

REVIEW



Dana Carlson Gentry is Florida Board Certified in Wills, Trusts and Estates

Have you accounted for all your digital assets?

BY DANA CARLSON GENTRY, ESQ.

Do you communicate with friends by email or texting? Do you review your bank accounts or brokerage assets online using personal passwords? Do you have a social or business networking account? Do you store personal photos on the internet in the "cloud"? Do you have frequent flyer bonus points or credit card rewards? If your answer to any of these questions is yes, then you have "digital assets".

Do you know what happens to those assets if you become incapacitated or die? The answer may surprise you. For every digital asset that you have, you have most likely checked the box and agreed to the terms of that particular entity or company's contract. More than likely that contract has privacy terms which may prevent your agent under a durable power of attorney or your executor under a Will from accessing the online account information. Although you may have been meticulous in telling your family where they can find your list of codes and passwords (thinking that such information will alleviate the problem), your family members may not be considered authorized users under those accounts, and if they attempt to access those accounts they could be violating federal or state privacy laws.

Some of the internet providers for digital assets have begun to include in their contracts provisions that allow an authorized personal representative or agent to access these accounts in appropriate circumstances under strict and specific rules of the provider; others have not. A few states have passed laws authorizing executors or agents to access such assets to varying degrees. *The Florida Senate and House of Representatives proposed legislation in 2015 but both proposals died in committees when the session ended prematurely in May. Perhaps the bills will be reintroduced next year clarifying this area of the law.*

What can you do in the meantime? Here are a few suggestions:

1. Make sure that your durable power of attorney and Will specifically authorize your agent or executor to access your digital assets. While there are no guarantees that an internet contractor, asset custodian, or provider will honor such authorizations, having such a clause in the appropriate document is at least a start and evidences your intent to provide your agent or executor with that authority.

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WE MAKE A DIFFERENCE

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A Message from the Principals



BY JONATHAN D. FLEECE, ESQ.

The attorneys and staff at Blalock Walters strive to “make a positive difference” in the lives and businesses of our clients, friends and community. Without this passionate commitment, we would lose much of what makes us a uniquely successful law firm.

This year, I am honored and privileged to be making a positive difference as the Manatee Chamber of Commerce’s Board Chairman. The Chamber’s recent and past accolades and praises are voluminous, including the national Chamber of the year, the Florida Chamber of the year and the United States Chamber of Commerce’s 5-Star distinction. Indeed, these awards are worthy of our praises, but it is the grassroots stories and people behind these prizes that truly make the Manatee Chamber a special organization.

Most recently, the Chamber stepped up and hosted a luncheon for the Cuban Ambassador Jose Ramon Cabanas in an effort to educate local businesses and policy makers related to the future opportunities that changes in Cuba and United States relations may bring to our country, Florida and Manatee County. The Chamber has dedicated several of its initiatives this year to serving the Millennials to ensure that our region is poised for that generation’s success. Millennials outnumber the Baby-boomers and are becoming a critical force in our nation. Another special moment as Chairman was handing out graduation certificates to 2015 Leadership Manatee recipients. These people are our local community leaders for today and tomorrow. Seeing the dreams and energy in their eyes and hearts was an amazing experience.

The Chamber’s Stronger Business, Stronger Community capital campaign is in full force. Blalock Walters has proudly stepped up and made a \$2,500 investment in our Chamber’s future prosperity. We encourage our clients and friends to contribute to this campaign as well. No amount of money is too small because the benefits and positive impact that our Chamber produces is so great.

I know that my 2015 Chairmanship will come and go. Hopefully I will make a small mark for the better as Chair behind a long list of distinguished Chairs who have served before me, including our own Bob Blalock and Cliff Walters. The true mark being made this year, however, is within my own heart and soul. For that Manatee Chamber members and staff, I will be forever grateful. ■



Jonathan Fleece, Managing Partner, practices business law and is Florida board certified in health care law. He is serving as this year’s Manatee Chamber of Commerce board chairman.



Blalock Walters is proud to be a long time member of the Manatee Chamber of Commerce.



Have you accounted for all your digital assets?

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2. Make a list of all of your digital assets which your agent or executor can easily access if and when necessary. If you are reluctant to provide a complete list, then provide your agent or executor with the information to access your personal computer and the passwords contained on it. If you are married, be sure that those passwords are available to your spouse. The incapacity or death of a loved one is a very emotional time for family members. Hiring a computer expert to break codes and access information stored on the incapacitated or deceased person's computer makes the whole process that much more stressful.
3. As for your personal emails or photographs, make backup DVDs or CDs of that information (possibly in PDF or JPG format) so that your loved ones will have access to the family memories and history you wish to share.
4. If you have gone "paperless" with your financial information, download in PDF format on your personal computer and copy to a disc or thumb-drive all your bank and brokerage accounts' monthly statements for the last three (3) years. (This procedure should also be followed with any personal bills that are paid online for household, medical or other matters, although the number of years will vary depending on the type of bill).
5. If your income tax returns are prepared and filed electronically, then also download to a disc or thumb drive copies of those returns for the last three (3) years along with any relevant supporting documentation used in preparing those returns.

These are just a few suggestions to make it easier on your selected agents and loved ones when you need assistance. If you would like a review of your current documents relative to this issue or any estate planning issue, please call any of our estate planning lawyers and we will be glad to assist you. ■

Although you may have been meticulous in telling your family where they can find your list of codes and passwords, your family members may not be considered authorized users under those accounts, and if they attempt to access those accounts they could be violating federal or state privacy laws.



BLALOCK WALTERS REVIEW

Address Change? To update your contact information or add a co-worker or friend to this newsletter mailing list, please contact Marketing Director Jill McGarry at 941.748.0100 or email us at contact-us@blalockwalters.com.



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The information in this newsletter is not intended as legal advice, but rather as a service to our clients, friends and other Internet users. If you have questions about any of the information contained in the newsletter, please contact an attorney for a consult. Please keep in mind that contacting us by itself does not establish an attorney-client relationship. Therefore, you should not convey any confidential information to us until a formal attorney-client relationship has been established after our thorough conflict of interest procedures have been completed. We welcome your inquiries, but please keep the above information in mind, as well as the fact that electronic mail on the Internet is not secure in most instances. Accordingly, you should not send confidential or sensitive information in e-mail messages. Thank you for your interest in Blalock Walters.

TAX DISCLAIMER

Our firm provides the information in this Newsletter for general guidance only, and does not constitute the provision of legal advice, tax advice, accounting services, investment advice, or professional consulting of any kind. The information provided herein should not be used as a substitute for consultation with professional tax, accounting, legal, or other competent advisers. Before making any decision or taking any action, you should consult a professional adviser who has been provided with all pertinent facts relevant to your particular situation. Tax articles in this Newsletter are not intended to be used, and cannot be used by any taxpayer, for the purpose of avoiding accuracy-related penalties that may be imposed on the taxpayer.

To ensure compliance with Treasury Department regulations, we advise you that, unless otherwise expressly indicated, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein. This publication is not intended as legal advice, which may often turn on specific facts. Readers should seek legal advice before acting with regard to the subjects mentioned herein. Citations omitted due to space limitations but available upon request.

Dodd-Frank: Additional pitfalls to seller financing

On July 21, 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act became law. Known as 'Dodd Frank' it was passed in response to the Great Recession and introduced a series of new regulations aimed at reforming the financial industry.

BY WILLIAM ROBINSON, ESQ

One of the lesser known components of this massive nearly 900-page legislation was to impose greater burdens and disclosure requirements on a Seller who finances the conveyance of real property. Pursuant to Dodd-Frank, the Consumer Financial Protection Bureau was established and created what is known as the Loan Originator Rule. This Rule potentially brings mortgages originated by a Seller under certain truth-in-lending disclosures. The purpose of this Article is to outline the exceptions to the Loan Originator Rule and provide Sellers with guidance in making the determination whether to offer financing for the sale of their property.

There are two instances where Dodd-Frank compliance does not apply and therefore the Seller would not be deemed to be a loan originator.

First, Dodd-Frank does not apply to mortgages that secure vacant land, commercial, investment, rental properties or properties containing five or more units. Second, Dodd-Frank does not apply to "non-consumer" Buyers (for example, limited liability companies, partnerships, corporations), even if that Buyer is intending to reside on the real estate.

In the event the conveyance does not fall into one of these two exceptions, there are two further exclusions from the requirements of the Loan Originator Rule under Dodd-Frank:

THE ONE PROPERTY EXCLUSION

The Seller will not be deemed a "loan originator" if:

1. The Seller is an individual, trust or estate;
2. That Seller provides financing for only one property during any 12-month period;
3. The Seller is not the contractor or builder for the construction of the house on the property being financed;
4. The note does not negatively amortize (balloon mortgages are permitted at this time); AND
5. The note has fixed or adjustable rates that reset in no less than five years and are subject to reasonable annual and lifetime limits.

THE THREE PROPERTIES EXCLUSION

The Three Properties Exclusion allows an individual, trust or estate **and also business entities** to be seller-financers for up to three properties in any 12-month period. In this situation, while you are allotted more

properties to offer seller-financing, Dodd-Frank imposes additional burdens, which include the inability to utilize negative amortization in the loan and require a good faith determination by the Seller regarding the Buyer's/Borrower's ability to repay the loan.

The Seller will not be deemed a "loan originator" if:

1. The Seller is an individual, trust or estate or business entity;
2. That Seller provides financing for no more than three properties during any 12-month period;
3. The Seller is not the contractor or builder for the construction of the house on the property being financed;
4. The note does not negatively amortize (balloon mortgages are NOT PERMITTED);
5. The note has fixed or adjustable rates that reset in no less than five years and are subject to reasonable annual and lifetime limits; AND
6. The Seller in good faith determines that the Buyer has the reasonable ability to repay the loan (the criteria for making such a determination are found in Regulation Z § 1026.43(c)).

The remedies for failure to comply with Dodd-Frank regulations concerning seller-financing are quite severe and can be potentially devastating to a Seller. Such remedies include rescission of the sale and demand for payment of the previous payments made by the borrower to the lender, reimbursement of fees and costs, significant fines and penalties, and forfeiture of down payments or finance charges. Further, non-compliance adds a very strong borrower defense to the lender's (former Seller's) foreclosure action.

The effect of Dodd Frank on the residential real estate industry has not been fully realized, as the legislation is complex and the various rules are still being drafted and implemented. Further, this legislation will presumably be subject to judicial review and interpretation. However, the penalties for non-compliance are severe. Therefore, any Buyer intending to sell their property and also finance the transaction should seek the advice of a qualified real estate attorney who has a clear understanding of Dodd Frank and its potential impact on seller-financing. ■



Will Robinson is Florida board certified in real estate law

abc's

of United States tax laws for foreign investors

One of the challenges for foreign investors is navigating the United States tax laws, and further complicating the issue is that rules for determining residency of income tax purposes are distinct from the domicile rules for estate and gift tax purposes. Residency and domicile are two separately defined concepts in the U.S. tax code.

BY JENIFER S. SCHEMBRI, ESQ

INCOME TAX

United States Income Tax on worldwide income applies to U.S. citizens, permanent residents (those holding a green card), and those that satisfy the "substantial presence test." **For income tax purposes, substantial presence includes:**

- Presence in the U.S. at least 31 days during the current calendar year; and
- Presence in the U.S. at least 183 days taking into account all of the days during the current calendar year, one third of the days in the first preceding calendar year and one sixth of the days in the second preceding calendar year.

Generally speaking, non-residents should limit their presence to 121 days in a calendar year to avoid satisfying the substantial presence test and possibly subjecting themselves to U.S. income tax on those items of income which are generally exempted from U.S. income tax.

Non-residents are subject to income taxes on U.S. income, with these exceptions:

Bank deposit interest
 Certificates of deposit
 Portfolio Debt Instruments (does not include loans to related parties)
 Certain capital gains

Note that these exceptions do not include rental income, which may also be subject to U.S. income tax withholding requirements on the part of the tenant.

ESTATE TAX

The United States Estate and Gift Tax will apply to worldwide assets for U.S. citizens and those domiciled in the U.S., which is defined as physical presence with intent to reside in the United States. The test to establish domicile for estate and gift tax purposes is more of a facts and circumstances approach and consequently the results can be different for income and estate tax purposes.

The Estate and Gift Tax

rates and exemptions are as follows:

U.S. citizens and residents are subject to:

- 40% highest marginal rate
- \$5.43 million exemption per person, \$10.86 million for spouses

Unless a particular treaty between the U.S. and another country provides otherwise, non-residents are subject to the following:

- Graduated rates of 26% over \$60,000, and 40% over \$1 million
- \$60,000 exemption on death
- Assets subject to U.S. estate tax include US real property, tangible and intangible property
- Assets subject to U.S. gift tax include U.S. real property and tangible property. Gifts of intangibles are not subject to U.S. gift taxes.

If you have any questions, please contact Jenifer Schembri or one of our other tax attorneys for more information. ■



Jenifer Schembri, business law and estate planning, is Florida board certified in tax law



WE MAKE A DIFFERENCE

Florida Second District Court issues new physician non-compete ruling this year

BY MICHAEL D. MAGIDSON, ESQ.

On March 4, 2015, in the case of AmSurg New Port Richey FL, Inc. v. Sreenivasa Prasad Vangara, the Florida Second District Court of Appeal (2nd DCA) issued a ruling involving a physician covenant not to compete. **Physician non-competes are quite common in Florida; however, the case law in this area is not uniform, in part because the enforceability of a non-compete is a fact-specific inquiry. Therefore, although Florida has a statute permitting non-competes, these cases must be decided on a case-by-case basis.**

In the Vangara case, Dr. Vangara was an investor in an ambulatory surgery center (ASC) that is also owned by AmSurg, a national owner and operator of ASCs. The agreement governing the ownership and management of the ASC contained a provision prohibiting its owners from having a financial interest in, managing, leasing, or developing a business competitive with the ASC. The provision went on to state that the ASC's physician-owners were not prohibited from practicing medicine nor were they required to refer patients to or perform procedures at the ASC. While he was an owner of the ASC, Dr. Vangara operated a competing ASC. AmSurg sued Dr. Vangara for breach of contract, but the trial court ruled in favor of Dr. Vangara. Applying Tennessee law (which the parties had agreed in the contract would govern the contract), the trial court held that Tennessee's non-compete case law prohibited non-competes against physicians, except in extremely limited circumstances, none of which applied to this case.

On appeal, the 2nd DCA reversed this ruling, distinguishing the Tennessee case law prohibiting most non-competes against physicians by noting that Dr. Vangara's non-compete did not prohibit him from practicing medicine but only from being involved in a competing business. The 2nd DCA reasoned that, because Dr. Vangara's non-compete did not interfere with the physician-patient relationship, the broad prohibition on physician non-competes under

Tennessee law was inapplicable. On that basis, the appellate court overturned the trial court's ruling and upheld the non-compete.

Although this case involved an interpretation of Tennessee law rather than Florida law, it is instructive in analyzing physician non-competes in Florida. Since Florida has a statute on the books that specifically permits non-competes (and not just in the physician context), it might be inferred that the case for enforcing this kind of non-compete would be even stronger under Florida law. Since these types of non-competes (relating to involvement in a competing business but not necessarily prohibiting the practice of medicine) are common in the ASC context, physicians should take note and not assume such a clause is unenforceable. (As a sidebar, parties should always be cognizant of governing law provisions as well). It is also interesting to consider the impact this case might have on future non-compete cases in Florida involving restrictive covenants prohibiting the practice of medicine itself, which are also common. Although this case is not binding precedent in Florida and although non-compete cases will always be fact-specific inquiries, read in conjunction with other current Florida cases declining to enforce physician non-competes to the extent they prohibit the practice of medicine, this case could signal a growing consensus among Florida courts as to the enforceability of physician non-competes.

Mike Magidson is Florida Board Certified in Health Law and can be reached at 941.748.0100 or mmagidson@blalockwalters.com. ■



Michael Magidson is Florida board certified in health care law



Trust Protectors:

Do they provide flexibility or create unnecessary litigation?

BY CHARLES JOHNSON, ESQ.

In 2008, the Florida Legislature adopted its version of the Uniform Trust Code (the "Trust Code"). Within the Trust Code is language that authorizes the settlor to delegate significant authority to a "trust protector." Commentators applauded the creation of the trust protector position, reasoning it would promote certainty and effectuate the intent of the settlor. In theory, the trust protector is a person who knows the intent of the settlor and who can act to avoid the law of unintended consequences. The Trust Code contemplates the possibility of broad delegations of authority to trust protectors including: (a) resolving disputes among co-trustees; (b) resolving disputes between beneficiaries; (c) removing and replacing trustees; (d) modifying the trust due to unforeseen economic circumstances; (e) modifying the trust to avoid the consequences of future tax laws; and (f) clarifying errors or ambiguities in the drafting of the trust.

The recent case of *Minassian v. Rachins* is the first case law in Florida interpreting the trust protector provision of the Trust Code. In *Minassian*, the husband created a trust (the "Original Trust"). The husband and wife were both trustees during the life of the husband. The primary purpose of the Original Trust was clearly stated and provided after the husband's death for the "health, education and maintenance of my spouse, and that the preservation of principal is not as important as the accomplishment of these objectives." On the death of the wife, the Original Trust, by its own terms, "terminated" and the corpus was to be distributed as a separate trust share for each of the children. The Original Trust provided for the creation of a new "trust share" for each beneficiary and appointed a financial institution as trustee for the newly created trust shares.

Following the death of the husband, the children filed suit against the wife claiming the Original Trust had been mismanaged. The wife argued that the children were not beneficiaries of the Original Trust and, therefore, lacked the ability to challenge her actions. Specifically, the wife argued that the children were beneficiaries of the new "trust shares" created following the termination of the Original Trust, but were not beneficiaries of the Original Trust. The children countered that the referenced "trust shares" were plainly "shares" of the Original Trust and thus provided the children legal standing. The trial judge refused to dismiss the children's case noting that the Original Trust was not "clear."

Following the hearing, the wife did not immediately pursue her defenses. Instead, the wife appointed a trust protector. The Original

Trust authorized the trust protector to modify or amend it, as appropriate. Parenthetically, the trust protector was also the lawyer who drafted the Original Trust.

Thereafter, the trust protector purported to amend the Original Trust to clarify that the "trust shares" created at the termination of the Original Trust were part of a new trust (the "New Trust"). Ultimately, the trial court entered summary judgment for the children finding that the amendment by the trust protector was improper and likely did not further the settlor's "probable wishes" to benefit his children.

The Fourth District Court of Appeal reversed the trial court. In reaching its conclusion, the appellate court first concluded that the Original Trust was ambiguous; thereafter, the sweeping powers of the trust protector became applicable coupled with the broad discretion afforded by the Original Trust and the Trust Code. Succinctly put, the appellate court found that the Trust Code and the Original Trust meant what they said – the trust protector is empowered to modify the trust in his sole discretion to effectuate the intent of the settlor.

It remains to be seen how the Trust Code and, in particular, the provisions regarding trust protectors will be interpreted in the future. New statutory schemes are often problematic for the court system, which often is called to address the exception or unusual case that points out an oversight or ambiguity in the applicable law.

The lawyers at Blalock Walters, both in our estate planning practice group and probate litigation practice group, are constantly tracking trust law developments in all areas of interest to our clients. Depending on your situation, we can provide advice regarding the use of a trust protector in trust drafting or trust administration. ■



Charles Johnson, business litigation

Making a Difference...



Along with our commitment to provide high quality legal representation, we remain dedicated to continuing our service legacy of giving back to the communities in which we live and prosper. Our attorneys give their time and resources by leading as presidents and chairs of many of the Manatee-Sarasota region's major civic and charitable organizations, including local arts, educational and cultural institutions and social service agencies. Here are some of the worthwhile community organizations and events we were proud to support so far this year:



Jason Levy, Jay Johnson, Chuck Johnson and Jay Heagerty team up at the Port Manatee Propeller Club's 11th Annual Golf Classic.



Jonathan Fleece, Melanie Leuten, Marianne Barnebey, Ann Breitenger, Mark Barnebey, and Jill McGarry help out at the HOB NOB grill.



Anthony Bartirome and Marilyn Howard

- Annual 4-H Clover Classic Golf Tournament
- Anna Maria Island Community Center "The Silver Affaire"
- Anna Maria Island Historical Society
- Asolo Reparatory Theatre
- Ave Maria Miracle Fest
- Big Brothers Big Sisters
- Bradenton Area EDC 2015 Economic Forecast Breakfast
- Bradenton Area EDC HOB NOB
- Cocktails for a Cause Food Bank Fundraiser
- Goodwill Manasota
- 5th Annual Good Scout Award Dinner, honoring Bradenton Kiwanis Club
- "Hats & Heels" benefiting Turning Points
- Lakewood Ranch Community Fund Gala
- Leadership Manatee Local Government Day
- Lucky Ducky Race for PACE Center for Girls
- Manatee Chamber Champions of Health Care Awards
- 52nd Manatee Chamber of Commerce Annual Dinner
- Manatee Chamber of Commerce "Blues by the Bay"
- Manatee Chamber Project TEACH
- Manatee Community Foundation "Spirit of Manatee Awards Luncheon"
- Manatee County Humane Society 9th Annual "Paws in Motion" Walk-A-Thon
- Manatee Education Foundation "Heart & Soul" Gala
- 5th Annual Manatee PAL Golf Classic
- Manatee Tiger Bay Club
- Manatee Young Professionals
- 22nd Annual Martin Luther King, Jr. Awards Banquet
- Meals on Wheels PLUS "Tropical Nights: Diners & Doo-Wop"
- Mote Marine "Party on the Pass"
- The Murdock Rotary Club Foundation, Inc. "Wild West Casino Night"
- PACE Center for Girls
- Palm Ball benefiting the Conservation Foundation of the Gulf Coast
- Pittsburgh Pirates & Bradenton Marauders
- Port Manatee Propeller Club 11th Annual Golf Classic
- Realize Bradenton
- Robinson Preserve Twilight Run benefiting Meals on Wheels PLUS of Manatee
- Sarasota Chamber of Commerce
- S.M.A.R.T. Annual Mint Juleps & Roses Derby Day
- Tidwell Hospice "Compassion in Caring Luncheon"
- We Care Manatee, Inc. "Casino Night" ■

The Powers family (Marisa, Justin, daughter Amelia and pup Bowden) do their share in the Humane Society's Paws in Motion Walk-A-Thon.



Jonathan Fleece, Mark Barnebey elected chairmen of Manatee Chamber of Commerce and Bradenton Area Economic Development Corporation boards of directors

We are pleased to announce that for the first time since Bradenton Area Economic Development Corporation and Manatee Chamber of Commerce stood as independent organizations, the two have elected chairmen from the same business—Blalock Walters, P.A. With a history of leadership and commitment to both organizations, our attorneys have served as Chamber and EDC past chairs, board and trustee members, and have participated on various development committees over the past 40 years.

Jonathan Fleece, Managing Partner and attorney in our Business and Health Care Law practice groups, has been elected 2015 Chair of the Manatee Chamber of Commerce Board of Directors. A member of the Chamber's board since 2010, former Chair of Chamber Health Care Committee, and former Vice Chair of Community Development & Communication, Jonathan plans to emphasize five leadership initiatives that support the mission of building a positive business environment while enhancing the community's quality of life: education and workforce development, technology, workforce housing, and member engagement.



Jonathan Fleece, Managing Partner, practices business law, and is Florida board certified in health care law

"It is an honor and a privilege to serve as Chair of the Manatee Chamber of Commerce," said Jonathan. "Over the course of my chairmanship, I plan to focus on advancing the issues that are important to our economy and community. I look forward to serving alongside my fellow board members and the Chamber team, complementing the outstanding work the organization does on behalf of our business community."

"We are excited to have Jonathan as our Chairman of the Board," said Bob Bartz, President, Manatee Chamber of Commerce. "Jonathan has been very involved in the Chamber for many years and the breadth and depth of his knowledge of our organization and the community will serve us well as he leads us to new heights in 2015."

Jonathan can be reached at jfleece@blalockwalters.com.

The Bradenton Area Economic Development Corporation, the lead economic development organization for the Bradenton Area's nine communities located south of Tampa Bay, has named Mark Barnebey Chair of the 2015 Board of Directors. Mark has been instrumental in the EDC's growth and its independence from the Manatee Chamber of Commerce, becoming its own not-for-profit corporation in 2012. He has served on the EDC Executive Committee, as Secretary, and Chair-Elect. As Chair, Mark will oversee the corporation's strategy of bringing greater diversity to the Bradenton Area's economy and aligning the community's assets with business sectors already in Manatee County.



Mark Barnebey practices land use and real estate law. He is Florida board certified in city, county & local government law

"I look forward to working with the EDC staff and board members to diversify the local economy by attracting and retaining high-wage jobs for area residents, and connecting existing businesses to the resources they need to succeed," said Mark. "Considering the strong regional, national and international competition, it is vital for the growth of our community to have a robust economic development arm, like the EDC."

"Mark is the right leader at the right time as the Bradenton Area EDC focuses on a strategic planning process in 2015 that will guide the EDC's work for the next several years," said Sharon Hillstrom, EDC president and chief executive officer. "Mark's extensive community knowledge and abiding commitment to enhancing the quality of life in the Bradenton area will continue to be vital qualities in his role as EDC Chair."

Contact Mark at mbarnebey@blalockwalters.com. ■



Amanda Smith co-founder of 'Cheers for Charity' Women's Giving Circle

Attorney Amanda Smith has co-founded "Cheers for Charity" Women's Giving Circle, a local group of women committed to raising a \$10,000 endowment for Lakewood Ranch Community Fund, under the umbrella of the Manatee Community Foundation, by making annual individual donations and fundraising efforts. The interest from that fund, along with matching funds from other organizations, are granted to local charities that the members select. All of the members have particular causes they are passionate about, and by banding together, they can donate more than they could individually, while learning about other charitable organizations they are unfamiliar with.

Cheers for Charity currently has 11 members from Sarasota, Manatee and Lakewood Ranch who represent a wide range of professions from law to medicine to teaching and non-profit work. The group has raised over \$3,500 so far from personal donations and its first fundraiser on June 25th, a Celebrity Bartending event at Polo Grill in Lakewood Ranch.

Black Walters has several connections to this project. Attorney Ann Breitinger is a member of Cheers for Charity, Anthony Bartirome is Board President of Manatee Community Foundation, and Jenifer Schembri serves on the Lakewood Ranch Community Fund board of advisors. ■



Amanda Smith, real estate law



Women's Giving Circle

Back row: Christy Cardillo, Margie Dawson, Janel Shinn, Ann Breitinger and Erin Boihem.
Front row: Alexis Georgiou, Amanda Smith, Ashley Krumerich and Erin VanderVeen.
Not pictured are Jill Gass and Nadine Baez.



Ann Breitinger, business and health care law

Ann Breitinger elected to Realize Bradenton board of directors

Congratulations to Ann Breitinger for being named to the Board of Directors of Realize Bradenton, a nonprofit that brings people together to create a vibrant, attractive, and prosperous downtown Bradenton area for residents, visitors, and businesses.

Johnette Isham, Executive Director of Realize Bradenton, said, "Realize Bradenton is delighted to welcome Ann Breitinger to the board. Ann lives and works in downtown Bradenton and already attends our Farmers' Market and multiple art and music events. Ann's enthusiasm and knowledge will be instrumental in our increased efforts to attract larger numbers of young professionals to downtown. Realize Bradenton is so pleased to strengthen our relationship with Black Walters, as the law firm has been a tremendous partner of ours."

"It is an honor to join the Board of Directors of Realize Bradenton" said Ann. "I look forward to working with other members of the Board and the staff to continue the progress in strengthening the social, cultural, and physical assets of downtown Bradenton while increasing its economic growth."

Ann is an attorney in the firm's Business and Health Care practice areas. She counsels clients regarding entity formation, business governance issues, business transactions and health care transactional and regulatory matters. She is also a member of Florida Association of Women Lawyers, The Florida Bar, and serves on the Boards of Directors of Manatee County Bar Association Young Lawyers Division and We Care Manatee, Inc. ■





Reading Buddies of Christ Church of Longboat key



Beverly Beall and Kemp Riechmann

Manatee Community Foundation presents Spirit of Manatee Awards

Congratulations to the winners of the 10th Annual Spirit of Manatee awards. The Manatee Community Foundation honors individuals and organizations that embody the philanthropic spirit of Manatee County. Each winner is presented with a beautiful glass award and the opportunity to address the sold-out crowd of 400 at Bradenton Area Convention Center. **Attorney Anthony Bartirome** was president of the foundation's board of directors from 2013-2015.

LIFETIME SPIRIT Many of these winners don't expect anything in return for their philanthropic effort. They were surprised and humbled to be honored. "We didn't do any of that with the idea to get an award," said Ray Baden. The reason **Ray Baden and wife, Sara Nell**, give back is simple, he said. "To tell you the truth, it makes you feel good," Baden said. "It makes you feel good to help someone else." As Ray modestly accepted the award on stage, he gave accolades to our very own Bob Blalock as well as Bob Christopher, Bob Beall, Greg Porgess, Bud Parent, Bill Garr, for being the founding members of Manatee Community Foundation.

COMMUNITY SPIRIT Maribeth Phillips, CEO of Meals on Wheels PLUS of Manatee, nominated **David Scherer** and TDS Construction for their contributions that reach far beyond the beautiful buildings they construct. "David does not give for the recognition it brings to his company but because he truly believes in the charitable causes he supports," said Maribeth. David and TDS Construction have generously provided monetary support to several local agencies such as Meals on Wheels PLUS, Big Brothers Big Sisters, American Cancer Society and the Coast Guard Foundation. "I look forward to continuing our

support of these incredible organizations," said David.

LEADERSHIP SPIRIT **Beverly Beall and Kemp Riechmann** established The Beverly Beall and R. Kemp Riechmann Foundation in 1997 with the purpose of giving college scholarships to needy but capable students. The impact of the Foundation has transformed the lives of hundreds of deserving students and children in the community. To date, \$2.4 million in scholarships have been awarded and more than \$500,000 in grants, donations, and indirect funding for student needs.

VOLUNTEER SPIRIT **Craig Waters** volunteers and advocates for kids through Big Brothers Big Sisters of the Sun Coast. For more than six years, Craig and his wife have helped Manatee County's most needy children by purchasing gifts through the annual holiday drive of BBBS. Craig, a Big Brother to two young men, takes them fishing, attends their soccer games, and spends quality time with them on an ongoing basis. Craig is always actively recruiting additional volunteers and carries the mission and vision of the organization to everyone he meets.

COMMUNITY SPIRIT Teach a child to read, and the whole world becomes an open book for them. That is the premise of Reading Buddies, reaching out to children with reading difficulties through **volunteers from Christ Church of Longboat Key.**

"Reading Buddies of Christ Church of Longboat Key builds dreams and changes lives through reading and relationships," says Alexdrena Green, COO of United Community Centers and 13th Avenue Dream Center. "It cultivates multi-generational relationships between the student and buddy bound by genuine love and concern that provide

CONTINUED ON PAGE 13

Leah Roddenberry



Ray Baden



David Scherer



Craig Waters



About Us...



Blalock Walters listed as 2015 'Best Law Firm' by U.S. News and Best Lawyers magazine

Blalock Walters is pleased to announce that the firm has been ranked as a 2015 "Best Law Firm" by U.S. News and Best Lawyers®. Firms included in the 2015 "Best Law Firms" list are recognized for professional excellence with consistently impressive ratings from clients and peers. Achieving a tiered ranking signals a unique combination of quality law practice and breadth of legal expertise.

"For thirty years, U.S. News has provided consumers with accurate, in-depth information and rankings of a wide range of institutions," says Tim Smart, Executive Editor of U.S. News & World Report. "Law firms are an integral part of our rankings and a natural accompaniment to the law school rankings."

The 2015 rankings are based on the highest number of participating firms and highest number of client ballots on record. To be eligible for a ranking, a firm must have a lawyer listed in *The Best Lawyers in America*, which recognizes the top 4 percent of practicing attorneys in the U.S. Blalock Walters has two lawyers listed in *The Best Lawyers in America*: Clifford L. Walters, III, in Real Estate, and Robert G. Blalock in Trusts and Estates. More than 17,000 attorneys provided almost 600,000 law firm assessments, and almost 7,500 clients provided more than 40,000 evaluations.

"For five years, we have combined massive amounts of hard data with peer reviews and client assessments to develop our law firm rankings," says Steven Naifeh, CEO and Co-Founder of Best Lawyers. "Increasingly, clients tell us that ours are the most thorough, accurate and helpful rankings of law firms available anywhere."



Awards were given in 74 national practice areas and 120 metropolitan practice areas. One "Law Firm of the Year" is named in 73 of the nationally ranked practice areas. ■

Blalock Walters expands the firm's litigation practice area, hires attorney Jason H. Levy

Blalock Walters is pleased to welcome attorney Jason H. Levy to our Litigation practice group. Jason's practice involves the litigation of business disputes, probate, estate and trust disputes, employment, and construction law related controversies.



Jason H. Levy, Esq.

Jason represents individuals, developers, builders, retail stores, non-profit organizations, title companies, and other businesses.

Jason earned his Juris Doctor from the University of Florida Levin College of Law in 2012 and a Bachelor of Science in Business Administration with a major in Finance from the University of Florida in 2009.

"We are thrilled to have Jason join our firm. With our growth in litigation, he will provide additional depth and support to better serve our clients," says Fred Moore, Blalock Walters' Business Litigation attorney. ■



**BLALOCK
WALTERS**
ATTORNEYS AT LAW

WE MAKE A DIFFERENCE

Warm welcome to our 2015 summer law clerks: UF law students Scott Schilson and Daniel VanEtten

Scott Schilson is currently attending the University of Florida (UF) Levin College of Law in Gainesville. He is a graduate of the University of Florida with a Bachelor of Arts in Criminology and Law.

Scott grew up in Sarasota and is a hockey enthusiast. He dominated the ice for the University of Florida men's ice hockey team and was the recipient of the UF RecSports Male Athlete of the Year award. In addition, Scott was a Co-Founder of the UF Ice Hockey Annual Broomball Tournament with 100 percent of the proceeds going to the local Boys and Girls Club.



Scott Schilson

Daniel VanEtten is also attending the University of Florida Levin College Of Law. He earned his Bachelor of Arts in Economics from the University of South Florida in 2012.

Daniel was born and raised in Bradenton and as a true Florida native he enjoys all things water – fishing, SCUBA diving and boating. Daniel also spends time rebuilding and restoring classic boats. The fishing team he captains competes in several local charity fishing tournaments throughout the year.



Daniel VanEtten

We are excited to have Scott and Daniel on our team! ■

Thank you to Carol Massey for 20 years of services to us

The firm celebrated the 20-year anniversary of our Office Manager Carol Massey March 12 with a surprise party and chocolate cake (Carol's favorite!)

"Carol's dedication to the firm is legendary. She demonstrates fierce pride in our staff and our success is due in no small measure to her skill and commitment," said Cliff Walters.

Jonathan Fleece, Managing Partner, describes Carol as "loyal, dedicated, and emotionally-involved." We are so fortunate to have Carol on our team and look forward to celebrating another 20 years with her. ■



We welcome two little ones to our family



Congratulations to Matthew Plummer and his wife, Nicole, on the birth of their son, **Luke Matthew** who was born February 3 at 12:13 p.m., weighing 5 pounds, 13 ounces and was 20 inches long. Big sister Lily is very proud.



Cliff Walters and his wife, Susie, also known as "Poppy" and "Gigi", welcomed their first grand baby to the world on March 12. They are so excited about the new addition to their family, **Reed Thomas Burns**. They enjoy spending time with Reed and watching him grow! ■

Manatee Community Foundation presents Spirit of Manatee Awards Continued from Page 11

support and the nurturing that is required to be a successful student." The program boasts over 80% success rate and an enrollment increase of 65% over the last 4 years. "If we can get every child in Manatee County reading at grade level by the end of 3rd grade, their future is assured," said Reading Buddies program coordinator Beverly Sutton. She concluded her acceptance speech with a quote from Frederick Douglass: "Once you learn to read, you are forever free."

YOUNG SPIRIT Leah Roddenberry "reigns" as an outstanding teen. The Manatee County Public Library System nominated this 15-year old Cardinal Mooney High School honor student because she "shows her spirit by giving back to Manatee County." Leah raises money for countless charities by organizing teams for walkathons such as Relay for Life, Manasota Buddy Walk for Down Syndrome, and Southeastern Guide Dogs. Leah has organized a "Read Across America" event for youngsters at Central Library, serves as a student volunteer at Blake Medical Center, participates in Coastal Clean-Up Days, and volunteers at Entre Nous Holiday Tour of Homes. Thank you, Leah, for your hard work and dedication to helping others in Manatee County! ■



BEHIND THE *Suit*

With Cliff Walters



What is your proudest civic accomplishment?

CW: Among the most noteworthy was having the opportunity to serve as the mediator/moderator between the cities and county and school board in the creation of the ACCORD, an interlocal agreement that resulted in a “stand-down” between factions and re-centered our community focus on quality of life and preserving our community.

What is the most daring thing you have done?

CW: I am afraid my children are too young and the statute of limitations has not passed for disclosing some of my more daring (dumb?) activities. I will mention the time my son Logan and I were caught in a freak storm in the backcountry of Glacier National Park. We led a rescue effort to evacuate a hypothermic man with a severely broken leg while crossing swollen streams. We just managed to get the young man to safety as night fell. The temperature dropped from the low 90s into the 50s in the space of an hour or so, making the effort quite intense.

What is something no one knows about you?

CW: I am pretty much an open book, but few know that I was the, or at least one of the, youngest certified firemen (volunteer) in the Commonwealth of Kentucky (at the age of 16) –(my uncle was the fire chief and pulled a few strings).

What were some of your favorite foods growing up that you rarely experience today?

CW: Caramel cake, beaten biscuits with country ham, yeast rolls, homemade strawberry jam, watermelon pickles, bourbon balls (candy), homemade custard, and country fried steak.

Do you cook?

CW: I often cook on weekends and when we entertain guests. I have found that I can effectively cover my many mistakes with the four basics of southern cooking: salt, butter, sugar and bacon.

What do you do on the weekends?

CW: I used to go camping, bicycling and kayaking – and visit museums such as the Ringling Museum. More recently, I go babysit my first grandson - with my wife, Susie. We are both still walking on air with our new addition to the family.

What was your first job?

CW: At 16 I worked as a sales clerk, janitor, stock boy, display specialist, and tobacco cloth cutter in my grandfather’s dry goods store. At such a tender age I discovered that women lie about their foot sizes and men about their waist sizes.

What are your summer travel plans?

CW: Susie and I are going to spend a week at the Chautauqua Institution in NY. It’s an adult summer camp/education center that fully engages one in a diversity of activities. We were there last summer and particularly enjoyed Ken Burns’ session. This year I pushed for the Beach Boys week, but we ended up with a week on the Middle East. We will enjoy Carol Burnett (for her comedy, not middle east expertise), and Richard Engel, chief foreign correspondent for NBC.

If you were a super-hero, what would your power be?

CW: I think I would like the power to talk with animals. I adored the Dr. Doolittle books growing up. ■

Cliff said he had to relearn the art of feeding a baby with grandson, Reed Thomas Burnsed.



Cliff and his wife, Susie, love to travel—here, kayaking off of the island of Cayo Costa and in a beautiful flower garden last fall on Lake Como.



Healthy LIVING

Blalock Walters
Wellness Initiative

Running to benefit local community charities

In effort to continue our initiative of health and wellness at Blalock Walters, we participate in numerous 5K and 10K races that benefit local charities.

Pictured here are members of the festive Blalock Walters 5K Team at the annual Arthritis Foundation Jingle Bell Run: Cecilia Hopper, Jenny Zavadil, Pamala Roberts, Zack Salyers, Jackie Mori, Sarah Orendorff and Laraine McCool.



Will Robinson completes second Boston Marathon

Congratulations to Will Robinson for completing the 118th annual Boston Marathon, his second Boston Marathon in four years. Will defeated the cold, rainy weather and finished the 26.2 mile course in true Will Robinson character – strong, tenacious and positive.

“Thank you for all the support and for following me throughout the day,” said Will. “It was a tough but memorable day. Things were going pretty well until unfortunately my injury flared up around mile 16. As I passed each medic tent, the medical personnel kept looking at me. I was afraid they were going to pull me off the course, but I just smiled and they let me continue on.”

“The Boston fans were amazing. I must have high-fived about 1500 of them, as I basically walked by. The weather was brutal, as a front moved through right around the halfway point. Running a marathon essentially into the wind the entire time with sheets of rain coming down didn’t make for ideal conditions. Running in those conditions is bad enough but I have no idea how those fans did it either. They were all cheering and screaming the entire time. I will be back at some point but now I will take some time to heal up!” ■



Will Robinson runs past the iconic Fenway Park in Boston



Tips for staying healthy this summer

We are fortunate to live on the suncoast, but heat and humidity are a challenge

1. Stay cool and hydrated. Drink lots of water! Increase your intake of water when going outside for activities and exercise.
2. While enjoying the sun and outdoors, protect yourself from overexposure to sunlight by wearing a hat and using natural sunscreens without excessive chemicals. The cooling and healing effects of Aloe Vera gel will soothe sunburn.
3. Keep up or begin an exercise program. From walks and jogs, to hikes, bike rides, swimming, kayaking, outdoor yoga, and tennis, the list of healthy activities goes on and on! Aerobic activity is important for keeping the heart strong and healthy.
4. Enjoy nature’s bounty—fresh seasonal fruits and vegetables at their organic best. Consuming foods that are cooling and light—fresh fruits, vegetables and lots of water—will nourish your body for summertime activities. Visit some of our incredible community farms to enjoy healthy and fresh vegetables throughout Florida’s growing season.
5. Take some special summer time with your family, kids, and friends. Plan fun trips and get-togethers -- play at the beach, enjoy a healthy, summer barbecue, explore a new neighborhood.
6. Relax and breathe. You’ve been working hard. Remind yourself to slow the pace a bit and enjoy the world around you.
7. Turn your cell phone off at least one hour before bed, take a week off from TV, and limit your screen time. Above all, give yourself the time to truly experience nature. This can happen, even in a city park, if you relax and let in your surroundings. ■



Read about these tips and more at Healthy.net



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