R.L. Haines Const., LLC v. Santamaria, 161 So. 3d 528 (Fla. 5th DCA 2014) review denied, 171 So. 3d 120 (Fla. 2015)

**Synopsis**

**Background:** Surviving spouse of construction worker who was killed when a metal column fell brought wrongful death action against general contractor, arising out of general contractor's order that work resume on the column after the epoxy securing the column's anchor bolts had cured for only 44 hours, instead of the required 72 hours. The Circuit Court, Marion County, Jack Singbush, J., entered judgment on a jury verdict in favor of spouse. General contractor appealed.

**Holding:** The District Court of Appeal, Silverman, D.E., Associate Judge, held that column was not “virtually certain” to fall and injure or kill construction worker, and thus intentional tort exception to workers' compensation exclusivity did not apply.

Reversed.

The following orders have been published in the Florida Law Weekly Supplement.

[STATE OF FLORIDA, Plaintiff, vs. FRANCIS J. BUSSHAUS IV, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol22/652a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving with unlawful breath alcohol level -- Double jeopardy -- Retrial after mistrial -- Manifest necessity for mistrial -- Insufficient number of jurors -- Court will not look beh...

Citation: **22 Fla. L. Weekly Supp. 652a**

[STATE OF FLORIDA, Plaintiff, vs. TODD ROBERT SHIER, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol21/843a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Search and seizure -- Vehicle -- Tip -- Officer who was acting on reckless driving tip from citizen informant when he staked out parking lot of apartment c...

Citation: **21 Fla. L. Weekly Supp. 843a**

[STATE OF FLORIDA, Plaintiff, vs. BRENTON MEUNIER, Defendant. County Circuit, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol21/372a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Search and seizure -- Detention -- Defendant was not subjected to detention by virtue of police vehicles blocking his vehicle where defendant was unaware o...

Citation: **21 Fla. L. Weekly Supp. 372a**

[CACH, LLC, Plaintiff, vs. JEFFREY T. ALLEN, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol20/627a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Debt collection -- Evidence -- Hearsay -- Description of corporate history in business records affidavit of records custodian, which relates series of banking transactions that purportedly resulted...

Citation: **20 Fla. L. Weekly Supp. 627a**

[CAPITAL ONE BANK (USA), N.A., Plaintiff, vs. JOHNSON G. MACHINGURA, Defendant. Circuit Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol20/571a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

CAPITAL ONE BANK (USA), N.A., Plaintiff, vs. JOHNSON G. MACHINGURA, Defendant. Circuit Court, 18th Judicial Circuit in and for Brevard County. Case No. 2011-CC-009293. April 4, 2013. Honorable Da...

Citation: **20 Fla. L. Weekly Supp. 571a**

[WEISLAW BUJALSKI, Plaintiff, vs. SHARON YVONNE BATTLE, Defendant. County Court, 18th Judicial in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol20/449d.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Landlord-tenant -- Eviction -- Notice -- Defects -- Three-day notice is fatally defective for demanding payment of rent to post office box without giving additional five days to mail rent -- Complai...

Citation: **20 Fla. L. Weekly Supp. 449d**

[RAISSA WILSON, Plaintiff vs. WILLIAM TERWILLINGER, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol20/297a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Landlord-tenant -- Departure of tenants prior to termination of lease -- Liquidated damages -- Addendum to lease calling for liquidated damages or an early termination fee, as provided in the rental...

Citation: **20 Fla. L. Weekly Supp. 297a**

[WUESTHOFF HEALTH SERVICES, INC., as assignee of Austin Gamble, Plaintiff, v. PROGRESSIVE AMERICAN INSURANCE COMPANY, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol20/294a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Insurance -- Personal injury protection -- Attorney's fees -- Amount -- Expert witness fees, costs and prejudgment interest awarded WUESTHOFF HEALTH SERVICES, INC., as assignee of Austin Gamble,...

Citation: **20 Fla. L. Weekly Supp. 294a**

[GERARD SERVICES, INC., Plaintiff, vs. MANUEL A. PEREZ and LILIA PEREZ, Defendants County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol19/885a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Liens -- Judgment lien -- Motor vehicle -- Court does not have authority to direct Department of Highway Safety and Motor Vehicles to record judgment lien on title of debtor's motor vehicle GERA...

Citation: **19 Fla. L. Weekly Supp. 885a**

[GLOBAL ACCEPTANCE CREDIT COMPANY, L.P., Plaintiff, vs. TERESA JONES, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol19/748a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Contracts -- Credit card agreement -- Action by alleged assignee to collect credit card debt -- Evidence -- Hearsay -- Exceptions -- Bill of sale and unsworn certification by corporate secretary of...

Citation: **19 Fla. L. Weekly Supp. 748a**

12 [TIMOTHY BULLOCK, Appellant, v. STATE OF FLORIDA, Appellee. Circuit Court, 18th Judicial Circuit (Appellate) in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol19/329a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Evidence -- Urine test -- Consent -- Voluntariness -- Where defendant, who was in custody at police station, was repeatedly asked to take urine test after...

Citation: **19 Fla. L. Weekly Supp. 329a**

[ASSET ACCEPTANCE, LLC, Plaintiff, vs. VALERIE BERNAZAR, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol18/694a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Contracts -- Debt collection -- Attorney's fees -- Reciprocal contract provision -- Where contract provides that debtor will pay collection costs including attorney's fees if creditor refers account...

Citation: **18 Fla. L. Weekly Supp. 694a**

[STATE OF FLORIDA, Plaintiff, vs. SEAN K. CLARK, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol18/625a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence causing serious bodily injury -- Evidence -- Blood test -- Where defendant involved in accident resulting in substantial damage to his vehicle was non-ambulat...

Citation: **18 Fla. L. Weekly Supp. 625a**

[STATE OF FLORIDA, Plaintiff, vs. MARTY MACK MARDELL, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol18/543b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving motor vehicle while license suspended or revoked -- Bicycle -- Where bicycle driven by defendant was self-propelled by motor after initial pedaling start-up, bicycle falls wi...

Citation: **18 Fla. L. Weekly Supp. 543b**

[STATE OF FLORIDA, Plaintiff, vs. PETER J. GWOREK, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol18/543a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Traffic infractions -- Careless driving -- Where it appears that vehicle that defendant rear-ended may have stopped with unexpected suddenness, defendant has not been proven guilty o...

Citation: **18 Fla. L. Weekly Supp. 543a**

[STATE OF FLORIDA, Plaintiff, vs. NATHAN C. WHITMAN, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol18/489a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Evidence -- Refusal to submit to breath test -- Where initial implied consent warning read to defendant requested that he submit to breath or urine test, o...

Citation: **18 Fla. L. Weekly Supp. 489a**

19 [STATE OF FLORIDA, Plaintiff, vs. LEANNE R. CRITES, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol17/1267a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Refusal to submit to breath test -- Motion to sever DUI and refusal charges is granted where evidence in Refusal case, that defendant's license was suspend...

Citation: **17 Fla. L. Weekly Supp. 1267a**

[STATE OF FLORIDA, Plaintiff, vs. VANESSA RICHMOND, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol17/146b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Plea -- Vacation -- Counsel was not ineffective for minimizing chances of acquittal and overemphasizing significance of urine test results in counseling de...

Citation: **17 Fla. L. Weekly Supp. 146b**

[STATE OF FLORIDA, Plaintiff, v. DAMIAN BAIR, et al., Defendants. County Court, 18th Judicial Circuit, Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol16/984a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Evidence -- Breath test -- No merit to claim that Intoxilyzer 8000 used to test defendants' breath is not approved for evidentiary use in state where evide...

Citation: **16 Fla. L. Weekly Supp. 984a**

[STATE OF FLORIDA, Plaintiff, vs. DOUGLAS McCLARY, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol16/895b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Evidence -- Blood test -- Where defendant was hospitalized for serious injuries incurred in motorcycle accident, and breath test was impractical or impossi...

Citation: **16 Fla. L. Weekly Supp. 895b**

[TEMPEST CYCLES, INC., Plaintiff, vs. TONY HUGHES, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol16/596b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Contracts -- Attorney's fees -- Prevailing party -- Where customer was found to be in breach of contract for construction of custom motorcycle, motorcycle builder was prevailing party entitled to at...

Citation: **16 Fla. L. Weekly Supp. 596b**

[RIVERFRONT DEVELOPERS, LLC., Plaintiff, vs. CITY OF TITUSVILLE, and FRED D. GALEY, in his capacity as Brevard County Supervisor of Elections, Defendant. Circuit Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol14/54a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Municipal corporations -- Charter -- Amendment -- Injunctions -- Temporary -- Developer with pending development plan that relies on continuance of current building height limitations seeks temporar...

Citation: **14 Fla. L. Weekly Supp. 54a**

[STATE OF FLORIDA, Plaintiff, v. JOHN M. GINISH, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol13/1243a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Speedy trial -- Commencement of period -- Where defendant was not legally required to respond in any way to traffic citations, which contained court date and location but were unsign...

Citation: **13 Fla. L. Weekly Supp. 1243a**

[STATE OF FLORIDA, Plaintiff, vs. ERICKA LEIGH HILDRETH, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol13/1237a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Discovery -- State's failure to comply -- No discovery violation found regarding Intoxilyzer documents which defense claims were not disclosed prior to tri...

Citation: **13 Fla. L. Weekly Supp. 1237a**

[STATE OF FLORIDA, Plaintiff, vs. MITCHELL E. QUALLS, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol13/914a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Trespass -- Constitutional law -- Speech -- Public forum -- Motion to dismiss trespass charge against defendant who failed to heed requests to leave sidewalk in front of Wal-Mart sto...

Citation: **13 Fla. L. Weekly Supp. 914a**

[STATE OF FLORIDA,Plaintiff, v. KITTY LYNN BARRETT, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol13/112a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Expert witnesses -- Motion to perpetuate testimony of unavailable expert witness regarding admissibility of breath test results from Intoxilyzers used in c...

Citation: **13 Fla. L. Weekly Supp. 112a**

[STATE OF FLORIDA, Plaintiff, vs. RICHARD J. BUCHHOLZ, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol12/993a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Search and seizure -- Vehicle stop -- DUI roadblock -- Guidelines -- Roadblock guidelines that permitted officers discretion to suspend roadblock, by diverting vehicles around roadbl...

Citation: **12 Fla. L. Weekly Supp. 993a**

[STATE OF FLORIDA, Plaintiff, vs. THOMAS FULLER, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol12/811a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Discovery -- Intoxilyzer software source code -- Where Intoxilyzer source code is in sole possession of manufacturer that considers it trade secret and not...

Citation: **12 Fla. L. Weekly Supp. 811a**

[STATE OF FLORIDA, Plaintiff, vs. THOMAS FULLER, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol12/808a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Evidence -- Breath test -- Inspection and maintenance of machine -- Intoxilyzer 5000 series machines were approved under applicable Florida Department of L...

Citation: **12 Fla. L. Weekly Supp. 808a**

[STATE OF FLORIDA, Plaintiff, vs. RANDI HEATER, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol12/504a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Refusal to submit to breath test -- Second refusal -- Motion to dismiss on grounds that first refusal for which defendant did not request administrative review may not be used agains...

Citation: **12 Fla. L. Weekly Supp. 504a**

[STATE OF FLORIDA, Plaintiff, vs. VICKI H. SNIDER, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol12/175a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Speedy trial -- Commencement of period -- Where officer handcuffed defendant as she was placed in ambulance for transport from accident scene to hospital, law enforcement did not acc...

Citation: **12 Fla. L. Weekly Supp. 175a**

[STATE OF FLORIDA, Plaintiff, vs. TONY JOE ISLEY, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol11/1102a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Search and seizure -- Blood draw -- Warrant -- Judges -- Disqualification -- Issuance of search warrant is not grounds to disqualify judge from ruling on motion to suppress -- Warran...

Citation: **11 Fla. L. Weekly Supp. 1102a**

[STATE OF FLORIDA, Plaintiff, vs. PATRICIA M. KNOPP, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol11/367b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence with damage or injury -- DUI with blood alcohol more than .2 -- Motion for new trial and judgment of acquittal denied -- Evidence of defendant's guilt is over...

Citation: **11 Fla. L. Weekly Supp. 367b**

[STATE OF FLORIDA, Plaintiff, vs. PATRICIA M. KNOPP, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol11/365a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Appeals -- Bond -- Trial court need not decide whether it is barred by section 316.656 from issuing supersedeas bond to defendant convicted of driving under influence with damage or...

Citation: **11 Fla. L. Weekly Supp. 365a**

[STATE OF FLORIDA, Plaintiff, vs. ELIZABETH ANN BURNS, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol11/162b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Search and seizure -- Vehicle stop -- Reasonable suspicion -- Claim that, because there was sufficient opportunity for driver to change positions with another occupant of vehicle bet...

Citation: **11 Fla. L. Weekly Supp. 162b**

[COASTAL ORTHOPEDICS & SPORTS MEDICINE CENTER, INC., (I.A. Mascioli), Plaintiff(s), vs. PROGRESSIVE BAYSIDE INSURANCE COMPANY, Defendant(s). County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol11/70b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Insurance -- Discovery -- Depositions -- Expert witness fee COASTAL ORTHOPEDICS & SPORTS MEDICINE CENTER, INC., (I.A. Mascioli), Plaintiff(s), vs. PROGRESSIVE BAYSIDE INSURANCE COMPANY, Defenda...

Citation: **11 Fla. L. Weekly Supp. 70b**

[COASTAL ORTHOPEDICS & SPORTS MEDICINE CENTER, INC., (Joyce Revelle), Plaintiff, vs. PROGRESSIVE BAYSIDE INSURANCE COMPANY, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol11/70a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Insurance -- Discovery -- Depositions -- Expert witness fee COASTAL ORTHOPEDICS & SPORTS MEDICINE CENTER, INC., (Joyce Revelle), Plaintiff, vs. PROGRESSIVE BAYSIDE INSURANCE COMPANY, Defendant....

Citation: **11 Fla. L. Weekly Supp. 70a**

[TITUSVILLE TOTAL HEALTHCARE (a/a/o ROBBIE MILBERT), Plaintiff, v. NATIONWIDE MUTUAL INSURANCE COMPANY, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol10/655a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Insurance -- Personal injury protection -- Attorney's fees -- Contingency risk multiplier -- Fact that exposure of miscalculation following adjuster's deposition increased likelihood of success d...

Citation: **10 Fla. L. Weekly Supp. 655a**

[VINCENT FAUGIANA, Plaintiff, vs. STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol10/462b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Attorney's fees -- Insurance -- Personal injury protection -- Prevailing party -- Costs including postage, but excluding photocopies and faxes, are awarded -- Contingency risk multiplier -- Wher...

Citation: **10 Fla. L. Weekly Supp. 462b**

[STATE OF FLORIDA, Plaintiff, vs. ANTHONY SCOTT BAINES, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol10/371a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Implied consent law -- Evidence -- Field sobriety tests -- Breath tests -- Although defendant was compelled to take field sobriety tests, and taking test...

Citation: **10 Fla. L. Weekly Supp. 371a**

[STATE OF FLORIDA, Plaintiff, vs. RONNIE LYNN ARTHUR, JR., Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol9/875b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Evidence -- Breath test -- Implied consent -- Motion to suppress breath test results of defendant licensed in Georgia on ground that implied consent war...

Citation: **9 Fla. L. Weekly Supp. 875b**

[STATE OF FLORIDA, Plaintiff, vs. PAUL ELLIS, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol9/495a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Search and seizure -- Vehicle stop -- Founded suspicion -- Where officer stopped defendant's vehicle two minutes after BOLO for grey, vinyl-topped vehi...

Citation: **9 Fla. L. Weekly Supp. 495a**

[STATE OF FLORIDA, Plaintiff(s), vs. STANLEY CHAPPAS, Defendant(s). County Court, 18th Judicial Circuit in And For Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol9/494a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Search and seizure -- Interrogation -- Custodial -- Where duration of stop prior to arrest was relatively brief, defendant remained in proximity of sto...

Citation: **9 Fla. L. Weekly Supp. 494a**

[JAMES B. NICKLEY and MICHELLE LYNN GLASS, Plaintiffs, vs. EXCEL AUTO GROUP, INC., a Florida corporation, d/b/a EXCEL NISSAN, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol9/491a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Consumer law -- Torts -- Arbitration -- As a result of fraud and both procedural and substantive unconscionability, purported motor vehicle sale contract which reflects disparate bargaining powe...

Citation: **9 Fla. L. Weekly Supp. 491a**

[FLORIDA HOME CAIR, INC., Plainitff, vs. KURTIS CLARK, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol9/343a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Arbitration -- Waiver -- Defendant did not waive contract right to arbitration by participation in small claims pretrial conference, limited to receiving a listing witnesses and exhibits, withou...

Citation: **9 Fla. L. Weekly Supp. 343a**

[STATE OF FLORIDA, Plaintiff, vs. MARK STEVEN DOCKTER, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol8/582c.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Injunctions -- Domestic violence -- Motion for judgment of acquittal following guilty verdict for offense of violation of injunction for protection against domestic violence on groun...

Citation: **8 Fla. L. Weekly Supp. 582c**

[SAL MARTINGANO, D.C., P.A. and SAL MARTINGANO, D.C., P.A. as an Assignee of PATRICIA ARENELLA, Assignor and/or as Third Party Beneficiary, Plaintiff, vs. STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol8/323a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Insurance -- Personal injury protection -- Dispute between medical provider and insurer -- Standing -- Absent assignment, medical service provider lacks standing to claim PIP benefits -- No merit...

Citation: **8 Fla. L. Weekly Supp. 323a**

[JOY YOSHIDA, Plaintiff, vs. STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol8/321b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Insurance -- Personal injury protection -- PIP insurer fulfilled its duty to pay legitimately payable hospital expenses when it apportioned PIP benefits between two hospital bills -- Insurer was...

Citation: **8 Fla. L. Weekly Supp. 321b**

[STATE OF FLORIDA, Plaintiff, vs. DOUGLAS VICTOR HAMANT, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol8/210a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Evidence -- Breath tests -- Statute or rules governing admission of breath tests and approval of alcohol reference solution, which are challenged in instant case, are not constit...

Citation: **8 Fla. L. Weekly Supp. 210a**

[STATE OF FLORIDA, Plaintiff, vs. SHAWN MICHAEL SHALOSKY, Defendant. Circuit Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol8/104a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Search and seizure -- Vehicle stop -- Reasonable suspicion -- Anonymous tip in which caller merely identified and described present location of vehicle and direction in which vehi...

Citation: **8 Fla. L. Weekly Supp. 104a**

[JOHN KELLEY and RAYMONA KELLEY, Plaintiffs, vs. STEVE FIELDS COMPANIES, INC., And STEVE FIELDS, individually, Defendants. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol8/50a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Liens -- Mechanic's lien foreclosure -- Limitation of actions -- Provision of rule 1.090(e) allowing additional five-day period when notice or paper is served by mail does not apply to mechanic's...

Citation: **8 Fla. L. Weekly Supp. 50a**

[CONWAY ENTERPRISES, INC., Plaintiff, vs. APPLIED DIVING SERVICES, INC., Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol8/48a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Jurisdiction -- Non-residents -- Mere purchase of goods by foreign buyer which fails to pay a Florida vendor not sufficient to establish minimum contacts for exercise of jurisdiction -- Establish...

Citation: **8 Fla. L. Weekly Supp. 48a**

[SANTIAGO LEYTE VIDAL, JR., Petitioner, vs. BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, Animal Services and Enforcement Department, Respondent. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol8/47a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Counties -- Animal control -- Dangerous dogs -- State has not preempted the field of dangerous dog regulation, and county was not precluded from enacting its dangerous dog ordinance -- County's N...

Citation: **8 Fla. L. Weekly Supp. 47a**

[SHARON RENEA BARZEN, Plaintiff, vs. FOUNTAINHEAD MEMORIAL PARK, INC., Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol7/560a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Contracts -- Sale of burial rights -- Plaintiff, who entered into contract with defendant for burial of her father, alleging defendant breached their contract by burying the casket in a location...

Citation: **7 Fla. L. Weekly Supp. 560a**

[STATE OF FLORIDA, Plaintiff, vs. ANTHONY CATALO, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol7/558a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Extradition -- Jurisdiction -- Motion to dismiss arrest warrant or writ of bodily attachment issued by court of State of Louisiana or, in the alternative, to modify condition of b...

Citation: **7 Fla. L. Weekly Supp. 558a**

[JODI L. HITCHCOCK, Plaintiff, vs. JIM RATHMANN CHEVROLET-CADILLAC, INC., Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol7/557b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Attorney's fees -- Contracts -- Defendant, as prevailing party, is entitled to award of reasonable attorney's fees and costs JODI L. HITCHCOCK, Plaintiff, vs. JIM RATHMANN CHEVROLET-CADILL...

Citation: **7 Fla. L. Weekly Supp. 557b**

[DYCK-O'NEAL, INC., Plaintiff, v. DONALD P. BOWEN, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol7/557a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Mortgages -- Foreclosure -- Deficiency judgment -- Jurisdiction -- County court lacks subject matter jurisdiction to award deficiency judgment, if mortgage foreclosure case in circuit court remai...

Citation: **7 Fla. L. Weekly Supp. 557a**

[STATE OF FLORIDA, Plaintiff, vs. JULIO GONZALEZ, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol7/294b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Evidence -- Breath tests -- Where defendant was initially properly advised regarding consequences of taking or refusing breath test, absent evidence of...

Citation: **7 Fla. L. Weekly Supp. 294b**

[STATE OF FLORIDA, Plaintiff, vs. LEONARD VALENTINE, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol7/294a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Speedy trial -- Discharge is not appropriate where trial was not scheduled and held because of defendant's non-compliance with administrative order which required defendant to pr...

Citation: **7 Fla. L. Weekly Supp. 294a**

[DIANA BRANKS, Plaintiff, vs. ALLSTATE INSURANCE COMPANY, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol7/292a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Insurance -- Personal injury protection -- When insurer fails to pay expenses of insured's treating physicians within 30 days of their submission and without reasonable proof establishing that i...

Citation: **7 Fla. L. Weekly Supp. 292a**

[STATE OF FLORIDA, Plaintiff, vs. PAUL JAIGOBIND, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol7/291a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Search and seizure -- Vehicle stop -- Officer, who observed defendant's vehicle drifting to close to either fog line or median line of his lane of traffic and then away from the...

Citation: **7 Fla. L. Weekly Supp. 291a**

[STATE OF FLORIDA, Plaintiff, vs. ROBERT THOMAS BAZINET, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol7/289b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Exposure of sexual organs -- Soliciting lewdness -- Defendant exposing his sexual organs to undercover law enforcement officer in closed stall of public bathroom -- Motion to dis...

Citation: **7 Fla. L. Weekly Supp. 289b**

[MICHAEL C. FORLENZA, JR., Plaintiff, v. ALLSTATE INDEMNITY COMPANY, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol7/74a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Insurance -- Personal injury protection -- Endorsement in PIP policy which provides that insurer is entitled to refuse to pay medical expenses it deems to be unreasonable or unnecessary is without...

Citation: **7 Fla. L. Weekly Supp. 74a**

[STATE OF FLORIDA, Plaintiff, v. JENEAN L. PATRICKS, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol7/71a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- New trial -- Prosecutorial misconduct -- Motion for new trial alleging court erred in denying motions for mistrial based on prosecutor's alleged comments on defendant's right to re...

Citation: **7 Fla. L. Weekly Supp. 71a**

[STATE OF FLORIDA, Plaintiff, v. JASON RAY HOLLISTER, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol7/70a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Injunctions -- Violation -- Motion to dismiss charge of violation of injunction for protection against repeat violence denied -- Evidence, including testimony of judge issuing permanent injunction...

Citation: **7 Fla. L. Weekly Supp. 70a**

[STATE OF FLORIDA, Plaintiff, JUDITH MARIE CAMPBELL, Defendant. County Court, 18th Judicial Circuit, Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol7/68b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Search and seizure -- Founded suspicion -- Information provided by citizen informant to emergency dispatcher regarding defendant's driving pattern, viewe...

Citation: **7 Fla. L. Weekly Supp. 68b**

[FRANCIS P. NATALE, Plaintiff, v. ALLSTATE INDEMNITY COMPANY, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol6/797a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Insurance -- Personal injury protection -- Attorney's fees -- Insured's motion to strike insurer's proposal for settlement/demand for judgment is granted -- Insurer may not file an effecti...

Citation: **6 Fla. L. Weekly Supp. 797a**

[STATE OF FLORIDA, Plaintiff, v. DAVID WILKINS, Defendant. County Court, 18th Judicial Circuit, Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol6/663a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Evidence -- Statements of defendant -- Accident report privilege -- Pre- Miranda statements given to officer investigating accident were made...

Citation: **6 Fla. L. Weekly Supp. 663a**

[THOMAS F. FRAUENHOFER, D.C. d/b/a CROTON CHIROPRACTIC CLINIC, P.A., Plaintiff, v. NATIONWIDE MUTUAL FIRE INSURANCE COMPANY, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol6/661a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Insurance -- Personal injury protection -- Arbitration -- Insurer's motion to compel arbitration of dispute with health care provider denied -- Regardless of whether arbitration is dictat...

Citation: **6 Fla. L. Weekly Supp. 661a**

[STATE OF FLORIDA, Plaintiff, v. RONALD D. DESKINS, II, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol6/660a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence -- Evidence -- Breath test -- Compliance with administrative rules -- Officer's testimony that defendant was continuously under observation after...

Citation: **6 Fla. L. Weekly Supp. 660a**

[STATE OF FLORIDA, Plaintiff, v. THOMAS L. BONGE, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol6/658a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Neglect of animal -- Confining or impounding an animal without sufficient quantity of good and wholesome food and water and wholesome air and exercise -- Statute is constitut...

Citation: **6 Fla. L. Weekly Supp. 658a**

[STATE OF FLORIDA, Plaintiff, v. DANIEL ALAN NEEL, Defendant. County Court, 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol6/657a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Criminal law -- Driving under influence with property damages -- Probation -- Conditions -- Restitution -- Restitution may be imposed for losses caused directly or indirectly by defendan...

Citation: **6 Fla. L. Weekly Supp. 657a**

[SANTIAGO LEYTE VIDAL, JR., Plaintiff, vs. BOARD OF COMMISSIONERS OF BREVARD COUNTY, FLORIDA ANIMAL SERVICES AND ENFORCEMENT DEPARTMENT, Defendants. County Court of the 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol6/577b.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Jury trial -- Counties -- Animal control -- Classification of dogs as dangerous -- Owner is not entitled to jury trial on the issue or declaration of dangerousness -- Declaration of dangerousness...

Citation: **6 Fla. L. Weekly Supp. 577b**

[MARIAN FRANKS, Plaintiff, vs. NATIONWIDE MUTUAL FIRE INSURANCE COMPANY, Defendant. County Court of the 18th Judicial Circuit in and for Brevard County.](http://www.floridalawweekly.com/flwonline/?page=showfile&fromsearch=1&file=../supfiles/issues/vol6/577a.htm&query=David+and+Silverman&altdoc=true&fromeh=true)

Insurance -- Personal injury protection -- Insured claiming PIP benefits seeking to preclude orthopedic specialist from testifying on issues relating to the propriety of insurer's termination of...

Citation: **6 Fla. L. Weekly Supp. 577a**