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48TH CABA GALA

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President's MESSAGE



It is my greatest honor and privilege to lead the Cuban American Bar Association (CABA) as your president for 2022. As we “come back to life,” in CABA’s 48th year, I promise growth, amplification, commitment, dedication, and gratitude. I promise to further expanding our footprint throughout the State of Florida.

With Briefs, I hope to continue to amplify the voices of our members in seeking equality and continue amplifying the voices of the Cuban people, still on the island, facing human rights abuses on a daily basis, lacking access to basic medical care, and surviving with scarce essential resources under an oppressive Communist regime.

I commit to continuing the mission that our founders’ set forth decades ago, to provide equal access and adequate representation to all minorities before the courts, and facilitate the administration of justice. I further affirm to protect the CABA Foundation’s Scholarship Program which assists in securing the next generation’s success, and to support the CABA Pro Bono

Project in its tireless work to aid the indigent community in our county.

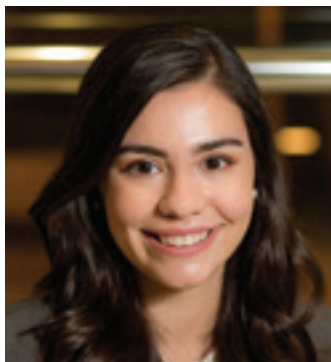
I will dedicate CABA’s resources in continuing to increase diversity in the judiciary and the legal community, at large, and to collaborate on efforts to ensure that a diverse bar and bench remain a priority. The Gala and this special edition of Briefs could not be possible without the generosity of our sponsors, support of our members, and tenacity of the Cuban people.

With deep appreciation,

A handwritten signature in black ink, appearing to read "W/S/R", written over a vertical line.

Miriam Soler Ramos
CABA 2022 President

Editor-In-Chief's MESSAGE



Dear CABA Members:

We are excited to kick-off 2022 with the Gala Edition of CABA Briefs! This special edition of CABA Briefs is brought to you by the generosity of the Gala sponsors.

Although the press cycle has moved on from #SOSCuba, it is very much an ongoing movement. We are grateful for Daniel I. Pedreira, PhD candidate, who has summarized the continued ramifications of the July 11th protests for the people of Cuba. As always, in this issue you will find the Legal Round Up prepared by the valued appellate attorneys at Kula & Associates, P.A. We also take a moment to remember Judge Goderich and his contributions to the legal community.

I would like to thank the CABA Briefs Committee, as well as the Chairs, Diana Arteaga and Daniel Buigas, and the Director of Operations, Victoria Suess, for their guidance. The tradition of CABA Briefs would not be possible without the support shown by our members and community. I cannot wait to see everyone at CABA's Night with the Marlins on May 21, 2022.

Sincerely,

A handwritten signature in black ink, appearing to read "Emily K. Balter", written in a cursive style.

Emily K. Balter
Editor-in-Chief



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LEGAL ROUND UP

By: Elliot B. Kula, W. Aaron Daniel & William D. Mueller

Implicit Gender Bias Remains Prevalent and Judge Martha Warner Finds the Teachable Moment

J.S. v. Department of Children and Families,
Case No. 4D21-1923 (Fla. 4th DCA Jan. 19, 2022)

Sometimes, the most important part of a court's opinion is not the legal principle, but the social commentary and teaching moment it provides. Judge Martha Warner's dissenting opinion in *J.S. v. Department of Children and Families* illustrates that point. In *J.S.*, she authored a dissenting opinion that reminded us all that gender disparities persist, sadly, in the legal profession and in legal writing. It's a must-read opinion.

In *J.S.*, the appellant moved for rehearing following an unfavorable decision, and quoted Judge Warner's dissent for support. But the motion used the wrong gendered pronoun, twice (Ex: "Warner, J. opined he would hold that § 39.806(1)(f) is unconstitutional..."). Judge Warner took the opportunity to remind the lawyer, and The Bar, that "he" is not the default universal personal pronoun. She emphasized that using the wrong gendered pronoun illustrates the pervasive implicit bias within the legal community.

In Judge Warner's own words:

More importantly, this error reveals the tenacious grip that the male image has in the legal profession to the detriment of women who have joined the profession in droves since I began practicing forty-eight years ago. It still is an issue that women are mistaken for court reporters or paralegals by both judges and lawyers. No man would suffer that same misidentification, which relegates the woman to a less important role.

We all need to be cognizant and remove from our thinking the male-centric image of lawyers and judges. It is not hard, but it requires raising one's consciousness of the issue. And it is somewhat of a surprise that it has persisted for so long. After all, the iconic figure holding the scales of justice is a lady.

To be sure, Judge Warner's words are something to reflect on.

Ocean's Eleven With a Miami Flare

Apollo Trust v. BNP Paribas Jersey Trust Corp. Ltd,
Case No. 3D20-180 (Fla. 3rd DCA February 2, 2022)

As Judge Bokor of the Third District Court of Appeal stated, the script of *Ocean's Eleven* looks dull compared to the "family drama" and "globetrotting intrigue" he presided over in *Apollo Trust*. There, Judge Bokor, who is obviously played by George Clooney in this iteration, held that a foreign entity claiming ownership of assets in Florida that may pertain to a separate foreign judgment debtor, is required to prove their authentic ownership of the assets before absconding with them.

In this case, the family feud began when Italian film star Edoarda Crociani set up a trust for her two daughters, Cristiana and Princess Camilla (of Italy) in 1987. Edoarda was the widow of an extremely wealthy Italian industrialist, Camilla Crociani, who died in 1980. He had amassed considerable wealth, including a collection of fine art.

When £100 million of Mr. Crociani's investments and art were taken from the trust fund in 2010 and transferred into Edoarda's name, his estranged daughter Christiana feared she was being blocked from inheriting the family's wealth. She suspected it was being given to her sister (the Princess) in place. She sued, and won. This left the bank, BNP Paribas (who was appointed as a trustee and faced indemnifying Christiana), to rebuild the fund.

Of course, this all heats up in Miami when several of the paintings are in a Wynwood fine art vault. BNP Paribas initiated proceedings supplementary to execute on the paintings, asserting that they are owned by Edoarda (the judgment debtor) who fraudulently (and nominally) transferred title to the paintings to an offshore trust, Apollo Trust ("Apollo"). Apollo, responsive to BNP's notice to appear, appeared to assert that it owns the paintings and that the

LEGAL ROUND UP

paintings (sitting in this jurisdiction) are beyond BNP's reach because Apollo is a non-Florida entity with no ties to the State besides its purported claim to the paintings at issue.

But not so fast, Judge Bokor held. The Court determined that the jurisdictional question must be resolved in a limited evidentiary hearing aimed at determining Edoarda's executable interest in the Miami artwork, if any. "If Edoarda possesses such an interest in the Miami artwork," the Court concluded, "then Apollo and its trustees, who undisputedly store, maintain, and insure the artwork in Miami, could reasonably anticipate being haled into a Florida court where the assets are located."

If Speaking is Silver, then Listening is Gold.

R.J. Reynolds Tobacco Co. v. Gloger,
Case No. 3D20-38 (Fla. 3d DCA Feb. 2, 2022)

This was a rare decision, in the civil context, that turned on a jury selection issue. The Third District Court of Appeal reversed a \$42.5 million verdict based on a juror's responses during voir dire, confirming an *inability* to be impartial, and yet the trial court seated the juror. That's right. This one is a doozy, and goes to show that especially when big dollars are at stake, you have to listen extra carefully to the precise words that a juror uses.

In this *Engle* progeny (tobacco) case, one of the questions posed by defense counsel was whether any of the potential jurors believed that someone who smokes daily is addicted to cigarettes; the rationale being that such a belief would improperly alleviate the smoker of her burden to prove she was addicted, shifting the burden instead to defendants to prove she was not addicted. Defense counsel asked specifically asked the jury: "[D]o you believe that every smoker who smokes is addicted?"

When it was the Prospective Juror 8's turn to answer, she replied to counsel's question: "If they smoke every day, I do feel it's an addiction.... A habitual addiction or a regular addiction, chemical addiction." Which is to say, Prospective Juror 8 was clear and emphatic in stating her belief that the habit of smoking every day was *ipso facto* indicative of addiction. And, when further pressed, Prospective Juror 8 flat out stated her expectation that defense counsel must disprove addiction, rather than the plaintiff proving addiction.

Defense counsel requested a for-cause challenge to strike Prospective Juror 8, but was denied after the trial court "disagreed with that characterization of the prospective juror's statements," and inexplicably refused to read the transcript. Consequently, defendants were required to use a peremptory challenge to strike Prospective Juror 8, allowing them to appeal the ruling and eventually upend the large jury verdict. It's not a win until the DCA says so; be careful not to give reason for a negative say so.



Appellate attorney **Elliot B. Kula** of Kula & Associates, P.A., works collaboratively with great trial lawyers to provide appellate services and trial strategy consultation. Visit the Firm's website at www.KulaLegal.com.



Appellate attorney **W. Aaron Daniel** of Kula & Associates, P.A., works collaboratively with great trial lawyers to provide appellate services and trial strategy consultation. Visit the Firm's website at www.KulaLegal.com.



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In Memory of the Honorable Mario P. Goderich

By: Francisco R. Angones

Many have described Judge Mario Goderich as a trailblazer and a gentleman. He was both. Born in Santiago de Cuba, Oriente, Cuba, Judge Goderich's parents had the presence of mind to send him to the United States to study and learn English at the Massanutten Military Academy, a secondary school in Virginia. After graduating, he returned to Cuba where he attended the University of Havana School of Law, receiving his Doctor of Civil Laws degree in 1957.

Judge Goderich practiced law in Cuba until 1961, when he went into exile in Miami. Like many others who left Cuba fleeing communism, he took low level jobs, including manning the front desk at a Miami Beach hotel and working as a part-time school bus driver. As summed up by University of Miami Interim Dean Nell Jessup Newton, "Judge Goderich followed the hard path worn by many Cuban professionals who emigrated to the United States in the 1960s."

Eventually, Judge Goderich went to law school again, this time at the University of Miami, where he graduated in 1968. One year after becoming a US citizen (a requirement of the Florida Bar then), he became Director of the University of Miami's Law library.

At the law school, he helped design and implement a special academic program approved by the Florida Bar that provided an opportunity for lawyers educated in Cuba to study at the university. Graduates of that program were permitted to take the Bar exam and to practice law in Florida. Former University of Miami School of Law Dean Dennis Lynch remembered Judge Goderich as "warm and helpful to new faculty." He "immediately took an interest in the empirical research I had been doing on the legal profession in Colombia and guided me to resources I could use in the library."

Judge Goderich was also among a group of lawyers who founded CABA and was elected as its first president. In 1975, he was appointed to the Court of Industrial Claims (workers' compensation). Three years later, he was appointed to the circuit bench and later to the Third District Court of Appeals. He was the first Cuban-American to sit on all three of those courts.

Judge Goderich received numerous honors and awards, including Outstanding Judge by the Council on Crime and Delinquency and The Lawyer of the Americas Award by the University of Miami InterAmerican Law Review. He was the first recipient of the Francisco Garcia-

Amador Award, presented by the Center for Hispanic and Caribbean Legal Studies at the University of Miami, and was bestowed the Order of Democracy by the Republic of Colombia. He's been recognized as St. Thomas University School of Law's Jurist of the Year and received the honor of the Thurgood Marshall College Fund Award of Excellence.

Judge Goderich's legacy and example continues to pave the way for future generations through a number of professionalism awards that bear his name, including The Mario P. Goderich Legal Ethics Award, presented by the Dade County Bar Association, the Mario P. Goderich P.A.V.E.R award, presented by CABA, as well as The Mario P. Goderich Merit Scholarship at Florida International University.

In addition to all his accomplishments, Judge Goderich enjoyed playing tennis, traveling, music and dancing. He enjoyed the company of his longtime friends and family, as well as his children and grandchildren. Former Chief Judge Gerald Wetherington described Judge Goderich as a "true Renaissance man." He will be remembered as the trailblazer he was, and his memory will continue to pave the way for others.



During the past year, CABA has shown a resilience that has been admired by all in our community.

KTT congratulates **Dax Bello**
for his leadership during 2021.

We are confident that

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will continue to lead CABA in its efforts to rise above the storms and continue moving forward.

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Legislating Repression: Cuban Decrees, Charges, and Prison Sentences after July 11th

By: Daniel I. Pedreira

The mass protests that erupted throughout Cuba on July 11, 2021 brought great optimism for those seeking freedom and democracy for the island. At the same time, it brought a new wave of repression by the Cuban dictatorship against Cubans who protested.

The repressive framework for the Cuban dictatorship's crackdown of peaceful protesters has a 63-year history that dates to Fidel Castro's

arrival to power on January 1, 1959. Yet, Cuban laws have been modified in recent years to reflect the changing face and methods of Cuba's dissident and opposition resistance movement.

In April 2018, the Cuban regime approved Decree 349, which expanded the dictatorship's power to shut down art and book sales, exhibitions, concerts, and performances that contain

prohibited content. It also bans art considered to contain "sexist, vulgar, and obscene language" and using "national symbols" to "contravene current legislation." The Decree further authorized government inspectors to fine those considered to be breaking the law and to confiscate their artwork if it is considered to violate the law. Cuban artists are also banned from selling their artwork without government approval. Months before the decree



went into effect on December 7, 2018, a group of artists, called the San Isidro Movement, formed to challenge the law.

The Cuban dictatorship enacted Decree Law 370 in 2018. This Decree-Law, which entered into force in July 2019, “penalizes the dissemination of information contrary to “social interest,” “morals,” and “good customs” on social media, outlaws personal blogs and independent media outlets that are denied access to the “.cu” domain, and expands the dictatorship’s overall control on cyber-communications.

Over the next couple of years, the San Isidro Movement gained strength in numbers and attracted worldwide attention. Its leaders, most notably Luis Manuel Otero Alcántara, Denis Solís González, Maykel (Osorbo) Castillo, were violently harassed and imprisoned by Cuban authorities, further drawing global attention for their calls for freedom of expression in Cuba.

The San Isidro Movement’s protests reached a climax on November 27, 2020, when approximately 150 artists signed a declaration supporting the Movimiento San Isidro, staged a sit-in at the country’s Ministry of Culture, and demanded a meeting with Culture Minister Alpidio Alonso Grau. The meeting took place, and Alonso Grau promised more talks between the dictatorship and the artists regarding their demands. True to form, the Cuban dictatorship quickly reneged on its promise to dialogue with the artists.

Following the July 11th protesters’ use of technology to organize nation-wide demonstrations, the Cuban dictatorship enacted Decree-Law 35 in August 2021. This new decree-law further penalizes the

publication of information critical of the government. An additional “cybersecurity” resolution was attached to Decree-Law 35, which extends traditional repressive practices against freedom of expression to cyber and electronic platforms. This new legislation identifies “spreading fake news,” “slander that impacts the prestige of the country,” “inciting protests,” “promoting social indiscipline,” and “undermining someone’s fame or self-esteem” as potential threats to national security.

When viewed jointly, Decree-Laws 349, 370, and 35 have provided the Cuban dictatorship with the legal framework to carry out massive show trials, the sheer number of which had not been seen in decades. According to CubaLex, 1,395 people were detained on July 11th. In early February, 33 protesters, six of them minors, were tried for “sedition by the tribunal of the 10 de Octubre Municipality in Havana. Prosecutors asked for sentences of up to 25 years in prison. More trials are expected in the coming months, as 727 of the July 11th protesters, including 15 minors, remain in prison.

Sedition is just one of the charges that the Cuban dictatorship has imposed on Cuba’s peaceful protesters. Others have been charged with “committing vandalism that attempted against authority, persons, and goods” and “grave alterations of order.”

Another common charge is “*desacato*,” or contempt. This charge is often used as a form of lèse-majesté law when applied to those who criticize Cuba’s appointed President Miguel Díaz-Canel Bermúdez, Raúl Castro Ruz, or other members of the communist nomenclature.

The prison sentences imposed on the July 11th protesters mark a sharp return to past judicial practices.

In the early decades of the Cuban dictatorship, political prisoners were sentenced to decades in prison, where they lingered in subhuman conditions and were subjected to every type of abuse imaginable. In recent decades, the regime’s tactic changed to carrying out short-term arrests of dissidents and opposition leaders, who were released hours or days later. The trials of the July 11th protesters demonstrate that the dictatorship has elected to revert to its totalitarian roots, despite public opinion in Cuba and abroad.

The Cuban dictatorship’s new repressive decrees, summary trials, and decades-long prison sentences demonstrate a return to its totalitarian past. This devolution will likely not work to the regime’s favor. The figure of Fidel Castro has quickly disappeared from the collective psyche of the Cuban people, and Raúl Castro, at age 90, represents the last direct link to Cuba’s repressive revolutionary past. The events of July 11th demonstrate that the dictatorship is not impermeable. Once the younger Castro brother is physically gone, it will be difficult for his successors to maintain the same level of repression that he and his brother did for decades. Meanwhile, hundreds of Cubans face an uncertain future in prison for promoting freedom and democratic change at home.



Daniel I. Pedreira is a PhD candidate in political science at Florida International University’s Steven J. Green School of International and Public Affairs.

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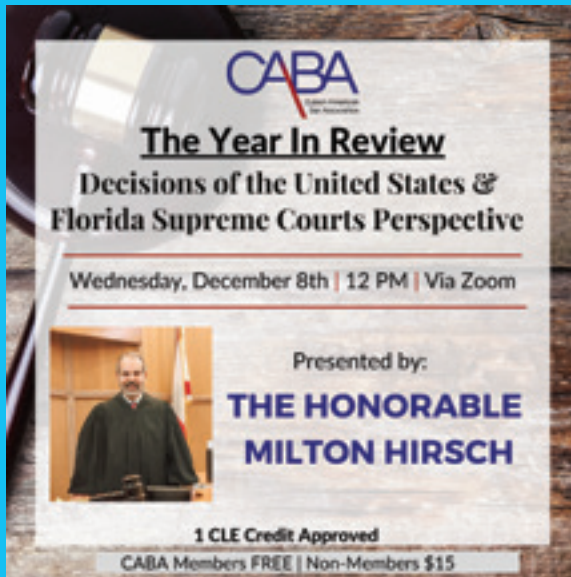


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CABA's Continuing Legal Education Programming



CABA closed out the year with an overview of significant Supreme Court decisions with Judge Milton Hirsch.

CABA continued its end-of-the-year tradition with the December 8, 2021 CLE, which featured a discussion of recent United States and State of Florida Supreme Court decisions. The cases discussed included Florida's State v. Poole decision regarding juries and the death penalty, as well as the U.S. Supreme Court's Torres v. Madrid, which explored whether a seizure occurs when an officer shoots someone temporarily eluding capture.



Judges Carlos Gamez and Diana Vizcaino discussed what all attorneys need to know about Domestic Violence Injunctions.

The first CLE of 2022, held on January 20, included the Honorable Judges Gamez and Vizcaino as they went over the different types of injunctions available to domestic violence victims, including the requirements for qualifying for each category. The Judges also guided attendees in the procedure to obtain an injunction, as well as best practices for attorneys seeking to aid victims.



New York Attorney Michael Fernandez helped attendees gain an understanding of how to represent their Florida clients in New York Courts.

Michael Fernandez, of Rivero Mestre's New York City office, presented an overview of the differences and similarities between Florida and New York courts. Mr. Fernandez also explained how to appear pro hac vice in New York in light of the frequency with which Florida businesses enter into contracts with New York State venue provisions.



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Thank you, Dax A. Bello for a wonderful year in 2021!
Wishing Miriam Ramos and the 2022 Board of Directors all the best!

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48th Annual CABA Gala



With *Volver a Vivir* as the theme, on Saturday, February 5th the Cuban American Bar Association (CABA) came *back to life* during its annual installation gala. It was a return to its traditional format, after a creative and successful Regala alternative in response to the COVID-19 pandemic. I am absolutely thrilled that the 2022 gala resulted in the most wonderful and energetic return to normal. Consistent with the theme, the room was filled with leaves, which symbolize life, representing our collective desire to return to a pre-pandemic life, and our joint optimism that this will occur the recent future.

The gala was exceptionally well-attended and the joy in the room was palpable. Guests smiled from ear to ear as they greeted each other in person—many having not seen one another in months or years. Los besitos Cubanos were plentiful y los abrazos tambien!

Aside from resulting in a wonderful reunion of friends and colleagues, the gala hosted some very special guests. Among them were United States Congressman Carlos A. Gimenez, Florida Senators Annette Taddeo and Ileana Garcia, Florida Congresswoman Demi Busatta Cabrera, State Attorney (and CABA Past President) Katherine Fernandez Rundle, Public Defender Carlos J. Martinez, Board of County Commissioners Vice Chairman Oliver Gilbert, Coral Gables City Manager Peter J. Iglesias, Miami Beach City Manager Alina Tejeda Hudak, Miami-Dade County Attorney Geri Bonzon-Keenan, Miami City Attorney (and CABA Past President) Victoria Mendez, Coral Gables City Clerk Billy Urquia, Coral Gables Police Chief Edward J. Hudak, Federal Judge Rodolfo Ruiz and many of his colleagues on the Circuit and County Court bench. In addition, CABA was presented with a proclamation from State of Florida by Attorney General Ashley Moody commending CABA's advocacy and community service through the CABA Pro Bono Project and the CABA Foundation. CABA was also presented with a proclamation making February 5, 2022 "Cuban American Bar Association 48th Anniversary Day," from the Office of the Mayor of Miami-Dade County and the Board of County Commissioners by County Mayor Daniella Levine Cava.



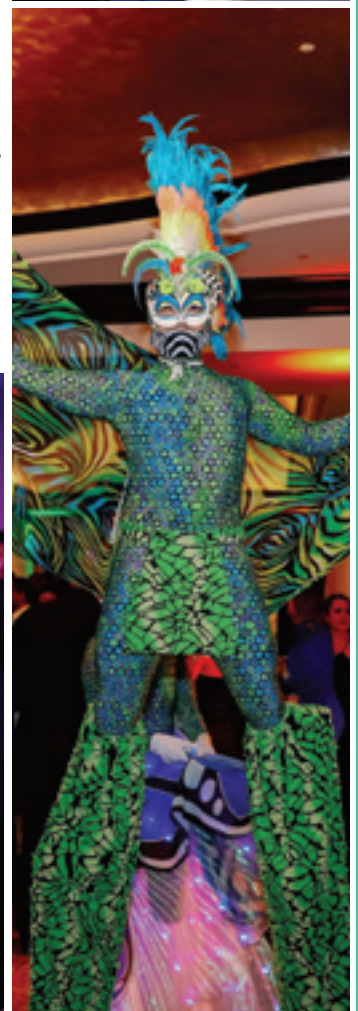


With this successful return, the CABA gala accomplished its mission of raising essential funds for both the CABA Foundation and the CABA Pro Bono Project. The CABA Foundation was established in 1995 to manage and promote efforts to endow law school scholarships as part of CABA's mission to promote diversity and access in the legal services community. Equally as important, the CABA Pro Bono Project assists the legal needs of the indigent community in Miami-Dade County and provides legal services to unaccompanied minors, victims of domestic violence, veterans, and victims of human trafficking.

In assuming the presidency, I promise growth, amplification, commitment, dedication, and gratitude. I intend to grow the organization and continue to expand its presence throughout the State of Florida. I remain committed to amplifying the voices of the Cuban people, suffering daily human rights abuses on the island. I commit to continuing CABA's mission of facilitating equal access and adequate representation of all minorities before the courts. I will dedicate my time and energy to pushing CABA forward and to increasing diversity in the judiciary and legal community. Finally, I will lead with gratitude, never forgetting the opportunities afforded to my family, and to so many Cuban immigrants, by this great country.

I am deeply grateful for a hard-working and exceptionally committed board, without which my goals for this year could not be accomplished. Finally, I am thankful to our sponsors and all who attended. Their commitment to CABA is what keeps it alive and allows its important programs to continue to expand and touch the lives of many more.

By: Miriam Soler Ramos
CABA President



48th Annual CABA *Gala*





48th Annual CABA *Gala*



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A golden genie lamp, resembling a traditional Aladdin-style lamp, is broken into several pieces on a sandy beach. The main body of the lamp is cracked and split, with a large piece missing from the top. A small, curved piece of the lamp's rim lies separately on the sand. The background shows wet sand with some small rocks and a teal-colored rectangular area in the top left corner.

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CABA Secretary
AIT: Uncorked Chair



Candice Balmori
CABA Board Member
CABA on Cuba Committee Chair



The background features a bright yellow field with white geometric patterns, including a large 'Z' shape on the left and a 'V' shape at the bottom. Various tropical leaves, including large green monstera leaves and palm fronds, are scattered around the central text area.

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CABA's Legislative Committee at the State Capital

On February 2, 2022, CABA's Immediate Past President Dax Bello and Secretary Haydee Sera traveled to Tallahassee with Lesley Mendoza, CABA Pro Bono ("CABA PB") Director, to meet with State legislators during Miami-Dade Days. The group, as well as CABA PB's lobbyist, Jorge Chamizo, met with Senators Ana Maria Rodriguez, Ileana Garcia, and Jason Pizzo, as well as Representatives Tom Fabricio, Demi Busatta Cabrera, Vance Aloupis, Daniel Perez, and others to seek their support of CABA PB's appropriation request for \$500,000.

The group also attended a hearing where CABA Past President Katherine Fernandez-Rundle testified in support of legislation to increase funding for state attorneys and public defenders. In the evening, the group attended a happy hour at FSU Law School with the FSU-CABA Student Chapter, which was attended by Florida Supreme Court Justices Couriel and Lawson, as well as a several law students, law faculty, and local practitioners. Afterwards, the group attended the Dade Days "Mambo Kings" pig roast, a block party where elected officials from all levels of Miami-Dade County government (cities, county, and state legislators) gathered to converse, dance, and enjoy lechon, congri, and yuca.





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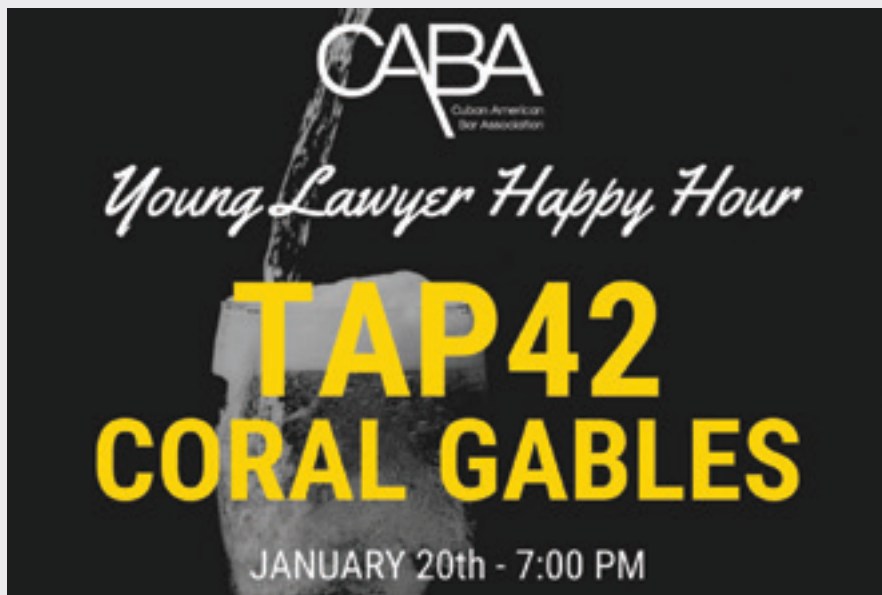
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To kick-off the year, CABA's Young Lawyer Committee hosted a happy hour at Tap 42 in Coral Gables on January 20, 2022. The event was well attended and young lawyers enjoyed each other's company, food, drinks, and the networking opportunities offered by the event.



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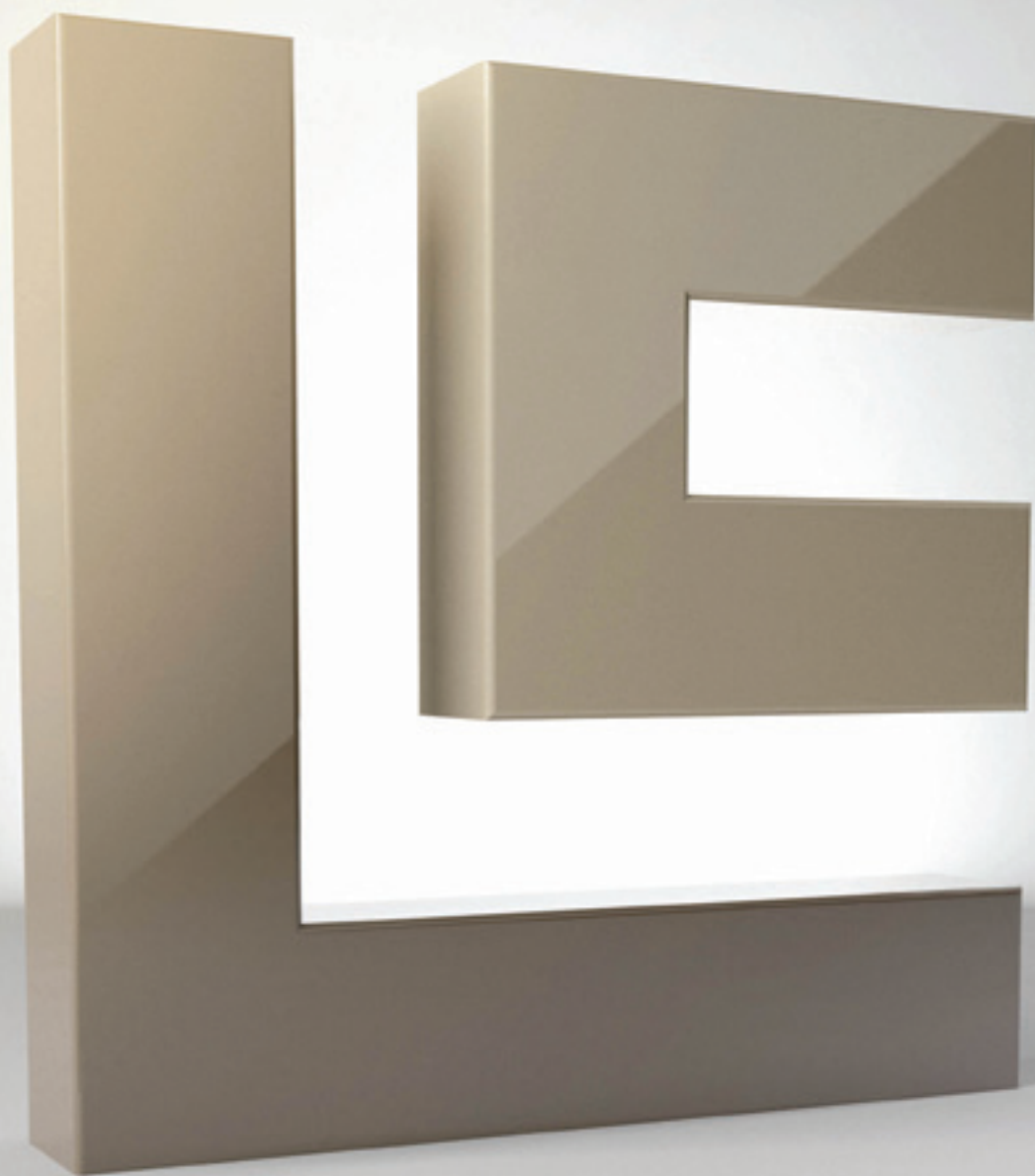


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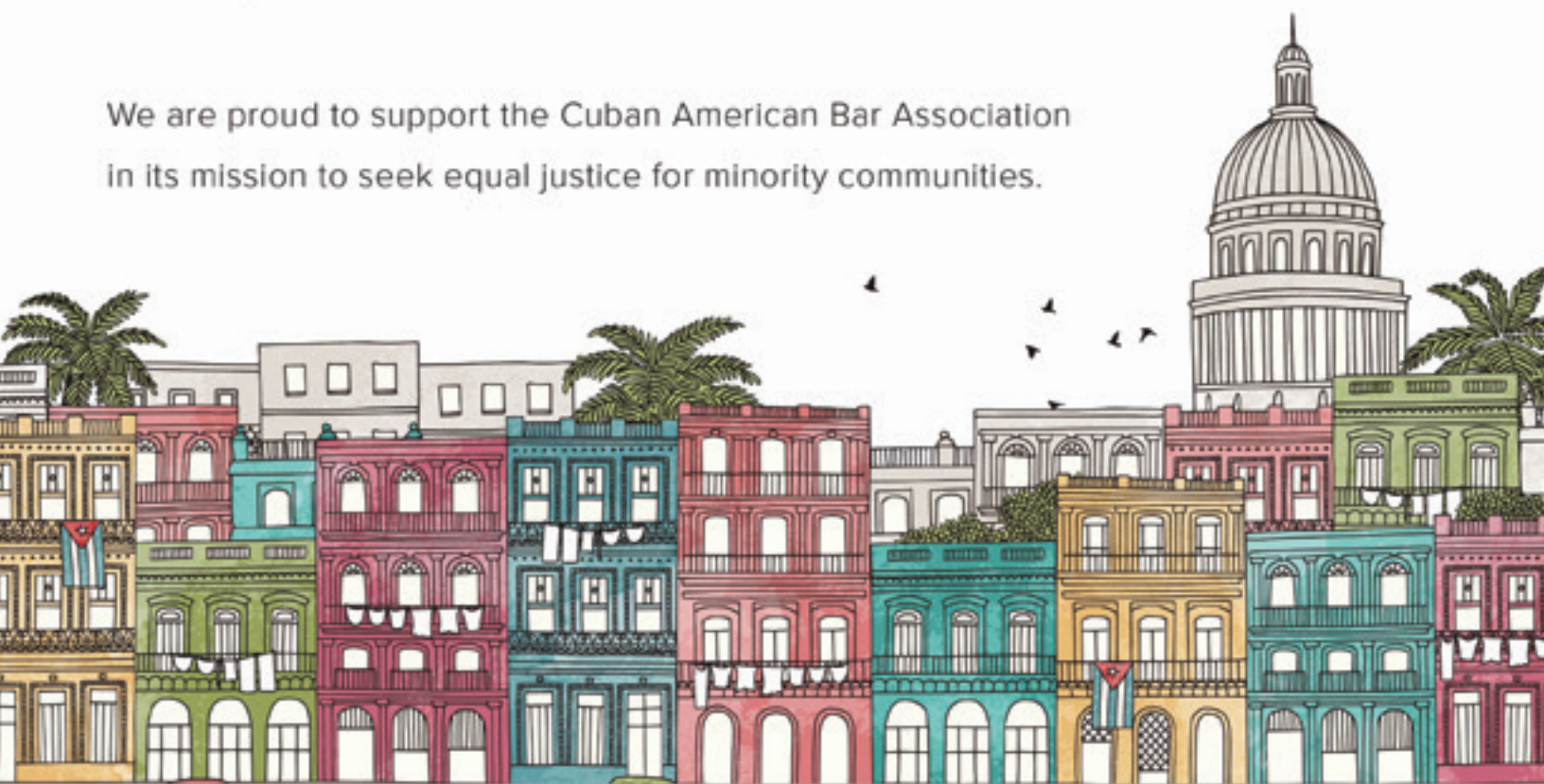


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The U also honors alumna Miriam Y. Soler Ramos, B.S.C. '99, J.D. '02, city attorney for Coral Gables, and wishes her a successful tenure as the incoming president-elect of CABA.



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