



THE Bulletin

“A Century of Service to Miami-Dade”

123 N.W. First Avenue Miami, Florida 33128 / www.dadecountybar.org / March 2012

DCBA Featured Events

(For additional information please visit our website at www.dadecountybar.org)

03/09	Bench Bar Conference – Hyatt Regency Hotel
03/29	Federal Court Committee Seminar – Dade County Bar Association
04/05	46 th Annual Judicial Reception – Hyatt Regency Hotel

PRESIDENT’S MESSAGE



Andrea S. Hartley

In October 2010, history was made when three female United States Supreme Court justices took the bench together. Certain commentators labeled this event as the “New Era.” There were many articles on this so called “New Era.” In particular, I will never forget the Newsweek article titled: “Will Three Women Really Change The Court?” There was no need to read any further, I already knew the answer – of course they will. It only takes one person to effect change. That change began with Justice Sandra Day O’Connor some three decades ago.

Nine months later, history was made here in South Florida as well. On July 1, 2011, the Honorable Linda Ann Wells became the first female Chief Judge of the Third District Court of Appeal.

Every March the nation celebrates Women’s History Month. In 1980, President Jimmy Carter presented the first presidential proclamation recognizing the historic accomplishments of women. He explained that “Understanding the true history of our country will help us to comprehend the need for full equality under the law for all our people.”

Going back to our founding fathers, in 1776, Thomas Jefferson wrote those famous words “We hold these truths to be self-evident, that all men are created equal...” Almost 70 years later, Elizabeth Cady Stanton, the mother of woman suffrage, expounded “We hold these truths to be self-evident: that all men and women are created equal.” It was more than 70 years after her statement that the 19th Amendment gave women full voting rights throughout our country. And then almost another 70 years until the first woman was appointed to the United States Supreme Court.

The recognition of the abilities and contributions of women in the legal profession was long overdue. The 2012 theme for Women’s History Month is “Women’s Education – Women’s Empowerment.” Though it was not that long ago that equal access to all levels of education was denied. For example, Justices Kagen and Sotomayor went to Princeton, a school that did not accept women when Justices O’Connor and Ginsberg were in college. It was not until June 23, 1972, when Title IX of the Education Amendments banned sex discrimination in schools. This year’s theme applies to all of us, no matter our gender – no matter our differences. Through education, each of us, women and men alike, can empower ourselves. For the past 94 years, one of the DCBA’s core commitments has been to educating lawyers and lay people. We provide over 200 educational programs annually. This year, our focus has been to provide programming to assist lawyers in becoming better managers, better at utilizing technology, better business developers, and better at serving their clients. These are all tools of empowerment. This month we will strengthen the opportunity for empowerment through the exchange of ideas and information between judges and lawyers at the DCBA’s inaugural Bench and Bar Conference on March 9, 2012. Lawyers and judges will receive CLE and CJE credit for this full day of programming. As part of the conference, there will be a general membership luncheon featuring Chief Judge Wells as our keynote speaker. Together, lawyers and judges, through education, will be empowered to better serve our clients, our profession and our community.

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Beginning next month, the Bulletin will publish a series of “Mindfulness Matters” columns written by members of the bar, bench and legal academy. Judge Alan Gold, who established the “Mindfulness in Law” working group discussed in the October 2011 issue of the Bulletin, will lead off in March with a view from the bench.” In April, Harley Tropin will author a column offering a view from the bar. And the following month, Alex Acosta, will offer a view from the bench. In the next several months you will find rich sources of information made available on the DCBA website. Already, mindfulness programming is in the works for the upcoming DCBA Bench and Bar Conference scheduled for March 9, 2012. A mindfulness

DCBA Bench & Bar Conference

March 9, 2012 – Hyatt Regency Miami

Presented by:



Effective Practices and Winning Strategies to Enhance Your Practice, Improve Your Skills and to Grow Your Business

The Dade County Bar Association will hold its Bench and Bar Conference on Friday, March 9, 2012 at the Hyatt Regency Miami. The conference provides attorneys and paralegals with an opportunity to earn CLE credits while getting a chance to network and socialize with colleagues and members of the judiciary. The conference will also offer CJE credits for judges. Morning and afternoon sessions will cover practice areas in civil and criminal law. A third track is devoted specifically to young lawyers. Attorneys and paralegals may earn up to 8.5 hours of CLE credits (including 2.5 hours of Ethics) and judges may earn up to 6.5 hours of CJE credits.

The conference will open with a State of the Circuit Court and include a General Membership Luncheon.

The Bench Bar Conference schedule, session information and registration details will be emailed to all attorneys and judges in the Eleventh Judicial Circuit shortly. To register simply visit the DCBA website, www.dadecountybar.org.

See page 7 for schedule and page 8 for registration information

MINDFULNESS MATTERS

By: Scott L. Rogers



Scott L. Rogers

Mindfulness practices have taken root within the legal profession and 2012 will see the sprouting of new initiatives and programs from within the Dade County Bar Association. A Mindfulness-in-Law Task Force has been established to develop and implement ways of offering you mindfulness oriented information, programming and groups. If you are interested in participating as a member of the Task Force, please contact Andrea Hartley or reply to mindfulness@law.miami.edu. The first meeting is scheduled for 4:00 pm on March 20, 2012 at the DCBA office.

In the next several months you will find rich sources of information made available on the DCBA website. Already, mindfulness programming is in the works for the upcoming DCBA Bench and Bar Conference scheduled for March 9, 2012. A mindfulness

group for legal professionals will begin to meet monthly at the DCBA building and information will be provided to lawyers and law firms to support the establishment of mindfulness groups at law firms, law schools, the judiciary, and other legal organizations. The Federal Bar Association will be working in tandem with the Task Force to enrich the mindfulness offerings and avenues of participation. In this regard, mindfulness programming is also planned for the Southern District of Florida’s Bench and Bar event scheduled for April 27, 2012.

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TUYO - FARM TO TABLE DINING WITH A VIEW

By: *Melanie E. Damian, Kenneth Murena and Casandra Perez.*



Melanie E. Damian

With Tuyo, Norman Van Aken reclaims his throne as Miami's king of fusion cuisine.

Before discussing Tuyo, we must give a shout-out to Miami-Dade College and its Miami Culinary Institute which has partnered with Tuyo to provide a more personal and educational experience to the restaurant's patrons. After valet parking in front of the MDC, we were greeted by a professor (on of the rotation of professors who volunteer as greeters) who led us to MDC's Wine Theater where we waited for our table with a glass of complimentary champagne. As the professor explained, the Wine Theater is a state-of-the-art classroom used to teach wine tasting and pairing and cooking skills. This facility, which resembles a Food Network studio, makes us locals happy to see a real commitment to food innovation in Miami. And, this commitment to training future chefs, restaurateurs and sommeliers can only bode well for our gourmet-dining scene.

Tuyo feels like an offering to Miamians; perhaps that is why the name translates to "yours". Tuyo's location, on the top floor of a Miami-Dade College building, offers an amazing view through the wall of floor-to-ceiling windows of the north end of city skyline and Biscayne Bay beyond. Indeed, as soon as the elevator doors open on the top floor, we were are greeted by the Freedom Tower lit up in red and the mega screen on the AAA flashing Let's Go Heat. In contrast to all that flash, Tuyo's décor is stark and monochromatic with sleek wood floors made of reclaimed logs found in Lake Michigan and lacquered 3-D waves of wood on the ceiling. Overall, the simplicity of the décor allowed us to appreciate the view that much more.

So the view is spectacular and the décor is cool, but nothing compares to the food. That is where Chef Norman really shows off. First, he displays his commitment to fresh local ingredients and



Kenneth Murena

produce from an onsite garden and from local farmers. Then, he uses high quality ingredients in a complex fusion of Peruvian and Cuban influences, a touch of Asian, and the Floribbean cuisine that made him so famous.

Melanie Damian, Frank Jimenez and I had the tasting menu with wine pairings chosen by Sarah, the sommelier. She did an excellent job of describing the wines to us and all but one of her pairings could not have been more perfect. The tasting menu, which we were told changes quite often, included blue crab fritters, caviar and smoked fish, poached snapper in a Vietnamese sauce, shrimp enchilado, pork cooked in milk with black beans and plantains, and vanilla yogurt panna cotta. The highlight of the tasting menu was the smoked fish with caviar, egg and avocado on toasted bread – the perfect balance of creamy, salty, and smoky on a toasty piece of Cuban bread. The other items were good but not as impressive and delectable as many of the items on the a la carte menu. Kenny Murena created his own tasting menu by ordering 3 appetizers (conch chowder, charred wreckfish ceviche and yucca-stuffed shrimp), 1 entrée (pan cooked fillet of Yellowtail) and 1 dessert (donuts). His dishes were far better than ours and his dessert of hot, chocolate-filled donuts with dark chocolate dipping sauce and macadamia nut brittle ice cream nearly caused a wrestling match at the table. The conch chowder was sweet, creamy, spicy and loaded with conch – Caribbean and Thai flavors united in a coconut soup. The ceviche was tasty, sweet and citrusy with a smoky charred flavor, but the wreckfish was chewy, so the dish was not as good as it could have been. The yucca-stuffed shrimp is a showstopper of creamy, garlicky yucca, sweet, meaty shrimp and crispy, deep-fried goodness. The Key West yellowtail cooked in a citrus butter was the best thing we ate all night, maybe all year, and when Kenny ordered it our server ad-



Casandra Perez

vised that it is Chef Norman's signature dish. The donuts were ridiculous – really there is no word in the English language for how good they were. It was difficult to even look at our yogurt panna cotta with those piping hot, sugar-coated, dark-chocolate-filled, light and airy, pillows of fried perfection emitting their heavenly aroma all over our table. And, did I mention that they arrived with dark chocolate dipping sauce and sweet, salty and crunchy macadamia nut brittle ice cream? Just writing it down makes my mouth water. That the meal ended on a high note is a major understatement.

The verdict is completely in favor of Tuyo's food, view and atmosphere, each of which is awarded 4.5 out of 5 stars. The service could use improvement only in that it is slow and the servers do not offer knowledgeable explanations of the complex dishes, so we give it 3 stars. We ran into plenty of friendly faces (many lawyers and an esteemed District Court Judge), all of whom were excited that Chef Norman is back and hopefully here to stay. Tuyo definitely attracts locals committed to gourmet dining and long-time fans of Chef Norman. The consensus among us is that Tuyo is expensive (about \$180 per person with a healthy dose of wine), but the food is absolutely worth the price tag. We were told that the menu is seasonal and ever-changing so we look forward to returning for a completely different yet equally awesome experience.

Melanie E. Damian is a Co-Founder and Partner of *Damian & Valori LLP*. She represents companies and individuals in a variety of complex business and securities litigation, serves as a Court appointed Receiver and Distribution Agent in Securities matters and state court matters, as well as, serving as counsel to Receivers serving in both state and federal court.

Kenneth Murena and Casandra Perez practice at *Damian & Valori, LLP* in the area of Business Litigation, Receivership and Bankruptcy.

IS YOUR HEAD IN "THE CLOUD"?

By: *Linda McGrath-Cruz, ACP FRP*



Linda McGrath-Cruz

Congratulations! You are already using the cloud, and you probably have been for some time. Cloud computing, or storing data in the cloud, is all the hype these days. Everywhere you turn, you are confronted with options for interacting with the cloud. This may seem like a very technical concept that requires a whole new way of doing things but, in fact, most people are already working in the cloud and may not even know it. Basically, cloud computing means that your data is stored on the internet, instead of on your computer's hard drive. You can also think of the cloud as the virtual cyberspace of the internet – floating happily above your head as data goes back and forth from different sources.

Am I really using the Cloud?

Think for a moment about the technology and programs that you use and the websites that you visit every day. Technology may include a desktop or laptop computer at home, a desktop computer at work, or even a smart device such as the iPhone or iPad. Programs may include your operating system such as Windows XP or Windows 7, productivity software such as Word, Excel, Photoshop or Quicken, and websites such as Gmail, Facebook and YouTube.

Let's take an example that almost everyone can relate to: e-mail. All e-mail has to pass through the cloud as it is being delivered from one

person to another, but you have options on how to receive that e-mail. Most people have a work e-mail address and a personal e-mail address, so I will use that scenario for my example.

Traditionally, your work computer has an e-mail program such as Outlook installed on it, which downloads your work e-mail. The e-mail arrives inside the Outlook program and is then available to be read, responded to, deleted, etc.. The e-mail inside of Outlook is physically saved on your hard drive and taking up storage space in a file that can be searched for, copied, saved, deleted, etc.. Once downloaded, you may not be able to access those e-mails from any other location and, therefore, you may be tied to that computer and location.

You may also have a personal e-mail account from a web-based service such as Hotmail, Yahoo or Gmail. Though such e-mail accounts may also be used in the "traditional" manner, they are designed to be stored and accessed through that provider's website. This means that you can go to that provider's website 24 hours a day, 7 days a week, from any computer or smart device, from any location with an internet connection and access your e-mail. The e-mail does not download to your computer's hard drive and, therefore, does not take up any space on the hard drive. Instead, it is located in virtual cyber space, or, in the cloud, just waiting for you.

Another example that a lot of people are familiar with is Facebook. If you have a photograph saved on your computer and you upload that

photograph to Facebook, you now have two separate copies of that file - one on your hard drive and one in the cloud. You can delete either copy and it will not affect the other copy. If you deleted the copy saved to your hard drive you can still login to your Facebook account from any other computer or smart device and see the copy that you uploaded to Facebook because that copy is in the cloud. It works the same for photo sharing websites such as Flickr, Photobucket, Snapfish and even YouTube. The same theory works for web-based file hosting services such as Dropbox, Box or SugarSync. Your files can be uploaded for storage in the cloud and available to you at a moment's notice no matter where you are.

How is "cloud" computing helpful to me?

The benefits of cloud computing depend on your use of the technology or services available to you, but a few key benefits that can help almost anyone include:

Remote access to your information: Instead of waiting until you get to the office to check your e-mail, you can check it from your mobile device or sit down at any available computer. If you are in the job market, you can store copies of relevant documents such as your resume, reference letters or information about your education for easy access to send out at a moment's notice. If you are a student, you can store copies of reference materials, reading assignments, or homework to easily pull up when you find yourself with downtime.

Backup: Even if you never have the need or desire to access your information from a source other than your own computer, storing copies of your data in the cloud is an excellent way to backup your files. Have you backed up your computer lately? What about the hundreds of pictures of your cute baby or cute dog? How about the copies of all your receipts and bank statements for tax time? A computer failure can hit at any time, and quite often you don't think about backup solutions until it's too late. Many web-based file hosting services offer free accounts with a decent amount of space and they can be used quite easily even by a novice. Your files can sit safely in the cloud, just in case of an emergency.

Storage Space: A lot of people don't even come close to using up the entire hard drive space provided on their computers. Not that many years ago, computers came with a 20 Megabyte hard drive. These days, however, storage space is getting cheaper and cheaper and many new computers are being produced with a 1 Terabyte hard drive. To put it in perspective, 1 Terabyte can hold about 250,000 music files, 1,000 hours of standard quality video or 330,000 high quality photographs. There are options available to expand your hard drive storage capacity (such as upgrading your computer, buying a new computer, or buying an external hard drive) but none are as easy or convenient as a web-based file hosting service.

Is there a downside to cloud computing?

Like pretty much everything we deal with on a daily basis, there is an upside and a downside. You have to weigh both and see what works for you.

Downtime: If the service provider you are using to store your data has a technical problem, you may experience some downtime. They probably have access to a lot more technical support and IT personnel than you do at home – and a lot more to lose - but they also have bigger problems. If the service goes down, so does your access to your information. Not to mention that companies can also go out of business, especially if you are using a smaller less known provider. Also, if you are in a location with no internet connection, you may not be able to access your data. If a file you want to edit is stored on your hard drive, on the other hand, you can still work on it without being connected to the internet. But if it is stored in the cloud, you may be out of luck.

Privacy and Security: This is a top concern in the cloud. Whenever someone else has access to your data, you have to worry about more than a little internet downtime. Hacking is more common these days and even top companies may be vulnerable. Keep in mind though, that these companies are more likely to have many more steps in place to prevent security breaches than your own personal computer. This is especially true if you are carrying your documents around on a thumb drive or portable hard drive that can be easily "borrowed" or misplaced.

What about e-Discovery?

Cloud computing raises new issues in the discovery arena. When data is stored and shared using the cloud, issues of ownership, control and jurisdiction may come into play. The utilization of cloud computing doesn't absolve a party of their e-discovery responsibilities. Rather, it makes them more challenging.

Companies or individuals using cloud services through a vendor, will typically have some sort of contract or agreement which may specifically address e-Discovery obligations. Many individuals, however, use free services such as Gmail, Facebook or AOL Messenger where the only contract or agreement resides within the terms of service which are rarely, if ever, read before they are agreed to. Whenever a third party has your data, the risk of that data being exposed to others increases and this is true of the discovery process as well.

If you are interested in learning more about the duties of parties and non-parties relating to the production of electronically stored information, you will find lots of great information in The Sedona Conference Commentary on Non-Party Production and Rule 45 Subpoenas – A copy can be found by visiting: http://www.thesedonaconference.org/content/miscFiles/Rule_45_Subpoenas

Is that it?

Well, pretty much! Almost all of us use the cloud on a daily basis. Like anything in life, there are risks and benefits to be considered. These vary depending on the services you use and "your mileage may vary." This article certainly isn't all inclusive, and there are many issues with cloud computing, especially when it comes to e-Discovery. But hopefully, this has given you an insight into the basics.

Linda McGrath-Cruz is a litigation paralegal with the law firm of Arnstein & Lehr LLP in Miami, Florida. Linda is also the Chair of the Dade County Bar's FRP Committee and an instructor and advisory panel member for the Paralegal Knowledge Institute. She can be reached at 305-753-2443 or lmc@miamifrp.com.

MEMBERSHIP KEG PARTY

On January 20, 2012 the Dade County Bar Association hosted a Keg Party for its Membership at Waxy O'Connors Pub on the river. Guests were able to enjoy live music, drinks and food while networking and socializing.



John Murray, DCBA Past President and Mark Brown



Mark Brown and Stephanie Grosman



Cairo Rivera, Jill Swartz, Julie Braman Kane, Judge Lisa Walsh, John Murray and Joan Berk



Daniel Casey, Elena Bondarenko and Victor de Yurre



Linda McGrath Cruz and Ximena Huthnance



Guillermo Tabraue, Stacey Tabraue and Josh Hertz



Michele Nicole Pino and Nira Desai



Andrea Hartley, DCBA President, Jill Swartz and Julie Braman Kane



Christina Cabrera, Patricia Cabrera and Stephen Demanovich



Shayne Burham, Keri Joseph and Jen Sily



Adrian Felix and Lindsay Levin



Patrick Dempsey, Lisa Landy and Ethan Grossman



Lara Nations, Nicolas Olano, Carlos Duque and Elora Andrade



Lineth Caicedo, Alex Cabrera, Wesley Caicedo, Marcel Puerto and Gabriel Corzo



Andrew Feuerstein and Oscar Nunez