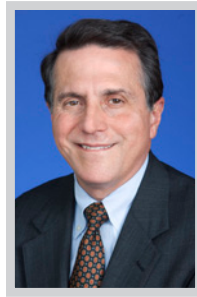




## Meritas Law Conference in Miami

Richman Greer hosted the Meritas combined US Southeast, Real Estate and Latin America/Caribbean Regional meeting held in Miami Beach November 17-19, 2011. Approximately 100 attorneys from Latin America, the Caribbean and the Southeast US attended to discuss economic trends for the region, law firm trends, attorney recruiting, best practices and leadership development. The program included presentations from in-house counsel for multi-national companies. Richman Greer is proud to be a founding member of Meritas, a worldwide non-profit alliance of 176 independent, full-service law firms in over 70 countries.

## Recent Trends In Litigation & Business Law



Manuel Farach

### *Appellate Decision Roils Foreclosure World by Manuel Farach*

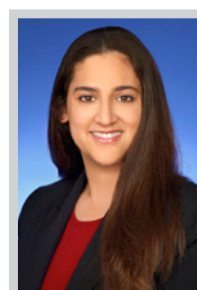
Many lenders are highly concerned over a recent decision in *Glarum v. LaSalle Bank National Association* --- So.3d ----, 2011 WL 3903161, where the court struck an affidavit filed by a lender in support of a motion for summary judgment because the affidavit did not strictly comply with the hearsay exception to the Florida Evidence Code. The principle of law is not new. Affidavits offered in support of motions for summary judgment have always been required to comply with the Evidence Code, but many lenders are now concerned that this will place an unreasonable burden on their ability to obtain summary judgment. While the decision is not as far-reaching as it has been made out to be and there are decisions which offer a blueprint to avoid the reach of *Glarum*, the *Glarum* decision may make the uncertain foreclosure arena even more unpredictable.

### *When is Fraud Barred by the Contract That Contains the Fraud?*

Many contracts contain so-called "merger and integration" clauses in which parties represent that they did not rely on any statements of the other party in executing the contract. What happens when a party claims that statements were made that defrauded them into signing the very contract which states they did not rely on any non-contract statements when signing the contract? Does this create a legal stalemate? This question was recently answered by the recent case of *Lower Fees, Inc. v. Bankrate, Inc.*, --- So.3d ----, 2011 WL 4949835 (Fla. 4th DCA 2011). The court resolved the apparent stalemate by requiring the merger and integration clause to specifically state that it excludes claims of fraud. Any contracts you are presently using that contain merger and integration clauses should be reviewed in order to determine whether it meets these requirements.

### *Assignments of Mortgage and the Foreclosure Process by Leora B. Freire*

Assignments of mortgage have recently been the subject of much discussion amidst allegations that banks are foreclosing on mortgages they do not own. The truth is that assignments of mortgage do not necessarily demonstrate the current ownership of a mortgage and any assignment of mortgage, even one properly executed, has no place in the foreclosure process where the original note can be produced. Rather, an assignment of mortgage only serves to protect the lenders' interest as a creditor of the property by preserving their priority or 'place in line'. Assignments of mortgage are merely a by-product of the transfer of the underlying promissory note, which transfer automatically effectuates the transfer of the related mortgage. As long as the enforcing party has the original note, an assignment of mortgage is meaningless in the foreclosure process. To read the full article on Assignments of Mortgage, [click here](#).



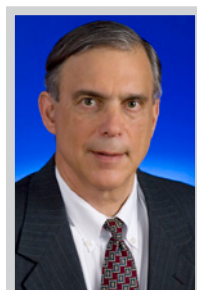
Leora B. Freire

## Verdicts, Settlements & Transactions

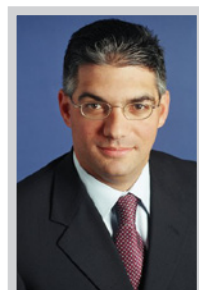
For the last two years, **Steven Naclerio** led a team of attorneys at Richman Greer in assisting the research, development and launch of a new tequila brand called Don Miguelon Blue Nectar Tequila. Naclerio and his team have been involved in advising on every stage of brand development from concept to testing. The team's work included trademark registration and licensing, obtaining federal and state regulatory approvals, establishing a Florida LLC, writing employment and distillery contracts, preparing contracts for consumer research, label and bottle design, test markets and distribution. "We selected Steven Naclerio and his team at Richman Greer to handle this project because of their extensive knowledge of corporate and regulatory law as well as the liquor industry itself," said B.N. Bahadur, Managing Member of the LLC. "Thanks to their efforts, the dream of having our own tequila brand is now a reality."

**Manuel A. Garcia-Linares** and **Eric M. Sodhi**, along with California co-counsel, successfully obtained the dismissal of several claims brought against the firm's client, DirecTV, Inc., by the Miami-Dade County Consumer Protection Division in the United States District Court for the Southern District of Florida. Because of the dismissal of these claims, the case was resolved on the terms requested by DirecTV.

**Gary S. Betensky** and **Joshua L. Spoot** successfully fended off a potential class action lawsuit brought against their client in federal court for alleged violations of the Fair Credit Reporting Act. After securing a dismissal of three of the four complaint's causes of action, Betensky and Spoot were able to negotiate a favorable settlement with the lead plaintiff that included a significant concession that class certification was not achievable.



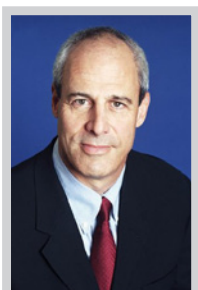
Steven Naclerio



Manuel A. Garcia-Linares



Eric M. Sodhi



Gary S. Betensky



Joshua L. Spoot

## Honors

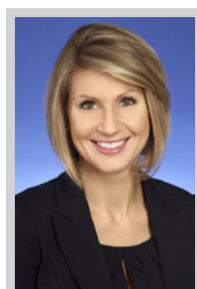
**Gerald F. Richman** has won the National Masters in Trial Award from the American Board of Trial Advocates (ABOTA) for his efforts promoting jury trials worldwide, advancing the legal profession and his contributions to the non-profit organization on a national and local level. Over the last 5 years, Richman has travelled to Latvia, Japan and Korea educating groups about the right to a jury trial.

**Alan G. Greer** has been selected as a member of the 10-person Advisory Committee for Super Lawyers for the State of Florida.

*Chambers USA: America's Leading Lawyers for Business* ranked Richman Greer as a top Commercial Litigation law firm in Florida for the 5th consecutive year. The firm was ranked statewide in Band 2; attorney **Alan G. Greer** was ranked in Band 1 and attorneys **Gerald F. Richman** and **John M. Brumbaugh** ranked in Band 3. The firm was praised for its work in complex trials and class actions, particularly in the fields of complex commercial litigation, real estate and family law.

The South Florida Legal Guide 2012 edition, a local resource for the business and legal communities, has again named Richman Greer a Top Law Firm and also recognized the following attorneys as Top Lawyers: **John M. Brumbaugh**, **Bruce A. Christensen**, **Manuel A. Garcia-Linares**, **Alan G. Greer**, **Gerald F. Richman** and **Mark A. Romance**. **Michael J. Napoleone** and **Lyle E. Shapiro** were named Up & Comers.

## Firm Happenings



Marta Stypulkowski



Adam M. Myron



Mark A. Romance

Attorney **Marta Stypulkowski** has joined Richman Greer's West Palm Beach office where she focuses on complex commercial litigation. She attended the University of Florida where she received both her Juris Doctor and a Bachelor of Arts cum laude in Liberal Arts.

**Adam M. Myron** was recently published in the *Daily Business Review* on the subject of changes to the Florida's Power of Attorney Act.

Interested in becoming a law partner one day? **Mark A. Romance** provided tips to aspiring young lawyers in an article published in *Attorney at Law Magazine*.

Don't forget to check out Richman Greer's two blogs: In Real Estate and Business Litigation Record, Manuel Farach selects a noteworthy case affecting business and real estate law from his weekly roundup of state cases and discusses it in detail; and Ethan J. Wall's Social Media Blog, where Ethan discusses the opportunities, challenges and pitfalls arising out of social media today.

## In The Community

For the third year, Richman Greer has been a sponsor of the annual Kozyak Minority Mentoring Foundation, which provides minority law school students with mentoring, scholarships and networking opportunities. Their annual picnic was November 12, 2011.

**Gary S. Betensky** was appointed co-chair of the Remedies Subcommittee of the ABA Section of Litigation Business Torts Committee for 2011-12.

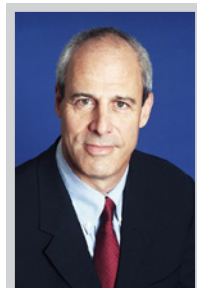
**Manuel A. Garcia-Linares** has been elected Vice Chairman of the City of Coral Gables Retirement Board. In January of 2012, he will begin his second year as Chairman and President of the Florida Association of Managing Partners.

For the fifth consecutive year, litigation attorney **Lyle E. Shapiro** led an annual fund raising effort to save the Miami-Dade County Law Library from having to close its doors. The most recent fund raising was October 13, 2011, which raised \$60,000. Through the generous support of law firms and others in the community, the Law Library continues to serve thousands of pro se litigants and attorneys each month.

**Manuel Farach** recently spoke at two real estate related seminars: *Effective Use of Summary Judgment* hosted by the Labor and Employment section of The Florida Bar in Fort Lauderdale and *Real Estate Foreclosure Update* hosted by the University of Miami Boyer Real Estate Institute in Coral Gables.

**Grasford W. Smith** was appointed to Group One of the Hawkins' Commission on Review of Discipline System by Scott Hawkins, President of The Florida Bar. The Commission's mission is to review and make recommendations concerning The Florida Bar's Discipline System.

**Ethan J. Wall** presented on the topic of *Ethics and Social Media* for more than 150 attorneys and professionals at the Florida Adoption Counsel's annual symposium in October in Lake Buena Vista, FL. He also spoke recently on the topic *Going from Faceless to Facebook* in Salt Lake City, UT and *How to Use Social Media as a Discovery Tool* and *Ethical Considerations with Respect to Privacy and Evidence Gathering* at the South Florida Paralegal Association's Seminar on "Social Media and the Paralegal" in Miami.



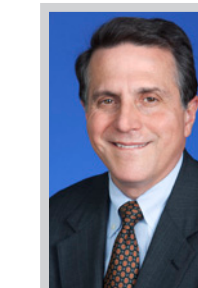
Gary S. Betensky



Manuel A. Garcia-Linares



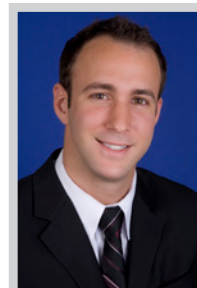
Lyle E. Shapiro



Manuel Farach



Grasford W. Smith



Ethan J. Wall

## Firm Profile

### Creating Solutions to Solve Complex Legal Matters

With offices in Miami and West Palm Beach, Richman Greer, P.A. offers a wide range of legal services focusing on commercial and contract disputes, real estate transactions and litigation, family law, estates, trusts and probate, class actions and other commercial transactions. With 25 attorneys in its two offices in South Florida, the firm is extremely proud of its high number of Board-certified and AV-rated attorneys. These attorneys have met stringent criteria for the legal experience required for acceptance and have been favorably judged by colleagues and peers alike in their field.

Richman Greer, P.A. is a member of Meritas, one of the world's largest and most respected legal resources - an integrated, non-profit alliance of more than 7,093 experienced lawyers in 176 full-service law firms serving more than 237 markets worldwide. As a charter Meritas affiliate, Richman Greer has immediate global access to information, resources and representation from member firms in all principal business centers worldwide. In effect, Meritas membership enables Richman Greer to operate as an international law firm without a costly overhead and management structure. Through Meritas, we have the ability to handle or refer matters throughout the world.