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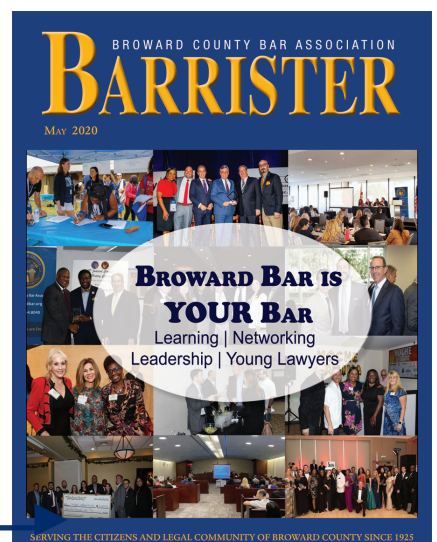
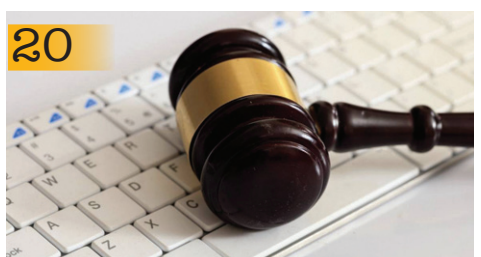
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*Michael A. Fischler, Esq.*

We should all be proud to be members of the Broward County Bar Association (“BCBA”). While everyone is facing challenges due to the Coronavirus, the BCBA has adapted and modified its operations and programming to maintain its position as an important and leading player in the dissemination of relevant and practical information and programs. Under the leadership of Braulio Rosa, our Executive Director, we have partnered with multiple Bar Associations around the State to provide them with access to BCBA webinars, thereby building relationships and securing new sources of revenue. The BCBA staff have been working remotely to maintain BCBA operations and their efforts are truly appreciated, as they have not missed a beat.

In March and April, the BCBA hosted numerous dynamic and educational webinars. We partnered with annual sponsor, LAN Infotech, Michael Goldstein, President and CEO, along with Thomas Oates, Esq., Past President of the BCBA, to present two webinars on remote access do’s and don’ts and how to use Microsoft teams to communicate in today’s new social distancing world. From only a few of us utilizing remote access to our offices and hosting Zoom conferences, in a matter of weeks, the 17th Judicial Circuit Court and all of us became Zoom experts (well maybe not all of us?), where hearings are currently being held using that technology.

BCBA member Ian Berkowitz, Esq. was the speaker at two webinars on Disaster Financial Assistance Relief for Law Firms, the first of which was sold out, with over 500 attorneys throughout the state registering. The BCBA building upon its strong relationship with the 17th Judicial Circuit Court, presented multiple free informative and pertinent webinars, including: Family Division update with Judges Fabienne E. Fahnstock and Peter Holden; Probate Division update with Judges Charles M. Greene, Kenneth L. Gillespie and Mily R. Powell; Family Law update and tips with Judges Frank Ledee and Dennis D. Bailey, Family Law practical tips with Magistrate Judges Annette J. Szorosy, Stephanie Matalon and Matthew Tannenbaum, navigating the Mediator-Judge Ethical Boundaries with Judges Robert W. Lee and Nina W. DiPietro. Other webinars included: how to present successful client webinars; reaching resolution in a remote revolution; paid sick leave, business interruption losses, remote mediation, dos, don’ts and best practices; collaborative family practice in a virtual world; “linked-in”, connecting with clients and colleagues; navigating risk in uncertain times; bankruptcy relief and remedies in the Covid-19 crisis and cooking with the Wok star.

This month the BCBA has scheduled many webinars, while most are informative, some are designed to allow us to unwind, relax and just have fun with our colleagues. A new “Tuesday’s in May” wellness e-series will begin, with the first Tuesday in May with the topic of “Bringing the Practice of Mindfulness to Your Practice” with speaker, Laura Kelley, Esquire, a certified mindfulness teacher/wellness coach, May 12th on nutrition wellness, May 19th Yoga and May 26th the new billable hour. On May 13th Chief Judge Jack Tuter will be the lunchtime guest speaker on the topic of “A Judge’s Prospective on Mediation”.

Please continue to check the BCBA Calendar as we are constantly adding webinars and programming. We are grateful to all attorneys, sponsors and Judges that participate in BCBA webinars, our fellow Bar Associations who have partnered with us and all BCBA sponsors and supporters.

I am thankful for the efforts, advice and support of Braulio Rosa, our BCBA Executive Committee Officers and Members of our Board as we try to navigate the Covid-19 situation. Hoping everyone stays safe and healthy and continues to participate in BCBA activities.



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*Lindsay M. Massillon, Esq.*

I am not going to sugarcoat this: This is tough. First, I hope you're well, staying home, and taking the necessary precautions for your health and the health of your loved ones. I hope that you're managing your stress and adjusting to Mondays that feel like Sundays which feel like Fridays.

I join you in grieving for the losses you've suffered, including missed birthday celebrations, weddings, game nights with friends, coffee breaks with co-workers, bar social events, church activities, volunteering on the weekends, spring break vacations, days at the beach, etc. It is no easy feat to quit social activities cold turkey, no matter how many times you would make excuses to stay home prior to the Coronavirus-Era.

With this in mind, I want to encourage you to keep going and take each day as it comes. Some days will be tough, and that's ok. I also want to encourage you to take advantage of the webinars hosted by the Broward County Bar Association (and accessible on their B-Connected platform). You can even take it up a notch and propose your own webinar—let me tell you, now is the time. Perhaps you have an idea which has been percolating for some time, but you were unsure of how to put it into action. Take an opportunity during this time to set your plan in motion and take advantage of a captive audience.

I know I was very much looking forward to capping off my year as President with my Mental Health and Wellness May program. However, I now face the challenge of morphing my ideas into a virtual space. To that end, I will be working on holding a virtual morning coffee hour in May where we can share “work-from-home” hacks and tips on how to remain positive during this time. I invite you to contact me with ideas for how we can continue to connect with our legal community and share our experiences.

And, while we will not be holding our Annual Judicial Reception this month, we are already working on plans for our 2020-2021 year to engage our members and pick up right where we left off. Please also keep a look out for our upcoming Board of Directors election. We expect to have four open seats on our Board and we are looking for eager attorneys to fill those seats. As a reminder, you may run for our Board if you are not yet 36 years of age by July 1, 2020, or if you have been in practice for fewer than five years.

In the interim, I would leave you with a few tips I've found helpful as I navigate this new way of lawyering:

- Maintain a routine. This includes waking up at a decent hour, making time for breaks throughout the day, and ending work at a reasonable time.
- Work in a defined space. In addition to creating a new routine, setting up a work station (to the extent that you can) which is apart from your “lounge” area is helpful to maintain our work/home boundaries.
- Continue to incorporate self-care. Exercise, move, say affirmations, read a book. Don't forget about your mental health as you manage children, clients, partners, food supply, and our 24/7 news cycle.
- You don't need to develop a new skill or change the world during this time. I've seen a lot of posts on social media about using this time to find a new avenue of revenue, learn how to play a musical instrument, and find the meaning of life. Allow me to remind you that staying afloat is a worthwhile cause also.
- Set up that videoconference with your cross-country friend. I am sad to say that it took a pandemic for me to videoconference my friend in Los Angeles. We usually communicate by text, but the video-chat we had made my day. I expect communicating with friends near and far will do the same for you.

Please continue to stay well and stay involved. Feel free to email me (LMassillon@fowler-white.com) with any ideas you have for ways that YLS can meet and address your needs and help you stay connected to our legal community.



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# How to B-Connected® during Social Distancing

by Thomas D. Oates

During my 2017-2018 presidency, I set the ambitious goal to record Broward County Bar Association (BCBA) programs in order to build an online library accessible to our members. Today, the CLE portal, B-Connected® has expanded the BCBA's reach throughout Florida. It is a comprehensive resource through which CLEs can be conveniently earned and has proven to be financially beneficial.

In its infancy, we asked BCBA presenters to sign video recording releases and made considerable investment in the facility and to the equipment necessary to adequately record at the Bar Center. Back then, it was difficult to image what a considerable resource B-Connected would become, especially in an era of social distancing.

The Broward County Bar Association's CLE portal, B-Connected is a valuable resource available 24/7 to attorneys as they continue to peruse their legal education and stay up to date on relevant programs offered by the BCBA. The BCBA leadership, then and now recognize the convenience of B-Connected is key. We recognize many BCBA members cannot attend every CLE. Plus, our Bar Center can only accommodate a certain number of attendees. There were problems to solve and benefits to confer on our members.

Fast forward to March 2020 and the beginning of the "new normal" era in the practice of law. Perhaps it was a fortunate stroke of serendipity that the BCBA was prepared to continue to serve our members even when physical presence is not possible. Our Executive Director, Braulio Rosa, was quick to seize the opportunity to make the BCBA the state's leader in virtual legal education.

I am extremely proud of several achievements Braulio has brought to the BCBA, but none more than the elevation of our Bar to preeminent status in the State of Florida among other voluntary bar associations. The close working relationships Braulio has nurtured has paid dividends. Given this new opportunity, Braulio was quick to reach out and partner with multiple voluntary bars throughout Florida. He brought them online as partners with our B-Connected platform, which was the virtual equivalent of placing a hotel on every property on the Monopoly board in your first turn. We had the means, the audience, and now the content.

It was the first week of quarantine, everyone was getting inundated with closure notices, cancelled hearings, and the nightly news was abuzz with uncertainty. My phone rings, it's Braulio, "hey man, can you help me with something." I come to find out he's been busy working the circuit and organizing webinars on technology, employment, government stimulus programs, and virtual hearings. The next day I'm partnered with expert technology guru, Michael Goldstein, President of Lan InfoTech, presenting a webinar on working remotely with Microsoft Teams. The BCBA went on to produce numerous other webinars on various topics that our membership needed.

It was a proud moment for me. The realization that something I helped to initiate, and Braulio helped to cultivate - was now a necessity. We all asked, "can you hear me now?" We were selling out 500-person limits on webinars. Braulio had attendees from all over the State of Florida learning from the BCBA. The videos for all these timely and meaningful events are available to be streamed on B-Connected.

B-Connected is ours. It's an extension of the Broward Bar, branded as our very own. We trademarked the name and gave it all the attention due a project with such potential. Now, like a father looks down on his son with pride, B-Connected has fulfilled our initial expectations. More importantly it has met the needs of BCBA's membership and legal professionals throughout Florida. Congratulations to Braulio Rosa and the BCBA staff. On this front, like so many others, the BCBA hit it out of the park! Stream content on B-Connected at <http://cle.browardbar.org>.

*Thomas Oates is a Past President of the Broward County Bar Association and partner at Pompano Law, a business, real estate, estate planning and probate practice in Pompano Beach.  
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# AOD: Alcohol On Demand

by Joshua Lida Esq.

In today's world, every service is striving for (and advertising) speed and convenience. "Same day delivery." "No need to even leave your house!"

Unfortunately, at the time of writing this article, ordering in from home is even more important and prevalent than ever as the COVID-19 Pandemic wreaks havoc on the world. I hope you and your loved ones are well and safe.

Delivery services are not just for food or household supplies. Now, you can have alcohol and medical marijuana (a different article entirely) delivered directly to your home.

Generally speaking, under Fla. Stat. 562.07, alcohol delivery is illegal in Florida absent legislated exceptions and specific licensees governed by Florida Statute 561.57.

Vendors with off-premise licensures (i.e. alcohol stores like Total Wine etc.) are permitted to make deliveries if the order is received via telephone, electronic, or mail orders. Vendors are permitted to deliver alcohol in vehicles they own or lease, or in common carriers, they have contracted with.

The law was amended in 2018 to clarify an ambiguity and expressly provide that common carriers may deliver alcohol on behalf of vendors.

Subsection (6) details the requirements for the common carriers wherein valid proof of the recipient's identity and age shall be verified at the time of delivery and all deliveries must comply with Fla. Stat. 562.11.

However, one type of licensed off-premise vendor is explicitly not permitted to deliver under this statute: breweries.

Fla. Stat. 561.57 states manufacturers possessing a vendor's license under s.561.221(2) (breweries/brewpubs) are not permitted to make deliveries.

At the time of writing, we are living in extraordinary times which is having a major impact on laws and regulations governing varying aspects of society and alcohol delivery is no exception.

On 3/20/2020 the governor entered Executive Order 20-71, in response to the COVID-19 Pandemic, which affects alcoholic beverage vendors and food service establishments. Section 1(A) orders all licensed alcoholic beverage vendors to suspend the sale of alcohol for consumption on-premises, but such vendors may continue to sell alcoholic beverages in sealed containers for consumption off-premises.

Additionally, specially licensed food service establishments are now permitted to deliver and sell

alcoholic beverages to go during this emergency.

The restriction of section 561.20(2)(a)(4) prohibiting specially licensed food service establishments from selling packaged alcohol for delivery, take out, or consumption off-premises has been suspended provided Executive Order 20-68 is complied with and: (1) any sale of alcoholic beverage in a sealed container for consumption off-premises is accompanied by the sale of food in the same order; and (2) any delivery of an alcoholic beverage complies with Fla. Stat. 561.57.

However, the current state of affairs leaves breweries in a bit of a conundrum.

Breweries have been ordered shut for on-premise consumption, although to go beer is still acceptable. It is unclear if they are permitted to deliver beer at this time.

While there is no written guidance or instructions at the moment, and not explicitly stated in the Executive Order, due to the extraordinary circumstances, it is possible breweries may be permitted to deliver beer.

The best practice for breweries looking into the possibility for direct to consumer deliveries would be to have their attorneys contact the Florida Division of Alcoholic Beverages and Tobacco for specific guidance as to potential solutions and consequences for the delivery of beer direct to consumers and to remain in communication with the division throughout the state of emergency.

As the COVID-19 Pandemic continues and these new norms are in effect for longer periods, it is interesting to see the impact on the laws currently and what, if any, impact on future law changes will be made as a result of the current experiment.

---

The law also provides manufacturers and distributors may only deliver away from their place of business in vehicles they own or lease. Fla. Stat. 561.57(2).

*Josh Lida is a partner at Lida Law, PLLC primarily practicing criminal defense and professional license defense. He can be reached at [Josh@lidalaw.com](mailto:Josh@lidalaw.com).*



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Email \_\_\_\_\_ DOB \_\_\_ / \_\_\_ / \_\_\_ Florida Bar # \_\_\_\_\_

Date Admitted to the Florida Bar \_\_\_ / \_\_\_ / \_\_\_ Law School \_\_\_\_\_ Graduation Year \_\_\_\_\_

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- **Second year through Fourth year** in the *Florida Bar*.....\$125
- **Five years and over** in the *Florida Bar*.....\$150
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The Broward County Bar Association receives over 5,000 visits per day and appears first on Google® when searching for Broward Lawyers. Our enhanced website allows our members to have a listing with photo, name, firm name, contact details, profile description, location map, social media links and website; searchable by 'Practice Area'. You can add a Video Link for FREE – we can even make it for you!

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\*\*\*\*Please note Dues may not be deducted as a charitable contribution for Federal Income Tax Purposes but they may be tax deductible as ordinary and necessary business expenditures. Application must be received by the BCBA Office by 4pm on June 30, 2020, to be eligible for the drawing. Only regular dues members are eligible.

# THE BROWARD BAR IS YOUR BAR

*The BCBA is committed to serving a diverse membership, strengthening our justice system, and building a stronger community.*



“I have been a proud member of the Broward County Bar Association for many years, and I am proud that Shutts & Bowen now has 100% membership. At Shutts, we demonstrate a commitment to justice at every level. The BCBA provides a wonderful opportunity to connect with like-minded attorneys, judges and others in the legal industry. As a Board Member for the BCBA, I am proud of the work we do for the Broward County community and the support we provide to local practitioners. Through CLE programs, networking events, and publications, members are always kept up-to-date on the cutting edge legal issues. The BCBA has become an invaluable resource to all of its members, and our profession is better for our involvement” - *Joseph M. Goldstein, Partner, Shutts & Bowen LLP*

“I became involved with the BCBA as a law student. It provided an open forum to meet other attorneys, Judges, and community leaders. With the BCBA’s assistance and the mentorship of respected colleagues, I joined the BCBA’s Hispanic Lawyers Committee and after several years, I now serve as the current Chair. I am also involved with the BCBA’s Publicity and Publications committee, Voluntary Bar Association committee, and a number of other subcommittees. BCBA has given me the opportunity to develop my career and contribute to the legal community. The BCBA is a vital asset for all attorneys.”

- *Kristen L. Palacio-Martinez, Associate, Kim Vaughan Lerner LLP*



“As a solo practitioner of a family and estate planning law firm, the BCBA has been a continued support throughout the several years I have been a member. Member benefits include: encouraging lawyers to network with other great professionals through its various committees, (i.e. publicity and professionalism committees, both of which I serve on); providing much-needed resources to its members by offering professional growth webinars and CLEs; and partnering with various organizations like the Hispanic Bar Association and the TJ Reddick Bar Association, both of which I am a member of, to promote diversity and inclusion amongst the legal profession. The BCBA is a valuable asset, and with it, Broward County’s legal community will continue to thrive.”

- *Kristen Goss, Esq., KWG Family Legal and Mediation Services, LLC*

“I am an associate member with the BCBA. I have been a member of the BCBA for 5+ years. I appreciate the BCBA and its staff who are so nice and work so hard to support and provide wonderful services to the legal community in Broward County. The networking events, sponsorship opportunities and learning opportunities provide the members with options to meet, have some fun and get some work and networking done. Being a Client Service Director for AtkinsonBaker Court Reporters means I must be out in the community meeting attorneys and legal professionals and BCBA makes it easy to have lots of chances to do that. I also appreciate the lunch and learn CLE monthly meetings. They are very interesting, I always learn something new, meet new people and they do offer me sponsorship options to take part in. The bi-annual Bench and Bar Convention is a huge event and is very organized, professional and provides me plenty of people to meet for possible future business connections. The holiday parties are so much fun, with a chance for all the members to relax and enjoy some cheer with each other. Probably the most fun event so far over the years was the Yoga class at the BCBA office!! I am looking forward to the wellness/health series in May. I will continue to support the BCBA and renew my membership to take advantage of all the functions and festivities that they provide.”

- *Donna Garlicki, Client Service Director at Atkinson-Baker, Inc.*



**RENEW TODAY • WWW.BROWARDBAR.ORG • MEMBERSHIP VALID THRU JUNE 30, 2021**

# YOUR 17TH CIRCUIT BOARD OF GOVERNORS REPRESENTATIVES

by Anisha C. Atchanah

For the month of March, the Broward County Bar Association turns the spotlight on your Florida Bar Board of Governors (BOG) representatives, who advocate passionately and tirelessly for the 17th Circuit



**Lorna Brown-Burton** (Seat 3) has served on the BOG since June 2012. She was elected to the Executive Committee and the Strategic Planning Committee and serves on the Board Review on Professional Ethics, Budget, and Program Evaluation Committees.

**Q: What BOG accomplishment in the past year are you most proud of?** A: The Florida Bar's focus on the Mental Health and Wellness of members and working with the voluntary bars to implement various initiatives as well as looking to provide a member benefit of a 24/7 hotline.

**Q: What book could you read over and over again?** A: Becoming by Michelle Obama.

**Q: What is the best piece of professional advice you received?** A: "Success is not final; failure is not fatal; It is the courage to continue that counts" by Winston S. Churchill

**Hilary Creary** (Seat 4) has served on the BOG for two years and is the BOG Liaison to the Public Interest Law Section, and the Clients Security Fund. She also serves on the Disciplinary Review, Program Evaluation and Rules Committees.

**Q: What project is the BOG working on that you are most excited about, and why?** A: As the owner of a small firm, I am very excited about the BOG's efforts to provide resources to our members through Legal Fuel, particularly the Trust Accounting Programs, as well as the Fast Case Legal Research.

**Q: What leadership lesson has the BOG taught you during your tenure?** A: I have learned the importance of courage and integrity in making difficult but necessary decisions.

**Q: What movie could you watch over and over again?** A: Any James Bond Movie – I am a big fan of Daniel Craig as 007.



**Jay Kim** (Seat 1) has served on the BOG for three and half years and currently serves on the following committees: Disciplinary Review, Program Evaluation, Communications and Technology.

**Q: The Florida Bar offers a wide variety of services and member benefits, in your opinion what service or benefit is the Florida Bar's best kept secret?** A: Legal Fuel, which has a terrific collection of helpful materials for practitioners, may be the Florida Bar's best kept secret. I am proud to have been involved in the process of fine-tuning Legal Fuel to provide the best experience for all users. The fact that it may be a "secret" is unfortunate because Legal Fuel contains so many helpful materials that may be useful for all Florida lawyers. Go to [legalfuel.com](http://legalfuel.com) to see what I am talking about!

**Q: Tomorrow you are given your own talk show, who would your first three guests be?** A: Kevin Hart, Stephen King and The Notorious RBG.

**Q: What is the best piece of professional advice you received?** A: "Your reputation is all that you have." I have repeated this in various contexts, telling young lawyers not to simply do their clients' bidding when they demand that the lawyer act like a pit bull, shark, or other scary animal, but instead to always act professionally toward their opposing counsel.

**Adam Rabinowitz** (Seat 5) has served on the BOG for six years and currently serves on the Budget, Audit and Board Review committee.

**Q: What BOG accomplishment in the past year are you most proud of?** A: Our skillful navigation of the Florida Bar budgetary issues, which are critically important and complex. As a mandatory bar – as opposed to a voluntary bar – we must constantly ensure legal and regulatory compliance of all sections.

**Q: What leadership lesson has the BOG taught you during your tenure?** A: Be mindful how you communicate with opposing counsel.

**Q: You are forced to sing karaoke, what is your song selection?** A: Hey, Hey, What Can I Do by Led Zeppelin



**Diana Santa Maria** (Seat 2) has served on the BOG since 2013, and currently sits on the following committees: Program Evaluation, Disciplinary Rules, Disciplinary Procedures, Communications and Citizens Advisory.

**Q: The Florida Bar offers a wide variety of services and member benefits, in your opinion what service or benefit is the Florida Bar's best kept secret?** A: The Florida Bar is continuously working on expanding member benefits with different vendor companies, ranging from insurance services, travel and hotel accommodations, discounts with Fed X and others. It is worth periodically checking the website for new member benefit discounts.

**Q: Tomorrow you are given your own talk show, who would your first three guests be?** A: Elon Musk, Andrew Lloyd Weber and Andrew Weil, M.D.

**Q: What is the best piece of professional advice you received?** A: Persistence prevails when all else fails.

Anisha C. Atchanah, Esq. is a senior attorney at Kim Vaughan Lerner LLP, where she focuses her practice on commercial litigation with an emphasis on Business/Corporate litigation, premises liability matters and insurance defense. Anisha can be reached at [Aatchanah@kvllaw.com](mailto:Aatchanah@kvllaw.com)





# TUESDAYS IN MAY

## WELLNESS E-SERIES

Ever think to yourself, "I have been working so hard and feel like I have yet so much more to do?" What about, "I feel stressed out!?" If you answered yes to any of those questions, Tuesdays in May is for you! We invite our fellow colleagues of the BCBA to step out of their comfort zones and take a break throughout the month of May. After all, we deserve it and owe it to ourselves to do it. Let's join together and remain safe and be well.



### SERIES INFORMATION

Tuesday, May 5th

#### **BRINGING THE PRACTICE OF MINDFULNESS TO YOUR PRACTICE**

To Register: [bit.ly/tuesdaysinmayw1](https://bit.ly/tuesdaysinmayw1)

Tuesday, May 12th

#### **NUTRITION & WELLNESS**

To Register: [bit.ly/tuesdaysinmayw2](https://bit.ly/tuesdaysinmayw2)

Tuesday, May 19th

#### **YOGA**

To Register: [bit.ly/tuesdaysinmayw3](https://bit.ly/tuesdaysinmayw3)

Tuesday, May 26th

#### **THE NEW BILLABLE HOUR**

To Register: [bit.ly/tuesdaysinmayw4](https://bit.ly/tuesdaysinmayw4)

For more information about events please contact [events@browardbar.org](mailto:events@browardbar.org)



## The Honorable Ari Abraham Porth

May is Mental Health Awareness Month and provides us with an opportunity to discuss and embrace what for years was deemed a taboo subject. Mental health issues have often been stigmatized and yet mental health has one of the largest impacts on our society. One in five adults in the United States experience mental illness, and more than 2.7 million Floridians have a mental health condition. Mental health impacts so many facets of life, and none more acutely than the judicial system.

For decades, the 17th Judicial Circuit has led the way, not just in Florida, but in the country, and the world when it comes to handling mental health cases. First with the establishment of misdemeanor mental health court in the early 1990's, the formation of felony mental health court in 2003 and now with the proliferation of "specialty courts," tailored to individual defendants needs and background. Jurists do not have to be assigned to either of those courts to see the impact mental health has on a daily basis in our judicial system. Those members of the bench who are assigned to mental health court are a special breed.

Handling cases with members of this unique population can require additional patience, understanding, and compassion, paired with the wherewithal to connect the defendant to the services and resources that they need to succeed. I have had the opportunity to work with Judge Ari Abraham Porth as his Legislative Aide in the Florida Legislature, and he's been one of my closest friends and mentors for over ten years, so I am somewhat biased when I say that there are few better suited to work with our mentally ill population. In honor of Mental Health Awareness Month, what follows is an interview with Judge Porth regarding mental health and the judiciary.

**There is often a societal stigma associated with mental health and mental wellbeing. While there has been an increased effort to "end the stigma," to what extent does it impact the judicial process?**

The stigma is real and while we have made great strides in addressing it, there is more to be done. As it relates to the judicial process, I have been proud to see law enforcement agencies increase Crisis



Intervention Training ("CIT"). This 40-hour training program is vital in helping law enforcement determine when a matter should be elevated to the criminal justice systems or diverted to address an underlying mental health issue. CIT training allows officers to assess the situation and consider what mental health issues may be playing a roll prior to making an arrest. Take for example, a mother calling 911 because her son has been grasping for a knife, and threatening to harm himself. The individual may well be better suited through the Baker Act process, then being charged with aggravated assault with a deadly weapon.

On the other end of the spectrum, it is important that jurists and attorneys alike are taking the time and making the effort to reach out for help if they need it. Gone are the days where people shrink from the conversation. The Florida Bar, the Broward County Bar, and the Florida Circuit and County Judges Associations have started putting more emphasis on wellness and mental health. There should be no shame in reaching out for some help, whether you are a member of the bar or the bench. Florida Lawyers Assistance (Fla-lap.org) or the newly formed and similarly confidential Judicial Wellness Program (fjwp.org) are designed to offer support and guidance to colleagues who may be struggling with either substance use or mental health issues. When we engage in open conversation about mental health, when we share our personal stories of the impact that it has had on the lives of our friends, our family members, or even ourselves, we help lessen the stigma.

**What do you see as the main area for improvement in mental health court or mental health in the judicial process?**

In addition to the CIT training mentioned above, we must provide more resources to address mental health. With as significant of an issue as mental health has become in our society, we need to put our money where our mouth is. We cannot just talk about caring for those with mental illness, we need to provide the resources to assess and assist those in need. By way of example, the Henderson Behavioral Health Mobile

*Continued to Page 24 (back page)*

# HEALTHCARE RIGHTS

by Juan Carlos Arias, Esq.

## Nurses and healthcare professionals have rights too!

In these unprecedented times, nurses on the front lines of the pandemic continue to deliver treatment and care under extreme medical and environmental conditions. We all have seen on television and social media the level of stress and exhaustion embedded in the faces of these first responders at hospitals across Florida. Issues of lack of Personal Protective Equipment (PPE) and extended work hours bring to the forefront an obvious question – Do nurses and other health



professionals have rights? Can they vocalize their frustrations to protect their own health and the health of their families? Can nurses and health professionals refuse to treat patients if proper PPE is not provided?

Answers to these questions depend on many factors including their employment contracts, bargaining agreements, and even specifically mandated duties or requirements applicable to that specific healthcare professional under Florida law. What is certain is that the levels of stress, lack of rest, and the heightened responsibilities of caring for an increasing number of patients could have a devastating effect on the level of care provided by these first responders at hospitals. Undoubtedly, a number of nurses and other healthcare professionals will probably face investigations and possible complaints directly related to the extreme medical and environmental conditions caused by the pandemic. Allegations of misconduct are a threat to the provider's professional license and should be taken very seriously. The good news is that nurses and other healthcare professionals have rights, are entitled to due process, and can hire an attorney for representation. Complaints can be filed against any healthcare professional or the employing facility.

Usually, allegations of professional misconduct against nurses and other healthcare professionals originate at the employer level concluding with an internal report. If this report supports the possibility of

misconduct, the matter will most likely be escalated to the Florida Department of Health for a full investigation of the complaint to enforce appropriate Florida Statutes regulating the profession. For example, in Florida nurses are regulated under the Florida Nurse Practice Act and disciplined by the Florida Board of Nursing. If the Department of Health's Prosecution Services Unit (PSU) determines that there is probable cause, the case is referred to the applicable board for disciplinary action and the case becomes public 10 days after the administrative complaint is filed with the board. If probable cause is not found, the case is closed and remains confidential.

Disciplinary action is administrative in nature and can include reprimand, fines, administrative cost, remedial education, restriction of practice, probation, license suspension or license revocation. Please be aware that, depending on the nature of the misconduct, criminal charges may be filed by the local State Attorney's Office. This is another reason why seeking the help of an attorney as soon as possible is so important. Please remember that all cases are different and that no two cases have the same factors of aggravation and mitigation.

In conclusion, nurses and healthcare professionals should seek legal representation as soon as they receive information of a complaint. Their professional licenses are valuable to themselves, their families, and the communities they serve.

<https://www.nbcmiami.com/multimedia/health-care-workers-concerned-about-protection/2222488/>

*Juan Carlos Arias is the Managing Attorney of the Professional Regulation Department at Anidjar & Levine P.A., and focuses his practice in the areas of Florida Lawyer Regulation, Lawyer Ethics Consulting, State Professional Licensing before the Florida Department of Health and the Florida Board of Nursing, Law Student Representation before the Florida Board of Bar Examiners, and Unlicensed Practice of Law (UPL).*



# AND JUSTICE FOR ALL:

by Joshua Levenson & Lee Teichner of Holland & Knight LLP

## How Attorneys Can Help Combat Financial Elder Exploitation Through Pro Bono Service

Now more than ever is a good time to get involved in pro bono service. Here are some takeaways on why your pro bono service is needed, and how you can help stop financial elder exploitation by taking on a pro bono case in this area.

**Financial Elder Exploitation is Rising.** According to the U.S. Census Bureau, by the year 2035 the number of adults over 65 is projected to outnumber the number of children under 18 – a first in U.S. history. With the growing elder population, the number of cases involving financial elder exploitation is also rising. This is especially true in South Florida. Elder exploitation is unique in that it largely goes unreported. On March 2, 2011, the U.S. Senate Special Committee on Aging held a hearing to specifically discuss this problem. During the hearing, famed actor, Mickey Rooney, testified before the committee about his personal experience as a victim of financial elder abuse. In his opening statements, Mr. Rooney succinctly summarized the problem,

“Elder abuse comes in many, many different forms: physical abuse, emotional abuse, and financial abuse. Financial. Each one of these causes are devastating, ladies and gentlemen, in its own right. Many times, sadly, as with my situation, the elder abuse involves a family member.”

As attorneys, we are uniquely positioned to help combat this problem through pro bono service. Here are some simple tips to help get you started on your next pro bono case.

**Identify the Client.** The first step when undertaking one of these pro bono matters is to ensure your client has capacity to engage you. In some instances, you will need to apply for a guardian. Additionally, because your first contact may be through a family member that approached you on behalf of the victim, it is essential that your engagement letter clearly identifies who you represent, and who you do not represent. In cases of abuse, it is also essential that you separate your client from the abuser so that you get access to and insight into your client’s views and situation without interference or influence from the abuser.

**Investigation Before the Lawsuit.** Some of the most common forms of financial elder exploitation involve telephone scams; reverse-mortgage scams; investment schemes; fraud in the execution of documents; identity theft; or unsolicited home repair work. Regardless of the scam, always remember to view your pro bono case through the lens of the client (not if you would fall for the scam) and advocate why your client was susceptible to the scam or fraud. If possible, gather as much information from family members, friends, caregivers, health care providers, and advisors prior to filing suit against an abuser. This will allow you to draft a detailed complaint outlining the fraud, duress or other basis for recovery, and provide a clear roadmap in discovery.

**Stopping the Abuse/Potential Theory of Liability.** One of the primary ways to combat financial elder exploitation is by pursuing a cause of action under § 415.1111, Fla. Stat. The statute permits the recovery of actual damages, punitive damages, and attorney’s fees and costs when a vulnerable adult has been abused, neglected, or exploited. If the financial elder exploitation involves forged documents or documents purporting to transfer the client’s rights to the abuser, you should also consider bringing claims for fraud in the execution, fraud in the inducement, declaratory judgment, and rescission. Once the lawsuit is filed, act quickly to depose all elderly witnesses to preserve their testimony. Also consider requesting a speedy trial under § 415.1115, Fla. Stat., if applicable.

**Final Thoughts.** At the conclusion of his testimony before the U.S. Senate Special Committee on Aging, Mickey Rooney stated,

“To those seniors, and especially elderly veterans, Army, Navy, Marine—you veterans, like myself—I want to tell you this: you’re not alone. And you have nothing—nothing, ladies and gentlemen—to be ashamed of. You deserve—yes, you deserve—better. You all have the right to control your own life. Everyone does. You have the right to control your life and be happy.”

No one is above or beyond financial elder exploitation. Let’s prove Mickey right. Please consider taking on a pro bono case in this area to do your part to help stop this terrible occurrence from happening to our elderly population.

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Available at <https://www.census.gov/library/stories/2018/03/graying-america.html>, last visited Feb. 27, 2020.

Justice for All: Ending Elder Abuse, Neglect and Financial Exploitation: Hearing Before Special Committee on Aging U.S. Senate 112th Cong. 112-61(2011) (statement by Mickey Rooney, Actor, Entertainment Legend, Elder Abuse Victim and Advocate).

Given that many elders are victims of abuse due to diminished capacity, this is why confirming capacity is essential. See Fla. R. Prof. Cond. 4-1.14. Some statutes will clearly define incapacity for you. See, e.g., § 744.102(12), Fla. Stat (2019).

If needed, you can also seek to preserve it pre-suit. See Fla. R. Civ. P. 1.290.

Justice for All: Ending Elder Abuse, Neglect and Financial Exploitation: Hearing Before Special Committee On Aging U.S. Senate 112th Cong. 112-61(2011) (statement by Mickey Rooney, Actor, Entertainment Legend, Elder Abuse Victim and Advocate).

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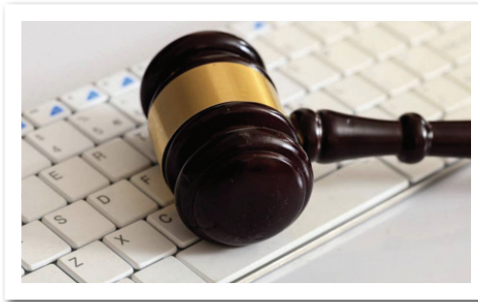
*Joshua R. Levenson is a partner in Holland & Knight’s Fort Lauderdale office and is a member of the firm’s litigation section. His pro bono practice includes representing clients that were subject to financial elder abuse and fraud.*

*Lee Teichner is a partner in Holland & Knight’s Miami office. His practice includes estate, probate and fiduciary, business, tort, product liability, and insurance litigation. Lee is a member of the firm’s Mickey Rooney Financial Elder Abuse Project, which assists elderly and infirmed clients whose assets have been misdirected or taken by fiduciaries or others in positions of trust or authority.*

# Maintaining Legal Decorum in a “New Normal”

by Eugene K. Pettis, Esq.

There have been marked changes in how society functions as a result of the COVID-19 pandemic and its “social distancing” practices. Out of necessity we have adapted our behaviors both personally and professionally. Within the practice of law, as in many professions, we have flocked to using video conferencing technology to keep business moving. It is expected that some these practices will remain in place as society returns to a new normal.



Chief Judge Tuter, of the 17th Judicial Circuit was recently quoted in the Florida Bar News explaining the advantages of using the Zoom platform for hearings. He also anticipated its use going forward, noting, “I can tell you this, Zoom is going to be the wave of the future when this is over. Why drive all the way to Fort Lauderdale when you can be back in your office? “

But with every paradigm shift there are some undesired consequences. Working from home has immediately relaxed the rules around professional attire. My dry cleaner hasn’t gotten a dime of my money over the past month because I have not had to put on my lawyer uniform. However, as we begin using more videoconferencing and other technology to carry out legal activities, including hearings, depositions and other meetings, it is important for us to maintain the appearance of professionalism.

In a recent video hearing attended by one of my partners, the presiding Florida judge mentioned this issue. This particular judge had been told by others in his circuit that lawyers were appearing for hearings “with no shirt on,” “pool side” and that one had even attended a hearing from “under the covers of her bed.” While there is nothing in our Bar rules regarding proper attire during video hearings, some things are, or should be, obvious.

I grew up here in Fort Lauderdale and distinctly recall making my senior trip to Disney World for Grad Night. I did not understand then why the boys had to wear a suit and tie. I came to learn that Disney had performed a study which concluded that people behave better when they’re dressed

better. I think this holds true in any setting.

Many of us have had the experience of being approached by a stranger who comments “you must be a lawyer!” Whenever I have asked how that person could tell I was a lawyer, the answer has always had something to do with

how I was dressed or how I carried myself. I take that as a compliment to me and my profession. As lawyers we should stand out to the public. It simply shows that we hold ourselves to a higher standard.

So even though we are currently in the relaxed confines of our homes, we must not forget that every case-related transaction is performed on behalf of a client, and that client deserves our best representation. While there is certainly a level of discretion that governs how we appear in video conferences with clients and other lawyers, it goes without saying that when we appear in court we should look the part. Whether a judge admits it or not, how you present yourself in appearance and in substance — leave an impression. Such impressions can, at some point, go beyond your personal reputation and impact that of your client.

As lawyers we must always conform to the highest standards in pursuit of the most favorable outcome for our clients, and that includes dressing professionally whether present before the judge in the courtroom or by way of a video conference. That is part of what being a lawyer is all about and I hope, even in our changing world, this tradition never changes.



*Eugene K. Pettis, Esq. is the co-founder of Haliczzer, Pettis & Schwamm PA and former Florida Bar President (2013), handling medical malpractice, wrongful death and complex personal injury litigation.*

## Coronavirus: How You Can Influence Your Recovery

Our world has been turned upside down in an instant by the coronavirus pandemic, placing our health in jeopardy, as individuals and as a nation. This turbulent and trying time has created many challenges. Our society has suffered a 'shock' to our system which many of us have never experienced before, greatly affecting our physical and mental health. The success of our recovery depends on how we react as individuals and as a community.

Unfortunately, the physical health risks this virus presents have been devastating. Additionally, there are many 'silent' factors which also present a risk to our well-being, especially our mental health. Social isolation, disrupted routines, economic impact, and loss create complex stressors.

As a result, the plethora of emotions during this time are vast, with each of us reacting differently. The stress can be overwhelming. Stress can be viewed as a 'silent enemy' which has both psychological and physiological impacts to our bodies. Psychologically, stress can result in fear, anxiety, depression, fatigue, decreased concentration, and decreased quality of life. Physiologically, stress negatively affects almost every system in our body, diminishing our immune system among other complications. Therefore, it is important to identify ways to cope with stress which can be helpful during this difficult time.

How we recuperate depends on our approach, our mindset, and the actions we take to set ourselves up for success. One of the most important steps we can take is to increase our self-awareness, and identify our feelings, mindset, and goals. We may be asking; how can we handle our current situation and what can we do to create a positive recovery?

### Self-Awareness

- *Take a Moment Each Day* - in a quiet space to write down your thoughts, feelings, and goals. This helps identify the emotions and personal challenges you are facing.

- *Talk & Listen* - talk to others about how you are feeling and listen to others when they need a moment to express themselves. Remember, we have all somehow been affected by this.

### Mindset & Mindfulness

- *Gratitude & Positivity* - write down three things each day you are grateful for, and three positive things that happened each day.

- *Focus on What You Can Control* - this helps us regain a sense of control and feel more balanced, thereby improving concentration, confidence, and our emotions. Identify what you cannot control and let go of it.

- *Be Present in the Moment* - focus on the current day and tasks one at a time. This can help reduce symptoms of anxiety. Meditation and breathing techniques are also useful.

### Health

- *Exercise* - now is the perfect time to start exercising and implementing a routine, which is vital for both our physical and mental health. Aim for at least four days a week.

- *Diet* - focus on whole foods (fruits, vegetables, protein, and grains). Avoid processed foods (prepared, packaged, and junk food) as these can be detrimental to our immune system and overall health.

- *Alcohol* - can have adverse effects on our immune system among other consequences. Guidelines recommend not exceeding moderate alcohol consumption: up to one drink a day for women, two for men. One drink is considered 12 ounces

of beer, eight ounces of malt liquor, five ounces of wine, or one and a half ounces of distilled spirits or liquor.

### Routine & Getting Back to Work

- *Create A Routine* - you follow each day to stay focused on work and health. Wake up, work, exercise, and sleep at the same time each day. This helps you create a habit/routine that will work for you once you return to a normal work environment, and hopefully continue long-term.

- *Work & Life Balance* - Take a moment to assess what is important to you regarding a work-life balance. You do not have to eliminate exercise, family, or personal time once we return to "normal." Evaluate how you want to shape your life moving forward.

During this difficult time, there are silver linings that exist. The evenings are filled with people exercising outside with pets and loved ones, more meals are being enjoyed around the same table, and many are experiencing what a work-life balance can be. Communities are coming together to help each other and create new ways for us to stay connected.

Take time to assess what you value most and implement healthy habits to continue long term. Our response as individuals and communities influence the progression of our recovery. Be kind, talk, and listen. Together, we will grow stronger.

### Resources

#### Health Resources

- Florida Department of Health: <https://floridahealthcovid19.gov>
- Broward Health Department: <http://broward.floridahealth.gov/>
- CDC - <https://cdc.gov>

#### Mental Health Resources

- 911- Emergency
- National Suicide Prevention Lifeline - Call 1-800-273-8255, text MHFA to 741741 to talk to a Crisis Text Line counselor, or <https://suicidpreventionlifeline.org>
- Substance Abuse and Mental Health Services Administrations Disaster Distress Hotline- 800-985-5990 or <https://www.samhsa.gov/find-help/disaster-distress-helpline>
- 211 Broward - Help Line, Call 2-1-1 or (352)332-4636 or <http://211-broward.org/>
- National Council for Behavioral Health- <https://www.thenationalcouncil.org>
- Mental Health First Aid- <https://www.mentalhealthfirstaid.org/>
- Florida Lawyers Assistance- <https://www.fla-lap.org/>
- Florida Initiative for Suicide Prevention (FISP) - <https://fisponline.org/>

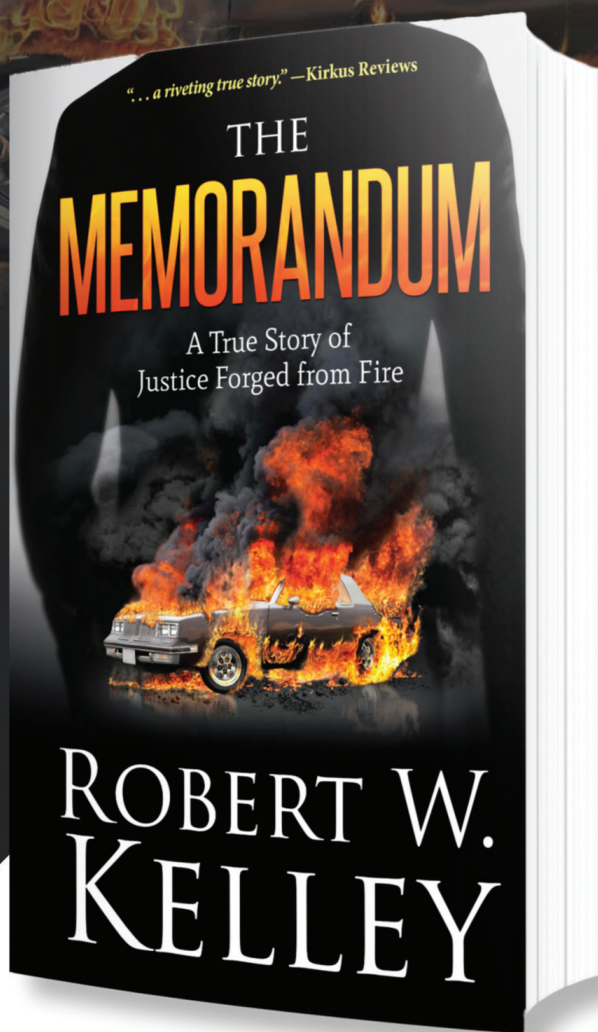
*Deborah Ward, APRN, LNC is a board-certified nurse practitioner working as a legal nurse consultant.*

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# THE MEMORANDUM

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“



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For links to register for Webinars and Virtual Meetings  
please visit [www.browardbar.org/calendar](http://www.browardbar.org/calendar).

*Continue to check our online calendar as we are adding new events weekly in addition to the below!*

May 4

**Admiralty Webinar: Cruise Ship  
Passengers' And Invitees'  
Personal Injuries**

**Time:** 12:00 p.m. – 1:00 p.m.

**Cost:** \$15

May 5

**"Tuesdays in May" E-Series  
Bringing the Practice of  
Mindfulness to Your Practice**

**Time:** 5:30 p.m. – 6:30 p.m.

**Cost:** No Cost

May 7

**FL Bar Marketing & Advertisement  
Rules for Social Media and the Internet  
A Lawyer's Quarantine Survival Kit!**

**Time:** 12:00 p.m. – 1:00 p.m.

**Cost:** \$15

May 8

**Elder Law Webinar:  
Medical Advance Directives in  
the Shadow of Covid-19**

**Time:** 12:00 p.m. – 1:00 p.m.

**Cost:** \$15

May 12

**"Tuesdays in May" E-Series  
Nutrition and Wellness**

**Time:** 5:30 p.m. – 6:30 p.m.

**Cost:** No Cost

May 13

**A Judges Perspective on Mediation  
- Chief Judge Jack Tuter**

**Time:** 12:00 p.m. – 1:00 p.m.

**Cost:** \$15



*Sunday, May 10th*

May 14

**Trial Section Webinar:  
War Stories with a Lesson**

**Time:** 12:00 p.m. – 2:15 p.m.

**Cost:** \$25

May 18

**Family Law Update Webinar**

*Speakers: Judge Davis & Judge Rothschild*

**Time:** 12:00 p.m. – 1:00 p.m.

**Cost:** No Cost

May 19

**"Tuesdays in May" E-Series  
Yoga**

**Time:** 5:30 p.m. – 6:30 p.m.

**Cost:** No Cost

May 26

**"Tuesdays in May" E-Series  
The New Billable Hour**

**Time:** 5:30 p.m. – 6:30 p.m.

**Cost:** No Cost



*Monday, May 25th*

*Continued from Page 17*

## Judge's Corner: The Honorable Ari Abraham Porth

Crisis Unit (the "MCU"), and the social workers connected thereto are worth their weight in gold. The MCU responds in real time to the scene of an incident whether it be in the home or even in a courtroom. Programs like the MCU are understaffed and underfunded, but an increase in resources would pay dividends across the judicial process as they connect those in need with services, and very well may keep people from entering the criminal justice system.

### **What is on the horizon for mental health in the judicial process?**

Broward Courts have always led the way when it comes to mental health. Through Judge Lerner Wren, the first misdemeanor mental health court started in 1997, followed by the Judge Speiser and the establishment of Felony Mental Health Court soon thereafter. You have seen us start up a Veteran's Court led by Judge Merrigan, prepared to handle issues specifically tied to our veterans. Most recently, you have seen the opening of Community Court with Judge Barner, in order to make sure those without stable housing are having their needs addressed (including, in many cases, mental health), rather than processing them through a the traditional court, the court comes to them along with community providers offering services. These "specialty courts" offer defendants with unique circumstances or backgrounds to get the help they need to be functioning members of society. I believe you'll continue to see the establishment of specialty courts tailored to specific high-risk populations.

### **Anything additional you would like to add for Mental Health Awareness Month?**

I would like to give well deserved props to a new service that we have been using in mental health court - Peer Specialists. A Peer Specialist is someone who has lived experience with substance use or has a mental illness and has learned how to best manage it. The South Florida Wellness Network has been assigning peers to mental health and drug court clients and I have found the connection extraordinary. Peer Specialists are helpful and worthwhile for defendants as it provides a partner, a friend, and if nothing else, someone who knows exactly what the client is encountering. I have seen an increase in successful completion of diversion thanks to a Peer Specialists involvement. These are some of our most impactful unsung heroes. ([Southfloridawellnessnetwork.org](http://Southfloridawellnessnetwork.org))

*Dan Daley, Esq. is the Corporate Counsel to 13th Floor Homes, a South Florida based homebuilder, and a Member of the Florida House of Representatives from District 97 (Northwest Broward County).*

