

Michelle Garcia Gilbert

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Michelle Garcia Gilbert has practiced real estate and business law in Florida since 1989, specializing in default servicing legal work, including litigated foreclosures, real estate closings, evictions, and commercial litigation. She works closely with the default industry by speaking at webinars and at conferences, and writing for industry publications, as well as consulting on various issues relevant to the industry.

She was selected as one of *MReport's* 2015 and 2018 Leading Ladies and was most recently named *DS News's* 2019 Top 25 Women of Law. She has managed Gilbert Garcia Group's expansion into probate, estate planning, business transaction, and corporate law, and she also oversees Sapphire Title & Escrow Company, launched in 2015. She received her bachelor's degree in journalism from the University of South Florida, and her juris doctorate degree from the University of Notre Dame. She volunteers on nonprofit boards serving children and women, and with her church, as well as supporting private schools providing educational opportunities to underserved communities.

DS News recently spoke to Gilbert at the Five Star Institute's Legal League 100 Spring Summit, where she discussed the state of the industry, challenges, trends, upcoming court cases, and how technology will impact the industry moving forward.

WHAT ARE THE BIGGEST CHALLENGES CURRENTLY FACED BY SERVICERS OPERATING IN THE DEFAULT SPACE, AND FOR THE LAW FIRMS THAT ASSIST THEM?

"Probably the cost of default servicing and shrinking profit margins. It costs more to service a defaulted loan due to compliance and regulation requirements. Some go south and get dismissed and have to be refiled, and that's the cost of doing business. Volumes are low, but the fees are also low compared to traditional law firm practices. Firms have to learn how to run lean and mean in order to stay in the black, hopefully make a profit, and hold on until they are in a more profitable state.

THE SUPREME COURT RECENTLY RULED IN THE CASE OF *OBUSKEY V. MCCARTHY HOLTHUS*.

HOW IMPORTANT WAS THAT CASE AND WHAT LARGER IMPACT COULD IT HAVE ON THE INDUSTRY LANDSCAPE? The *Obduskey* case held that, in a non-judicial state, a law firm is not a debt collector. That ruling addresses those facts

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and that particular type of firm and state, but would the concept apply to judicial states and law firms within that space? While some of us do consumer collection work, what we do in the foreclosure space is not what you consider to be debt collection: calling the borrower, trying to get them to pay—it's strictly the action to foreclose the lien.

HOW IS TECHNOLOGY CHANGING THE WAY YOU DO BUSINESS AND INTERACT WITH SERVICERS AND BORROWERS?

Technology is a great, untapped resource for default servicing. With the regular servicing of non-defaulted loans, servicers and lenders are using the technology to make it a seamless transaction for that borrower. They can do everything electronically, manage their loan, and communicate with their servicer. The default space is different, and it's a case-by-case basis. Eventually, they're going to determine how to use technology best—utilizing technologies such as blockchain to improve efficiency, cut down on costs and the overhead, and generally streamline everything. However, I think default servicing will lag a little behind regular servicing simply due to the nature of the individual borrowers.

WHAT TRENDS OR CHANGES DO YOU SEE WITHIN THE INDUSTRY AS WE HEAD TOWARD 2020?

Whenever things are slow, whenever there are low volumes within default, that's an opportunity to innovate, to look at your tech in the law

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firm side, create integrations and automation to improve our systems. It might seem a little counterintuitive, as I'm going to want to limit my expenses during my slow time, but that is the time to innovate affordably, and then to utilize those innovations once volume picks back up.

WHAT ARE THE MOST CHALLENGING PARTS OF MANAGING THE INTERACTIONS BETWEEN SERVICERS AND THEIR VARIOUS PARTNERS? What I hear all the time is such a simple concept—communication. Answer the vendor systems, answer emails, answer the calls. It's about timely communication.

WHY ARE EVENTS SUCH AS THE LEGAL LEAGUE SUMMITS IMPORTANT? WHAT DO YOU HOPE TO TAKE AWAY FROM THESE EVENTS? Face-to-face connections and interactions are of the utmost importance. Even with the discussion about how artificial intelligence may replace jobs and people, it still comes down to old-fashioned communication and personal relationships. We are still human beings, and we still want to connect. We want to learn from one another and improve our space in the world.



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