

## BREAKING NEWS

**PBSO: Daughters' 911 calls detail fatal attack  
on Lake Worth woman****Post challenges order calling reporter as  
witness in Colin case**

## CRIME &amp; LAW

By Holly Baltz - Palm Beach Post Staff Writer



Posted: 6:19 p.m. Tuesday, Aug. 23, 2016

---

It is unconstitutional for judges to make journalists choose between testifying about their work or forfeiting the right to be in the courtroom to cover a judicial proceeding, [The Palm Beach Post has argued to a state appellate court.](#)

Petitions filed with the 4th District Court of Appeal challenge a judge's ruling in a family court case that involved a different jurist who has come under scrutiny of the newspaper: Circuit Judge Martin Colin. The newspaper is looking for a ruling instructing judges not to allow attorneys to misuse what is known as the witness sequestration rule against reporters.

Broward Circuit Judge Alfred Horowitz — at the behest of an attorney representing Colin's son — compelled Post reporter John Pacenti at a hearing May 27 to testify about his coverage of the [case involving the judge's grandson](#) or be sent out of the courtroom.

The Post seeks to overturn and quash Horowitz's ruling, saying it sets a troubling precedent, which attorneys could use to exclude coverage or intimidate journalists.

John Schutz, the lawyer who called Pacenti to the stand, said in his [response to the appellate court](#): "The judge should be commended for exercising thoughtfulness and consideration" in applying the rule that requires witnesses to stay out of the courtroom until they take the stand.



Palm Beach Circuit Judge Martin Colin, testifies on witness stand at south county courthouse May 27, 2016, in a paternity case ... [Read More](#)

## Judge Colin's conflicts

Pacenti this year wrote a series of investigative stories for The Post about Judge Colin, [Guardianships: A Broken Trust](#), detailing vast conflict of interest because Colin's wife works as a professional guardian. After the series was published, Colin was reassigned then announced his retirement.

The mother of the child, Kacie Herrick, had succeeded in getting [the case transferred to a judge in Broward](#) after her lawyers expressed concern that she could not get a fair trial in front of one of Colin's colleagues in Palm Beach County.

Judge Colin's son, Matthew, and Herrick were fighting over shared custody of the baby. Judge Colin himself often participates in the care of the child and testified at the hearing.

Judge Horowitz was to consider a request from Herrick to move to Maine. Matthew Colin, the child's father and the Wellington High School basketball coach, lives with his father in Atlantis.

Horowitz eventually barred Herrick from moving to Maine.

## Reporter called to stand

That day, Pacenti entered the courtroom with a Post photographer to cover the hearing, only to immediately be called as a witness about his coverage.

Pacenti objected to being called, telling Horowitz, “This is an effort, I believe, to chill my coverage of this case and Judge Colin.”

The Post seeks an opinion upholding the right of news reporters not to be excluded from the courtroom under the witness sequestration rule unless they are afforded reasonable notice and an opportunity to be represented by an attorney.

“There are serious First Amendment questions which must be considered before a court can compel a news reporter to testify concerning information received from his sources, and these issues must be explored in a proceeding which is fair to all concerned parties,” The Post’s petition to the appeals court stated.

Pacenti and the newspaper did not receive any notice — neither a subpoena nor a delay in the hearing until The Post’s attorneys could arrive. Pacenti, who said he felt “intimidated,” eventually opted to take the stand so he could cover the hearing.

Schutz, the attorney for Colin’s son, called Pacenti to testify about a **story the reporter wrote** that was published online the morning of the hearing. Schutz wanted to know the origin of this sentence:

“The attorneys hope that Herrick can get approval of a proposed parenting plan that will allow her to move out of Florida to Maine where her parents live and away from Judge Colin’s family.”

Pacenti said he relied on pleadings in the case.

When Schutz asked Pacenti whether he quoted Herrick’s lawyers, Pacenti answered: “Do you see quote marks on it?”

Throughout the day of the hearing, Judge Colin could be seen repeatedly consulting with Schutz.

Schutz, in his pleading to the appellate court, accuses Pacenti of reporting as fact an “editorial opinion of the mother’s motivation.”

“Mr. Pacenti instead put a spin on facts and caused his own involvement in this suit,” he wrote.

The position by the Colin family that a journalist can insert him or herself into a court case by simply by reporting on it “turns the freedom of the press on its head,” Post attorney Martin Reeder [wrote in response to Schutz](#).

“The news media’s ability to report on newsworthy events in Florida’s courts and to perform its role as the public’s watchdog is directly threatened when a party invokes the witness sequestration rule in an effort to exclude a professional journalist from the courtroom,” he wrote.

Tampa attorney Carol LoCicero, who serves on the board of trustees of [The First Amendment Foundation](#), said she believes Judge Horowitz indeed compromised freedom of the press.

“Journalists should never be put in the position of having to testify about their professional, privileged news gathering in exchange for being permitted to do their job of covering public court proceedings,” LoCicero said.

---

#### What The Post Found

The savings of incapacitated seniors flowed into the household of Palm Beach County Circuit Judge Martin Colin courtesy of Colin’s wife — professional guardian Elizabeth “Betsy” Savitt. Fees in most of her cases were approved by another judge who is a friend of Colin’s. Colin approved the fees of her lawyers in other cases.

---

---

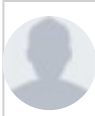
## ***NEED TO KNOW MORE?***



[Sign up](#) for FREE Post newsletters. Travel, News, Golf and more. Choose your favorites and we’ll deliver.

---

---

***Reader Comments***  

 **0.479913580416** ▾

  + Follow Share

Newest | Oldest



**fastrun22** 11 hours ago

Wait a second! Attention the Florida Bar, or the Court of Appeals, or the Chief Judge, etc. Is it not improper for the Post and its embattled reporter John Pacenti to try to influence the Court of Appeals in this pending case where the Post and Pacenti are parties. What do they think; that the judges assigned to this appeal case will read the article and be fearful that the Post will abuse them if they rule against the Post. Is it not wrong for the Post and beleaguered reporter Pacenti to publically criticize the trial judge Horowitz, outside of the briefs that the appellate court allows to be filed, with an obvious attempt to help their case that is on appeal. The Post is not neutral. They are like Donald Trump attacking a judge that Trump has a case before. Maybe the Post will finally put a leash on Pacenti who is obviously out of control.

Like

Reply

---

---

## *Next Up in News*



**Former employee blows up himself at business, owner says**



**PBSO: Daughters' 911 calls detail fatal attack on Lake Worth woman**



**When a gay couple's home was targeted by vandals, their neighbors had the best response**

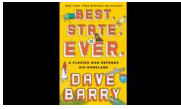
**Patients violated, doctors rehabilitated**



**Spiritually manipulated; sexually exploited**



**Why do hurricanes always ruin my birthday?**



**Weird Florida: Why we should take pride in Sunshine State's craziness**



**WATCH: Student-teacher welcomes 4th-grade class with viral rap song, video**



**7 things to know now: Deadly earthquake in Italy; Clinton Foundation; NY Times hacked**



**Devastating photos show aftermath of deadly Italian earthquake**


## More Stories

[NEWS ▶](#)

[MARKETPLACE ▶](#)

[AFFILIATES ▶](#)

[ABOUT US ▶](#)

© 2016 Cox Media Group. By using this website, you accept the terms of our [Visitor Agreement](#) and [Privacy Policy](#), and understand your options regarding [Ad Choices](#) 

[Learn about careers at Cox Media Group](#)