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JANUARY 2015



Inside this Issue:
Judicial Robing Ceremony – see page 12

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ON THE COVER:

Pictured in the back row from left to right are Judges Edward H. Merrigan, Jr., John Patrick Contini, Dennis D. Bailey, and Daniel J. Kanner. In the bottom row left to right are Judges Claudia Robinson, Kal Evans and Stacey Schulman. Judges will be robed at the Judicial Robing Ceremony on January 16, 2015 at the main courthouse. See Page 12 for more information.

5 Letter from the President *John G. Jordan*

7 Young Lawyers' Section Letter from the President *Liza Smoker Faw*

8 The "Maybe" Deed *Jacqueline A. Revis*

10 Attention all LLC Owners *Richard Corey*

12 Newest Members of the Judiciary

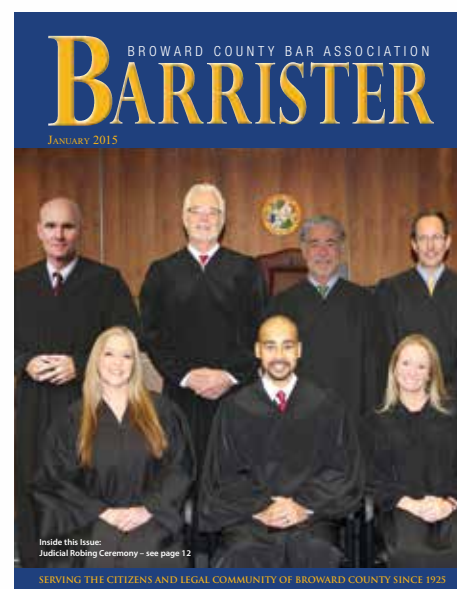
19 Immigration *Richard J. Block*

21 Recent Developments in The Law *Nancy Little Hoffman*

23 Calendar of Events



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letter from the president



John G. Jordan

John Jay....

John Jay (December 12, 1745 – May 17, 1829) was appointed by President George Washington, as the first Chief Justice of the Supreme Court of the United States in 1789. He was a lawyer from New York. During the Revolutionary war, he sought to protect property rights and maintain the rule of law, while resisting British violations of human rights.

He served as the President of the Continental Congress from 1778 to 1779, an honorable position, but with little power. The Federal Government was not given much power until the states adopted and signed the U. S. Constitution.

John Jay was the Ambassador to Spain. He assisted with the negotiations of the Treaty of Paris in which Great Britain recognized America's independence. He was appointed the Secretary of Foreign Affairs, fashioning foreign policy for his new country.

John Jay was a proponent of a strong, centralized government. He worked to ratify the U.S. Constitution in New York in 1788. Along with Alexander Hamilton and James Madison, he wrote *The Federalist Papers*. He was the Governor of New York State (1795- 1801) where he was the state's leading opponent to slavery. He signed the 1799 Act that eventually gave freedom to all slaves in New York. Through his storied career, John Jay influenced others and advocated his beliefs. On January 19, 2015, the United States will honor Martin Luther King, Jr., for all that he accomplished in the promoting equality and civil rights. Dr. King also influenced others and advocated his beliefs.

On January 16, 2015 at 1:00 pm, seven Judges will be robed at the Broward County Courthouse in the jury room on the third floor. The public is invited to this robing ceremony. It will be an impressive assemblage. The Broward County Bar Association will be giving to the judges, gavels and professionalism signs for their courtrooms.

On January 29, 2015, at 5:30 pm, the BCBA Legislative Section, in conjunction with the BCBA Governmental Section, will be hosting a reception for the Broward County legislators and for the County and City government officials and attorneys at the 15th Street Fisheries in Fort Lauderdale.

On December 4, 2014, the Broward Bar held their annual Holiday Party at the 110 Tower. A great time was had by all.

Keep on checking the Broward County Bar Calendar at our website, browardbar.org, where many exciting events are posted that you will want to attend.

May luck and good fortune embrace you and your family throughout this New Year. **B**

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Congratulations to The Honorable Circuit Court Judges Dennis D. Bailey, John Patrick Contini, Edward H. Merrigan Jr., and Stacey Schulman; as well as The Honorable County Court Judges Kal Evans, Daniel J. Kanner and Claudia Robinson.

We are proud to support the Broward County Bar Association and its 2015 Judicial Robing Ceremony.

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letter from the young lawyers' president



Liza Smoker Faw

It is the start of the new year and the Young Lawyers Section has plenty of ways to help with your New Year's resolutions!

If your resolution is to become a better lawyer: The Attorney Boot Camp CLE Series is a great way for newer attorneys to sharpen their skills. The first CLE of the series will take place on January 27th at 6:00PM in the BCBA Center on the topic "I Filed my First Motion, Now What?" with perspectives from our speakers Judge Stacy Ross, Robert Kelley of Kelley/Uustal, and Marissa Pullano, immediate past president of YLS. The CLE will be followed by a networking cocktail reception.

YLS would like to thank everyone who applied for our Boot Camp Diversity Scholarship. We are in the process of reviewing the applications and will announce the recipients this month. Funding for these scholarships was provided by The Florida Bar's Voluntary Bar Association 2014-2015 Diversity Leadership Grant which was recently awarded to YLS. Thank you to Cherine Smith Valbrun and Tobi Beth Lebowitz who were instrumental in obtaining this grant for YLS.

If your resolution is to give back to our community: One of my favorite YLS events is our annual Holiday in February which will take place on February 7th. Holiday in February is a charity event in which we invite local foster care children or underprivileged children to a holiday wonderland at the Museum of Discovery and Science. It is a day of fun for all involved, and the toys received from our December toy drive will be given to the children. Sara Sandler has done a wonderful job with planning this special event. If you are interested in donating toys or backpacks for this event or joining this committee, please contact Sara at ssandler@waltonlantaff.com.

If your resolution is to develop relationships and expand your network: YLS organizes monthly luncheons and socials throughout the year which are a great way to develop relationships and expand your network.

Our annual State of the 17th Circuit Luncheon will take place on January 15th at noon at the Tower Club with our distinguished speaker, Chief Judge Peter Weinstein. Please RSVP in advance as space is limited. CLE approval for this event is pending.

Our next social is on January 27th with the Broward County Federal Bar Association's Young Lawyers Division. This free event will take place at S3 on the Beach and includes a free drink and appetizers. New backpacks or donations of any amount will be accepted at the door to benefit ChildNet which supports abused, abandoned, and neglected children in our community.

Whatever your resolution may be, I am sure YLS has something to offer. Please be sure to check our online calendar at www.browardbar.org/YLS for details about these and many other events coming up. Lastly, if you are interested in joining a committee, partnering with YLS on an event, or have any questions, please feel free to contact me at Rogers, Morris & Ziegler LLP at (954) 462-1431 or via email at LFaw@rmzlaw.com. **B**

The “Maybe” Deed

by Jacqueline A. Revis

Most recorded real estate deeds are irrevocable. There is, however, one kind of deed that is revocable - the enhanced life estate deed, more commonly known as the “Lady Bird Deed.” Many sources believe that the term Lady Bird Deed arose because of an old Texas law review article that proposed this type of transfer and used Lady Bird Johnson as a hypothetical party.

The traditional life estate deed gives the life tenant a life estate in the property and the remainderman a vested remainder interest. The enhanced life estate deed also gives the life tenant a life estate in the property, but the remainderman gets only a contingent remainder interest; it is subject to complete divestment if the life tenant so chooses. The lady bird life tenant can maintain complete control of the property during his lifetime. Unlike the traditional life estate deed, the remainderman of a lady bird deed does not become vested until the death of the life tenant. Both types of life estate deeds successfully transfer the property upon death of the life tenant without needing to do a probate.

To further illustrate my point, the life tenant under a lady bird deed can sell, mortgage, and keep full control

of the property without the consent of anyone else. Conversely, with the traditional life estate structure, the remainderman would have to join in or consent to the sale or mortgage of the property. Further, without the cooperation of the remainderman, the life tenant in a traditional life estate set-up would not be able to sell or mortgage the real property.

An important benefit of both the traditional life estate deed and the lady bird deed is that the real property involved does not have to be probated. The life estate expires upon the life tenant’s death, and the beneficiary of the remainder interest becomes vested in fee simple to the property at the same time.

Having the authority to sell real property is important when it comes to real estate. If the property is owned by an estate, waiting for the probate court to give its approval or to issue an order can significantly delay a closing. Waiting for a three-month creditor period to expire, can also cause delay. On the other hand, in general, the remainderman of a life estate deed does not need a court order to sell or enjoy full ownership of the property. Additionally, the lady bird deed gives the life tenant complete control of the

property during his lifetime, making the lady bird deed the best of both worlds.

Attorneys should consider a lady bird deed for clients who have real estate as a potentially probatable asset. Using a lady bird deed may reduce or eliminate the need for a probate for the real property.

To recap, using a lady bird deed as a planning technique may give you a way of helping your client give his children a home while still retaining full control. **B**



Jacqueline A. Revis, Esq. is fluent in both English and Spanish and practices in the areas of real estate, business transactions, probate and trust administration, and estate planning for the boutique law firm of Krause & Goldberg P.A. in Weston, Florida. She received her Juris Doctor (J.D.) from Nova Southeastern University. She is a member of Attorneys Title Fund Services and has closed over 1,500 real estate transactions during her 11 years working in the real estate field. She can be reached at jacqueline@krauseandgoldberg.com, or by calling 954-747-1400.

WHERE IN THE WORLD IS THE BARRISTER?!?




Members Stacy Schwartz and Maxine Streeter in front of the Maya ruins in Tulum, Mexico.



BCBA Member Carolann Mazza at Burrard Inlet on October 26 during the 2014 International Academy of Collaborative Professionals Forum in Vancouver, Canada

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Attention All LLC Owners & Business Law Practitioners:

The Revised Florida LLC Act Requires Immediate Compliance by January 1, 2015.

by Richard Corey

In 2013, the Florida Legislature unanimously adopted the Revised Limited Liability Act which is now Florida Statute §605. Throughout 2014, only newly formed LLCs were subject to the provisions of the revised act; however, effective January 1, 2015, the existing LLC Statute, §608, will be repealed, and all existing LLC's in Florida must comply with the Revised LLC Act in the new §605.

According to information posted on the Florida Department of State website, the LLC has become the entity of choice in Florida with about 705,000 LLCs operating under Florida law in 2013. During 2012 alone, an estimated 170,000 LLCs were formed, outnumbering newly formed corporations by over 60 percent. With the Revised LLC Act's compliance deadline around the corner, close to one million companies throughout this state will need to bring their operating agreements and business practices within the parameters of the new law.

Florida Statute §605 is based in large part on the Revised Uniform LLC Act of 2006 as amended in 2011 (RULLCA). Like any other LLC Act, §605 acts as a "default" statute, governing in the absence of a valid operating agreement between LLC Mem-

bers. However, the new act has many important changes, including more than 40 new definitions (10 of which are specific to appraisal rights.) The Revised Act also includes a list of 17 "nonwaivable" provisions by which all LLCs must abide. Among the new nonwaivable provisions are prohibitive terms regarding the following: waiver of judicial dissolution, restriction on members' rights to bring legal action against the company or other members, restrictions on members' rights concerning inspecting and copying records, members' right of indemnification in certain cases of misconduct, exoneration from liability, and any terms in the LLC operating agreement eliminating the obligations of good faith and fair dealing. The Revised LLC Act also changes the application of the term "managing member" in existing LLCs and completely eliminates the term from newly formed articles of organization. Under the new law, an LLC is considered to be "member-managed" absent express intent in the operating agreement stating otherwise. This member-managed default gives any member of the LLC statutory apparent authority to bind the LLC, even if the member is not a "manager," unless certain steps are taken. These steps include filing a "statement of authority" with the Florida Depart-

ment of State limiting such rights. The Revised LLC Act also changes the requirements to become a member, the form of contributions acceptable by a member, voting rights, the allocation of profits and losses among members, the form and manner of distributions, as well as many other standards of conduct regarding the company's overall business operation.

For an LLC owner or an attorney in the business world, it's imperative to become familiar with §605 and make all the necessary changes both internally and contractually. Like it or not, these laws are the ones governing all Florida limited liability companies. It's always the "one thing" never thought to come back to haunt you that causes a big problem. **B**



*Richard Corey, Esq., runs a general practice law firm in Fort Lauderdale concentrating primarily on criminal/civil litigation, entertainment, and business enterprise. He recently released his first book, *The Blueprint*, focusing on motivation through strategic planning and deductive logic. Richard is heavily involved in charity fundraising and motivational speaking. He can be reached at Richard@centerpriselaw.com or by calling (954) 789-0461*

The 2015 Mentorship Program

The 2015 Mentorship Program will be launched with a unique and fun take on mentorship pairings. A Mentor Express event, to be held February 12, 2015, at the BCBA Conference Center, will allow participants to network, get acquainted and actively engage in the mentorship pairing process. Fashioned after the well-known “speed dating” platform, the Mentor Express event will match prospective mentor and mentee for a few minutes, to give an opportunity to converse. The program committee will use each participant’s preferences when creating the mentorship pairings, leading to a more successful program.

Additional Mentor Express events will be held in the weeks to follow in order to pair up more participants. The program will include exclusive mentorship events, including happy hours, to breakfasts and lunches. This program is designed to promote a more active membership in the BCBA. Mentors will get to know younger lawyers, help them become better lawyers, and integrate them into the BCBA community. Mentors must have at least 10 years of experience, and mentees, must have less than five years of experience and, upon graduation, a willingness to become a future mentor to a law student.

For those interested in participating in the 2015 Mentorship Program, please send an email to mentor@browardbar.org. We look forward to your participation in the program and hope to see you at a Mentor Express event soon. **B**

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Todd Baker is an associate at Ellsley Sobol, P.L., and handles personal injury and criminal defense cases. He may be contacted at (954) 888-7720 or by email at baker@ellsleysobol.com.

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WELCOMING OUR NEWEST MEMBERS OF THE JUDICIARY

The Broward County Bar Association is proud to honor and recognize our newest members of the Broward Circuit and County Judiciary. The official Judicial Robing Ceremony will take place at 1 p.m. on Friday, January 16, 2015 at the main courthouse in Fort Lauderdale. We thank the following judges for their continued dedication and commitment to serving the good of our community. Please join us in congratulating our new judges.

CIRCUIT COURT

The Honorable Dennis D. Bailey

by Mary-Beth Ricke



Diverse trial experience and a calm temperament are two valued qualities that Judge Bailey will bring to the bench. These qualities caused Judge Bailey's brother, Judge Tim Bailey- another circuit court judge in Broward County - to encourage his brother to become a judge. Along with this encouragement, Judge Bailey was also motivated to become a judge because of his temperament to do the job well and his desire to benefit the community. While serving on the bench, Judge Bailey will heed the advice he has received to "be on time" and to "be open minded." He

also plans to bring a calmness to the courtroom.

Prior to serving on the bench, Judge Bailey practiced law as a trial lawyer for 28 years. He spent 14 years practicing criminal law, 10 years as a prosecutor and 4 years practicing criminal defense. He spent 14 years practicing civil litigation in both federal and state court.

Judge Bailey is a Broward County native and a Nova Southeastern University Law School graduate. He is greatly looking forward to giving back to his native community. During his spare time, Judge Bailey enjoys creative writing and spending time with his family. He is also active with Autism Speaks and other charities for autism.

The Honorable John Patrick Contini

by Kimberlee DeBias

Judge Contini has always had a strong desire to serve the public and recently "sensed a real need" for his services in the judiciary. Judge Contini brings his willingness to listen and his genuine compassion and care for his "fellow man" to the bench. The advice that Judge Contini plans to adhere to is to remind himself of 3 things as he puts his black robe on every day: "Be patient. You are not funny. Say 10% of what you want to say."

Judge Contini has spent the last 31 years trying cases in criminal court. After submitting his application to the Public Defender's Offices and State Attorney's Offices in Broward, Palm Beach and Miami-Dade Counties, Judge Contini started his career as a Broward County prosecutor and moved to a private criminal defense practice 4 years later.

Judge Contini is the father of 3 young adult children and truly en-

joys attending their dancing and sporting events to show his support. Judge Contini also spends time giving back to the community by speaking to juveniles in high crime areas about getting their lives on the right path and counseling addicts at treatment centers such as Challenges Addiction Treatment Center.

In his spare time, Judge Contini enjoys running, then writing. He gains inspiration as he runs and then heads to a nearby Starbucks to write about it. Judge Contini's published works include *Danger Road: A True Crime Story of Murder and Redemption* and *Feeling the Heat: An Interrogation of the Soul*.



The Honorable Edward H. Merrigan, Jr.

by Jared Guberman



Judge Merrigan has not only served South Florida communities throughout his legal career, but has also protected the freedoms and opportunities of all Americans through his service in the U.S. Army.

Prior to being appointed by Governor Rick Scott to the 17th Judicial Circuit Court bench, Judge Merrigan practiced law privately for 20 years, mostly in civil litigation. Thereafter, in 2009, Judge Merrigan was appointed by former Governor Charlie Crist to the Broward County Court bench. During his tenure in County Court, Judge Merrigan was the first judge to preside over the Veterans Court in Broward County which

was created in April 2012. The Veterans Court is a voluntary 12-18 month program designed for veterans who have served in the U.S. Armed Forces and are currently experiencing legal problems due to suffering from behavioral, mental health, or substance abuse orders.

Judge Merrigan received a masters degree in strategic studies at the U.S. Army War College and was a decorated veteran of the war in Iraq. He served in a 230-member combat battalion during Operation Iraqi Freedom in 2003. Further, he was awarded a Bronze Star for his service in Iraq. Currently, he is a Lieutenant Colonel in the U.S. Army Reserve.

Judge Merrigan is a Samford University, Cumberland School of Law graduate. Thereafter, he went to Emory University to get an LL.M. in tax law.

The Honorable Stacey Schulman

by Kimberlee DeBias

Judge Stacey Schulman is both humbled and excited to serve the community where she was born and raised and where she and her husband are currently raising their two sons. Judge Schulman has wanted to be a member of the judiciary for as long as she can remember. Even her high school yearbook reflects this ambition.

For the first 9 years of her legal career, Judge Schulman worked as a prosecutor in Broward County and for the last 3 years she has been litigating civil matters. Although Judge Schulman enjoyed the academic nature of civil litigation, specifically the challenge of extensive legal writing, she felt that the criminal side of the law gave her more of an opportunity to make a difference. Judge Schulman plans to bring patience to the bench – being patient with the litigants as well as herself as she travels this new road.

Judge Schulman sits on the Board of several charities including the Jewish Federation of Broward and the National Jewish Federation. She also has a passion for doing anything she can to support research for the treatment and cure of Multiple Sclerosis. Judge Schulman's main hobby is running. These days, she takes to the street with her family while participating in 5K runs for charity and teaching her children the importance of giving back. Judge Schulman is more than ready to "hit the ground running" in Dependency Court.



COUNTY COURT

The Honorable Kal Evans

by Richard Corey



The American ideology of life, liberty and the pursuit of happiness embodies a belief that all things are possible when you have the courage to believe in yourself and chase your dreams. Kal Evans' dream of becoming a judge began at the age of 9. Growing up in a rough neighborhood, Judge Evans was exposed to the harsh realities of inner city living at a very young age, watching many of his childhood friends end up in jail or

worse... Rather than following in their footsteps, young Kal Evans used the circumstances of his childhood as motivation to challenge himself, not only to chase his dreams of becoming a judge, but to

inspire others to do the same for themselves in their own way. After receiving his law degree from Nova Southeastern University in 2003, Judge Evans spent the next 11 years working as a prosecutor in the 17th Circuit until September of 2014 when his lifelong dream became a reality and he was sworn in as County Court Judge. According to Judge Evans, "When you work hard enough, you can achieve anything, no matter who you are or where you come from." Continuing his efforts to inspire others, he holds speaking engagements for children at various schools and clubs across the county. Passionate about his role in the justice system, Judge Evans compares the feeling he has going to work each day to how he felt the first time he looked into the eyes of the women he married, an ideal sense of purpose for any public servant.

The Honorable Daniel J. Kanner

by Richard Corey



Appointed by Governor Rick Scott, Judge Kanner was sworn in September 24, 2014, by Chief Judge Peter Weinstein. Judge Kanner graduated from the University of Florida's School of Law in 1992 and spent his first 6 years of practice as an assistant state attorney. He moved into private practice in 1998 focusing primarily on criminal law and civil litigation. As a dedicated father, Judge Kanner seeks to be a positive influence on his three

children in every aspect of his life, including his career goals. With over 150 jury trials under his belt in 22 years of practice, becoming

a judge was "something new that rejuvenated his interest in the law." Ironically, the same family oriented lifestyle that ultimately fueled his interest in becoming a judge also prepared him for the job (that coupled with over two decades of trial practice). According to Judge Kanner, the qualities that make a good judge are similar to those that make a good parent: a demeanor embodying consistency, fairness, and respect. As head coach for his sons' baseball teams, it's not surprising that he also compares the role of a judge to being a "good umpire." Judge Kanner thinks of himself as a regular guy and when he's not on the bench or in the dugout with his children, he enjoys restoring pinball machines and utilizing his college auto racing experience to work on vintage cars.

The Honorable Claudia Robinson

by Jared Guberman

Judge Robinson not only exhibits honesty and ethical character but also resolve and perseverance. At two years of age, Judge Robinson, and her single mother, moved to the United States from Nicaragua with \$200.00. She struggled as a young girl growing up in Overtown and Little Havana. However, because of her strong will, desire, and her mother's upbringing, she never gave up. She has earned everything by hard work and persistence. Judge Robinson will bring her diverse background, dedication, and her experiences to the County Court bench.

Prior to serving on the bench, Judge Robinson practiced law for 8 years, both in the civil and criminal areas. As an Assistant Public Defender for two years, she represented adults in criminal matters in both county and circuit court. Thereafter, she took a position as an Assistant General Counsel for the Broward County Police Benevolent Association where she was involved with the negotiations of contracts between the union and various municipalities, and appeared before the Broward County Commission and municipal

commissions. With all the foregoing experience, Judge Robinson opened her own general practice law firm, the Law Office of Claudia Robinson, PA, before being elected to the Broward County Court bench.

Judge Robinson is a University of Florida law school graduate. Judge Robinson is actively involved in community service in South Florida. She has volunteered at bi-weekly Legal Redress meetings for the NAACP and food drives, donated food to various organizations, and participated in the annual 5k for kids.

Claudia Robinson is proud to serve the residents of Broward County and is excited to give back to this country and her community.



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On October 18, 2014, over 150 golfers attended the Broward County Bar Association Young Lawyers Section's (BCBA YLS) 27th Annual Charity Golf Tournament at Jaracanda Golf Club. This year the BCBA YLS raised Thirty Thousand Dollars (\$30,000.00) for the ARC Broward Preschool. ARC Broward was founded in 1956 by a small group of parents of children with disabilities to address the total void in

services for their special children. Those devoted family members and other community members became the driving force what today is among the most respected and quality-driven organizations of its type in the country, ARC Broward. Over the years, ARC Broward has established itself as a leading advocate helping shape funding and policy decisions that occur at the state, local and federal levels for quality services for individuals with developmental disabilities. For more information on how to get involved with the BCBA YLS and/or sponsor the 28th Annual Charity Golf Tournament, please contact Lauren M. Alperstein, Esq. at LAlperstein@BSFLLP.COM or 954-924-0300. **B**



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PRESIDENT OBAMA'S IMMIGRATION ACCOUNTABILITY EXECUTIVE ACTION

by Richard J. Block

President Obama recently announced his "immigration accountability executive action," which consists of a series of measures aimed at addressing our immigration system. The President authorized the expansion of the current Deferred Action for Childhood Arrivals (DACA) program, as well as the creation of a new deferred action program, Deferred Action for Parental Accountability (DAPA). Those two actions alone will provide temporary protection from removal for millions of undocumented immigrants currently in the U.S.

DAPA will be administered by U.S. Citizenship and Immigration Services (USCIS) and provide temporary relief from deportation and work authorization to unauthorized parents of U.S. citizens or Lawful Permanent Residents (LPRs) who meet the eligibility criteria. DAPA approvals will be valid for three years and USCIS should be ready to start receiving applications within 180 days.

DACA is another prosecutorial discretion program administered by USCIS that has been in effect since June 15, 2012 and provides deferred action and work authorization to a class of individuals known as "DREAMers", most of whom were brought to the U.S. by their undocumented parents as infants. DACA is not amnesty and does not offer a pathway to legalization, but it has helped hundreds of thousands of young adults come out from the shadows, giving them a sense of belonging and improving their economic well-being.

The President modified DACA by eliminating the age ceiling and making all individuals who began residing in the U.S. before January 1, 2010 eligible. Previously, applicants had to be under the age of 31 on June 15, 2012, and had to have resided in the U.S. continuously since

June 15, 2007. DACA grants and accompanying employment authorization will now last three years instead of two.

The Administration also plans to implement new policies that promote research and development and support U.S. high-skilled workers and businesses that rely on such workers. USCIS has been directed to take steps to reduce wait times for



employment-based immigrant visas and improve visa processing. Additionally, USCIS has been instructed to propose a program that would permit parole status for inventors, researchers, and founders who have been awarded "substantial U.S. investor financing" or who "otherwise hold the promise of innovation and job creation through the development of new technologies or the pursuit of cutting edge research." Some other changes with respect to employment-based immigration include:

- Employment authorization for spouses of H-1B visa holders
- Expansion of the degree programs eligible for Optional Practical Training
- Clarification and guidance on the meaning of "specialized knowledge" to improve consistency in adjudications of L-1B (intra-company) visa petitions
- Modernization of the PERM (alien labor certification) Program administered by the U.S. Department of Labor

Many have questioned the President's authority to implement these new policies and directives through his use of executive action. But the exercise of prosecutorial discretion by the executive branch to determine when to enforce the law is a well-established tradition in American law. In the immigration context, prosecutorial discretion covers the government's decisions to refrain from pursuing enforcement, such as cancelling or not serving or filing a Notice to Appear (the charging document issued by the government to initiate removal proceedings) with the immigration court. It also covers decisions to provide discretionary remedies such as granting a stay of removal, parole or deferred action. Favorable grants of prosecutorial discretion do not provide formal legal status; they merely provide a temporary reprieve from deportation.

All eyes are now on Congress to see whether it will finally address the issue of comprehensive immigration reform legislatively, now that the President has acted on his own. The Senate did its part last year with the bipartisan passage of the "Border Security, Economic Opportunity, and Immigration Modernization Act of 2013" (S.744). It remains to be seen whether the House of Representatives will follow suit and address the issue. **B**



Richard J. Block is a shareholder at the law firm of Fowler White Burnett, P.A. Mr. Block focuses his practice on business immigration law and I-9 compliance. He may be reached at 954.377.8129 or via email at rblock@fowler-white.com.

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Courthouse Construction Update

by Meredith Bush

The new Broward County Courthouse construction is almost 70 percent complete, but there remains much work to be done on the inside. Electrical, mechanical and plumbing work is ongoing and finishing touches and attention to fine detail is happening throughout as workers now focus on building out the offices and courtrooms in the new building. The project remains on track to open in 2015, though it's looking like late in the year rather than summertime.





Recent Developments in the Law

by Nancy Little Hoffman

NO ERROR IN ALLOWING COUNSEL TO PLAY PORTION OF VIDEO DEPOSITION DURING CLOSING ARGUMENT

In an automobile accident trial, the court allowed plaintiff's counsel, over objection, to play a portion of the defendant's videotaped deposition during plaintiff's closing argument. After a verdict for the plaintiff, the defendant appealed the denial of its motion for new trial on that issue. Affirming, the First District held that the rules permitted the use of a deposition for any purpose, and that it had previously been introduced into evidence without objection. The DCA noted that, while this was a question of first impression in Florida, other jurisdictions expressly permitted such use, and the trial court did not abuse its discretion in allowing use of the deposition in this case. *Borden Dairy Company of Alabama v. Kuhajda*, 39 Fla. L. Weekly D2538 (Fla. 1st DCA Dec. 5, 2014).

EVIDENCE TAMPERING STATUTE DOES NOT CRIMINALIZE THE DELETION OF A VIDEO FROM AN ELECTRONIC DEVICE.

A Broward Sheriff's Office ("BSO") detective recorded statements made by a suspect in an unrelated criminal case involving other BSO officers. He then texted the video to one of those officers, showed it to his own supervisor, emailed it to PBA general counsel, and deleted it from his cell phone. The cell phone was seized by an investigator, who later discovered that the video was no longer on the phone. As a result, the detective was charged with evidence tampering and was ultimately convicted. Reversing and remanding for an

acquittal, the Fourth District held that the relevant statute requires destruction with intent to impair the availability of the evidence for use in a criminal investigation. In this case, the video was not "destroyed" since it could be – and was – recovered from the BSO email server. The court noted that "the statute does not criminalize deleting evidence existing in the memory of a particular electronic device, particularly where such evidence resides elsewhere in the electronic ether." *Costanzo v. State*, 39 Fla. L. Weekly D2498 (Fla. 4th DCA Dec. 3, 2014).

CASE MAY BE TRANSFERRED FROM COUNTY TO CIRCUIT COURT WITHOUT REQUIRING AMENDMENT OF COMPLAINT TO ALLEGE INCREASED AMOUNT OF DAMAGES OWED.

In an action to recover delinquent dues and fees against a club member, which continued to accrue during the pending litigation in county court, the county court granted the club's motion to transfer the case to circuit court. The defendant appealed, arguing that the circuit court had no jurisdiction because the complaint, which sought damages of less than \$15,000, had not been amended. The Fourth District affirmed because the county court was precluded from entering a judgment in excess of its jurisdictional amount, and that no amendment is required where a transfer is necessary to allow a plaintiff to obtain full relief for damages that continue to accrue. *Bogdanoff v. Broken Sound Club, Inc.*, 39 Fla. L. Weekly D2499 (Fla. 4th DCA Dec. 3, 2014).

FOURTH DISTRICT IMPOSES SANC-

TIONS FOR COUNSEL'S FAILURE TO CITE UNFAVORABLE AUTHORITY OR TO CONCEDE ERROR.

In a post-dissolution of marriage proceeding involving an attorney's disqualification, the Fourth District granted certiorari and quashed the disqualification order. In a strongly worded opinion, however, the Court went on to take the "extraordinary but not unprecedented step" of awarding appellate attorney's fees as a sanction against the former wife, finding her counsel at fault for transforming what should have been a simple matter into an "unnecessary and protracted controversy." The DCA held that his "failure to acknowledge clear and unambiguous controlling law directly adverse to his client's position" – even though opposing counsel did not cite it either – violated his obligation to concede error. *Lieberman v. Lieberman*, 39 Fla. L. Weekly D2457 (Fla. 4th DCA Nov. 26, 2014). **B**



Nancy Little Hoffmann is a Board-Certified Appellate Lawyer practicing in the Fort Lauderdale area since 1974. She may be contacted at 954-771-0606 or by e-mail at NLHappeals@aol.com. For more information, see NancyLittleHoffmann.com.



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13 North Broward Bar Section Luncheon

Time: 12:00 – 1:00 p.m.

Venue: Champps Americana, 6401 N. Andrews Avenue, Fort Lauderdale

Cost: \$20 BCBA Members; \$25 Non-Members; No Charge for BCBA Judiciary

Contact: Tom Oates at toates@pompanolaw.com

14 CLE: The Roles of Office of the United States Trustee

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Venue: BCBA Conference Center

Cost: \$15 BCBA Member; \$25 Non-Member; No Charge for BCBA Judiciary Members

16 2015 Judicial Robing Ceremony

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21 Solo/Small Dinner

Time: 6:00 - 8:00 pm

Venue: Dave and Busters, 3000 Oakwood Blvd., Hollywood

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22 West Broward Section CLE Luncheon: A Judge's View of Expert Testimony

Time: 12:00 - 1:30 pm

Venue: *NEW LOCATION*

Deicke Auditorium, 5701 Cypress Road, Plantation

Cost: \$20 BCBA Member; \$30 Non-Member; No Charge for BCBA Judiciary Members

27 Young Lawyers' Boot Camp Series #1 - "I filed my first motion, now what?"

Time: 6:00 - 8:00 pm

Venue: BCBA Conference Center

Cost: \$90 BCBA Member Series (\$25 per session); \$130 Non-Member Series (\$35 per session)

28 CLE: Estate Planning and Digital Assets

Time: 12:00 – 1:30 p.m.

Venue: BCBA Conference Center

Cost: \$15 BCBA Member; \$25 Non-Member; No Charge for BCBA Judiciary Members

29 Legislative Affairs Reception

Time: 5:30 – 7:30 p.m.

Venue: 15th Street Fisheries

Cost: \$20 BCBA Member; \$30 Non-Member - Sponsorships Available!

30 CLE: Cloud Computing for Legal Professionals: Keep your Feet on the Ground but your Head in the Clouds

Time: 12:00 - 1:30 p.m.

Venue: BCBA Conference Center

Cost: \$10 BCBA Member; \$20 Non-Member

Upcoming Special Events

February 4

BCBA Lawyers' Open Music Jam

This event is for anyone who enjoys playing or listening to great tunes played by our members

Time: 5:30 p.m.

Venue: BCBA Conference Center

Cost: \$20 BCBA Member; \$30 Non-Member

February 10

Fourth District Court of Appeal CLE and Reception

Visit www.browardbar.org for more information.

February 27

Workers Compensation 2015

Time: 11:30 – 5:00 p.m. followed by reception

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