

# Private Investigators in High Demand for Some South Florida Law Firms

"You can't bullshit an attorney who's looking for evidence," said Thomas Martin, a private investigator and former federal agent. "There's no gray area in our work."

By **Michael A. Mora** | March 27, 2020 at 06:03 PM



Detective illustration

One July 2019 day around 2 p.m., a ride-share driver in Miami Beach was traveling with two passengers. Moments after making a left turn following a green arrow light, a second driver, the defendant, slammed into the ride-share driver's car.

The accident evolved into a personal injury case, with the ride-share driver being represented by Gregory Ward, a founding partner at the Ward Law Group. The defendant was adamant that Ward's client, the ride-share driver, cut in front of her vehicle. Her insurance company said Ward's client was responsible for 20% of the claims.

In an effort to procure testimonial evidence, Ward hired a private investigator, who tracked down his client's passengers, who lived in Texas, and took their statements.

"The passengers confirmed that our client had a green arrow and the defendant driver blew a red light," Ward said. "The witnesses also said the defendant driver got out of her car and threatened them."

On receiving these statements, the insurance company tendered the \$250,000 policy limits for Ward's client's injuries.

For lawyers in most areas of law, private investigators help them more efficiently collect the facts in a case or a claim that can make the difference between winning and losing. Some of these hired investigators are under pressure to do whatever it takes to win. Yet, ethical guidelines are clear as to the extent of how far the assistance can go when using a private investigator, and the violation of those guidelines can cause severe reputational damage.

Thomas Martin, with Martin Investigative Services based in Newport Beach, California, boasts about the abilities of the private investigators at his company, many of whom have transitioned from prior roles with the FBI and detective offices. He claims to work with lawyers only in the top 1%.

"We don't want the client to pay for our stuff and don't know what to do with it," Martin said.

Martin's company provides a range of services, including interrogation, bug sweeps, surveillance, locating people, and corporate investigation. The website for Martin Investigative Services has numerous testimonial endorsements from the likes of CEOs, judges and lawyers.

The former federal agent said attorneys are his most frequent clients.

"You can't bullshit an attorney who's looking for evidence," Martin said in an interview with the Daily Business Review. "You either find the assets or you don't. You either get the guy off for murder or you don't. You either locate the person and do a background, or you don't. There's no gray area in our work."



Andrew S. Berman, Young Berman Karpf & Gonzalez

Andrew S. Berman, a named partner at Young Berman Karpf & Gonzalez and an expert on ethics law, said private investigators are used in every case imaginable, ranging from personal injury to business disputes, to statutory claims and trademarks.

"Every good lawyer is going to use investigators," Berman said.

Yet, Berman said there is a clear line in terms of the legality for what a lawyer can and cannot do in regard to employing a private investigator.

"The ethics rules are pretty clear: A lawyer cannot have a third party do what the lawyer himself or herself cannot do," Berman said. "They can do stakeouts, follow people, anything in the public realm. But there is a clear line of demarcation

between legal and illegal. If someone has an expectation of privacy, you could invade it serendipitously using a false pretense."

Anthony V. Alfieri, a University of Miami School of Law professor and director for Ethics & Public Services, said the #MeToo case that led to the criminal conviction of ex-film producer Harvey Weinstein provided a cautionary tale for lawyers.

David Boies, a named partner at Boies Schiller Flexner, in his representation of Harvey Weinstein, signed contracts in the amount of \$600,000 with Black Cube, a private investigative firm, in an attempt to find information that would prevent the negative coverage of his client in a New York Times report, according to the [New Yorker](#).

Black Cube is reportedly run by former Israeli intelligence officers. The New Yorker, The New York Times and other media outlets said it used false identities, blackmail, computer hacking and intimidation among other tactics.

"The widely publicized criminal prosecutions and civil actions revealing the use of such private investigative firms by Boies Schiller," Alfieri said, "caused reputational damage to the firm."

Alfieri said lawyers are expected to follow ethical guidelines. Alfieri said the same obligation applies to agents and employees of law firms as well.

"On its face, law firm retention of a private investigative firm does not necessarily violate the Florida or ABA rules of professional conduct," Alfieri said. "Unless under Rule 8.4(a), the retention of such an investigative firm knowingly assists or induces that firm to violate the rules of professional conduct or unless the rules are violated through the acts of that firm. If so, the retaining law firm would be liable under the rules for misconduct."

As for Ward, employing a private investigator can make the process of building a personal injury case more efficient when he has to compile evidence to present to a jury.

"If there is bad information early in the case, hopefully, it will save time and resources," Ward said. "Many times, people are more likely to talk to an investigator more than a lawyer because lawyers, we don't always relate to people well. We're not always good at getting the full story out."

In a significant case, Ward will use a private investigator. The deliverable items are a report with observations. The report can include diagrams, photographs and interviews. For the interviews, ideally, it will have an affidavit, which provides a sworn statement in court.

"Private investigators are reportedly an independent person you can call as a witness in court who can verify and validate the accuracy of the information," Ward said.

On the defense side, private investigators also provide the lawyer with a similar report that often includes video. These videos sometimes take weeks to accumulate and the raw version can cover several hours. The court presentation of the video with edited highlights could last just a few minutes. In those instances, Ward will ask for the entire footage.

"You get three minutes of video, but they trailed them for three weeks," Ward said. "So we bring that to the court's or jury's attention if we have to and say, 'Look, they followed them for three weeks and that's the best that they got.'"

## Law Firms Mentioned

Boies Schiller Flexner

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Gregory Ward is a founding partner of the Ward Law Group



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