

The Gables Lawyer



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LUNCHEON SPEAKER ROBERT MERLIN TO SPEAK ON "INTRODUCTION TO COLLABORATIVE FAMILY LAW: THE FAMILY-FRIENDLY ALTERNATIVE."



Robert J. Merlin
rmerlin@merlinlaw.com

Robert Merlin is Managing Partner of the Law Offices of Robert J. Merlin, P.A., and a Florida Bar Board Certified Family Law Specialist. He is the author of *The Marital Home - Will It come Back to Haunt You?* and is an attorney member of the Collaborative Family Law Institute. He was admitted to the Florida Bar in 1979; US District Court, Southern District of Florida and Trial Bar; U.S. Court of Appeals, Eleventh Circuit. Mr. Merlin holds a B.S. in Education from the University of Florida; a J.D. degree with honors from Mercer University and University of Florida; Cambridge University & The Institute of Law – Polish Academy of Science.

Bob is experienced in several methods of dispute resolution – collaborative law, mediation and litigation. His practice areas include all issues of divorce, such as custody of children, child support, alimony, the equitable distribution of property and debts, the preparation and negotiation of pre-and post-nuptial agreements and settlement agreements, domestic violence matters and paternity actions.

His presentation will focus on the following key areas of collaborative family law:

- Type of clients who benefit from the Collaborative Process
- Introduction to the Participation Agreement
- How a Settlement Agreement is reached
- The role of marriage therapists, social workers, psychologists and financial professionals in the collaborative process.
- Full disclosure of information between parties
- Ability to "opt-out" and pursue litigation

Participants will learn how the collaborative family law process uses a team approach that teaches the parties involved in a divorce to work toward conflict resolution through interest-based negotiation rather than adversarial techniques and litigation.

THE PRESIDENT'S MESSAGE By Martin E. Leach



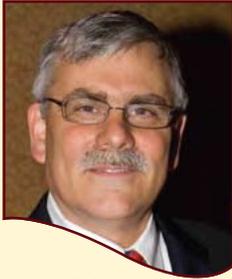
BAR PRESIDENT
Martin E. Leach
mel@tlmlegal.com

Last month, we held our first luncheon at our new location, the **Westin Colonnade Coral Gables**, 180 Aragon Avenue, Coral Gables, Florida, 33134. For those of you that did not have the opportunity to attend, it was a significant upgrade both in terms of the atmosphere and the food quality.

I would encourage you to attend this month's luncheon, which will be held on Wednesday, September 17, 2008. Our speaker will Robert Merlin, Esq., and the topic will be "Introduction to Collaborative Family Law: The Family-Friendly Alternative." As always, the course has approved for one (1) hour of continuing legal education credit.

We are also in the advanced planning stages for our annual judicial reception. We will be moving the location to the prestigious Biltmore Hotel. As this article goes to press, we are working to obtain an alcohol sponsorship and first class musical arrangement. Please review our website coralgablesbar.org for the latest developments on this and other exciting things we are planning for this year.

THE LUNCH BOX



Jerome J. Kavulich
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THE BRIEFCASE

by **JEROME J. KAVULICH, Esq.**

Rescission Due to Budget Changes Precluded under Condo Statute

D & T Properties, Inc. v. Marina Grande Associates LTD / 985 So. 2d 43 (Fla. 4th DCA 2008)

D & T contracted to purchase a condo unit under construction from the developer, Marina Grande, and placed under deposit \$99,000.00. The purchaser was provided a prospectus which included an estimated operating budget and the contract contained mandatory rescission language allowing the purchaser to void the contract with written notice within 15 days after receipt of any amendment which materially alters the offering in an adverse manner.

About 13 months later, the developer amended the prospectus and the purchaser timely gave its notice to cancel. The developer objected and the purchaser filed a declaratory judgment as to its right to cancel. At trial, the evidence showed that the budget increased 36% due to increases in insurance, utilities, and the cost of switching to a different multimedia system. This resulted in an increased assessment from \$490.37 to \$669.22 per month, of which \$90.00 was attributed to the multimedia system change. The trial court ruled for the developer.

Citing changes in §718.504(21)(e), F.S., which clarified that budget increases beyond the developer's control do not rise to a right of rescission, the 4th District Court of Appeal affirmed the trial court's holding that the insurance and utility increases could not serve as a basis for canceling the contract. As for the multimedia system increase, the appellate court fashioned an objective test to determine whether a reasonable buyer under the purchase agreement would find the change so significant that it would alter the buyer's decision to enter into the contract. In applying this test, the appellate court held that an 18% increase caused by the multimedia system was well below the 65% previously held to be material in *BB Landmark, Inc. v. Haber*, 619 So. 2d 448 (Fla. 3rd DCA 1993). As a result, the change did not give a rise to the right to cancel, affirming the trial court.

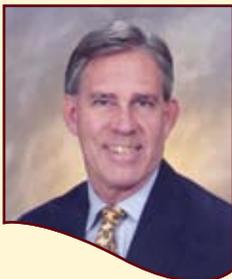
THE BOARDROOM NEWS FROM YOUR EXECUTIVE BOARD.

There were a number of issues that needed to be discussed at the August 28th Board meeting, including the upcoming judicial reception, the treasurer's report and final accounting with John Martin's, but trial schedules prevented the meeting from occurring. Mr. Feiler did report regarding future events that he had a proposal from the Biltmore, and was working on the beverage sponsorship. The next meeting scheduled at this time is September 25th.

If you have input for the directors, speak to them!

ANNOUNCEMENTS

(A section which periodically appears when a member has an announcement which they wish to make to the bar)



Bruce M. Bounds, Esq.

Your newsletter editor Bruce Bounds has joined Rafferty, Stolzenberg, Gelles, Tenenholtz & Flynn, P.A. at 1401 Brickell Avenue as a partner. He had been an equity partner at Alabama based Miller, Hamilton, Snider & Odom, L.L.C.'s Miami office.

Bruce brings his transactional banking, business and real estate practice, and probate practice, to the 17 lawyer full service Rafferty firm which handles corporate law, mergers and acquisitions, international transactions, real state, venture capital transactions, banking, bankruptcy, labor and employment, domestic and international tax, admiralty, intellectual property and environmental law, commercial, civil, foreclosure and probate litigation.

Effective approximately September 15th Bruce's contact information will be at the new return address on the front of your newsletter, and (305) 373.0330, fax (305) 373.2735, bbounds@rsglawyers.com.



A REAL ENERGY POLICY

By Joseph Y. Calhoun, III
 Chief Investment Officer, Alhambra Investment Management
jyc3@alhambrapartners.com

In less than one month, oil prices have fallen nearly 22%. That drop happened during a period when our leaders in Washington accomplished exactly nothing of importance that could account for the fall. Sure, President Bush lifted the moratorium on offshore drilling, but that action will have no effect unless Congress follows suit.

Most likely the fall had nothing to do with the impending expiration of the drilling moratorium, but rather is a reaction to the recent strengthening of the US dollar. There has been a lot of discussion of whether the dollar has risen because oil has fallen or if the reverse is true, but based on history, it seems obvious to me that it is the dollar driving oil prices and not the other way around.

Although there are significant differences between the current economic environment and the 1970s, there are also significant similarities. As then, the current high price of oil has little to do with the supply and demand for that commodity. The problem then and the problem now is the supply and demand for US dollars. Soon after Reagan's inauguration in 1980, the dollar started a rise that continued until the Plaza Accord of 1985. The trade weighted dollar rose roughly 50% and the price of oil fell by a similar amount. That rise was no accident. It happened because of the tight monetary policy of Paul Volcker and the growth promoting tax policies of Ronald Reagan. After the Plaza Accord and the coordinated effort to devalue the dollar, oil prices responded as one would expect, doubling by 1990.

Politicians are currently locked in a battle over energy policy which ignores the real cause of the problem and therefore offers no solution. Those on the left alternately argue that we haven't had any energy policy, or that current policy is a result of the Bush administration rewarding its oil industry benefactors. Politicians on the right argue that a lack of domestic production, due to environmental policy, is to blame. Both claim that enacting an energy policy is a matter of national security.

These arguments are all incorrect and largely irrelevant.

Regardless of politicians' high regard for their own abilities, the high price of oil has little to do with any energy policy that was enacted, or not enacted, by a previous Congress. The ban on offshore drilling and in the ANWR region merely reduced domestic production while having little effect on the amount of oil being placed on the market. If we had increased production here over the last 30 years, it is logical to assume that producers outside the US would have decreased production to maintain prices at acceptable levels.

The real culprit in the rise in oil prices has been a monetary policy more concerned with growth than inflation. The successive bubbles in stocks, real estate and now commodities are prima facie evidence that monetary policy has been driving asset prices. Yes, there has been an increase in demand from China and other emerging markets, but the oil industry has met that demand, over time, with capacity to spare. New discoveries are adding to known reserves regularly. New technology is making accessible oil reserves that were previously thought unrecoverable. It is not a lack of supply that is driving the price of oil.

The distortions caused by bad monetary policy are now creating a sense of urgency on the part of lawmakers. For now, Congress is in recess, something for which we can all be thankful. But they will

eventually return. I don't expect them to accomplish anything in the lame duck session since expecting Congress to actually pass meaningful legislation in an election year is like expecting Michael Jackson to become normal, but with a new administration, the danger increases that they will pass legislation that will not only fail to reduce oil prices but also damage the economy as a whole.

There are obviously other factors which influence the price of oil and other commodities, but it is also obvious that the value of the US dollar is the major factor. A reduction in demand due to high prices has contributed to the recent decline in the price of oil, as has an increase in supply from Saudi Arabia and the potential for increased supply from more domestic drilling. Furthermore, the recent strength of the dollar would seem to be more of a "tallest midget" phenomenon rather than a result of any overt policy change by the US. The decoupling thesis, where the rest of the world continues to grow even as the US slows, has been proven as wrong as every other "it's different this time" thesis.

Ultimately, the value of the dollar is determined by the supply of and demand for US dollars. The current credit contraction is reducing the supply of dollars despite the best efforts of the Federal Reserve. In a world of fractional reserve banking, the Fed's control over the supply of dollars via interest rate manipulations is limited at best. Any increase in demand for the dollar is not a result of good policy here but rather worse policy abroad. These factors have pushed the dollar higher for now, but if it is to be sustained, good policies must be enacted to support the demand for dollars.

Congress should enact pro-growth policies that act to increase the demand for dollars. Increasing capital gains taxes and marginal tax rates are not policies that will achieve that goal. A windfall profit tax on oil companies is not a policy that will achieve that goal. A cap and trade system to limit carbon emissions – endorsed by both candidates for President – is not a policy that will achieve that goal. Pro-growth policies would favor lower marginal tax rates, lower capital gains taxes and corporate tax rates (or better, none), less regulation, and deficit reduction through lower government spending.

While Congress can and should enact pro-growth tax policies, a much more important task is to reform the Federal Reserve. The first step should be to clarify the Fed's mandate. Right now, the Fed is tasked with maintaining growth and minimizing inflation. The only way for the Fed to truly accomplish the first goal is to concentrate exclusively on the second. It should also be made clear that inflation is defined as an expansion of the money supply and not a rise in price of an arbitrary basket of goods. The best way to accomplish currency and price stability is to adopt a gold standard but in the absence of political will for such a policy, a single mandate is a good first step.

We cannot drill our way to lower oil prices nor can we tax our way to prosperity. Growth cannot be created through policies that encourage consumption over savings and investment. The Fed needs to act to reduce and then stabilize the price of gold (increase the value of and then stabilize the dollar). Congress needs to act to create an environment that promotes growth through private investment. That's what Ronald Reagan and Paul Volcker did in the early 1980s. It worked then and it'll work now.

SEPTEMBER

- Sept. 17** Coral Gables Bar Association's CLE Luncheon, 11:45 a.m., Guest Speaker Bob Merlin, Esq. "Introduction to Collaborative Family Law: The Family-Friendly Alternative." Westin-Colonnade Coral Gables in the Aragon Room (180 Aragon Avenue).
- Sept. 18-20** Federal Bar Association Annual Meeting and Convention, Embassy Suites, Huntsville, AL. Group code is FBA when making hotel reservations, \$139 for a single/double, and \$10 for each additional person. Parking is \$5/suite per day.
- Sept. 18** Cuban American Bar Association's Cocktail Reception with Florida Bar Young Lawyers Division; information TBA.
- Sept. 19** Dade County Bar Association's Put Something Back's Bankruptcy Seminar: "Everything You Always Wanted to Know About Handling a Bankruptcy Case"; 4.0 CLE credits, .5 ethics. Registration 8:30-9:00 a.m., seminar 9:00-1:00 p.m., Claude Pepper Building, Courtroom 1409, 51 S.W. 1st Avenue. Free to all attorneys who agree to accept at least one pro bono bankruptcy case; if you cannot accept a case, the cost is \$80 payable to "Put Something Back."
- Sept. 19** Dade County Bar Association's Construction Law Committee: "Dispute Resolution" Lunchtime meeting. Guest Speaker Steven M. Siegfried, 12:00 p.m. at Gordon Biersch, 1201 Brickell Ave., reservations required; luncheon includes 1 hour of CLE credit. \$30 per person.
- Sept. 20** Dade County Bar's YLS and Robert Allen Law's 2008 Miami-Dade Coastal Cleanup. 9:00-12:00 throughout Miami-Dade County. Contact Alejandra Ferreyros for details at 305-375-3300 or aferreyros@robertallenlaw.com. All volunteers will receive an invitation to the "Appreciation Party" at the Miami Seaquarium which will include food, music and complimentary admission to the aquarium.
- Sept. 23** Dade County Bar's Workers Compensation Committee's Bench & Bar Meeting, Guest Speakers Honorable Sylvia Medina-Shore, Honorable Gerardo Castiello, Honorable Charles M. Hill, Honorable Henry H. Harnage, topic will be "Procedures for Attorney Fee Hearing, Procedures for Motion Practice Under Rule 60Q-6.115", 12:00-2:00 p.m., Lawson Thomas Courthouse, 175 N.W. 1st Ave., 11th Floor Conference Room, Registration includes lunch and 2 hours of CLE credit, reservations should be received no later than Sept. 19, members \$15, non-members \$30, late registration \$30.
- Sept. 25** Federal Bar Association's Monthly Luncheon with Special Guest Speaker Eleventh Circuit Judge Rosemary Barkett, 12:00-1:30, Riverside Hotel, Fort Lauderdale. Before Sept.25, members of FBA Broward pay \$30, non-members \$35, members of the judiciary \$15; after Sept. 25, members pay \$35, non-members pay \$40, members of the judiciary pay \$20. Please RSVP, ctobin@abravermanlaw.com

MARK YOUR CALENDAR!

The 5th Annual Minority Mentoring Picnic is set for Saturday November 1, 2008 at the Amelia Earhart Park in Hialeah.

The Coral Gables Bar Association encourages you to plan to attend this wonderful event that provides minority law students from every law school in Florida with an opportunity to network with lawyers and judges, including Justices from the Florida Supreme Court.

There will be great food, lively music and fun filled activities throughout the day. For more information please log on to www.kttlaw/MMP/

- Sept. 25** Coral Gables Bar Association's Executive Board Meeting, 5:30 p.m., Kozyak, Tropin & Throckmorton, 2525 Ponce de Leon Blvd., 9th Floor, Coral Gables.
- Sept. 26** Dade County Bar Association's September General Membership Luncheon, Special Guest Speaker Chief Justice Peggy Quince, 11:30 a.m., Hyatt Regency Miami, 400 S.E. 2nd Ave., members \$40, non-members \$45 for advance registration; registration after September 24 and at the door is \$50.

OCTOBER

- Oct. 2** Cuban American Bar Association & Cuban-American CPA Association's 7th Annual Golf Classic Tournament, 7:00 a.m., Biltmore Golf Course at 1200 Anastasia Avenue, Coral Gables, FL.
- Oct. 3** Miami Beach Bar, South Miami Kendall Bar Association & Put Something Back's "The Basics of Foreclosure: the foreclosure process, affirmative defenses and other responses and practical tips. Guest speaker Erik Wesoloski, Lawson Thomas Courthouse Centre, 175 N.W. First Avenue, 11th Floor conference room; lunch \$15 for members, \$20 for non-members with 2 hours of CLE applied for. Limited seating!
- Oct. 4** Caribbean Bar Association's 12th Annual Scholarship & Awards Banquet, 6:30 p.m. cocktail reception and dinner at 7:30, at Signature Grand, 6900 State Road 84, Davie, FL; advanced tickets \$100 per person, formal attire required.
- Oct. 7** Cuban American Bar Association's Take Stock in Children: A cocktail reception to celebrate CABA's partnership with "Take Stock in Children", 5:30-7:30 p.m. at the Wachovia Financial Centre Lobby, 200 S. Biscayne Blvd., Miami, FL.
- Oct. 10** Cuban American Bar's Rock the Fashion '08, 10:00 p.m., sponsored by the Law Offices of John Leon to benefit St. Thomas University's School of Law for scholarships, Nikki Beach, South Beach, FL. For more information, www.rockthefashion.com
- Oct. 10-13** The Florida Bar General Meeting of Committees and Sections, Tampa Airport Marriott.
- Oct. 23** Cuban American Bar's Miami-Dade County Law Library Fundraiser.
- Oct. 27** Cuban American Bar's Annual Fall Mentor Reception: Scholarships & Outstanding Young Lawyer Award & Passing on Leadership Award, details to be announced.
- Oct. 30** Dade County Bar's and Cuban American Bar's Law Library Fundraiser to save the Miami-Dade County Law Library from closing its doors; information to be announced.

PLEASE HELP THOSE IN NEED

Within the past 30 days, Haiti has been severely damaged from hurricanes Gustav, Hana and Ike. With those three hurricanes, it is estimated that about 1,000 people may have lost their lives. The City of Gonaives has been virtually destroyed. The only asset(s) possessed by countless families are the clothes on their backs.

The Kozyak Tropin & Throckmorton law firm is helping to coordinate donations of clothes, food, school supplies, or money, which will be given to Notre Dame D'Haiti Catholic Church or St. James Catholic Church located in North Miami, and then shipped to Haiti.

All donations may be dropped off to the attention of John Kozyak at Kozyak Tropin, 2525 Ponce de Leon Blvd, 9th Floor, Coral Gables, Florida. Also, The Haitian Lawyers Association has volunteered to pick up donations. Please contact Kertch J. Conze, Esq., HLA President, at 305-455-2040 to arrange a pick up of your donation. Thank you in advance for your help.

SEPTEMBER-OCTOBER 2008

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Office space for rent with secretarial space and access to copier and fax machine. 2 conference rooms are also available. 2 offices @ \$950.00 a month. Secure building, Ocean Bank in the lobby. Contact Jackie or Cyril from Gloria Roa Bodin's office at (305) 442.1322

Two offices w/ adjacent secretarial stations available to rent in attorney suite sharing arrangement at 201 Alhambra Circle, Coral Gables. Services available include receptionist, 2 conference rooms, photocopier and kitchen facilities. Competitive rates, parking, DSL/internet and fax services are available by separate connections. Contact Ignacio Arango at (305) 774.9333

The Gables Lawyer

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ADVERTISE WITH US!

Materials for publication, including classified advertising, should be submitted to the editor at the return address on this Newsletter or to brucebounds@mhsolaw.com.

Materials submitted should clearly identify that they are for the Coral Gables Bar Association Newsletter, The Gables Lawyer, and any e-mail attachments should be similarly identified and be in Word format (though not the newest "docx" format).

\$25.00 per insertion for Association members,
\$50.00 for non-members.

