

# The Florida Law Practice



*For Florida Lawyers – By Florida Lawyers*

A JOURNAL OF THE SOLO AND SMALL FIRM SECTION

## MESSAGE FROM THE CHAIR

By Jacina Parson  
2021-2022 Solo & Small Firm Section Chair

I greet you in the name of courage, strength, tenacity, and patience. Because, that is what it took to carry us all through the 2020 pandemic. I would like to thank my predecessor Tim Shaw for his amazing leadership during such a tough time. Without a doubt it is onward and upward for the Solo & Small Firm Section and I am immensely proud to be serving as your Chair this year.

Being required to quarantine undoubtedly forced a lot of change within the practice of law. From eager clients wanting conclusions to their cases and being forced to wait, to closed courtrooms, to working remotely and Zoom fatigue, we all persevered. Pivoting became what everyone had to adopt to function in the legal field. Are the changes we had to make the new norm? Will we turn back to the old ways we previously practiced law? Not all things we had to implement to be safe are bad, but Covid-19 has created new and innovative ways to be an attorney.

The world is your oyster after being provided the time to self-reflect.



JACINA PARSON

Maybe you have decided that working remotely is better for you. Possibly you have found a new client base by virtue of Zoom. Whatever the revelation, the Solo & Small Firm Section is here to support and provide resources as you embark on this journey. From our QuickLINK that provides five topics in five minutes to benefit your practice to our Wednesday Wisdom free CLEs, it is my hope that you stay plugged-in as we evolve. Let us know how we can support and aid your practice; the members of the Executive Council and

Committees are here to serve you as members of the Section.

In close, the pandemic was rough, but we survived. There are many within our legal community that did not fare well. Some of your colleagues lost family members, battled health issues, suffered financially, or had a hard time coping with the drastic changes that the pandemic produced. As we begin to do business as usual, I leave you with this quote to embrace:

***“Everyone you meet is fighting a battle you know nothing about. BE KIND. ALWAYS.”***



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# THE SOLO AND SMALL FIRM DILEMMA (JOBS, PAINS, & DREAMING OF GAINS)

By Tee Persad, Esq.

Over the past 10 years, we have been conducting informal research on the life of solo practitioners (“Solos”) and small firm practitioners<sup>1</sup> (“SFPs”). Through this research we have discovered that solo practitioners and small firm practitioners have similar job expectations, experience similar pains, and want similar gains. Therefore, they need similar resources and opportunities.

## **1. Solos & SFPs Have Jobs They Have To Do Everyday**

Solos and SFPs have functional, emotional, social, and business jobs that they do daily. But they tend to focus the majority of their time and effort on the functional jobs, such as file management and administrative matters (accounting, billing, vendor management, employee management, etc....), and on doing the work required on their clients’ cases. However, the emotional, social, and business jobs are also important and often get pushed aside because there is no time left to tend to these jobs, or for the acquisition of the knowledge or



TEE PERSAD

development of the skills necessary to handle these important jobs. Solos and SFPs routinely struggle with effectively managing the relationships with key partners, such as their clients, court personnel, opposing counsel, and employees. They also have to manage stress associated with not enough money, management responsibilities, marketing, technology, and file management. On top of it all, they also have to keep themselves and their teams engaged so that productivity

remains consistent and boredom or complacency does not set in. Finally, when the workday is done, they go home and have additional functional, emotional, social, and business jobs at home. Often times these “home jobs” are subordinated to the functional “work jobs.”

## **2. The Pains that Solos and SFPs Experience Everyday**

Solos’ and SFPs’ pains show up on the financial and non-financial costs of running their practice, the barriers to maximizing their potential, bad feelings and thoughts about their situation, and the risks they are forced to take.

**Financial Pain.** Most financial costs are usually obvious and range from minor costs for Solos who operate out of their home to full blown operational expenses for Solos and SFPs who operate out of a proper office with adequate staff, physical and electronic resources, and vendor relationships. The financial costs can consume up

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## DILEMMA

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to 70% of a Solo's or SFP's monthly gross revenue (averaged over a year) but normally fall between 40% and 60%, assuming a properly staffed office. While some Solos' and SFPs' expenses may be less than 40% of their average monthly gross revenue, they normally do not account for the non-obvious financial costs, such as opportunity costs. For example, they may be limiting their ability to attract clients who may be able to bring cases that are more lucrative, they may be missing internal referral revenue, and other collateral forms of revenue sources that larger firms integrate as a part of their operations. In addition, they may be missing collaboration opportunities with other lawyers that they know, trust, and have a good working relationship with. When the obvious and non-obvious financial costs are factored into the formula, although the percentage they are taking home on average per month may be higher than

60%, it is likely a percentage of a pie that is relatively small. So, the effective monthly costs of their potential net revenue are usually much larger than they realize.<sup>2</sup>

**Pain from Roadblocks.** Many Solos and SFPs run into roadblocks or barriers on a daily basis. The barriers to entry into their practice include financial and non-financial barriers. Financial barriers include, among other things, the high costs of rent, personnel, file management systems, supplies, and vendor services, all of which are critical to a productive practice. The non-financial barriers include lack of knowledge, skill, and adequate training in the following areas: leadership principles, management principles, business principles, psychology, communication, negotiation, and non-litigation conflict resolution. These road blocks are limiting to many Solos and SFPs, causing them to miss out on opportunities that may have a strong positive impact on their practice and lives.

**Pain from Bad Feelings.** Many Solos and SFPs feel like failure, incompetent,

and not good enough to compete with larger firms. They believe that their lack of resources causes the roadblocks they have, that they are limited in their ability to grow and develop, and cannot be as competent as their colleagues in larger firms. After a while, they start to settle for what they believe is within their reach. These feelings and thoughts are limiting to many Solos and SFPs, causing them to miss out on opportunities that may have a strong positive impact on their practice and lives.

**Pain from Difficulties they Experience.** Many Solos and SFPs face challenges that their colleagues in larger firms never encounter. First, they have to be owner, operator, CEO, marketing director, IT director, personnel director, firm administrator, and accountant for their practice. This can consume 30% or more of their time. Second, because of their limited resources, they are unable to handle complex matters in their areas or practice. They may also not have the resources to adequately prepare for court hearing

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## New to the Section? Welcome!

We are glad you're part of the Solo & Small Firm Section and hope that you'll get involved. The section's [website](#) contains a wealth of information including a [CLE](#) page for easy access to programs that benefit solos and small firms. We encourage you to join one of the section's [committees](#):

- Continuing Legal Education
- Marketing & Public Relations
- Outreach & Expansion
- Publications
- Sponsorship

Other ways to participate include:

- Writing an article for the LINK newsletter
- Sharing the section's social media posts
- Volunteering to make a CLE presentation



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and trials. The result is that they have a difficult time doing their functional job to the best of their abilities. Third, because they are bogged down dealing with the functional jobs of the practice, they have a difficult time taking advantage of opportunities to work on interesting cases, advance their practice, market themselves, and grow and develop into the lawyers they envisioned in law school.

**Pain from Unnecessary Risks.** Solos and SFPs sometimes have to take what cases they can in order to eat, whatever walks through the door. The alternative may mean that they get no clients and they stagnate and consider changing professions. So they choose to “wing it” or risk not being able to feed themselves and their families. The resulting pressures of daily practice may cause them to risk their reputation, compromise their ethical obligations, and increase their risk of committing malpractice, all of which may lead to depression, anxiety, alcohol and other drug abuse, alienation, and, at the extreme end, disbarment.

### **3. The Gains That Solos and SFPs Want**

Solos and SFPs are constantly searching for opportunities to obtain value or gain things they need to make their lives easier and more fulfilling; they also want to have their expectations met and are delighted when their expectations are exceeded. Some of the gains they consistently search for are:

- A. To increase revenue
- B. To have more time for client development
- C. To have more sources of client development
- D. To have resources to market themselves
- E. To have clients who are nicer to them, pay their bills, and promote them
- F. To have the administrative burdens of practicing reduced
- G. To reduce financial and

non-financial costs of practicing

H. To have systems, processes, and procedures that help them be efficient

I. To be respected and trusted by their peers, clients, and judges

J. To have a good earned reputation

K. To have flexibility to work from remote locations in an effective manner

L. To have human resources to help them do their functional jobs

M. To have opportunities to contribute to a cause greater than themselves

N. To be a part of an organization that offers them a sense of community

O. To be a part of a family away from home

P. To recapture and maximize their time

Q. To improve their competence level in their practice area and beyond

R. To have more skills, tools, and resources

S. To reduce their stress level

T. To improve their personal and professional relationships

U. To go on vacation free from the constraints of their practices

V. To be a part of something bigger than themselves

W. To have their expectations met and exceeded

X. To have certainty about their future

Y. To feel significant to themselves

Z. To have others recognize them as significant people

While there may be opportunities for Solos and SFPs to acquire some of these gains by partnering up with other Solos and trying to create a small-firm environment where it is easier to pool resources, the smaller the operation, the less likely is it for these gains to be realized because the economies of scale are usually not available.

### **HOW DOES THIS RELATE TO YOUR PRACTICE?**

**(Exercises to help you do your jobs, relieve your practice pains, and get some gains you want and need)**

**Know your jobs and how to get them done the way they deserve to be**

**done.** I encourage you to take the time to think about the functional, emotional, social, and business jobs that you do every day, or that you have to do every day and do not get to. I recommend that you take a full day to think about this by yourself, and ask everyone who works for or with you to do the same. Then, get together to create a master list, then prioritize it and study. Ask your self and your team:

Are we doing all the jobs we need to do, to the best of our ability, with the resources we have available?

Then ask:

Is there a better way we can do our jobs by ourselves?

Then, finally, ask:

Is there anyone we can partner with who can help us do our jobs more timely, cheaply, effectively, and competently than we can do it?

This is a time intensive exercise. The more comprehensive the list of jobs, and the more detailed the job tasks and responsibilities are, the more thought provoking it will be, and the more you will get out of this exercise. Although this exercise is not particularly challenging, it deserves the time and effort of large blocks of time so that you can explore your practice deeply. This is not an hour or two hour exercise. It is a day long process that deserves your attention. This deep dive will give you the greatest insight in your functional practice and how it affects you emotionally and socially, and, how it affects how the business of your practice operates.

**Know the pains you are experiencing and how to relieve them without resorting to self medication.**

I encourage you to think about the financial pains you and your firm are experiencing. Then, think about the non-financial pains. Be specific about the pains, when you experience them, and how frequent they appear. Think about the costs of running your practice, the barriers you face, the feelings you have, the thoughts you have, the

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## DILEMMA

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difficulties you experience, and the risks you take. I recommend that you take a full day to think about this by yourself, and ask everyone who works for or with you to do the same. Then, get together to create a master list, then prioritize it and study it. Ask your self and your team:

Do we have the resources to minimize or eliminate these pains without resorting to drastic measures that may cause us greater pain?

Then ask:

Is there a better way to minimize or eliminate these pains than what we have been doing or what we plan on doing?

Then, finally, ask:

Is there anyone we can partner with who can help us minimize or eliminate these pains more timely, cheaply, effectively, and competently than we can with our limited resources?

This is a very difficult exercise for several reasons. First, it forces you to confront yourself and your team in a bold and strong way. It forces you to look at your belief structure and how you experience life as a practitioner. It challenges your implicit bias and it helps bring awareness to your cognitive dissonance. Second, it forces you to see how these pains affect you and your team. Some of them are visibly cancerous and affect your practice in specific, but manageable ways, while others are hidden and chronic cancers that have the potential to kill your practice. Finally, it forces you to face reality and seek the help you need before it is too late.

**Know the gains you want and need.** I encourage you to think about the gains that you want and need. Examine your expectations, your team's expectations, your client's expectations, the courts'

expectations, opposing counsels' expectations, your family's expectations, and the profession's expectations. Think about savings that you would like to have. List the ways you measure success and what success looks like for you. Identify what will make your life easier and what would delight you. Note which ones are absolute needs and which ones are wants and note the difference. Be specific about what you want and need and why you want them or need them. I recommend that you take a full day to think about this by yourself and ask everyone who works for or with you to do the same. Then, get together to create a master list, then prioritize it and study it. Ask your self and your team:

Can we get what we want and need with the resources (time, financial, relationships, physical, personnel, strategic partners, etc...) that we have now?

Then ask:

Is there a better or faster way to get what we want and need than using our resources or using them the way they are being used now?

Then, finally, ask:

Is there anyone we can partner with who can help us get what we want and need more timely, cheaply, effectively, and competently than we can with our limited resources?

This is an exercise that improves your vision of your future self and helps you see "your ghost of Christmas future." What would life be like if you had everything you wanted and needed? Can you actually identify what you want and need? Can you actually get what you want and need? When you start consciously thinking about what you want and need, the natural tendency is for you to focus on your life's purpose and how your professional life fits within that purpose. You begin to think about leading yourself and others with a purpose. This could well be one of the first steps towards living a productive and fulfilled life and

having a practice that serves you and helps you serve others in a way that not only benefits you and your clients, but also others that are affected by your work. This may be the beginning of you realizing the dream of being the lawyer that you had when you were a law student.

## I HAVE DONE THE EXERCISE, NOW WHAT?

Whether you are a Solo or SFP, once you have completed the above exercises, use what you have learned to improve your practice. You can do this on your own, with your team, or with a coach. If you put the time and effort into these exercises that they deserve, then you should see remarkable results on how you see yourself, your practice, and your role. You can also expect to notice shifts in your thinking and belief structure which will help you get more focused on what really matters. If you are satisfied with your progress, use these exercises repeatedly (at least once a year) to help you stay focused and on track.

If, after these exercises you believe you need help, then seek out the help you need. Look for a coach or mentor who can help you through the process and give you other tools that will elevate your practice.

*Mr. Persad is a lawyer and leadership consultant for professionals, high net worth individuals, and SMEs. His practice includes representing clients in Florida, the US Virgin Islands, and other jurisdictions that allow pro hac vice admissions. He is also a certified circuit and family law mediator in Florida and the U.S. Virgin Islands.*

## Endnotes

1 SFPs have 10 or fewer lawyers, usually with two or more partners.

2 If a Solo grosses \$100,000.00 per year, and has minimal overhead of 20%, her take-home net before taxes is \$80,000.00. However, when you add in \$50,000.00 of potential revenue lost for the same year, even if overhead was 40% of gross revenue, her take-home net before taxes is \$90,000.00. Therefore, the value of the opportunity loss is \$10,000.00.



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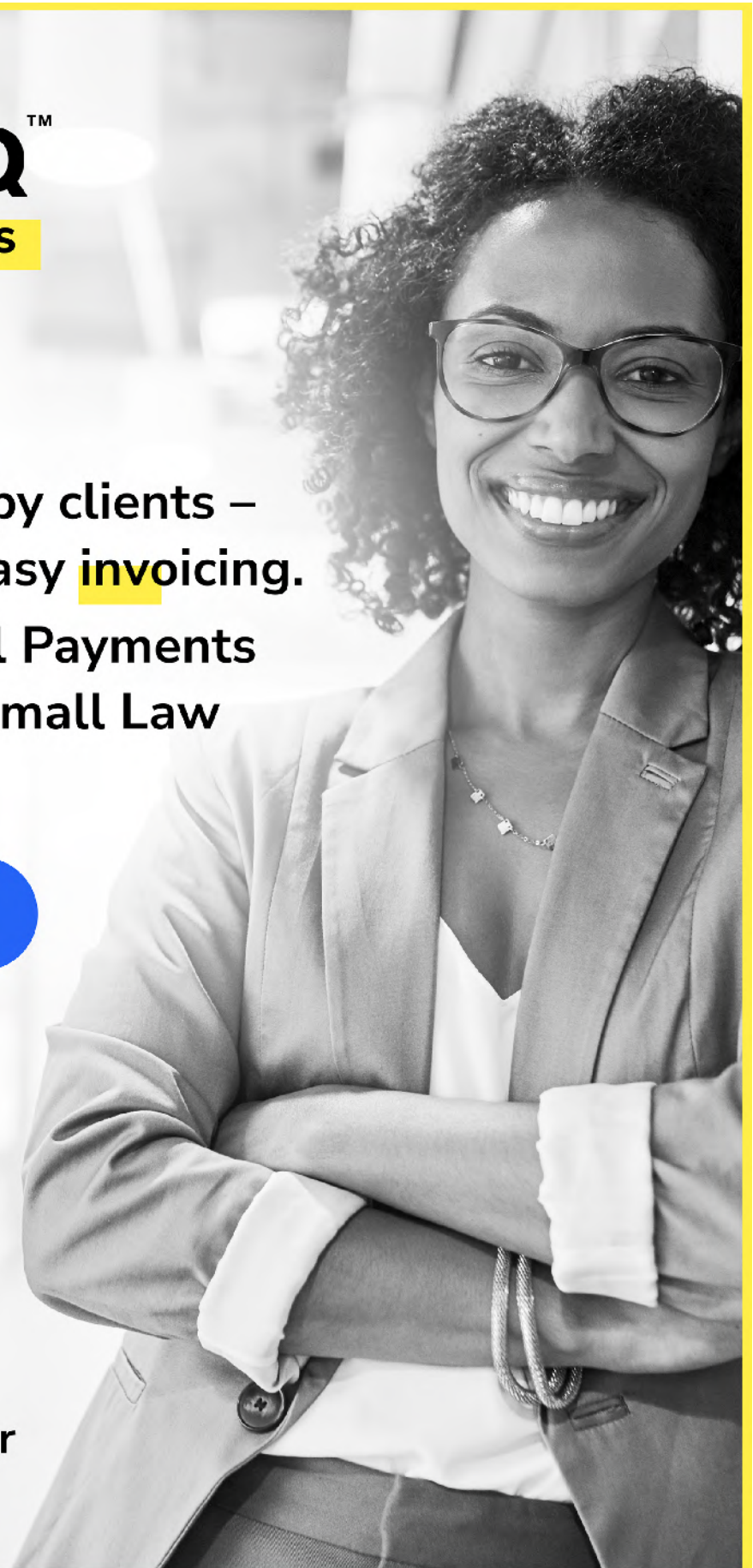
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# IMPACT OF DIVERSITY AND INCLUSION AT GLOBAL COMPANIES: GOOD FOR BUSINESS AND MORE

By Michelle Gilbert

In an ideal world, children learn the Golden Rule, the principle of treating others as you want to be treated. It is a maxim that is found in most religions and cultures.<sup>1</sup> In today's world, implementing reciprocal treatment of work colleagues, and incorporating diversity and inclusion policies and practices in the workplace, leads to more than good relationships. It impacts the financial bottom line of businesses as illustrated by the experience of global companies.

A look back of five years of diversity and inclusion efforts shows improvement, with a long way to go. McKinsey & Company teams prepared three studies in 2015, 2018 and 2020 which researched the business case for diversity.<sup>2</sup> They published *Why Diversity Matters* in 2015, and *Delivering Through Diversity* in 2018, using data from 2014 and from 2017, respectively. For their latest publication, *Diversity Wins: How Inclusion Matters*, on May 19, 2020, McKinsey reviewed 1,000 large companies with annual revenues exceeding \$1.5 billion in fifteen countries (Australia, Brazil, France, Germany, Norway, Denmark, India, Japan, Mexico, Nigeria, Singapore, South Africa, Sweden, the United Kingdom and the United States).

In the 2020 report, companies in the top quartile of gender diversity on executive teams outperformed those in the fourth quartile by 25% based upon profitability, up from 21% in 2017 and 15% in 2014. In 2019, companies with more than 30% of women on executive teams significantly outperformed teams with less than 30% of women or with few to no women.<sup>3</sup>

In the area of ethnic and cultural



MICHELLE GILBERT

diversity, companies in the top quartile outperformed those in the fourth quartile by 36% based upon profitability, up 33% from 2017 and 35% in 2014.<sup>4</sup> While there has been improvement, the pace has been slow, and the gap between the top quartile and lower quartile grows, resulting in lost profitability, by as much as 20%.

McKinsey focused on three industries, financial services, technology and healthcare, and analyzed employee comments connected to five areas: diverse representation, leadership accountability, equality, openness and belonging. Overall, employee comments tend to be more negative than positive about all five areas, which indicates that even companies with a diverse workforce lack more complete diversity and inclusion integration.<sup>5</sup>

## Current Climate

The issuance of 2020 McKinsey report was delayed due to the pandemic from March, 2020 to May 19, six days prior to the killing of George Floyd on May 25<sup>th</sup> in Minneapolis. Floyd's death arguably set up an intense review of

diversity and inclusion policies in society and in companies. In the aftermath, executives at big U.S. companies issued statements condemning Floyd's death and promising to do more to overcome racism and improve diversity and inclusion. These companies include BlackRock, Indeed, Bank of America, Dell, Best Buy, Disney, Lowe's, FedEx, IBM, Nordstrom, Target, Expedia, Goldman Sachs, Ford, Mozilla; Citigroup, Zoom, Tapestry, Starbucks, General Motors, Wells Fargo, Facebook, PayPal, Lyft, Johnson & Johnson, Discovery, Apple, Viacom CBS, Grubhub, Snap, Intuit, Walmart, Gap, WarnerMedia and Intel.<sup>7</sup>

And despite having laws in place banning discrimination for several decades, blacks and minorities disproportionately lag in progress. According to MyLogIQ, a data tracker, only 1% of S&P 500 company CEOs are black, out of a total of 11% ethnic minorities who are 3% Latino, 3% Indian, 2% Asian, 1% Middle Eastern and 1% multiracial.<sup>8</sup>

## What Winners Do and Can Continue to Do

In addition to increased profitability with gender, ethically and cultural teams, companies with diverse board of directors in the top quartile of gender diversity are 28% more likely to outperform the lower quartile financially. Some countries outdo others, like France and Norway who have an average of 40% women on their boards. However, it goes beyond the board and extends to company leadership and accountability.

In fact, the most successful  
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## IMPACT

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companies in the diversity and inclusion space use a systemic, business-led approach, including increasing diverse representation in leadership and critical roles, and holding these leaders accountable for meeting goals. In addition to leadership, these companies take steps to strengthen inclusion, including enabling equality of opportunity through fairness and transparency; promoting openness while tacking bias and discrimination; and finally fostering belonging by supporting diversity.

Diving a little deeper, diverse representation involves thoughtful recruitment of diverse candidates utilizing data and analytics to meet key metrics, including using non-traditional recruitment methods. Diverse candidates then need accountable leaders responsible for inclusion and diverse development of their teams, going well beyond just using unconscious-bias training.

Added to these characteristics, successful companies offer equality of opportunity by making promotional opportunity transparent and by debiasing talent processes, especially connected to advancement and equal pay.

Successful companies promote and enforce a culture of tolerance and penalize those who harass, both in policies and enforcement of policies.

### One Example

Founded in 1902 as Goodfellow Dry Goods, Target is the eight-largest retailer in the United States, and has

had an Inclusion and Diversity office for the past 15 years.<sup>9</sup> “Diversity & inclusion are at the heart of what we do at Target. 75% of the U.S. population lives within 10 miles of a Target store—and in order to win in retail, we need to reflect that population in our team to ensure we deliver the product, services, experiences and messages our guests want and need.” Brian Cornell, Chairman and Chief Executive Officer, Target.<sup>10</sup>

Target tracks diversity and inclusion data through its dedicated D and I analytics team. The company reviews metrics on a quarterly and annual basis, adjust goals as needed, and publishes an annual report reflecting gender and ethnic diversity. For example, in 2019, the total workforce was 50% White, 25% Latin, 15% Black/African American, and 5% Asian. Their board of directors was 54% White, 15% Black/African American, and 31% Latin. Their Officers and Leadership Team need work, though Target’s gender diversity on all levels vary between 30-40% female and 40-70% male.<sup>11</sup>

Target incorporates D and I values in its corporate culture, reflected in its motto, “stay open.” “It means **getting comfortable being uncomfortable**, and giving everyone access to the same opportunities.”<sup>12</sup> Target reinforces these values by forming Diversity Action Committees in each business area who work with the I and D office to implement strategies to meet D and I goals. The company also has affinity groups for race/ethnicity, gender, ability, sexual orientation, veterans, people with different abilities and faith.<sup>13</sup>

In its annual metrics-driven evaluation, using corporate survey

submissions, DiversityInc ranked Target thirteenth in their top 50 list in 2019. “Earning a spot on the Top 50 List is like getting a ‘Good Housekeeping Seal of Approval’.”<sup>14</sup>

Target’s overall goal is to help all families discover the joy of everyday life, with an emphasis on “all.” Check back to see how they rank in 2021!

*Michelle Gilbert manages Gilbert Garcia Group’s foreclosure, real estate, probate, guardianship, business law, and litigation practices, and oversees Sapphire Title & Escrow Company. Gilbert Garcia Group and Sapphire Title provide advocacy, training, and consulting to their clients, as well as engage in monthly community service initiatives and sponsorships.*

### Endnotes:

1 Antony Flew, ed. (1979). “golden rule”. *A Dictionary of Philosophy*. London: Pan Books in association with The MacMillan

2 McKinsey & Company is a US-based management consulting firm, founded in 1926 by University of Chicago professor James O. McKinsey, that advises on strategic management to corporations, governments, and other organizations.

3 Ibid.

4 Ibid.

5 <https://www.wsj.com/articles/george-floyd-and-derek-chauvin-the-lives-of-the-victim-and-his-killer-11592761495>

7 <https://www.mylogiq.com/>

8 [https://en.wikipedia.org/wiki/History\\_of\\_Target\\_Corporation](https://en.wikipedia.org/wiki/History_of_Target_Corporation)

9 <https://corporate.target.com/corporate-responsibility/diversity-inclusion>

10 [https://corporate.target.com/\\_media/TargetCorp/csr/pdf/Target-Workforce-Diversity-Report\\_FY2019.pdf](https://corporate.target.com/_media/TargetCorp/csr/pdf/Target-Workforce-Diversity-Report_FY2019.pdf)

11 Ibid.

12 <https://www.indeed.com/hire/c/info/what-is-an-affinity-group>

13 <https://www.diversityinc.com/diversity-inc-top-50-lists-since-2001/>



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# FALL 2021 CLE

All one-credit CLEs are 12 – 1 PM. One-credit live GoToWebinars are \$50 for Solo & Small Firm Section members and \$95 for non-section members. Wednesday Wisdom Zoom webinars are free for section members unless otherwise noted. Updates and registration information are available at [fisolosmallfirm.org/calendar](https://fisolosmallfirm.org/calendar).

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## September

### **21—Succession Planning 101 for Florida Law Firms: Where Do I Start?**

Live GoToWebinar presented by Mindi Wells, Founder and Managing Attorney of Wells Law, Columbus, OH and Sarasota. Course number 5109. Approved for 1.0 General CLE credit. [REGISTER](#)

### **22—Technology and Best Practices to Advance Your Firm.**

Free Wednesday Wisdom Zoom webinar for Solo & Small Firm Section members.\*

Presented by Janelle Esposito, Managing Partner, Esposito Law Firm, Bradenton.

Course number 5395. Approved for 1.0 General; 1.0 Technology CLE credit. [REGISTER](#)

\*Registration will be approved when section membership is confirmed.

## October

### **19—Medical Marijuana & Hemp: Status in Florida of the Laws and Ethics.**

Live GoToWebinar presented by Tara Tedrow, Chair of the Cannabis & Controlled Substances Group for Lowndes Law, Orlando. Course number 5309. Approved for 1.0 General; 1.0 Ethics CLE credit. [REGISTER](#)

### **22—Annual Ethics Update 2021: Back to the Future – Re-imagining the Practice of Law (Topics and speakers TBA.)**

Live GoToWebinar. Course number and 5.0 General; 5.0 Ethics CLE credit pending approval.

### **27—How to Become a Legal Advocate for Your Own Special Needs Child or Clients and Their Families.**

Free Wednesday Wisdom Zoom CLE for Solo & Small Firm Section members\* presented by Diana Abril, Corporate Attorney, Disability Rights Advocate and parent of a special needs child.

Course number and 1.0 General CLE credit pending approval. [REGISTER](#)

\*Registration will be approved when section membership is confirmed.

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Interested in presenting a CLE program in Spring 2022? Please email Solo & Small Firm Section CLE Committee Chair [Linda Calvert Hanson](#).

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## FALL 2021 CLE, CONTINUED

### November

#### 16—**Malpractice & Ethical Perils for Law Firms to Avoid.**

Live GoToWebinar presented by Cathy M. Sargent, Esq., Executive Vice President & COO, Florida Lawyers Mutual Insurance Company, Oviedo, and Margaret “Peggy” Hewitt, Esq. Resources and Services Manager, Florida Lawyers Mutual Insurance Company, Oviedo.

Course number 5406. Approved for 1.0 General; 1.0 Ethics CLE credit. [REGISTER](#)

#### 17—**Meaningful Mediation: Ethical, Mindful, and Strategic.**

Free Wednesday Wisdom Zoom Webinar presented by Patrick Russell, ADR Section Chair and Attorney-Mediator, Salmon & Dulberg Dispute Resolution, Miami.

Course number and 1.0 General; 1.0 Ethics CLE credit pending approval. [REGISTER](#)

\*Registration will be approved when section membership is confirmed.

### December

#### 14—**Microsoft Word: Pro Tips to Save You Time and Energy.**

Live GoToWebinar presented by Third Judicial Circuit General Magistrate Jennifer Kuyrkendall Griffin.

Course number and 1.0 Technology CLE credit pending. Registration opens soon.

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## CLE for Solos & Small Firms



**[FLSoloSmallFirm.org/CLE](https://FLSoloSmallFirm.org/CLE)**

**There are four options for accessing Solo & Small Firm Section-sponsored CLE courses:**

1. Visit our [calendar](#) to register for upcoming monthly live GoToWebinars and free Wednesday Wisdom Zoom webinars.
  2. Join our section's members-only [Facebook group](#) to access a video library of previously recorded Wednesday Wisdom Zoom webinars.
  3. Purchase previously recorded section CLE through The Florida Bar, available 24/7 as [on-demand seminars and podcasts](#).
  4. Purchase previously recorded section CLE through The Florida Bar in [CD or DVD format](#).
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# PARALEGAL CORNER

## NEWS FOR PARALEGALS TO USE...

By Priscilla Horn Warren, CP, FRP



PRISCILLA HORN WARREN

**Welcome to the Paralegal Corner, where you can find breaking news and other useful items (including website links) pertaining to our profession.**

The Solo and Small Firm Section held its annual meeting via Zoom on June 11 during the 2021 Florida Bar Annual Convention. The new SSF Section Executive Committee members were elected and announced, and their contact

information can be found on the [section's website](#). For additional information on joining the SSF Section, you may also contact our **Section Administrator, Ricky Libbert**, at [rllibbert@floridabar.org](mailto:rllibbert@floridabar.org) or (850) 561-5631.

In addition, the Solo and Small Firm Section presents annual awards to members of The Florida Bar in recognition of their legal and professional service. In 2015, our section added a Paralegal of the Year award to be given each year to an affiliate paralegal member. This prestigious award recognizes one outstanding Florida paralegal for demonstrating exceptional efforts in achieving a high standard of professionalism in the delivery of paralegal services, and who has also contributed significantly to the community and his or her law firm. The 2021 Paralegal of the Year award was presented at the section's annual meeting in June to **Asha Maharaj-Lucas, FRP**, current President of the Paralegal Association of Florida, Inc. Asha has been a paralegal for more than 20 years and is currently working in administrative law. She graduated from Rutgers University with a Bachelor's degree in Political Science and Women's Studies. She initially began her career in the Federal Court system in the Northern District of New Jersey and relocated to Tallahassee in 2004. Asha attained her considerable leadership skills and experience from her involvement with FRP's Enrichment and Compliance Committee, Florida Lawyers Assistance, and the Pro Bono Committee for the 2<sup>nd</sup> Judicial Circuit. She is also an Advisory Board Member of the Legal Studies Program at Keiser University and is the Community Liaison Officer for Tallahassee Women Lawyers.

For more information on paralegal designations and educational opportunities, please visit the [Florida Registered](#)

[Paralegal Program](#) page on The Florida Bar website. For additional information on NALA, the nationwide paralegal association, and/or requirements for obtaining your national Certified Paralegal designation, visit the [NALA website](#) for membership requirements and continuing education opportunities.

**Reminder:** The Wednesday Wisdom Zoom CLE series—free noontime webinars for Solo and Small Firm Section members—provides current information on legal issues. If you are not an affiliate member of the Solo and Small Firm Section, what are you waiting for? Affiliate memberships are only \$35 per year, and section membership offers [multiple benefits](#). Attorneys and paralegals may join the Solo and Small Firm Section through The Florida Bar [member portal](#). Membership dues are for the Bar fiscal year, July 1 – June 30. Becoming an affiliate member of the SSF Section might be one of the best personal and professional decisions you will make for your paralegal career to flourish and prosper.

**Please do not hesitate to contact me with any questions or concerns. My direct email is: [pris2323@yahoo.com](mailto:pris2323@yahoo.com).**



### Is your E-MAIL ADDRESS current?



**Log on to The Florida Bar's website  
([www.FLORIDABAR.org](http://www.FLORIDABAR.org)) and go to  
the "Member Profile" link under  
"Member Tools."**

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# THE AGING POPULATION WILL IMPACT ON YOUR LAW PRACTICE

By Twyla Sketchley

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The “silver tsunami” is used by economists, demographers, and others to describe the aging population in the United States, specifically Baby Boomers as they reach age 65, and the impact of the aging population on society, business, and families. Baby Boomers were born between 1946 and 1965 and approximately 10,000 turn age 65 each day.<sup>1</sup> One quarter of the oldest Americans live in three states – California, Florida, and Texas.<sup>2</sup> Florida has the second oldest population in United States,<sup>3</sup> with approximately 4.5 million people over age 65.<sup>4</sup> By 2030, one-third of Florida’s population will be over age 60.<sup>5</sup>

The increasing age of Florida’s population will impact all law practices, not just estate planning and elder law, and lawyers must understand the dynamics to understand where it may impact their practice. This article will discuss increasing disability of an aging population and the need for care, which impact not only elderly clients, but also their families and friends.

As a person ages, the likelihood of disability and loss of mental and physical capacity increases. Nearly 40% of those age 65 and older have at least one disability. Twenty-seven percent of Floridians over age 65 have at least one disability<sup>6</sup> with loss of mobility is the most common disability.<sup>7</sup> As people age, the brain shrinks,<sup>8</sup> which can lead to cognitive disabilities. Approximately, ten percent of individuals over age 65 have a cognitive impairment.<sup>9</sup> Even if an elder does not lose mental capacity, physical and mental declines often lead to need for costly long-term care, increased chances of abuse, and dependence on families for care and support.



TWYLA SKETCHLEY

Long term care describes the services a person needs to meet their health and personal care needs.<sup>10</sup> It is usually non-medical and consists of assistance with activities of daily living and instrumental activities of daily living.<sup>11</sup> Activities of daily living (ADLs) include eating, dressing, bathing, transferring (getting in and out of bed or from the bed to a chair), and toileting and incontinence care.<sup>12</sup> Instrumental activities of daily living (IADLs) include housekeeping, transportation, money management, meal preparation, using the telephone, medication management, and shopping.<sup>13</sup> In Florida, those who have an impairment in these areas are defined as vulnerable adults,<sup>14</sup> which creates a duty in all Floridians to report suspected abuse, neglect, or exploitation of a vulnerable adult.<sup>15</sup>

According to AARP, approximately 14 million people in the United States needed long term care services.<sup>16</sup> Nearly 60% of those are over age 65.<sup>17</sup> Only ten percent of those needing long term care reside in a nursing home.<sup>18</sup> The remainder live in the community and receive care family members or friends who are rarely paid for their services.<sup>19</sup> These caregivers often

suffer health problems,<sup>20</sup> family stress, and adverse financial consequences.<sup>21</sup>

Long term care costs can have catastrophic financial consequences to an individual and their family. According to the Florida Health Care Association, the average cost of a semi-private nursing home bed is \$89,297.00 a year,<sup>22</sup> and an assisted living facility room is \$48,000.00.<sup>23</sup> If a person needs care at home, the average cost of a home health aide is \$22.50 per hour.<sup>24</sup> However, the median income of those 65 years and older in Florida is only \$40,253, with approximately 14% of Floridians over age 65 living on \$15,175.00 a year.<sup>25</sup> While Medicaid covers approximately 60% of long term care spending in Florida, that is primarily for those who are in nursing homes.<sup>26</sup> Care provided in assisted living facilities and at home is usually paid for out of an elder’s personal assets and income or by their families.

Because of staggering costs of long-term care or lack of adequate services, most elders rely on their family members to provide free care.<sup>27</sup> This can cause serious financial harm to the caregiver. In 2016, family caregivers spend an average of \$7,000.00 to \$12,000.00 on direct caregiver expenses.<sup>28</sup> Twenty percent of report a high level of financial strain from caregiving.<sup>29</sup> Caregivers stop saving, incur more debt, exhaust workplace benefits, exhaust their savings, reduce hours at work, or have to quit work to accommodate caregiving.<sup>30</sup> These losses continue to impact a caregiver over the course of a lifetime.

Lawyers should review every part of their practice to determine how they can address these issues and their impact on their client, other lawyers,

*continued, next page*

## THE AGING POPULATION

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opposing parties, and even the court system. Lawyers will have to make changes to their offices to accommodate physical and mental disabilities, review office procedures to eliminate possible undue influence,<sup>31</sup> and review how to adhere to the Rules Regulating The Florida Bar in the face of these issues.

*Twyla Sketchley is a Florida Bar board certified elder law attorney. She is licensed to practice law in Montana and Florida and founded The Sketchley Law Firm, P.A. in Tallahassee in 2002. Her practice focuses on elder law, guardianship, fiduciary representation and elder law related litigation. She is a past chair of the Elder Law Section of The Florida Bar and a past president of the Academy of Florida Elder Law Attorneys. In 2016, she founded The Sketchley Method, the nation's leading resource on the prevention of the maltreatment of elders and people with disabilities.*

*In addition to being an active member of The Florida Bar and its sections, the National Academy of Elder Law Attorneys,*

*Florida Association for Women Lawyers and the Montana Bar, Ms. Sketchley works with statewide organizations that work to develop laws and rules that improve the lives of elders and is a frequent speaker to community organizations regarding elder law issues. Contact her at [Twyla@sketchleylaw.com](mailto:Twyla@sketchleylaw.com) or (850) 894-0152.*

### Endnotes

- 1 By 2030, All Baby Boomers Will Be Age 65 or Older (census.gov)
- 2 Which U.S. States Have the Oldest Populations? | PRB
- 3 Id.
- 4 2020 Profile of Older Americans (acl.gov) pg. 8
- 5 Florida Epi Profile Final.pdf (acl.gov)
- 6 2018 Profile of Older Floridians for Florida (elderaffairs.org)
- 7 CDC: 1 in 4 US adults live with a disability | CDC Online Newsroom | CDC
- 8 Ageing and the brain (nih.gov)
- 9 Disability Impacts All of Us Infographic | CDC
- 10 <https://www.nia.nih.gov/health/what-long-term-care>
- 11 <https://www.aarp.org/home-garden/livable-communities/info-1998/aresearch-import-710-IB32.html>
- 12 Id.
- 13 Id.

- 14 Fla. Stat. § 415.102(28) (2021)
- 15 Fla. Stat. § 415.1034 (2021)
- 16 AARP Public Policy Institute, August 2019 Long-Term Services & Supports Fact Sheet.
- 17 Id.
- 18 Id.
- 19 Id.
- 20 <https://www.caregiver.org/resource/caregiver-health/>
- 21 AARP Public Policy Institute, 2020 Report Caregiving in the U.S.
- 22 [https://www.fhca.org/media\\_center/long\\_term\\_health\\_care\\_facts](https://www.fhca.org/media_center/long_term_health_care_facts)
- 23 Id.
- 24 <https://www.genworth.com/aging-and-you/finances/cost-of-care.html>
- 25 2018 Profile of Older Floridians for Florida (elderaffairs.org)
- 26 [https://www.fhca.org/media\\_center/long\\_term\\_health\\_care\\_facts](https://www.fhca.org/media_center/long_term_health_care_facts)
- 27 AARP Public Policy Institute, August 2019 Long-Term Services & Supports Fact Sheet.
- 28 Id.
- 29 Id.
- 30 AARP Public Policy Institute, 2020 Report Caregiving in the U.S.
- 31 David P. Hathaway, *Make It An Even 10: Courts Rely on More Than The Seven Carpenter Factors to Analyze a Claim for Undue Influence of a Will or Trust*, Vol. 83 Florida Bar Journal No. 6 (June 2009).



# Save the Date

## Annual Ethics Update 2021

**"Back to the Future – Re-imagining the Practice of Law"**

October 22, 2021

8:00 a.m. – 12:50 p.m.

- Professionalism in a Remote World
- Perspectives from the Bench – New-views and Re-views
- Cyber Security and Insuring the Risks

**CLE Credit Pending:**

General 5.0

Professionalism 1.0

Ethics 4.0

# Hire (or Be) a Freelance Attorney

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## LAWCLERK: Where Attorneys Go to Hire Virtual Associates and Freelance Lawyers

Solo & Small Firm Section members can earn rebates when they hire freelance attorneys through [LAWCLERK](#)—and the section will receive a share of the revenue for each member who signs up and uses an account.

LAWCLERK is where attorneys go to hire freelance lawyers. The company has built a nationwide network of over 3,400 freelance lawyers—called Lawclerks—who can help busy attorneys with research, any sort of written document, discovery, or other project-based written work.

Solo & Small Firm Section members who [register](#) for a hiring attorney account with LAWCLERK will receive a 10 percent rebate on the first three projects they post on LAWCLERK using a special rebate code. Section members who register for a hiring attorney account also will be assigned a complimentary Dedicated LAWCLERK Advisor to assist with posting projects and getting work completed. In addition, LAWCLERK will offer free ethics CLE credit for section members on the ethics of outsourcing to freelance lawyers. In addition, the section will receive a revenue share for each new section member who creates a hiring attorney account with LAWCLERK using the section's code, if the attorney completes at least one project on LAWCLERK in the calendar year.

[Get Started](#)

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