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BARRISTER

July 2018



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letter from the president



Edwina V. Kessler

President of this great organization.

Since 1997, the 4th of July has always been a bittersweet holiday. I have always loved firework shows. For the last 21 years when watching the fireworks on the 4th I think of the show as a celebration of my Father's life. This July 4th, while celebrating our freedom, please take time to appreciate your loved ones and if watching a fireworks show, I hope you will remember those who have fought to protect this country and the Constitution. Thank you for your sacrifice to the BCBA members or family members that have served.

One of my goals is to continue to identify and provide the needed services for our members. This August the Board of Directors and several other members will meet for strategic planning for the future of the association. If you have any suggestions for the future, please feel free to contact me. I hope to continue communication between the Bench and Bar. We have a lot of informative seminars as well as events planned for the coming year and I hope many of you will be able to attend. Please take a look at the calendar of events on the inside back cover for our upcoming events and visit browardbar.org/calendar. The BCBA has 47 committees and sections which can be located on our webpage. I encourage everyone to get involved in one of the committees or sections. It is a great way to meet other fellow BCBA members including members of the Judiciary.

I have been a chairperson/co-chairperson of the Publicity Committee since its inception. It very quickly turned into The Barrister/Publicity Committee. Our Committee meets on the third Wednesday of the month at noon. I have been fortunate since the Barrister went back into print as a publication to have had enthusiastic committee members. If you or anyone you know is interested in writing for The Barrister, please contact Amanda Marks to be added to the Committee. Amanda has been a huge asset in getting The Barrister published. While President, John Jordan started the "Where in the World is the Barrister" campaign. Please do not forget to bring a copy on your next trip. You may end up in The Barrister!

I would like to thank the entire BCBA staff and Executive Director Braulio Rosa. Without their support and dedication, my job as well as the Board of Directors would be impossible. I look forward to working with the Board as well as the Executive Committee: Tom Oates, Past President; Michael Fischler, President Elect; Robert Vaughan, Treasurer and Jamie Finizio Bascombe, Secretary. Lastly I would like to thank Charles Morehead for all of his years of service to the Board and the Bar Association. **B**

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letter from the young lawyers' president



Brent M. Reitman

As our newly installed Board of Directors look forward to an exciting year of events, one cannot help but look back at the wonderful year we have just had. I am extremely proud of our Young Lawyer's Section and their many recent accomplishments.

To begin with, the Young Lawyer's Section of the Broward County Bar Association was named the AOC Affiliate of the year by the YLD of Florida's Board of Governors – recognizing us as the best affiliate in the State of Florida. While this accomplishment is commendable and stands on its own – this was actually the third year in a row that our Young Lawyer's Section has won this award! Of course, this year we will be looking to defend our title and have some wonderful, exciting, and new programming in store.

Over the last year, YLS has championed numerous causes and raised and donated nearly \$100,000 for various charities here in Bro-

ward County. In addition to monetary donations, YLS has supported numerous organizations through school supplies drives, our annual toy drive, a pet supplies drive, and our snack drive to benefit the Fort Lauderdale Police Department. In addition, YLS has attempted to reach out to the community and has continued its partnerships with various schools in the county for its "Read for the Record" and "Lawyers for Literacy" programs where our members go to classrooms and read to pre-K and kindergarten students throughout the community. During our Holiday in February event, we were able to support local foster children in a magical day that brought smiles to everyone in the room. In addition, the YLS was able to be a part of National Adoption Day, where over 60 Broward County children were adopted and are looking forward to continue working with Judge Bowman in this fantastic event!

This last year marked our first charity fashion show, Catwalk Conquers Cancer to benefit Gilda's Club. The event was a spectacular success and was enjoyed by all, including our models who were all brave cancer patients and survivors.

YLS joined efforts with other bar associations when our community needed it most – putting together a Hurricane Irma Relief Drive and raising funds for the family of Sergeant La David Johnson, who was tragically killed serving our country. YLS also came together to help make pillows for children being treated at Nicklaus Children's Hospital and encouraged Random Acts of Kindness over the holidays with our RAK Up Some Kindness campaign.

Aside from our work in the community, YLS has also looked to support its own membership. Aside from providing our membership with numerous networking and CLE opportunities, CLE luncheons, quarterly breakfasts with the judiciary, and our sweatworking events, this year took another step forward in our already award-winning Boot Camp program. This year the YLS Bootcamp included a jury simulation with question and answer session that was widely attended and was largely successful. We are extremely fortunate and honored that so many of our local judiciary and esteemed Broward attorneys participated in and spoke at many of our events, providing great opportunities for our members and showing such great support for our organization.

Of course, none of this could have been done without our incredible and dedicated Board of Directors, each of whom has dedicated countless hours to the community and our membership. Nor would we have been so successful without the invaluable assistance and support of Braulio Rosa, Amanda Marks, Lauren Riegler, and the entire BCBA staff. Of course, a special shout out is due to immediate past-President Sara Sandler who is a consummate professional and all-around champion!

With such a wonderful previous year it will certainly be a daunting task to up the ante – however, we are willing and able! We are looking forward to some amazing events in the future and hope for your continued support and attendance. **B**



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FINRA Interference with Estate Planning

by David A. Weintraub

Financial exploitation of the elderly is rampant in the United States. The elderly are routinely exploited by those close to them, such as family, friends, caregivers, financial advisors, as well as by scammers trying to sell them products they do not need. These products include elaborate home security systems and other home improvements.

An example of a new potential for elder abuse stems from the Financial Industry Regulatory Authority's ("FINRA") well intentioned rules designed to curb financial exploitation. Effective February 2018, FINRA Rule 4512 requires registered representatives to make reasonable efforts to obtain the name of and contact information for a "trusted contact person" (hereafter "TCP") upon the opening of a retail account or when updating account information for a retail account.

Pursuant to the rule, "the member is authorized to contact the trusted contact person and disclose information about the customer's account to address possible financial exploitation, to confirm the specifics of the customer's current contact information, health status, or the identity of any legal guardian, executor, trustee or holder of a power of attorney..."

The TCP is intended to be a resource for the FINRA member in administering the customer's account, protecting assets and responding to possible financial exploitation. Unfortunately, this rule will serve to alert nefarious third parties that Aunt Betty or Uncle Bernie had significantly more assets than relatives may have believed. But for Rule 4512, certain people (the putative "villains") will be alerted to assets they did not know existed. Opportunity and motive to steal have been created by this new Rule. The Rule may also interfere with pre-existing estate plans.

Because FINRA Rule 4512 does not require the customer to identify the TCP, how should we as lawyers advise our clients? Do we tell them to refuse to identify TCP's? Do we encourage clients to identify TCP's, and if so, do we do it in writing? Should we explain to our clients the pros and cons of designating TCP's? Do we incorporate the TCP concept in estate planning documents? Do we revise Durable Powers of Attorney to address issues that will arise from a potentially conflicting TCP? Do we provide copies of Durable Powers of Attorney to financial advisors? Do we routinely write to financial advisors to find out if our clients have already designated a TCP? If our clients have designated a TCP, is the TCP consistent with the client's choice of personal representative or trustee? Do we want to put into place mechanisms that prevent financial advisors from changing TCP's without attorney involvement?

One simple precaution that all estate planning lawyers should take is to revise their intake form. Intake forms should ask clients to identify their brokerage firms as well as any trusted contacted persons.

Regardless of whether the client knows if they designated a TCP, or who they think they designated, clients should ask that their financial advisor identify the TCP.

Once the TCP's identity is known, the lawyer should confirm the client's understanding of this person's role. In addition, is possible that, between the date the client originally designated the TCP and the date you as the lawyer confirm the TCP with the client, that the client's relationship with the TCP may have changed. You may also learn that the client identified a TCP who is different from a previously designated personal

representative or power of attorney. If there is a conflict between the TCP and others, it needs to be resolved.

Assuming you and your client are satisfied with the client's choice of TCP, the next step would be to get the client's permission to ask the financial advisor to notify you, in writing, if the client changes their TCP. You want this information for several reasons. First, if there is a change in TCP, notification will give you the opportunity to consult with the client about changing the personal representative or other key designees. Second, a change of TCP may be an indication of potential exploitation, particularly if a caregiver, the next-door neighbor, or the financial advisor's brother-in-law becomes the new TCP, you have cause for concern. If the financial advisor fails to provide you with this requested information, and exploitation occurs, there will be a stronger argument supporting the financial advisor's liability for a third party's exploitation.

It is clear that FINRA Rule 4512 creates a plethora of issues for the elder law or estate planning attorney to consider. At a minimum, best effort should be directed toward incorporating the TCP concept into your intake documents. It is in your client's best interest that you have this information. **B**



David Weintraub's securities litigation practice primarily consists of representing investors who have been victims of stockbroker misconduct. David is the Co-Chair of the Elder Law Section's Abuse, Neglect and Exploitation Committee. David's website is www.stockbrokerlitigation.com.



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Edwina “Winney” V. Kessler Installed as 2018-2019 BCBA President



by Laura Varela


Edwina (“Winney”) Kessler is the 93rd President of the Broward County Bar Association and only the 9th female President in BCBA history. I had the pleasure of meeting Winney back in our undergraduate days at UF (Go Gators!), and now know her as a respected peer in the local legal community. Winney has been passionate about giving back to the legal community and community in general, since she graduated law school. Starting with the BCBA Young Lawyers Section, and continuing through her many years as a member of the BCBA Board of Directors before embarking on path to President, Winney has always taken an active leadership role in any organization she served. Over the past several years, as chairperson of the publicity committee, she takes great pride in having spearheading the Barrister its transition back from online only into a hard copy magazine for readers to enjoy.

Winney’s parents, Charles T. and Eleanor Kessler moved to South Florida from Pennsylvania in 1956. A true local, Winney was born in Miami and raised in Broward County. Winney graduated from St. Thomas Aquinas High School and then headed to the University of Florida where she earned her undergraduate degree in history. Winney attended Nova Southeastern Law School for her JD, graduating in

1994. Winney began her professional career at Pyszka, Kessler, Massey, Weldon, Catri Holton & Doublerley, P.A. a firm started by her father, one of the first full service insurance litigation firms in the area. Winney’s father Charles passed away in 1997, and his daughters carried on the family name. Winney is a partner in the firm, Catri, Holton, Kessler & Kessler, P.A., along with her sister Paula Kessler, as was her sister Andrea Kessler before her untimely passing in 2016.

Right out of law school Winney began her involvement with voluntary bar associations. She served as an executive board member of the Broward County Young Lawyers from 1995-2003. During her YLS tenure, she also served as secretary/treasurer (1999-2001) and president (2002-2003). Winney went right from the YLS to the BCBA, first serving on the Board from 2003-2007. All told, Winney has given over 13 years of service on the BCBA Board, the past 3 years also as an officer. Winney is also active in several other legal organizations including the Stephen Booher American Inns of Court, Florida Defense Lawyers Association, the Trucking Industry Defense Association and Transportation Lawyers Association. Winney likes to spend her free time traveling, spending time with family and friends and attending concerts. I am fortunate to get to go with

her on many of her adventures! Most recently, Winney adopted a rescue dog from the Virgin Islands, a place very special to her. “Stormy the Island Girl” is becoming acquainted to her new home in South Florida with Winney.

As President, Winney looks to continue to improve on the great success of the BCBA through the years. Her goals for the BCBA this year include: to continue advancing the BCBA’s CLE course that outgoing President Tom Oates started, streaming live webinar broadcasts, planning for the future of the BCBA and implementing a long-term redevelopment plan for the Bar Center, and to continue to improve and increase communication between the Bench and Bar. Congratulations Winney we are looking forward to a great year ahead! 



Laura J. Varela is the Private Sector Career Counselor at St. Thomas University School of Law in Miami Gardens. Before entering the academic arena, Laura spent over 20 years in private practice with a focus on commercial litigation. She can be reached at lvarela@stu.edu or 305-623-2350.

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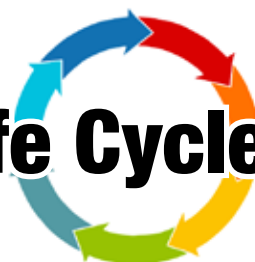


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Financing the Life Cycle of the Law Firm



by Jeff Ginocchi

Since 1978, when our South Florida bank was founded by a group of lawyers, our team has provided advice and assistance to law firms and attorneys from solo practitioners and boutique practices to national and multinational organizations. While each firm has its own distinctive personality, strategy, market and client base, there is a pattern of issues that need to be considered at every stage of the financial life cycle. This article will speak about the launching of a new firm and the financing of a law firm.

Launching a New Firm

For lawyers, starting a new firm is a venture that typically occurs once or twice in a lifetime. Like buying a home or undertaking a complex surgical procedure, this can be a life-changing decision that requires careful consideration. In thinking through the issues, advice from trusted professionals can help get them off to the right start.

For example, attorneys should consult with an experienced business lawyer about structuring a partnership agreement that spells out roles and responsibilities, as well as how to handle a potential dissolution of the firm in the future. It's like a prenuptial agreement designed to resolve conflicts in advance.

Many times, I have talked with attorneys who have left their old firms and started new ones with their colleagues. They tell me, "I don't need an agreement because we are good friends who get along well." However, circumstances change through the years and the result could be a battle that ruins those friendships.

Another good step in creating a new law firm is to engage the right full-service accounting professional – especially with the pending changes in tax laws. For example, an accountant might suggest creating two levels of business structures: one that owns the assets and leases the law firm's space, and professional associations (PAs) that pass-through income for individual attorneys.

As banking professionals, we don't provide that type of legal or accounting advice. Instead, we draw on our wide network of professional contacts to make referrals and to act as quarterbacks during the start-up process.

Financing the Start-up Firm

On the financial side, a new firm can usually benefit from a term loan to pay for equipment and the build-out of the office space. These are capital expenses that can be depreciated over the years.

New firms also require adequate working capital to pay staff and cover other expenses until revenue begins to arrive. Drawing on our decades of experience serving the legal sector, we can help the partners walk through key financial issues:

- What are your weekly and monthly expenses?
- What is your revenue recognition cycle?
- When do you actually collect money?
- What large a cash flow do you expect?
- How large a line of credit will you need to keep the firm operating?

Remember that even if you are winning your first cases and generating receivables, you may still be waiting for payments from your clients. Billings are not cash; only cash is cash. For many firms, the length of the revenue cycle depends on the nature of the practice. If your firm is doing defense work or business litigation, for instance, you should be generating revenue after 90 to 120 days.

On the other hand, if your firm is doing contingency work or handling bankruptcies or class actions, it may be many months before you see any significant revenue. If you are funding client costs or engaging expert witnesses for cases with a big potential payoff, you need to factor those expenses into your credit needs.

A smaller firm might only need one loan package, but a larger firm can benefit from having two or three distinct lines of credit for capital purchases, working capital, and client expenses. This provides greater transparency and financial insights for the partners, helping them make better business decisions. **B**



Jeff is the Managing Executive of Broward County for IBERIABANK. He is responsible for overseeing all areas of Commercial, Private and Retail Banking Divisions, with direct responsibilities for the Commercial Banking Team. He also manages an existing portfolio of clients in the Legal Industry.



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Tips and Pointers for Drafting and Litigating Marital Agreements

by Lauren Alperstein and Stephanie Matalon

Have you ever had clients walk into your office telling you they reached an agreement with their spouse and all you have to do is write it up? Or what about the clients who call with joy that they are getting married in a week, but need a prenuptial agreement, but not to worry, all the terms are worked out and it will be no big deal. Easy, right? Absolutely not! Hopefully these tips and pointers will help you get through the trials and tribulations of drafting and litigating agreements.

Contract laws govern the interpretation of marital agreements. All marital agreements shall be construed and interpreted in the same manner as other contracts; rules of construction and extrinsic evidence shall only be used where the contract language is ambiguous. However, courts will revise child support provisions of agreements when necessary if they deem that those provisions of the agreement are not in the best interests of the minor children. See *Lancaster v. Lancaster*, 228 So.3d 1197 (Fla. 1st DCA 2017).

The stated meaning and purpose of a marital agreement can override existing laws. Parties are free to agree to obligations the trial court could not order in the absence of an agreement. If the parties submit contradictory evidence regarding their intent, then the trial court must make factual findings regarding the parties' intent. However, parol evidence may only be used as a last resort. See *Taylor v. Lutz*, 134 So.3d 1146, 1148 (Fla. 1st DCA 2014).

No specific waiver of growth or appreciation is needed. A broad waiver of growth or appreciation provisions in prenups and postnups is sufficient to waive a spouse's claim to the enhanced value of the other spouse's non-marital property that resulted from marital earnings. See *Hahamovitch v. Hahamovitch*, 133 So.3d 1008 (Fla. 4th DCA 2014), affirmed by 174 So.3d 983 (Fla. 2015). The *Hahamovitch* decision reversed decisions from the Second District (*Irwin v. Irwin*) and Third District (*Valdes v. Valdes*), wherein the courts construed prenuptial agreements with broad waivers of growth or appreciation provisions as being insufficient to waive a spouse's claim to the enhanced value of the other spouse's non-marital property that resulted from marital earnings.

***Casto v. Casto*, 508 So.2d 330 (Fla. 1987) governs the challenging of prenuptial and postnuptial agreements; they may be challenged on two different levels.**

Level I: An agreement may be set aside or modified upon establishing that it was



reached under *fraud, deceit, duress, coercion, misrepresentation, or overreaching*

Level II: The challenging spouse must establish that the agreement makes an *unfair or unreasonable* provision for that spouse, given the circumstances of the parties. Once unfairness is established, a presumption arises that there was either *concealment* or a presumed *lack of knowledge* of the defending spouse's finances at the time the agreement was reached. The burden then shifts to the defending spouse. The presumption can be rebutted upon a showing that:

- (a) the defending spouse made full, frank financial disclosure;
- or
- (b) the challenging spouse had a general knowledge of the character and extent of the other party's assets and income.

The test in this regard is the adequacy of the challenging spouse's knowledge *at the time of the agreement* and whether the challenging spouse was prejudiced by the lack of information.

Be aware, however, that the *Casto* test does not apply to litigated settlement agreements. Instead, where a settlement agreement is reached after the initiation of litigation, parties challenging final judgments in divorce proceedings are not permitted to claim lack of knowledge. *Macar v. Macar*, 803 So.2d 707 (Fla. 2001).

Uniform Premarital Agreement Act; Fla. Stat. §61.079 governs any premarital agreement executed on or after October 1, 2007

- Requires a premarital agreement be in writing and signed by both parties;
- Allows the parties to address all substantive rights in the agreement;
- Provides that after marriage, a premarital agreement may only be amended, revoked or abandoned by a written agreement signed by both parties; and
- Identifies the basis under which a premarital agreement is not enforceable.

Be mindful that some rights and interests can be waived and others cannot in prenuptial and postnuptial agreements.

Oral Agreements on the record must have both clients' approval on the record. In order for the agreement read on the record to be enforceable, the parties must agree to the agreement on the record; the judge must obtain clear and unequivocal assent to the agreement on the record from each party and must also confirm that each party has discussed the agreement with their attorney and fully understands its terms. See *Richardson v. Knight*, 2016 WL 4016334 (Fla. 4th DCA 2016).

Finally, consider the following tips when drafting prenuptial agreements:

1. Find out the wedding date ASAP.
2. Obtain as much information as you can about the wedding (i.e. is it a destination wedding? When is the last day the parties have to review the agreement?).
3. Do not take a flat fee for a prenuptial agreement.
4. Be mindful of signing attorney waivers included in prenuptial agreements; by signing such waivers, you may end up of waiving attorney-client privilege.

In conclusion, remember, no client is worth losing your license over. When all else fails, trust your instincts, and if something about the agreement (i.e. drafting a prenuptial agreement a week before the wedding) is not sitting right with you, it is okay to say no. As our mentors and partners we work with have always reminded us, clients come and go, but your reputation always remains. **B**

Ms. Alperstein is an attorney with Boies Schiller Flexner in Hollywood, Florida where she represents clients in complex family law cases. She has been selected as a Rising Star every year by Super Lawyers since 2015. Ms. Alperstein is also an active member of the Family Law section of the Florida Bar, a past co-chair of the BCBA Family Law Section and a past board member of the Young Lawyers' Section of the BCBA.



Ms. Matalon is an attorney with the law firm of Boies Schiller Flexner LLP in Hollywood, Florida where she litigates a broad spectrum of family law cases. Prior to joining the firm, she was the supervising attorney for the Seventeenth Judicial Circuit Guardian ad Litem Program. Ms. Matalon is an active member of the Family Law Section of the Florida Bar and co-chair of the BCBA Family Law Section.

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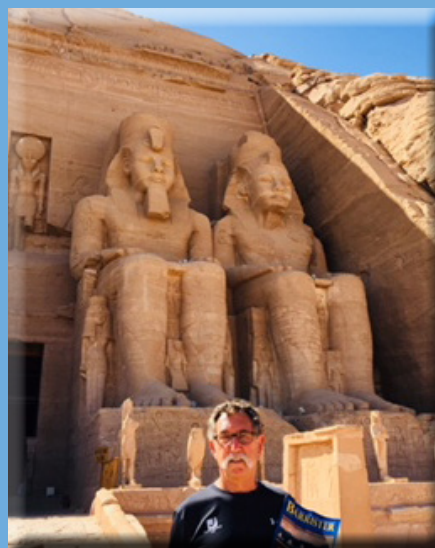
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Online Charitable Giving: Yea or Nay?



by Jacqueline A. Revis and Adam Scott Goldberg

We receive emails and notifications about GoFundMe pages almost daily with a request for donations for one cause or another. All the causes sound worthy and, of course, we would love to give to all charities, but is online charitable giving safe? Is it tax-deductible? Will our money go to the cause for which we desire it to? How much goes to the cause and how much goes to the house (or, in this case, the hosting site)?

We must first distinguish between a not-for-profit corporation and an Internal Revenue Service (IRS) approved nonprofit/charitable organization (also known as 501(c)(3) or tax-exempt organization). Anyone can create a not-for-profit corporation in Florida. An online application is available at the Florida Division of Corporations website (www.Sunbiz.org). Furthermore, the cost for application is as little as \$70 and these “not-for-profit” corporations could be up and running in as little as three days. However, until the not-for-profit files and gets approved for tax-exempt status by the IRS, the IRS treats them as any other for-profit corporation regardless of whether they are shown on Sunbiz as a “not-for-profit”.

All charitable organizations that have been approved by the IRS for tax-exempt status (except religious organizations) have gone through a vetting process to ensure that the funds collected are used for proper charitable purposes. To apply, the organization would have applied using IRS Form 1023 or 1023EZ. In addition, all approved charitable organizations must file annual income tax returns (IRS Form 990, 990EZ, or 990N) with the IRS to maintain their tax-exempt status. Starting May 1, 2018, the IRS is making copies of these informational tax returns available on its charities/nonprofits section of the IRS website.

Let's assume that we wanted to donate to a charity that found homes for stray dogs. Using a simple online search, we find a person or organization that works with a local humane society which does just that on GoFundMe's website. Upon further research, we also found the direct

link for said local humane society. Both pages had similar profiles, but the directly linked Humane Society included a copy of the tax-exempt status letter from the IRS and the similar person/organization with a GoFundMe page did not. That does not mean that the GoFundMe person/organization was not tax-exempt, but it may not be. Therefore, if one donated to the GoFundMe organization, their donation may or may not be tax-deductible. Conversely, the donation directly to the Humane Society is definitely tax-deductible on the donor's annual, individual income tax return. GoFundMe does a pretty good job of attempting to differentiate between tax-exempt entities (IRS approved 501(c)(3)'s) and mere not-for-profits so that the donor can make an educated decision before making the donation. Other websites like Kickstarter offers donors a myriad of different organizations that are seeking funding; but, Kickstarter does not have any requirement that the organization have tax-exempt status. Another online option for charitable giving is Mightycause. Mightycause is a charity in and of itself so it has already been approved by the IRS as a tax-exempt entity and therefore all funds to Mightycause are tax-deductible. Donors should always request a written receipt/acknowledgement from the organization for the donated amount; but, it is especially important if the donation is \$250 or greater. This amount requires written substantiation by receipt or acknowledgement from the charity for the donor to receive the income tax deduction for the donated amount.

You can see above that the donation directly to the charitable source (e.g. Humane Society) may be an easy decision. But, there are many GoFundMe pages that don't have a direct source. For example, the Humane Society helps all animals, but you may simply want to help save only one type of breed. The Humane Society doesn't offer that, but this individual GoFundMe page does. Now the question becomes, is this page legit. Also, how much of the money actually goes to saving this breed of dog and how much does GoFundMe keep of each donation. GoFundMe has a plat-

form and payment processing fee totaling 7.9% plus \$0.30 per transaction. Kickstarter keeps 5% of the total funds raised and applies a payment processing fee of 3% plus \$0.20 per pledge over \$10 or 5% plus \$0.05 per pledge under \$10. Mightycause charges a 4% platform fee, but donors have the option of covering platform fees. Thus, 100% of the donation through Mightycause will go to the charity if the donor chooses to cover the platform fee. As for the donee, the following websites allow you to research tax-exempt charities and their donation structures: 1) www.charitynavigator.org; 2) www.guidestar.org; and 3) www.give.org.

For those looking to make an online charitable donation, first find out if the organization you plan to donate to has tax-exempt status. Second, determine if it's a direct donation to the organization through its own website or if you are going through an online hosting site. Third, feel free to specify which programs or activities you want your donation to go towards. Finally, be sure to follow up with the charity later on to see how your donation was allocated. Happy Donating! **B**



Jacqueline A. Revis and Adam Scott Goldberg are partners with Krause, Goldberg, Revis & Hervas P.A. in Weston. Jacqueline's practice areas include real estate, estate planning and probate. Adam's practice areas include estate planning, probate, tax and exempt organizations. Jacqueline and Adam are both adjunct professors at NSU Law and Adam also teaches at UM Law. For more information, visit the firm's website at www.kgrhlaw.com.

Why is asking for help so difficult?

by Dr. Beau A. Nelson, DBH, LCSW

Asking for help is not easy. It sounds easy, but it's not. Many of us realize that there is a problem, but we don't want to ask, because that means we must do something different. We ended up in the problem because we did not want to do something that we perceive as more difficult. The brain then takes this maladaptive coping skill we have been doing and says, "if we have to stop, then we are depriving ourselves, and that would be too awful!" So, we continue with the same cycle and do the same thing. An example is weight. We realize we are getting overweight. We like our food and eating what ever we want. Then, we start to not feel attractive, but rather than change we just hope we will get better (as if that works) but continue the same cycle. We believe working out is too hard, it won't be as good as food, and we wait, and the problem gets worse.

We humans are funny creatures. We want everything, but generally take the path of least resistance to reach goals. Instant gratification is the rule of the day. Sometimes, this is not a big consequence, but other times it is. Attorneys are well known to be hard-driven, intense, and all or nothing kinds of folks. This isn't good or bad, it just is who people are. Professionals who work in high-pressure fields can often also not be the best at taking care of themselves. This is why doctors and attorneys burn out and other jobs do not. Its just a real issue with this work.

Instant gratification along with a pro-



fessional identity leads our thinking to be that it is weak to ask for help, we are the problem solvers, so over time it may become difficult for us to ask for help. It is not part of our identity anymore to ask for help, we are the ones that give help! So, when you put all the pieces above together and a reluctance to not ask for help, over time, problems that might not be so big, develop into bigger problems that gradually, than suddenly become a crisis. Unfortunately, this crisis means that we are often feeling alone, scared, and do not know what to do. In these cases, it might mean that we take drastic measures to get out of it, even suicide. This is the ultimate cry for help. But it is too late when someone is gone to help.

The profession has recognized for some time that there is a disconnect between attorneys needing help and then getting the help they need. The good news is there is hope. Remember, we are all just people, we are all just trying to get through the day, sometimes we make good choices and sometimes we don't. Having a glass of wine to relax at the end of a tough week is not a problem. Drink-

ing whenever we are stressed as our only coping skill becomes a problem. The stigma that we often feel will happen if we ask for help is an illusion. If you believe you will be fired, disbarred, or everything you have will be lost because you admit, let's say, you have a drug problem, then you are painting yourself in a corner. I will not say it is going to be easy to deal with, but it has been done. One of the founders of AA, Dr. Robert Smith, an alcoholic, who drank in response to the pressures of medical school and being a physician, turned his life around and now is an inspiring story for all professionals.

If you are in a place where things are a problem, maybe you have tried to make changes and cannot, or maybe people who care about you are worried, please, do not wait for things to get worse. Talk to your healthcare provider or seek out the services of a therapist, these are confidential sessions that can be arranged. It is worth it to do something now, it can get better, it just takes a first step in the right direction. **B**



Dr. Nelson is the Clinical Director for The Florida House Experience, an innovative and fully integrated provider of substance abuse and mental health services; offering the most effective treatments in neuroscience, psychiatry, and addiction treatment in Deerfield Beach, Florida. More information is available at therehab.com.

- 7 Guardianship 8-hour Adult**
Time: 9:00 a.m. – 5:00 p.m.
Venue: BCBA Conference Center
Cost: \$180; No Walk-ins accepted
- 12 Crossing Domestic Violence and Family Law Cases**
Time: 12:00 p.m. – 1:30 p.m.
Venue: BCBA Conference Center
Cost: \$15 BCBA Member; \$25 Non-Member
- 13 2018 Legal Malpractice Summit**
4 CLE Credits
Time: 8:30 a.m. – 1:00 p.m.
Venue: BCBA Conference Center
Cost: \$60 BCBA Member; \$75 Non-Member
- 14 Guardianship 4-hour Adult**
Time: 9:00 a.m. – 1:00 p.m.
Venue: BCBA Conference Center
Cost: \$100; No Walk-ins accepted
- 18 Construction CLE Challenges of Building Restoration – An Engineers Perspective**
Time: 12:00 p.m. – 1:30 p.m.
Venue: BCBA Conference Center
Cost: Free Construction Section Member; \$15 BCBA Member; \$25 Non-Member
- 18 Solo/Small Networking Dinner**
Time: 6:00 p.m. – 8:00 p.m.
Venue: Dave and Busters Hollywood
Cost: \$40 BCBA Member; \$55 Non-Member * \$5 additional after 7/11/2018
- 18 Broward Forward Legislative Reception**
Time: 5:30 p.m. – 7:30 p.m.
Venue: Broward Center for the Performing Arts
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- 20 CLE: Basic Criminal Trial Practice Lunch & Learn Series - Session 3: Jury Selection**
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Cost: Free BCBA Member; \$10 Non-Member
- 27 Elder Law CLE: Veteran Benefits**
4 General CLE Credits
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