

60 YEARS OF EXCELLENCE

For six remarkable decades, Kubicki Draper (KD) has provided top-notch legal services throughout Florida. Our journey began with the visionary leadership of our founder, Gene Kubicki, whose commitment to excellence and legal expertise has continued to inspire our path of success.

Since 1963, we have remained dedicated to offering exceptional legal representation and service, which has firmly established us as a premier trial firm in the state. Throughout the years, we have successfully handled countless complex and challenging cases, cementing the trust and confidence of our clients.

Beyond the courtroom, we remain committed to making meaningful contributions to the communities we serve, while actively promoting diversity and fostering inclusivity both within our firm and throughout the legal industry.

As we celebrate our 60th anniversary, we unveiled a new logo that represents our commitment to innovation and integrity, and marks our continued evolution as a forward-thinking law firm. We are also excited to announce our upcoming revamped website, designed to provide user-friendly resources and valuable insights into legal matters.

As we approach the end of the year, KD remains dedicated to our core values of integrity, excellence, client focus and the fundamental principles of diversity, equity and inclusion. We look forward to the opportunities ahead, and we are grateful for your trust over the years.

Thank you for being part of our journey. Cheers to 60 years of excellence, with many more to come!

The KD Team

Newsletter Highlights

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NEWS + ANNOUNCEMENTS

KD Ranks #2 in Law 360's Annual Diversity Survey

We are beyond proud to have earned the #2 spot in Law 360's Annual Diversity Survey among firms with 101-250 attorneys! This recognition is a testament to our belief that strength comes from diversity. We look forward to continuing our efforts and making our team even stronger.



KD Certified Age-Friendly

We are honored to be the first law firm recognized as a Certified Age-Friendly Employer by the Age-Friendly Institute -- the nation's only certification program that identifies organizations committed to being the best places to work for employees aged 50+.

As outlined by the Age-Friendly Institute, we are committed to: valuing employees based on proficiency, qualifications and contribution; maintaining policies, practices and programs supporting people age 50+; valuing employee knowledge, maturity, reliability and productivity and offering meaningful employment, development opportunities and competitive pay and benefits for employees 50+.



The National Black Lawyers Association Recognizes Jonathan O. Aihie and Charles H. Watkins

Jonathan O. Aihie and Charles H. Watkins, of our Miami office, have been recognized by The National Black Lawyers, an invitation-only association composed of the top African American attorneys in the country. This networking and professional development association recognizes attorneys with reputations for providing the best legal representation in their respective practice areas.



KD Earns Platinum RING Certification

KD is thrilled to have earned a RING certification at the Platinum level. Recognizing Inclusion for the Next Generation (RING) recognizes efforts and achievements through a wide lens that encourages and rewards diverse companies and their allies for their support of DEIB efforts within their organizations.



KUBICKI & DRAPER
Platinum Certification



NEWS + ANNOUNCEMENTS

KD Sponsors Adopt-A-School Event

KD is a proud sponsor of the Adopt-a-School event coordinated by the Young Lawyers Section of the Palm Beach County Bar Association. Thanks to this event, 950 students at Highland Elementary School in Lake Worth were provided school supplies needed for the upcoming school year. A special thank you to KD team member, Danielle Capitini for spearheading these efforts and to the rest of our KD team for taking the time to make a difference in our community!



Danielle Capitini (second from right) with volunteers during the Adopt-a-School event.



(left to right) Clyde Mathes, Brent Davenport, and Tracie Reese



Rebecca Brock, Angela Flowers, Florida Supreme Court Justice Labarga and Caryn Bellus

KD Sponsors HCBA Law Student Networking & Career Fair

KD proudly sponsored the 2023 Law Student Networking and Career Fair hosted by the Hillsborough County Bar Association (HCBA) Diversity, Equity & Inclusion Committee. The event aims to connect law students with attorneys, judges and members of local legal organizations.

Kubicki Draper Co-sponsors Annual APS Dinner Reception at The Florida Bar Conference

KD is honored to have sponsored the Appellate Practice Section's Annual Dessert & Awards Reception at The Florida Bar Conference.

NEWS + ANNOUNCEMENTS

KD Participates in the Hispanic National Bar Association's Mentorship Program Kick-Off Event

Charlie Kondla, from our Miami office, recently attended the Hispanic National Bar Association's (HNBA) Mentorship Program Kick-Off event. This program is dedicated to fostering the growing relationships between mentors and mentees looking to pursue a career in the legal industry.



Charlie Kondla (second from left) with law students.

KD Sponsors 2023 Joe Keene Classic Golf Tournament

KD is honored to once again sponsor the annual Joe Keene Classic hosted by the FCCI Charitable Foundation, where we swing into action to raise funds for numerous worthwhile causes in our communities. While our team may have landed in the second spot on the tournament leaderboard, they are at the forefront when it comes to championing our community.



Monty Henderson, Peter Baumberger, and Robert Hukill

KD Team Members Recognized by Best Lawyers

We are proud to have several KD team members listed in The Best Lawyers in America® and the Best Lawyers: Ones to Watch™ in America 2024 editions.

Congratulations!

BEST LAWYERS IN AMERICA 2024



Laurie Adams



Peter Baumberger



Caryn Bellus



Angela Flowers



Brad McCormick



Kenneth Oliver



Jane Rankin



Charles Watkins



THE BEST LAWYERS IN AMERICA: ONES TO WATCH 2024



Jonathan Aihie

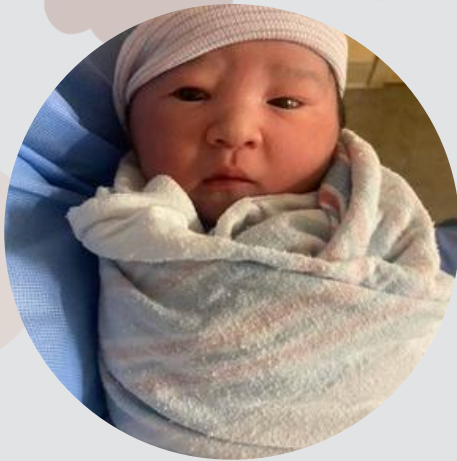


Leeza Newman

NEWS + ANNOUNCEMENTS

CONGRATULATIONS!

B A B Y



**Congratulations to Emily Huang
on the birth of her baby boy, Noah.**



**Congratulations to Ana Vazquez
on the birth of her baby girl, Lucia.**



**Congratulations to Kameron Romaele
on the birth of his baby girl, Lyla.**



**Congratulations to Johanna Cabanas
on the birth of her baby girl, Juliet.**

How is the Notice of Intent Statute (627.70152) Really Working for Hurricane Ian Claims?

By: David A. Frantz



The Florida legislature recently created a mandatory pre-suit process for first party property cases. The purpose was twofold: first, to ease the burden of numerous lawsuits on the court system; and second, provide a mechanism for carrier and insured to engage in negotiations and/or an alternative dispute resolution process prior to a potentially lengthy and costly lawsuit.

But how has it been working?

Our team is located in Fort Myers, FL, the epicenter of the impact of Hurricane Ian. The damage caused by the storm was obvious and widespread to everyone for weeks and months after the storm. As attorneys, however, we recognized it as a perfect challenge for this new law fashioned by our State. Many of us had experienced the way that Hurricane Irma lawsuits had quickly piled up just five years prior, and we were eager to see how things changed because of the new statute.

The results have been somewhat positive, but certainly mixed. The lead time provided by the statute has certainly slowed things down, which has been a positive for attorneys and adjusters alike. But there's more to this than just extra time allotted.

We've found the new law to be most effective in cases where we select mediation or appraisal. Our team has preferred mediation since many claims come with a filed civil remedy notice. When we've selected the mediation option, we've been able to settle approximately 20-30% of cases outright. Mediations have tended to fall apart, however, when the insured suddenly brings forth claims for new damages for the first time at mediation. This is a byproduct of the fact there is no formal discovery process leading up to these proceedings. We would encourage both adjuster and attorney to engage in as much investigation prior to mediation as possible to avoid these situations. This includes re-inspections, which can be very valuable in price and scope disputes.



Another option for a carrier's response to a notice under the statute is to simply make a monetary offer. We have seen little success here, and would generally suggest that choosing mediation or appraisal is a better option. Making an offer allows the insured to immediately file suit, whereas mediation gives the parties 90 days with which to negotiate informally leading up to the actual mediation.

Lastly, a word on challenges to the validity of these notices filed on behalf of insured. We include an objection to the validity of a notice in nearly all of our responses. In cases where suit is filed, a carefully considered motion to dismiss for invalid notice is a critical step to preserving the issue. Keep in mind that without a valid notice, an insured lacks standing to sue under the statute. We are currently litigating several different examples of this, but considering the newness of the statute, there are still lots of opportunities to make and shape new case law on the subject.

LEGAL UPDATES

From the Appellate Practice Group

Homeowner's FDUTPA Claim Fails for Lack of Evidence of Actual Damages

In *Stuart Roofing, Inc. v. Thomas*, 4D2022-2580, the Fourth District reversed and remanded for entry of directed verdict in favor of the roofer on the homeowner's claim under the Florida Deceptive and Unfair Trade Practices Act because the insured failed to establish the amount of actual damages caused by the roofer's work, which is a necessary element of a FDUTPA claim. The homeowner hired Stuart Roofing to replace his roof, but refused to pay the final invoice because the roofer used subpar materials contrary to the parties' contract. The roofer sued for breach of contract and the homeowner counterclaimed for violation of FDUTPA. After the jury awarded damages on the FDUTPA claim, the roofer moved for directed verdict arguing the homeowner failed to present evidence of his actual damages.

The trial court denied the motion but the Fourth District reversed, holding actual damages under FDUTPA are the difference in market values of the product or service that was delivered versus what was promised. While the homeowner established what the roofer promised, he failed to establish the value of what was delivered, instead producing evidence of amounts paid for repairs. The court concluded that such amounts represent consequential damages, which are not recoverable under FDUTPA, and reversed the judgment for the homeowner on the FDUTPA claim.

Fourth DCA Finds Daubert Requires Trial Courts Act as "Gatekeepers," and Not Accepting "Guesstimated" Expert Opinions Lacking Demonstrated Reliability

In *Universal Property & Casualty Insurance Co. v. Navlen*, 4D2022-1590, the Fourth District reversed the trial court's order denying Universal's motion to strike the insureds' expert witness and remanded for a new trial.



Fourth DCA Holds Georgia Auto Policy's "Out of State Coverage" Provision Does Not Provide Non-Resident with Florida PIP Coverage

In *T.I.O. Medical Intervention, LLC, a/a/o Mary Faison v. Liberty Mutual Fire Insurance Co.*, 4D2022-2130, the Fourth District affirmed the county court's summary judgment for the insurer, holding that the insured's Georgia auto policy did not provide Florida PIP coverage to a nonresident involved in an accident in the state. The policy stated it would provide at least the minimum amounts and types of coverage in other states with compulsory insurance laws requiring a nonresident to maintain insurance "whenever" the nonresident uses a vehicle in that state.

In turn, Florida's PIP statute requires nonresident owners or registrants to maintain PIP coverage for vehicles that have been physically present in the state for more than 90 of the preceding 365 days. The appellate court first noted that there was no evidence the insured was the owner of the vehicle, was driving the vehicle at the time of the accident, or that the vehicle had been in Florida for more than 90 of the preceding 365 days. Thus, Florida law did not require the insured to maintain PIP coverage. And, even if the evidence showed Florida's PIP requirement was triggered, the policy still would not provide coverage, because Florida law only requires a nonresident to maintain PIP coverage under certain circumstances, not "whenever" they use a vehicle in the state. As is often the case, policy language is paramount when analyzing what coverage is available.

LEGAL UPDATES

From the Appellate Practice Group

General Allegation of Waiver of Conditions Precedent Must be Addressed in a Motion to Dismiss

In *Haratz, DDS, P.A. v. Dental Team of Atlantis, LLC*, No. 4D2022-3228 (Fla. 4th DCA September 13, 2023), the Fourth District reversed the trial court's order of dismissal with prejudice, holding that where a complaint generally alleges that all conditions precedent to bringing suit have been satisfied by the plaintiff or waived by the defendant, dismissal is improper if the defendant fails to refute the specific allegation in a motion to dismiss.

In the underlying action, the trial court erred in granting dismissal, as factual issues regarding Plaintiff/Appellant's compliance with conditions precedent remained due to the Appellee/Defendant's failure to address the complaint's waiver allegations in its motion to dismiss.



Third District Court Holds that Plain Language Meaning of Policy Term "Reside" Should Be Resolved on Directed Verdict

In *Gonzalez-Perez*, the insured filed a claim under a policy that provides coverage for vandalism to the "residence premises."

The policy defined "residence premises" as the premises "where you reside and which is shown as the 'residence premises' in the Declarations." However, the policy did not specifically define "reside." The insurer denied coverage because at the time of the loss the insured was not living at the Miami property.

4th DCA Finds Engineering Report Not Covered Under Policy's Loss Settlement Provision

In *People's Trust Ins Co v. Kidwell Group LLC*, Case No. 4D22-1314 (Fla. 4th DCA Jun. 28, 2023), involving a hurricane damaged roof, the homeowner obtained an engineering report on cause and extent of damages in exchange for an assignment of benefits. After the insurer admitted a covered loss and settled, the homeowner repaired his roof and the report was not used in the project. The insurer then refused to pay the assignee's invoice for the report, giving rise to the case.

On appeal, the Fourth DCA reversed, finding that the insurer's motion for directed verdict should have been granted. It found that evidence presented at jury trial demonstrated that the engineering report was not a "cost to repair or replace" the roof under the policy's loss settlement provision. Further, reversal was warranted based on erroneous jury instructions and verdict form.

KD IN THE COMMUNITY



Caryn Bellus, Third District Court of Appeal Judge Bronwyn Miller, and Jazmine Janine Dykes

MIAMI- DADE BAR ASSOCIATION “PASSING OF THE GAVEL” CEREMONY

Caryn Bellus and Jazmine Janine Dykes of the Miami office connected with Third District Court of Appeal Judge Bronwyn Miller at the “Passing of the Gavel” ceremony, hosted by the Miami-Dade Bar Association. The ceremony recognized Chief Judge Ivan Fernandez as he officially passed on his leadership mantle to Judge Thomas Logue.

BOYS AND GIRLS CLUB OF JACKSONVILLE BACK TO SCHOOL DRIVE

The PIP team in Jacksonville, led by Carey Taylor, collected back to school supplies for the Boys and Girls Club of Jacksonville. They were able to collect enough supplies to help 20 children with their back to school supplies. A big shout-out and thank you to everyone who helped: Carey, Ashley J., Devin, Deb, Laverne, BeJae, Bianca, Kylie, Harolyn, and Dan!



Hillary Lovelady, Ashley Johns, Deborah Eiserman, Carey Taylor, Kylie New, Laverne Durham, Devin Connell, and Bianca Wheeler

STEP OUT WALK FOR DIABETES

Jonathan Aihie, of our Miami office and the Vice President of National African American Insurance Association (NAAIA) Florida, participated with fellow NAAIA members in the Step Out Walk Event in Fort Lauderdale. Their goal? To raise funds and awareness for the American Diabetes Association (ADA) and to celebrate National Hispanic Heritage Month. Together, they achieved an impressive collection of over \$5,000.00 to support the ADA and the NAAIA Florida Scholarship. KD is honored to partner with both NAAIA and the ADA, working together to make a difference in diabetes awareness and education.



Sharlee Edwards, Florida NAAIA Chapter President and Jonathan Aihie

MEET MICHAEL SUAREZ: A Diligent Problem Solver and Globetrotter



When he's not cheering on his favorite sports team, or planning the next country to explore, Michael Suarez is building up an impressive legal practice – although, this wasn't always the case. Surprisingly, Michael didn't grow up dreaming of a legal career. In fact, it wasn't until after college that he even considered a career in law. Initially, he pursued a degree in psychology because of his desire to work closely with people. However, over time, a call to advocacy grew stronger, and he realized being a lawyer was a more natural fit for him.

With his newfound calling, Michael embarked on the path to becoming an attorney. He pursued a legal education, honed his skills and found his place at KD—where he has been his entire career. When asked about his strengths as a lawyer, Michael emphasized his problem-solving abilities. He believes that, regardless of how long one practices law, new challenges and issues continually arise, demanding creative solutions. Michael thrives on these challenges and welcomes the need for creativity in overcoming obstacles in and out of the courtroom. This, along with his precise attention to detail sets him apart in his career.

Clients working with Michael can expect three crucial elements: attention, honesty, and well-founded counsel. He is known for giving careful consideration to the needs of his clients, delivering straightforward advice, and providing guidance from both a micro and macro perspective. In a world where legal matters can be complex and daunting, Michael's approach is refreshing and reassuring.

Among his practice areas, Michael highlights his flourishing construction practice. This practice continues to grow in scope and sophistication, covering everyone from subcontractors to major developers. Michael's dedication to providing the same level of attention to all clients, regardless of their size or stature, has been a hallmark of his career.

Like any successful lawyer, Michael has faced his fair share of challenges throughout his career. However, he credits his ability to overcome these hurdles to a combination of tireless effort and support of the remarkable people in his life. In fact, Michael says he owes part of his success to his home team at KD (in no particular order): Laurie Adams, Peter Baumberger, Brad McCormick, Earleen Cote, Harold Saul, and Jennifer Remy-Estorino.

When asked about the best career advice he's received, Michael shares a simple yet profound mantra: "control what you can control, don't worry about what you can't." This advice has not only served him well but can be valuable guidance for anyone navigating their career.

MEET MICHAEL SUAREZ:

A Diligent Problem Solver and Globetrotter

continued...



Maybe it's his thinking outside the box, his honesty, his adaptability, or even his life motto: "ponte las pilas," (a Spanish idiom which means look alive/get to work), but Michael has earned great trust and respect and not just from those on his legal trajectory. For example, he is a go-to person if you need guidance on what to do and where to stay on your next vacation. Between piles of paperwork, depositions, and trials, somehow Michael has managed to visit nearly 30 countries with no intention of slowing down.

With a background as unique as his legal journey, Michael is a first-generation Cuban-American, and describes himself as an "old soul." Despite his professional confidence, he admits to being extremely shy, a quality that may surprise those who only know him in a professional capacity.

Even though Michael is well-traveled, well-educated, and well-sought out for legal representation, his humility shines through when explaining that what he's most thankful for in life is his family. Though his family insists that he works a bit too much, and Michael himself agrees, he still "wouldn't change a thing." His proudest achievement is being where he is today. It's a sentiment he would hold regardless of the day or time he is asked. This appreciation for the present moment reflects his dedication to living in the here and now.

Through trials and tribulations (no pun intended), Michael has managed great success and when asked what advice he would give his younger self says: "Enjoy the ride!"

Michael Suarez's career journey is a testament to the power of following one's calling, persevering through challenges, and prioritizing relationships. As a lawyer, he exemplifies dedication, problem-solving, and a commitment to providing the best possible counsel to his clients. Beyond the courtroom, his zest for life, love for family, and passion for exploration serves as an inspiration, reminding us that the journey is just as important as the destination.



Straight from the source:

What's mostly on your playlist right now?

"Wildly eclectic, spanning more genres than you can imagine. Given that I'm answering these questions on a Friday, at some point, I will probably be playing 'Yo Soy El Punto Cubano' by Celina Gonzalez."



What superpower would you want to have?

"Easy -- the ability to fly."



Who's your dream dinner guest, living or dead?

"Abraham Lincoln."



If you could only bring three things with you on a deserted island, what would you pick?

"A copy of the Florida Rules of Civil Procedure. Just kidding because that would be insane."

(We almost forgot to mention Michael is a pretty funny guy too.)

KD Celebrates Hispanic Heritage Month

In celebration of the month, we asked some of our team to share what they treasure most about their Hispanic heritage via photos or statements. The responses are a testament to the richness of our diverse tapestry.

Among the innumerable things I value, the highest among them are the values instilled in me from as far back as I can remember and the cultural influences on my life borne of family and community. It's hard to explain, but they are always—always—there.

Michael Suarez



I value the time my daughter spends with her aunt, who is the family cook and enjoys feeding everyone at every family party.

Jessenia Rodriguez

I value the traditions. For instance, Noche Buena, which is on Christmas Eve. I love it because of the food and the time I get to spend with my family and friends.

Yvette Pace



I value my Hispanic heritage for its diverse and rich traditions which are being passed on to my daughter.

Raffaella Rocchi

My family. My food. My people. music, happiness. I love everything... they make me who I am today. I'm 100 % Cuban.

Lissette Morejon



I value being able to share with my children where I was born. Nicaragua will always be a part of them as much as they are a part of me.

Maria Silva

Family is what I value most about my Hispanic heritage. Recognizing the obstacles and barriers they faced with courage, so that I could have more opportunities than they did.

Nina Zegarra



To me, Hispanic Heritage means valuing family and unity. One of my favorite traditions growing up (and now) is strutting around shamelessly in matching outfits for holidays and vacations. We're each other's best friends.

Emily Martinez



My son atop of Castillo San Felipe in Puerto Rico. My mother was born there, and I took him to get a taste of some of our culture.

Tanya Jaruchik

KD Celebrates Hispanic Heritage Month

We also celebrated by sharing a delicious team breakfast, savoring the rich flavors of Hispanic cuisine!



FIRST PARTY CONFERENCE PART 1 - RECAP



Our First Party Practice Group presented a fun and informative virtual conference “KD’s Super Bowl for First Party Claims” that combined the excitement of football with the intricacies of first-party claims handling.

The program equipped insurance professionals with the knowledge and strategies needed to navigate the complex world of property claims.

Congratulations to our presenters on a great conference!

- **Jonathan Aihie**
- **Anthony Atala**
- **Bretton Albrecht**
- **Valerie Dondero**
- **Barbara Fox**
- **Sarah Goldberg**
- **Eli Marger**
- **William Sabinson**
- **Charles Watkins**
- **Erika Cordovi**

Special Guests:

- **Yamile Tamargo of ADR Partners**

Watch the postgame recap [here](#) or read about it on the next couple of pages.

Pre-Season Training for Conditions Precedent

"An insurance company should not be required by waiver or estoppel to pay for a loss for which it did not charge - yes, what you pay for, is what you get!"



William Sabinson

Charles Watkins



Touch Down! Litigating First Party Claims in the Era of Reform

"Remember that the new statute contains key changes to deadlines that may be shorter than prior law."



Barbara Fox



Sarah Goldberg

The Two Point Conversion: Utilizing the Two Step Concurrent Causation Defense

"Evaluating loss from multiple causes can be tricky, but knowing how to use and navigate anti-concurrent cause provisions can equip you with a powerful tool for claim handling."

Jonathan Aihie

Valerie Dondero

Eli Marger





In the Red Zone - Handling Civil Remedy Notices in First Party Cases

"If you're not sure which statute applies, take that uncertainty into consideration when assessing a risk; remember the application of a statute is always the subject of litigation."

Barbara Fox



Bretton Albrecht



Field Goal! Splitting the Goal Post With Binding and Non-Binding Arbitrations

with Special Guest: Yamile Tamargo, ADR Partners

"Arbitrations will play a large role in first party claims in the future. Be prepared!"

Anthony Atala



Erika Cordovi



In keeping with what fans have asked for...

WELCOME TO THE FIFTH QUARTER

Join Us for Part II of KD's Super Bowl for First Party Claims

November 17, 2023

10:00 am **Safety: Navigating Managed Repair Contractor Network Program Endorsement**

Presenters: Sarah Goldberg and Emily Smith

11:10 am **Risking 4th Down: Defending Valued Policy Law Claims in Florida**

Presenters: Toni Turocy and Nicole Wulwick with special guest: Ed Andrie of Andrie Brothers Construction, Inc.

12:20 pm **No Longer "Deflate Gate" but Inflate Gate: Spotting Exaggerations and Defending Against Fraudulent Estimates**

Presenters: Jill Aberbach and Kameron Romaele with special guest: Michael Rega of Complete Construction



For registration information, e-mail: info@kubickidraper.com

**REGISTER
NOW**



CONSTRUCTION CONFERENCE

NOVEMBER 3, 2023

Join KD's Construction Practice Group for a day filled with valuable insights and practical knowledge to boost your expertise in the construction field! Learn about the latest industry trends, innovations, and strategies with our team during this virtual conference!



DEFENDING GEOTECHNICAL CLAIMS

Presented by: Michelle Krone, Tracie Reese, and Chris Thompkins



DAMAGES IN CONSTRUCTION CASES

Presented by: Barbara Fox, Michael Suarez, and Mark Young



FLORIDA CONSTRUCTION COVERAGE AND LEGAL UPDATE

Presented by: Caryn Bellus and Ben Carter



CONSTRUCTION ACCIDENTS AND OSHA VIOLATIONS

Presented by: Jeremy Chevres and Charlie Kondla



ALTERNATIVE DISPUTE RESOLUTIONS- NON-BINDING ARBITRATION AND MEDIATION

Presented by: Peter Baumberger, Pedro Lopez, and Raquel Loret de Mola



STATUTE OF LIMITATIONS AND STATUTE OF REPOSE IN FLORIDA

Presented by: Bryan Krasinski and Leeza Newman



INFO@KUBICKIDRAPER.COM FOR REGISTRATION INFORMATION





Our team presents continuing education seminars on a variety of topics throughout the year. Below are some of the topics presented recently.

- Workers' Compensation: Daily Litigation Defense Strategies
- 4-Hour Law and Ethics Update
- Seeing Through Fraud in Auto Glass Litigation
- The Plumbing Juggernaut - How Cast Iron and other Plumbing Losses quickly became the claim fad of the 21st Century
- Was that Important? Material Misrepresentation in the Application For Automobile, Glass, and Homeowner Insurance Policies
- Flushing Out The Facts of a Water Loss
- What's in a Code? An Analysis on Personal Injury Protection Coding Denials
- OSHA: Investigation, Findings, Application and Detection of Fraud in First Party Property Damage Estimates and Admissibility of OSHA requirements at Trial
- Conditions Precedent and Lack of Coverage
- Fighting Fraud in Late Reported Homeowners Claims
- Combating Fraudulent and/or Excessive Attorneys' Fee Demands
- Florida Tort Reform and PIP Litigation – What Changed? and PIP - What's Trending?
- Workers' Compensation Immunity Available Under Florida's Worker Compensation Law in Florida's Construction Industry
- Defending Construction Cases and the Possibility of Early Resolution
- Touch Down! Litigating First Party Claims in the Era of Reform
- Pre-Season Training for Conditions Precedent
- In the Red Zone – Handling Civil Remedy Notices in First Party Cases
- Field Goal! Splitting the Goal Post with Binding and Non-Binding Arbitrations
- The Two Point Conversion – Utilizing the Two Step Concurrent Causation Defense

We welcome the opportunity to host a complimentary webinar for you and your team on any topic(s) of your choice. All presentations are submitted for approval of continuing education credits. You can also follow our social media accounts to learn about upcoming webinars!

For more information, please contact Aileen Diaz
(305) 982-6621 | ad@kubickidraper.com.

RECENT RESULTS

Jacksonville Office Secures \$0 Verdict in Hail Damage Case

Kara Cosse and **Chris DelBene**, of our Jacksonville office, successfully defended a hail claim in St. Johns County. The central issue was whether hail had caused damage, as both parties agreed that 0.75-inch hail had fallen on the property. During the trial, it was revealed that the insured's belief in hail damage was based on the assessment of a roofing salesman with no roofing experience who had canvassed their neighborhood.

The cross-examination of the insured's cause of loss expert, a public adjuster, showed that their opinion relied on 20 blurry photographs, which were not presented to the jury. The defense engineering expert presented demonstrative examples of genuine hail damage on other roofs and compared them to the photographs of this house, demonstrating that the only markings on the roof were from aging, granule loss, blistering from the sun, and tool marks from previous repairs.



Ultimately, the jury returned a verdict of \$0, concluding that there was no hail damage to the property on the reported date of loss.

Significant Victory in Complex Rear-End Collision

Harold Saul and **Zachery Udell**, of our Tampa office, obtained an outstanding verdict in a case where the plaintiff alleged traumatic brain injury and sinus damage (resulting in 4 surgeries and multiple other procedures) from a rear-end automobile accident. The plaintiff claimed she hit her face on the steering wheel, which caused these damages. In the emergency room, she gave this history and the reading radiologist suggested she may have had a nasal fracture. Harold and Zach aggressively defended the causation of these injuries due to the varying versions in the medical histories provided by the plaintiff of whether or not she hit the steering wheel while wearing her seat belt.

In addition, through the use of their ENT expert, they were able to establish the sinus issues were not from the accident but from a long standing condition which ultimately was going to require the treatment whether or not the accident occurred. The plaintiff had incurred over \$325k in medical bills and asked the jury for \$3.5 million in total damages. Harold and Zach countered by suggesting some minimal post accident treatment to the point where any conditions resolved. After almost 3 hours of deliberations, the jury awarded just over \$80k in total damages which was substantially less than the last offer.

RECENT RESULTS

Greg Prusak Secures Defense Verdict in Bus Accident Damages Case

Greg Prusak, of our Orlando office, secured a favorable defense verdict in an Orange County Circuit Court trial that lasted six days. The case stemmed from a major bus accident involving two of the client's buses colliding at 60 MPH on I-75, resulting in both buses being totaled and injuring 29 students on a road trip to a Christian conference in Kentucky. Liability was clear, shifting the focus to causation and damages.

The plaintiff, a 16-year-old girl, sustained injuries including a right hip labral tear requiring surgery, along with spinal injuries to her cervical, thoracic, and lumbar regions. She received eight months of chiropractic care immediately after the accident and extensive therapy for her right hip, followed by surgery, with past medical expenses totaling \$119,000.

Plaintiff's counsel attempted to challenge the defense's CME experts, emphasizing a four-year treatment gap for the cervical and lumbar spine. However, an undisclosed follow-up visit with her orthopedic surgeon just one week before the orthopedic CME complicated matters. This surgeon intended to opine that the plaintiff had multi-level herniations requiring extensive medical interventions. At the expert disclosure deadline, they introduced a life care expert estimating future medical expenses exceeding \$1.2 million.

Initially requesting \$1,000,000, the plaintiff retracted the demand due to the "strength of their case." Greg successfully demonstrated bias on the part of the orthopedic surgeon and the overreaching nature of the life care planner's assessments. The jury ultimately returned a verdict substantially less than the defendant's last offer.



Summary Judgment in Slip and Fall Case

Pedro Lopez, of our Miami office, succeeded in obtaining summary judgment in a slip and fall case. The plaintiff alleged slipping on a "dirty slippery substance" at a mall, leading to injuries and significant medical bills exceeding \$140k. Surveillance footage revealed the substance was on the floor for less than two minutes before the incident.

Pedro invoked Florida Statute 768.0755, which requires the injured party to prove the business's knowledge of the dangerous condition. He argued that the brief timeframe without mall employees in the area did not meet the statute's burden.

Plaintiff's counsel challenged the video, suggesting the floor had been sticky for over eight minutes. However, Pedro countered, and the judge, after reviewing the video, granted his Motion for Summary Judgment.

IN LOVING MEMORY



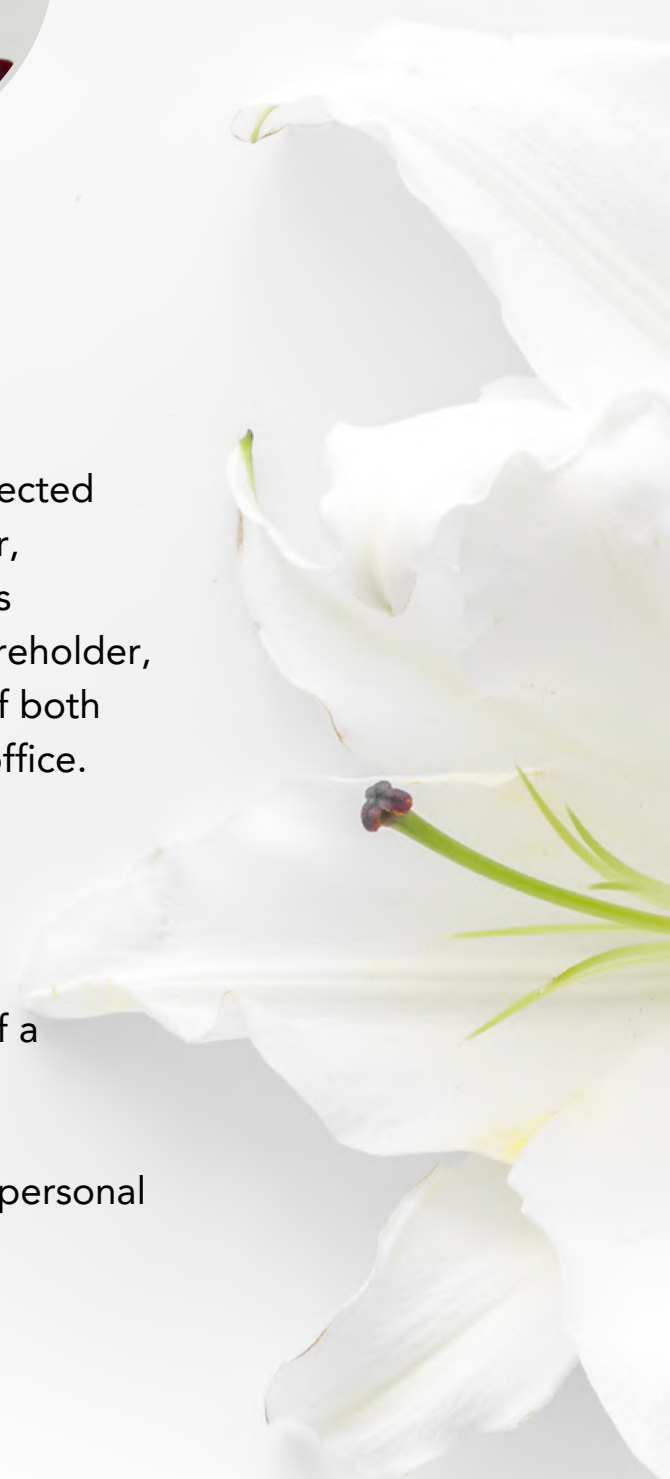
Karleen Turchin

(1961-2023)

Kubicki Draper is deeply saddened by the unexpected loss of our dedicated, long-serving team member, Karleen Turchin, from our Tampa office. Karleen's remarkable 22-year journey alongside equity shareholder, Harold Saul, greatly contributed to the success of both Harold's team and the expansion of our Tampa office.

As Harold expressed, Karleen was not just an essential part of his professional achievements; she was also adored by clients, adjusters, and opposing staff. Her role extended beyond that of a legal assistant; she was a personal friend.

Karleen's absence will be deeply felt both in our personal and professional lives.



KD TEAM UPDATES

NEW ADDITIONS

FT. LAUDERDALE Associates: Payton Kuenzli, Gregory Wise, Elyse Dubois, Jacob Muskat

FT. MYERS Associates: William Sanchez, Essence Sanders Saleem
Shareholder: Lysa Friedlieb

MIAMI Associates: Julian Santos, Julia Iancu, Aram Barikian, Jonathan Scott, Jeffrey Seiden
Shareholder: Vinod "Vinnie" Bajnath

ORLANDO Associates: Alvis Horne, Ashley Adkins, Salim Punjani, Juliana Palmieri

PENSACOLA Associate: Cristobal Orrantia

TALLAHASSEE Associate: Shane Pomeroy

TAMPA Associates: Serena Kurtz, Rafael Pagan-Alsina, Brian Gruber, Clyde Mathes, Kevin Paul, Sylvain Robitaille, Brandon Ngo

WEST PALM BEACH Associate: Zachary Means
Shareholder: Frank Delia

FROM LAW CLERK TO ASSOCIATE

We are thrilled to officially welcome our law clerks as new associates!

Ashlie Avila
Reina Chehayeb
Cheyenne Dallis
Sarah Dalton
Adam Danowitz
Jonathan Garvin
Stephen Hawley
Jackie Healy
Daniel Mantzoor
Giovanna Spargo

CELEBRATING KD MILESTONES

(5-YEAR INTERVALS)

We are proud and thankful for our team. Their dedication and hard work are a very special part of our success.

Name	Celebrating	Name	Celebrating
Sha-Mekeyia Davis	5	Peter Baumberger	15
Hillary Lovelady	5	David Drahos	15
Katherine Moon	5	Kendra Therrell	15
Raquel Loret de Mola	5	Jennifer Remy-Estorino	15
Paul Michael Gabe	5	Stephen Cozart	15
Dina Ory-Piedra	5	Rebecca Kay	15
Cassandra Hernandez	5	Michael Walsh	25
Paulette Brown	5	Michael Carney	25
Victor Genchi	5	Jane Rankin	30
Katherine McGovern	10	Peter Murphy	30
Charles Kondla	10	Angela Flowers	30
		Charles Watkins	30

Congratulations!

CONTACT INFORMATION

New Assignments

Brad McCormick	305.982.6707	bmc@kubickidraper.com
Sharon Christy	305.982.6732	sharon.christy@kubickidraper.com

Firm Administrator

Rosemarie Silva	305.982.6619	rls@kubickidraper.com
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Seminars/Continuing Education Credits

Aileen Diaz	305.982.6621	ad@kubickidraper.com
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YOUR OPINION MATTERS TO US.

We hope you are finding the KD Quarterly to be useful and informative and that you look forward to receiving it. Our goal in putting together this newsletter is to provide our clients with information that is pertinent to the issues they regularly face. In order to offer the most useful information in future editions, we welcome your feedback and invite you to provide us with your views and comments, including what we can do to improve the KD Quarterly and specific topics you would like to see articles on in the future. Please forward any comments, concerns, or suggestions to Aileen Diaz, who can be reached at: ad@kubickidraper.com or (305) 982-6621. We look forward to hearing from you.