



# INTER ALIA

MAY 2018

NEWSLETTER OF THE MANATEE COUNTY BAR ASSOCIATION

## On Lawyer Health & Wellness

By Lori Dorman, Esq., Past President, Manatee County Bar Association



Why did you become a lawyer? Because you wanted to be challenged every day? Because you wanted to fight injustice? Because you wanted to be respected and successful? Because you wanted to help people, but didn't like chemistry enough to be a doctor? Because you read *To Kill a Mockingbird* and knew you wanted to be like Atticus Finch?

Whatever your reasons were, it's safe to say that none of them was because you wanted to work 60+ hours a week, because you wanted to be overwhelmed with other people's problems, because you wanted to be chained to your phone/computer, responding to clients' emails and texts 24/7, or because you wanted to isolate yourself from your family and friends while you struggle with this stressful career and all that it entails.

At last month's MCBA meeting, Florida Bar President Michael Higer talked about the incredible, challenging and frustrating career we've chosen and what the statistics show. For those of you not able to make this meeting, here's what he said:

- 18% of lawyers suffer from alcoholism (that's double the general population)
- 33% have mental disorders
- 70% of Florida lawyers would change careers if they could

A recent study published in the American Society of Addiction Medicine found that 28% of lawyers experience depression. The study's authors stated that the prevalence of substance abuse and mental health concerns among lawyers has a "profound and far-reaching impact" on society. We lawyers know this to be true. We've all lost wonderful colleagues and friends to suicide. They were good lawyers and good people who made a decision that sadly and permanently changed the lives of those around them.

While we can't redo the past, prevent all lawyer suicides or make the legal profession stress-free, recognizing that the practice of law has a problem is the first step to fixing it. There are things that we can do for ourselves and our colleagues to make this profession better and to make our lives as lawyers healthier and more sustainable.

Being a counselor and advocate is hard. By choosing this profession, you became part of a situation where you are expected to always be there for everyone. You can't do that successfully unless you're proactive in setting your limits and boundaries. ***Ultimately, no one else is responsible for your wellbeing but you.*** To be a good lawyer, you have to start by taking care of yourself.

There's no question that the practice of law is increasingly stressful. Even so, we can learn to manage stress better. According to a study published in The Journal of the Legal Profession, maintaining a sense of control, a sense of purpose and cognitive flexibility makes it easier to withstand stress. These behaviors are teachable and learnable. There are CLEs to help teach us these behaviors.

Not up for another CLE? Stress can also be managed by exercise and social connectedness. Being around people and getting your heartrate up will make you feel better and restore your ability to roll with the punches. Getting out of your office and coming to an MCBA lunch so you can socialize with other lawyers will help with your stress.

You can change how you think. Three habits of thought - planning and organization, perspective and gratitude - all make it easier to deal with stress.

Mediation does amazing things for your health. You don't have to go to a class or become an expert in meditation to get a benefit from creating a quiet time for yourself. Take just 10 minutes away from your computer and your phone to breathe, center and ground yourself, and collect your thoughts. If you're like me and you find that sitting quietly for 10 minutes is stressful, get up and go for a walk outside. Leave your phone in your office and listen to your breathing while you're walking. You'll feel better and more collected when you get back into the office.

Multiple studies confirm that gratitude improves physical and psychological health. Being grateful improves sleep, self-esteem and mental strength. Even in the worst times of your life, recognizing all you have to be thankful for makes you more resilient.

There are a host of resources on health and wellness on the Florida Bar website (<https://flayld.org/health-wellness/>). Throughout May, there are free CLEs focusing on wellness. If you want to evaluate where you are and get a better sense of perspective, take a look at the Wellbeing Coaches' "Guide to Managing Workplace Stress." You can take the quiz and get information on ways to prevent burnout here: [https://wellbeingcoaches.com/wp-content/uploads/2018/03/WBC\\_Stress\\_ebook.pdf?utm\\_source=Newsletter&utm\\_medium=email&utm\\_content=The+Florida+Bar+Member+Benefit+Update+-+Free+Stress+Management+Guide&utm\\_campaign=Florida+Bar+March++18+Stress+Guide+Promo](https://wellbeingcoaches.com/wp-content/uploads/2018/03/WBC_Stress_ebook.pdf?utm_source=Newsletter&utm_medium=email&utm_content=The+Florida+Bar+Member+Benefit+Update+-+Free+Stress+Management+Guide&utm_campaign=Florida+Bar+March++18+Stress+Guide+Promo).

If you want to learn about gratitude and the proven positive health effects to being grateful, read this journal article: [https://greatergood.berkeley.edu/images/application\\_uploads/Emmons-CountingBlessings.pdf](https://greatergood.berkeley.edu/images/application_uploads/Emmons-CountingBlessings.pdf).

As a member of the Florida Bar, there's lots of help out there if you need it. If you're struggling with depression, anxiety, addiction or any other mental health issues, **please** contact Florida Lawyers Assistance (FLA) at (800) 282-8981. Their website is <http://fla-lap.org/>. FLA is confidential and it works.

In writing this article, I wanted to give you one simple, concrete thing you could do to feel better. Here it is: **take one minute each day to think about 3 things you're grateful or thankful for.** Alternatively, think back over the past week and write down 5 things in your life you're grateful for thankful for (do this once a week). This may seem like a small thing, but I promise you will feel better.

## MCA FAMILY LAW SECTION

Members of the M.C.B.A. FAMILY LAW SECTION attended the presentation: “*Parenting Coordination Update*” presented by Dr. Deborah Carter and Judge Diana Moreland on Tuesday, April 24th, 2018 at the MCJC



## MCBA Family Spotlight



**Thomas Gallen IV** exploring the US Fort on Egmont Key. Thomas is the son of Michael Gallen, and grandson of Judge Thomas Gallen.



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# Highlights From MCBA Beach Party - Spring Social 2018

Caya Casa was once again home to our annual MCBA Beach Party Spring Social. Attendees enjoyed fantastic fare including our MCBA famous steak sandwiches, Mission Barbeque, ChickfilA, Hometown Desserts, oysters and shrimp from Star Fish, and the Ice Cream truck courtesy of Carlson Meissner. DJ Lynch was “in the house” spinning the tunes, and the weather was perfect. Special thanks to the Event Committee, the Grimes Family, Fidelity Bank, Lexis Nexis, Firkins Auto and Lutz, Bobo, Telfair for making this a great event.



## Call for Bands!



If you are a lawyer with your own band, or a lawyer in a band, contact Event Committee Chair, Ama Appiah, Esq., at: [ama.appiah.2003@gmail.com](mailto:ama.appiah.2003@gmail.com) or 727-471-3538, for details about GLS' fundraising event this fall.



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## Florida Bar President Michael Higer visits the MCBA



*Scott Westheimer, Esq., MCBA President Elect Alex St. Paul, Florida Bar President Michael Higer, and MCBA President Paul Grondahl*



*Florida Bar President Michael Higer*

At the March General Membership Luncheon, the MCBA welcomed Florida Bar President Michael Higer. President Higer presented the CLE “Lawyer Health & Wellness: A Challenge to the Justice System” and its importance and impact. Many thanks to President Higer for bringing his CLE to our membership.

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# YLD News & Happenings

## Attorney Fiduciary Appointees Beware: Written Disclosure is Now a Requirement

By Aaron B. Crittenden, Esquire  
Harlee & Bald, P.A.  
AC@harleebald.com



Clients often desire for their attorney to serve as their fiduciaries under the estate planning documents being drafted by that attorney. However, if the drafting attorney chooses to accept the appointment and draft the estate planning documents to name themselves as a fiduciary, Rule 4-1.8 of the Rules Regulating the Florida Bar concerning conflicts of interest now requires the lawyer to obtain the client's informed consent, confirmed in writing. While various commentaries have suggested procedures to be followed when the attorney receives this request, (See, ABA Formal OP 02-426; ACTEC Commentary on MRPC 1.7), new Rule 4-1.8 is a substantial change for the Florida Bar and attorneys' ethical duties.

Historically, Florida has not precluded lawyers from drafting estate planning documents that appoint themselves as fiduciaries, provided other standards of professionalism are met. The standards however did not require written disclosures when the attorney is named in the estate planning document as the fiduciary. This lack of written disclosure became a sticking point in *Rand v. Giller*, 489 So. 2d 796 (Fla. 3d DCA 1986) where a lawyer failed to provide documentary evidence regarding disclosures made to the testator in selecting the attorney as Co-Personal Representative.

In *Rand*, an action was filed to remove a lawyer, Mr. Giller as Co-Personal Representative. Mr. Giller had prepared a Will which named himself as the Co-Personal Representative. The Petition alleged that Giller unduly influenced the decedent, had acquired and attempted to exercise an interest adverse to the estate which would adversely interfere with the administration of the estate, and that the Co-Personal Representatives were in irreconcilable conflict. *Rand v. Giller*, 489 So. 2d. 796, 797 (Fla. 3d DCA 1986). Although Giller testified that he attempted to discourage his appointment as Co-Personal Representative, the Court commented that, "there was no documentary or testimonial evidence to corroborate that fact" and stated that, "[f]or the benefit of the Bar, we strongly suggest that attorneys establish procedures for such cases which allow for evidence, other than the self-serving testimony of the attorney involved, of the care taken to avoid the appearance of impropriety." *Rand*, 489 So. 2d at 797, n. 2.

In further direction, the *Rand* Court noted that Ethics Commentary 5-6 of the Florida Bar Code of Professional Responsibility provided:

A lawyer should not consciously influence a client to name him as executor, trustee, or lawyer in an instrument. In those cases where a client wishes to name his lawyer as such, care should be taken by the lawyer to avoid even the appearance of impropriety.

Although instructive, neither *Rand* nor the quoted Ethics Commentary fully detailed proper procedures for lawyers to follow to

ensure compliance with the rules of professionalism and avoid potential conflicts of interest and the appearance of impropriety.

In response to the absence of any defined safeguards in Florida and the concerns over the appearance of impropriety, the Real Property Probate and Trust Law Section of the Florida Bar (RPPTL) drafted and promulgated changes to the Rules of Professionalism to provide more guidance than the dicta contained in *Rand*. The amendment to the comments to Rule 4-1.8 of the Rules Regulating the Florida Bar have been adopted by the Florida Supreme Court, and now state, in pertinent part:

[Rule 4-1.8] does not prohibit a lawyer... from serving as personal representative of the client's estate or in another potentially lucrative fiduciary position in connection with a client's estate planning. A lawyer may prepare a document that appoints the lawyer or a person related to the lawyer to a fiduciary office so long as the client is properly informed, the appointment does not violate Rule 4-1.7, the appointment is not the product of undue influence or improper solicitation by the lawyer, and the client gives informed consent confirmed in writing.

The revised comments make two significant changes to the prior comments. First, they remove the language contained in the former comments that permitted an attorney to seek the appointment. Second, they now require the attorney, in obtaining the client's informed consent to the conflict, to advise the client, in writing concerning who is eligible to serve as a fiduciary, that a person who serves as a fiduciary is entitled to compensation, and that the lawyer may be eligible to receive compensation for serving as a fiduciary in addition to any attorney's fees that the lawyer or the lawyer's firm may earn for serving as a lawyer for the fiduciary. These amendments became effective February 1, 2018.

Although many practitioners may have been following these procedures for years, as a matter of good practice, it is now necessary to have informed consent, confirmed in writing, which documents the discussions with the client as it relates to fiduciary appointments. For more information, review The Florida BAR CLE Lecture "It Better Be In Writing: Florida Supreme Court Now Requires Lawyers to Make Written Disclosures to Clients for Fiduciary Appointments" by William T. Hennessey, Esq. and In Re: Amendments to the Rules Regulating the Florida Bar, SC16-1961 dated November 9, 2017.



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## YLD News & Happenings

### ATTORNEY HEALTH AND WELL-BEING: IT'S TIME TO FOCUS ON US

By Kristina Cucinotta, Esq., YLD Director



The Florida Bar has partnered with the Young Lawyers Division to designate the month of May as “Health and Wellness Month” for Florida lawyers. This past year, the Bar has had an unprecedented level of focus and commitment to health and wellness issues. In 2016, a study sponsored by the American Bar Association Commission on Lawyer Assistance Programs and Hazelden Betty Ford Foundation surveyed nearly 13,000 currently practicing attorneys and found that up to 36 percent of lawyers qualify as problem drinkers, approximately 28 percent of lawyers are struggling with some level of depression, 19 percent are struggling with anxiety, and younger lawyers in their first 10 years of practice experience the highest rates of problem drinking and depression. These numbers represent a significant shift from earlier research.

Given this data, a national task force on lawyer well-being was initiated this past year, comprised of a collection of individuals from within and outside of the American Bar Association (“ABA”). ABA staff and legal professionals from across the nation got together and discussed the challenges to lawyer well-being and how to address them. Among the clearest of themes was that change needs to come from law firm leaders. Emphasizing that well-being is an indispensable part of a lawyer’s duty of competence, it has become clear that law firms need to re-define success to value wellness. In addition to recommending changes in leadership, some other insights included:

- CLEs on wellness can be used to educate lawyers and could be mandatory to help change law firm culture;
- High billable hour requirements are a barrier to improving lawyer well-being;
- The method of determining compensation must change (though there was no clear consensus on how);
- Lawyers must have more autonomy over their schedules to achieve well-being; and
- A work/life balance is important to achieving well-being.

The task force proposes a slate of recommendations for law firms, law schools, the judiciary, bar associations, professional liability carriers, and others in connection with the legal profession. ABA’s working group is in the process of developing policy and toolkit for firms to help address this issue. (Additional information can be found in the task force’s newly released report, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*.)

In the article, *A Lawyer’s Guide To Dealing With Burnout: Does Burnout Mean I Should Leave My Job Or The Law Altogether*, Dr. Amiram Elwork, a psychologist who specializes in working with the legal profession, indicated that in addition to external stressors, there are several personality characteristics among lawyers which may make us less prone to withstand the demands of our profession. The most significant one is “perfectionism.” Naturally, because law requires objective logical analysis and close attention to detail, the legal profession often attracts perfectionists. Dr. Elwork states, “Perfectionists tend to be workaholics who are often viewed as inflexible, uncomfortable with change, and obsessed with control but unconvinced that they have it.” (*Sound familiar?*) Since perfection

can never be achieved, it can cause constant dissatisfaction. In the eyes of the perfectionist, being less than perfect or just plain human is equivalent to being incompetent or inferior. Such thoughts often trigger emotions like fear of failure, rejection, and guilt. So our response is to reflexively and repeatedly say “yes,” and to take on yet another project without any hesitation. These reactions create a vicious cycle. Our inability to say “no” causes more stress because it creates an impossible workload and increases our chances of making sloppy mistakes. It reduces our ability to have a personal life and eventually leads to feeling burned out.

Florida is just one of several states who have taken action in response to the ABA’s task force’s report by establishing their own task force committee to address lawyer well-being. In response to the report, the Florida Bar created two special committees to address mental health. One is set to focus on the health and wellness of lawyers. The other is developing recommendations to implement improvements to Florida’s mental-health treatment system, including a re-examination of existing mental health laws across the board, as well as making recommendations regarding how to improve mental health education and implement training for all of those working within the justice system.

This profession can’t solve a problem it isn’t willing to acknowledge. Florida’s legal profession has decided that it can no longer continue treating stress-related medical care and mental health as something to be discussed in whispered tones. In this month’s issue of *The Florida Bar News*, Florida Supreme Court Chief Justice Jorge Labarga stated, “Attitudes need to change. Lawyers must be realistic about themselves and their jobs. They must be encouraged to get medical care without hiding the problem until it gets out of hand.” These issues must be actively addressed, not only for the well-being of the lawyer, but for the well-being of the client as well—because you can’t fight for someone else if there is no fight left in you.

Fortunately, with the implementation of the ABA’s new task force and the Florida Bar’s push to bring lawyer mental health and well-being to the forefront, it appears that our profession may actually be headed in the right direction. For all of the effort and time that we, as lawyers, put in to solving everyone else’s problems, perhaps we are finally taking the time to figure out how to solve our own.

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# Highlights from YLD Diversity Trivia Night - April 19th, 2018



The MCBA Young Lawyers Division sponsored Diversity Trivia Night with the Fred G. Minnis, Sr. Bar (St. Petersburg) at the Hanger Lounge in April. Guests enjoyed appetizers and beverages while challenging each other with diversity themed trivia. A great time of interaction and learning was had by all. Special thanks to sponsors: Book It Legal, US Legal and Gonnello SEO for making it a wonderful night. As a special gift, MCBA Director Jay Horne donated a "Square" to the YLD for credit card processing!



## Young Lawyers Division Dedicates "New Parents Nursing Center" at the MCJC

On May 7, 2018, the Young Lawyers Division dedicated the "New Parents Nursing Center" on the 5th floor at the MCJC. Attendees enjoyed light refreshments and the opportunity to view the new center. Those who wish to use the center while at the MCJC, should obtain the key from Court Administration.



YLD Director Ann Breitingering and her son, Carl, enjoying the new facility with YLD Director Melissa Casanueva and her son, Nicholas



YLD Director Melissa Casanueva, Nicholas Casanueva, and YLD President Bryony Swift

## YOUNG LAWYERS: WELLNESS KAYAKING EVENT

**Sunday, May 20th:  
10 am – 2 pm**

**Meet at: the Causeway on Manatee Avenue, the Surfer bus will be parked on the right side**

The Young Lawyers are inviting you to their Wellness & Kayaking event on Sunday, May 20th at 10 am. Come join us for a great day as we kayak through Robinson Preserve. We will meet at the causeway and kayak through the Preserve. After party will be at Skinny's.

Only \$15 per person for a tandem seat - \$30 to reserve your own, private kayak. But, you MUST RSVP to Graceann at [MCBA@ManateeBar.com](mailto:MCBA@ManateeBar.com) by May 16 and send your check made payable to the MCBA at PO Box 796, Bradenton, FL 34206. Or email Graceann for other arrangements.

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# LAW DAY 2018

## Manatee County Bar Association Announces Law Day Essay Contest Winners

The Manatee County Bar Association (MCBA) is pleased to announce the winners of its Law Day 2018 essay contest. Seventh grade students attending public, private, or home school in Manatee County, Florida were invited to submit essays on "Separation of Powers: Framework for Freedom," the theme for Law Day 2018. Held annually in May, Law Day celebrates the role of law in society and cultivates a deeper understanding of the legal profession. The Law Day essay contest provided an opportunity for students to learn about the United States legal and justice system.

Receiving first place is Matthew Iacobelli of Nolan Middle School. In second place is Amber Polis and in third place is Grace Pino, both of St. Joseph Catholic School. The contest was judged without knowledge of the students' identities or school affiliation, and scoring was based on originality and interpretation of the Law

Day 2018 theme. The winner and the first and second runners-up will receive prizes and recognition by the MCBA at the MCBA's Law Day Luncheon in May 2018.

Judges of the essay contest included retired Circuit Court Judge Janette Dunnigan, an adjunct professor at Thomas Cooley Law School in Tampa; Mary R. Hawk, a principal and partner with the law firm of Porges, Hamlin, Knowles & Hawk, P.A. in Bradenton; and Jamie Serino, Executive Director of Take Stock in Children of Manatee County. Jennifer Fowler-Hermes, a labor and employment attorney with Williams Parker in Sarasota, coordinated the contest and donated the prizes for the top scoring students.

Please enjoy the winning articles and remember to meet the winners at our Law Day Luncheon, on May 30th at noon at Pier 22!

### 1st Place Essay:

## Separation of Power: Framework for Freedom

*By Matthew Iacobelli*

The United States government has a very unique and original design. The Founding Fathers put a lot of thought into how they could make a government that put the citizens' rights in front of what the government officials want. The way they set up the government by dividing the power between the Legislative, Executive, and Judicial branches is known as separation of powers. They also added a system called checks and balances which allowed each branch to watch over the other. By setting the government up this way, it was a great way to keep the government for the people. It also kept each branch of the government from becoming too powerful over the other.

To begin with, the Legislative branch is one of the branches that really brings a lot of citizens into the government. People can make their views and opinions known to their Senators or House of Representative members by contacting them directly or by voting for them during an election. The elected officials are then supposed to consider what the people want when they vote for an issue. The Legislative branch has several powers over the Executive branch and Judicial branch. The powers over the Executive branch are the ability to impeach the president, override vetoes, reject appointments, and refuse to approve treaties. The power the Legislative branch has over the Judicial branch includes impeaching judges and it can reject the appointment of judges. These powers over both branches helps to keep them from doing things that are not for the people. An example of how the checks and balances system works is that the President is the commander and chief of the Armed Forces, but it takes approval from Congress for him to actually declare war.

Another branch of our government is the Executive branch. The Executive branch's main purpose is to carry out the laws passed by Congress. The President is the head of the Executive branch. He can help to limit the power of the other branches by vetoing legislation from Congress or by appointing judges to the judicial branch. If the

Congress presents a bill that the President does not believe is in the best interests of the people, he can veto the bill and send it back to Congress for changes to be made to it. The powers are spread across the different branches.

The third branch of our government is the Judicial branch. This branch is made up of nine members one Chief Justice and eight Associate Judges. The difference between the Judicial branch and the other two is that the Justices are appointed by the President and confirmed by the Senate, not the public. This branch interprets the laws and makes sure they are fairly carried out. It also decides whether certain laws are allowed by the Constitution. The Judicial branch protects the rights of the people. The Judicial branch has powers over the other two branches of government with the ability to declare presidential actions unconstitutional and to declare acts of Congress unconstitutional. The power of the judicial branch basically keeps the President and Congress from getting too powerful. In closing, it is easy to see how all three branches of our government the Legislative, Executive, and Judicial branches work together. This great design by our Founding Fathers also protects the rights of the citizens. By keeping the power of our government divided among the three different branches it keeps our country a fair and safe place for its citizens.

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# LAW DAY 2018

## 2nd Place Winner: Separation of Powers

*By Amber Polis*

The Constitution establishes balanced national government by dividing authority among three independent branches. The Separation of Powers is represented in the Constitution in the 1st Article, in the 2nd Article, and in the 3rd Article. The Separation of Powers thought up by the framers of the Constitution and was designed to balance and limit government power. Separating power prevents one person or group of people from using too much power. The Separation of Powers has a long history and can be traced back to the Greek philosopher Aristotle. The Separation of Powers says that the government is divided into three branches: the executive, the legislative and the judicial. Each of these branches must operate separately and no member of one branch should also be a member of the other. The framers were inspired by European philosophers that wrote about human behavior and its effects on government. One reference was *The Spirit of the Laws*, written in 1748 by Baron de Montesquieu, a French philosopher and judge. In the work he described how liberty could be threatened if one branch of government became too eager for power. He disputed for a balance of power among the branches of government. Each of these branches has certain powers, and each of these powers is limited, or checked, by another branch.

The executive branch's duties are to carry out laws or the to execute them. The members are the president of the United States, the vice president of the United States, and twenty-four cabinet members. The legislative branch's duties are to make the laws. The members are five-hundred thirty-five United States Congress members, four-hundred thirty-five House of Representative members, and one-hundred Senate members. The last branch is the judicial branch. The judicial branch's duties are to interpret laws and punish lawbreakers. Its members are one-hundred eighty-nine Supreme Court members and other federal courts like Territorial Courts, United States Court of Military Appeals, Trial and Appellate, and the United States Tax Court. The nine justices of the United States Supreme Court are also part of the judicial branch.

All three parts of government have their main office in Washington D.C. and are incorporated in the constitution. The constitution also includes the system of checks and balances. Checks and balances is a system where the powers of government are balanced between the three branches so that each branch can check and/or limit, the power of the other branches.

In June 2007, United States President George W. Bush enforced executive privilege a number of times to contain documents after congressional committees has requested them. Many members of congress were angry by the president's actions because they felt that the claim of executive privilege bothered the system of checks and balances set up in the constitution. The president of the United States has the power to veto, meaning "I forbid" in Latin, proposed laws. But Congress can check the President of the United States, which allows congress to override a presidential veto to pass the law and ignore the veto. But to override a veto, it would require a two-thirds vote of both houses of Congress.

## 3rd Place Winner: The Separation of Powers

*By Grace Pino*

The first articles of the U.S. Constitution are divided among three separate branches by the federal government. These branches are the legislative, the executive, and the judiciary branch. Under the separation of powers, each branch is independent, has their own function, and cannot take the functions of another branch. However, the branches can work together at some times. They help with each other and also prevent one another from gaining more power. This is one of checks and balances, where the functions of the branches serve to keep and contain the powers of each other. Through this system, the Framers of the Constitution do their best to protect the nation.

Why do we have the separation of powers? There are two main reasons why. The first reason is to prevent abuse of power. If the president is using too much power, it can start to lead to abuse. By giving the president only a certain amount of power, the use of too much power can be restricted. The other reason is to provide a system of shared power known as checks and balances. The system of checks and balances is used to make sure that no branch of the federal government is allowed to go beyond its limits.

The separation of powers were made because the framers were afraid that there wouldn't be equal power among the government so they created the three branches of government. Within the separation of powers, each of the three branches of government has "checks and balances" over the other two. That means Congress makes the laws, but the president can veto them and the Supreme Court can declare them unconstitutional.

### **The Separation of Powers**

Each branch has its own power. The executive branch executes the laws made by the Legislative Branch. The president is the head of the state. The vice president takes over if the president becomes to ill for office or dies. The cabinet is the official adviser of the president. That includes administrative heads of the executive departments of the federal government. The legislative branch makes laws and changes existing laws based on the constitution and the bill of rights. The senate and the house of representatives make up the legislative branch. The judicial branch of the government is made up of the court systems, including the Supreme Court and federal courts. It studies and interprets the law.

The three branches of the government work together by checking and balancing each other out. There are specific systems in place for each of the branches that allow them to have some power over the other branches of the government. This power makes sure that one branch of the government isn't allowed to have more power over the others.

The separation of powers are very important if we didn't have them it would make power vacuum. This is saying that there would be a constant seek for power from each branch, and an often fight for control, creating chaos and violence.

Separation of powers in democracy is important. Without it we wouldn't be able to prevent people from abusing power. Separation of powers serves as a safeguard to protect freedom for everyone.



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## MEMBERS HELPING OTHERS!



*MCBA and FAWL members Terri Cromley and Lori Dorman taking time out to snap a photo while attending Relay for Life in March. Way to go, ladies!*

## MCBA 100% Club Members!

The MCBA is proud to have such wonderful members! The “100% Club” is a special recognition within the MCBA reflecting our members’ commitment to the advancement of the legal profession while enhancing the community. The MCBA is proud to announce the following, who have 100% membership in the MCBA, as members of the “100% Club” for the 2017-18 year:

- Law Office of Andrea M. Johnson, P.A.
- Tilden & Prohidney, P.L.
- Porges, Hamlin, Knowles & Hawk, P.A.
- Law Office of Matthew Z. Martell, P.A.
- Lisa Bell, PA
- David P. Johnson, Esq.
- Proctor Elder Law, PA
- Mackey Law Group, P.A.
- Gerling Law Group, Chrtd.
- Legler, Flynn, Murphy & Battaglia
- Edward B. Sobel, PA
- Donna Irvin Sobel, PA
- Law Office of Mark A. Nelson, PA
- Lisa Gonzalez Moore, Esq.
- Baker, Paul & Dorman
- Kallins Little Delgado
- Larry R. Chulock, PA
- Lancaster & Eure
- Dye, Harrison, Kirkland, Petruff, Pratt & St. Paul
- Manatee County Attorney’s Office
- Greene Hamrick Quinlan and Schermer, PA



## RSVP Now For May 30th General Membership Luncheon With Senator Bill Galvano – CLE Credit Pending

Registration is now open for you to attend our May 30th General Membership Luncheon, at Pier 22 at noon, when our special guest speaker will be Senator Bill Galvano, President Elect of the Florida Senate. CLE Credit has been applied for. We are expecting a large number of attendees and seating is limited. If you would like to attend, RSVP now to ensure your seat and lunch. Please RSVP to [MCBA@ManateeBar.com](mailto:MCBA@ManateeBar.com)

### MCBA SECTION CHAIRS:

Family Law:	Libby McNary
Solo/Small Firm:	Steele Williams
Alternative Dispute Resolution/Mediation:	Bob Hoyle
Probate/Guardianship:	Ben Hunter

## DATES TO REMEMBER:

May 20, 2018	YLD Kayaking
May 22, 2018	Art Creations in the Courthouse Reception
May 24, 2018	MCBA WELLNESS EVENT at Four Pillars, Lakewood Ranch
May 30, 2018	General Membership Luncheon, Pier 22, Noon – Law Day Celebration
June 21, 2018	YLD LeBarge Cruise – Joint with Sarasota YLD
June 27, 2018	General Membership Luncheon, Pier 22, Noon, Annual Meeting
October 17, 2018	Technology Roadshow – more details coming
December 7, 2018	Holiday Party at Bradenton Country Club, more details coming

## The Jim Slater Award For Professionalism

Attorney Derek Byrd is the 2018 recipient of the 2018 Jim Slater Award for Professionalism in the practice of Criminal Law. The Jim Slater Award for Professionalism will be presented at the May Sarasota County Bar Association Law Day Luncheon. This year’s luncheon will be held on May 17th 2018 at the Sarasota Yacht Club at 12:00PM.

The award winner is selected by the judges of the 12th Judicial Circuit. Prior winners of the award have included, Elliott Metcalfe, Adam Tebrugge and Brett McIntosh. This year’s winner was selected from a list of 12 other nominees.

**HAVE YOU PICKED UP YOUR COPY OF  
THE 2017-18 DIRECTORY!  
Email the MCBA Office at  
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# HIGHLIGHTS OF BENCH BAR 2018!

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# Florida Bar Board Of Governors March 2018 Meeting Highlights

By F. Scott Westheimer, 12th Circuit Representative on The Florida Bar Board of Governors



New Bar rules, a legislative session wrap-up, a report on the Constitution Revision Commission and two new Bar member benefits were on the agenda at the most recent meeting of The Florida Bar Board of Governors (BOG).

At the March 23 meeting in Sarasota, the BOG heard a report from the Board Review Committee on Professional Ethics on amendments to Rule 4-7.22, which include a change in terminology from “lawyer referral services” to “qualifying providers,” and broadening the definition of those services. An overview and Q&A on the changes, which have been adopted by the Florida Supreme Court and take effect April 30, are posted at [floridabar.org/qualifyingproviderrule](http://floridabar.org/qualifyingproviderrule). At the direction of the court, additional changes to the rule will be considered by the BOG in May. Look for a summary of those changes and an opportunity to comment in the May 1 issue of The Florida Bar News.

In response to a federal court ruling and an order by the Florida Supreme Court, the BOG also agreed to propose a rule amendment concerning when lawyers may advertise that they are “specialists” or “experts.” Law firms that want to use the terms would have to have a majority of lawyers who meet the minimum standards, and disclaimers could be required. This proposed amendment will be filed with the court on May 15; Bar members may file comments directly with the court after the filing.

The Florida Legislature, in its recently completed session, restored some court funding lost to previous budget cuts. We also were told about an agreement to give state agencies the authority to pay Bar fees for government lawyers. A look back at weekly updates from the session, including bills of interest to the legal profession, is available at: [floridabar.org/legislativeactivity](http://floridabar.org/legislativeactivity).

The Special Committee on the 2017/18 Constitution Revision gave a report on the progress of the Constitution Revision Commission (CRC) in sorting through more than 1,000 proposals. The CRC committed 25 proposals to its Style and Drafting Committee, which is expected to merge those into several measures for the November ballot. The Florida Bar will be focused on the remaining proposals that could impact the judicial branch (many of the initial Article V proposals were defeated or withdrawn), and will continue to monitor the CRC while educating Bar members and the public on this once-every-20-years process. For more information on the CRC, go to: [www.protectfldemocracy.org](http://www.protectfldemocracy.org).

The board approved aspirational guidelines for Florida Bar candidates, including those for board seats and for president-elect designate, encouraging professionalism and civility and discouraging campaign spending. As best practices, candidates are encouraged to limit expenditures, mass emails and the use of phone banks.

The BOG also accepted the Program Evaluation Committee’s reports on its review of Florida Lawyers Assistance, Inc., the Practice Resource Institute (PRI) and the Committee on Diversity and Inclusion. Finally, the board approved two new member benefits through Amazon Business and Page Vault. These programs are expected to be available to Bar members by mid-April and will be added to the more than 60 free or discounted products and services

listed at [floridabar.org/memberbenefits](http://floridabar.org/memberbenefits).

The Board of Governors (BOG) is an elected governing body of The Florida Bar, which has exclusive authority to formulate and adopt matters of policy concerning the activities of the 106,000-member Bar, subject to limitations by The Rules Regulating The Florida Bar. This meeting was the fifth of six meetings of the BOG in 2017-18. All board committees generally meet on the day prior to finalize actions, recommendations and reports to deliver to the board.

For this Bar year (2017-18) and next (2018-19), I am honored to have been chosen to be Chairman of the Communications Committee and to also serve on the Executive Committee. I am also currently serving on the following board committees: Program Evaluation Committee, Technology Committee, and Strategic Planning Committee.

For the first time, a week before this March meeting all Florida Bar members received a preview email providing information on the items coming up for action before the BOG and asking members to contact their board representative(s) with any input or questions. Please provide me with feedback on this new way we are reaching out to our constituents to communicate about BOG matters.

It is an honor to represent all Florida Bar members in the 12th Circuit. As always, please contact me by email at [swestheimer@smrl.com](mailto:swestheimer@smrl.com) or by phone at 941-365-7171 any time you have questions or concerns about The Florida Bar. Thank you!

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## Twelfth Circuit Judicial Nominating Commission Sarasota County Court Judge Vacancy

The Twelfth Circuit Judicial Nominating Commission announces two meetings to be held “in the Sunshine” as follows:

The Twelfth Circuit Judicial Nominating Commission will meet on the following days to select and interview candidates to fill the vacancy created by the resignation of Judge Judy Goldman.

On June 6, 2018 at 9:00 a.m. to 12:00 p.m., or earlier if selections completed, a meeting will be held to review candidate applications and make selection of candidates for interviews.

A second meeting will be held on June 19, 2018 from 9 a.m. to completion for candidate interviews and nominations to the Governor.

All meetings will be held at the Sarasota County Judicial Center, 2002 Ringling Boulevard, Sarasota, Florida 34237, Court Administration’s 8th Floor Conference Room. If the meeting on June 19, 2018 is not completed by 5:00 p.m., it will be continued at Spyrett Meshad, 1900 Ringling Boulevard, Sarasota, Florida 34236.

A. James Rolfes, Chairman  
Twelfth Circuit Judicial Nominating Commission  
401 N. Cattlemen Road, Suite 300  
Sarasota, Florida 34232  
941-552-4602  
[jrolfes@dglawyers.com](mailto:jrolfes@dglawyers.com)



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- Guardianship.



**Jeffrey S. Goethe, Esq.**

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- Past Director and President of the Manatee County Bar Association



**Lawrence W. Thomas, Esq.**

- Admitted to the Florida Bar in 1985
- Past Director and Secretary of the Manatee County Bar Association
- Practice areas include wills, trusts, estates, guardianship and elder law



**M. Brandon Robinson, Esq.**

- Admitted to the Florida Bar in 2015
- United States Department of Veteran's Affairs Accredited Attorney
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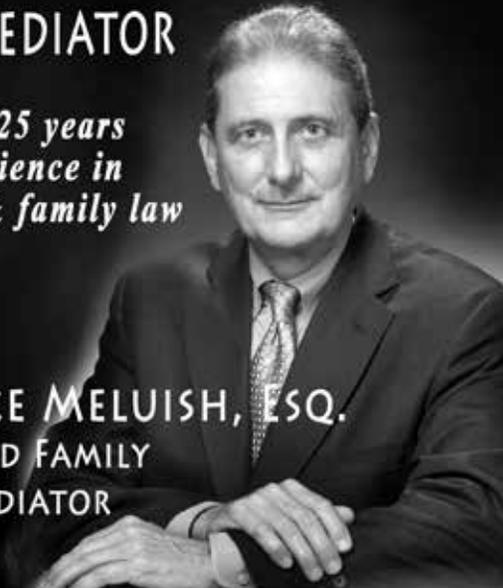
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PUBLIC NOTICE  
2018 VALUE ADJUSTMENT BOARD  
APPLICANTS FOR SPECIAL MAGISTRATE

Opportunities now exist for appraisers and attorneys, who are licensed in the State of Florida and meet the following criteria to serve as Special Magistrate(s) to the 2015 Value Adjustment Board, pursuant to *Florida Statute 194.035* and Chapter 12D, Florida Administrative Code, for the purpose of taking testimony and making recommendations with regard to:

1. The Special Magistrate must meet the following qualifications:
  - a. A Special Magistrate must not be an elected or appointed official or employee of the county.
  - b. A Special Magistrate must not be an elected or appointed official or employee of a taxing jurisdiction or of the State.
  - c. During a tax year in which a Special Magistrate serves, he or she must not represent any party before the board in any administrative review of property taxes.
  - d. All Special Magistrates must meet the qualifications specified in *Section 194.035, F.S.*
2. A Special Magistrate appointed to hear issues of exemptions, classifications, and portability assessment difference transfers shall be a member of The Florida Bar, with no less than five years experience in the area of ad valorem taxation and having received training provided by the department, or with no less than three years of such experience and having completed training provided by the department.
3. A Special Magistrate appointed to hear issues regarding valuation of real estate shall be a state certified real estate appraiser with not less than five years experience in real property valuation and having received training provided by the department, or with no less than three years of such experience and having completed training provided by the department. A real property valuation Special Magistrate must be certified under *Chapter 475, Part II, F.S.*
  - a. A Florida certified residential appraiser appointed by the Value Adjustment Board shall only hear petitions on the just valuation of residential real property of one to four residential units and shall not hear petitions on other types of real property.
  - b. A Florida certified general appraiser appointed by the Value Adjustment Board may hear petitions on the just valuation of any type of real property.
4. A Special Magistrate appointed to hear issues regarding valuation of tangible personal property shall be a designated member of a nationally recognized appraiser's organization with not less than five years experience in tangible personal property valuation and having received training provided by the department, or with no less than three years of such experience and having completed training provided by the department.
5. All Special Magistrates shall attend or receive an annual training program provided by the department. Special Magistrates substituting two years of experience must show they have completed the training by taking a written examination provided by the department. A Special Magistrate must receive or complete any required training prior to holding hearings.
  - 6a. The Value Adjustment Board or board legal counsel must verify a Special Magistrate's qualifications before appointing the Special Magistrate.
  - b. The selection of a Special Magistrate must be based solely on the experience and qualification of such magistrate, and must not be influenced by any party, or prospective party, to a board proceeding or by any such party with an interest in the outcome of such proceeding. Special Magistrates must adhere to Rule 12D-9.022, F.A.C., relating to disqualification or recusal.

Please note that hearings will take place in October, November and December of 2015. Availability for these dates is necessary for consideration of appointment.

Qualified individuals wishing to apply should submit a résumé on or before Friday May 25, 2018 at 4:30 p.m., to:

Angelina "Angel" Colonnese  
Value Adjustment Board  
Attn: Vicki Tessmer  
P.O. Box 25400  
Bradenton, FL 34206  
(941) 741-4018  
EMAIL: [Vicki.tessmer@manateeclerk.com](mailto:Vicki.tessmer@manateeclerk.com)



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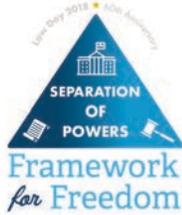


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Light refreshments will be served

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