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JANUARY/FEBRUARY 2023

NEWSLETTER OF THE MANATEE COUNTY BAR ASSOCIATION



CYBERSECURITY; A Lawyer's Duty to Their Client

By Andre R. Perron, Esq. MCBA Director and Louisa M. Fredey

The preservation and safety of clients' confidential information is a core tenet of the legal profession. Attorneys' jobs are made more difficult with the evolution of technology and the resulting vulnerability of clients' information stored on electronic devices. The American Bar Association's Cyber Security Report states that 25% of law firms have suffered prior data breaches.¹ The risk of an insecure network to protect clients' data is two-fold: the potential for bad actors to steal, use or sell clients' confidential and sensitive information and the resulting liability for the law firm and involved attorneys.

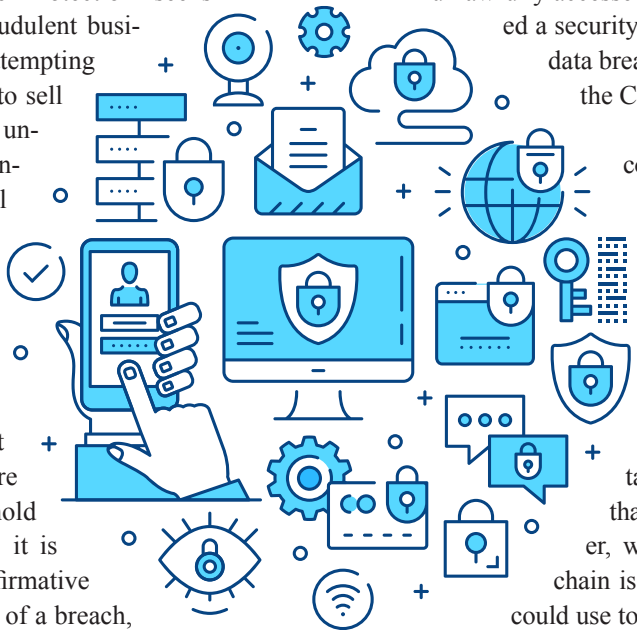
In response to the growing concern with the vulnerabilities that evolving technology presents for businesses, more specifically law firms, the Federal Trade Commission ("FTC") and the Securities Exchange Commission ("SEC") have been key agencies in regulating these liabilities.²

The FTC's Division of Consumer Protection "seeks to enjoin unfair, deceptive, and fraudulent business practices."³ With hackers attempting daily to steal personal information to sell on the black market, blackmail, or unlawfully retain, clients' personal information has become a potential goldmine for bad actors. Considering the high value of personal information in this modern day, when companies or firms tell their clients and customers that their personal information will be secure, the FTC can and will take law enforcement action to ensure these promises are kept.⁴ Where businesses and firms hold their clients' sensitive information, it is crucial for the businesses to take affirmative steps to: (1) notify impacted parties of a breach, (2) implement state-regulated security measures, and (3) remain up to date with industry standards.⁵ Failure to do so and the FTC could have a cause of action.⁶ In its investigation, the FTC may look to internal documents evidencing the company's

risk appetite⁷ and incident response.⁸ Therefore, it is imperative for firms, with both employees' and clients' sensitive information, to have both frontend and backend support against malware attacks.

Frontend support could take the form of a security risk analysis as a preemptive method to audit existing security protocols at the firm. With this preemptive measure occurring on a routine basis, firms may remain informed on the latest security protocols, thus adhering to the FTC guidelines and the Model Rules of Professional Responsibility Rule 1.1 Comment requiring lawyers to "keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology."⁹ When a lawyer fails to remain updated with technology and its risks, he or she risks facing disciplinary action, which is exacerbated if clients' information is stolen and unrecoverable. A lesson to be learned from the *Fero v. Excellus Health Plan, Inc.*¹⁰ case would be where the Excellus Health Plan, Inc. failed to conduct routine checks of its security measures, resulting in ten million patients' data being unlawfully accessed on its watch.¹¹ Had Excellus conducted a security audit sooner, it would have caught the data breaches in its security system and avoided the Court-imposed liability.¹²

A backend solution to data breaches could look like instituting a program in a firm's data backup servers like a "blockchain" that essentially blocks any suspicious or unauthorized activity.¹³ The blockchain sends out the potentially fraudulent transaction to multiple computers to create a verification system, which puts more hurdles for the hacker to contend with.¹⁴ Blockchain necessitates the hacker to have access to more than "51% of the network" in the data server, which is extremely difficult.¹⁵ A blockchain is just one of many programs a law firm could use to limit the risk of a major data breach. If the business in the *Fero* case had implemented a program similar to blockchain, it would have been notified sooner of any



(Cybersecurity, continued on page 2)

(Cybersecurity, continued from page 1)

fraudulent activity and would have been able to act sooner. If a firm does not institute a version of a frontend and backend solution to the increasing count of cyberattacks, it opens itself up to FTC action and the SEC imposition of federal securities laws. Fortunately, the SEC has developed accessible resources for individuals and businesses to mitigate the risk of a cyberattack.

In 2017, the SEC formed the Cyber Unit within its Division of Enforcement, which expanded in 2022 to the Crypto Assets and Cyber Unit with the allocation of twenty (20) additional positions, nearly doubling the size of the Unit.¹⁶ With the expansion of the Cyber Unit, the SEC also provides multiple resources for companies and firms battling Ransomware attacks under the Cybersecurity and Infrastructure Security Agency (“CISA”).¹⁷ CISA created [StopRansomware.gov](https://www.cisa.gov/stopransomware) as a resource for individuals and businesses to not only mitigate data breach liability but also provide a portal to report any fraudulent activity.¹⁸ The CISA website also provides information on response and recovery in the case of a breach through checklists for institutions on its cyber safety, self-assessment tools, and blueprints for Ransomware defense. A law firm may use this website as part of training for attorneys and staff as part of its larger initiative to fight against cyberattacks and hackers.

As lawyers are under oath to faithfully discharge the duties of an attorney under the Rules of Professional Conduct, it is the lawyers’ responsibility to protect clients’ interests and their personal information. Through the implementation of audits and government resources, law firms will be better equipped to handle the large volumes of data they come across and store on an annual basis.

¹ David G. Ries, *2021 Cybersecurity*, American Bar Association (Nov. 28, 2022, 2:00 PM), https://www.americanbar.org/groups/law_practice/publications/tech-report/2021/cybersecurity/

² Cybersecurity, Rel. #2, 5/18, *The General Landscape for Information Security* § 2:3, (Nov. 29, 2022, 11:00 AM).

³ *Id.*

⁴ *Privacy and Security Enforcement*, Federal Trade Commission (Nov. 29, 2022, 9:00 AM), <https://www.ftc.gov/news-events/topics/protecting-consumer-privacy-security/privacy-security-enforcement>.

⁵ *Id.*

⁶ Cybersecurity, Rel. #2, 5/18 at § 2:3-8.

⁷ Risk appetite meaning the level of risk that an organization is willing to accept while pursuing its objectives.

⁸ *Id.*

⁹ Model Rules of Prof’l Conduct r. 1.1 cmt. (Am. Bar Ass’n 1983).

¹⁰ *Fero v. Excellus Health Plan, Inc.*, 236 F. Supp. 3d 735, 735 (D. Ct. W. Dist. N.Y. 2017)

¹¹ *Id.*

¹² *Id.*

¹³ *Preparing for the Future of Blockchain in Data Centers*, Data Center Post (Nov. 29, 3:00 PM), <https://datacenterpost.com/preparing-for-the-future-of-blockchain-in-data-centers/>

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *SEC Nearly Doubles Size of Enforcement’s Crypto Assets and Cyber Unit*, U.S. Securities and Exchange Commission (May 3, 2022), <https://www.sec.gov/news/press-release/2022-78>

¹⁷ *Cybersecurity*, U.S. Securities and Exchange Commission (Nov. 29, 2022, 9:30 AM), <https://www.sec.gov/spotlight/cybersecurity>

¹⁸ *Cybersecurity and Infrastructure Security Agency*, (Nov. 29, 2022, 2:00 PM), [cisa.gov/StopRansomware/resources.gov](https://www.cisa.gov/StopRansomware/resources.gov).

Welcome New Members

Alison Mathey Lambeth, Esq.

Catholic University of America
Year Admitted to The Florida Bar, 2022
Firm: Alison Mathey Lambeth Law, PLLC
Area(s) of Practice: Estate Planning,
Wills/Trusts & Estates, Business Law

Andrew R. Liverman, Esq.

Appalachian School of Law, 2021
Year Admitted to The Florida Bar, 2021
Firm: Office of Regional Counsel
Area(s) of Practice: Criminal Law, Trial, Juvenile Law

Sydney R. Seabaugh, Esq.

Vanderbilt University School of Law
Year Admitted to The Florida Bar, 2022
Firm: Boyer & Boyer, P.A.
Area(s) of Practice: Elder Law,
Wills/Trusts & Estates, Guardianship

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our website at www.manateebar.com

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- Business & Commercial Litigation
- Real Estate Litigation
- Personal Injury
- HOA, Condo & MHP Disputes
- Estate & Trust Litigation
- Labor & Employment

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Dana.Watts@uswdlaw.com

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Sarasota, FL 34236



- January 11, 2023 MCBA YLD BOD Meeting
- January 17, 2023 Probate/Guardianship/
Trust Section CLE with Ron Aucutt
- January 25, 2023 MCBA Membership Luncheon
- February 1, 2023 MCBA BOD Meeting
- February 2, 2023 Vintage Attorney Party
- February 8, 2023 MCBA YLD BOD Meeting
- February 20, 2023 Presidents Day
Clerk/Office Closed
- February 22, 2023 MCBA Membership Luncheon
- February 23, 2023 Bar Idol Karaoke Night
- March 1, 2023 MCBA BOD Meeting
- March 8, 2023 MCBA YLD Meeting
- March 22, 2023..... MCBA/SCBA Mitigator/Litigator Event
- details coming
- March 29, 2023..... MCBA Membership Luncheon
- April 5, 2023 MCBA BOD Meeting
- April 7, 2023 Good Friday
Clerk/Office Closed
- April 12, 2023 MCBA YLD BOD Meeting
- May 3, 2023 MCBA BOD Meeting
- May 5, 2023 12th BENCH BAR Conference
- May 10, 2023 MCBA YLD BOD Meeting
- May 12, 2023 MCBA Annual Beach Party Social
- May 29, 2023 Memorial Day
Clerk/Office Closed
- May 31, 2023 Law Day Luncheon
- June 7, 2023..... MCBA BOD Meeting
- June 14, 2023..... MCBA YLD BOD Meeting
- June 19, 2023..... Juneteenth - Clerk/Office Closed
- June 28, 2023.....MCBA Annual Meeting Luncheon

**Dates are subject to change*

**BARNES WALKER
GOETHE, PERRON
SHEA & ROBINSON
PLLC
ATTORNEYS AT LAW**

is pleased to announce that

**MICHAEL B. “BRANDON” ROBINSON, ESQ.
is now a Partner with the Firm.**



Mr. Robinson graduated from Hannibal-LaGrange University in Hannibal, Missouri, in 2011, receiving a B.A. in Organizational Management. After college, Mr. Robinson attended Stetson University College of Law, where he received his Juris Doctorate degree, cum laude, in 2015. While attending Stetson University Mr. Robinson was also a recipient of the prestigious William F. Blews Pro Bono Service Award. Mr. Robinson has been a member of The Florida Bar since 2015, served five terms as a Director of the Young Lawyers Division of the Manatee County Bar Association, and is currently a Judge for Manatee County Teen Court. Mr. Robinson has joined the Firm’s Wills, Trusts, and Estates Department and concentrates his legal practice in the areas of Wills, Trusts and Estates; Elder Law; and Guardianship Law. Prior to becoming a lawyer, Mr. Robinson served in Iraq as a U.S. Marine.

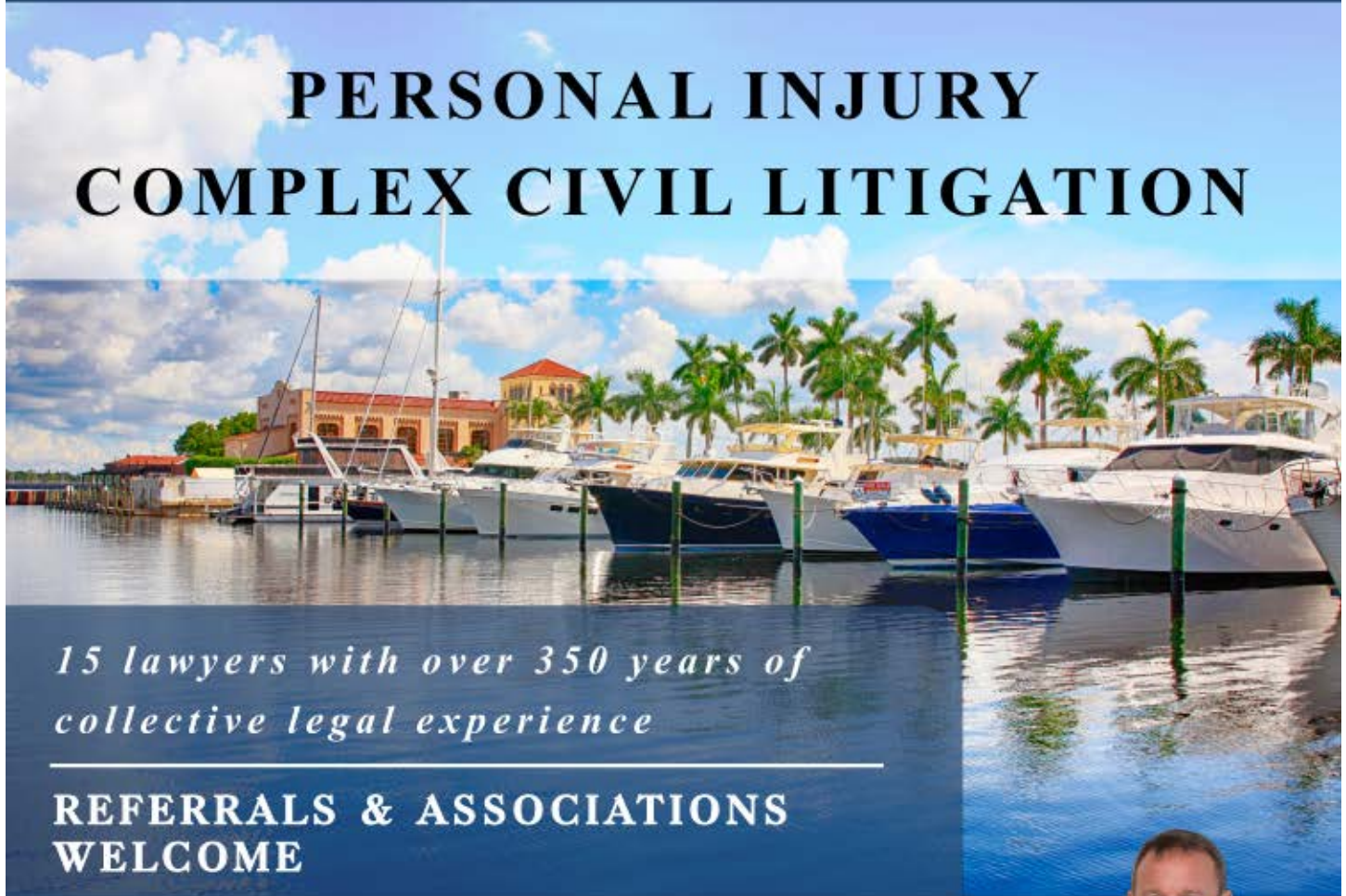
The Firm also practices in the areas of real estate sales and purchases, leasing, zoning & land use, homeowners and condominium associations, local government law, condemnation, wills, trusts, estate planning, probate, guardianship, elder law, business law, corporate, LLC, & partnership formation, business sales, business contracting, trademarks, contract disputes, creditor rights, bankruptcy, employment claims, trust and will disputes, financial and securities fraud, real estate litigation, IRC Sec. 1031 exchanges, personal injury, and claims related to business disputes. Our law firm and affiliated title company, Barnes Walker Title, Inc., have closed over 25,000 real estate transactions since the firm’s beginnings.

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MCBA CELEBRATES THE HOLIDAYS!

The association celebrated the holidays with a lot of cheer at the Heritage Harbour Golf Club on Friday, December 2nd, 2022. Approximately 75 party goers came out to enjoy festive bites, bubbly beverages, and fabulous fun. James “DJ” Lynch returned with a fantastic array of tunes and several members participated in the “Best Hawaiian Shirt” Contest, with the winner being selected by Judge Hunter Carrol. Jesse Butler won first prize with his Star Wars Hawaiian shirt and received a totally awesome gift basket, donated by Annual Sponsor, Westminster Communities of Bradenton. Did you happen to see the little dancing Santa with the Hawaiian shirt that was in the basket.....? It was perfect! Member Damian Ozark placed second with his dance moves and trendy Hawaiian shirt. Association President Faith Brown, along with the audience, awarded Damian a bottle of something nice. The Young Lawyers Division held a raffle to raise funds for hurricane relief efforts by Captains for Clean Water. The prizes were fantastic....and if you don't know what they were, they were really, really nice!

Highlights from the 2022 Holiday Party



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- Foreclosures
- Commercial and residential leases and tenancies
- Business and commercial litigation
- Personal Injury

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bhoyle@hoylefirm.com

6707 35th Avenue West
 Bradenton, FL 34209

Calendar availability and full bio at [floridamediators.org/Robert Hoyle](http://floridamediators.org/Robert_Hoyle)

- Harvard College B.A., 1975
- Capital University Law School, J.D., Cum Laude, 1986
- Harvard Law School Mediation Training Program
- Chairman, Florida Bar Alternative Dispute Resolution Section 2015-2016
- Chairman, Florida Bar Council of Sections 2018-2019
- Certified Circuit Civil Mediator
- Certified County Civil Mediator

JOB POSTINGS:

LAW CLERK/Legal Intern

Palmetto law firm is seeking a law clerk or legal intern with strong research and writing skills to assist attorneys in drafting lawsuits, assisting in discovery, and additional legal work as needed 15-25 hours per week. Compensation is negotiable. Please send resumes to: erin@hardballlaw.com

GENERAL COUNSEL

The 12th Judicial Circuit is hiring General Counsel. This is a professional legal position that serves as legal advocate and counsel for the interests of the 12th Judicial Circuit. The position is responsible for supervising court counsel staff, providing legal counsel, formulating, and implementing policies to comply with statutory and rule requirements, and performing administrative functions, including reporting. The position formulates long range goals for the court based upon legal requirements; develops policy, and works with the Trial Court Administrator, Chief Judge, and other elected officials. This position must be able to successfully manage several on-going projects at one time. Please visit <https://www.jud12.flcourts.org/About/Career-Opportunities> for the full job posting and details on how to apply

SOCIAL SECURITY DISABILITY/ WORKERS' COMPENSATION ATTORNEY WANTED

AV Rated law firm seeks associate position. Candidate does not need prior experience, we will train. You must live in the Sarasota/Bradenton area or be willing to relocate. You will also be expected to network by attending community and legal events. Please, submit resume to ccarlson@carlsonmeissner.com



 Freedom Village of Bradenton

Please consider inviting your clients to learn more about Independent Living at Freedom Village and the services we offer in Assisted Living, Memory Care, Skilled Nursing, and Rehabilitation during a **free luncheon** on Estate Planning.

Welcome to Freedom Village

Freedom Village is a premier Life Care senior living community that features beautiful living accommodations and a full range of health care services at our scenic 34-acre campus located in West Bradenton.

Our community provides financial security and peace of mind in a safe, friendly, and comfortable environment where daily living is stress-free, and friendships come easily.

Simply stated, we take care of our residents for life.

The seminar and lunch are free, but reservations are required **by calling 941-798-8122.**

Estate Planning: How to Prepare for the Unknown & Protect Your Assets

**Thursday, Feb. 16
 11 a.m. - 1:30 p.m.**

Freedom Village
 6406 21st Avenue West

Lunch will be served.

12th Circuit JNC Announces Meeting

The Twelfth Circuit Judicial Nominating Commission will meet on Jan. 11, 2023, at 10:30 a.m., via teleconference. Please e-mail Alvin K. Brown at alvin@akbrownlaw.com for call-in information.

During the meeting there will be discussion of the action items in response to the letter from the Governor’s General Counsel regarding the Sarasota County Court vacancy created by elevation of Judge Dana Moss to the Twelfth Circuit Court.

Issues to be discussed:

1. Establish a timeframe for selection to fill the vacancy;
2. Establish future meeting dates;
3. Take up any other business of the commission.

If you require additional information, please contact Alvin K. Brown, Chair, at 941-953- 2825 or alvin@akbrownlaw.com.



5 Things to Know About Ruby:

1. Ruby offers 24/7/365 live virtual receptionist and live chat services for small business owners
2. With lawyers averaging around 2.5 billable hours daily, Ruby helps firms increase their billable hours and convert and retain more clients. “90% of Ruby customers capture more billable hours than the national average for attorneys—with many recording double or more.”
3. Ruby integrates with the tools attorneys use every day - like Clio, MyCase and Rocketmatter
4. Ruby turned 19 this year and shares 19 takeaways regarding small business success, customer communication, employee engagement, navigating disruptions, and more [here!](#)
5. Dogs or Cats? Phew, this is a tough one, Ruby’s love all their furry friends, but when it comes to culture, Ruby has some unique holidays including - Space Kitten Pizza Party! Yup, you heard that right. Right around Halloween each year, Rubys dress up like cats/space/all the above for a tradition that brings our teams together. Check it [out!](#)

A Message from F. SCOTT WESTHEIMER

Dear Voluntary Bar Colleagues:

I hope all is well and you have enjoyed a great holiday. I would really appreciate it if you would consider sharing this invitation to your members to apply to serve on Florida Bar committees. I would love to get more of your members involved in Florida Bar service and it would be my privilege to serve with them. They will be joining many dedicated volunteers across the state in sharing their time for the betterment of our profession at the state level. If they are interested, they can simply submit the committee preference form by January 15, 2023. There are many committees to choose from, and they can find a description of each committee on The Florida Bar’s website. For anyone that is interested:



PLEASE DO THE FOLLOWING BY JANUARY 15, 2023:

If you are currently serving on a Standing Committee and your term is 2023, please submit a new committee preference form by January 15, 2023, to be considered for appointment. To check your term on a committee, visit the “Standing Committees” webpage and select your committee.

If you are not currently serving on a Standing Committee and want to be considered, please submit the committee preference form by January 15, 2023. Your comments concerning your participation in Bar-related activities, and your qualifications and interests will be particularly helpful.

The Florida Bar’s greatest assets are you, our members, so please take a minute and submit your form.

F. Scott Westheimer
President-Elect






THANK YOU!





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Come celebrate with us on Groundhog's Day!

MCBA VINTAGE ATTORNEY PARTY



Have you had burgers at Councils?

Do you know who had the louder laugh - Judge Walter Talley or Judge Gilbert Smith, Sr.?

Have you heard of the 'Talley Awards' ?

Have you ever asked Judy, the librarian, for help?

Do you recall when O'Bricks was the ROO?

Do you remember foreclosure sales on the courthouse steps?

*Are you 50 years or older by February 2, 2023?
If you answered "yes", you're eligible to attend!*

Come join your fellow vintage attorneys for an evening of fellowship and memories

February 2 | 5:30 – 7:30 pm
Kiwanis Hall – Manatee Performing Arts Center,
502–3rd Avenue W., Bradenton

Due to space restraints, vintage attorneys only please.

RSVP by January 25th to mcba@manteebar.com

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5 Things About Manatee Community Foundation

1. Donors can open a donor advised fund at MCF starting at \$5,000 and use it for all of their charitable giving, locally and nationally.
2. Charitable legacy funds at MCF allow donors the flexibility to design a personal plan for giving from their estate after they pass – supporting specific organizations or general causes, and lasting for a certain number of years or into perpetuity.
3. MCF frequently partners with professional advisors, working together to help clients achieve their philanthropic goals.
4. MCF works with giving people formally—through charitable funds—and informally, by recommending options for giving based on what is most meaningful to them.
5. Manatee Community Foundation will celebrate 25 years of impact in 2023!

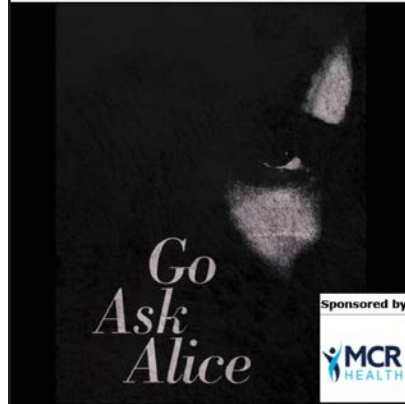


One family is about to face the music...

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Julianne Hambrick
Music



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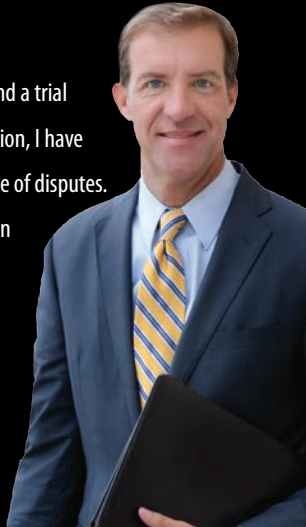
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BARNES WALKER, GOETHE, PERRON & SHEA, PLLC

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

- Estate planning
- Elder Law
- Probate and trust administration and litigation
- Guardianship administration and litigation
- Elective share and surviving spouse rights
- Public benefits and Medicaid planning
- Homestead issues
- Veteran's benefits
- Probate and trust related appeals



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
Past President, 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



Kevin M. Colver, Esq.

Admitted to the Florida Bar in 1997
Member, Manatee County Bar Association
LL.M., Taxation, Univ. of Florida



M. Brandon Robinson, Esq.

Admitted to the Florida Bar in 2015
United States Dept. of Veteran's Affairs
Accredited Attorney
Combat Veteran, United States Marine Corps
Director, Manatee County Bar Association Young Lawyer's Division

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A REAL ESTATE, WILLS/TRUSTS, CIVIL LITIGATION AND BUSINESS LAW GROUP



CLE COURSE

The Top Ten Estate Planning and Estate Tax Developments of 2022

When: Tuesday, January 17th, 2023

Where: Manatee Community Foundation, 2820 Manatee Ave West, Bradenton FL 34205

12 - 1:30 pm., Approved for 1.5 credits



About The Presenter:

Mr. Aucutt is Senior Fiduciary Counsel at Bessemer Trust. In this role, he is responsible for working with clients and their advisors to develop practical and efficient wealth transfer plans, and for guiding the firm on fiduciary issues. Prior to joining Bessemer, Ron practiced law with Miller & Chevalier Chartered in Washington, D.C., and with McGuireWoods LLP in Tysons, VA. He advised clients, lawyers, and other professionals on estate planning and helped resolve tax issues through IRS appeals and by obtaining rulings from the IRS National Office.

He is a Fellow and former President of The American College of Trust and Estate Counsel and served as an officer in the U.S. Navy in the Gulf of Tonkin during the Vietnam War.

Ron earned a J.D. and a B.A. from the University of Minnesota. He lives with his wife in Lakewood Ranch, FL.

About the Course:

Ronald D. Aucutt will present this informative course on what he has identified as the "Top Ten Estate Planning & Tax Developments for 2022". This will include but not be limited to regulations, procedures, history, updates, changes, revisions, etc.

\$10 for MCBA Members
Only MCBA members may attend - space is limited!

Note: Event is being held at the Manatee Community Foundation, Noon - 1:30 pm

[CLICK HERE TO REGISTER](#)

When registering, click the date, time, and then enter your information. Questions? Email Graceann at mcba@manateebar.com

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Manatee Clerk of Court & Comptroller **2023 HOLIDAY SCHEDULE**

The following dates the Clerk of the Circuit Court & Comptroller's office will be closed to the public.

Jan. 2 - New Year's Day Observed

Jan. 16 - Martin Luther King Jr. Day

Feb. 20 - Presidents Day

Apr. 7 - Good Friday

May 29 - Memorial Day

Jun. 19 - Juneteenth

Jul. 4 - Independence Day

Sept. 4 - Labor Day

Sept. 25 - Clerk's In-Service Day

Nov. 10 - Veterans Day Observed

Nov. 23 - Thanksgiving Day

Nov. 24 - Thanksgiving Friday

Dec. 25 - Christmas Day

Dec. 26 - Christmas Day After

www.ManateeClerk.com



Please join Manatee FAWL and the Fred G. Minnis Bar Ass'n – SMC as we Celebrate the Diversity of the Florida Bar and Honor **Judge Rochelle Curley and Senior Judge Janette Dunnigan**

Thursday, January 19, 2023 - 4:00 pm
MANATEE COUNTY JUDICIAL CENTER

Judge Gilbert Smith, Sr. Jury Room

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Combo

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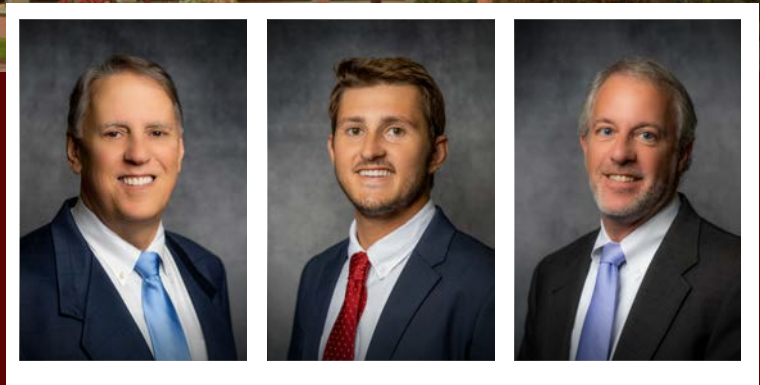
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January Membership Luncheon

Shift Happens - Surviving the Law Profession

The billable hour, adrenaline addiction, and badge of honor culture pervasive in law firms is causing increased rates of burnout and unhealthy coping skills. Overwhelming research confirms increased alcohol & drug use, stress, anxiety, depression, and feelings of isolation plague the law profession. What is true wellness?

Wednesday, January 25, 2023

Manatee Performing Arts Center- Kiwanis Hall

11:45 Lunch, Noon Meeting Start



Melissa Byers, St. Pete Bar Association

Melissa Byers has served nine years as the Executive Director of the St. Petersburg Bar Association. During her tenure, the bar implemented the wellness theme "Healthy, Happy, Holistic Attorneys." As a result, The Florida Bar presented the first Health & Wellness Award to the SPBA in 2018. Melissa was also awarded the 2020 Marshall R. Cassidy, Sr. Leadership award by The Florida Bar.

Melissa's professional background includes working at the world-renowned Golden Door Resort and spa in San Diego, CA. At the Golden Door, Melissa worked with a wide range of clientele including "Good Morning America" co-anchor, Joan Lunden; owner of Mondavi wine, Robert Mondavi; actress Laura Dern; Barbara Walters; among many others. She then relocated to Los Angeles to privately train actress Karyn Parsons from "The Fresh Prince of Bel Air" at Warner Brothers' Studios.

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