Financial Tool for Disabled Clients: Quick facts regarding the Implementation of the ABLE Act in Florida

by Liz Moneymaker, Esq.

The Achieving a Better Life Experience (ABLE) Act is legislation that was passed to help provide better financial footing for certain disabled individuals and their families. The ABLE Act was signed into law in December 2014 by President Obama and implemented in Florida in July 2016. ABLE recognizes that there are often added costs to living with a disability, and individuals and families routinely found themselves in a Catch-22 situation where they were forced to remain at poverty level in order to qualify for public benefits.

The ABLE Act responds to this dilemma by creating tax advantaged savings accounts (ABLE accounts). Additionally, ABLE accounts have a second advantage: eligible individuals and their families will be allowed to establish ABLE savings accounts that will not affect their eligibility for SSI, Medicaid and other public benefits. Before ABLE’s passing, individuals with more than $2,000 in assets — including assets derived from a personal injury suit — were deemed ineligible for SSI or Medicaid benefits.

The beneficiary of the ABLE account is the account owner, and income earned by the account will not be taxed. Contributions to the account made by any person (the account beneficiary, family and friends) will be made using post-taxed dollars and will typically not be tax deductible for purposes of federal income tax (although states may allow for state income tax deductions for contributions made to an ABLE account, Florida does not). Currently, the total annual contribution limit is $14,000 and the account limit is $418,000 (though the SSI limit is $100,000).

All distributions from an ABLE account are mandated to be used exclusively for qualified disability expenses like payments for higher education, a primary residence, transportation, employment costs, and other appropriate health and wellness expenditures.

ABLE accounts promise to help an entire new class of disabled persons live with more independence and freedom. Keep in mind that ABLE accounts are not designed to be a substitute for a special needs trust – but they are a good option to help improve the life of someone with a disability and save taxes at the same time.

The New Technology CLE Requirement

by Rebecca Proctor, Esq.

As of January 1, 2017, we bar members have an increase in our CLE requirements. Instead of the 30 hour CLE requirement per reporting period, we now have a 33-hour CLE requirement per reporting period. It is mandated that the additional 3-hour requirement is to be related to technology. The new tech requirement came from a recommendation of the Technology Committee of the Vision 2016 Commission as a way to improve the competence of our Florida lawyers in technology. With this new requirement, The Florida Bar becomes the first mandatory bar in the nation to require a CLE technology component for its members. Folks, we are not in “Kansas Anymore”! We must comply!

As a way of background, the Supreme Court approved, in their opinion of September 29, 2016, Case No. SC16-574, a three-hour increase in the Bar’s CLE requirement, plus a new mandate to take technology-related CLE courses. Specifically, the court amended Rules 4-1.1 (Competence) and 6-10.3 (Minimum Continuing Legal Education Standards).

Essentially the change relating to the technology mandate was to the Comment to Rule 4-1.1 (Competence) amending it to add language providing that competent representation to our clients may involve a lawyer’s association with, or retention of, a non-lawyer advisor with established technological competence in the relevant field. The change also sets forth that competent representation may also entail safeguarding confidential information related to the representation, including electronic transmissions and communications. Additionally, language was added providing that, in order to maintain the requisite knowledge and skill, a lawyer should engage in continuing study and education, including an understanding of the risks and benefits associated with the use of technology.

The actual language added to the Competence Comment of Rule 4-1.1 states: Competent representation may also involve the association or retention of a non-lawyer advisor of established technological competence in the field in question. Competent representation also involves safeguarding confidential information relating to the representation, including, but not limited to, electronic transmissions and communications. (The new language is underlined)

The Comment to Rule 4-1.1 was further amended to state: To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, engage in continuing study and education, including an understanding of the benefits and risks associated with the use of technology, and comply with all continuing legal education requirements to which the lawyer is subject.

(Continued on Pg. 2)
The New Technology Requirement continued from page 1

Rule 6-10.3 (b) was amended in part stating: Each member must complete a minimum of 33 credit hours of approved continuing legal education activity every 3 years. Five of the 33 credit hours must be in approved legal ethics, professionalism, bias elimination, substance abuse, or mental illness awareness programs and 3 of the 33 credit hours must be in approved technology programs, which are included in, not in addition to, the regular 33 credit hour requirement.

Compliance for the new technology CLE rule will begin in the Bar member’s next reporting cycle following the January 1, 2017, effective date. For example, if your new reporting period starts in May, 2017, then at the beginning of your 3 year reporting period you will be required to complete 33 hours of CLE education with 3 hours of that 33 hours being technology related.

The new 33-hour CLE standard does not apply to Florida Registered Paralegals.

Finally, pursuant to the Florida Bar’s website, “as of the release of the Supreme Court opinion, 197 Bar CLE programs have been awarded “technology credit” representing 437 hours of already available “technology credit.” As we all are aware, The Florida Bar makes CLE courses available online, on demand and with 24/7 access. Some are even “Free”.

Good luck and enjoy!

MCBA Supports Turning Points

In mid-December, members of The Manatee County Bar Association presented Turning Points with a check for $1,000 and 33 pair of denim jeans! The donations were made possible by our members who generously gave at the MCBA Holiday Party in December.

Are you “In the know?”

How well are you aware of what is going on? Are you missing out on important information such as dates, events, and deadlines? Make sure you are OPENING AND READING your weekly E-Blast from the MCBA entitled: News You Can Use! This is a great way to keep updated between issues of InterAlia.

ATTENTION!

Kindly RSVP to MCBA@ManateeBar.com or 941-741-4091 for the January 25, 2016 Membership Luncheon at Pier 22! We appreciate your thoughtfulness!

DATES TO REMEMBER:

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MCJC by appointment
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MCBA AND SCBA JOINT 2017-18 Directory

The MCBA and the SCBA are producing the joint 2017-18 Directory.

MCBA members will be emailed a form to make any updates to their information to the Directory Database.

This is the only chance to update phone numbers, emails, and areas of practice before it goes to print.

Appointments are currently being scheduled for those in need of a new or updated photo.

Dates are Thursday, January 26th, and Friday, January 27th at the MCBA office.

Email MCBA@ManateeBar or call Graceann at 741-9041 for an appointment.

Directory Photos by Ted West are only $25.
Packages will be available for separate purchase.

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On December 1, 2016, appr. 90 MCBA members, and guests, joined together at the annual MCBA Holiday Party! Dressed in their holiday best, members delighted in gourmet delectables by EnRich Bistro as they enjoyed the art exhibits and creative atmosphere at ArtCenter Manatee. Erik Polin, sergeant in the JROTC program at Manatee High School, kindly organized the collection of donations for Turning Points; and members enthusiastically gave to this worthy cause. Erik is the son of Mary Hawk, Esq. Thank you to our sponsor, Morgan Stanley – Wealth Management MS for their ongoing and generous support!

Upcoming MCBA Monthly Meetings!

Sheriff Elect Rick Wells to Speak at January MCBA Luncheon
Sheriff Rick Wells will be the speaker at the MCBA luncheon on January 25, 2017 at Pier 22. We look forward to learning how the Manatee County Sheriff’s Department will continue to provide solid law enforcement for Manatee County.

Scott Westheimer to Speak at February MCBA Luncheon
Scott Westheimer, Esq., is our guest speaker at the February 22nd, MCBA luncheon. As our representative of the 12th Circuit to The Florida Bar, Scott will be bringing us an update regarding legislative priorities and The Constitutional Revision Commission.

Professor Mary Adkins to speak at MCBA March 29th Luncheon
We had a change in schedule. Mary Adkins is now our March speaker.
Professor Mary Adkins, who teaches Advocacy and Legal Writing at the University of Florida Levin, College of Law brings the commission and its members to life in her new book Making Modern Florida. At this meeting, Ms. Adkins will tell us how the 1966 Constitutional Revision Commission modernized Florida.

Help Wanted!
The You've Been Served Café, at the MCJC, is in need of a good worker! If you know anybody looking for employment, in a great atmosphere, and who can pass a background check, please send them over to the You've Been Served Café to apply!

Filed His Notice of Appearance on 10/20/2016!
Our newest YLD Member!
The YLD is proud to announce that it is expanding its membership! Bennett Fox Butler made his YLD debut at the December YLD Board of Directors Meeting. The son of Jesse and Sierra Butler, he is already an active member of the MCBA and YLD!

| l to r: Amanda Tullidge, Melissa Casanueva, Sierra Butler holding Bennett, Jay Horne, James Lynch, Aaron Crittenden, and Bryony Swift |

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BROWNELL RETIREMENT

On December 28th, 2016, many friends and colleagues joined together to celebrate with Judge Scott Brownell, as he retired from the bench. Judge Brownell served on the 12th Circuit Court bench since 1987. The gathering, held at the Historical Courthouse, included well-wishers from across the 12th Judicial Circuit area. MCBA President, Andrea Johnson, surprised Judge Brownell with a donation to his charity of choice, The Family Partnership, on behalf of MCBA members. Generous sponsors of the event included: Harllee & Bald, PA; Porges, Hamlin, Knowles & Hawk, PA; Richard Barton Ray, Esq., and Linda E. Griffin, PA. The MCBA wishes Judge Scott Brownell well!
Blalock Walters Welcomes Matthew J. Lapointe

The law firm of Blalock Walters, P.A. is pleased to welcome principal Matthew J. Lapointe to its business & corporate and health law practice groups. Lapointe brings over two decades of high level experience, concentrating his practice on business and corporate law, mergers & acquisitions and health care law. Matthew practiced for fifteen years with a large, multi-specialty firm in New Hampshire before moving to the Tampa Bay region.

“We are delighted to have Matthew join our firm,” says Jonathan Fleece, Managing Partner. “With the state-wide and national growth in our corporate and health care law practice groups, his extensive experience and knowledge will provide increased depth and support to better serve our business and health care focused clients. Matthew’s skills, demeanor and commitment to making a positive difference make him a perfect addition to the Blalock Walters team.”

Matthew represents companies and entrepreneurs in the full range of business and corporate matters and serves as general outside counsel to business owners in all sectors of the economy. He advises business owners on day-to-day issues, such as personnel problems, as well as on strategic issues, such as business succession planning and business sales and acquisitions. In his Health Care Law practice, Matt advises physician groups, dentists, assisted living facilities and other health care institutions. In addition to counseling these clients on matters common to all businesses, such as personnel issues, financing, and corporate governance, Matthew advises on compliance with the HIPAA Privacy and Security Rules, the federal anti-referral law, anti-kickback law, Medicare and Medicaid compliance, as well as compliance with state licensing laws. Matthew has handled numerous health care transactions, including the purchase and sale of physician practices, nursing homes, and assisted living facilities.

Lapointe earned his Juris Doctor from Northeastern University School of Law in 1991 and a Bachelor of Arts in Political Science from Williams College in 1988. He can be reached at 941.748.0100 or mlapointe@blalockwalters.com.

Thank You From Judge Scott Brownell:

To: Members of the Manatee County Bar Association
I thank you all for the wonderful opportunity to serve the Bar and this community as a trial judge for 30 years. Your support and kind wishes (and the many opportunities you individually, and as a Bar Association, have provided for me to teach), have made this a wonderfully fulfilling experience. If I am serving as a senior judge or at a CLE program or in a kayak on the river, we may yet meet again. Until then, my best wishes to you all for an equally fulfilling new year. Scott Brownell, Circuit Judge (ret.)

BOB BLALOCK NAMED 2017 Distinguished Citizen of the Year!

Congratulations to Bob Blalock who was named 2017 Distinguished Citizen of the Year by the Manatee River Fair Association. Bob has certainly proven to be a tireless volunteer, serving as a President or Chair for groups such as: the 12th Judicial Circuit’s Qualification Committee, Manatee County Bar Association, Manatee Chamber of Commerce, Bradenton Area Economic Development Corporation, Sarasota Orchestra, United Way of Manatee County, John and Mable Ringling Museum of Art, Manatee Community Foundation and New College of Florida Foundation. He has also served with Southeastern Guide Dogs, Just for Girls, South Florida Museum, ArtCenter Manatee, Manatee Players, Florida West Coast Symphony and Anna Maria Island Community Center. Bob was the MCBA’s very first recipient of the MCBA Community Service Award back in 1999. The MCBA is proud to have such a caring member as part of our Association! Congratulations, Bob!

Blalock as President of MCBA 1976

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- Certified Appellate Mediator
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- Capital University Law School, J.D., cum laude, 1986
- Harvard Law School Mediation Program

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Calendar availability and full bio at floridamediators.org/roberthoyle
“William H. “Bill” Garland was born in 1932 in Orange, New Jersey and raised in that community. Bill graduated from Orange High School in 1950 and earned his B.A. in 1954 from Dartmouth College. After college, Bill enlisted in the U.S. Navy where he served for three and a half years. He served as a communications officer and then a judge advocate in the Naval Reserves. After being honorably discharged from active duty, he enrolled at the University of Florida College of Law graduating with a J. D. in 1960. After clerking at the 2nd District Court of Appeals for several months, Bill moved to Bradenton and went to work for Dye and Dye. In 1962, he established his own firm where he specialized and focused in the areas Wills, Trusts, and Elder Law. Community Service was important to Bill and he joined the Bradenton Kiwanis Club, Manatee Players, Hernando DeSoto Historical Society, Bradenton Masonic Lodge and Manatee County Bar Association. In 1980, he served as President of the Manatee County Bar Association. Bill also served a term as Municipal Judge of the City of Palmetto and as a trustee of the University of Sarasota. His faith was important to him and his commitment to the youth in Manatee County. He and his wife founded “Camp Palabra Mission”, where children of all ages could learn and study the Bible in a fun-filled atmosphere. On December 3, 2004, the Manatee County Bar Association honored Bill as a “Legend of the Bar” for his contributions to the legal profession in Manatee County and his involvement in the community.
OUT AND ABOUT: The Inn of Court –
TEAM PACIFIC AVE WINS!

On January 17th, 2017, The Inn of Court gathered for its monthly meeting. Members and guests joined together in an exercise that demonstrated which “team” had the best “Work Life Balance”. Team PACIFIC AVE demonstrated why it clearly had the BEST work/life balance, placing first. Team MARVIN GARDENS clearly indicated why they needed a vacation, and Team PARK PLACE received their working orders.

Bottom l to r: Bryony Swift, Mary Hawk, Dana Laganella Gerling, Marisa Powers
Top l to r: Andrea Johnson, Alyson Battaglia, Alyssa Nohren, and Graceann Frederico

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Member of the Public Investors Arbitration Bar Association (PIABA) since 1997. Past President of PIABA. Elected member of PIABA’s Board of Directors.
Welcome New Members

JOHN NAULT BECK – J.D., Charlotte School of Law (2015). Admitted to The Florida Bar in 2016. Mr. Beck is an associate with Najmy Thompson, P.L. and practices in the areas of Estate Planning and Tax Law.
6320 Venture Drive, Ste. 104
Lakewood Ranch, FL 34202
Ph: 941-907-3999
Email: JBeck@NajmyThompson

401 N. Cattleman Road, Ste. 300
Sarasota, FL 34323
Ph: 941-366-4680
Email: jbutler@dglawyers.com

3637 4th Street North, Ste. 270
St. Petersburg, FL 33704
Ph: 727-822-8020
Email: MChalfant@TheNurseAttorney.com

RICHARD GREEN – B.S. University of Louisville (2007); J.D. Brandeis School of Law (2010). Admitted to The Florida Bar in 2015. Mr. Green is an attorney with Lewis, Longman & Walker, P.A.
101 Riverfront Boulevard, Ste. 620
Bradenton, FL 34205
Ph: 941-708-4040
Email: rgreen@llw-law.com

PAUL M. MCDERMOTT – B.A. – University of Wisconsin-Madison (1998); J.D. Regent University (2001). Admitted to The Florida Bar in 2015. Mr. McDermott is a partner with McDermott Law Offices, PLLC and specializes in the areas of Family Law, Divorce and Custody. He is also a Florida Supreme Court Mediator.
6151 Lake Osprey Drive, Suite 300
Sarasota, FL 34240
Ph: 941-225-2550
Email: paul@mcdermottlawoffices.com

1206 Manatee Avenue W
Bradenton, FL 34205
Ph: 423-368-3157
Email: AAS@Manalaw.com

6150 Turnbury Park Dr., #3202
Sarasota, Florida 34243
Ph: 941-350-9710
Email: HMS@Manalaw.com

1001 Third Avenue West, Ste. 375
Bradenton, FL 34205
Ph: 941-953-2825
Email: FBrown@BrownandBrown.legal

Welcome New Members

Member Updates:
Carol L. Myers – Employee Benefits attorney Carol L. Myers has joined Stearns Weaver Miller’s Tampa office

Attorneys- Please check your forms and documents!!
R.B. “Chips” Shore was Manatee County Clerk of Court for 38 years, and many form documents and pleadings created over the years by attorneys that name Mr. Shore as the Clerk of Court— such as Summons and Proposed Certificates of Sale, Title, and Disbursement— are still being used today. Since Mr. Shore’s passing, the Clerk’s office has been accepting these documents and asking the filers to update their forms, but this issue still exists and is creating an additional workload for the Clerk’s staff as each individual document must be updated. Please check the forms that you use to make sure they are up-to-date. As of March 1, 2017, all documents and pleadings filed with the Manatee County Clerk of Court will need to reflect the Clerk as Angelina “Angel” Colonneso or they will be placed in “PENDED” status until they are corrected and resubmitted. Thank you very much for helping us with this matter.

ATTORNEY WANTED
Lyons, Beaudry & Harrison, P.A., an AV rated Sarasota firm with an emphasis on estate planning, trust and estate administration and litigation, seeks an attorney experienced in elder law and guardianship matters.
Litigation experience preferred.
Please reply in confidence to:
craig@lyonsbeaudryharrison.com.
Welcome Judge Lon Arend

On December 30th, 2016, Lon Arend was sworn in as the newest judge of the 12th Judicial Circuit. On behalf of the MCBA, President Andrea Johnson presented Judge Arend with a ceremonial gavel and shadowbox to commemorate the day. YLD President, Jay Horne, esq. presented an autographed copy of Judge Smith’s published book, “Legends of the Bar”. 


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DIVERSITY & INCLUSION SYMPOSIUM

WHEN
Thursday, February 9, 2017
11:45am – 1:30pm

WHERE
Jury Assembly Room
Manatee County Judicial Center

MODERATOR
THE HONORABLE CHARLES WILLIAMS
CHAIR JUDGE, 12TH JUDICIAL CIRCUIT

PANEL
The Honorable Claudia Isom
Judge, 13th Judicial Circuit

The Honorable Karimu Hill-Harvey
Retired Judge, New Jersey

Alan Perez, Esq.
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The Diversity & Inclusion Committee is excited to open this event to law office staff and community groups as well!
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- Real Estate & Construction Law
  Kristina Hager Snyderman, Esq.
  Email: ksnyderman@barneswalker.com

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