of the testimony by overdramatizing or under-dramatizing the testimony. Your outside counsel should object, then go to sidebar and explain the issue to the court. He or she should ask the court to instruct the interpreter to stick to the witness's testimony and demeanor. This is an appealable issue, so your attorneys will make sure to preserve it for the record.

5. Use the interpreter you hire for your direct and cross-examinations. Your opposing counsel may hire their own interpreter for trial. You and your outside legal team should hire your own interpreter as well. You will feel more comfortable working with the interpreter you hire. It also will not be the first time you work with that interpreter. It is important that you feel comfortable with the interpreter because examinations at trial with an interpreter are slower and take away from the momentum.

6. Be mindful of pretrial document translation. What do



you do if 90% of the documents in your case are in another language? Getting your entire document production translated by an interpreter is cost-prohibitive. It is essential that you have an attorney on your team who speaks the language. That attorney can review documents and decide which documents should be translated

Let's say you and your outside legal team identify 50 documents in another language to be used at a deposition. This can be very expensive, so instead of having an interpreter officially translate them all to English, consider bringing an interpreter to the deposition, which will be conducted in English, solely for the purpose of translating documents on the record. You can direct the interpreter to the specific portions of the document you want translated. The interpreter will then read the translated portions in English on the record.

7. Know that your expert witnesses should speak the language. The best practice in

bilingual trials is to retain an expert who speaks the foreign language. That way, the expert can review documents in the foreign language and you will save translation costs. The expert should also understand the idiosyncrasies and culture involved in the case, and factor them in to his or her opinion. For example, it is customary to seal a deal on a handshake in certain cultures.

CONCLUSION

To summarize, ensure you work through all of these issues with your outside legal team before the bilingual trial begins, since the language issues can easily double the amount of work and expenses. You can control these issues if you work with experienced outside counsel to manage them correctly from the beginning.



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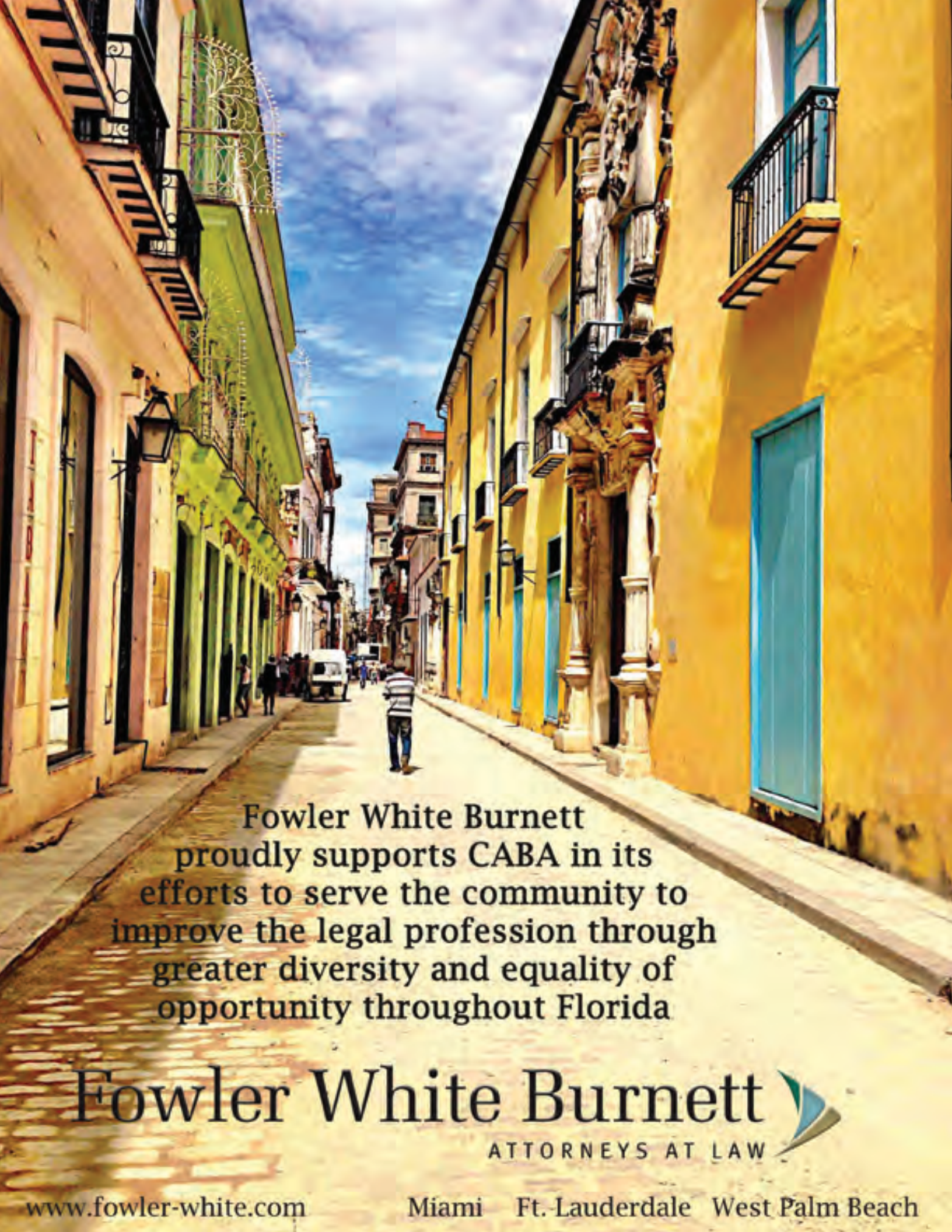
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LEGAL ROUND UP

By Elliot B. Kula, W. Aaron Daniel and William D. Mueller

Isla Blue Development, LLC v. Moore 2D16-1718 (Fla. 2d DCA 2017)

For Now, Go Ahead and Serve your Motion for Section 57.105 Sanctions By US Mail; But the Rules of Judicial Administration Committee May Soon Have Something to Say About it.

In an action for damages stemming from the nondisclosure of latent defects in a real estate transaction, the appellant/defendant sought sanctions against the appellee/plaintiff under Florida Statute Section 57.105. The concern raised by the plaintiff was whether the defendant properly complied with the safe harbor notice (*i.e.* that the motion be served but not filed at least 21 days before the actual filing) when they sent the motion by U.S. mail and the parties never stipulated to such service. In other words, the plaintiff accused the defendant of noncompliance with Florida Rule of Judicial Administration 2.516 and the trial court agreed that compliance with Rule 2.516 was necessary.

The Second District Court of Appeal held, after reviewing the language of both Section 57.105 and Rule 2.516, that the rule applies only to documents “filed in [a] court proceeding,” which excludes a Section 57.105 sanction motion during the safe-harbor provision that gets served but **not filed**. Therefore, the Court concluded, that “the email service requirements of rule 2.516(b)(1) do not apply to such a motion.”

In doing so, the Second District recognized conflict with a 2014 opinion of the Fourth District Florida Court of Appeal. But stay tuned. A possible Florida Supreme Court resolution could come to this issue. Or, maybe the Rules of Judicial Administration Committee will come forward with a proposal.

DiGiovanni v. Deutsche Bank National Trust Co. No. 2D15-4180 (Fla. 2d DCA 2017)

Judge ... You Can't Google That!

This began as a routine foreclosure case. The foreclosing bank, at the final bench trial, carried the burden of proving how it acquired the promissory note and mortgage from the originating banking entity. In many of these foreclosure cases, the loan was purchased or transferred several times in the chain of ownership; the bank bears the burden, when it loses the physical note and mortgage, of proving each transfer, to ensure that it is the proper entity to bring the foreclosure suit.

One such transfer that Deutsche Bank sought to prove was simple enough; namely, that Deutsche Bank was formerly known as Bankers Trust Company of California. Bring in a few papers, maybe an old letterhead, and you've



LEGAL ROUND UP

proven that particular transfer. But the hiccup in this case was that Deutsche Bank completely forgot to bring any documentation of that change. And the borrower argued that the case should be dismissed as a result.

The trial court, in response to that argument, portentously proclaimed: “I’m going to go up to my office where I can look on my computer and see what I can do.” When the judge returned, he announced Deutsche Bank would indeed be unable to prove its standing to foreclose. However, lucky for the bank, the judge disclosed that he had “run a Google search and found Deutsche Bank’s institutional history on the National Information Center’s website”! Further, the judge hinted that he would be more than inclined to take judicial notice of his own timely Googling, if the bank would like.

The Second District reversed the trial court’s dispositive sleuthing, stating that whether intentional or not, “the trial judge gave the appearance of partiality by taking *sua sponte* actions which benefitted one party over the other.” It rebuked the trial judge for taking matters into his own hands and reminded the parties that even the contents of judicial notice need to be admissible into evidence. And much to the chagrin of recent law school grads everywhere, Google is “not self-authenticating.”

Purchasing Power, LLC v. Bluestem Brands, Inc. 851 F.3d 1218 (11th Cir. 2017)

Finding Diversity Jurisdiction In The 21st Century

It is often a difficult exercise to establish diversity jurisdiction over modern day business organizations. The readers will recall that complete diversity is an absolute requirement for a federal court to have jurisdiction under 28 U.S.C. § 1332. *See, e.g., Hedge Capital Invests. Limited v. Sustainable Growth Group Holdings LLC*, Case No. 13-13358 (11th Cir. 2014). And that’s not always as easy as looking at which parties fall on which sides of the “v.” *Id.*

For instance, when determining citizenship of parties for purposes of diversity jurisdiction, a limited liability company (LLC) is considered a citizen of every state that *any* member is a citizen of. And sometimes, an LLC is a member of another LLC. In *Purchasing Power, LLC v. Bluestem Brands, Inc.*, the Eleventh Circuit Court of Appeals termed this exercise “a factor tree that exponentially expands every time a member turns out to be another LLC, thereby restarting the process of identifying the members of that LLC.”

In *Purchasing Power*, the parties believed diversity jurisdiction existed for several years. Following years of discovery and an initial appeal to the Eleventh Circuit, the parties discovered a chain of three LLCs that successively owned an interest in one of the corporate parties. As the Eleventh Circuit said, “one would need to know the citizenship of the members of LLCs thrice removed,” indeed a daunting task. Eventually, it was discovered that one LLC was owned by a holding company that was incorporated in Delaware, destroying jurisdiction.

CABA BRIEFS

Isla Blue Development, LLC v. Moore

DiGiovanni v. Deutsche Bank National Trust Co.

Purchasing Power, LLC v. Bluestem Brands, Inc.

LEGAL ROUND UP

Harrison v. Gregory Nos. 5D16-1037 / 5D16-2552 (Fla. 5th DCA 2017)

The Special Effects of Special

An interesting tale as the jurisprudence following the Florida Supreme Court's *Special v. W. Boca Med. Ctr.*, 160 So. 3d 1251 (Fla. 2014) continues to unfold. As every trial lawyer (and the diehard readers of CABA briefs) will recall, in *Special*, the Florida Supreme Court announced a new test for determining harmless error in civil appeals. To test for harmless error now, "the **beneficiary of the error** [i.e., the **appellee**] has the burden to prove that the error complained of **did not** contribute to the verdict. Alternatively stated, the beneficiary of the error must prove that there is no reasonable possibility that the error contributed to the verdict." *Id.* at 1256 (emphasis added).

In a recent opinion, *Harrison v. Gregory*, the Fifth District Court of Appeal applied *Special* in the context of determining whether several errors committed at trial, though (each) individually deemed harmless, could still cumulatively "contribute to the verdict," thereby requiring reversal of the final judgment under a cumulative error analysis. The Fifth District answered in the affirmative.

In *Harrison*, a jury awarded significant damages in a wrongful death case and an appeal was taken following entry of the final judgment. The appellants raised several errors and argued that each merited reversal of the final judgment, and if not, at least the cumulative effect of those errors merited reversal. After analyzing each point of error, the Fifth District refrained from reversing the judgment on any single error committed, thereby labeling each error harmless on its own. But, the Court concluded that that after "analyzing the entire record," the Appellee failed to show that the "cumulative effect" of those errors could be deemed "harmless." Opinion at 8.

That is, the Fifth District found that *Special* similarly applied to an argument raising the cumulative effect of all the errors as it did to each individual point of error. That allows for a situation, like in *Harrison*, where each error at trial could be, on its own, considered harmless, but when combined could be harmful and warrant reversal of the final judgment.

Without a doubt, *Harrison* places an additional burden on appellees, as the beneficiaries of errors at trial, to prove not just that there's no reasonable possibility each error contributed to the verdict, but also that their combined effect had no such possibility. Indeed, the full effect of *Special* is still taking shape.

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Appellate Practice Pointers: Perennial Traps for the Unwary
(You Really Should Consult an Appellate Specialist)

Nacius v. One West Bank, FSB 211 So. 3d 152 (Fla. 4th DCA 2017)

Do not confess error on an issue without first double-checking your jurisdictional analysis (You could be a winner!).

On an appeal from the denial of a motion to vacate a post-final non-final order, the Appellee, One West Bank, nobly confessed that the denial was wrongfully entered. The Appellants, proceeding *pro se* on appeal, were surely relieved when they received the news, and One West curried favor with the Fourth District for its candor to the tribunal. All was nearly well. Until, the Fourth District's newest member, Judge Jeffrey Kuntz, reviewed the jurisdiction of the appeal, and determined that the Court was without any.

The Fourth District reaffirmed a recent Third District Court of Appeal holding which declared that Rule 1.540 motions could not be directed toward non-final orders, like the one at issue in *Nacius*. The denial of motion for vacatur of a non-final order falls outside the ambit of Rule 9.130(a)(3) which governs the appealability of nonfinal orders. The result: the answer to the age-old question, if a confession is spoken in the woods over which a court has no jurisdiction, does it even make a sound?

Gibraltar Private Bank & Trust v. Schact No. 3D17-814
(Fla. 3d DCA 2017)

Do not confuse your petition for writ of certiorari with your appeal (They don't have the same affect on the trial court's jurisdiction.).

An order was entered against Gibraltar Private Bank & Trust requiring its corporate representative to disclose privileged and protected information. In response, Gibraltar filed a petition with the Third District seeking certiorari review of the order. Upon filing the petition, however, Gibraltar and Schact came to an agreement to enter a stipulated, amended order, and otherwise supplanting the original order. Accordingly, the parties filed a motion to relinquish jurisdiction back to the trial court in the Third District.

The three-judge motions panel got a kick out of that. In a written opinion, the panel stated that it had declined to adjudicate the motion to relinquish jurisdiction because the motion was unnecessary. The Court reasoned that unlike a rudimentary final or non-final appeal of an order where the trial court has divested of jurisdiction to vacate that order, a filing a petition for writ of certiorari to challenge a discovery order does not divest the trial court of any jurisdiction.

The Court advised that if the parties wished to ask the trial court for a superseding order, they could do so and dismiss the first petition for certiorari as moot. Until then, the Third District said, the motion for relinquishment would be treated as an extension of time to respond to the existing petition.



CABA BRIEFS

Harrison v. Gregory

Nacius v. One West Bank, FSB

Gibraltar Private Bank & Trust v. Schact

LEGAL ROUND UP

Boardwalk at Daytona Development, LLC v. Paspalakis
212 So. 3d 1063 (Fla. 5th DCA 2017)

Do not mistake your motion for rehearing as a “response” to the Court’s opinion.

Panormitis Paspalakis, the plaintiff in a contract dispute, who sought -- and was eventually awarded -- specific performance of property, defended the trial court’s decision on appeal. But, when the Second District Court of Appeal ruled against him on the basis that specific performance was unavailable in his type of contract dispute, Paspalakis moved for rehearing.

Instead of using the motion to simply call to the court’s attention “something the court has overlooked or misapprehended,” Paspalakis’s attorney used the motion to express displeasure with the opinion, and to continue advocating his position. (Never a good idea!) Paspalakis went as far as requesting a remand back to the trial court allowing him to pursue alternative remedies that were abandoned and never pled below.

The Fifth District did not take kindly to this. The Court issued a stern rebuke for misusing the motion for rehearing by first rearguing the merits of the action and then presenting a completely new argument to the appellate court. The Court concluded that “[t]here simply is no justification or basis for granting the relief Appellees request for leave to amend for the first time on rehearing.”



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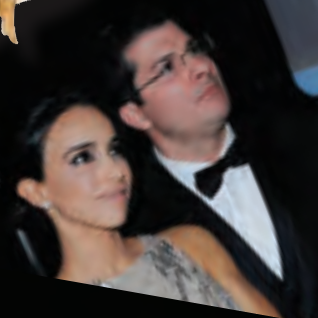


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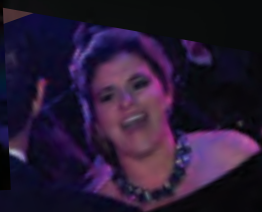


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We salute Javier for leading CABA in its continuing mission to promote equality, increase diversity, and serve the public interest.



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INAUGURAL LEGENDS

Award Night & Sponsor Appreciation

CABA hosted the Inaugural Legends Award Night and Sponsor Appreciate at Ball & Chain on February 23, 2017. The event honored Judges Gina Beovides, Vitoria Del Pino, Representative Jose Felix Diaz and Cuban Dissident Danilo "El Sexto" Machado for their contributions to CABA and the Cuban community. The event also honored GALA sponsors.



INAUGURAL LEGENDS

Award Night & Sponsor Appreciation



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Award Night & Sponsor Appreciation



INAUGURAL LEGENDS

Award Night & Sponsor Appreciation



Marlins Night

CABA's Second Annual Night with the Marlins

The night began with crowds of proud Cuban Americans entering the iconic Marlins Park in honor of Cuban Heritage Night and CABA's 2nd Annual Night with the Marlins. People of all ages gathered together to watch America's national pastime, reminisced as they watched episodes of ¿Que Pasa, U.S.A.?, listened to some of Miami's upbeat music, and ate the best ballpark food around. To make the evening even better, the cast of ¿Que Pasa, U.S.A.? attended the game and made special appearances throughout the evening.

CABA's 2nd Annual Night with the Marlins was an exceptional night, not only because of experiences shared and the memories made, but because of the cause. All the funds collected this year benefitted CABA Pro Bono Project and totaled over \$20,000! These funds will be used to assist the poor and indigent community in Miami-Dade County by connecting them with attorney volunteers, regardless of race, creed, color, gender, sexual orientation or national origin. These funds will go a long way in helping CABA Pro Bono achieve its mission to help our community.

This night would not be possible without the generous contributions of our generous sponsors:

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Marlins Night

We would also like to extend a very special Thank You to the following individuals who, without them, we could not have accomplished all that we did and who worked tirelessly to make this year's Night with the Marlins a huge success:



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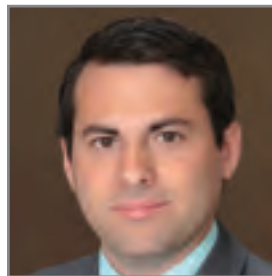
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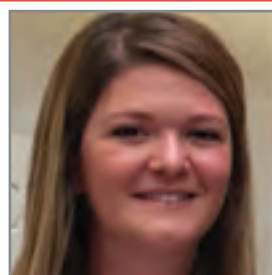
Marbely Hernandez
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Miriam Ramos
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Marlins Night



Marlins Night



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AN EVENING OF WINE, CHEESE, AND AN EXCLUSIVE TALK BY PULITZER PRIZE WINNER **GEORGE HAJ**

CABA and Salazar Law hosted George Ha, Pulitzer Prixze Winner and former Regional ALM Editor of the Daily Business Review, Corporate Counsel, National Law Journal and more. Mr. Hal discussed the changing media landscape and the influence of the DBR and dailies and how lawyers can attract media coverage.



CABA & SAKS FIFTH AVENUE Art in the Tropics Kickoff

CABA's Art In The Tropics kickoff event was held at Saks Fifth Avenue of Dadeland. The Champagne reception kickoff supported the Pro Bono Project and 100% of ticket sales benefited CABA Pro Bono. Attendees were able to meet fashion designer Ramy Book and view her 2017 Spring Collection.

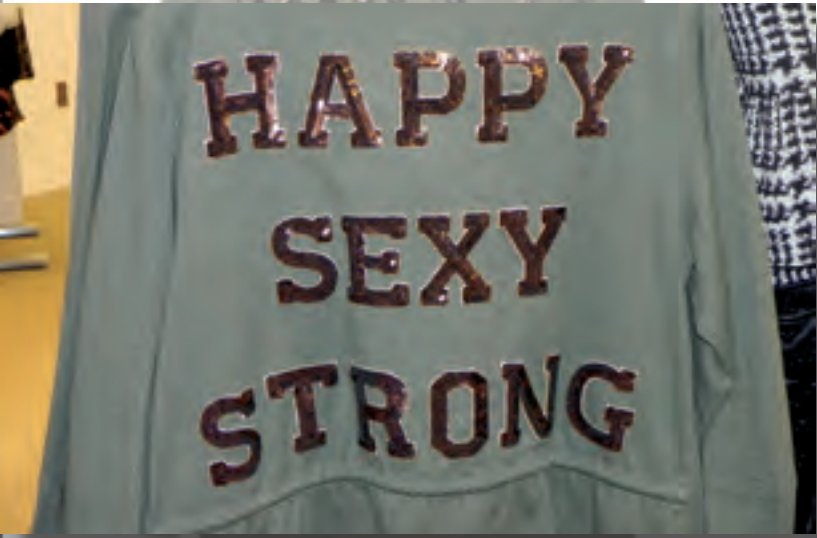
RAMY BROOK

Spring 2017 Collection.

the CABA
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CABA & SAKS FIFTH AVENUE Art in the Tropics Kickoff



Mentor/Mentee Sign-Up Happy Hour

Mentor/Mentee

Happy Hour at Prime Cigar & Whiskey Bar

1100 South Miami Avenue, Suite 202

On Thursday, April 13th, CABA's Young Lawyer Division hosted its annual Happy Hour for the Mentor/Mentee Sign Up Drive at Prime Cigar & Whiskey Bar. The event drew many lawyers and law students wanting to participate in the Mentor/Mentee program. This year CABA wanted to encourage the involvement of students within the organization and waived fees for student members in CABA.



Mentor/Mentee Sign-Up Happy Hour

Mentor/Mentee

Happy Hour at Prime Cigar & Whiskey Bar

1100 South Miami Avenue, Suite 202





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2017 CABA Judicial Luncheon



Drs. Ana Ojeda and Samantha Behbahani
Explaining signs to look for and answering
questions from the audience



**CABA Past Presidents Sandra Ferrera
& Manuel Garcia-Linares**



CABA President Javier Lopez welcoming attendees
and introducing the keynote speaker



Keynote Speaker Brian Cuban, author of
The Addicted Lawyer



Judge Gina Beovides with Board members **Jenny Perez, Olivia Rodriguez, Maria Garcia, Frances Guasch De La Guardia & Kristi Maranges**

Desayuno con CABA: Offensive, Immoral, and Scandalous Trademarks with Augusto Perrera as the speaker



Desayuno con CABA:

Tax & Estate Planning with Eduardo Arista
as the speaker



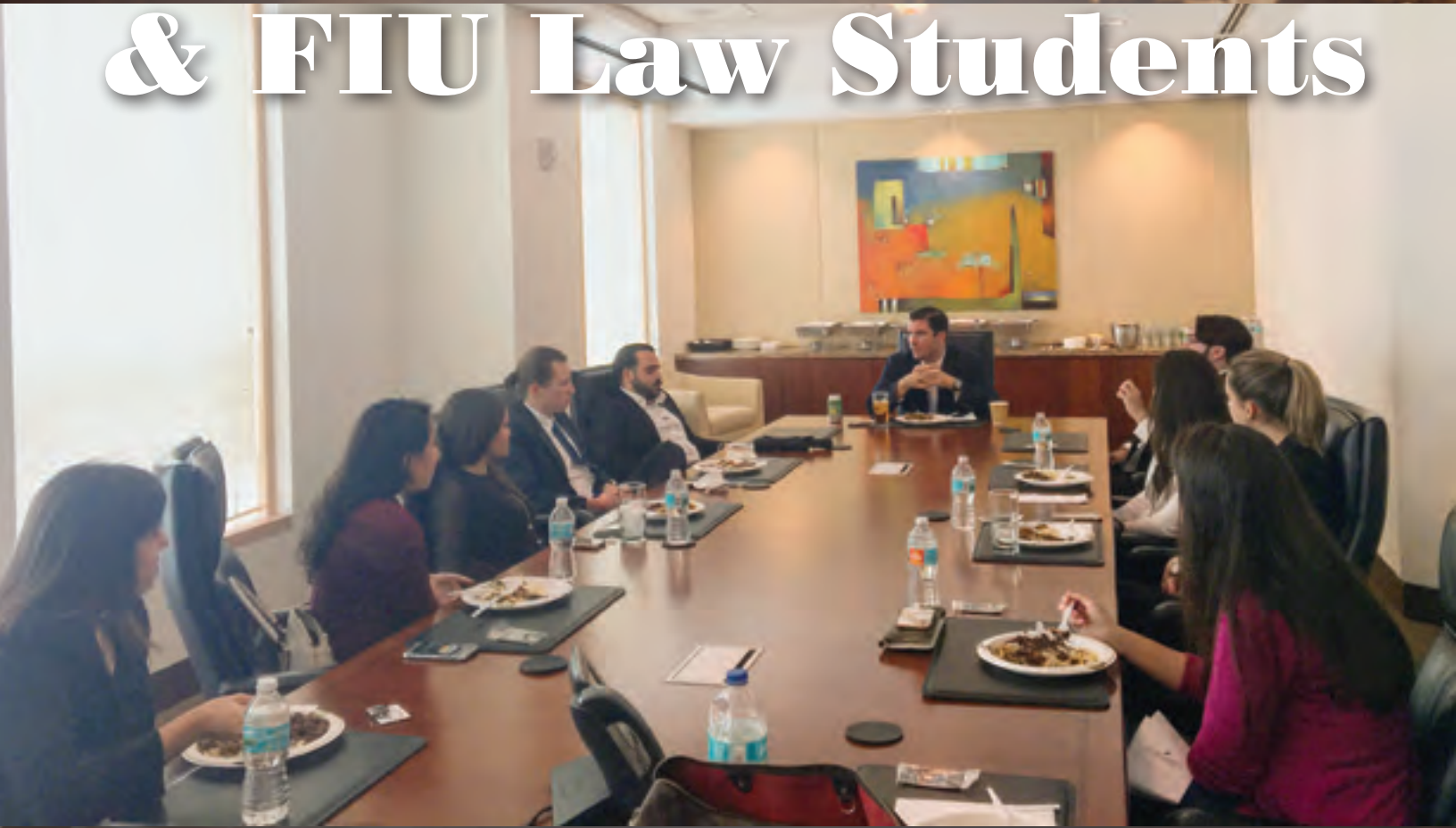
Board of Directors Team Building



Board of Directors Team Building



Lunch with CABA & FIU Law Students



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Please join us in welcoming

Manny Fernandez and **Albert Delgado**

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About Kasowitz Benson Torres LLP

Kasowitz Benson Torres LLP is a national law firm primarily focusing on complex commercial litigation.

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Our firm has a deep commitment to CABA and its mission to improve the legal profession through greater diversity and access to opportunities throughout Florida.

Congratulations to Immediate Past President **Anna Marie Gamez** and to Vice President **Frances Guasch De La Guardia** for continuing their service on CABA's Board of Directors.



We wish President Javier Lopez, Annie, Frances and the entire 2017 Board of Directors all the best for a successful year.

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Javier Lopez,
Partner, Incoming CABA President

Thank you for the Gala's trip down memory lane, which took us all the way to Old Havana, with notable KTT mileposts along the way:

- 2006** Our own Corali Lopez-Castro, welcomed as CABA President
- 2016** Our own Javier Lopez, welcomed as incoming CABA President

Together, we are advancing the legal systems of South Florida and our world.

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