



INTER ALIA

MARCH 2020

NEWSLETTER OF THE MANATEE COUNTY BAR ASSOCIATION

The Manatee County Bar Association leadership has determined, based upon the updated CDC guidelines that all meetings and events will be cancelled through April 15th. We will review rescheduling events and next steps at that time.

The MCBA office will be closed until further notice but we will be responding via email as soon as we can. We will also be posting to our website and emailing updates to our membership during this time. Thank you for your patience.



The Law and Covid -19

By Christine Allamanno, Esq., MCBA Director

I hope all who are reading this, as well as your loved ones, are in good health and remain so as we ride out flu season and its latest mutation, Covid-19. As the illness begins to encroach on our daily lives, I thought I would write about some of our state and federal laws that apply in the event of a pandemic. Who has the legal authority to make decisions about isolation (moving those who are sick away from those who are well) and quarantine (moving well people away from other well people to see if they become sick), and where does this authority come from?

The federal authority to pass pandemic/quarantine legislation derives from the commerce clause of the US Constitutionⁱ. The first federal quarantine legislation in the United States passed Congress in 1878, but decisions about quarantine and funding of management and facilities were largely left to state and federal governments until cholera outbreaks led to further federalization of quarantine facilities and procedures in 1892ⁱⁱ. At this time it was mostly immigrants arriving by boat who were quarantined. But during the 1918-19 worldwide influenza epidemic, even with federal legislation in place, decisions remained largely in the hands of state and local authorities. Cities with strict quarantine and isolation procedures, notably Portland, Oregon and St. Louis, Missouri, suffered far fewer deaths overall than those that did not enforce strict proceduresⁱⁱⁱ. (The fatalities worldwide from the epidemic are estimated to be between 20 and 40 million; with approximately 675,000 of those in the US)^{iv}.

The Public Health Service Act, 42 U.S.C. 264 was not passed until 1944, and its amendments and regulations govern federal quarantining decisions and procedures today^v. After its passage, responsibility within the federal government bounced among several agencies and departments until it landed with the Centers for Disease Control (CDC), within the Department of Health and Human Services (HHS), where it currently resides. The CDC maintains twenty quarantine stations nationwide^{vi}.

42 C.F.R. Sections 70 and 71 give the CDC the authority to quarantine travelers arriving internationally. Notably, the CDC can also quarantine interstate travelers. It also has the authority to issue Do Not Board orders (enforced by TSA) and Lookout orders (enforced by CBP) for persons known to be infected who attempt to travel. State and local authorities, including tribal authorities, retain authority to issue their own quarantine orders independently of the CDC. The regulations also provide for the federal government to provide for and accept assistance from state and local governments.

The State of Florida's quarantine law is found in Sec. 381.0025 of the Florida Statutes and associated regulations, and delegates quarantine procedures to the Florida Department of Health. It allows the state to quarantine individuals in four situations: (1) cases of communicable disease; (2) communicable disease where a "public health emergency" has been declared; (3) sexually transmitted diseases; and (4) tuberculosis. It is a second degree misdemeanor to violate a Florida quarantine order, as is spreading rumors or false information about any infections or contagious disease.

Individuals do retain due process rights to challenge or contest a quarantine order, however, they can be required to go into quarantine first and challenge later. The Florida Court Education Council has published a lengthy (non-binding) guide to pandemic laws and procedures to educate the bench and court system on federal and state pandemic laws and suggest procedures to follow in case of legal challenges to these laws. It is full of information and available at: https://www.flcourts.org/content/download/218114/1974630/pandemic_benchguide.pdf. This is an excellent resource if you desire more information.

ⁱ Art. I, Article 1, Sec. 8, Cl. 3, U.S. Const.

ⁱⁱHistory of Quarantine, CDC, <https://www.cdc.gov/quarantine/historyquarantine.html> (retrieved March 10, 2020).

ⁱⁱⁱO'Neil, Tim, "1,703 St. Louisans died from the Spanish flu in 1918. The city's extreme precautions saved many more." St. Louis Post Dispatch, March 8, 2020, https://www.stltoday.com/news/archives/st-louisans-died-from-the-spanish-flu-in-the-city/article_aa4b3141-696f-5849-bf37-ad1fcacb7f3f.html (retrieved March 10, 2020); "Portland, Oregon," Influenza Encyclopedia: The American

Influenza Epidemic of 1918-1919, <https://www.influenzaarchive.org/cities/city-portland.html#> (retrieved March 10, 2020).

^{iv}1918 Pandemic (H1N1 virus), retrieved from CDC, <https://www.cdc.gov/flu/pandemic-resources/1918-pandemic-h1n1.html> (retrieved March 10, 2020).

^vHistory of Quarantine, supra.

^{vi}Quarantine Station Map and Contact List, CDC, <https://www.cdc.gov/quarantine/quarantinestationcontactlistfull.html> (retrieved March 10, 2020).

PRESIDENT'S MESSAGE - MARCH 2019

By Charles W. Telfair, IV, MCBA President
Attention Civil Litigators!

As all of you probably know, the jurisdictional amount for civil litigation recently changed from \$15,000 to \$30,000 for circuit civil court.

Along with that change, the Florida Supreme Court revised civil cover sheet asks how much your civil litigant is claiming in damages.

Obviously, your civil litigant needs to claim at least \$30,000 but should they claim more? Seems like a long shot, but is there a possibility that a Court (or, an Appellate Court) could limit the claim to \$30,000 if you don't claim a higher amount of damages on the civil cover sheet? And, if your civil litigant puts the highest number they can think of on the civil cover sheet (and its \$75,000 or more), will out of state defendants use that "amount in controversy" in support of removal to federal court?

I don't have the answers. So, until a Court tells us how to proceed, we are claiming \$30,000 in damages on the new civil cover sheet. But, we are also utilizing a revised jurisdictional allegation in our 2020 complaints. That jurisdictional allegation is as follows:

JURISDICTIONAL ALLEGATIONS

I. This is an action for damages in excess of \$30,000.00 (Thirty Thousand Dollars), exclusive of attorneys' fees, interest and costs, and plaintiff(s) hereby demand a trial by jury; accordingly, although, to file this complaint, undersigned counsel is being required by order of the Supreme Court of Florida to contemporaneously complete a civil cover sheet with a dollar figure as an estimated amount of claim for data collection and clerical processing purposes only, the full monetary value of the damages suffered by plaintiff(s) is yet to be determined and will be decided in a verdict by the jury that judges the facts of this action in compliance with Article I, Section 21, Florida Constitution.

Perhaps, that is overkill. But, better safe than sorry. Good luck out there in our ever changing landscape.



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COVID 19 Pandemic Update: A Special Message from Graceann Frederico, MCBA Executive Director



Dear Members,

As we navigate through these everchanging times due to the COVID-19 Pandemic, please note ALL MCBA meetings and events through April 15th are cancelled. The MCBA leadership will be revisiting future meetings and events later. Please check the 12th JD website for changes and updates regarding the courts. Things are changing by the hour and that is your best resource for court information. Also, check our Facebook page and the MCBA website for our updates. I will be emailing information more than usual in an effort to keep you up to date. Please make sure our emails, from our server WILD APRICOT, are not ending up in your SPAM folder. Our MCBA office is CLOSED until further notice, but I am working remotely. If you need to reach me, please email me at MCBA@ManateeBar.com.

While we all make necessary adjustments to our daily routines, there are several things we can do to assist others in our local community.

What can I do, Graceann? Well, I am so glad you asked!

If you happen to get your hands on some toilet paper, Lysol, or other hard to find items, pick an extra one up (if allowed), and keep it on hand to share with that elderly neighbor, or single mom, who just may need it in a few days.

Order that pizza, smoothie, or whatever it is via "take out" and keep our small businesses in business!

Do your Christmas/Holiday shopping early, and maybe buy a gift card from our local businesses.

Call up a local charity that is close to your heart and ask what you can do. For instance, I know that Meals on Wheels PLUS Manatee is in urgent need of canned meats, canned fruits, peanut butter, boxes of cereal, unopened packages of toilet paper, paper towel, disinfecting wipes, and hand sanitizer. If you would rather donate and have it matched, they have that available. Finally, if you can volunteer, they have many neighbors who need to be fed. They are asking for volunteers in small groups (6 or less) who can assist with sorting and packing food in The Food Bank. They are also in need of volunteer drivers to assist in meal delivery to homebound seniors. Those interested in volunteering should contact Jackie at jgodlewski@mealsonwheelsplus.org.

Use technology to reconnect with family and friends that you've been meaning to call, but just haven't had the time.

Think outside of the box – this too shall pass.

Stay happy and healthy!

Graceann

Interested in Serving on the MCBA Board of Directors?

The Nominating Committee will be reviewing nominations soon. Please submit your Letter of Intent via email to: MCBA@ManateeBar.com by April 15, 2020.



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YLD News & Happenings



The Amended Civil Cover Sheet Dilemma

by James Horne, YLD Director

Many of the litigators who read this are familiar with the recent change to the Civil Cover Sheet. Now there is a mysterious box that reads, "Please indicate the estimated amount of the claim, rounded to the nearest dollar. \$_____." It seems the rational is to gauge how the recent changes to the jurisdictional amounts

of the Florida courts is affecting the caseload between county and circuit court. There are several issues that arise from requiring the Plaintiff to "estimate" the amount of the claim in such an official and public document.

On a fundamental level, doesn't this require the Plaintiff's attorney to disclose their mental impressions, conclusions, opinions, or theories concerning the litigation? Opinion work product privilege protects exactly that. Federal Courts have held that the opinion work product is absolutely privileged, and one Florida court has stated, it is "absolutely, or nearly absolutely, privileged." The rule does not state whether this estimated amount is admissible as evidence. Most certainly, defense counsels would love to project on the document camera your estimated value to the jury if you're "ask" in closing argument differed substantially from your previous estimated value.

Does the Plaintiff's attorney now need their client's approval to enter this amount? One line of thinking is to enter \$30,000.01 (yes, the penny is necessary for circuit court). This could be problematic if

an excess verdict is obtained. In the ensuing bad faith litigation case, the insurance company will justify its low offers with the Civil Cover Sheet showing what the Plaintiff themselves reasonably estimated the value of their claim. Many of these cases are litigated in federal district court, which will apply The Federal Rules of Evidence and federal case precedence leading to more pitfalls and headaches.

The other line of thinking is to enter \$999,999,999.99, which is the largest number you can enter. This is of course more appropriate in personal injury litigation because of the non-economic damage's component. This strategy also has its down sides. If there is complete diversity of citizenship, the defense may attach your civil cover sheet at Exhibit 1 to their notice of removal. the rule should be changed to require the defense to value the Plaintiff's claims against them in their response to level the playing field.

Since the Supreme Court did not publish the amendments adding this question, they invited the public to file comments. Hopefully these issues were raised in those comments and the court will remove or modify this rule to alleviate these issues.

In the meantime, you may want to save these cases that say pleadings are not admissible as evidence to prove facts alleged therein, as least so long as they are a "tentative outline" of the party's position before the case is fully developed. See *Fallon v. City Furniture, Inc.*, 959 So. 2d 306, 307 (Fla. 3d DCA 2007); *Hines v. Trager Const. Co.*, 188 So. 2d 826, 831 (Fla. 1st DCA 1966). Stay tuned.

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Welcome New Members!

Karly R. Christine, Esq.

Stetson University, 2011
 Year Admitted to the Florida Bar, 2011
 Ms. Christine is the President of Christine Law, PA,
 2100 Constitution Blvd., Ste. 113, Sarasota, FL 34231.

Hillary Ellis, Esq.

Faulkner University, 2012
 Year Admitted to the Florida Bar, 2012
 Ms. Ellis is an assistant state attorney with the State
 Attorney's Office, 2071 Ringling Blvd., Ste. 400, Sarasota,
 FL 34237.

Brendan W. Rowe, Esq.

Florida State University, 2006
 Year Admitted to the Florida Bar, 2006
 Mr. Rowe is an attorney with Lancaster & Eure, PA,
 711 N. Washington Blvd., Sarasota, FL 34236

Grimes Goebel Grimes Hawkins Gladfelter & Galvano, P.L.

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 Phone: 941-748-0151
 Fax: 941-748-0158



MCBA & COURT UPDATES DURING COVID-19



The key to staying informed!

MAKE GOOD CONNECTIONS



The MCBA Facebook page will
 have updates regarding events
 and membership. Like our page!



The MCBA website is another
 source for updates. The MCBA
 has cancelled ALL events
 through April 15th. Visit us at
www.manateebar.com



The 12th JD website has the
 most up-to-date updates and
 changes regarding the Courts.
 Visit them at
<https://www.jud12.flcourts.org/>

Florida Board of Bar Examiners Vacancies:

Lawyer applicants are being sought to fill three vacancies on the Florida Board of Bar Examiners. A joint screening committee of Florida Bar Board of Governors members and Board of Bar Examiners members will recommend nine nominees for three lawyer vacancies at its May 15 meeting. The nominations will then be forwarded to the Supreme Court to fill three five-year terms commencing Nov. 1, 2020, and expiring on Oct. 31, 2025.

Attorney members must have been an active member of The Florida Bar for at least five years, maintain active membership while serving on the board, and be deemed qualified by the Court to assess whether applicants meet the essential eligibility requirements for admission under the Rules of the Supreme Court Relating to Admissions to the Bar. Appointment or election to the bench at any level of the court system will disqualify any applicant. Law professors or trustees are ineligible.

Board members of the Bar Examiners must be able to attend approximately 10 meetings a year in various Florida locations. Members should be willing and able to devote the equivalent of three to four days' work a month, or up to 350 or more hours per year on Board business, depending on committee assignments. Actual travel expenses connected with the meetings and examinations are reimbursed.

Persons interested in applying for these vacancies may download the Application for Special Appointment or should call Bar headquarters at (850) 561-5757, to obtain the questionnaire. Completed applications must be received by the Executive Director, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida, 32399-2300 or submitted via email to specialapptapp@floridabar.org no later than the close of business on Monday, March 23. Resumes will not be accepted in lieu of the required application. A joint committee of Florida Bar Board of Governors and Florida Board of Bar Examiners members will review all applications and may request telephone or personal interviews.

MCBA Members Out & About!

Joe Battaglia was spotted reading to first graders at McNeal Elementary School on 3/10/20 during the Embracing Our Differences Reading Day. Way to go, Joe!



Twelfth Circuit Judicial Nominating Commission Seeks Input For Applicants For Vacancy Created By Resignation Of County Judge Farrance

FOR IMMEDIATE RELEASE

March 16, 2020

Contact: Varinia Van Ness, Chair; varinia@vannesslawgroup.com
Twelfth Circuit Judicial Nominating Commission
Telephone: 941-362-3560

SARASOTA - The Twelfth Circuit Judicial Nominating Commission has received applications seeking nomination for the county court seat vacancy created by the resignation of County Court Judge Robert Farrance.

The following people have submitted applications and the commission seeks input from the public regarding these candidates:

Jaqueline Blanton Steele

Alison Clough

Hillary Ellis

Mark Gilman

Andrea Johnson

Adria Jensen

Peter Koclanes

Charles Near

Paul Olah

Jim Siegfried

Feedback or input regarding the applicants can be submitted via letter or email by noon on March 20th, 2020 to:

Varinia Van Ness, Chair, 12th Circuit JNC

Van Ness Law Group, P.A.

46 N. Washington Blvd. Suite 9

Sarasota, FL 34236

varinia@vannesslawgroup.com

The Commission will meet telephonically due to the Coronavirus on March 20th, 2020 to determine which applicants will be interviewed and further feedback and input regarding the applicants selected for interview will be sought after that date. A further press release will be issued.

IF IT INVOLVES FOOD



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

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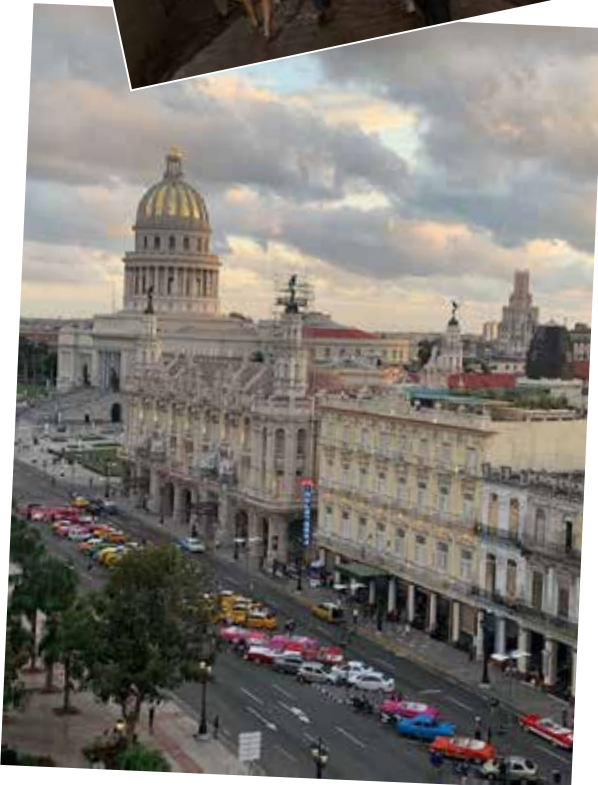
Please keep us in mind if you have a personal injury case to refer.



Se habla Espanol

MCBA Members attend CLE in Havana, Cuba!

MCBA members were spotted in Havana, Cuba participating in a series of CLE classes offered to members of statewide Voluntary Bar Associations. The group from the MCBA participated in two afternoons of CLE classes taught by Dr. Dorys Quintana Cruz, covering topics such as Criminal Law, Penal Law, and International Law. Ms. Cruz also led discussion regarding Cuba's new Constitution and plans for its future. When not in class, trip goers enjoyed tours of the Habanos Cigar Factory, Havana Club Rum Factory, stageside seats at the famous Tropicana show, and an extensive island tour in three classic cars. Which car was the fav? Hard to say! One thing for sure, we took a lot of pictures, walked a lot of steps, and appreciated home just a bit more.



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Highlights of the February General Membership Luncheon!

Dan Malasky, Chief Legal Officer of the Tampa Bay Buccaneers, was the guest speaker of the February 26th, 2020 General Membership Luncheon at Pier 22. Members and guests were treated to an electric and intriguing presentation by Malasky giving a sneak peak into his daily life within the NFL. Malasky presented a video depicting community events and activities that all need legal oversight, and asked "How many legal issues do you observe in the video?" Members answered anywhere from 2 to over 15 issues and were in for an extensive explanation. Overheard were members walking away commenting "Wow, just wow!" and "I never thought of that – that's incredible!"

Also in attendance, were judges from the 2nd DCA: Judge Susan H. Rothstein-Youakim, Judge Patricia J. Kelly and Judge John L. Badalamenti. MCBA Director, Christine Allamanno brought several Legal Studies students from Keiser University to hear Oral Arguments and enjoy the membership luncheon.

A special thank you to our luncheon law firm sponsor, Boyer & Boyer! Boyer & Boyer are celebrating their 25th year in 2020!



MCBA Director Allamanno with Keiser University students



YLD President Melissa Casanueva, MCBA Director Greg Hagopian, 2nd DCA Judge Badalamenti, Ed Boyer, Mary Alice Jackson, Dan Malasky, 2nd DCA Judge Kelly, 2nd DCA Judge Rothstein Youakim, MCBA Past President Alix St. Paul, MCBA President Charles Telfair, IV, and Judge Robert Farrance



MCBA President Elect Steve Dye, Dan Malasky, and Judge Robert Farrance

Java with the Judges 2020

At 7:45 am, Wednesday, February 26th, the Young Lawyers Division held Java with the Judges at the MCJC. Approximately 50 attendees started their day with a delicious breakfast catered by Apple Spice Catering, an abundance of coffee, and great conversation. The event, sponsored by Porges, Hamlin, Knowles & Hawk, is a popular one, despite the early hour. In attendance, were 2nd DCA judges, who were in the courthouse to hear Oral Arguments, as well as several 12th JD judges, staff and MCBA members. Thank you to the Young Lawyers Division for another great event!



MCBA 2019-20 SECTION CHAIRS:

Solo/Small Firm Section:	Steele Williams, Chair
Probate Section:	Rebecca Proctor, Co-Chair
	Alexandra St. Paul, Co-Chair
Real Property Section:	Joe Battaglia, Chair
Family Section:	Faith Brown, Chair

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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News from the Florida Bar: MAY APPOINTMENTS TO BE FILLED

ABA House of Delegates: Two lawyers (one under 36 delegate) to serve two-year terms commencing Aug. 2020, at the conclusion of the ABA Annual Meeting. Applicants must also be ABA members.

Florida Legal Services, Inc. Board of Directors: One lawyer to serve a three-year term commencing July 1. This 15-member board provides judicial advocacy through co-counseling with local program attorneys and volunteer pro bono attorneys and provides legislative and administrative advocacy on policies impacting the legal rights of the poor, as well as providing civil legal assistance to indigent persons who would not otherwise have the means to obtain a lawyer.

Florida Lawyers Assistance, Inc. Board of Directors: Three lawyers and two non-lawyers to serve three-year terms commencing July 1. This 15-member Board assists the legal community in securing counseling and treatment for emotional and chemical dependency problems for lawyers.

Florida Medical Malpractice Joint Underwriting Association Board of Governors: One lawyer to serve a two-year term commencing July 1. This is a nine-member board of governors that develops a means of obtaining loss and expense experience in medical malpractice issues.

Persons interested in applying for these vacancies may download the Application for Special Appointment or should call Bar headquarters at (850) 561-5757, to obtain the questionnaire. Completed applications must be received by the Executive Director, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida, 32399-2300 **no later than the close of business on Friday, April 17**. Resumes will not be accepted in lieu of the required application. The Board of Governors will review all applications and may request telephone or personal interviews.



Old Republic Title – Real Property Section CLE

Recently, the Real Property Section held a CLE entitled “Red Light, Green Light for the Real Estate Practitioner”, sponsored by Old Republic Title. Amber Ashton, Florida State Counsel for ORT led detailed discussion regarding construction liens, stop/start orders, closings, and the underwriting process. Special thanks to Ted Berg and Amber Ashton of Old Republic Title for sponsoring the event.



Marisa Powers, Sponsor Amber Ashton, Sponsor Ted Berg, Real Property Section Chair Joe Battaglia and YLD Director Anisley Mena

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At CenterState, we believe that local ownership and local management translate into a better bank. Our core value of Local Market Driven shows that our commitment to local communities is very important to us and to you, our customer. Each community is led by a local Community President that lives in the area and operates their community as if they were running their own business. Each president understands that to be a successful bank, they must also work to make the community they serve successful. That is why CenterState is a proud sponsor of the Manatee County Bar Association, located in Bradenton, Florida. We support the association's efforts to maintain the highest standards in professional law and to promote a cooperative spirit among members of the Bar and their families.

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Investment Management – Our team of investment professionals understand the relationship between your firm's performance and your personal financial success and are dedicated to serving you, your partners and the professional staff of your firm.

(continued on the next page)

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- Veteran's benefits



Jeffrey S. Goethe, Esq.

- Admitted to the Florida Bar in 1990
- Florida Bar Board-Certified in Wills, Trusts & Estates
- Fellow, American College of Trust and Estate Counsel
- AV-rated by Martindale-Hubbell
- Current chair of the Florida Probate Rules Committee
- The Florida Bar's RPPTL Section Executive Council; Homestead Committee Co-Chair; Bar Journal Committee Co-Chair; Wills, Trusts & Estates Certification Course Committee Chair; Probate Law and Procedure Committee Co-Vice Chair
- Past 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, and elder law



M. Brandon Robinson, Esq.

- Admitted to the Florida Bar in 2015
- United States Department of Veteran's Affairs Accredited Attorney
- Combat Veteran, United States Marine Corps
- Secretary and Director, Manatee County Bar Association Young Lawyer's Division
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April 30, 2020

**Manatee County Judicial Center,
Judge Gilbert A. Smith Sr., Jury Assembly Room,
Bradenton, Florida**

2:00-4:00 p.m.

**2:15 pm Remarks and Official Portrait Unveiling
Light refreshments to be served**

DATES TO REMEMBER:

March 19, 2020	Diversity & Inclusion Committee Meeting – MCJC CANCELLED
March 25, 2020	General Membership Luncheon Pier 22 CANCELLED
April 1, 2020	Board of Directors Meeting – MCJC CANCELLED
April 2, 2020	Guardianship & Probate Section CLE – CANCELLED
April 8, 2020	YLD Board of Directors Meeting – MCJC CANCELLED
April 14, 2020	Family Section CLE: CANCELLED
April 16, 2020	Diversity & Inclusion Committee Meeting - MCJC
April 24, 2020	MCBA Beach Party – Grimes Family Beach House
May 6, 2020	Board of Directors Meeting - MCJC
May 13, 2020	YLD Board of Directors Meeting - MCJC
May 27, 2020	LAW DAY Luncheon *Note: DATE CHANGE!!!
May 21, 2020	Diversity & Inclusion Committee Meeting - MCJC
June 3, 2020	Board of Directors Meeting - MCJC
June 4, 2020	Intellectual Property CLE – details to come
June 10, 2020	YLD Board of Directors Meeting - MCJC
June 18, 2020	Diversity & Inclusion Committee Meeting - MCJC
June 23, 2020	Family Section CLE – details to come
June 24, 2020	General Membership Luncheon Pier 22

*dates are subject to change

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Gregg Christopher Moses

**Last Known Address:
4097 Carlton Arms Inlet,
Bradenton FL 34208**

DOB: 01-09-1971

Passed on 02-18-2020

**If you have any information,
please contact Barbara Moses
via email at Moskey1305@aol.com
or by phone at 401-440-7161
or 401-749-3239**



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