



INTER ALIA

FEBRUARY 2019

NEWSLETTER OF THE MANATEE COUNTY BAR ASSOCIATION

"I Get to" Write this Article

By Marisa Powers, Esq., MCBA Director



Interesting title, right? I promise you if you read the entire article, it will all make sense.

We are in month No. 2 of 2019. With the start of a new year, most of us make resolutions, set goals, and focus on the emotional, mental, and physical wellbeing necessary to conquer the year. Admittedly, I've been on the standard end of the year/beginning of a new year self-help

kick, focusing on reducing anxiety, finding balance, and otherwise exploring ways to reduce the everyday stress in my life (I mean, aren't we all looking for the secret to reducing anxiety and stress and finding balance?). At the end of the day, each of us have our fair share of personal and professional obligations and sometimes those obligations bring us to the brink of disaster. Recently, in furtherance of my self-help kick, I had the pleasure of attending a lunch and learn put on by our local FAWL chapter. The topic was "mindfulness." The speaker was Ginny East Shaddock and she is the owner of Heartwood Retreat Center located in Bradenton, Florida. If you are not familiar with mindfulness, it is the psychological process of bringing one's attention to experiences occurring in the present moment, which one can develop through the practice of meditation and through other training. Yeah, I know that sounds like a bunch of psychology mumbo jumbo. But, in layman's term, "mindful-

ness" is being intentionally aware in the present moment without judgment (i.e., you pay attention to your thoughts and feelings in that moment without judging them). Being mindful takes consistent practice, but, the payoff is reduced anxiety and depression, improved concentration, and a number of other interpersonal benefits. To be clear, I am not here to act as an expert on this topic, lecture you on this topic, or to tell you how to achieve mindfulness – I will leave that to Ginny and the classes and seminars she offers out at the retreat center. However, the topic of mindfulness got me thinking about mindset. To me, the practices go hand and hand – in order to be mindful, you have to have the right mindset. I'm sure you've all heard inspirational sayings about mindset and that in maintaining a positive mindset you reap the benefits of less anxiety, less stress, and feeling better overall. The one simple inspirational practice that sticks out in my mind is replacing "I have to" with "I get to" as a way to maintain a positive mindset. For example, in the morning, instead of thinking of all the things you "have to do" today (i.e., go to work, take kids to school, do laundry, go to the grocery store, attend a function, etc.), simply change your mindset to one of being thankful that you "get to do" these things. For example, "I have to go to work" becomes "I am thankful that I have a job and get to go to work"; "I have to take to the kids to school, soccer practice,

(continued on page 2)

Florida Bar President, Michelle Suskauer, to speak at February 27th General Membership Meeting

The MCBA is proud to announce that Florida Bar President, Michelle Suskauer will be speaking at the February 27th, 2019 General Membership Luncheon. We will also be host to the 2nd DCA, who will be in town hearing Oral Arguments at the Manatee County Judicial Center. Special Events are planned for the day but you must RSVP for each event, details are below, and included throughout this issue.

The schedule is as follows:

7:45 am	JAVA WITH THE JUDGES	MCJC, Hon. Gilbert Smith, Sr. Jury Assembly Room, 2nd DCA and Florida Bar President Michelle Suskauer as honored guests
9:30 am	ORAL ARGUMENTS	MCJC, Courtroom 2A, 2nd DCA
9:30 am	CRIMINAL JUSTICE SUMMIT	MCJC, Hon. Gilbert Smith, Sr., Jury Assembly Room, Moderated by Chief Judge Charles Williams, and guest panelists: Florida Bar President Michelle Suskauer, State Attorney Ed Brodsky and Public Defender Larry Eger
11:45 am	MEMBERSHIP LUNCHEON	Pier 22, Ballroom Florida Bar President Michelle Suskauer and 2nd DCA

RSVP NOW, for each event, as not to miss out! MCBA@ManateeBar.com

President's Message



by Alexandra St. Paul, Esq.

It was my privilege to represent our bar association in January at two judicial investitures. The Honorable Maria Ruhl's ceremony took place on January 4th and the Honorable Dana Moss' ceremony was on January 11th. Both were in Sarasota, where the judges will be presiding, Judge Ruhl in Circuit Court and Judge Moss in County Court.

While I have attended investitures in the past, I never had the honor of participating in the ceremony and presenting our traditional cherry wood framed gavel box (it is hard to describe but is really lovely and a favorite gift) to the judges from our bar association. It was so nice to be an active participant in the celebrations and so wonderful to see the enthusiasm and warm wishes from everyone involved, including our current 12th Judicial Circuit Judges, most of whom attended the investitures.

In next month's Inter Alia, we will have guest articles on Judge Moss and Judge Ruhl. It was so interesting to learn of their legal pathways to becoming Judges in our Circuit. Both women have worked hard and excelled and we can be proud to have them as Judges in our Circuit.

(*"I Get To..." continued from page 1*)

gymnastics" becomes "I am thankful that I have kids and am able to get this time with them as I take them where they need to go." You get the point. Now, I know, I know, some of you are reading this and rolling your eyes at me right now; but, I bet if you give this simple practice a try, it will have a positive impact on not only your life, but, also that of your family, coworkers, clients, opposing counsels, and friends. So, I challenge each of you who stayed with me and finished reading this article, to incorporate this simple mindset practice into your daily life and reap the benefits that a positive mindset can have on your life and those around you. And, yes, instead of "I have to write this article" I switched to "I am thankful that I get to write this article and share with my fellow members of the MCBA a simple practice to foster a positive mindset." Does the title make sense now?

The Manatee County Bar Association supports diversity and inclusion in our membership and welcomes lawyers of all backgrounds, ethnicities, races, religions, cultures, sexual orientations and abilities. As part of this initiative, the Manatee County Bar Association has created the Diversity and Inclusion Committee (DAIC) and fully supports its mission to increase the diversity of our membership and the local legal community.

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MCBA Announces B-Connected Partnership With Broward County Bar

The MCBA is proud to announce its partnership with the Broward County Bar's new CLE Program: B-Connected. MCBA Members can now sign in through the MCBA Button on the B-Connected Page to receive a discount on its high-quality CLE programming. What are the benefits, you ask?

- Earn credit from the convenience of your home or office, 24/7.
- Substantive programming in key practice areas
- Stay up to date in your practice area
- New programs are being added regularly

For quick access, visit our MCBA website, Member Services Page and Click the B-Connected Button. Once redirected to the Broward County Bar, click on the MCBA logo, and you're in! Check it out: <https://manateebar.com/member-benefit-page/>

Just another great reason to be a member of the Manatee County Bar Association!



Spotted . . . Some of our YLDers were spotted out and about enjoying social hour at OSCURA in downtown Bradenton.



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BCC is accepting a limited number of new members, so be sure to visit our website for more information: www.bradentoncc.org or just stop in and take a look for yourself at all the beauty and the value you will experience at Bradenton Country Club.

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Did you know CRIMINALS can now...

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Don't miss this opportunity to come and learn all you need to know from one of the leading authorities and experts in the country on Financial and Computer Cyber Crime, Identity Theft and Crime Prevention!

Please sign up early because seats are limited!!!

Date: Wednesday, February 27, 2019 Time: 11:45 am Cost: \$22.50

Location: Bayfront Community Center, 803 N. Tamiami Tr., Sarasota, FL

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Presented by: The National Crime Stop Program

Identity Theft is the fastest growing crime in America and with your credit affecting your ability to get insurance, interest rates and even potential employment, it is vital you understand how to protect yourself from the crime that happens every 3 seconds.

Key Topics

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- IRS & Tax Fraud - 16.9 million Victims in 2017
- Debit/Credit Card Fraud - 30% of US citizens were victims in 2017
- Wireless Pick-Pocketing
- Equifax Breach - 179 million credit bureau files stolen in 2018

“My coworkers are still talking about the presentation... By far, this was one of the best and most informative seminars we have ever had.”

Tom Richardson, WorkSource Jacksonville



Did you know most credit/debit cards now wirelessly transmit your information? Did you know that your passport info is being transmitted the same way and criminals have been stealing that information since 2006? Learn how this is possible and how to protect yourself from Wireless Pick-Pocketing and much more in Identity Protection 101.

Please visit <https://smcala.regfox.com/smcala-1n1-feb2019> to register online.

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YLD News & Happenings

MCBA Member's Statement for the Florida Bar YLD Division Board of Governor's Open 12th Circuit Seat Election



My name is Melissa Casanueva, an Associate with Porges, Hamlin, Knowles & Hawk, P.A. in Bradenton, Florida and I would be honored to be voted to the Florida Bar Young Lawyers Division Board of Governors for the 12th Circuit 2nd Seat. As the only member of the MCBA running for this seat, I am writing this article to give information regarding the election and why I want to represent the 12th Circuit young lawyers in this position.

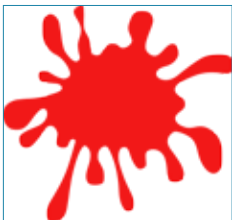
All 12th Circuit young lawyers in good standing, who are attorneys who are 36 or younger or who have been practicing for 5 years or less, are able to vote in the Board of Governors election. An email or mail ballot will be sent to those eligible attorneys on March 1, 2019 and the deadline to submit your vote is March 21, 2019. Now here is information on who I am and why I would love your vote!

I have been practicing in the 12th Circuit, and a member of the MCBA, for over five years, which is my entire career as an attorney. I became a member of the Board of Directors of the Manatee County Bar Association's Young Lawyer Division at the end of 2016 and am the current President Elect. I have interacted with the Florida Bar Young Lawyers Division by attending the past three Florida YLD Affiliate Outreach Conferences and have Chaired or Co-Chaired Manatee County YLD's Grant proposal. I am proud to say with two of these projects, Manatee County YLD brought home the 2017 Public Service Project of the Year award for our "Stock Up for College" program for Take Stock in Children and the 2018 Member Service Project of the Year award for creating a lactation

room in the Manatee County Judicial Center.

By attending these conferences, I have been able to see the current Board of Directors in action and how the Florida Bar YLD Board of Governors is committed to supporting the young lawyers in Florida. If I were to join to the Florida Bar YLD Board of Governors, I would work to make the Florida Bar YLD viewed as a support system for young lawyers of the 12th Circuit. As a young lawyer, and a mother of two, I have learned that not only is it important to have a support system, but to use it! The Florida Bar YLD has established wonderful programs to help young lawyers succeed, but many attorneys do not know they exist. I only learned about the Florida Bar YLD's Technology Roadshow CLE by attending the Affiliate Outreach Conference, where, afterward I was able to organize the CLE in Manatee County and help lawyers obtain those dreaded technology credits.

In addition to helping current programs be promoted in the 12th Circuit, I would also give voice to what young lawyers want to support their practice. Part of this voice is being able to relate to the fact that the legal practice is changing and what young lawyers need to support their changing career. For me, with the support of my firm, I was able to work part-time to now a modified full-time schedule, which was the work-life balance I desired. Young attorneys are striving for different goals, but our practice can be supported by the Florida Bar Young Lawyers Division if members of the Board of Governors recognize that the practice is changing. Having experience working in an alternative practice, my perspective will allow me to bring a different voice to the Florida Bar YLD to support the 12th Circuit young lawyers. So for any young lawyers reading this article, I would be honored receive your vote in March!



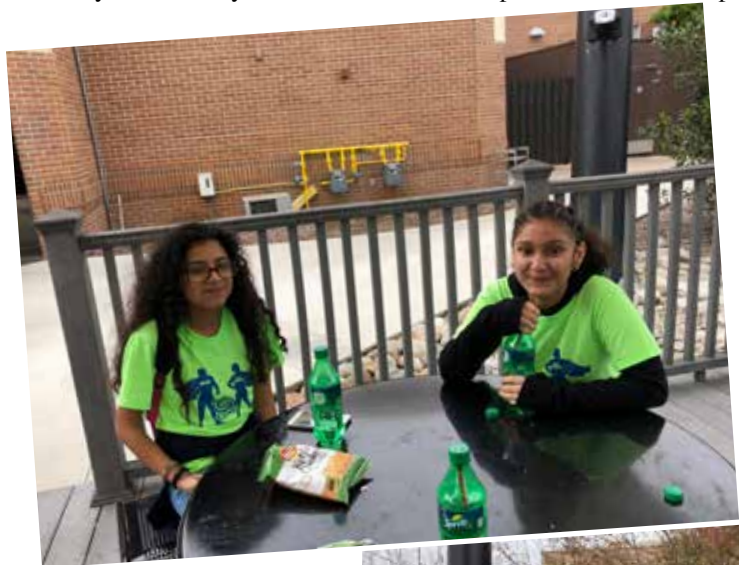
YLD PAINTBALL FUN!

Recently, the YLD held a Paintball event at Hi-Tec Paintball Park in East Bradenton. Paintball warriors met for a day of action-packed adventure on a gorgeous Saturday morning. Special thanks to YLD Director, Dustin Wagner, for leading the charge.



Update from our Holiday Party Donations!

See the smiling faces of the AVID Program students at Sugg Middle School? They're smiling because our donations from the MCBA Holiday Party allowed them to participate on a special field-trip to University of Central Florida. There, they toured the campus and participated in a special program to get a glimpse at what college is like. Lunch, transportation and very cool t-shirts were provided. Thank you to all of you who donated and helped make this event possible.



A Special Thank You: Happy Valentine's Day!

Dear Colleagues:

I couldn't let the Valentine season go by without sending our love and thanks to the Manatee County Chapter of the Florida Association for Women Lawyers, and the Manatee County Bar Association. The Bell family couldn't have made it through 2018 without you.

Those of you who said a prayer, sent a card, good vibes, sent cash, gift cards, gas cards, or love, and those that made meals, dropped off groceries, created a paper-trail, or met in a friendship circle with our fearless fundraiser and prayer-pal, Terri Cromley, are earth's finest angels.

You put this smile on Paige's face, kept a solo lawyer a float, kept a high-school Sophomore in school and active, and lifted my family through the most difficult time of our lives.

The generosity that you showed demonstrates that the label of shark does not belong to lawyers. You are a bunch of awesome human beings, full of love. I am blessed to have you as my colleagues and friends.

Childhood Leukemia picked on the wrong little girl, who has waged a mighty war against it; and with the love of a good God, great family and great friends like you, she has made it half-way through the treatment. We can't wait to celebrate her cure with you all in the future.

God bless each of you and all whom you love.

*In Friendship,
~lisa b*

Highlights from the January General Membership Luncheon!

The January General Membership Luncheon was electric as Bryan Stroh, VP of Business Affairs and General Counsel for the Pittsburgh presented “A Day in the Life” to members. Bryan brought his associate, Frankie Garland, and the team hit a homerun, according to attendees! The duo gave a glimpse into their daily experiences discussing everything from multi million-dollar player negotiations to concessions. This was not one to be missed! Special thanks to our Law Firm Sponsor Lewis, Longman, Walker.



Judge Nicholas, MCBA President Alix St. Paul, Bryan Stroh, and Judge Mercurio



Bryan Stroh Presenting



Prizes



MCBA President Elect Charlie Telfair, MCBA President Alix St. Paul, Frankie Garland, MCBA ED Graceann Frederico, Richard Green, Bryan Stroh, MCBA Treasurer Steve Dye and Joe Battaglia

HAVE YOU SIGNED UP FOR THE SCAVENGER HUNT?

What an event we have planned for this year! Put a team together....colleagues, friends, family, and neighbors! Or, sign up individually and we will place you on a team. This year's Scavenger Hunt is sure to please and will not disappoint, but YOU need to sign up! We will be raising money for the Veteran's Drug Treatment Court here in Manatee County. All the fun happens on Friday, March 15th. Look for the sign-up form in this issue or on our website. Thank you to our sponsors who are making this happen:

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The MCBA has a new logo!

Recently, the Board of Directors voted to approve the new logo, designed by graphic artist Maria Massaro of Lakewood Ranch. Ms. Massaro worked closely with MCBA Treasurer Steve Dye to incorporate the details and suggestions gathered from the Board of Directors. We are very pleased with our new, updated look!



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MANATEE COUNTY BAR ASSOCIATION

Java with the Judges

**Join us for java and light breakfast with the
2nd DCA, Florida Bar President Michelle
Suskauer, and our local judges!**



**FEBRUARY 27, 2019
7:45 AM - 8:45 AM
MCJC, 2ND FLOOR, HON. GILBERT
SMITH, SR. JURY ASSEMBLY ROOM**

All members are invited to attend! You must
RSVP to MCBA@ManateeBar.com by February
22nd. Thank you to our YLD and sponsor:



5 Things You Didn't Know About Me:

Jack Manson, Esq., Past President, MCBA

1. I am a World War II veteran. I left high school and joined the Navy at the age of 17. I earned my high school diploma by taking Navy correspondence courses. I served in San Francisco and Hawaii and completed my enlistment in 1946. I then obtained my bachelor's degree and law degree from the University of Wisconsin.
2. I practiced law for 65 years. I was admitted to the Wisconsin Bar without taking the bar exam because I graduated in the Top 10% of my law school class. After a few years of practice in Wisconsin, I moved to Bradenton and was admitted to The Florida Bar. I served as a federal arbitrator, hearing labor disputes for over 50 years. I was the Manatee County representative for The Attorneys' Title Insurance Fund and helped many young lawyers become Fund agents.
3. I painted the large painting which now hangs in the First Floor Conference Room, next to the MCBA office at the Manatee County Judicial Center. It depicts members of the Manatee County Bar Association and local judges in a courtroom scene. I used photographs taken by Jim Wallace during a 1969 bar meeting at a member's home on Anna Maria Island.
4. I have travelled to all of the U.S. states, Canada, Mexico, Panama, Costa Rica, Guatemala, Brazil, Venezuela, Argentina, Columbia, Saudi Arabia, Kenya, Egypt, Morocco, South Africa, many of the Caribbean Islands, England, Scotland, Ireland, Iceland, Norway, Sweden, Finland, Denmark, Spain, Portugal, France, Germany, Poland, Austria, Italy, Greece, Russia, Australia, New Zealand, China, Japan, Vietnam, Cambodia, Laos, Thailand, Singapore, Burma, and India.
5. My service to the Community has included serving as Chair for the Executive Committee of the Democratic Party for Manatee County, President of the Manatee County Bar Association in 1966, and President of the Hernando DeSoto Historical Society. I served on the Board of Trustees for the Ringling Art Museum. I have served on the Board of Directors for Our Daily Bread and have volunteered for over 32 years, serving meals to those in need.



Senior Judge Charles E. Williams

1. I was born in Weldon, North Carolina a town of less than 1500 people.
2. Growing up in St. Petersburg I lived in the same neighborhood as actress Angela Bassett.
3. One of my summer jobs was as a rodent inspector (apprentice) for the City of St. Petersburg.
4. I competed in motorcycle motocross racing in high school.
5. I was a Zoology major in college

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DATES TO REMEMBER:

February 21, 2019	Diversity Committee Event: THE BOXSER DIVERSITY INITIATIVE
February 27, 2019	Java with the Judges
February 27, 2019	Criminal Justice Summit
February 27, 2019	General Membership Luncheon
March 1, 2019	Diversity Committee Event: EMBRACING DR. SEUSS' DIFFERENCES DAY
March 5, 2019	Past Presidents Luncheon
March 12, 2019	Family Section CLE – Details to Come
March 14, 2019	Diversity & Inclusion Committee Meeting
March 15, 2019	MCBA Scavenger Hunt
March 27, 2019	General Membership Luncheon
April 11, 2019	Diversity & Inclusion Committee Meeting
May 9, 2019	Diversity & Inclusion Committee Meeting
May 17, 2019	BEACH PARTY SOCIAL – Details to Come
May 29, 2019	General Membership Luncheon - LAW DAY
June 26, 2019	General Membership Luncheon – Annual Meeting

*dates are subject to change

MCBA 2018-19 SECTION CHAIRS:

Solo/Small Firm Section:	Steele Williams, Chair
Probate Section:	Rebecca Proctor, Chair
Real Property Section:	Joe Battaglia, Chair
Family Section:	Faith Brown, Chair

IF IT INVOLVES FOOD



*If an event involves food,
we need you to RSVP!*

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The firm's attorneys practicing in the areas of Wills, Trusts and Estates are currently accepting referrals and new clients in the following areas:

- Estate planning;
- Probate and trust administration;
- Probate, trust and guardianship litigation
- Homestead issues
- Elder Law
- Elective share
- Rights of surviving spouse
- Public benefits and Medicaid planning
- Veteran's benefits
- Guardianship.



Jeffrey S. Goethe, Esq.

- Admitted to the Florida Bar in 1990
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- AV-rated by Martindale-Hubbell
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- The Florida Bar's RPPTL Section Executive Council, Homestead Committee Co-Chair, Bar Journal Co-Chair
- 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
- Executive Board Member, Thomas E. Penick, Jr. Elder Law Inn of Court
- Combat Veteran, United States Marine Corps
- Practice areas include wills, trusts, estates, guardianship, elder law, and veteran's benefits

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SCAVENGER HUNT!
Benefiting the Manatee County
Veterans' Drug Court
 Hosted by MCBA, YLD and Manatee FAWL

Friday, March 15, 2019

REGISTRATION DEADLINE: March 8, 2019

Start: Check in at 4 p.m. sharp at the gazebo in front of the Manatee County court house.

Finish: Caddy's at the Pointe, 801 Riverside Dr. E, Bradenton by 6:15 p.m.

Cost: Teams of 3-5 adults -- \$125.00
 Individuals (team will be assigned) --- \$25.00
 Children -- \$10.00 each.
 Additional contributions are appreciated.

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Family Court Professional Collaborative Presents:
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Presenters: Honorable Judges' Donna P. Berlin and Peter R. Ramsberger, Hearing Officer/Magistrate Laura Hale, Court Operations Manager, Monica Ausborn, Court Administrator Walter Smith, and Attorneys: Elizabeth Loeffler, Deborah J. Blue, Carmen R. Gillett, Phillip J. Schipani, and R. Lynette Mancuso.

This conference will focus on Honing the Skills of the Family Law Practitioner. The morning presentations will include the Sarasota County Judiciary with special guest, Judge Peter R. Ramsberger from the 6th Circuit on the issues of parentage, addressing the complex issues related to establishment & disestablishment of paternity. Then, Magistrate Laura Hale will present on issues of Child Support and Department Of Revenue, followed by a presentation by the Court Operations Manager Monica Ausborn and Court Administrator Walter Smith on the new Self-Help Center. Lunch will include resources concerning Special Needs children. The afternoon program will consist of presentations by Elizabeth Loeffler, Esquire and Deborah J. Blue, Esquire on Cross-Examining Expert Witnesses, Carmen R. Gillett, Esquire on Domestication of Foreign Judgements, and Phillip Schipani, Esquire on Handling Cases Involving Special Needs Children. The day will conclude with Lynette Mancuso, Esquire presenting on Creating a Top Notch Practice Without Spending a Dime. The FCPC is applying for CLEs and CMEs for this event.

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In 1949 four black men were wrongfully convicted of rape in Groveland, Florida. Pulitzer Prize winning author, Gilbert King, explains why the case of the Groveland Four, who were all recently pardoned, serves as an enduring symbol of racial injustice in Jim Crow Florida.

About the Speaker

The Value of Patents

By Matthew R. Jenkins, Esq.

For our collective sanity, this article is NOT about politics, Supreme Court nominees or their accusers, midterms or voting recounts! This article is about Intellectual Property and, more particularly, patents.

“Intellectual Property” is an umbrella term that refers to patents, copyrights, trademarks and trade secrets. It is not uncommon for a client to ask his or her attorney about pursuing patent protection for an idea. The non-patent attorney is well advised to give that client some basic information and, of course, refer the client to your favorite (hopefully local) patent attorney. This article provides some basic information about patents that will help you counsel your clients.

A patent is a document issued by an agency of a government in exchange for a written disclosure of an invention. In the United States, patents are issued by the United States Patent and Trademark Office. National patent offices also exist in most foreign countries, such as Canada, France, China, Germany, Japan, and the United Kingdom. The patent defines the metes and bounds of a patentable invention, like a deed defines the metes and bounds of a parcel of real estate. A patent gives its owner the right to exclude others from making, using, offering for sale or selling the invention claimed in the patent for a number of years. In the United States and all major European countries, the period is twenty years from the date the patent application is first filed in the government’s patent office. Nearly all countries of the world have some system of awarding a patent to inventors. Most countries, including the United States, examine each new patent application to assure that the claimed invention is novel and nonobvious. The examination is performed by a patent examiner who searches an extensive file of patents and technical articles. Patentability is measured against the “prior art” which includes, among other things, the entire body of all previously published literature. Since patents in a portfolio are “published” documents, the portfolio can prevent others from obtaining patents for the same or similar inventions.

Some of the benefits associated with creating and maintaining a patent or a portfolio of patents are as follows:

(i) Competitive Advantage

A patent portfolio can be used to keep competitors from making, using, offering for sale or selling the patented invention. A strong patent portfolio can be used to stop a competitor from entering a product market that otherwise would be available to the competitor. The following cases, as posted November 6, 2017 by GreyB in Patent Commercialization, are notable initial patent damage awards in the U.S. where huge patent damages were awarded to plaintiffs:

- Idenix vs Gilead Sciences Inc. (2016) – \$2.54 billion
- Pfizer vs Teva Pharmaceuticals (TEVA) & Sun Pharma (2013) – \$2.15 billion
- Centocor Inc vs Abbott Laboratories (2009) – \$1.672 billion
- Alcatel-Lucent vs Microsoft (2007) – \$1.5 billion
- Litton vs Honeywell (1993) – \$1.2 billion
- Carnegie Mellon University vs Marvell Technology Group (2012) – \$1.17 billion
- Apple vs Samsung (2012) – \$1.04 billion
- Monsanto Company vs Pioneer Hi-Bred Int’l, Inc. (2012) – \$1 billion
- Polaroid vs Kodak (1991) – \$925 million

Now those are some huge damages!

(ii) Licensing Value

By creating and maintaining a strong patent portfolio, the patent holder is in a strong position when negotiating and entering into cross-license agreements with other companies that also have valuable patents. For example, a cross-license agreement between company A and company B allows company A to use all or some of company B’s patents and company B is similarly entitled to use company A’s patents. Cross-licensing agreements enable company A’s engineers and developers to design products freely, without concern for royalty payments or other costs to company B. Patents generate money and can be used to generate royalties by licensing the patents for fees to third parties. For example, Texas Instruments’ portfolio collects millions of dollars a year in royalty payments.

(iii) Litigation Value

A strong patent portfolio can deter competitors from bringing a patent infringement action against a company. A competitor may be reluctant to bring suit against a company after recognizing that the defendant company could assert its own portfolio of patents against the competitor. Also, a company’s patent portfolio may provide a defense or counterclaim during a pending patent infringement suit, which may cause the suit to be quickly and favorably resolved. The litigation value of a patent portfolio is becoming increasingly important because the cost of going to trial in a patent infringement suit can be very expensive, with litigation costs oftentimes getting into the hundreds of thousands of dollars.

(iv) Employee Relations

A patent portfolio provides a vehicle to reward top-quality talent, recognize personal achievement and publicize outstanding contributions. In fact, many corporations have patent award programs whereby cash awards and plaques are given to inventors. Such awards may be given, for example, when the inventor submits a complete invention disclosure, when a patent application covering the invention is originally filed with a government patent office, or when the patent application is issued as a patent. Some corporations even hold patent award banquets to recognize substantial employee contributions to the company’s patent portfolio.

(v) Business Value

A strong patent portfolio can have a significant value when negotiating the merger, acquisition or sale of a business, entering into a joint venture or even when a company “goes public”. A startup business may use its patent portfolio as a tool to generate investment capital. When negotiating a sale of a business, for instance, the existence of a strong patent portfolio may enable the selling company to command a higher selling price. Conversely, the lack of a strong patent portfolio may be an indication that the products of the business are not adequately protected from a patent standpoint and are susceptible to being copied and used by others, which also suggests there is no barrier to companies to enter into the same market. Of course, this will affect the price that a buyer may be willing to pay for the business.

Having one or more patents which cover features developed for a specific need of a particular customer can enhance the patent owner’s position as an exclusive supplier. The patents may provide

(continued on page 25)

(The Value of Patents, continued from page 23)

incentive for OEM customers, for example, to buy and source the patented product from the patent owner, rather than either buying the product from others or manufacturing the product themselves.

There may be certain tax advantages to having a patent portfolio. For example, a parent company may be able to license its patents to its subsidiaries or affiliates for a reasonable royalty, which is negotiated in an arm's length transaction. The royalty payment is income to the parent company and an expense to the subsidiary. This can have the effect of shifting income from a taxing locality of the subsidiary to a taxing locality of the parent company. Of course, if the parent company's tax rates are lower than the subsidiary's tax rates, the parent company can effectively reduce its overall tax liability. A good tax advisor can help negotiate these waters.

Conclusion

This article generally highlights some of the benefits associated with obtaining and maintaining a strong patent portfolio. The importance of each of the preceding benefits varies depending on such factors as the individual patent holder, company size, financial posture, and business objectives. These benefits are the primary reasons why both large and small companies, and even some individuals, are expanding their patent portfolios by increasing the number of patent applications filed each year. A patent holder may enjoy significant business and legal advantages which enhance its competitive position in the marketplace.

Welcome New Members

AnnaMarie Mitchell, Esq.

Florida State University, 2007

St. Thomas University, 2012

Year Admitted to The Florida Bar, 2012

Ms. Mitchell is the owner of AnnaMarie L Mitchell, PA, 5250 17th St., Ste. 101A, Sarasota, FL 34235.

Jeremy Roth, Esq.

University of Central Florida, BS, 2007

Emory, 2011

Year Admitted to The Florida Bar, 2017

Mr. Roth is the Managing Attorney of Roth Legal, 1343 Main Street, Ste. 300, Sarasota, FL 34236.

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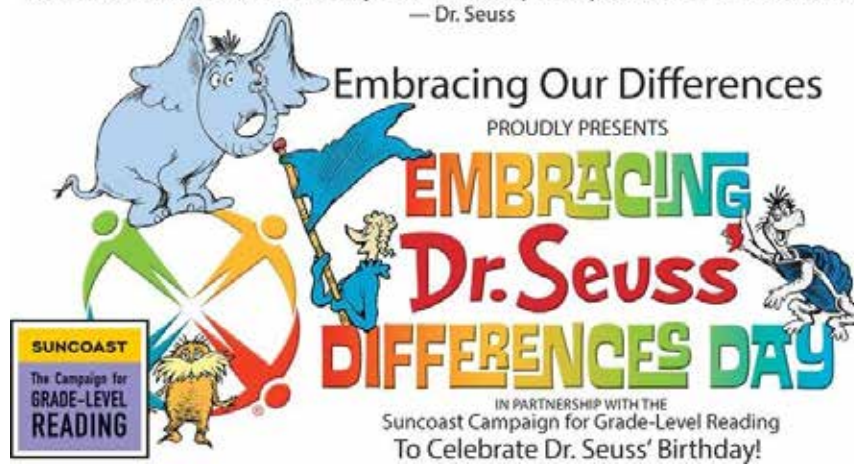
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