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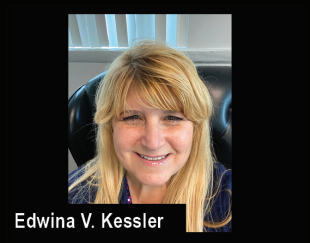
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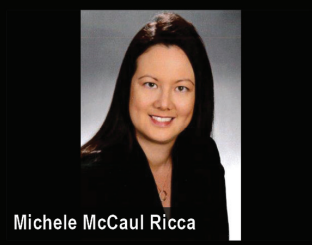
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Michael A. Fischler, Esq.

downtown location by acquiring the adjacent real property, which will allow for future expansion and solve our parking issues.

As President, I thoroughly enjoyed attending BCBA, YLS, and VBA activities and events and having the opportunity to meet so many of you. I also enjoyed watching members network, socialize, learn, and develop friendships. There were high-fives, handshakes, hugs, and as it is said, "life is good." Then in March 2020, the pandemic hit, and all the warmth, camaraderie, and networking that was experienced by in-person activities ceased. The world and the practice of law changed as we entered my second season, the "Zoom Era". The Courthouse was closed, as well as law offices, restaurants, movie theaters, beaches, parks, schools, and most businesses. At first, we just talked, no more high-fives, hugs, and handshakes, just elbow and foot bumps. Then the phrases "quarantine at home" and "social distancing" entered our lives.

The BCBA was not going to "throw in the towel" nor close its operations, as that is not how the BCBA Staff or Board functions. The BCBA was determined to meet the challenge, provide services to our members, the legal community, and work with Chief Judge Jack Tuter and the Judges in the 17th Judicial Circuit to transition and adapt to the new legal environment. Every division in the Courthouse, including Probate, Family, Criminal, County, and Circuit, joined with the BCBA, as well as many BCBA sponsors and members, to host and present numerous webinars. The BCBA forged partnerships with many Associations throughout the state, thereby taking the lead in not only providing relevant and practical information to our members but to VBA members through statewide webinars. The BCBA reinvented itself, developed multifaceted programming with critical legal content, "how-tos" for performing services in the new future, and caring content for members to maintain wellbeing during this unprecedented time.

All of the preceding would not have been possible without the extraordinary leadership of our Executive Director Braulio Rosa, the dedicated and hard-working BCBA staff Lauren, Debbie, Patricia, Lyssette, and Andrea, our partnership with the 17th Judicial Circuit, Clerk of Court and local Governments. Our success was in no small way due to the extra diligence and efforts of the Executive Committee: Past-President Winney Kessler, President-elect Robert Vaughan, Treasurer Jamie Finizio Bascombe, and Secretary Alison Smith. I welcome Michael Rajtar, BCBA's new secretary, to the Committee. Rest assured, the BCBA will be in "good hands" with Robert as President.

I thank our fabulous BCBA Board, and Judicial Liaison Judge Kenneth Gillespie, for their support and efforts which allowed the BCBA to continue being a statewide leader and preeminent visionary. Thank you to all committee and section chairs for your leadership and commitment to providing BCBA members informative programs. I thank our members, sponsors, and supporters, some of whom joined in putting on multiple webinars wherein we gained valuable practice tips, learned to deal with the new reality and with the remote practice of law. Finally, I would like to thank my law partners Howard Friedman and Lisa Bennett, and my life partner (wife) Anita for their support and encouragement of my bar and charitable activities and my Paralegal Jean Sherman for her assistance and for keeping me organized.

It has been my pleasure and honor to serve as President of the BCBA during this unprecedented time, and thank you for your friendship, kind words, and support throughout my term. I look forward to once again attending in-person activities and sharing good times with you soon. Until then, I hope and wish everyone stays safe and healthy, and that you continue to support each other and the BCBA.



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Lindsay M. Massillon, Esq.

I'll be very honest with you—I'm bummed. This is not how I envisioned ending my term as President of YLS. But, 2020 has been a shock to all of us; and each day we are managing information overload, working from home, social distancing, sweating from wearing a mask (maybe that is just me), etc. Hey, we are doing the best we can.

While the past three months have been less than ideal, I still have so much to brag about thanks to the support of my Executive Board: Omar Giraldo, James Heaton, and Kim Wald. I cannot wait for each of them to hold office as President and lead YLS to accomplish more than I could dream of. I'm leaving you all in wonderful hands. My Directors have gone to bat

for me when I needed them most, and for that I am very thankful. They all managed our events, like our Walter "Skip" Campbell Memorial Charity Golf Tournament, Holiday in February, Lawyers for Literacy, Social Committee (to name a few). I knew I could depend on them to make sure we are providing our membership with the highest quality programming.

As part of my Presidency, I was intent on sitting down with each of my Board members and finding out what was important to them, and how I could ensure they were getting the most out of their time on the Board. I also started each meeting with "good and welfare," a topic usually reserved for the end of our meetings. During the first 10-15 minutes of each meeting, we discussed engagements, promotions at work, upcoming vacations, and things that made us happy. For me, these small tweaks have made meetings more meaningful and fun as we catch up with each other and remember why we are sitting at the Broward Bar Conference Room at 7pm rather than relaxing at home after a long day of work. I've come to realize that we are all volunteers on this Board for the same reason: we find fulfillment in engaging with our colleagues, serving the community, and adding more meaning to our profession. These men and women made me EXCITED to get up at 5:15AM on a Saturday to run a tournament. No small feat!

I am very grateful to our two Judicial Liaisons, Judge Hunter Davis and Judge Tarlika Navarro. They are always ready and willing to help, and did so with enthusiasm. It has been an honor to get to know these two Judges even better.

Thanks to Braulio Rosa and Lauren Capote, all our events went off without a hitch and I knew I could ask them anything (and did) and they would answer the call immediately. The Broward Bar Association is beyond blessed to have the staff it has—they consistently make us the best Voluntary Bar Association in the state (though I may be a bit biased).

It was also a goal of mine to get to know the leaders of our other local Bar Associations. While we did not get to partner as much as I wanted to this year, it has been a joy to get to know Brendalyn Edwards (President, Gwen S. Cherry Black Women Lawyers Association), Tricia-Gaye Cotterell (President, Caribbean Bar Association), Janice Haywood (President, T.J. Reddick Bar Association), Ashley Gantt (President-Elect, T.J. Reddick Bar Association), Altanese Phenelus (Immediate Past President, Haitian Lawyers Association), and Aron Gibson (President, Broward County Hispanic Bar Association), to name just a few. These leaders inspire me with their passion and drive.

It has been a pleasure serving as President for the past year, but I think I am ready to take the title of "Past President" from Brent Reitman and join the ranks of some of the best attorneys Broward has to offer.

Omar, you're up!



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VISAS FOR INVESTMENT INTO THE US

by William Gerstein

FIVE THINGS THAT AN ATTORNEY SHOULD KNOW IF THEY HAVE A FOREIGN NATIONAL CLIENT WHO WISHES TO INVEST THEIR WEALTH IN THE US

As our country recovers from the novel coronavirus, we may find people further attracted to the US who see our country as a safer place to invest their wealth, particularly if our economy recovers faster than others. Opportunities will abound as businesses that may not have survived the economic shutdown are purchased by overseas investors. This can be positive as sellers will receive proceeds rather than having their businesses completely gone. Furthermore, the revived businesses can support the US workers who were in place before this happened or, as the law requires, new US workers can be hired.

There are essentially two different types of visas for investment into the US. One is a non-immigrant (temporary) visa called E-2 and the other is permanent, known as EB-5. There are pluses and minuses to both, and they are not mutually exclusive.

1. The E-2 visa applies to citizens of countries with which the US has a reciprocal agreement for investments. For example, a citizen of France can apply for a visa after investing in the US just as a US citizen can do the same in France. There are treaties with many countries, mostly US allies. On the other hand, the EB-5 does not have any requirement for nationality.

2. The threshold for investment for the E-2 is “substantial”. This is often thought to mean that it should be around \$100,000 but is not a hard and fast rule and will further depend upon the type of business and other factors sometimes baked in by the embassy or consulate that does the interview. The EB-5, on the other hand requires an investment of \$1,800,000 in most cases with some exceptions where the investment can be \$900,000.

3. The requirement for employment creation for both visas excludes the principal investor and their immediate family members. The EB-5 requires ten full time employees who are authorized to work in the US. The E-2 has an employment creation aspect, but it is much more flexible. The investment must not be

marginal, meaning primarily to provide a living to the investor and their family. This can be countered two ways; one is to hire one or more US workers and the other is to show that there are other sources of income for the investor and their family so that they are not relying primarily on this business for support.

4. Timing is an important factor. An E-2 visa could take as little as a few weeks or months to process while an EB-5 immigrant investor petition could and usually does take years to process. It is possible that one business satisfies both requirements and therefore an investor could start with an E-2 visa so that the investor and their family could be settled in the US sooner.

5. It goes without saying that an investor must prove the legitimate source their funds. Oftentimes it will be the accumulation of wealth from years of working, or it could be from the proceeds of the sale of property or possibly an inheritance.

Immigration touches many disciplines of the law such as corporate, real estate, business formation, tax planning and many others. Careful coordination between the various legal specialties is essential to the successful transition of a foreign national’s money and ideas into a functioning business in the US. Spotting these issues and planning for them ahead of time makes for a successful client.



William Gerstein is Board Certified in Immigration and Nationality Law by the Florida Bar and practices immigration law in Fort Lauderdale with his wife, Dori and their associates

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WHAT'S IN A NAME: A PRIMER ON WHAT GOVERNS BEER LABELS

by Joshua Lida Esq.

Beer brand names and labels are integral to the success of a beer. A potential consumer may even choose a beer just because they like the brand name or label art. Brand names and labels present brewers' opportunities to develop unique visual branding to differentiate themselves in a crowded marketplace.

As is often the case with alcohol regulation, which is done both at the state and federal level, there is a combination of statutes which control beer labels depending on where the beer is distributed.

Not all Federal Alcohol Administration Act (FAA) labeling provisions apply to every beer which is produced or imported. Some only apply to beer sold in interstate commerce. Additionally, if the product made does not meet the definition of "malt beverage" under the FAA, the labeling statutes would not apply.

Generally, if the malted beverage is being sold in interstate commerce, the label must comply with 27 CFR §7.20 through 7.29 and the brewer must obtain what is known as a Certificate of Label Approval (COLA). There is also a statute requiring approval for imported beers before they can be removed from customs. The herculean task of reviewing and approving the tens of thousands of beer labels submitted for approval is completed by just one person.

27 CFR §7.29 lists several prohibited practices that can lead to COLA denial. An incomplete list is summarized as follows: the label cannot contain false or misleading information, claims of alcohol content strength (except as permitted by statute), language which implies the product is or contains a distilled spirit, misleading health claims, or obscene or indecent material. 27 CFR §7.22 details the mandatory label information for beers placed into interstate commerce.

While a portion of the FAA labeling provisions does not apply to beers made and sold only in the same state (or those which do not meet the definition of "malted beverage"), there are still federal mandatory labeling requirements for all beers produced domestically.

27 CFR Part 25 Subpart J regulates labels and markings for malted beverages.

There is also the mandatory health warning as required by 27 CFR §16.21 and 27 U.S. Code §215.

Florida does not require malted beverage labels to obtain a COLA to be sold in the state.

However, Florida has additional registration

requirements. Fla. Stat. §563.04 requires all malt beverage brands sold within the state to be registered. The Florida registration is not so much an approval process as it is an annual registration fee.

Florida also requires all taxable malt beverages packaged in individual containers possessed for sale to have imprinted legibly by any permanent method the word "Florida" or "FL." A facsimile of the imprinting and its location as it will appear on the container must be submitted to the Division of Alcoholic Beverages and Tobacco for approval.

An exemption exists when the producer has a tracking system and can show with 90 percent reliability (1) the place where the individual containers were produced, (2) the state where the individual containers were shipped, and (3) the individual distributors within the state which received the individual containers

of malt beverage. This exemption must be applied for and approved by the Division.

For brewers, developing a clever brand name and an eye-catching label is an important and not always simple process. Equally as important is ensuring that the name and label do not infringe on a trademark, but that is for a different article.



¹ However, these beer labels are still subject to FDA labeling regulations, see *Guidance for Industry: Labeling of Certain Beers Subject to the Labeling Jurisdiction of the Food and Drug Administration*, <https://www.fda.gov/media/90473/download>, (December 2014).

² 27 U.S.C Code §211(a)7) defines malt beverage under the Federal Alcohol Administration Act; see also TTB Ruling 2008-3.

³ 27 CFR §7.40, §7.41

⁴ Tim Mak, *Meet the Beer Bottle Dictator*, *The Daily Beast*, <https://www.thedailybeast.com/meet-the-beer-bottle-dictator?ref=scroll> (last updated Apr. 14 2017).

⁵ The regulations are stringent and have type size, legibility, and placement requirements

⁶ Fla. Stat. §563.06

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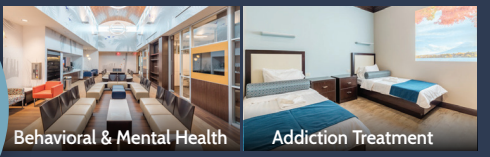
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MEET YOUR NEXT STATE ATTORNEY

by Arielle Demby Berger

The Honorable Michael J. Satz is retiring after becoming the elected State Attorney for Broward County in 1976. This year's race is heating up with 10 candidates. There is a mix of prosecutors, defense attorneys, and community leaders vying for this top spot. The Primary Election is August 18, 2020 and the General Election is November 3, 2020.

We asked each of the candidates with 250 words or less to answer these questions:

“What makes you stand out from your opponents? And Your vision for the office?”

One of these talented attorneys will become the next State Attorney for the 17th Judicial Circuit!

Sheila D. Alu (NPA)



I believe there needs to be a strategic and cautious balance of both justice reform and the prosecution of violent crimes. I stand out in that I believe there is a correct and achievable balance in the degree the pendulum swings in implementing reform. I believe both safety and criminal justice reform can be carefully balanced. My number one priority is to ensure justice, fairness, and integrity. I have a proven record of accomplishments as an elected official overseeing an enormous budget, making tough choices, and always legislating with honor, conviction, and integrity. My background in public office and my years as a prosecutor along with life experience as a child, who grew up in foster care, makes me more empathic of those charged with non-violent crimes and an ardent champion for victims who have experienced horrific crimes. Broward needs a State Attorney with life experience and a proven record.

My vision is where prosecutors and staff are valued and respected—an office that seeks alternatives to prison when possible with a concentration of working with the community in ensuring their upmost safety. Training at the ground level, with an emphasis on justice, compassion, and fairness to all parties and not solely on conviction rates. Values I intend to instill in both young prosecutors and seasoned prosecutors who have been conditioned. We are all going to go through some tough times and financial strain due to this pandemic. My Vision for the office is to create a workplace environment where we feel like a family and where we can be the best of the best at what we do while maintaining an unbiased approach to prosecution

David Cannady (DEM)



As the son of a former drug addict and convicted felon I understand the importance of an effective criminal justice system. With almost fifteen years of experience in policy, legislation, and law I know what it takes to effect change in the criminal justice system in Broward County.

Unlike my opponents, I worked in the United States Senate, the Florida Supreme Court, Florida's Executive Office of Policy and Budget, and now I am currently an Assistant State Attorney in Broward County. Most notably, I worked in the White House for President Obama's Congressional Liaison's Office on policy and legislative issues including criminal justice reform. This experience enhanced my ability to work across party lines to resolve issues currently effecting today's society. As an entrepreneur, my first business was started at age 17. It became a multi-million business within five years. I managed a staff of over 150 people and handled various issues ranging from hiring/firing, immigration, childcare, and quality control. With all of my previous experience I am more than prepared to manage an office of over 400 employees. As your next State Attorney, I am

prepared on day one to meet all the challenges of this office.

As State Attorney I have the experience, energy, conviction to move beyond political expediency and work with traditional and non-traditional community partners to take our office into the next generation while not forgetting about those who came before us. For more policy details please go to www.davidcannady.com.

Continued to Page 15

Meet Your Next State Attorney

Teresa Fanning-Williams (DEM)



With 25 years of experience, I am the only candidate in this race who is a Board-Certified Criminal Trial Lawyer with a degree in the Administration of Criminal Justice from the University of North Carolina -Chapel Hill. I commuted to Miami-Dade County from my home in Plantation for about a decade when I worked as a prosecutor. I am proud to have had the opportunity to be trained in the philosophies of Janet Reno at the Miami-Dade State Attorney's Office where I worked for 10 years. I had many administrative positions but ultimately served as the Division Chief of the Career Criminal Robbery Unit. My duties involved supervising and training over 100 attorneys. I was responsible for approving the resolution of every case where the three strikes law was applicable and supervised an elite group of lawyers who prosecuted the worst of the worst. It was my goal to dot every I and cross every T. I will bring that level of representation to innocent victims by implementing a comprehensive training program; one that teaches the law and teaches the delicate balance that is necessary to ensure we are always doing the right thing. We have not been doing the right thing for a long time. I am the only candidate in this race who ran against the forty-year incumbent in 2016 to change that. I am back to finish what I started, and I ask for you to vote for me again to be the next Broward County State Attorney. Visit www.electteresawilliams.com to learn more.

Joe Kimok (DEM)



After decades of mass incarceration, the criminal justice system cannot simply be reformed. It must be dismantled and rebuilt.

As Past-President of the Broward Association of Criminal Defense Lawyers and a Major Crimes Attorney with the Office of Regional Conflict Counsel, I watch the train-wreck that is our criminal justice system every day. I have stood next to innocent people pleading guilty and stood with families while their loved ones were sent to prison. Nibble-around-the-edges change is not going to undo all the bad that we have done. We have got to take apart the system.

That's why I'm the only candidate who has pledged to:

- End all cash bail
- End the direct file of juveniles
- Send all drug possession cases to diversion
- Decline to prosecute homelessness and poverty-based offenses
- Make diversion the rule, not the exception
- Decline to seek mandatory-minimum sentences
- Build a specialized unit to protect immigrant communities

For decades we have been taught that safety came from locking people up. We now know that was wrong. Mass incarceration has kept parents away from their children, destabilized communities, and driven folks deeper into poverty. Our criminal justice system creates more criminals, not less.

Our campaign has been endorsed by groups like Democracy for America and Run for Something because they recognize that we are the only campaign committed to the extraordinary change necessary to dismantle mass incarceration and keep all our communities safe.

For more on our vision to dismantle mass incarceration, go to www.joekimok.com

Meet Your Next State Attorney

James “Jimmy” Stewart Lewis (DEM)



In these trying times, the replacement for State Attorney is going to need experience, and a progressive yet steady hand.

Of the ten candidates in this race, my experience as a criminal trial lawyer for 40 years, 12 of which was as a prosecutor, should give me the edge.

I began my legal career as an Assistant State Attorney in Orlando and was selected by Governor Bob Graham as a special prosecutor to the Statewide Grand Jury of Florida. I finished my prosecution days as an Assistant Statewide Prosecutor for Attorney General Bob Butterworth. I went on to open my own Criminal Defense practice, and for the last 28 years, I have never been afraid to take on difficult cases or causes.

I am 62 years young, have 4 grown children, and a new granddaughter. My life experiences give me insight as to how important the new State Attorney can be in shaping the direction of our county.

We need a State Attorney to make it a priority that innocent people are not convicted. We need to work with police and community leaders to reduce gun violence. We need better treatment for the mentally ill, and drug addicted defendants.

We need to give non-violent juveniles and young adults a second chance, so they do not become another statistic in state prison.

But make no mistake about it, I am not running for Public Defender. My primary responsibility if elected is to protect the community. Nobody should go to jail for marijuana, but if you are a drug dealer, selling heroin or fentanyl, which is killing 3 or 4 people every day in Broward county, “Jim Lewis Will Put Your Ass in Jail”. That is a promise.

www.jimlewis4stateattorney.com

Justin McCormack (DEM)



I am a progressive prosecutor. I am the only candidate that has started at the bottom of two prosecutors' offices in two different states and has worked his way up to handling major crimes. I entered public service as an ADA in Pittsburgh and when I returned to Broward I joined our State Attorney's Office where I now serve in the Public Corruption Unit prosecuting police misconduct, dishonest lawyers, corrupt politicians, and others that have broken the public trust. I am currently working on the cases involving the Broward deputy's inaction during the MSD shooting, the Hollywood Hills nursing home deaths after Hurricane Irma, and the Broward deputies charged with using excessive force on a student in Tamarac last spring.

I am the only candidate that has taken police officers to trial for their misconduct. I work closely with law enforcement at every level and have great admiration and respect for them, but when an officer tarnishes the badge and breaches the community's trust, they must be held accountable to repair that trust.

I have the experience and ability to bring the long overdue changes our justice system needs. I understand that the majority of people that enter our jail are not hardened criminals but suffer from addiction, mental illness, and poverty, and can be rehabilitated instead of recycled through the system. I want to foster a meritocratic office that encourages prosecutorial discretion, camaraderie, professional growth, and most importantly, justice. Visit

www.mccormackforstateattorney.com for details on my criminal justice reform plan.

Meet Your Next State Attorney

Sarahnell Murphy (DEM)



It is my experience and commitment to our community that sets me apart from my opponents. After graduating from the University of Florida, while working as a Felony Probation Officer, I discovered my passion to become a prosecutor. I attended Nova Southeastern Law School, and I have had the privilege to serve our community as an Assistant State Attorney for the past 24 years.

I am a trial lawyer. I have tried 130 cases to verdict, ranging from misdemeanors to murder. In 2015, I was awarded the Joseph J. Carter Professionalism Award by the Broward Bar. I have served as the Chief of our Domestic Violence Unit, and Misdemeanor Trial Unit. In 2010, the Broward Domestic Violence Counsel awarded me the Rebecca Lee Knox Community Leader Award. I have had the opportunity to supervise hundreds of Assistant State Attorneys. I am proud of the innovative diversion programs I have created.

Our current State Attorney, Michael J. Satz, has honored me with his support and endorsement. Under my leadership, the Office will continue to protect our community, and seek justice for victims of crime. We will pursue just punishment for those that pose a danger to our community. We will offer alternative diversionary programs when appropriate. As State Attorney, I will actively seek input from the diverse communities we serve to ensure everyone is treated fairly and equally. I will collaborate with community partners as well as law enforcement to enhance public safety. I will be transparent with our decision making, and remain accessible to you, the members of our community.

www.sarahnellmurphy.com

Harold Fernandez Pryor (DEM)



I am a 5th generation Floridian, a husband, father, and the son of a former law enforcement officer and city clerk. My parents instilled in me the importance of honesty and integrity.

I am running because growing up, I believed that the criminal justice system did not work for people who look like me. I experienced the System firsthand from the vantage point of having family members brutally murdered (and watching their killers go free); I also experienced family members with mental health and drug addiction issues criminalized. I know what it is like to be a member of a targeted community. I served as an Assistant State Attorney with the Office of the State Attorney in and for the 17th Judicial Circuit of Florida. I have experience as an in-house counsel for a multi-million-dollar telecommunications company that had budgets twice the budget of the State Attorney's office. I have the experience as well as the legal and business acumen to run

an office the size of the State Attorney's Office.

I am running because I truly believe that we can initiate ground-level criminal justice reform without compromising the safety of our communities. That means us ensuring that there is fairness in sentencing and opportunities for treatment for individuals with mental health and drug addiction issues. That means us not criminalizing poverty and prioritizing the prosecution of violent criminals and crimes against vulnerable communities. Learn more about me and my platform at www.haroldpryor.com. Let's Make History!

Meet Your Next State Attorney

Gregg Rossman (REP)



The State Attorney is the Chief Law Enforcement Officer in the jurisdiction. Therefore, the State Attorney should have extensive experience as a Prosecutor, the respect of law enforcement partners, the respect of the community and should be a person of the highest character.

The State Attorney's Office should be devoid of politics. Our great Country is founded on the Rule of Law, requiring Due Process - fundamental fairness, to be effective. This is only possible if there is trust between the system and its citizens. Victims need to know they have a voice and they will be heard. Law Enforcement needs to know they have an honest working partner. Defendants need to know the State Attorney's Office will prosecute cases firmly but fairly. These elements are essential to a properly functioning justice system. This requires strong leadership from a State Attorney free from and immune to political influence.

I am known as a tireless fighter and advocate for justice. In 20 years as an ASA, I supervised in County and Felony; served five years in the Career Criminal Unit, two in the Organized Crime Unit and in Homicide Trial Unit for over 7 years trying the most complicated cases. I have a profound understanding for the need for a strong and vibrant SAO.

For 6 years now in private practice I have been an advisor to law enforcement agencies. This experience gives me unique insight on how important collaboration between the SAO and law enforcement is to the safety of our community.

www.voteforgregg2020.com

Joshua David Rydell (DEM)



I'm running for State Attorney in order to reshape Broward County's criminal justice system in a way that is fair and equitable for everyone in our community regardless of race, sexual orientation, gender, financial status or any consideration other than the facts pertinent to every individual's unique case. As a former assistant public defender and now criminal defense attorney, I know from firsthand experience how broken our system is. Outside of working as an attorney, I serve on the Coconut Creek City Commission, and I am currently my city's Vice Mayor.

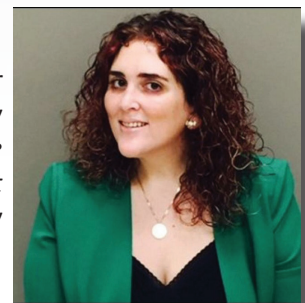
I am confident that my background and experience give me an informed perspective on the problems we face and the changes we must make to fix them. In addition to keeping our community safe, my goals as Broward County's next lawyer-in-chief are to provide alternatives to mass incarceration; reduce recidivism; stop the school-to-prison pipeline; and increase community trust. I'll prioritize substance abuse treatment over the criminalization of addiction; stop racially discriminatory sentencing practices; end the stigma with mental illness; support community-based diversion and re-entry programs; increase transparency and implement effective training protocols to give attorneys the legal foundation they need for future success.

For me, these are not just professional issues of law and order. They are ethical questions of social justice. Fixing Broward County's criminal justice system and becoming a true community partner is an urgent matter and a grave responsibility, one which is absolutely within our power.

More information on my vision is available at: www.JoshuaRydell.com

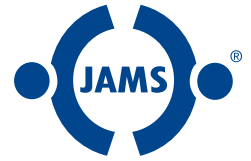


*Arielle Demby Berger
is an Assistant State Attorney
and head of the
Conviction Review Unit
for the Broward County
State Attorney's Office.*



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Gary Birnberg, Esq.

Lucy Chernow Brown *Retired Judge 15th Judicial Circuit*

David F. Crow *Retired Judge 15th Judicial Circuit*

Joseph P. Farina *Retired Chief Judge 11th Judicial Circuit*

Gill S. Freeman *Retired Judge 11th Judicial Circuit*

Jeffrey Grubman, Esq.

Jacqueline Hogan Scola *Retired Judge 11th Judicial Circuit*

Gerald Kogan *Retired Chief Justice Florida Supreme Court*

Cristina Pereyra-Alvarez *Retired Judge 11th Judicial Circuit*

Ronald B. Ravikoff, Esq.

Scott J. Silverman *Retired Judge 11th Judicial Circuit*

Richard J. Suarez *Retired Judge, District Court of Appeals*

Patricia H. Thompson, Esq.

John W. Thornton, Jr. *Retired Judge 11th Judicial Circuit*

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Hurricane Season 2020

by Linda Knoerr & Deborah Ward

HURRICANE SEASON 2020 - Early Preparation and Considerations Amid Coronavirus Pandemic

This year has brought many challenges to all of us to say the least. While we are still amid the coronavirus pandemic and its effects, we must also now consider preparation for the upcoming hurricane season, which begins June 1. Many of us would consider ourselves efficient in preparing for hurricane season. However, we now find ourselves in a complicated time with the pandemic, therefore, additional preparation will be necessary. As many of us are working remotely and routine services in our everyday lives have altered, it is vital to prepare appropriately. For instance, we now must consider securing and protecting both physical and home offices for a potential storm. How some medical services are provided may have to be modified to comply with CDC guidelines, which will help if we do have a storm. Everyone has recently experienced stores limiting number of customers allowed in at one time to comply with social distancing. As these changes may extend the normal time frame to complete tasks, it is important to prepare early for hurricane supplies to minimize strain in these already stressful times.

Grocery and supply shopping should be done in advance to take into consideration social distancing guidelines. Non-perishable items and supplies can be purchased early and stored. It is important to call healthcare providers to plan ahead and arrange for routine medical services such as check-ups and medication refills. Some medical offices now offer remote telehealth services for qualified services or are limiting number of patients seen. It is vital to call your healthcare provider now to evaluate their policies and procedures and arrange for best plan. Additional time must also be allotted to secure and protect all offices, physical and home.

Essentials items and tasks which can be purchased and prepared in advance include:

- Water and non-perishable food items;
- Flashlights, batteries, battery powered radio;
- First Aid Kit;
- Emergency medications: (fever and pain relievers, antihistamines (including diphenhydramine (Benadryl), antacids, antidiarrheals, hydrocortisone cream, aloe vera);
- Sunscreen and insect repellent;
- Fire-extinguisher;
- Manual can opener;
- Household chlorine bleach, unscented, and medicine dropper;
- o Resources as to how to make water safe and cleaning solutions can be found at the following CDC resource pages:
CDC - Making Water Safe in an Emergency
<https://www.cdc.gov/healthywater/emergency/drinking/making-water-safe.html>

CDC - Household Cleaning & Sanitation- Potential Solutions During an Emergency Response
<https://www.cdc.gov/healthywater/emergency/cleaning-sanitizing/household-cleaning-sanitizing.html>
- Personal care products (soap, toothpaste, feminine hygiene

items, deodorant, glasses, contact and contact solutions, blankets, pillows, towels);

- Wrench or pliers to turn off utilities;
- Thermometer;
- Masks and gloves;
- Phone chargers (include portable charger which can be used in car);
- Paper and pen/pencil;
- Garbage bags;
- Copy of all vital documents (all insurance policies – medical, car, home, office, commercial business insurance, etc.);
- Copy of vital phone numbers (family members, medical providers, veterinarians, employees, office IT, landlord);
 - o Note: copy of vital documents/numbers can be scanned and emailed to yourself as well as keeping a copy with you in waterproof container
- Spare tire;
- Full propane tanks of gas for BBQ (alternative cooking source);
- Essentials for children (diapering needs, formula, games, pediatrician number);
- Pet food and supplies;
- Medical equipment and supplies (masks, tubing, batteries, etc.)
 - o include cleaning supplies needed for this equipment;
- Back up your cell phone to the cloud.

Other Items to Prepare:

- Ensure you have 1-month supply of prescription medications
 - o for household members and those who do not live with you, consider elderly and children;
- Full tank of gasoline for vehicle;
- Secure Home & Offices – with shutters, wood or coverings to all openings to protect from damages in a wind created event.

Offices/Business/Property Hurricane preparation tips:

Using an app on your phone, there are many free ones including Timestamp Camera app, make sure to take complete photographs of your property, inside and out including the coverings placed in preparation for a potential storm. Follow the property from the front door clockwise to have accurate photos of the property pre-loss – this should include walls, ceilings, floorings and contents. This will ensure that your insurance company can determine your preparation and what condition your property was in prior to any potential damages.

- Include in these photographs contents in garage, patios, closets;
- Photograph your offices and property before and after each storm – to be able to know the exact date of loss if you have damages during storm season.

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Hurricane Season 2020 - Early Preparation and Considerations Amid Coronavirus Pandemic

Sometimes as we know there are multiple storms in a row, and you want to prove what event caused the damages;

- Buy and keep extra ink cartridges for printers;
- Wireless printer with Wi-Fi connector;
- Wireless network card/physical hot spot device;
 - o To ensure internet access to set up printer, computer etc. from your phone if needed.
- Insurance policies
 - o Review your policies now and ensure the coverages you have are the amounts needed; discuss this with your insurance agent so you have proper coverage in place before a storm may strike;
 - o Keep copy of policy and phone number to the claims department with you, safe in waterproof container – take a picture of your declarations pages of all policies and email to yourself so that you can access from any computer, if needed.
- Ensure you have passwords with you in the event your computers are damaged;
- Contact your IT company/service in advance to ensure a back-up is done successfully to a cloud and local device – with periodic updates scheduled;
- Coordinate with your IT company/service to determine how and when to turn off machines depending on the requirement of your business;
- Configure business phone lines to forward calls to cell phones or know how to access messages from your office remotely;
- Turn off computers prior to a potential storm;
- Cover all equipment next to windows such as monitors and computers with waterproof coverings;
- For computers on the floor or IT room, ensure all devices and equipment are elevated off the floor to prevent risk of water damage;
- Have your IT company/service's phone number with you;
- Ensure employees/team have a copy of important numbers as appropriate.

Property/Home post storm:

- Have the phone number to your claims department and your policy number for property damages;
 - o If a storm hits in your area and you think you have damages, (e.g. you heard items hitting your home) – or see roof tiles, or blown items, fences, pieces of sheds around your property but are not sure of the exact damages - please file a claim to place your carrier on notice of the loss timely – late notice and prejudice for

late filing is a common defense in late claims being filed;

- o Take pictures of how you prepared the property and provide to your insurance company when you file claim
- Including – shutters placed, how you prepared outside such as patio furniture, steps took to protect property;
 - o After the storm, take pictures of any damages as so as possible;
- Do not throw anything away that is damaged as the insurance company has the ability to see the damaged property to investigate loss and evaluate damages;
- Keep a list of damages you notice, as you see them;
- Keep receipts for any items you buy for temporary repairs;
 - o Tarps, tape, etc.
- If forced to leave your property after the storm due to damages and your property is uninhabitable, keep receipts of expenses incurred such as lodging and meals.

Plans

- Plan with members of your household safest way out of home and neighborhood
- Create and share emergency plans with employees/teams regarding how to proceed after storm
- Arrange for those with special needs, elderly, children and pets
- Evacuation plans may become more complicated during these times where social distancing has been implemented. If you live in an evacuation zone, it is crucial to develop a plan now as to best place for evacuation if you need to leave your home. Stay up to date with local authorities if a shelter is needed, to evaluate plan for shelters, including those which will accept pets if applicable.

Early preparation for hurricane season is always important, but this year more than ever, taking into consideration changes related to the coronavirus pandemic. This list is not all-inclusive, and it is important to evaluate the needs of your family and business/teams.

Additional resources:

<https://www.ready.gov/hurricanes>

<https://www.weather.gov/wrn/hurricane-preparedness>

<https://www.floridadisaster.org/planprepare/>

<https://www.cdc.gov/disasters/hurricanes/index.html>

Note: Thank you to David Betancourt of NetCom Solutions for additional input regarding IT preparation

Linda M. Knoerr is the owner of Knoerr Law Group, a law firm specializing in first party property damage litigation assisting policyholders with insurance claims for over 25 years. Contact information: linda@lknorresq.com or call 954-749-3151; claimhelplawyers.com.



Deborah Ward, APRN, LNC is a board-certified nurse practitioner working as a legal nurse consultant.

Her nursing expertise and legal nurse consultant services assist attorneys with full case development of a wide range of medical related cases. Deborah can be contacted at deborah@drwardconsulting.com or (954) 290-7311.



RECENT DEVELOPMENTS IN LAW

by Debra P. Klauber

The Florida Supreme Court approves a proposed constitutional amendment which would allow all registered voters to vote in primaries for state legislature, governor, and cabinet, regardless of political party affiliation.

The Florida Attorney General petitioned the Florida Supreme Court for an advisory opinion as to the validity of the petition designed to amend the Florida Constitution. The majority of the court concluded that the petition complied with Florida law, particularly the single-subject requirements, agreed that the ballot summary provided fair notice of the subject matter, and approved the initiative for placement on the ballot.

Advisory Opinion to the Attorney General re: All Voters Vote in Primary Elections, 45 Fla. L. Weekly S102, SC19-1267 (Fla. March 19, 2020)

The Fourth District Court of Appeal holds that no authority exists under section 57.105 to allow a court to award not only reasonable attorneys' fees incurred, but an additional punitive amount.

In this case, the plaintiff's attorney successfully recovered the reasonable attorneys' fees incurred in litigating an insurer's declaratory judgment action, where the trial court awarded the fees pursuant to section 57.105 of the Florida Statutes. When the trial court subsequently awarded the plaintiff additional fees for a punitive amount, the appellate court reversed. The Fourth District concluded that the application of the lodestar method adequately computed the "reasonable attorney's fees" under the statute and compensated the plaintiff as contemplated by the statute.

Safeco Ins. Co. v. Heikka, 45 Fla. L. Weekly D485, 4D18-2971 (Fla. 4th DCA March 4, 2020).

The Third District Court of Appeal affirms a trial court's decision not to give spoliation inference in a slip and fall case.

The plaintiff was injured in a slip-and-fall at a supermarket when she fell on uncooked rice. She took pictures of an employee sweeping up the grains of rice, and days after the incident, asked the defendant to preserve all video surveillance in the store. During discovery in the case, it was determined that the closed-circuit recording system did not capture the area where the fall occurred, and that the store discarded or misplaced the bag of rice. In response to the store's motion for summary judgment, the plaintiff asked the trial court to allow an adverse inference since the store had failed to direct its surveillance at the scene of the fall and because the rice bag and inspection logs were unavailable, and the employee sweeping the rice could not be identified. The trial court found, and the appellate court agreed, that while the store was obligated to maintain the surveillance video, it could not be sanctioned for "the failure to create evidence." Similarly, the trial court found, and the appellate court agreed, that even though the bag of rice was not available, its condition was readily observable and its loss or destruction did not impact the plaintiff's ability, or inability, to prove her case. Likewise, neither court was persuaded that the inability to identify the employee who was involved was somehow nefarious.

Pena v. Bi-Lo Holdings, LLC, 45 Fla. L. Weekly D506, 3D19-0581 (Fla. 3d DCA March 4, 2020).

The Second District Court of Appeal reiterates the high thresholds set forth by the Florida Supreme Court for allowing a new trial based on counsel's comments in closing argument.

When improper comments made in closing argument are not objected to contemporaneously, but later are the basis for a new trial motion, the applicable standard requires the trial court to determine whether the comments constitute fundamental error. In evaluating whether a new trial is appropriate, the trial court must evaluate whether the comments were in fact improper, whether they caused harm that calls into question the validity of the trial itself, whether the harm was incurable, and whether the comments and conduct damaged the fairness of the trial itself. The trial court's failure to apply this stringent standard set forth by the Florida Supreme Court years ago warranted a reversal of the order granting a new trial.

Robinson v. Polk County School Board, 45 Fla. L. Weekly D561, 2D19-421 (Fla. 2d DCA March 11, 2020).

The Second District Court of Appeal reaffirms that the obligation to file a privilege log does not arise until after the court has ruled on the party's non-privilege discovery objections.

In this suit between a homeowner and an insurance carrier who denied coverage for a hurricane water damage claim, the plaintiff requested photographs of the property that were taken by the insurance company's investigator. The insurance company objected to the request by arguing that the documents were protected by the work product doctrine and because it included information that was not properly discoverable in a first-party property insurance claim. The trial court overruled the objection simply because the insurance carrier had not provided a privilege log. The appellate court accepted certiorari review and reiterated the Florida courts' determination that the obligation to file a privilege log does not arise until the information is determined to be discoverable — which is after the trial court has ruled on the non-privileged objections. The appellate court found that the trial court should have first ruled on the overbreadth objection to the disclosure of the photographs and allowed the carrier a reasonable amount of time in which to file its privilege log thereafter.

Avatar Property & Casualty Ins. Co. v. Jones, 45 Fla. L. Weekly D588, 2D19-243 (Fla. 2d DCA March

Debra P. Klauber, Esq., a partner with Haliczer Pettis & Schwamm, oversees the firm's trial support and appellate practice and provides guidance to litigators throughout Florida. Debbie can be reached at: 954-523-9922 or dklauber@hpslegal.com



Quarantine-15 during Covid-19

by Joseph Nascimento



We've made it through more than two months of quarantine. We've been experimenting in the kitchen, working from home, and socializing through video calls. We've reached the end of Netflix. We're all becoming expert Zoom litigators.

With all of these changes to our normal routines, many were concerned with weight loss or gain. Some quickly adapted, turned to online fitness, found themselves going for more walks/runs and realized that since they weren't going out to eat or drink, the calories weren't stacking up. Others struggled, possibly due to the increased stress, and experienced weight gain or an overall decline in fitness.

So, whether we need to hit reset or are looking to pivot towards the new "normal" with healthy habits, the best thing we can do is plan. As lawyers, we don't blink at the idea of devoting time to preparing for an opening argument, an important deposition or a client meeting. But, we often fail to devote the same energy to ourselves.

The default advice is to tell you to just exercise every day. Only 5% of your day will do the trick. But the reality is, working out alone, without paying attention to nutrition, recovery and mental fitness, is just not enough. So, where do we start? With small, measurable, attainable goals:

- Drink at least 64 ounces of water each day;
- Use a food scale and log your food using a tracking app (i.e., MyFitness Pal) to give you an exact idea of how many calories you are eating and the breakdown of carbs, fats and protein;
- Stick to whole foods (foods in their natural state – meat, fish, fruit, vegetables, nuts, whole grains and seeds) (usually if you find the item in a store's aisle, it has been processed);
- Ditch the scale and use a body composition device (make goals based on how you feel and not necessarily your overall weight – 140 lbs with 35% body fat will feel much different than 140 lbs with 20% body fat);

- Utilize a wearable fitness device (i.e., apple watch) to give you an idea of how many calories you've burned through physical activity each day;
- Write down your weekly and monthly goals as it relates to each aspect of fitness (nutrition, exercise and recovery); and
- Practice mindfulness, do breathing exercises throughout your day, develop a sleep routine for the 30 minutes before you go to bed.

As far as exercise is concerned, there is so much you can do from home. For example, 3 quick rounds of the following set, done with good technique, is a good start:

- 12 Squats
- 12 Push-Ups (on your knees if needed)
- 12 Lunges
- 12 Reverse Crunches
- 12 Curls (holding any object, i.e. backpack, suitcase, etc.)
- 12 Deadlifts (use bags, case of water, etc.)

These movements, and the arrangement of the workout, are a common form of functional fitness. All of the movements above can be modified based on injuries or level of fitness to make them easier or harder. You can add weight, increase/decrease the repetitions/rounds or maybe add a short run/bike ride. You can also change the type of workout, utilizing a Tabata style of 20 seconds of movement followed by 10 seconds of rest (typically for 8 rounds at each movement). The most important part is to just keep moving and varying the types of movements and lengths of workouts to keep your body guessing.

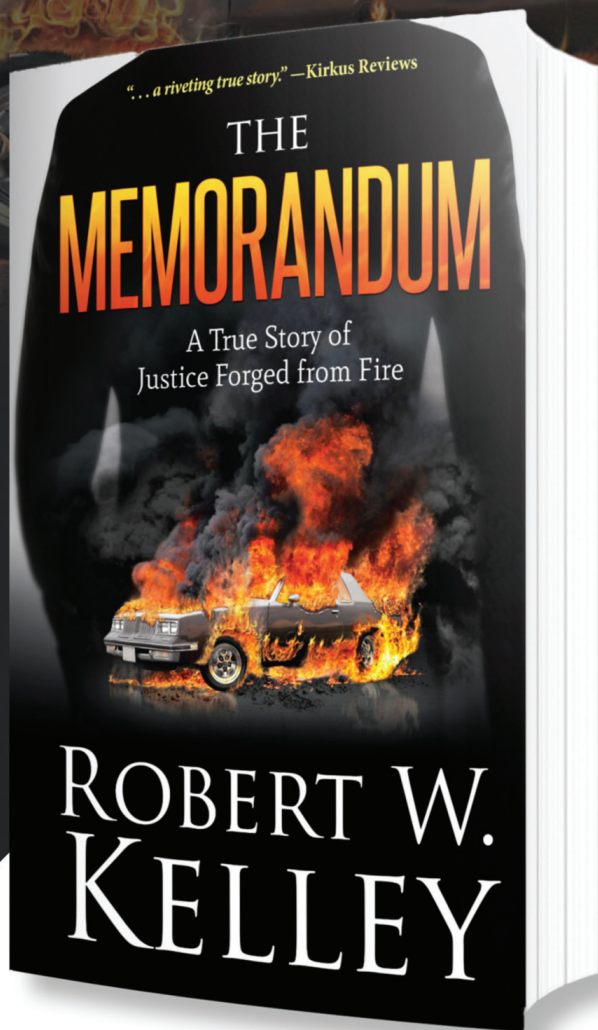
Treat self-care like your most important job. Assign a number of "billable hours" that you owe yourself each week; plan and track your progress just like you do for work. Over time, small, consistent changes will add up to big results.

Joe Nascimento is a criminal defense attorney with Ross Amsel Raben Nascimento, an adjunct faculty member at UM School of Law and the owner of Springs Fitness in Coral Springs.



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June 2

Webinar: Family Law - Presenting Evidence in a Virtual Trial/Hearing

Time: 12:00 p.m. – 1:00 p.m.

Cost: \$15

June 3

Webinar: IP of COVID

Time: 12:00 p.m. – 1:00 p.m.

Cost: \$15

June 3

Got Civility? Pandemic Edition

Time: 12:00 p.m. – 1:00 p.m.

Cost: \$10

June 9

Ethics Series - 8 Rules You Probably Don't Know that May Get You In Trouble

Time: 12:00 p.m. – 1:00 p.m.

Cost: \$15

June 10

ASFMA CLE: A Judges Perspective on Mediation - Judge Tarlika Navarro

Time: 12:00 p.m. – 1:00 p.m.

Cost: \$15

June 11

Webinar: SECURE Act Solutions

Sponsored by: The Community Foundation of Broward

Time: 12:00 p.m. – 1:00 p.m.

Cost: \$15



Sunday, June 21st

June 12

Legal Malpractice Pitfalls in the COVID and Virtual Environment

Sponsored by: Florida Lawyers Mutual Insurance Company

Time: 12:00 p.m. – 1:00 p.m.

Cost: FREE

June 23

Webinar: Medicaid Planning 101

Time: 12:00 p.m. – 1:00 p.m.

Cost: \$15

June 23

Webinar: Preparing for Hurricane Season; 1st Party Property

Time: 12:00 p.m. – 1:00 p.m.

Cost: \$15

June 25

Hispanic Lawyers Committee: Virtual Happy Hour

Time: 5:30 p.m. – 6:30 p.m.

June 26

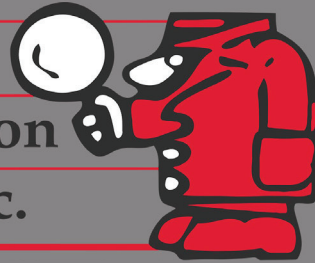
Roundtable Webinar with Broward's JCC's

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