

Shareholder Profile

The Many Roles of Rebecca Rhoden

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The minute you meet **Rebecca**, you know she is a go getter! A shareholder at the firm, a mentor to many, a community volunteer, a mother to two young boys and a wife — these are just some of the many roles Rebecca proudly plays. Whether she is focusing on firm clients or actively serving on a community board, Rebecca makes a noticeable impact in Central Florida.

After graduating with honors from the University of California, Irvine, Rebecca enrolled at Cornell University Law School where she received her law degree. She started her career practicing securities litigation for a large law firm in NYC. In January 2005, she accepted a position at Lowndes and returned home to be with her family. Rebecca was promoted to shareholder in January 2011, serving as the youngest shareholder at that time. In her role at the firm, Rebecca focuses on commercial litigation, land use litigation, litigation relating to the Fair Housing Act, eDiscovery, appellate law and family law. Rebecca routinely represents private and public clients in matters including commercial, land use, trade secrets, employment, breach of contract, commerce clause, and divorce and prenuptial agreement disputes, among others. But perhaps what she enjoys the most is helping ensure that individuals who are less financially fortunate have sufficient and appropriate housing available to them.



"The most rewarding part of my job is when I can help my real estate clients build affordable housing communities for residents who are struggling to pay high rents and who often end up homeless," said Rebecca. "These new beautiful communities provide residents with affordable housing, a good quality of life and an opportunity to grow and succeed."

In addition to her legal work, Rebecca, who is a resident of Seminole County, is heavily involved in the Foundation for Seminole State College. In addition to serving on the Board of Directors for the Foundation and its Executive Committee, Rebecca is also the co-Chair of the Events Committee and serves on the host committee for the annual Dream Gala. While raising resources to support Seminole State and its students, Rebecca has also served on numerous committees that evaluate and select the appropriate recipients for various endowed teaching chair awards and scholarships. Even though Rebecca is so actively involved in Seminole State, she

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also finds time to get involved in the "Take Stock in Children" program through Valencia Community College. Through this program, she mentored a young man from his 8th grade year through his graduation this past May. During this time, Rebecca regularly met with her mentee at his school to discuss his curriculum, goals and everything that was going on in his life. Rebecca viewed her role as ensuring that her mentee did not lose his way and continued on the path towards higher education. Her efforts paid off as Rebecca's mentee enrolled in Seminole State College and plans to attend a Florida university upon completion of his associate degree.

Rebecca's personal devotion outside her busy law practice and family life lies within her involvement with the Leukemia & Lymphoma Society. When Rebecca's grandfather discovered he had leukemia, Rebecca decided to get involved in the search for a cure for this blood cancer. In her position on the Board of Trustees for the Central Florida Chapter of Leukemia & Lymphoma Society, which helps patients and families identify resources, best medical treatments, specialists, therapists and even provides transportation to and from the hospital, she is actively involved in raising funds for the organization. She participates

in the firm's annual fundraising Leukemia & Lymphoma campaign. She is also involved in the organization's Light the Night campaign.

Rebecca and her husband Ryan enjoy going to Captiva Island with their two children Nicholas, who is 6, and Jack, who is 2. The family also enjoys watching Nicholas play baseball and participate on the Heathrow Country Club swim team. Next year promises to be a big year for the Rhoden family as Nicholas will start kindergarten at Heathrow Elementary. ■

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The firm currently practices in the following areas:

- Administrative Law
- Alternative Dispute Resolution
- Aviation
- Banking & Finance
- Bankruptcy
- Capital Markets & Technology
- Commercial Leasing
- Construction
- Corporate & Securities
- Creditors' Rights
- Developments of Regional Impact (DRIs)
- Distressed Real Estate Solutions
- Eminent Domain & Condemnation
- Environmental Law
- Family & Marital Law
- Foreign Investments in the U.S.
- Land Use & Zoning
- Healthcare
- Hospitality & Leisure
- Immigration
- Intellectual Property Services
- Labor & Employment Law
- Litigation & Trial Practice
- Privacy & eDiscovery
- Private Wealth Services
- Real Estate
- Restaurant Services
- Senior Housing
- Supply Chain Management
- Tax

Where are your business needs? Modern business often spans continents and time zones, and we are here to help you navigate through complex legal issues around the world. As a founding member of Meritas, our firm has access to a global alliance of more than 7,500 experienced lawyers in over 180 full-service law firms serving 2,400+ markets around the world — all rigorously qualified, independent and collaborative. Membership in Meritas is by invitation only. Members are required to participate in ongoing recertification and periodic peer reviews, ensuring their adherence to high levels of client service. ■



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The
Fine
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"They fixed my car, but it's worth less than before the accident. What can I do?"

By Jim Toscano

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You love your car. You are pondering the depth of that love as you sit in your luxury convertible, top down, basking in the warm morning sun as you sip your iced latte and rev the perfectly tuned engine while stopped at a red light. Just as you hear your favorite Eagles song, "Hotel California," start to play on your custom sound system, you are jarred from your blissful state by a violent collision. After the initial shock, you realize your car has been struck from behind by a millennial in an electric car who was texting in his chai tea order.

Fortunately, the millennial is an internet mogul and has excellent insurance with a top rated insurance company. His insurance adjuster could not be nicer in arranging the repairs, which are completed quickly and smoothly by a reputable and highly capable repair shop. Nevertheless, after the repairs are finished, the car just doesn't seem the same to you. For that reason, you decide to explore selling the car you once loved, but no longer cherish.

The next shock is almost as painful as the first. You quickly realize that, despite the repairs, the fair market value of your vehicle is significantly less than its fair market value prior to the accident. Even though the car was properly repaired, every potential purchaser either knows or quickly discovers that the car has been in an accident and therefore, regardless of the quality of the repair, will not pay top dollar. The value of the vehicle has been diminished. The extent of the diminution in value depends on many factors, including the value of the vehicle in its pre-accident condition; the amount of damage relative to the value; whether any frame damage occurred; the year, make and model

of the vehicle, and the quality of the repair.

The good news is that, under Florida law, under such circumstances, you do have a claim for it and can recover the diminished value of the vehicle from the at-fault driver's insurance company. As long as you were not at fault and the diminished value was caused by the collision, you can recover the difference in value between your wrecked and repaired vehicle, and the same vehicle which was never involved in a collision. Such a claim will almost always require the opinion of an expert with regard to the amount of the diminished value and will depend on many factors.

To learn more about our Litigation Group, please visit:
<http://bit.ly/1o7yHzf> ■

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Top Three Strategies for Managing Construction Risks

By Michael Gibbons michael.gibbons@lowndes-law.com



Construction is a risky business. During construction, claims for personal injury, property damage and economic losses are foreseeable and must be managed. After completion of construction, warranty claims and claims for latent defects are proliferating. Owners, developers and contractors must proactively understand and manage these risks if they expect to survive and thrive in today's increasingly complex construction marketplace. Below are three important strategies for managing construction-related risks and positioning your company for success.

1. Avoid Inconsistent Dispute Resolution Contracts.

Owners, developers and general contractors typically find themselves executing multiple agreements relating to the design and construction of improvements. Whether one is an owner contracting with design professionals and other contractors or a general contractor is contracting with an owner, it is important to avoid having some of the contracts call for dispute resolution by litigation while others require arbitration. Construction disputes typically implicate both design professionals and different contractor trades. The most efficient way to resolve these disputes is getting everyone in one forum (i.e. either a lawsuit, mediation or an arbitration) in order to avoid the added expense and uncertainty associated with pursuing binding dispute



resolution in two different forums. Having construction-related disputes decided in different forums greatly increases the cost of dispute resolution while adding a significant risk of inconsistent determinations.

2. Contract Tiebreakers. It is often said that there is no such thing as a perfect set of construction drawings free of conflicts and inconsistencies. The same may be said of construction contract documents. It is not unusual for a construction contract to have 15 to 25 separate attachments, including all exhibits, to the base form of agreement. The documents are frequently prepared by different parties and they often contain conflicting or inconsistent terms and conditions. Without a contractual term establishing a hierarchy of precedential value among these contract documents, the setting is ripe for disputes as parties will defend their conflicting positions based on inconsistent terms in the contract documents. Without a precedential hierarchy of documents established there is no ready way to resolve the conflict.

3. Indemnification. Owners and contractors traditionally rely on indemnification clauses to transfer risks of claim activity on projects. In Florida, the content of indemnity terms and conditions is regulated by Florida Statute, § 725.06. Failure to comply with the requirements of this statute renders the indemnity paragraph void and unenforceable as a matter of public policy. Accordingly, it is important to have the indemnity terms reviewed by knowledgeable construction counsel.

To read about more strategies, please visit our website at <http://bit.ly/2rg5ZFC>.

In the Community

CEO & President **Bill Dymond** was featured in an *Orlando Business Journal* article. To read about his most interesting deal/project, go to: <http://bit.ly/2so8Qdq>



Bill Dymond

Richard Dellinger was named president-elect of the Orange County Bar Association. **Richard** also moderated a panel discussion for the Federal Bar Association Orlando Chapter's Lunch & Learn series titled "Local Rules Refresher".



Richard Dellinger

Melody Lynch was named president of the Legal Aid Society of the Orange County Bar Association. **Melody** also spoke at The Federal Bar Association Orlando Chapter's Fourth Friday Lunch & Learn CLE program "Smashing the Glass Ceiling: Women in the Law".



Melody Lynch

Additionally, **Melody** was quoted in an article titled "Travelers unit sues hotel group, says CGL policy doesn't cover cyber breach," which was published in *Business Insurance*. To read the story, go to: <http://bit.ly/2q8NO68>

Drew Sorrell hosted a seminar titled "Orchestrating Legal and Technical Resources to Contain and Mitigate".



Drew Sorrell

Drew was also highlighted in *Metropolitan Corporate Counsel* after participating in their webinar titled "Asking Tough Questions to Prepare for a Breach: A webinar that explores cybersecurity risks offers plenty of advice." To read the story, go to: <http://bit.ly/2qTjuvf>

Additionally, **Drew** discussed trends in cybersecurity at a CCIM seminar held at the firm.

Lyndon Carter spoke with Fox News about the "Boards & Brews" program he came up with to promote community involvement. To watch the interview, go to: <http://bit.ly/2rpRYWq>



Lyndon Carter

Tara Tedrow enjoyed discussing opportunities and challenges for the Central Florida real estate market at the 2017 University of Central Florida Real Estate Conference.



Tara Tedrow

Becky Wilson appeared on WUCFTV to talk about emerging trends in Florida's real estate industry. To watch the interview, go to: <http://hubs.ly/H070k2Z0>



Becky Wilson

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WAYS WE HELP



FEDERAL COURT
Diversity
Federal Question



BUSINESS COURT
Specialized Rules
Qualified Judiciary



ARBITRATION
Confidential Resolution
Select Arbitrators



MEDIATION
Negotiated Settlements
Confidential Resolution

TYPICAL PROBLEMS BUSINESSES FACE REQUIRING BUSINESS LITIGATION EXPERTISE

EMBEZZLEMENT
MISAPPROPRIATION OF FUNDS

40%

Thefts were committed by an employee in the finance or accounting function
Statistic: Score.org

FRAUD
75%

U.S. companies affected by at least one case of fraud in the past year
Statistic: Kroll

DATA BREACH
\$6M

Average cost per data breach for U.S. company
Statistic: Net Diligence

CONTRACT BREACH



BUSINESS BREAK-UPS



TOP RANKED CHAMBERS USA LEADING FIRM Chambers USA 2016 recognized eleven partners as "Leaders in their Field" and ranked the firm in the areas of Real Estate: Zoning/Land Use, Real Estate, Construction, Corporate/M&A & Private Equity and **Litigation: General Commercial.**

Recognized in the 2016 edition of the "Best Law Firms" rankings by U.S. News & World Report & The Best Lawyers in America in 21 practice areas.



180/7,500

Rated AV by Martindale-Hubbell peer review, the firm is a founding member of Meritas, a global alliance of 7,500 experienced lawyers in over 180 full-service law firms serving 240+ markets – all rigorously qualified, independent and collaborative.

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Kudos!



CEO & President **Bill Dymond** received the James B. Greene Award at the 2017 James B. Greene Annual Award Dinner hosted by the Orlando Economic Partnership. The award recognizes individuals who have contributed substantially to the economic prosperity of the region.



Bill Vanos placed 3rd in the men's 45-49 age group in this year's Boston Marathon, among more than 30,000 racers. Bill finished 94th out of 30,000!

Four Things to Know When Buying a Loan

By Mike Provenzale michael.provenzale@lowndes-law.com



Have you considered buying a loan from another lender? Maybe the loan is secured by a piece of real estate you would like to own. Or maybe it's just a good investment opportunity. In any case, do you know what you need to look for when evaluating the loan and loan documents to ensure that you will be able to enforce them later? Here are four things that you should consider:



1. Does the seller have the original note? If you later have to enforce the loan through legal proceedings, you will be required to produce the original note and file it with the court before a judgment is awarded (and if bringing a foreclosure lawsuit, you will have to swear to the location of the original note at the very beginning of the lawsuit). Therefore it is critical that you obtain the original note when buying the loan. If the original note has been lost, that is not fatal, but you will need to obtain an affidavit from the seller (or whomever actually lost the note) stating the circumstances that led to the loss along with a full copy of the note.

2. Is the note payable to the seller? While this one sounds easy, it is not uncommon for a loan to have changed hands several times, with the documentation of those transfers being something short of ideal. To enforce the note after you buy it, you will need to demonstrate a clear chain of assignments (called indorsements or allonges) from the original lender all the way to the seller, who will then further assign it to you. If there is any break in that chain, the borrower will be able to challenge your "standing" to sue, making it much more difficult to recover on your investment.

3. Is the loan in default? The status of the loan at the time you purchase it can be critical. No matter how well you review the available documents and circumstances, you can never be 100% sure of the defenses a borrower may raise when you go to enforce the loan later. As the purchaser of the loan, you will step into the shoes of the prior lender (or lenders) and be subject to any defenses the borrower could have raised against them. However, if you bought the loan before it was in default, you may be able to avoid many of those defenses under the "holder in due course" doctrine. Additionally, if the loan was ever held by a bank that was shut down by the FDIC, you may be able to obtain some of the same protections.

4. Does the seller have a well-documented payment history? Finally, it is important to remember that if you have to bring a lawsuit to recover your investment, the burden of proof is on you. While establishing the existence of the loan documents and that the borrower breached them may be fairly simple, establishing the amount that is actually due may be more difficult. This can particularly be the case when the prior lender did not keep accurate records of the payments it received and how it applied those payments. You will eventually need to admit the payment history into evidence in a lawsuit, so having a well-documented history is critical. Without it, you leave open the possibility of the borrower asserting that less or nothing is owed without any ability to refute those claims.

To read more about the Banking & Financial Services group, go to: <http://bit.ly/2qZkSji>