Message from the Chair

Welcome to the Women in Communications Law (WICL) May 2020 Newsletter. It is my honor to chair WICL this year, along with my co-chair Kristen Rodriguez and chair-elect Dana Green.

This wasn’t the year I planned and I have no doubt you feel the same way. But as I look out my home office window, I see my saucer magnolia in its full glory with its beautiful pink blossoms. **There is still wonder in the world and beauty and harmony.**

While we continued the fight for FOIA and OMA access, I worked with selfless companies shifting from automotive production to make masks, respirators and gowns. **Amazing people are doing remarkable things daily.**

I invite you to stay connected with your WICL friends and family during these challenging times; we are here for you.
**Bad Ass Woman Lawyer: An Interview with Rachel Fugate**

We had the opportunity to virtually sit down with Rachel Fugate, this edition’s Bad Ass Woman Lawyer. Those around the Forum know Rachel as a litigator and appellate lawyer with a practice serving local, regional, and national media companies, newspapers and television stations, book publishers, film producers, reality television programs, artists, universities, and non-profit corporations. Rachel has appeared before all of the Florida District Courts of Appeal along with the Florida Supreme Court and the Eleventh Circuit Court of Appeals. But don’t let the strong litigation reputation fool you, she’s also actively engaged in litigation prevention.

You will often find Rachel serving in leadership roles in the bar. She is currently serving on the Governing Committee of the American Bar Association’s Forum on Communications Law. She is a past Vice Chair of the American Bar Association’s Section of Individual Rights & Responsibilities First Amendment Committee and former chair of the Media Law Committee of The Florida Bar.

**Do you see yourself as Bad Ass Woman Attorney?**

I am, but I sometimes need to be reminded of that. I think women especially are susceptible to imposter syndrome, so this is a tough question for me. The older I get, the more comfortable I have become in my own skin, and it is easier for me to answer “hell yes!” on a somewhat consistent basis. But we all have days where doubt creeps in or you are doing something terrifying (like starting your own firm) and you wonder, can I really do this? On those days, I call up my partner Deanna Shullman (the most bad ass woman attorney) and she reminds me that we’re not where we are by sheer chance. It is a lot easier to be a bad ass woman attorney when you are surrounded by bad ass women attorneys who remind you how bad ass you are.

**What do you think qualifies a woman attorney as a “Bad Ass?”**

There’s the obvious – hard work, dedication, talent, tenacity, etc. But I think the key is in owning your strengths and not apologizing for them. So often women are labeled as bossy, bitchy, domineering, cold, harsh, overly emotional, too soft (I could go on forever). It’s often off the mark or not even humanly possible. But women tend to apologize – rather than capitalize – when they are labeled as such. We shouldn’t do that. If somebody has reduced me to some stereotypical
portrait of a woman, great. They’ve underestimated me, and I’m going to use it to my advantage without apology. Regardless of how people perceive you, be it cold or overly emotional, harsh or too soft – be yourself and don’t apologize for it. Put simply, I think authenticity makes a woman lawyer bad ass. You do you.

Is there one case that you feel exemplifies your career?

Interestingly, it is not a media case. Deanna and I represented Earth Island Institute and Ric O’Barry who had been sued over the Oscar-winning documentary, The Cove. The case was both a nightmare and a blast to work on. We had great clients who believed in something important, difficult opposing counsel who filed multiple lawsuits in multiple courts over half a decade, and courts that just wanted to push the cases to trial.

Deanna and I encountered just about every type of frivolous filing, extreme delay tactic, and scurrilous accusation you can imagine (at one point opposing counsel filed a motion alleging that Deanna and I were trying to kill their client by seeking his deposition). The cases spanned several years, I encountered basically every kind of motion an opponent could ever file, and the case taught me a lot about being a good lawyer. In the end, tenacity, always being guided by our clients’ best interest, and creative and practical problem-solving resolved the cases on extremely favorable terms.

Your favorite argument from any of your cases?

Deanna and I represented the South Florida Sun-Sentinel in seeking the addresses of people who sought FEMA assistance after several hurricanes hit Florida in 2004. We won in the district court and the government appealed to the Eleventh Circuit. One of my mentors, Chuck Tobin was representing another newspaper whose similar case had been consolidated with ours, and we had to split time at the oral argument. There was a high school class that was observing our oral argument, we were the last argument of the day, and to say the bench was hot is an understatement – the judges were on fire.

I went first and not only did the panel keep me up there for our entire time, but it also kept me 20 minutes over. I attempted to yield time and would occasionally sneak sheepish glances at Chuck, but the panel continued to pepper me with questions and literally
did not let me sit down. The good news is that Chuck still got to argue and got the same treatment – the hot bench kept him up there for about 45 minutes as well. The argument was exhilarating. And best of all, the Eleventh Circuit affirmed our decision and we secured an important victory for a great client and some outstanding journalists. P.S. we later recovered our clients’ fees from FEMA, making the victory that much sweeter (Deanna even made a male AUSA cry at one point during the fee negotiations – good times, indeed).

**You just made the list of Leaders in Litigation as a Top Copyright Defense Attorney. What do you enjoy about copyright litigation?**

I can’t take credit for that. The thing I like best about copyright litigation is letting the head of our IP practice, Allison Lovelady, handle those cases. She’s brilliant.

**Any recent, interesting pro bono projects you’d like us to highlight?**

We sued for access to records related to healthcare provided to prison inmates in Florida’s correctional institutions. The private company delegated this responsibility by the state eventually turned over the records, and our client successfully got a judgment against it under Florida public records law.

**What are the best aspects of working with an all-female team?**

They get me, and I get them. Seriously, I can’t emphasize how important that is. The saying empowered women, empower women – that’s the best thing about our all-female team.

**What’s one skill you wished you learned sooner?**

To enjoy the downtime – and honestly, I still struggle with that. As media lawyers, we are constantly available to our clients. Trying to compartmentalize work time, from family time, from me time is impossible. I believe the only way to truly find a balance is by blending these aspects of your life. As long as I’m promptly meeting my clients’ needs, there is no reason why I can’t play hooky on a slow day to read a book, ride my horse or spend a day with my husband. I can’t count the number of stories I have vetted at a horse show. But, there are still times when I have a slow day or two that dread sneaks in – I need to find something to do, I need to work harder, the firm is going to tank if I don’t work more. In retrospect, those thoughts are silly and non-productive. I’m getting better at enjoying the downtime and trying to find that balance – still a work in progress though.
What do you think the biggest issues will be in media law in the next 10 years?

There is a fairly organized attack on the credibility of the press that extends beyond the Oval office. I worry that the fallout of that is an erosion of important First Amendment constructs, such as the requirement of actual malice and the immunity afforded by Section 230.

They say that “one is too small a number for greatness.” What do you do to foster and grow your team?

First, hire people smarter than you. Then, know and develop their strengths. Deanna and I both know we are not the brains behind our operation. We couldn’t make it through the day without Allison directing our busy IP practice, Giselle Girones drafting a winning appellate brief, or Kendall Pfeifer getting our cases ready for trial. Our litigation manager, Alyssa Beene, has saved us from doom more times than I will ever admit. And, our office manager, Katie Brown, is simply our boss. I couldn’t function without her. Surround yourself with good people, know them, train them, and then reward them.

Any tips for our younger members as they chart their career?

Know that your career path may not always feel like it is on the right course. That’s ok. The path to success is different for everybody, and it rarely turns out be what you envision at the beginning of your career. Be brave and know when it is time for a course correction. If something isn’t working for you, don’t be afraid to make a change. Complacency can be a career killer (and it will make you miserable). Maintaining the status quo is the easy choice. If you are perfectly happy in the status quo and it works for you – great, you are one of the lucky ones. If not, figure out what isn’t working and fix it. It’s liberating.

What are you doing for self-care during COVID?

I’m lucky because what I normally do for self-care/sanity is ride horses and that hasn’t changed a whole lot during COVID. Some of my partners are trying to homeschool children and keep up with the demands at work. I admire them and forgive them when they start drinking at 3:00 on a Tuesday.

Tiger King, Larry King, or The Crown?

Is Larry King still alive? Hands down, Tiger King – Carole Fuckin’ Baskin (if you know, you know).
**WICL on the Town: To Kill a Mockingbird and There’s No Crying in Newsrooms!**

**November 2019, WICL Theater Night: To Kill a Mockingbird**

Last November, WICL held its yearly New York theater night and dinner at Café Un Deux Trois. Attendees had the opportunity to see Ed Harris in one of his first performances on Broadway as Atticus Finch. Nominated for nine Tony Awards, the performance delivered on Aaron Sorkin’s shift from “a man who never wavered in the face of bigotry to a man struggling as the world challenged his core belief in the inherent goodness of humankind.”

**February 2020, WICL Annual Conference Cocktails: There’s No Crying in Newsrooms**

This year’s guest speaker was Kristin Grady Gilger, co-author of There’s No Crying in Newsrooms. Kristin is a senior associate dean at the Walter Cronkite School of Journalism and Mass Communications at Arizona State University.

Austin was definitely a successful Annual Conference. Amidst the antics of the stronger-than-ever spouses club, WICL members enjoyed a distillery tour and walks to see the murals of Austin. We are ever appreciative of our WICL friends, and as we keep crowding rooms year over year, we hope to continue to bring you solid educational content and networking opportunities.
Feeling Those COVID Blues Again?

Contributing Author, D.J. Vallandingham, LMSW - ACSW

It’s the feeling we have when the future is uncertain. It’s anxiety. It’s a fear of the loss of normalcy, connection and stability.

What are these feelings? Grief.

**How COVID-19 is a unique cause of grief**

Grief is a strong emotion that people experience, often caused by some form of loss. These losses can include the loss of a loved one or the impending loss based on a terminal diagnosis. It is a natural reaction and a universal, yet personal experience. Grief is wrapped in the feelings of guilt and regret, shock and disbelief.

And grief is an appropriate description of what we’re feeling today. There is uncertainty and, above all, there is loss. We have lost our normal daily routine as the nature of the pandemic changes from day to day. To respond and to try to slow the spread, states are taking actions to flatten the curve. We stay at home. We have less face-to-face contact with people. We get grocery delivered and DoorDash delivers our meals. We have lost our connections.

In addition to the feeling of grief, there are other emotions that come with staying at home:

**Loneliness:** By nature, humans are not meant to be alone. Throughout history, we survived by banding together and forming civilizations. The thought of staying separate is counterintuitive and feels uncomfortable. In fact, the longer we stay at home, the lonelier we get. We crave contact, touch, and conversation.

**The Feeling of Missing Out:** Special moments in life mark many important changes. These include graduation, birthdays, weddings, vacations, and the list goes on. We come together to celebrate these moments. For now, these gatherings have been put on pause, at least for a while. Without these special moments, we feel a sense of sadness and separation.

With these feelings in our hearts, we need to seek ways to manage during these stressful times.

**The COVID-19 Impact on Lawyers**

There is no question that those in the legal field face challenges when it comes to mental health and substance abuse. ALM’s Mental Health and Substance Abuse Survey found that, in non-COVID times, 31 percent of survey respondents feel that they are depressed and 64
percent feel anxiety. Add to this the stress of the unknown, the loss of work, and even for those who are still keeping busy, the separation and loneliness—as an example, it’s unlikely you’ve argued in a non-virtual courtroom or had a face to face meeting with any clients in recent months.

And through it all, you likely feel the pressure to remain that calm, stable influence for your client or that fierce fighter for your client’s position. And that is at the same time that your husband, wife, children, and animals are inadvertently plotting how to become the next great internet sensation like the cat that crashed the weatherman’s forecasts or the dog that barged in on a financial news reporting.

And it’s not just the goal of working separately in peace. You might also now be lawyer and school-teacher by day. For many, COVID has brought these added stresses that make us mourn the loss of normality.

**How to manage the grief brought by COVID-19**

There are many ways to manage the grief that COVID-19 brings. These include:

**Understanding the facts about COVID**

With knowledge comes a sense of control of your environment. Make sure you have real information about the coronavirus and the measures you should be taking to keep yourself safe. Getting current, fact-based information without spending too much time listening to the news is one of the best ways to make it through.

**Acknowledge your feelings and mourn what you’re missing because of COVID**

It is completely reasonable to feel a variety of emotions during this time. You may feel shock, anxiety, disbelief, sadness, anger, guilt, and regret. This is normal. Accept what you are feeling and know that these emotions are uncomfortable but expected. Taking the time to acknowledge and express your feelings can give you comfort and relieve some of the anxiety we all are feeling.

**Be thankful for the good in life**

Spend a few minutes each day to celebrate and be grateful for the people, experiences and things that are in your life. Practice gratitude by starting a gratitude journal. Let
people know that you are thankful for them by calling or sending a personalized note. Talk to friends and family and share memories of meaningful events in your life.

Be kind to yourself

Now is a time for self-compassion. Take time each day to do something special for yourself. Take up meditation and practice mindfulness. Enrich your mind by reading that book that has been on your to-do list. Take a walk outside to experience nature. These are a few ways to keep yourself in a state of balance during these unbalanced times.

Stay in touch with others

COVID-19 has forced us to experience distance and a true physical separation. Despite this, with the internet and the rise of social media, contact with others is immediately available in this always connected world.

Use ABA and Local Bar Resources

The ABA has a resource page, dedicated to COVID-19 related materials that can be found at https://www.americanbar.org/groups/lawyer_assistance/resources/covid-19-mental-health-resources/. Other resources may be found with your local bar associations:

- State Bar of California: http://www.calbar.ca.gov/About-Us/News/COVID-19-Updates
- Florida Bar: https://www.floridabar.org/member/healthandwellnesscenter/resources-for-coping-with-covid-19/
- New York State Bar Association: https://nysba.org/covid-19-information-updates/

The coming days will be like no other challenge we have ever faced. As a community, we will make it through these difficult days. Even if you cannot gather together physically, we will do what we have always done: support each other, allowing technology to bridge the distance.
A Leadership Minute

In his 2019 book, *Leadershift: The 11 Essential Changes Every Leader Must Embrace*, John Maxwell asks us to take a focus shift as we move from “Soloist to Conductor.”

“One is too small a number to achieve greatness.”

In this focus shift, we are encouraged to move from successful individuals to leaders. Maxwell tells the story of South Korean conductor Han-Na Chang, who left the life of a successful cellist. Chang noted the difference between creating her own sound on the cello and working through the “possibilities and the potential of the sound of an orchestra” which “are virtually limitless.”

As leaders, we influence diverse teams. Particularly, for our bar, this couldn’t be more important as we couple traditional media and entertainment issues with emerging technology and embrace those who may appear to play very different instruments or at least a different style of music.

How can we prepare ourselves to lead this shift? First, Maxwell encourages us to go slower so we can go farther. Leadership is a dynamic dance, unlike traditional management. Leadership incorporates the nature of change as it places the leader ahead of the team, charging towards a goal; beside the team, accompanying them on the journey; and behind the team, encouraging them to success.

Maxwell then encourages us to recognize that we do need others. An attitude of competition emerges from a “scarcity mindset” that is win-lose with only one person coming out as the victor. We should instead embrace a completing mindset, based on abundance and win-win.

Finally, we need to add value to others every day. Many say that “we receive what we believe” and there is no better way to embrace that axiom by asking what we can do to add value and help others.

We at WICL are committed to helping add value through our programming and network events. We hope to hear from our members on what they are doing to shift from soloist to conductor!
The Future of Media Law: Elisa D’Amico
Highlighting Up-And-Coming Members of WICL

Fearless. This is but one way to describe Elisa D’Amico, a Partner at K&L Gates in Miami. D’Amico is a 2006 Fordham graduate where she was a Notes and Articles Editor at The Fordham Journal of Corporate and Financial Law. Her honor have continues as in 2015, she was named “Attorney of the Year” by the ALM/Daily Business Review. In 2016, she was awarded the Florida Bar Young Lawyers Division Pro Bono Service Award. Following up on those honors, she was named “On the Rise – Top 40 Young Lawyers” by the ABA Young Lawyer Division.

“As an internet/tech/social media lawyer, I’m not frightened by the virtual world. In my opinion, one silver lining to all of this is that we are all learning and embracing new technologies, advancing the practice of law and access to justice.”

Elisa D’Amico, “Zoom Baby” April 16, 2020

With her background, it wasn’t a surprise that on January 30, 2020 she ran into Chuck Tobin, who was receiving an award from the Florida Bar. Elisa was also receiving a 2020 Voluntary Bar Association Pro Bono Award on behalf of the Miami-Dade Chapter of the Florida Association for Women Lawyers (MDFWAL). The award recognizes the significant contribution of a local bar association in the delivery of legal services for individuals or groups. MDWFAL is known for hosting an annual large picnic for youth in foster care with the goal of recruiting guardians and attorneys ad litem to take their cases. The organization has also hosted legal clinics with Americans for Immigrant Justice to assist with immigrant intake. Elisa currently serves as the MDFAWL president.
Upcoming Events

**WICL Cocktails and BlueJeans – a Remote Happy Hour: TBD**

Looking to grab a quick drink with your WICL friends? We’re in the middle of planning our next virtual event: WICL Cocktails and BlueJeans! With cocktail kits for both alcoholic and non-alcoholic drinks available for order nationwide (yes, some may have to get the non and find local reserves), we are planning on getting a gathering of bartenders from across the country giving their best tips for making our chosen beverage. Look for more information from us soon!

And yes, the “BlueJeans” part is named for the platform we’ll use, not the clothing item (which one of your co-chairs admits not owning a single pair).

**November in New York City: TBD**

In a normal year, we are thrilled to meet in New York for two special social events: a Dinner & a Show event and after theater meal at Café Un Deux Trois; and a networking and educational luncheon. Stay tuned for updates!

**Annual Forum Meeting: January 28-30, 2021**

Save the date for the 26th Forum Annual Conference! Stay tuned for more information.

**Spring in Las Vegas**

In connection with the Representing Your Local Broadcaster CLE seminar at the NAB Show at the Encore Hotel in Las Vegas, WICL hosts a Dinner & Show event. TBD, 2021.

**Get Involved!**

**Newsletter Subcommittee**

Like what you’re reading? Please consider contributing articles, news items about your successes and career, or help in putting the newsletter together.

**Speaker’s Bureau Subcommittee**

If speaking is more your cup of tea, join us in participating in a webinar or a live event (hopefully) in the near future!

**WICL Co-Chairs:**

Jennifer Dukarski  
Dukarski@butzel.com

Kristen Rodriguez  
Kristen.Rodriguez@dentons.com

**WICL Chair-Elect:**

Dana Green