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DAILY BUSINESS REVIEW

Broward Judge Suspended Without Pay After Altercation With Court Employee

by Zach Schlein

The Florida Supreme Court has issued an order suspending recently appointed Broward Circuit Judge Vegina 'Gina' T. Hawkins without pay.

The high court's decision follows the Investigative Panel of the Florida Judicial Qualification's recommendation to suspend Hawkins filed Thursday. As recounted in the JQC's recommendation, Hawkins was filmed wrapping her hands around a Broward County Courthouse employee's neck by a courthouse security camera June 11. Hawkins was purportedly upset with the employee because her afternoon docket was not ready as she'd expected.

The JQC classified the video as confidential.

Although the JQC panel noted Hawkins expressed remorse for the incident, investigators took issue with the judge's characterization of her gesture as one made in jest. The recommendation described the judge's actions as "wholly inappropriate," "potentially criminal" and asked the Florida Supreme Court to suspend Hawkins pending the conclusion of their investigation.

SEE HAWKINS, PAGE A6

Review 100: Litigation Leads Growth in Attorney Counts at Florida Firms

Cole, Scott & Kissane managing partner Richard Cole, whose firms leads the survey for a second year, found it "very satisfying" that growth at his firm came across the state.

by Catherine Wilson

Litigation firms — on both the plaintiffs and defense sides — made some of the biggest attorney hiring inroads in Florida in the past year, the Daily Business Review's annual Review 100 survey found.

For a second year, Cole, Scott & Kissane sits on top of the list of the largest law firms in Florida by attorney count and is moving away from full-service firms near the top. The Miami-based litigation firm known for representing insurance companies and large self-insureds grew by 13 percent with the addition of 51 attorneys in 2018.

Among the top 10, full-service firms Greenberg Traurig, Akerman, GrayRobinson and Carlton Fields lost attorneys. For Greenberg, it was only one, allowing the firm to squeak ahead of Akerman, which was on top in Florida as recently as 2017.

Cole Scott managing partner Richard Cole found it "very satisfying" that growth at his firm came across the state and promised more to come. He said the firm will open a Tallahassee office with three attorneys in the next few weeks. A firm committee also is exploring moving across the state line for the first time.

"We've never opened an office that was not done by existing partners because we want to keep the firm culture the way it is," Cole said. "If we were to start acquiring law firms, small or big, there's a real risk of losing that."

Cole said he doesn't interview many job candidates but he did earlier in the day and conveyed what sounds like an old-school, values-driven formula.

"We think of each other as a family," he said. "We treat each other with

SEE REVIEW 100, PAGE A10

Miami's Watson Island Flagstone Project Defeats Challenge on Appeal

This rendering shows the Flagstone project planned for Watson Island. The two towers are the planned hotels and the retail portion, which will be a total of 221,000 square feet, is between the hotels.

by Lidia Dinkova

The city and the developer of Miami's large-scale Watson Island project won on appeal against a would-be competitor and three people who tried to invalidate the municipal lease for waterfront property where hotels and retail are set to rise.

The victory comes on the heels of a settlement between the city and developer Flagstone Island Gardens LLC over a plan that started 18 years ago.

SEE FLAGSTONE, PAGE A2

Neglect? Yes. Excusable? No. Florida Court Reinstates Ruling Over Defendant No-Show

by Raychel Lean

It's not enough for a company on the wrong end of a lawsuit to forward the matter to a compliance officer without following up, according to the Fourth District Court of Appeal, which revived a $43,000 judgment Wednesday against New York-based mortgage lender Franklin First Financial Ltd. for doing just that.

Broward Circuit Judge Sandra Perlman had vacated the judgment, based on testimony from the company's chief financial officer. But that was a gross abuse of discretion, according to the appellate panel, because the defendant couldn't prove what happened to the complaint, or whether it even made it to the intended person.

Broward software developer Chetu sued the mortgage lender for breach of contract and unjust enrichment in March 2017, claiming it owed $42,300 for developing and maintenance work.

SEE EXCUSABLE, PAGE A2

PUBLIC NOTICES & THE COURTS

Public notices, court information and business leads, including foreclosures, bid notices and court calendars. **B1**

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ATTORNEY PROFILE

Leslie Kroeger Calls on a Career of Criminal and Civil Work to Advocate for Consumer Protections

See Page A16

Leslie Kroeger

FROM PAGE A1

EXCUSABLE

Franklin FIrst was served but didn't respond, according to the per curiam opinion. After weeks of tumbleweed, Chetu moved for a default final judgment and a June 22 hearing. When Franklin First was a no-show, the trial court ruled in Chetu's favor.

The company's CFO Doug Sanderson claimed he only learned about the judgment in late September and "immediately" hired a lawyer, but the Fourth DCA pointed out that the motion to vacate wasn't filed until December.

"This unexplained two-month delay in seeking relief precludes a finding of due diligence," the opinion said.

Coral Springs lawyers Gary S. Rosner of Ritter Chusid filed the motion to vacate, claiming that the sudden departure of the company's in-house counsel led to "a combination of mishaps." He is no longer listed as counsel in the online case filed and did not respond to a request for comment by deadline.

Fort Lauderdale attorney Joey L. Lampert of Perlman, Bajandas, Yevoli & Albright represented Chetu with Paul D. Turner and Benjamin L. Reiss. Lampert said his client is thrilled with the ruling.

"In these situations, there is usually neglect by defendants," Lampert said. "The question is whether or not it was excusable."

To vacate the judgment, the defendant would have had to prove excusable neglect, offer a meritorious defense and show that it acted with due diligence in seeking relief, according to the opinion. Instead, Sanderson testified that court filings had been sent to the right address but didn't present any evidence to explain why nothing was done.

"You have to timely act to protect your rights," Lampert said. "The court has discretion, but there is a standard that must be met."

Franklin First has since gone out of business, according to its website. The company did not respond to the email address listed.

Raychel Lean reports on South Florida litigation for the Daily Business Review. Send an email to rlean@alm.com, or follow her on Twitter via @raychellean.

FROM PAGE A1

FLAGSTONE

The Third District Court of Appeal on Wednesday upheld a lower court order finding no standing for the residents and losing bidder. Their attorneys had no comment by deadline

The foursome were represented by Carlton Fields shareholder Richard Ovelmen, senior counsel Justin Wales and associate Dorothy Kafka as well as by Dubbin & Kravetz principal Samuel Dubbin.

On the other side were the city attorney's office and Eugene Stearns, Maria Fehretdinov, Jason Koslowe and David Coulter of Stearns Weaver Miller Weissler Alhadeff & Sitterson in Miami.

The island with a stunning view of the downtown skyline and cruise ships docked at the Port of Miami is envisioned for a 305-room hotel with 105 timeshares; a 300-room hotel; 221,000 square feet of retail; and a 1,500-space parking garage that will be up to three stories high.

A 50-slip megayacht marina and restaurant are already open on the MacArthur Causeway island linking Miami and Miami Beach.

Flagstone Island Gardens, led by Mehmet Bayraktar, won a 2001 solicitation for development of 11 acres of land and 13.4 acres of submerged land in Biscayne Bay. City voters approved the project later that year.

The project stalled for years because of the Great Recession and financing issues, prompting the city to modify the submerged land lease in 2014 and the land lease in 2016.

Miami residents Francine Liebman, Jorge Mursuli and Daniel Suarez sued in 2017, and bidder Willy Bermello joined as a plaintiff in 2018.

Bermello was principal and president of BAP Development Inc., which was an equity participant in losing bidder Watson Island Partners LLC.

The foursome argued in Miami-Dade Circuit Court that the amended leases violated the city charter and sought declaratory and injunctive relief against the city. Flagstone backed the city in court.

Circuit Judge William Thomas in a March 2018 order sided with the city and Flagstone, which argued the residents and Bermello lacked standing.

Thomas shot down an argument by Liebman, Mursuli and Suarez that a 2016 city code change granted them standing. He also rejected Bermello's special injury argument that he would consider applying for the project if the city again solicited developers.

The appellate panel unanimously agreed with Thomas that the code amendment doesn't apply and Bermello's special injury claim failed because he only argued he would "consider" re-applying rather than committing to participate in another round.

"Such an allegation fails to provide anything more than a mere possibility, and is insufficient to meet the special injury requirement for standing purposes," Chief District Judge Kevin Emas wrote for a unanimous panel. Judges Norma Lindsey and Bronwyn Miller concurred.

The panel also agreed with Thomas that the city code amendment didn't apply because it was approved after the city OK'd the lease modifications.

"The amendment contains no language of retroactivity, nor any indication that it was intended to be applied retroactively," Emas wrote.

The city and Flagstone weren't always on the same team. Flagstone sued the city for suspending the development,and Thomas last year ruled in favor of Flagstone.

The two sides agreed to a $20 million settlement in May. If the case went to trial, Flagstone could have claimed nearly $200 million in damages.

Lidia Dinkova covers South Florida real estate for the Daily Business Review. Contact her at LDinkova@alm.com or 305-347-6665. On Twitter @LidiaDinkova.

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FLORIDA LEGAL REVIEW

Friends of Slain Law Prof Dan Markel Await Justice, Five Years On

by Karen Sloan

Florida State University law professor Dan Markel has been gone for five years—gunned down in the driveway of his Tallahassee home on July 19, 2014, in an apparent hit.

But he's not forgotten. Far from it.

The bizarre circumstances of Markel's death and the swirling intrigue around who is behind it have made the case a staple of the true-crime genre. It was the subject of episodes of "Dateline," "20/20," and "People Magazine Investigates." This spring, Markel's death and the ongoing legal case were chronicled in a six-part season of the podcast "Over My Dead Body," which shot to the top of iTunes' podcast charts.

Much of the media and true-crime interest stems from the belief of investigators that the wealthy family of Markel's ex-wife—Wendi Adelson—set the murder in motion. (No members of the Adelson family have been charged in connection to Markel's killing and their lawyers deny any involvement. However, prosecutors believe that her brother Charlie Adelson hired two Miami men to drive to Tallahassee and slay him. They also believe that the mother of Wendi and Charlie, Donna Adelson, was in on the plan.)

It's not hard to see why the case has garnered so much attention, said Florida International University law professor Howard Wasserman, who was a friend of Markel's and co-author of PrawfsBlawg, the legal blog the slain professor founded.

"It's a juicy story, and if it weren't real and somebody tried to write it, the author would be accused of not being believable," Wasserman said. "So many of the details are, I think, irresistible to the people who are interested in true crime."

In an unsealed probable-cause affidavit in 2016, police said that "a desperate desire" by Wendi Adelson's family to move the couple's two children from Tallahassee to Miami amid a bitter custody battle was the motive of the murder. Charlie Adelson's attorney, David Markus, on Thursday again rejected the notion that his client was involved.

"For five years, the state (and the true-crime world) has picked through every piece of Charlie's life—every phone call, every email message, every text, every relationship, every possible witness—looking for any excuse to charge him," Markus said. "But there is nothing there."

Some of Markel's friends and colleagues have mixed emotions about the intense public interest in the case. In addition to the many true-crime treatments, the local media in Tallahassee follows each twist on the ongoing legal proceedings against the two accused hitmen and the woman investigators believe helped facilitate their connection with Charlie Adelson.

The media attention is part of a deliberate strategy by Markel's family to keep his case in the spotlight and put pressure of those responsible, said Fordham University law professor Ethan Leib, who also worked closely with Markel on scholarly articles and on PrawfsBlawg. His parents—Ruth and Phil Markel—have participated in many of the television shows and other coverage.

"It's hard to relive it over and over again when we see this stuff on TV and other media platforms," Leib said. "On the other hand, the hope is that it brings enough attention to the matter that it continues to put pressure on whoever thinks this story just might go away and they won't have to deal with it."

It's also strange to see Markel portrayed in a different light than the man he knew, Wasserman added. While his friend occasionally mentioned his contentious divorce from Wendi Adelson, Wasserman did not understand just how hostile the legal proceedings and custody battle had become until he saw the situation picked apart on television.

Orin Snyder, a partner with Gibson, Dunn & Crutcher who is representing Markel's parents, issued a statement July 18 noting that his friends and family are still awaiting justice five years on. Moreover, the couple hasn't seen their two grandchildren in more than three years, it says. (The boys live in South Florida with Wendi Adelson.)

"The Markels used to travel to Tallahassee to visit Dan and the boys at home—to visit their preschool, to attend music programs, and to play in the park together," Snyder's statement reads. "Now, as they prepare to return to Tallahassee for the trial of some of Dan's alleged killers, they will be forced to re-live the nightmare of Dan's murder all over again."

Two of the people who investigators believe were involved in the killing—Katherine Magbanua and Sigfredo Garcia—are scheduled to face trial in September, following more than two years of delays. Prosecutors believe Magbanua, who once dated Charlie Adelson, connected him to Garcia—one of the two accused hitmen and the father of Magbanua's two children. Garcia is also due to stand trial in September.

The second accused hitman, a high-ranking member of the Latin Kings named Luis Rivera, pleaded guilty in October of 2017 and received a seven-year sentence in addition to a 12-year sentence he's currently serving for an unrelated crime. He implicated both Garcia and Magbanua.

The bizarre circumstances of Dan Markel's death and the swirling intrigue around who is behind it have made the case a staple of the true-crime genre.

Karen Sloan is the Legal Education Editor and Senior Writer at ALM. Contact her at ksloan@alm.com. On Twitter: @KarenSloanNLJ.

Palm Beach Sheriff to Investigate Epstein's Time Outside Jail

by Curt Anderson

A Florida sheriff launched an internal investigation Friday into wealthy financer Jeffrey Epstein's time spent out of jail after he was convicted of sexually abusing underage girls.

The inquiry will focus on whether deputies assigned to monitor Epstein violated any rules or regulations while he was out on work release, Palm Beach County Sheriff Ric Bradshaw said in a statement. Under a 2008 plea deal, Epstein was allowed to spend most of his days at the office of his now-defunct Florida Science Foundation, which doled out research grants, rather than in the county jail.

"All aspects of the matter will be fully investigated to ensure total accountability and transparency," Bradshaw said.

Epstein, 66, was convicted of prostitution-related charges in the Florida case, which involved dozens of underage teenage girls. He served a 13-month sentence, registered as a sex offender and paid restitution to the victims. The deal also included a formerly secret nonprosecution agreement that helped Epstein avoid more serious federal charges that could have landed him in prison for life.

Federal prosecutors in New York have charged Epstein with sex trafficking involving underage victims. If convicted, he could be sentenced to up to 45 years in prison. He has pleaded not guilty, but a judge denied him bail on Thursday after determining he was a flight risk and posed a danger to the community.

Epstein was allowed to spend most days at his office after a little more than three months in the county jail, according to Palm Beach County sheriff's records released to The Associated Press. Sex offenders are not eligible for Florida's work release program, but officials say Epstein was able to participate because he wasn't a registered sex offender until after he had already served his time.

Under his 2008 plea deal, Epstein had his own driver to take him to and from his office, and he was allowed to be out of jail from 8 a.m. to 8 p.m., six days a week. Deputies were assigned to the office to monitor who his visitors were. Logs show many visits from attorneys, paralegals and others involved in his legal cases. It wasn't clear if all visitors registered, however. Epstein was not allowed to leave the office unless he was returning to jail.

Bradshaw said determining whether Epstein's wealth and high-powered legal team resulted in favoritism from the sheriff's department would be a key part of his investigation and a question that would be taken "very seriously."

The New York charges against Epstein led to the resignation of President Donald Trump's labor secretary, Alex Acosta, who was Miami U.S. attorney when the nonprosecution agreement was signed. Two victims filed a federal lawsuit asking for the plea deal to be thrown out. The suit claims prosecutors did not consult with victims as required by law, and a federal judge earlier this year agreed there was a violation.

Curt Anderson reports for the Associated Press.

Florida Can Require Licenses for Dietary Advice, Court Rules

by Candice Choi

Florida can limit who gets to give dietary advice, a federal court ruled.

The ruling came in a lawsuit filed by a health coach who was fined for practicing without a dietary license. Heather Del Castillo had argued Florida's law violated her First Amendment right to free speech, noting dietary advice is ubiquitous online, in books and on TV.

The case underscored the varying state laws on who can charge for personalized dietary advice. Some states do not require licenses, while some protect the use of titles such as "dietitian." Others such as Florida restrict the practice more broadly to licensed professionals.

The inconsistencies stand to cause confusion about the qualifications of people who offer nutrition counseling. Health coaches generally say they can help people achieve their goals and may get certificates from a variety of programs. But anyone can use the title, which doesn't have a consistent meaning.

By contrast, registered dietitians with the Academy of Nutrition and Dietetics have education and training that generally qualify them to meet any state licensing requirements. The academy says it doesn't oppose bloggers and influencers who share dietary views online, but that dietitians have the background to advise people with medical conditions such as diabetes.

In its ruling Wednesday, the U.S. District Court in Pensacola said the state law is intended to protect people from incompetent advice, and that the law requires a license specifically to charge for individualized counseling. It said the law does not prevent Del Castillo from giving dietary advice for free, or from giving speeches or writing about nutrition.

The case was taken up by the Institute for Justice, a free-market group that has challenged other occupational licensing laws, such as for tour guides . The court said licensing for dietary advice is different because clients are given individualized advice, whereas tour guides give everyone the same information.

The Institute for Justice said it planned to appeal.

Candice Choi reports for the Associated Press.

FROM THE COURTS

One Giant Leap for Mankind, Many Small Steps in Litigation

by Jonathan Ringel

Along with Silicon chips, global communications networks and the phrase "Houston, we have a problem," legacies of the moon landings that began 50 years ago this week include an eclectic range of litigation and court references to the Apollo program.

The subjects involved trade secrets for spacesuits, Bible readings from lunar orbit, whether the moon is made of cheese, the right to desecrate a U.S. flag, theft and a continuing debate over who owns the lunar dust the astronauts brought back to Earth.

No case appears to have changed American jurisprudence in any cosmic fashion. But a review of dozens of court decisions available on LexisNexis in which the words "Apollo" and "moon" are used shows how much was at stake in the $28 billion government program and how the lunar landings remain a source of fascination 50 years later.

The first reference to the Apollo program in those court cases occurred in May 1963, a week after astronaut Gordon Cooper completed 22 orbits of the Earth in his Mercury spacecraft. On the ground in Ohio, B.F. Goodrich Co. sued an executive who left the company to work for International Latex Corp. to keep him from sharing trade secrets related to pressure suits needed for the fledgling Apollo program. The Ohio Court of Appeals upheld an injunction keeping the executive from disclosing B.F. Goodrich's secrets, but International Latex—under its bra brand Playtex—ended up making the Apollo spacesuits.

No case from the 1967 Apollo 1 fire that killed three astronauts in in a ground test appeared in the review. The New York Times reported last year that the widow of the mission commander, Gus Grissom, received $350,000 to settle a negligence suit against North American Rockwell, the primary maker of the spacecraft.

Of the handful of Apollo cases that were decided, LexisNexis shows most were about trade secrets and antitrust claims, plus a sales tax case where contractors were building the Saturn V rocket in Alabama, before both Apollo 11 and Apollo 12 completed successful missions in 1969.

But in December 1969, the U.S. District Court for the Western District of Texas ruled against atheist Madalyn Murray O'Hair and the Society for Separationists, who sued NASA, claiming that the government space agency violated church-state separation. The alleged reason: Astronauts on Apollo 8 read the first verses of Genesis during a live broadcast while they orbited the moon on Christmas Eve in 1968.

A three-judge court rejected the suit, writing: "Apparently, the plaintiffs are claiming that they have a right not to be exposed to religion as they were during the televising of the Apollo 8 flights. This, however, does not amount to coercion, and it is necessary to show a coercive effect to constitute an abridgment of the Free Exercise Clause."

In another section, the court wrote, "to have prohibited the astronauts from making these statements would have been a violation of their own religious rights."

In 1971, the U.S. Court of Appeals for the D.C. Circuit upheld a federal law criminalizing desecration of the flag, ruling against a protester at President Richard Nixon's inauguration who ripped a 3-inch-by-5-inch flag. The court cited comments by astronaut James Irwin, who had recently returned from the moon on Apollo 15 and told Congress, "The proudest moment of my life was when I saluted our American flag" planted on the lunar surface. (The U.S. Supreme Court found flag desecration laws unconstitutional in 1989.)

Legal fights over patents, railroad covenants and environmental cleanups related to the Apollo program appear in the 1970s and 1980s, but perhaps the biggest legal impact of the moon landings occurred in a health insurance case that had nothing to do with space, NASA or astronauts.

At issue in Skinner v. Aetna Life & Casualty, was a man whose insurance company refused to cover medical costs on the grounds that he lied on an application when he said he hadn't had any departures from good health in the past five years. The U.S. Court of Appeals for the D.C. Circuit in 1986 held that what the applicant believed "is the determining factor in judging the truth or falsity of his answer"—but a court could find a statement false if that belief is "clearly contradicted by the factual knowledge on which it is based."

Courts around the country have cited the next sentence in at least 14 other cases: "To conclude otherwise would be to place insurance companies at the mercy of those capable of the most invincible self-deception—persons who having witnessed the Apollo landings, still believe the moon is made of cheese."

Buzz Aldrin standing on the moon surface, Apollo 11.

In recent years, courts have fielded a host of cases concerning lunar rocks or other material turning up outside of the places NASA or the U.S. government expected them to be. In some cases, courts have upheld convictions and sentences for theft of the items, such as a man sentenced to 90 months in prison for stealing a 600-pound safe containing lunar samples from every Apollo mission that landed on the moon, documentation authenticating the lunar samples, Martian meteorites and other items from NASA and the Johnson Space Center in Houston.

Jonathan Ringel is managing editor of the Daily Report, the ALM newspaper in Atlanta. He can be reached at jringel@alm.com. Twitter: @jonathanringel

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FROM THE COURTS

Kagan Rallies Gerrymandering Foes to 'Go For It—Because You're Right'

by Marcia Coyle

U.S. Supreme Court Justice Elena Kagan, who dissented passionately from the court's refusal last month to prevent partisan gerrymandering, said Thursday her words were written "for all those people out there who in some way can carry on the efforts against this kind of undermining of democracy."

"Go for it, because you're right," Kagan said, speaking in a conversation with Dean William Treanor at Georgetown University Law Center.

Kagan was responding to the dean's question about whether Kagan ever has an audience in mind when she writes dissents. Her audience varies, Kagan said, because there are different kinds of dissents. Sometimes she writes in dissent because she saw a case differently from the majority, she said. But she said other cases, like the gerrymander case, are different.

"I didn't pull my punches as to the importance of that decision to the political system and the way we govern ourselves," Kagan said. "There, you're not writing a dissent because you saw the thing differently. You're writing the dissent because you want to convince the future—and the present, too."

The 5-4 majority in two partisan gerrymander cases this past term held that there were no judicially manageable standards for judges to determine when partisanship in redistricting is so excessive that it violates the Constitution. Kagan, joined by the court's three other liberals, vehemently disagreed and pointed to how lower court judges already were finding ways to root out excessive partisanship.

"Of all times to abandon the court's duty to declare the law, this was not the one," Kagan wrote in her dissent. "The practices challenged in these cases imperil our system of government. Part of the court's role in that system is to defend its foundations. None is more important than free and fair elections. With respect but deep sadness, I dissent."

Chief Justice John Roberts Jr. said the dissenters in the gerrymandering cases were seeking an "unprecedented expansion of judicial power." Roberts said the Supreme Court has "no commission to allocate political power and influence in the absence of a constitutional directive or legal standards to guide us in the exercise of such authority."

There were difficult issues in the case, Kagan said Thursday. "You can understand why the majority reached the decision it did and I'm 100% certain the majority was acting in good faith in reaching the decision it did," she said. "But I want the majority to think about this going forward."

Kagan spent part of the Georgetown conversation, co-sponsored by the Washington Council of Lawyers, discussing Justice John Paul Stevens, who died Tuesday at age 99. Kagan was nominated and confirmed to fill Stevens' seat when he retired in 2010 after nearly 35 years on the high court.

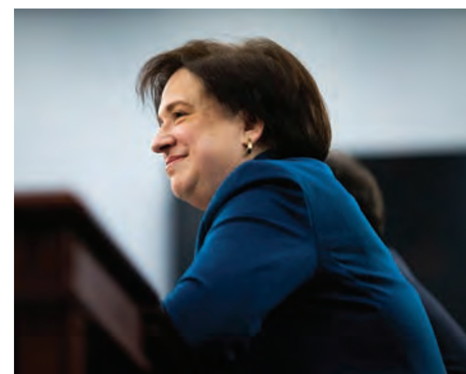
Kagan said the court will begin a week of mourning Stevens' death "but if it is ever appropriate to say it's also a celebration of a life, it is that, too. My gosh, 99 years old, sharp as a tack until the day he died and he went very peacefully—we all should have a life like that."

Stevens was "absolutely brilliant" in the technical aspects of lawyering, she added. At the same time, he insisted that "our legal institutions be fair and that is what really marked him as a justice." She called Stevens "fiercely independent" who throughout his career had a strong sense of doing what he thought was right. At the same time, he was the model of collegiality."

Stevens never imposed advice on her, Kagan said, but simply made himself available if she needed it.

"One of the things he said that really stuck with me—he said he tried to think every term about all the things he could learn the next term," Kagan recalled. "Most people doing a job 35 years, think they've got it down. One real aspect of his greatness was he was constantly thinking and rethinking what he didn't know yet."

She continued: "It's a great lesson for everybody but especially so for judges. Everyone treats you as special and everything you do is important that it's easy to convince yourself you know everything. He was the absolute antithesis of that."



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"I didn't pull my punches as to the importance of that decision to the political system and the way we govern ourselves," Justice Elena Kagan said in remarks at Georgetown University Law Center.

Stevens's body will lie in repose July 22 in the high court's Great Hall on the Lincoln Catafalque, which has been loaned to the court by the U.S. Congress for the ceremony. A 1991 portrait of Stevens by James Ingwersen will be on display in the Great Hall. Former law clerks to the Justice will serve as honorary pallbearers.

A private funeral service and interment is set to be held at Arlington National Cemetery on July 23.

Marcia Coyle, based in Washington, covers the U.S. Supreme Court. Contact her at mcoyle@alm.com. On Twitter: @MarciaCoyle

Fifth Circuit Affirms $43.21M Verdict for Houston-Based Apache Affiliate

by Angela Morris

A dispute between two Gulf of Mexico oil and gas producers over the right equipment and payment for plugging and abandoning wells has ended in a $43.21 million verdict for an affiliate of Houston-based Apache Corp.

The U.S. Court of Appeals for the Fifth Circuit ruling in *Apache Deepwater v. W&T Offshore Inc.* gives important guidance for offshore oil and gas operators and non-operators, said a statement by Susman Godfrey partner Geoffrey L. Harrison, who represents Apache Deepwater.

"Companies must comply with their contracts and with federal decommissioning requirements, and safety and sound operational judgment outweighs ill-conceived cost sensitivity," said Harrison.

The July 16 opinion explained that the dispute involved plugging and abandoning operations of three offshore oil and gas wells in the Gulf of Mexico. Apache Deepwater sued W&T Offshore Inc. seeking payment for the operation, and a jury awarded $43.2 million to Apache after finding that W&T breached an operating agreement.

The two companies disputed the method of how to plug and abandon the wells. W&T was expecting to use an intervention vessel called the Helix for the job but learned in 2014 that Apache planned to use two drilling rigs called the Ocean Onyx and Ensco instead.

While W&T claimed that Apache was just trying to save money by switching to the Onyx and Ensco, Apache countered that using the Helix was not safe and that government regulators would disapprove of it. Apache alleged that W&T resisted using the two drilling rigs—it refused to approve authorizations for expenditures for them—because using the Helix would have been cheaper for W&T.

In the end, Apache moved forward with plugging the wells with the Onyx and Ensco, costing $139.9 million. Apache then billed W&T its 49% share of $68.57 million, but W&T only paid $24.86 million, which represented 49% of the cost if the Helix had been used.

This spurred Apache to sue W&T for breach of contract in December 2014. W&T countered in a motion for summary judgment that the contract required W&T's approval on an authorization for expenditure, which didn't happen. The trial court decided the contract was ambiguous and denied summary judgment for W&T.

At trial, a jury found W&T breached the contract by failing to pay its share of the costs. Apache won a $43.21 million verdict. Yet the jury also found that Apache acted in bad faith and caused W&T's noncompliance with the contract and that the award should be offset by $17 million.

The court's final judgment determined the jury's bad faith finding didn't preclude Apache's breach of contract recovery and that W&T shouldn't get the offset under Louisiana law.

On appeal, W&T contended that a Louisiana law dictated that the jury's bad faith finding should bar Apache's recovery. However, the district court had ruled that Louisiana Supreme Court precedent would have required W&T to prove that Apache failed to perform its end of the contract, which caused W&T to breach the contract. That didn't happen here.

The Fifth Circuit agreed with the district court's reasoning and ruled that Apache wasn't barred in its recovery.

"The question of the obligee's bad faith does not become relevant until there is a determination that the obligee failed to perform a contractual obligation that in turn caused the obligor's failure to perform," the opinion explained.

W&T also argued on appeal that it did not breach the contract, since it never approved of an authorization for expense, and the contract allowed a short payment in that scenario. However, the judge found the contract was ambiguous and that a jury needed to determine its meaning; the Fifth Circuit ruled this was the correct process.

In the appeal W&T also argued for the reinstatement of its $17 million offset to Apache's recovery. The Fifth Circuit rejected all of its legal arguments and denied the offset.

W&T's attorney, Stephen Kupperman, partner in Barrasso, Usdin, Kupperman, Freeman & Sarver in New Orleans, declined to comment.

Angela Morris is ALM Media's Texas litigation reporter. She covers lawsuits in all levels of Texas state and federal courts. Based in Austin, Morris earned journalism and government degrees from the University of Texas at Austin in 2006, and since then, has worked primarily as a reporter and writer, but also has skills in videography, photography and podcasts. Follow her on Twitter at @AMorrisReports.

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REGULATORY

Acosta's Dinner Guests Once Included Gene Scalia, Now On Deck to Lead Labor

by Mike Scarcella

DIEGO M. RADZINSCHI

Labor Department calendars show then-Secretary Alex Acosta grabbed a bite with the Gibson Dunn regulatory veteran who would succeed him.

Back in February, U.S. Labor Secretary Alex Acosta was spotted grabbing a bite with Justice Samuel Alito Jr. at the downtown Washington restaurant Central Michel Richard. Acosta wasn't meeting a stranger. He clerked for Alito in the early 1990s when he was a judge on the U.S. Court of Appeals for the Third Circuit.

Washington dinners and lunches are a regular source of gossip and intrigue, as appearances and connections sometimes end up featured in news reports and raise questions about influence and intentions. Cabinet secretaries' schedules can provide a peek into Washington's power network.

Acosta's would-be successor is a prominent Washington lawyer so closely entwined in the regulatory pulse of the country at the highest levels that he, too, has dined with the Labor secretary, according to Acosta's calendars. Eugene Scalia is now preparing to take over the leadership of an agency where he had served as the top lawyer in the George W. Bush administration.

Today is Acosta's last day in office, a forced departure that comes amid renewed criticism of the lenient plea deal he signed off on for sex offender Jeffrey Epstein more than a decade ago as Miami's top federal prosecutor.

Acosta and Scalia, the Gibson, Dunn & Crutcher regulatory co-leader and a son of the late Justice Antonin Scalia, ate at an undisclosed location in January. Many of Acosta's dinners were shared with pro-business leaders. The names of some guests are not revealed.

Scalia, whose nomination was announced in a Trump tweet on Thursday night, has long been a big name for household companies challenging class claims and regulatory oversight. The president said, "Gene has led a life of great success in the legal and labor field and is highly respected." Scalia formerly led Gibson Dunn's labor and employment practice.

Last year, Scalia represented the investment bank UBS Americas Inc. in challenging the power of employees to form a class action to fight compensation practices. Scalia was lead counsel to SeaWorld in a challenge to the penalty that federal workplace safety regulators imposed after a trainer was killed by a whale. Scalia led the Gibson Dunn team that successfully fought the Obama-era Labor Department rule that would put new burdens on financial advisers in the retirement-savings industry.

Sen. Tom Cotton, the Arkansas Republican who is also a Gibson Dunn alum, reportedly advocated for Scalia's nomination as labor secretary. Cotton pitched Scalia to White House counsel Pat Cipollone and other administration officials, The Washington Post reported. In a statement Friday, Cotton said he was "confident he'll be a champion for working Americans against red tape and burdensome regulations."

Democrats assailed Trump's intent to nominate Scalia. Sen. Chuck Schumer of New York, the Democratic majority leader, said Trump "has again chosen someone who has proven to put corporate interests over those of worker rights."

The revolving door between Gibson Dunn and the Trump administration hasn't whirled as fast as it has with other law firms, such as Kirkland & Ellis and Jones Day. Gibson Dunn lawyers, including appellate partner Theodore Boutrous Jr., have played leading roles in some of the most visible cases, including immigration suits, against the Trump administration.

Scalia would be only one of a handful of Gibson Dunn attorneys to hold a leadership post in the Trump administration. Gibson Dunn appellate veteran Helgi Walker was informally approached last year about succeeding Rachel Brand as third-in-command at Main Justice, but she said she wasn't interested in the post at the time. Theodore Olson turned down the opportunity to join Trump's legal team.

In California, former Gibson Dunn partner Nicola Hanna serves as the U.S. attorney in Sacramento, and former associate Scott Stewart is a deputy assistant attorney general in the Justice Department's civil division. Two former associates—Coreen Mao and Trent Benishek—jumped this year to the Trump White House counsel's office. At the White House, they joined Chad Mizelle, another former associate at the firm.

Scalia wasn't the only household Washington name Acosta dined with this year. Some of the January dinner guests included Michael Chertoff, senior of counsel at Covington & Burling and a former secretary of Homeland Security, and Paul Atkins, a former SEC commissioner who played a lead role on the Trump transition team.

The liberal watchdog group American Oversight obtained more than 1,000 pages associated with Acosta's calendars via the Freedom of Information Act. Politico, which closely reviewed the calendars, concluded the departing labor secretary more often had met with Republicans and business advocates than with labor union leaders.

Mike Scarcella is a senior editor in Washington on ALM Media's regulatory desk. Contact him at mscarcella@alm.com. On Twitter: @MikeScarcella. Mike works on a slate of newsletters: Supreme Court Brief | Higher Law | Compliance Hot Spots | Labor of Law.

FROM PAGE A1

HAWKINS

Hawkins is relatively new to the role, having been elevated to the bench in November by former Florida Gov. Rick Scott, now a U.S. senator. She filled the vacancy left by the retirement of Broward Circuit Judge Michael L. Gates in July 2018 and worked with the Broward State Attorney's Office prior to her appointment. According to her Florida Bar profile, Hawkins was admitted to the bar in October 2004.

Hawkins' legal counsel, Fort Lauderdale attorney David Bogenschutz, told the Daily Business Review he and his client were disappointed with the Florida Supreme Court's decision.

"That doesn't affect our decision to continue to contest this, and that's what we intend to do," Bogenschutz said, adding a response to the JQC is forthcoming. "The JQC and the Florida Supreme Court has a tendency, thankfully, to move these cases along."

Broward Circuit Chief Judge Jack Tuter expressed concern over Hawkins' exchange with the court employee.

"Last month an incident regarding Judge Hawkins was brought to my attention and the matter was thoroughly investigated," Tuter said in an emailed statement provided to the Daily Business Review prior to the release of Friday's order. "After the investigation, Judge Hawkins self-reported the matter to the Judicial Qualifications Committee who has jurisdiction over allegations of judicial misconduct."

The chief judge added, "Judge Hawkins is deeply apologetic over the incident. There exists no situation in which a judge can inappropriately touch any person."

Zach Schlein is a writer based in Miami. Originally from Montville, New Jersey, he holds a B.A. in political science from the University of Florida and is the litigation reporter for Daily Business Review. He can be reached at his email address, zschlein@alm.com

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OPINION & COMMENTARY

FROM DAILY BUSINESS REVIEW EDITORS & GUESTS

Alexa, Can You Be Used Against Me in Court?

Commentary by Brian Schrader

It hasn't taken long for smart speakers to gain a foothold in modern culture. Though the oldest standalone voice-operated digital assistants have only been on the market for five years, products like Amazon's Alexa and Google Home can now be found in hundreds of millions of households.

Smart speakers are popular for a good reason. With a short voice command you can quickly and easily shop online, get news and weather alerts, control other devices in your house, or say, learn the entire filmography of Bill Pullman, all without booting up your computer or pulling out your smartphone.

The popularity of smart speakers has happened with such speed that it's outpaced the legal issues surrounding them. For businesses that own such a device, or for individual employees who might have a personally owned one on their office desk, the question of who owns any recorded data remains murky, for instance.

It's not our everyday conversations that really are the issue, though. The larger concern is the possibility that a user could accidentally trigger Alexa by saying a word that sounds similar to a command, which then means that entire interaction is recorded and becomes part of the device's history. For instance, Alexa could record a crime as it happens or pick up a conversation where sensitive material like trade secrets are discussed. Those aren't just theoretical either, as such events have already happened.

TARGETED AT CONSUMERS

In general, devices like Alexa are intended for the consumer market and don't have many features that would make them truly useful tools for businesses. That said, Microsoft recently announced improvements for its Cortana smart speaker that will make it the first device of its type to be targeted at businesses. More will surely follow.

For now, though, the devices are primarily targeted squarely at the consumer marketplace, so using smart speakers in the office may not be very beneficial for most businesses. But such use could carry a certain amount of risk.

First, there's the risk of who might have access to any company data that finds its way into the smart speaker product. One need look no further than the recent news stories concerning humans employed by Amazon to listen to various anonymized Alexa recordings. Simply put, you don't really know who might listen to something Alexa records—intentionally or otherwise.

What's more, user agreements for consumer products generally don't protect such captured data as would be expected in enterprise products. For products targeted at businesses, the company that owns the product nearly always has unequivocal ownership of its data. For consumer devices, there is often less clarity. While saved data is usually still the property of the consumer, the device maker often stipulates that it has the right to access the data for various analysis or other purposes.

Finally, the mere existence of such devices can create unintended consequences and associated costs to the business, like having to include them in any legal, regulatory or other compliance process. Legally speaking, the actual medium where data is stored doesn't make a huge difference. Voice-activated smart speakers may be a new and different way of storing data, but for legal matters, that underlying data recorded by the device likely would be treated the same as paper documents or other kinds of electronic material.

During litigation or discovery, the biggest obstacle would be justifying the collection and analysis of data on a device based on its potential relevance. Any data contained on a company-owned device—even an employee's personal data—is usually discoverable if responsive to valid document requests. Information from personal devices used at a job are also often fair game too—although it would behoove an employer to apprise employees of that policy to avoid surprises down the road. On the other hand, a court likely would set a fairly high bar to justify the discovery of such data from an employee's home device.

A RECURRING PROBLEM

If you're feeling a little déjà vu, there's good reason. We've been through all this before—five to 10 years ago, in fact. That's when smartphones and tablets started appearing in the workplace. Back then, companies had the same general options they do now: They can ban their employees from using the devices in question; they can create policies outlining acceptable use; or they can ignore the problem entirely. Unfortunately, many corporations chose the last option, at least initially, and it wouldn't be surprising if many did so again.

SHUTTERSTOCK

Employers who are concerned about the use of voice-activated smart speakers might be best served by clamping down on their general use, at least initially. Certainly, in places where sensitive information is discussed—trading floors at financial institutions, for example—they should be prohibited outright. If you decide to allow the use of smart speakers, make sure you put usage policies and expectations in writing and regularly remind employees what they are, as well as what the ramifications are for disregarding them.

The aforementioned Microsoft Cortana aside, I do find it interesting that smart speakers haven't yet targeted the enterprise market. Devices that eventually do, though, will need to have built-in compliance and discovery functionalities to help companies meet the legal standards and regulations of their respective industries and legal proceedings generally.

Gmail underwent a similar metamorphosis. When Google first introduced the now-ubiquitous email service, it was clearly consumer-focused. However, when Google eventually introduced its cloud-based G-Suite to compete in the business marketplace against Microsoft Office, it included discovery capabilities so that information was saved appropriately and could be extracted if needed. When the next wave of digital assistants comes, we'll likely see enterprise-focused products that contain those kinds of necessary features.

Until then, it's going to be challenging for any business that has to include such a device in their legal proceedings or regulatory compliance programs, as the devices simply haven't been designed to meet such requirements. But that won't stop opposing parties from demanding their inclusion in those processes, just like with smartphones and tablets before them.

Brian Schrader, Esq., is President & CEO of BIA (www.biaprotect.com), a leader in reliable, innovative and cost-effective eDiscovery services. With early career experience in information management, computer technology and the law, Brian co-founded BIA in 2002 and has since developed the firm's reputation as an industry pioneer and a trusted partner for corporations and law firms around the world. He can be reached at bschrader@biaprotect.com.

CARTOON BY ARTIZANS

METHODOLOGY

The attorney head counts come from a National Law Journal survey of the 500 largest law firms in the United States covering the previous calendar year. Data is collected from firms at the same time as the Am Law financial numbers. ALM sent surveys this year to more than 900 law firms to determine the largest U.S.-centric firms by head count. Attorney totals are based on the average number of full-time equivalent, or FTE, attorneys for Jan. 1 to Dec. 31, 2018. Attorneys counts for law firms marked with an asterisk were based on websites checked this month.

Review 100 Chart

Rank	Firm	2017 Attorneys	2018 Attorneys	% Change
1	Cole, Scott & Kissane	382	433	13.4%
2	Greenberg Traurig	364	363	-0.3%
3	Akerman	379	360	-5.0%
4	Holland & Knight	297	310	4.4%
5	Morgan & Morgan	226	287	27.0%
6	GrayRobinson	297	276	-7.1%
7	Shutts & Bowen	257	270	5.1%
8	Quintairos, Prieto, Wood & Boyer	221	245	10.9%
9	Carlton Fields	212	206	-2.8%
10	Wicker Smith O'Hara McCoy & Ford	167	200	19.8%
11	Gunster	188	192	2.1%
12	Nelson Mullins Riley & Scarborough	151	164	8.6%
13	Greenspoon Marder	151	156	3.3%
14	Conroy Simberg	130	133	2.3%
15	Kubicki Draper	97	130	34.0%
16	Foley & Lardner	122	120	-1.6%
17	Stearns Weaver Miller Weissler Alhadeff & Sitterson	100	115	15.0%
18	Kelley Kronenberg	106	109	2.8%
19	Shumaker, Loop & Kendrick	106	104	-1.9%
20	Becker & Poliakoff	90	102	13.3%
21	Hill Ward Henderson	97	97	0.0%
22	Butler Weihmuller Katz Craig	85	94	10.6%
23	Vernis & Bowling	81	90	11.1%
23	Bilzin Sumberg	92	90	-2.2%
25	Luks Santaniello Petrillo & Jones*	82	86	4.9%
26	Lowndes, Drosdick, Doster, Kantor & Reed	82	84	2.4%
27	Trenam*	81	82	1.2%
28	Berger Singerman	76	78	2.6%
29	Johnson Pope Bokor Ruppel & Burns*	69	76	10.1%
30	Fowler White Burnett	79	75	-5.1%
31	Roig Lawyers	78	74	-5.1%
32	Rumberger Kirk & Caldwell	66	72	9.1%
33	Lydecker | Diaz*	71	71	0.0%
34	Weiss Serota Helfman Cole & Bierman*	67	69	3.0%
35	Rogers Towers*	60	67	11.7%
35	White & Case	67	67	0.0%
37	Burr & Forman	70	61	-12.9%
37	Hinshaw & Culbertson	73	61	-16.4%
39	Tripp Scott*	46	60	30.4%
39	Marshall, Dennehey, Warner, Coleman & Goggin	54	60	11.1%
41	Lewis Brisbois Bisgaard & Smith	38	56	47.4%
42	Baker & Hostetler	54	55	1.9%
43	Walton Lantaff Schroeder & Carson*	42	54	28.6%
44	Liebler, Gonzalez & Portuondo*	48	53	10.4%
45	Boies Schiller Flexner	58	52	-10.3%
46	Saul Ewing Arnstein & Lehr	50	51	2.0%
47	Buchanan Ingersoll & Rooney	58	50	-13.8%
48	Shook, Hardy & Bacon	50	49	-2.0%
48	Williams Parker Harrison Dietz & Getzen*	50	49	-2.0%
50	Siegfried, Rivera, Hyman, Lerner, De La Torre, Mars & Sobel*	48	48	0.0%
50	Hopping Green & Sams*	51	48	-5.9%
52	Chartwell Law Offices*	33	47	42.4%
52	Hamilton, Miller & Birthisel*	41	47	14.6%
54	Phelps Dunbar	43	46	7.0%
55	Rubenstein Law	37	45	21.6%
55	McDermott Will & Emery	41	45	9.8%
57	DLA Piper	45	42	-6.7%
58	Duane Morris	41	41	0.0%
59	Kluger, Kaplan, Silverman, Katzen & Levine*	30	40	33.3%
59	MacFarlane Ferguson & McMullen*	37	40	8.1%
59	Smith, Gambrell & Russell	38	40	5.3%
59	Jackson Lewis	39	40	2.6%
59	Levin Papantonio Thomas Mitchell Rafferty & Proctor*	40	40	0.0%
64	FordHarrison	36	39	8.3%
64	Boyd & Jenerette*	37	39	5.4%
64	Quarles & Brady	41	39	-4.9%

SPECIAL REPORT REVIEW 100

Rank	Firm	2017 Attorneys	2018 Attorneys	% Change
67	Steinger, Greene & Feiner*	39	38	-2.6%
68	Ausley McMullen*	37	37	0.0%
69	Genovese Joblove & Battista*	35	36	2.9%
69	Bressler, Amery & Ross	36	36	0.0%
69	Bryant Miller Olive*	36	36	0.0%
69	Squire Patton Boggs	40	36	-10.0%
73	Jones Day	35	35	0.0%
73	Adams and Reese	40	35	-12.5%
75	Lewis, Longman & Walker*	32	34	6.3%
75	Cozen O'Connor	38	34	-10.5%
75	Jones Foster*	40	34	-15.0%
78	Hunton Andrews Kurth	26	33	26.9%
78	Icard Merrill Cullis Timm Furen & Ginsburg*	34	33	-2.9%
80	Littler Mendelson*	26	32	23.1%
80	Winderweedle Haines Ward & Woodman*	30	32	6.7%
80	Searcy Denney Scarola Barnhart & Shipley*	31	32	3.2%
80	Hogan Lovells	36	32	-11.1%
80	Kopelowitz Ostrow Ferguson Weiselberg Gilbert	42	32	-23.8%

Rank	Firm	2017 Attorneys	2018 Attorneys	% Change
85	Anidjar & Levine* (New entry)	Not available	31	Not available
86	Litchfield Cavo	26	30	15.4%
86	K&L Gates	32	30	-6.3%
88	Ogletree, Deakins, Nash, Smoak & Stewart	29	29	0.0%
89	Sachs Sax Caplan*	25	28	12.0%
90	Litchfield Cavo	26	27	3.8%
90	Morgan, Lewis & Bockius	27	27	0.0%
90	Stroock & Stroock & Lavan	27	27	0.0%
90	Nason Yeager	28	27	-3.6%
90	McGuireWoods	29	27	-6.9%
90	Rennert Vogel Mandler & Rodriguez* (New entry)	24	27	12.5%
96	Fox Rothschild	25	26	4.0%
96	Peterson & Myers*	25	26	4.0%
96	Roetzel & Andress	27	26	-3.7%
96	Baker, Donelson, Bearman, Caldwell & Berkowitz	28	26	-7.1%
100	Day Pitney* (New entry)	Not available	25	Not available

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SPECIAL REPORT REVIEW 100

FROM PAGE A1

REVIEW 100

respect and dignity, then we are a business, enough billable time in order to justify our salaries." Then the firm's lawyers give back to the "community that's been good to each and every one of us."

GROWTH AT THE TOP

Overall, the number of legal professionals at the 100 largest firms in Florida grew more than 4 percent to over 8,000 in 2018.

The top 10 law firms accounted for nearly half of the net growth, led by three homegrown litigation firms. Fifth-ranked Morgan & Morgan added 61 attorneys, 10th-ranked Wicker Smith O'Hara McCoy & Ford added 33, and eighth-ranked Quintairos, Prieto, Wood & Boyer added 24. Wicker Smith broke into the top 10, displacing Gunster. Wicker Smith and Quintairos Prieto are defense-driven litigation firms.

The 31-year-old Morgan & Morgan has grown from its Orlando base to 13 states and spends $130 million to $150 million a year on advertising, primarily plugging its core plaintiffs personal injury work, said partner Matt Morgan, son of firm founder John Morgan.

But the firm has broadened its practice areas based on John Morgan's conclusion 10 years ago that auto injury cases will plummet by 2035 by factoring in autonomous vehicles and improved safety features. The firm's targets have expanded to products liability, class actions, workers' compensation, Social Security and the Telephone Consumer Protection Act.

"In short, we've diversified significantly and have been hiring to staff these diversified areas," Matt Morgan said.

Geographic expansion includes the addition of satellite offices, for instance running five locations in Central Florida catering to the firm's Orlando base. In the face of urban sprawl, it "allows the client to have their lawyer in their backyard."

Morgan & Morgan partner Matt Morgan says the firm has broadened its practice areas while adding offices.

Chartwell Law Offices CEO Cliff Goldstein says growth has pushed the firm to what "I would call critical mass."

FAST-GROWING FIRMS

Looking at percentages, growth was seen across a wide spectrum of firms led by Lewis Brisbois, 66th on the Am Law 100 list, Chartwell Law Offices and Kubicki Draper. All three firms have been on hiring binges.

In Florida, Lewis Brisbois and Chartwell nearly doubled in size in a year, taking Lewis Brisbois to 38 Florida attorneys and Chartwell to 33. And defense litigation firms Chartwell and Kubicki Draper were on the latest National Law Journal's NLJ 500 list of firms with the nation's highest percentage growth.

Seven of Chartwell's 18 offices are in Florida, and firm CEO Cliff Goldstein in Valley Forge, Pennsylvania, said, "We've toyed with Tampa from time to time, but we haven't found a group yet that would be a good fit." The latest office addition was two weeks ago in Baltimore, and New Orleans and Los Angeles are possibilities later this year or next year.

Growth has pushed the firm to what "I would call critical mass. We're at the point where if you name a client or a prospect, we probably have someone in the Chartwell network who knows them." He called the firm "the antithesis of an eat-what-you-kill shop," instead falling back on early-childhood lessons about sharing. "The folks in one office work really hard to get work to people in other offices."

Goldstein pointed to client pressure on hourly billing rates when asked why he thought litigation firms were growing in Florida as opposed to full-service firms.

"A lot of clients that were using the big-name brand at $700 to $1,000 an hour are really going to have a hard time justifying that over time," he said. "Not all firms are thriving. We've seen a lot of firms close shop."

From his perspective, "everyone knows that insurance carriers are not in a great mood to pay more and more money." Seeing the client-driven changes, Goldstein said, "We launched a huge alternative fee program in Florida, and it was so successful that the client expanded it to five or six other states with us."

Rate pressure can make strange bedfellows. Morgan is known for its signature For the People web address but benefits from corporate resistance to high hourly rates. The firm has made inroads representing companies on breach-of-contract claims on a contingency basis. Plaintiffs attorneys have been known to slide into hyperbole, but Morgan said, "That department is growing exponentially every day."

DECLINING COUNTS

The biggest percentage declines for attorneys were concentrated at firms with Florida attorney counts ranging from 32 to 52 and led by two Am Law 200 firms, Hinshaw & Culbertson, down 16 percent, and Buchanan Ingersoll & Rooney, down 14 percent, and Palm Beach County's Jones Foster, down 15 percent.

A Hinshaw spokesman emailed a statement saying annual attrition is common in today's legal market. Its survey responses indicated 61 Florida attorneys last year, and the firm is now reporting 67.

"We experienced some Florida turnover in early 2018, and we have since added a dozen new Florida attorneys in 2019 alone, including Rory Eric Jurman and his team in Fort Lauderdale. We are focused on expanding our depth and connections in the industries and markets in which our clients operate," Hinshaw spokesman Oliver A. Thoenen wrote.

Buchanan Ingersoll spokeswoman Ela Friel called an eight-attorney decline to 50 minor and attributed it "to typical attrition and lateral movement in the marketplace." The firm now counts 67 attorneys in Florida and expects "that number to increase as we continue our focus on growth in the state."

One newcomer to the rankings is Day Pitney, which announced plans last October to take over the 58-year-old Richman Greer litigation boutique. It has 25 attorneys in four South Florida offices.

Catherine Wilson is managing editor of the Daily Business Review. Contact her at cwilson@alm.com. On Twitter at @cmwalm

Biggest Losses

Rank by % decline	Firm	Annual % loss	Attorneys
1	Hinshaw & Culbertson	-16.4	61
2	Jones Foster	-15	34
3	Buchanan Ingersoll	-13.8	50
4	Burr & Forman	-12.9	61
5	Adams and Reese	-12.5	35
6	Hogan Lovells	-11.1	32
7	Cozen O'Connor	-10.5	34
8	Boies Schiller	-10.3	52
9	Squire Patton	-10	36
10	Baker Donelson	-7.1	26

Biggest Gains

Rank by % growth	Firm	Annual % gain	Attorneys
1	Lewis Brisbois	47.4	38
2	Chartwell Law Offices	42.4	33
3	Kubicki Draper	34	97
4	Kluger Kaplan	33.3	30
5	Tripp Scott	30.4	46
6	Walton Lantaff	28.6	42
7	Morgan & Morgan	27	226
8	Hunton Andrews Kurth	26.9	26
9	Littler Mendelson	23.1	26
10	Rubenstein Law	21.6	37

A WEEKLY REPORT FROM
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With New Bot Law, California Puts Social Media Giants on Notice

by Frank Ready

California's new bot law went into effect on July 1, which means it's now officially illegal to use undeclared bots to incentivize a sale or influence an election. The parameters of the legislation are fairly narrow, targeting bots deployed "with the intent to mislead the other person about its artificial identity for the purpose of knowingly deceiving."

In other words, it's more of statement than a law that's likely to see much enforcement action. But that statement still should be of interest to the social media giants that dominate the California landscape and provide an inadvertent platform for bots.

"Doesn't it seem like it's a message to Twitter, to Facebook, to Google: 'We stopped one step short, we're at your doorstep. If you want us to knock on the door, then don't police the bots,'" said Christopher Ballod, partner at Lewis Brisbois.

That door knock would ostensibly be legislation that assigned the responsibility of monitoring or identifying deceptive bots to the platforms themselves. As the law stands now, the parties deploying the bots are accountable for properly declaring them.

Holding social media companies responsible for policing their own platforms might indeed be more effective than trying to intimidate actors who are already working outside of the law. Even if perpetrators were caught in the act of using bots to, say, influence an election, they likely exist beyond the reach of California authorities.

"A lot of that activity is from foreign countries, so we're not going to go to war over it," Ballod said.

So why didn't California's law take a firmer hand with social media and other platforms? Jessica Lee, a partner and co-chair of the privacy, security and data innovations practice at Loeb & Loeb, said early drafts of the bill explored placing more of the onus for bots on platforms, but those considerations didn't make the final cut.

One reason might be that no one could quite figure out how platforms would be able to manage such a monumental task. For example, in the month of December 2018 alone, Twitter challenged 22,185,461 accounts potentially associated with spam or platform manipulation.

SHUTTERSTOCK

California's new bot law is a subtle reminder to social media platforms to stay on top of the bots spreading fake information within their networks. But what happens if they don't is far from clear.

Lee believes that throwing legally enforced fines into the mix would lead to extreme pushback.

"We're talking about platforms that have millions and millions of accounts. There doesn't seem to be a great solution right now with regards to how to moderate [bots]," she said.

While the sheer volume of bots on platforms such as Twitter definitely poses a challenge, there's also more nuanced issues pertaining to the First Amendment that make taking an overly aggressive stance problematic.

According to Lee, bots disseminating opinions—even if those opinions are discriminatory or hateful—are theoretically protected by the First Amendment. There's also the nebulous gray area between what is considered an opinion and what is out and out false.

"I think there's still a lot of back and forth about how to deal with the tension between the First Amendment and this issue of content moderation," Lee said.

Given that uncertainty and the California bot law's inherent limitations, the chances of it inspiring similar efforts in other states are uncertain. Ballod thinks it unlikely, citing California's unique position as a hub for social media or tech companies like Facebook, Twitter and Google. Plus, the law was originally passed back in October 2018.

"That's an awful long time for no states to jump on the bandwagon," he said.

Lee, on the other hand, thinks the national conversation around the integrity of political advertising could help a variation on the California law to gain traction elsewhere.

"I think because we're leading up to an election season, we're going to see a lot more activity, both regulatory activity and then sort of external pressure to make sure that we don't have a repeat of what happened in 2016," she said.

Frank Ready is a reporter on the tech desk at ALM Media. He can be reached at fready@alm.com.

New York State Expands Online Tool Connecting Crime Victims With Legal Services

by Dan M. Clark

An online web tool created by the state to connect victims of crime with attorneys in New York has expanded to offer services for residents in 26 counties—up from just three when the program started last year.

The service is provided by the state Office of Victim Services, which expects it to be available in each of the state's counties outside New York City by the end of the year.

"I think it's exactly what we wanted it to be," said Elizabeth Cronin, director of OVS.

The website, called New York Crime Victims Legal Help, launched last year as a pilot program in three counties: Erie, Niagara and Genesee. Since then, it's racked up more than 5,000 unique users, Cronin said, with an expectation that traffic will increase along with the new expansion.

Crime victims from 23 other counties in upstate New York will now be able to connect with attorneys in their area through the site. Those counties include Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Warren, Washington, Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester, Fulton, Montgomery, Schoharie, Clinton, Essex, Franklin, Hamilton and St. Lawrence.

The website is designed to connect crime victims with eight major categories of civil legal services, ranging from family law to immigration. Those categories are then broken down into more specific issues, like getting custody of a child after a domestic violence incident or helping immigrants with their visa.

Cronin said they've tried to make the website as easy as possible for victims to use, which is reflected in its design.

Users only have to enter two points of information to find contact information for an attorney who specializes in the area of law they need help with: the county they live in and what kind of legal help they're seeking. From there, the website populates a list of nonprofit civil legal groups that can provide those services.

The information for each group is drawn from LawHelpNY.org, a website powered by Pro Bono Net to connect low-income residents with attorneys. Pro Bono Net partnered with Empire Justice Center and the Center for Human Services Research at SUNY Albany to launch the website with the state in recent years.

The most-requested legal services sought by users of the website have included information about the rights of victims, family law, domestic violence matters, safety issues and housing assistance, Cronin said. That's roughly in line with what was most requested when it launched.

"For people who have all kinds of needs—housing, employment, immigration—we're going to be able to help crime victims with this," Cronin said. "It's very exciting for us to see this happening and to know by the end of the year the whole state will be covered by this resource."

By the whole state, Cronin meant outside New York City. The tool on the website is geared toward rural areas, where victims may not know where to turn when seeking help with civil legal services. New York City, meanwhile, has a slew of nonprofit organizations that are relatively easy for victims to find.

But curiously, data collected since the website launched showed that many of its users have still come from New York City, Cronin said. They've taken advantage of other parts of the website, of which there are many, to find help with their own legal issues. The site provides general information on what services are available to victims, for example, and legal documents that pertain to those matters.

Users, regardless of where they live, can use the website to file a complaint with the U.S. Department of Housing and Urban Development over housing discrimination, for example. Immigrants also have the option to file their own visa petition without an attorney.

Cronin said the feedback they've gotten about the website has been overwhelmingly positive. Users have been particularly engaged with the live-chat function, which connects victims with someone who can help them find what they're looking for on the website, Cronin said.

Victims, importantly, don't have to enter any identifying information while using any of the website's features. Everything they do there, including the live chat, is anonymous.

The website even has a button at the top of each page that instantly redirects them to a search engine. That's in case users are put in a situation where it may not be safe for them to be on the site in the company of others, like in cases of domestic violence.

"We're trying to meet the needs of anyone who would have to access this information," Cronin said.

When the web tool launched last year, 30 nonprofit civil legal aid providers and victims services organizations were listed for users to connect with. That's expected to grow significantly as the website expands, partly because of funding obtained by the state, Cronin said.

Federal grants administered by OVS last year allowed 61 victim assistance programs and child advocacy centers to hire attorneys that offer civil legal services. Each of those programs were required to be listed on the website as a condition of that funding.

That's separate from the initial federal grant the state was awarded to create the website, which has been in development for the last several years. Aside from providing a new resource for victims, Cronin said the online tool has had the extra benefit of redirecting victims to the OVS website, where they can learn about other services offered by the state.

"It makes people aware of OVS. We're kind of the unsung hero in many ways," Cronin said. "People have this resource available and they don't know what we can do, so this is another way for the public to learn about the services OVS has available."

The website will next expand to include other counties in Western New York and on Long Island, with the rest of the state outside New York City to follow soon after.

Victims can access the website online at https://crimevictimshelpny.org.

Dan M. Clark is the Albany reporter for the New York Law Journal. He covers the state Court of Appeals, the state legislature, state regulators, and more. Email Dan anytime at dmclark@alm.com.

COMMERCIAL REAL ESTATE

SOUTH FLORIDA TRANSACTIONS

DEAL OF THE DAY

Coral Gables Apartment Building Sells for $137,500 Per Unit

Address: 114 Menores Ave. in Coral Gables
Property type: This is a 5,736-square-foot, two-story apartment building with eight units constructed in 1925 on a 8,250-square-foot lot, according to the Miami-Dade County Property Appraiser's office.
Price: $1,100,000
Price per unit: $137,500
Seller: Marciana Marina LLC
Buyer: 114 Menores LLC
Past sale: $1,095,000 in July 2015

GOOGLE

These reports are based on public records filed with the clerks of courts. Building area is cited in gross square footage, the total area of a property as computed for assessment purposes by the county appraiser.

A Universal Interest in Real Estate: Understanding Space

by Betsy Kim

There's a Big Bang Theory at Reonomy. It's that understanding space of the galaxies in the universe is similar to understanding space on the surface of the earth—at least in terms of creating models to rapidly compare, analyze and reconcile massive amounts of data.

Maureen Teyssier is the director of data science and data engineering at Reonomy, a tech company that analyzes commercial real estate data. She earned a Bachelor of Science degree in both physics and astrophysics from the University of California, Berkeley. Teyssier then received her PhD in computational astrophysics from Columbia University. Afterwards, she worked as a postdoctoral researcher in computational astrophysics at Rutgers University, where she received the Hubble Space Telescope Cycle 22 research grant.

As an astrophysicist Teyssier would create simulations of the universe on supercomputers. She would perform data transformations to flatten them, take subsections and compare them with other data about the universe. With Hubble Space Telescope images, the scientist would create simulations of what's out in the universe.

"I would look at how galaxies interact, how they behave, what happens when they collide. How do you grow a galaxy? How do you destroy one? So, I did a lot of coding," says Teyssier. "I generated a lot of data and that's what I'm still doing, a lot of coding and complicated math."

Teyssier brings her work with the stars down to earth. She explains Reonomy has information about a property's physical attributes, the building's floors, the number of units, the size of the lot and building, the sales, mortgages and tax histories.

She calls Reonomy's property ownership information a gem which allows clients to make business decisions. Users can see not only the current owner, but signatories on the mortgage and the various levels of stakeholders and ownership with contact information including phone numbers and email addresses.

Teyssier explains that Reonomy has partnerships with several providers. For example, CoreLogic provides tax assessor, deed, mortgage and sales records, and other data assets. But in records, company names and addresses can be entered by humans and be messy, with errors or entered in multiple ways such as with differing abbreviated names. Plus with, for example, their Dun & Bradstreet partnership, Reonomy receives a wealth of additional company information.

The astrophysicist writes machine learning algorithms and creates statistical techniques "that stitch the data together" from multiple sources. Records are compared against other records and a volume of information to accurately link facts to each specific piece of property.

Companies including CoStar, CompStak, Real Capital Analytics and PropertyShark also provide online commercial real estate information. In a February 2019 GlobeSt.com interview, Reonomy co-founder and CEO Rich Sarkis highlighted Reonomy's Data-as-a-Service component that allows users to build their own applications to use the Reonomy information. Plus, the company has been backed by $68 million in venture capital according to its marketing materials.

Teyssier points out that both astrophysics and commercial real estate now require utilizing massive amounts of data. She has analyzed interactions with dark matter, gas and stars, researched new particle types found in black holes, and worked on one of the world's most accurate cosmological simulations of the Milky Way. She ties this all to real estate by underscoring it's all about understanding space.

"Commercial real estate is a smaller scale. But it's the surface of the Earth, then understanding the effect on the market, different trends, changing situations and data." And both involve getting a grasp on big data. Really, really big data.

Betsy Kim reports for GlobeSt.com.

How to Buy a Home: Almost 40% of US Homes Are Mortgage Free

by Shelly Hagan

More Americans are living mortgage free.

About 37% of U.S. households are "free and clear," meaning they no longer have a home mortgage to pay, according to a Zillow data analysis. This number ticked upward after the Great Recession and over the past 10 years the share of homeowners paying off their mortgages has risen 5.5 percentage points.

"In general, higher home equity is financially preferable and the rise in mortgage-free ownership is in line with brighter economic conditions, which is why we've seen the free-and-clear share increase over the last decade," said Javier Vivas, director of economic research at Realtor.com.

An aging population and change in owner demographics is another reason for the increase, according to Zillow. Younger Americans are likely to wait longer to a buy a home due in part to rising living costs and student debt. As a result, older Americans comprise a larger share of total home ownership and have had years to pay off a home as well as build wealth. This trend could reverse as younger generations age and enter the real estate market.

Trade-offs associated with paying off a mortgage include abrupt changes to the value of the home and the opportunity cost of other higher investment returns when mortgage rates are low, Vivas said.

Mortgage characteristics vary by state and those with lower housing prices typically have higher rates of fully-paid mortgages. In 2017, the most recent available data, West Virginia had the highest share of "free and clear" ownership at 54%. Maryland and the District of Columbia were on the other end of the spectrum with rates of 27% and 24%, respectively.

Over the last decade, the median price of an existing home in the U.S. has increased by more than 60% — or an addition of more than $100,000 in equity for homeowners without a mortgage.

Zillow analyzed data from the American Community Survey, which occurs annually and includes about 3.5 million responses. The Bureau of the Census also runs the American Housing Survey (AHS), which looks at mortgage characteristics. While the upward trend in "free and clear" homes is evident in both surveys, the AHS suggests the rate is higher — at 40% of total owner-occupied units. The AHS is conducted every other year and covers a smaller sample size of 115,000 units.

Shelly Hagan reports for Bloomberg News.

BANKING/ FINANCE

Distressed Debt Traders Have Tons of Cash and Nothing to Buy

by Allison McNeely and Katherine Doherty

The hardest part of being a distressed debt investor now may be finding something to do.

Funds that bet on troubled companies -- those struggling to pay their debt or already in bankruptcy — have spent years preparing for a creditpocalypse, and have got about $80 billion of cash left to invest, according to Preqin and Bloomberg Intelligence. That's almost enough to buy the entire distressed U.S. market at face value now. But they have few places to put it to work: While cracks are starting to appear in the U.S. economy, interest rates are low, leaving most corporations in decent shape.

And it's not clear when distressed debt investors will get busier. The Federal Reserve is moving closer to cutting interest rates. That could mean more cash looking for high yields, propping up weaker borrowers and keeping them from going broke. Corporate bankruptcy filings have been falling since February by one measure.

All this marks a shift from the last few years when firms were expanding their distressed debt staffs in anticipation of an economic downturn. Now, investors including Oaktree Capital Group LLC, Ares Management and Brookfield Asset Management are hungry for new areas to invest their dry powder. They're sniffing for opportunities in Europe, China, and India, and among smaller U.S. companies.

In some cases, they're creating distress where there might not have been any otherwise. And they're raising less money for distressed funds — just $8.5 billion so far this year, putting 2019 on track to be the slowest for fundraising since 2014.

"The amount of tradeable distressed opportunities is very, very modest," Jay Wintrob, chief executive officer of Oaktree, lamented at a conference in May regarding investments in the U.S. Oaktree is one of the largest distressed debt managers in the world, with around $20 billion of assets committed to debt from troubled entities. "The U.S. is pretty benign."

Investors' difficulties underscore how hard it is to time distressed bets, especially as central banks globally have doused economies with cash at the first signs of trouble. Corporations have taken on ever-larger amounts of debt, with outstanding junk bonds at about $1.25 trillion as of Wednesday, more than double the level a decade ago. Borrowings are higher relative to assets and a measure of earnings.

But when energy and other commodity prices started falling in the middle of this decade, distressed debt firms started looking for opportunities to snatch up assets. In 2015, many suffered big losses as the Fed kept rates low and energy prices kept falling.

This year has also been relatively tough for the debt. With the Federal Reserve suggesting it's going to expand the money supply and bond prices having broadly jumped, the supply of U.S. distressed debt has dropped about 30% since mid-January, to a market value of around $58 billion, according to Bank of America index data. A Bloomberg index of U.S. corporate bankruptcy filings has fallen about 23% since late February. And while distressed debt has gained more than 4.4% this year through Wednesday, according to Bank of America's index, that trails the roughly 10% that junk bonds broadly gained over that period, according to Bloomberg Barclays index data.

The supply of distressed debt may also be curtailed by the rise of "covenant lite" lending agreements, which give creditors fewer ways to trigger bankruptcy or other restructurings for companies that are clearly struggling, according to Ben Finestone, a partner at law firm Quinn Emanuel Urquhart & Sullivan. Even if revenue is falling at some companies, lenders have fewer options for forcing restructurings, Finestone said.

Investors including Oaktree Capital Group LLC, Ares Management and Brookfield Asset Management are hungry for new areas to invest their dry powder.

"It feels like there's a lot of distress but the day of reckoning hasn't come," he said.

Firms are still getting ready for mass pain among corporate borrowers. York Capital Management is raising around $1 billion for a distressed debt fund, while Angelo Gordon & Co. is slated to raise around $1.5 billion. Most of that money has already been committed to the funds by investors.

Money managers that raised dedicated distressed-debt funds a couple of years ago in anticipation of a recession are feeling the pressure to invest, according to Angelo Rufino, a portfolio manager at Brookfield Asset Management, who helps manage the firm's special situations and distressed investments. Brookfield has flexibility in its investing mandates to buy a broader array of securities globally, meaning it doesn't face the same pressures as some dedicated distressed-debt funds, he said.

"We have the ability to invest in hairy jurisdictions and places where others won't go," Rufino said, noting Brookfield is building its business in India and China, and is the biggest private investor in Brazil. Brookfield in March agreed to buy a 62% stake in Oaktree.

Another strategy that can work well is to focus on smaller companies, where competition to put capital to work will be less intense, according to Jeanne Manischewitz at York Capital Management. Investors with a lot of cash to invest usually prefer to write bigger checks, she said.

"You have to be very picky right now," and focus on good companies with bad balance sheets, said Manischewitz, co-head of North American credit.

In some cases, where there's not enough distress, money managers have looked to create it. Aurelius Capital Management delved deep into the bond agreements for a rural telephone service provider, Windstream Holdings Inc., and said the company had violated those covenants when it spun out wireline network assets to create Uniti Group Inc. It sued Windstream, and won, sending the company into bankruptcy. The investment firm is widely believed to have bought credit default swaps insuring against default, meaning that it profited when the company filed for bankruptcy.

Eventually, the economy will turn, and the supply of distressed debt will rise steeply. The amount of outstanding troubled company debt has a way of growing significantly in a short period of time. And there are incipient signs of stress at U.S. companies and in the economy more broadly. A measure of income for junk-rated companies, known as earnings before interest, taxes, depreciation and amortization, fell in the first quarter. As of the start of July, more than 80% of S&P 500 companies that had revised profit estimates ahead of posting second-quarter earnings had cut their forecasts.

Allison McNeely and Katherine Doherty report for Bloomberg News.

Trump: Administration to Review Pentagon Computer Contract

by Darlene Superville and Matt O'Brien

President Donald Trump said Thursday that the administration will "take a very long look" at a massive multibillion-dollar contract the Pentagon is preparing to award for a cloud computing system, citing "tremendous complaints" he's heard about the process.

Amazon Web Services Inc., a division of Amazon, and Microsoft Corp. are finalists for the contract estimated to be worth up to $10 billion over a decade.

Trump said during an unrelated event at the White House that companies that are no longer in the running to land the deal, known as Joint Enterprise Defense Infrastructure, or JEDI, have lodged complaints about the process.

Republican lawmakers troubled by the Pentagon's handling of the contract also took their concerns directly to the president.

"I'm getting tremendous complaints about the contract with the Pentagon and with Amazon," Trump said when he was asked about the matter during an Oval Office appearance with the Dutch prime minister. "They're saying it wasn't competitively bid."

"We're looking at it very seriously," the president said. "It's a very big contract, one of the biggest ever given having to do with the cloud and having to do with a lot of other things."

Trump said some of the "greatest companies in the world" were among those complaining about Amazon, and he said the administration will look "very closely" at the contract because "I have had very few things where there's been such complaining."

Trump is a critic of Amazon, the e-commerce retailer owned by Jeff Bezos. Bezos also owns The Washington Post, and Trump has criticized the paper's coverage of the administration.

The president's comments injected new uncertainty into a project the Defense Department has said is vital to maintaining the U.S. military's technological advantage over adversaries. Whichever company wins the contract will have the monumental task of storing and processing vast amounts of classified data. The Pentagon says it will enable troops to advance the use of artificial intelligence in warfare.

Oracle and IBM were eliminated from an earlier round of competition, leaving Amazon and Microsoft as the two finalists.

Amazon and Microsoft declined to comment Thursday on Trump's remarks. Oracle didn't immediately respond to an emailed request for comment.

IBM said in a statement Thursday that it "has long raised serious concerns about the structure of the JEDI procurement" and continues to believe the Defense Department "would be best served by a multi-cloud strategy" involving multiple cloud systems operated by different companies.

IBM did not say whether it had shared those concerns with the White House. Both IBM and Oracle formally protested the process last year.

A federal judge last week tossed out a second challenge by Oracle alleging that the bidding process was rigged in Amazon's favor, and some in Congress have expressed concerns about potential conflicts of interest. Republican Sen. Marco Rubio of Florida sent a letter last week to White House national security adviser John Bolton asking that the Pentagon delay awarding the contract, contending that the process suffered from a "lack of competition" and the use of "arbitrary criteria and standards for bidders" that could waste taxpayer dollars and "fail to provide our warfighters with the best technology solutions."

Rubio had also expressed concerns about plans to award the contract to a single vendor.

The Pentagon has said it plans to award the contract as soon as Aug. 23.

Rep. James Langevin, a Rhode Island Democrat who sits on the House Armed Services Committee, said Thursday he has full confidence in the Defense Department's cloud strategy and that it's important that the project be allowed to move forward.

Langevin said in an emailed statement that it would be "wholly inappropriate" for Trump or any member of Congress to interfere in the procurement process, especially since the courts and the Government Accountability Office - the watchdog for Congress - have rejected challenges to the Pentagon's plans.

Daniel Goure, vice president of the Lexington Institute, a defense-oriented think tank based in Virginia, said it's not unusual for Trump to publicly raise concerns about a defense equipment contract, as Trump did weeks before he took office over the contract with Boeing for an updated version of Air Force One.

But Goure said it's rare for Trump to actually reverse a Pentagon decision, especially one backed by a legal opinion.

"I would be incredibly surprised if the president decided to unilaterally cancel this," said Goure, whose institute receives funding from Amazon. "I think once he sees the process, or the process is explained to him and the document is explained to him, I think this will all go away."

Darlene Superville and Matt O'Brien report for the Associated Press.

BANKING/ FINANCE

Corvette Goes Mid-Engine for First Time to Raise Performance

by Tom Krisher

When you first lay eyes on the new 2020 Corvette, a modern version of the classic American sports car isn't the first thing that pops into your head.

Instead, you think Lamborghini, Lotus, McLaren.

The eighth-generation 'Vette, dubbed C8, is radically different from its predecessors, which for 66 years had the engine in the front. This time, engineers moved the General Motors' trademark small-block V8 behind the passenger compartment. It's so close to the driver that the belt running the water pump and other accessories is only a foot away.

Also gone are the traditional long hood and large, sweeping front fenders, replaced by a downward-sloping snub nose and short fenders. In the back, there's a big, tapered hatch that opens to a small trunk and the low-sitting all-new 6.2-liter, 495 horsepower engine.

So why change the thing?

"We were reaching the performance limitations of a front-engine car," explains Tadge Juechter, the Corvette's chief engineer, ahead of Thursday night's glitzy unveiling in a World War II dirigible hangar in Orange County, California.

With a mid-engine, the flagship of GM's Chevrolet brand will have the weight balance and center of gravity of a race car, rivaling European competitors and leaving behind sports sedans and ever-more-powerful muscle cars that were getting close to outperforming the current 'Vette.

"We're asking people to spend a lot of money for this car, and people want it to be the best performer all around," Juechter said.

GM President Mark Reuss said the C8 will start below $60,000, 7% more than the current Corvette's base price of $55,900. Prices of other versions weren't announced but the current car can run well over $100,000 with options, still thousands cheaper most than European competitors.

PAUL SANCYA/ASSOCIATED PRESS

The new Corvette comes with a custom-designed fast-shifting eight-speed automatic transmission with two tall top gears. It also will be made with right-hand-drive for international markets.

Corvette sales aren't huge. Through June, the company sold just under 10,000 of them. But industry analysts say the car helps the company's image, showing that it can build a sports car that performs with top European models.

GM says the new version, with an optional ZR1 performance package, will go from zero to 60 mph (96.6 kilometers per hour) in under three seconds, the fastest Corvette ever and about a full second quicker than all but one high-performance version of the outgoing Vette.

The "cab forward" design with a short hood looks way different, but GM executives say they aren't worried that it will alienate Corvette purists who want the classic long hood and the big V8 in the front.

Harlan Charles, the car's marketing manager, said mid-engine Corvettes had for years been rumored to be the next generation so it wasn't unexpected. GM also is hoping the change will help draw in younger buyers who may not have considered a Corvette in the past.

George Borke, a member of Village Vettes Corvette Club in The Villages, Florida, a huge retirement community, said he hasn't heard anyone in the 425-member club complain about the new design. "I think after 60 years it's time for a change," said Borke, who owns a current generation "C7," bought when the car was last redesigned in the 2014 model year.

The new car has two trunks, one in the front that can hold an airline-spec carry-on bag and a laptop computer case. Under the rear hatch behind the engine is another space that can hold two sets of golf clubs.

Even though it's a performance car, Juechter said the Corvette can go from eight cylinders to four to save fuel. Some owners get close to 30 mpg on the freeway with the current model, and Juechter said he expects that to be true with the new one. Full mileage tests aren't finished, he said.

Engineers also took great pains to make the new car quiet on the highway, with heat shields and ample insulation to cut engine noise.

Even though the car has an aluminum center structure and a carbon fiber bumper beam, it still weighs a little more than the current model. It's also slightly less aerodynamic due to large air intake vents on the sides to help cool the engine. The new Corvette comes with a custom-designed fast-shifting eight-speed automatic transmission with two tall top gears. It also will be made with right-hand-drive for international markets.

Higher-performance versions are coming, although Juechter wouldn't say if the C8 is designed to hold a battery and electric motor.

Workers at a GM plant in Bowling Green, Kentucky, are just starting to build the new cars, which will arrive in showrooms late this year.

Tom Krisher reports for the Associated Press.

About 10,000 Au Pairs to Get Paid in Class-ActionSettlement

by Colleen Slevin

About 10,000 live-in childcare workers from around the world will share in a class-action settlement in a case that challenged whether they should be treated as employees entitled to minimum wage or members of the family learning about the United States while helping out at home.

U.S. District Judge Christine Arguello gave final approval to the $65.5 million deal Thursday during a hearing in Denver, saying the payments to au pairs who filed claims by the May deadline would average $3,500 each.

About 160,000 au pairs who came to the United States to work from 2009 to late 2018 under J-1 visas were identified as having the potential to receive money under the deal announced in January. Notices were sent to nearly all of them, but about 10,000 filed claims by the May deadline.

About 40 percent of the deal will go to pay for administrative costs, lawyers' fees and other expenses. Lawyers for Towards Justice, a nonprofit Denver law firm that filed the lawsuit in 2014, and the high-profile New York firm of Boies Schiller Flexner were not paid during the case.

The settlement also requires that 15 agencies authorized by the U.S. State Department to connect au pairs with families notify both parties going forward that au pairs can negotiate to be paid more than the minimum $195.75 a week required by the department. The minimum pay is based on the federal minimum wage of $7.25 for 45 hours of work minus a 40 percent deduction for room and board.

The agencies, the only ones that sponsored au pairs when the suit was filed, did not admit wrongdoing. One other company was later allowed to bring au pairs to the United States, but lawyers for the au pairs thought it was treating its au pairs more fairly, perhaps because of the pending lawsuit.

The lawsuit, brought by 11 au pairs from Colombia, Australia, Germany, South Africa and Mexico, claimed the agencies colluded to keep their wages low, ignoring overtime and state minimum wage laws and treating the federal minimum wage for au pairs as the maximum they could earn. In some cases, the lawsuit said, parents pushed the limits of their duties, requiring au pairs to do things like feed backyard chickens and help families move and not allowing them to eat with the family.

A handful of former au pairs submitted written comments to the court. Echoing allegations in the lawsuit, Alejandra Guadalupe Franyutti Ramirez of Queretaro, Mexico, said she was fired and given a short time to leave the country when she got sick soon after pushing back about her duties while serving as an au pair in Portola Valley, California.

Meanwhile, Eva Bein of Germany, described having a positive experience with her host family said she objected to the settlement's focus on pay, fearing it could hurt the cultural exchange mission.

She also said the deal should require sponsors to not only check on au pairs more often but remove host families who mistreat them, noting that agencies now act in the interest of the families who pay them fees to recruit au pairs.

The settlement comes amid a movement to protect the rights of domestic workers, who were originally excluded from federal labor protections. A handful of states have passed domestic worker bills of rights, and U.S. Sen. Kamala Harris and Rep. Pramilla Jayapal introduced a federal version this week.

The settlement did not address whether au pairs are entitled to higher minimum wages in states and cities that have set them above the federal minimum or whether families should be allowed to deduct room and board expenses, something that is generally not permitted when they are seen as a benefit to the employer. The federal appeals court based in Boston is considering the wage issue in a case challenging Massachusetts' inclusion of au pairs in its domestic bill of rights.

David Seligman, executive director of Towards Justice, said the settlement provides important reforms in the industry in addition to the payouts.

"The outcome reaffirms that everyone — including low-wage workers — has the right to a free and competitive marketplace," he said.

The practice of having au pairs — French for "on par with" — developed in postwar Europe, where young people lived with families in other countries to learn a language in exchange for helping with childcare and some housework. In Europe, au pairs generally are limited to working 30 hours a week.

The concept came to the United States in 1986 when the State Department launched it as a cultural exchange program amid a growing demand for childcare.

Colleen Slevin reports for the Associated Press.

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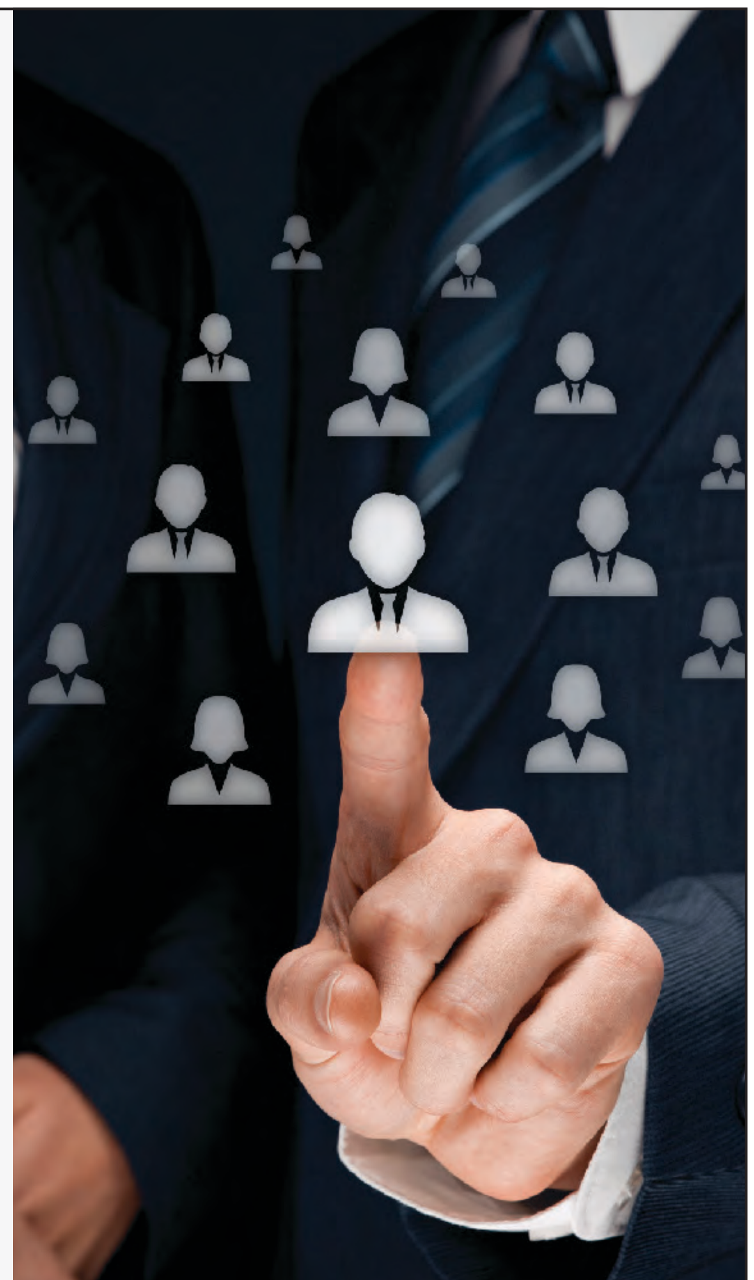

PROFILES IN LAW

Leslie Kroeger Calls on a Career of Criminal and Civil Work to Advocate for Consumer Protections

by Zach Schlein

Leslie Kroeger isn't bashful about her enthusiasm for her area of expertise.

The Palm Beach Gardens-based attorney serves as the co-chair of Cohen Milstein Sellers & Toll's complex tort litigation practice group and was recently sworn in as president of the Florida Justice Association for 2019 through 2020. She's been a member of the consumer advocacy group for nearly two decades, and once she starts talking about her time with the association and its pursuit, it's easy to see why Kroeger's peers chose her to take the helm.

"The mission of the FJA is to strengthen and uphold the civil justice system," the Cohen Milstein partner said. "We look to do everything we can to make sure that citizens of Florida are protected, that citizens have access to the courtroom if they need it, and that individuals are on equal footing, to the extent that it's possible, with large corporations or insurance companies."

Kroeger doesn't take a moment to pause when cataloging the association's myriad undertakings, which include educating attorneys and law students on the procedures and state of Florida's civil justice system, and lobbying the Florida Legislature for victims' rights.

"I feel passionate about it," she said. "I think it is an amazing mission that we have, [although] it's not always easy."

Kroeger's path to assuming leadership of the more than 50-year-old organization has been far from straightforward. It has taken the New Orleans native everywhere from Tennessee and Alabama to all across Florida. Although she's close to reaching her 20th anniversary of residing and working in the West Palm Beach area, Kroeger's career hasn't always been marked with the certainty she enjoys in her current home and practice. However, the resolve to work in the legal profession, regardless of the specifics, has been a constant of Kroeger's life from an early age.

"I think high school really had made that decision for me," she said. After becoming involved with a legal explorer program, Kroeger found herself fascinated with the world of litigation. "I didn't have any lawyers in my family, but, I really took to [the program] and it was really formative for me. They got us into the courtroom, explained all different types of law and trial law, and that set me on the path there."

Leslie Kroeger of Cohen Milstein brings to her new role as president of the Florida Justice Association her experience as a prosecutor, defense counsel and plaintiffs lawyer.

Kroeger pursued her undergraduate studies at the University of Tennessee in Knoxville before enrolling at Samford University's Cumberland School of Law in Birmingham, Alabama.

"I finished my four-year degree in three years because I knew at that point I wanted to go to law school," she said.

As a law student, Kroeger interned with a criminal court judge in addition to working alongside a former district attorney now employed with the public defender's office outside of Birmingham. She said both experiences were pivotal in expanding her understanding of how courtrooms operate as well as how attorneys succeed within them.

"Not much of law school has anything to do with real life, and certainly not being in a courtroom unless you go through the trial advocacy program," she said, adding her criminal court clerkship proved invaluable for explaining "courtroom procedures, picking a jury, fairness and unfairness, and just how a bias can creep in."

NO LINEAR ROUTE

Once Kroeger earned her J.D., she opted to take her talents even further south.

"I came down to Florida literally — I think — the next day after graduation," she said, adding she's stayed in the Sunshine State ever since. Following a stint as an assistant public defender in Brevard County, Kroeger decided she wanted to take her career in a different direction.

"When I was a public defender I loved what I did, but it seemed to me that the people and the office who were making those charging decisions really had a much bigger effect on the victims of the crime, if there was one, and those who were charged," she said.

Kroeger headed south once more to clerk for then-Miami-Dade Circuit Judge Juan Ramirez Jr., who would later become chief of Florida's Third District Court of Appeal. One year later, she joined the Miami-Dade State Attorney's Office as an assistant state attorney.

"I did that for three years, fulfilled my commitment with Ms. Fernandez-Rundle's office, and that was a wonderful experience," she said.

But after grappling with financial considerations and her latent ambition for change, Kroeger soon changed gears and entered private practice as a defense attorney with Wicker Smith O'Hara McCoy & Ford 's Tampa office, where she specialized in medical malpractice and nursing home defense work.

"My partner there, John Hamilton, was a wonderful mentor and really taught me a lot about how to look at a case," she said, adding Hamilton evaluated cases from a plaintiff's perspective as equally as he did the defense's. Just a few years later, Kroeger made the switch to plaintiffs work, the field she's remained in ever since. After making partner at attorney Ted Leopold's firm Leopold Law, she retained the title once the office merged with Cohen Milstein in February 2014.

Kroeger admitted she's considered how things might have been different had she taken a more linear route.

"I've wondered about the trajectory of going straight into plaintiffs work," she said. "But I really think spending a couple of years doing defense gave me a true perspective on what that is like and how insurance companies assess, how adjusters work. ... And I think it made me a better plaintiffs lawyer because I understand how to deconstruct a case, and to deconstruct you have to build a tighter case."

Kroeger intends to put her skills to good use in her new role as FJA president. She stressed that increasing the organization's membership and diversity are among her top priorities, as is amplifying the group's message among litigators and Florida's general discourse.

"There seems to be a real propaganda machine that is attempting to work against people who've been victims, and we fight that every day," she said, citing interest group campaigns to institute additional and blanket caps for damages as well as arbitration agreements in the place of jury trials.

"[Florida citizens] should be aware that just because someone says Florida is a judicial hellhole does not mean it is," Kroeger added, calling the notion "insulting" to juries, attorneys and judges alike. "[Plaintiffs attorneys] have to go against the propaganda that if someone is in the courtroom they just must be looking for money, or the attorney that represents them must be a greedy trial lawyer. It's horrible but it's a reality, and we understand why it's done."

Kroeger's advice: Try to change the mindset.

"If you're coming in and some of the jury already believe that, than there is an inherent bias in favor of the defendant, in favor of the corporation, in favor of the insurance company," she said. "So we work really hard to educate and draw people's attention to: 'Hey, people sometimes get hurt, people sometimes are killed, and it's not their fault. And if it's someone else's fault ... then you need to pay attention and take a look at that.'"

Kroeger said she's ardent in her commitment to continuing the FJA's legacy of consumer and victim advocacy, and wants to ensure she leaves behind a platform upon which others can build.

"We're looking at this system and how to make it cleaner and better for everyone who is using it, and everyone who wants or needs to use it," she said. "The people who are coming behind me are going to keep doing that, and we are hopeful it's going to go on for as long as necessary to keep a check and balance."

Zach Schlein is a writer based in Miami. Originally from Montville, New Jersey, he holds a B.A. in political science from the University of Florida and is the litigation reporter for Daily Business Review. He can be reached at his email address, zschlein@alm.com

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