

*December 5, 2012*

## Legal Legends vs. Young Guns



The Dade County Bar Association's inaugural mock trial featured two sets of sterling litigants, actors posing as witnesses, a box filled with real jurors and an equally real Miami-Dade circuit judge.

But the so-called "Stearns Weaver special," a high-tech combination of scanner, touchscreen and overhead projector, commanded center stage, simultaneously highlighting pertinent parts of contracts while giving more than one attorney a bad case of fumble fingers.

Billed as "Legal Legends vs. Young Guns," the daylong trial in the historic Courtroom 6-1 at the Dade County Courthouse was a learning experience for all involved.

"You probably thought of some old guys with white hair or no hair," lawyer **Joseph Serota of Weiss Serota Helfman Pastoriza Cole & Boniske** said as he introduced his teammates on the Legal Legends team.

Before the trial began Friday, jury consultant Daniel Wolfe of Trial Graphix told lawyers on both sides and in the audience that today's juries rely more on visual processing. The average American now spends 60 hours a month watching television, an equal amount of time on the Internet and seven hours a month watching video on a cellphone or tablet, he said, citing a recent national survey.

"More than half of jurors belong to Generation X or, worse, Generation Y," he said.

The Legends team represented Cranbrooke Industries PLC, a British toy company alleging U.S. video game company Intellex Electronics Inc. had broken a contract giving it exclusive license to market its Smartplug devices in Europe.

"Hopefully, we lawyers will not complicate this simple breach-of-contract case," Michael Nachwalter of Kenny Nachwalter said in the Legends' opening statement for Cranbrooke.

But the British company had not sold as many games and players as the Smartplug creator wanted, countered Tiffani Lee of Holland & Knight in her opening for the Young Guns.

"This is a case where a company overpromised and underdelivered," she asserted.

Also on her team were Michael Austin of DLA Piper, Carlos Canino of Stearns Weaver Miller Weissler Alhadeff & Sitterson, Scott Dimond of Dimond Kaplan & Rothstein, Melanie Damian of Damian Valori and Ricardo Martinez-Cid of Podhurst Orseck.

Rounding out the Legends were Judy Korchin of Holland & Knight, Marty Steinberg of Bilzin Sumberg Baena Price & Axelrod and Eugene Stearns of Stearns Weaver.

Circuit Judge Jennifer Bailey, the administrative head of the civil division, said the case supplied by the National Institute for Trial Advocacy was deliberately "murky."

Nachwalter agreed.

"They set this stuff up," he said. "When they give you a memo, there's something good and something bad."

In closing, Martinez-Cid emphasized a stipulation the two sides agreed to designating the Smartplug and a later device, the SP2 game player, as different technologies that triggered different clauses in the contract.

Despite the case being fictional, Stearns told jurors not to think for a nanosecond that their verdict would not matter.

"We're competitors. We care about the outcome. It's in our DNA," he said.

His plea was not enough to sway the jurors, whose deliberations were televised to the lawyers outside. Focusing on the stipulation, they unanimously found in favor of Intellex.

"It's just a question of how you present your case," said event organizer **Eric Hockman of Weiss Serota** said.

Hockman said he hopes to make the mock trial, which played to a sold-out audience of Dade County Bar Association members, an annual continuing legal education event.