



# PALM BEACH COUNTY BAR ASSOCIATION

# BULLETIN

[www.palmbeachbar.org](http://www.palmbeachbar.org)

October 2011

## Mark your calendar for upcoming Membership Events

### Lawyers Have Heart Run

October 1  
Meyer Amphitheatre, Downtown WPB

### Second Biennial Diversity Summit

October 14  
Marriott West Palm Beach

### Family Picnic

October 22  
Dreher Park, West Palm Beach

### Membership Luncheon

November 14  
Marriott West Palm Beach  
*Speaker: FL Bar President Scott G. Hawkins*

### Annual Holiday Party & Silent Auction

December 1  
Frenchman's Reserve, Palm Beach Gardens

### Third Annual Lawyer Variety Show

January 21, 2012  
Eissey Theatre, Palm Beach State College

### Bench Bar Conference

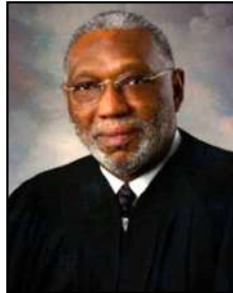
March 9  
Palm Beach County Convention Center

### Annual Judicial Reception

May 1  
The Harriet at City Place

### Annual Installation Banquet

June 2  
The Breakers Hotel, Palm Beach



## Florida Supreme Court Justice James E.C. Perry To be Keynote Speaker at the Second Biennial Diversity Summit

Friday, October 14, 2011

The Marriott West Palm Beach

11:45 - 4:00 Lunch & Round table and Panel Discussions

4:00 - 5:00 p.m. Cocktail Reception

The purpose of the summit is to promote dialogue between managing and hiring partners, government and agency heads, associates and Judges on ways to improve the diversity in our legal community. The event will feature a panel discussion, and include prominent local and national leaders, including Daryl Parks, President of the National Bar Association; U.S. Attorney Willy Ferrer; Carey Haughwout, 15th Judicial Circuit Public Defender; Michael McAuliffe, 15th Judicial Circuit State Attorney; and many more. Registration is required and can be done by going to the Bar's website at [palmbeachbar.org](http://palmbeachbar.org)

## Second Annual Family Picnic!

Saturday, October 22 • 10:00 am to 1:00 pm

Dreher Park, West Palm Beach

Bungee jump, face painting, bounce house, rock wall, bake-off challenge, BBQ and more!

Cost: \$20 for adults and \$5 for children 13 and younger

RSVP online @ [www.palmbeachbar.org](http://www.palmbeachbar.org)

Sponsors to date include Lytal Reiter Smith Ivey & Fronrath; Debra Duran & Associates; Law Offices of Robin Bresky; Legal Graphicworks; Lesser Lesser Landy & Smith; Matrix Mediation; Murray Guari Trial Attorneys; Rock Legal Services and Investigations; Sabadell United Bank; Dermatology Associates of the Palm Beaches; Hinman, Howard & Kattell; and Shipyard Brewing Company

## So You Think You Can Bake?

### Second Annual Dessert Bake-Off Challenge

The highlight of the 2011 Bar Picnic will include our Second Annual Law Firm Bake-Off Challenge in which participating law firms are competing to be crowned the winner of the "Best Baked Dessert." Each firm can have two entries. The bake-off will be judged by three local judges and all are welcome to sample the entries after the competition!! If your firm wants to submit a baked good contact Patricia DeRamus at 366-9099.

Enter your firm's best dessert in our Law Firm Dessert Bake-Off Challenge. Again, this year's entries will be based on "taste and presentation." The Rules are simple – "baked dessert" and you must be registered.

### Prizes!

**1st Place** - \$100 William-Sonoma Gift Card, a Law Firm plaque with photo of winning entry

**2nd Place** - \$50 William-Sonoma Gift Card

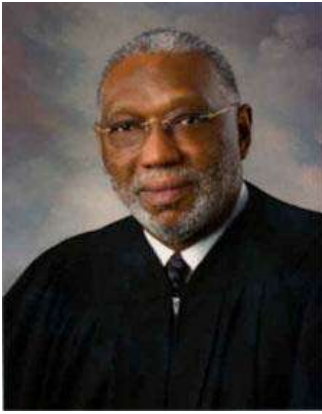
**3rd Place** - \$25 William-Sonoma Gift Card

\* winners' names will be displayed in the Palm Beach County Bar Office



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**4:00 - 5:00 p.m. Cocktail Reception**

The purpose of the summit is to promote dialogue between managing and hiring partners, government and agency heads, associates and Judges on ways to improve the diversity in our legal community. The luncheon will be followed immediately by round table discussions over dessert and coffee. During the luncheon, Palm Beach County Bar President John Howe will present the "diversity statistics," highlighting both areas of success and areas needing improvement. The statistics, together with the relative experiences of those attending the luncheon, will serve as the starting point for the round table discussion. The discussions are intended to generate ideas, goals and unique means of tackling this complex issue. Finally, the event will feature a panel discussion which will include prominent local and national leaders, including:

- ◆ Daryl Parks, President of the National Bar Association
- ◆ Willy Ferrer, U.S. Attorney
- ◆ Carey Haughwout, 15th Judicial Circuit Public Defender
- ◆ Michael McAuliffe, 15<sup>th</sup> Judicial Circuit State Attorney
- ◆ Ethel Isaacs Williams, Director of External Relations for FPL
- ◆ and many more. . .

**We would like to thank the following sponsors (as of 9/10/11) for supporting this event:**

- |  |                          |  |
|--|--------------------------|--|
| F. Malcolm Cunningham, Sr. Bar Association | Ackerman, Link & Sartory | Jones, Foster, Johnston & Stubbs         |
| FAWL - Palm Beach County Chapter           | Akerman Senterfitt       | Lesser, Lesser, Landy & Smith            |
| FAWL - South Palm Beach County Chapter     | Broad and Cassel         | Lytal Reiter Smith Ivey & Fronrath       |
| First United Bank of the Palm Beaches      | Gelfand & Arpe           | Rutherford Mulhall                       |
| PB County Hispanic Bar Association         | Gordon & Doner           | Searcy Denney Scarola Barnhart & Shipley |
| South Palm Beach County Bar Association    | Greenberg Traurig        | Schuler, Halvorson, Weisser & Zoeller    |
|  | McCabe Rabin             | St. John Rossin Burr & Lemme, PLLC       |

**RSVP Today!** Register online at [www.palmbeachbar.org](http://www.palmbeachbar.org) or fill out this form and return it with your payment of \$35 per person to: Palm Beach County Bar Assoc., 1601 Belvedere Road, Suite 302E, West Palm Beach, FL 33406. To avoid a \$10 late fee, please be sure to register by 10/10/11. No refunds will be given after that date.

Enclosed is my check in the amount of \$\_\_\_\_\_ or charge my  Visa  Mastercard  American Express

Card Number: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

THE

# BULLETIN

PALM BEACH COUNTY  
BAR ASSOCIATION

JOHN M. HOWE  
President

[www.palmbeachbar.org](http://www.palmbeachbar.org)

PATIENCE A. BURNS, CAE  
Executive Director

#### Officers

John M. Howe, President  
Adam T. Rabin, President-elect

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#### Advertising Information:

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Views and conclusions expressed in articles and advertisements herein are those of the authors or advertisers and not necessarily those of the officers, directors, or staff of the Palm Beach County Bar Association. Further, the Palm Beach County Bar Association, its officers, directors, and staff do not endorse any product or service advertised. Copy deadline is the first of the month preceding publication.

The mission of the Palm Beach County Bar Association is to serve its members, foster professionalism and enhance the public's understanding and awareness of the legal system.

## LETTERS TO THE EDITOR

The Palm Beach County Bar Association Bulletin welcomes your comments on topics relating to the law, the legal profession, the Palm Beach County Bar Association or the Bar Bulletin. Letters must be signed, but names will be withheld upon request. The editor reserves right to condense.

Send letters to:  
EDITOR Bar Bulletin  
Palm Beach County Bar Association  
1601 Belvedere Road, #302E  
West Palm Beach, FL 33406



## Last Chance to Audition for the Variety Show!

Auditions for our Third Annual Lawyer Variety will be held on Wednesday, October 12 from 5:30 pm to 7:30 pm at the Eissey Theatre in Palm Beach Gardens. If you're interested in auditioning, please contact Lynne Poirier at the Bar Office at 687-2800 or email [lpoirier@palmbeachbar.org](mailto:lpoirier@palmbeachbar.org).

The show will be held on Saturday, January 21, 2012 beginning with a cocktail reception. Tickets go on sale November 1.

Mark your calendar and join us for this fun night!

## What Are You Doing For Dinner?

Join the North County Section for its first Cocktail Reception & Dinner at III Forks in Palm Beach Gardens. This event will be held on Wednesday, October 26 beginning with Cocktails at 5:30 pm.

Specially priced for NCS Members: \$55.00; Judges are complimentary and spouses are welcome for \$75.00  
RSVP online @ [www.palmbeachbar.org](http://www.palmbeachbar.org)

Graciously sponsored by: Digital Depo Services, MetLife, Palm Beach Spine & Diagnostic Institute and Sabadell United Bank



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- J.D. Stetson Univ. College of Law (1976)
- Florida Bar Board Certified Civil Trial Lawyer (1983-2003)
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- Florida Certified:  
Circuit Civil Mediator (1991-Present)  
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- NASD/FINRA Approved Mediator
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website: <http://www.hunstonadr.com>

# President's Message



## Making Strides in Diversity and Inclusion

By John M. Howe

As the Bar year progresses, final planning and preparations are coming together for the Bar's second biennial Diversity Summit on October 14. The event will begin with a luncheon at 11:45 a.m. followed by panel and roundtable discussions, immediately followed by a cocktail reception. The Diversity Summit will spotlight issues, highlight achievements and set new goals.

In 2009, then President Michelle Suskauer and the Board of Directors created a Diversity Task Force ("DTF") to address disparities between Palm Beach County's demographic make-up and that of the local legal community. Michelle appointed then Bar directors, Adam Rabin and me, to co-chair the DTF. Adam and I quickly realized the complexity of the assignment because "diversity" is a concept that means many different things to many different people. It transcends classifications of ethnicity, gender, nationality, sexual orientation and disability, to name just a few. Realizing the spectrum of issues needing to be addressed, the DTF was originally divided into four sub-committees: 1) Law Firm Liaisons; 2) Annual Diversity Event; 3) Diversity Internship Program; and 4) Marketing. Two more sub-committees, 5) Gender Equality and 6) Judicial and JNC Diversity, have since been formed.

In 2009, the Bar also hosted its inaugural Diversity Summit. The summit was well-attended and provided a platform for the exchange of information and ideas for how the Bar, law firms, government agencies and local business could partner to close the diversity gap. Our Board took to heart all that was gleaned from the summit and took action. The DTF was re-named the Committee for Diversity and Inclusion ("CDI") to emphasize the Bar's sustained commitment, and in 2010, we amended our bylaws. We made the CDI a permanent standing committee and mandated that a sitting director co-chair it and report to the board each month. Last year, the DTF was co-chaired by Adam Rabin and Jessica Callow. This

year it is co-chaired by Sia Baker-Barnes and Laurie Cohen. The DTF has become one of the Bar's largest and most active committees and has made remarkable progress.

This year, the CDI's sub-committees worked closely together. Their cooperation paid off in many respects. For example, Law Firm Liaison sub-committee members made contact and met with key figures and principals at over 25 private law firms, government offices and corporations to provide information on our initiatives and secure their respective cooperation. The Diversity Internship Program ("DIP") sub-committee then transformed the program from a spring and fall effort, with just a few law students interning a few hours a week during a semester, into a robust six-week summer program with the students interning 20 to 40 hours per week. This summer, the DIP filled 23 internships at law firms and government agencies. The Marketing sub-committee assisted by reaching out to placement offices at Florida law schools and created a webpage to promote Palm Beach County as a diverse and vibrant community. Last but not least, I thank all of the firms and agencies that stepped up to challenge. In several instances, firms unable to accept interns funded internships at government agencies. A complete listing of law firms and government agencies that partnered with the Bar to host this year's DIP and upcoming summit can be seen at [www.palmbeachbar.org/internship.php](http://www.palmbeachbar.org/internship.php).

The CDI has made great strides in a relatively short timeframe. However, we are ever mindful that diversity and inclusion are ideals that will always require a sustained commitment. I urge all of you to join us on October 14 at the Marriott in West Palm Beach. Bring your ideas and bring a friend.

### Featured Board Members

For the last several years, I have had the pleasure of serving with Michael Napoleone, who preceded me as Bar president, and Adam Rabin, who will serve as next year's president. Not that they need introduction, but I will tell a few things about them you maybe didn't know.



### Michael Napoleone

Michael currently holds the most coveted position on the board – Immediate Past President. Michael and his wife Cyndi, met at the University of Florida and reconnected again while he was working in New York, and they have been married now for 11 years. They are the parents of Christopher, an energetic 6 year-old young man. Michael attended law school at St. John's University School of Law. He has been practicing law for the last 14 years and is a shareholder at Richman Greer in West Palm Beach, where he specializes in business and commercial litigation, contract disputes and intellectual property. Michael is a big time Florida Gator football fan and also enjoys golfing and travel with family.



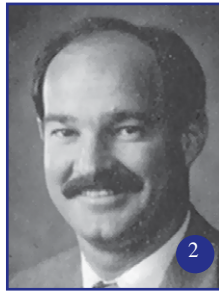
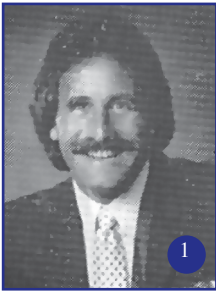
### Adam Rabin

Our President-elect, Adam has come long way since his beginnings as a competitive break dancer in Broward County. (I'm not kidding.) Adam and his wife, Jennifer, met while attending law school at the University of Miami. Together, they have two very lovely (and very stylish) girls, Shelby and Chloe, who are 10 and 5, respectively. The Rabin family has a pet guinea pig named Cuddles. Adam has been practicing for 17 years and is a founding partner of McCabe Rabin in West Palm Beach, where he focuses his practice in the area of Business and Securities Litigation. When he's not practicing or planning bar activities, he enjoys playing soccer, running and biking. We're still holding our breath that he will dust of that dance mat for the Variety Show in January. But, no pressure Adam!

# Historical Committee

## Who are they?

Can you guess who these members are? Answers can be found on page 11. If you have old pictures of yourself or other members that you'd like featured, please send them to Patience Burns at the Bar Office.



## Holiday Party scheduled for December 1



Mark your calendar and join us for our Annual Holiday Party and Silent Auction on Thursday, December 1 from 5:30 pm to 8:00 pm at Frenchman's Reserve in Palm Beach Gardens. The cost is \$35.00 and includes drinks, heavy hors d'oeuvres plus a chance to shop for holiday gifts at great prices!

If you can donate an item for the auction, that would be great. We're looking for gifts such as tickets to professional ballgames, electronics, artwork, jewelry, hotel accommodations and presents for children and pets too! If you have an item to donate, please call Lynne at the Bar Office at 687-2800. One hundred percent of the proceeds will benefit charities sponsored by the Young Lawyers and North County Sections.



**SAVE THE DATE**

## BROOKS BROTHERS EVENING

OF COCKTAILS, HORS D'OEUVRES AND SHOPPING

TO BENEFIT THE

### LEGAL AID SOCIETY OF PALM BEACH COUNTY

**TUESDAY, NOVEMBER 15, 2011  
6:00 – 8:30 P.M.**

PALM BEACH GARDENS  
3101 PGA BOULEVARD  
RSVP (561) 775-0383

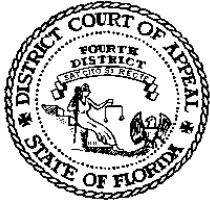


*15% savings on purchases made during the event. 10% of evening's sales will be donated to Legal Aid*

**Host Committee** ~ Edrick Barnes ~ Hampton Beebe ~ Flynn Bertisch ~ Lawrence Buck ~ Paul Burkhart ~ Richard Benrubi ~ Vincent Cuomo ~ Jeffrey Devore ~ Joseph Galardi ~ Mariano Garcia ~ Jason Guari ~ Bradley Harper ~ John Howe ~ Phillip Hutchinson ~ Hampton Keen ~ Theodore Kypreos ~ Gary Lesser ~ Ryon McCabe ~ Scott Murray ~ Ronald Ponzoli, Jr. ~ David Prather ~ Grier Pressly ~ Adam Rabin ~ Cater Randolph ~ Heath Randolph ~ Grasford Smith ~ Carl Spagnuolo ~ Scott Suskauer ~ Matthew Triggs ~ Colin White ~ Gregory Yaffa ~ Gregory Zele

The Palm Beach County, South Palm Beach County and Broward County Bar Associations present:

## *Inside the Appellate Court: A Day with the Judges of the Fourth DCA*



Thursday, November 3, 2011

9:30 a.m. - 3:30 p.m.

West Palm Beach Marriott, 1001 Okeechobee Boulevard, WPB 33401

### Program Schedule

- 9:30 am - 9:50 am **Registration / Check-In**
- 9:50 am - 10:00 am **Welcome and Introductions** - *Siobhan H. Shea, Esq., Siobhan Helene Shea Appellate Practice*
- 10:00 am - 10:50 am **Conversation with the Clerk**- *Honorable Judges Burton C. Conner and Cory J. Ciklin, Fourth District Court of Appeal, and Marilyn Beutenmuller, Clerk of Court, Fourth District Court of Appeal*
- 10:50 am - 11:50 am **The Wonderland of Writs - How Extraordinary** - *Chief Judge Melanie G. May and Judge Robert M. Gross, Fourth District Court of Appeal*
- 11:50 am - 12:30 pm **LUNCHEON**
- 12:30 pm - 1:00 pm **Moving into the Electronic Age at the 4th DCA** - *Chief Judge Melanie G. May and Judge Martha Warner, Fourth District Court of Appeal*
- 1:00 pm - 1:10 pm **BREAK**
- 1:10 pm - 1:40 pm **Motion Practice** - *Honorable Judges Carole Y. Taylor, Dorian K. Damoorgian and Burton C. Conner, Fourth District Court of Appeal*
- 1:40 pm - 2:40 pm **Practical Ways to Win an Appeal** - *Honorable Judges Dorian K. Damoorgian, Spencer D. Levine and Jonathan D. Gerber, Fourth District Court of Appeal*
- 2:40 pm - 2:50 pm **BREAK**
- 2:50 pm - 3:30 pm **Legal Jeopardy** - *Honorable Jonathan D. Gerber, Fourth District Court of Appeal*
- 4:00 pm - 6:00 pm **Cocktail Reception** Celebrating the Upcoming **50th Anniversary** of the Fourth DCA in 2015

**RECEPTION LOCATION :** **Fourth District Court of Appeal**  
**1525 Palm Beach Lakes Boulevard, West Palm Beach, Florida**

This course has been granted **5.5 CLER/3.0 Appellate Practice Cert. credits from the Florida Bar**. The cost of the seminar, lunch and reception is **\$125** if registered by **10/27/11**; **\$165** after that date; **Govt. attorneys & law clerks \$100.00 if registered by 10/27/11; \$125.00** after that date.

All refund requests must be made in writing and made no later than 48 hours prior to the date of the seminar.

If a phone reservation is made and we do not receive payment and you do not attend, you will be charged \$25.

Please check here if you have a disability that may require special attention or services. To ensure availability of appropriate accommodations, attach a general description of your needs. We will contact you for further coordination.

**HOW TO REGISTER**



**BY CHECK**  
Return this form



**BY CREDIT CARD**  
For security purposes, you must register online at [www.palmbeachbar.org](http://www.palmbeachbar.org)



**Materials will now be emailed to all registrants prior to the seminar**

Credit card registration payment not accepted by Fax to comply with PCI regulations

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Address: \_\_\_\_\_ City/Zip \_\_\_\_\_

Email Address: \_\_\_\_\_

I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (Appellate Seminar 11/3/11) Cost is the same as listed above, **in addition to \$10 for shipping and handling.** PAYMENT BY **CHECK** ONLY, WITH THIS FORM.

# Capital Campaign – Thank You to Those Who Have Contributed!



The Bar Association will soon be moving to its first permanent home located off Belvedere Road in West Palm Beach. The building will be a state-of-the-art facility for our legal community to enjoy for many years to come. You can be a part of history by naming a room or buying a brick.

We sincerely thank the following firms and members who have contributed as of 8/30/11:

SEARCY DENNEY SCAROLA	
BARNHART & SHIPLEY, P.A.	Meeting & Seminar Room
LYTAL REITER SMITH IVEY & FRONRATH	Reception Area
RICHMAN GREER, P.A.	Executive Director's Office
SCHULER HALVORSON WEISSER & ZOELLER, P.A.	Small Conference Room
LESSER LESSER LANDY & SMITH PLLC	Outside Bench
NORTH COUNTY SECTION & YOUNG LAWYERS SECTION	Communications Office
HOLLAND & KNIGHT	Member Services Office
JONES FOSTER JOHNSTON & STUBBS	Lawyer Referral Service
WYLAND & TADROS	Work Room

*Additional rooms are still available!*

## Hats Off!

The Board of Directors mark the official renovation for the Bar's new building at 1507 Belvedere Road in West Palm Beach. The facility will be the Association's first permanent home for our membership of more than 3,000. The directors commemorated the beginning of the construction, which includes almost 6,000 square feet and a state-of-the-art meeting room for legal education seminars.



**Board of Directors pictured front left to right: Adam Rabin, president-elect; John Howe, president; Patience Burns, executive director; Michael Napoleone, immediate past president. Back row left to right: Grier Pressly, director; Jason Lazarus, Young Lawyers president; Ronald Ponzoli, North County Section president; Theo Kypreos, director; Sia Baker-Barnes, director; Jason Guari, director; C. Wade Bowden, director; Robin Bresky, director and Jill Weiss, director. (not pictured: John Whittles, director)**

## Personalized bricks:

- Akerman Senterfitt
- Babbitt, Johnson, Osborne & LeClainche, P.A.
- Bertisch, Robert & Harreen
- Breton, Lynch, Eubanks & Suarez-Murias, P.A.
- Burns, Lois
- Burns, Tom & Patience
- Clark, Fountain, LaVista, Prather, Keen & Littky-Rubin
- Coleman, Greg & Monica
- Colton, Roger B.
- Farrell, John
- Fine, Edward
- Fox Rothschild
- Gamot, Melinda
- Gordon & Doner, P.A.
- Howe, John
- Hunston, Jay and Jane
- Klett, Stan
- Law Offices of Irwin J. Block PLLC
- Law Offices of Robin Bresky
- Lazarus, Jason
- Legal Aid Society of Palm Beach County
- Leopold ~ Kuvin
- Massa, Patrick
- McCabe Rabin
- McCall, Wallace
- McClosky, D'Anna & Dieterle, LLP
- McHale & Slavin
- Murray & Guari
- Murrell, Donnie
- Napoleone, Michael
- Palm Beach Spine & Diagnostic Institute
- PBC Chapter of Paralegal Association
- Pineiro Byrd PLLC
- Pressly & Pressly
- Prior, Ted
- Proskauer Rose LLP
- Rock Legal Services & Investigations
- Rutherford Mulhall, P.A.
- Sabadell United Bank
- Signature Court Reporting
- Sorgini, Robert
- Stewart, Todd
- Suskauer, Michelle & Scott
- U.S. Legal Support
- Wroble, Art

## Would you like have a permanent place in the Bar's new building?

For further information regarding naming rights or to purchase a brick, please contact Lynne Poirier at the Bar Office or scan the QR Code here with your Smartphone or go to [palmbeachbar.org/capital.campaign.php](http://palmbeachbar.org/capital.campaign.php)



# Does this remind you of the communication you get from the lawyer you currently send Personal Injury cases to?



At the Law Offices of Craig Goldenfarb, we want you to ask yourself these questions about the current lawyer you send cases to:

- Do I sign the client contract, as required by the Florida Bar Rules?
- Does the lawyer keep me informed about the status of the case I referred?
- Do I receive a copy of the lawyer's demand letter to the insurance company?
- Am I continuously informed of the status of negotiations?
- Do I get to sign the client's settlement / closing statement, showing me how much the case settled for?
- Do I receive my referral fee quickly after the case is settled?

At the Law Offices of Craig Goldenfarb, we believe you are entitled to be kept in the loop.



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7 Days a Week

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**Main Office:** 2090 Palm Beach Lakes Blvd. • Suite 402 • West Palm Beach



## Young Lawyers Section



Members of the Young Lawyers Section and the Federal Bar Association recently got together at a reception at Ruth's Chris in West Palm Beach. Pictured above are YLS President-elect Lee McElroy; Donna Eng; Federal Bar Association President Kerry Baron and YLS President Jason Lazarus.



Al LaSorte, Garth Yearick and Joe Janssen



Cathy Kamber, Joyce Conway and Carina Leeson



Jeff Collier and Duane Pinnock



Eric Christu and Dan Barsky

## Historical Committee

### Who Are They?

From Page 4

1. Alan Ciklin
2. Leo Fox
3. Judge Catherine Brunson
4. Glenn Dempsey
5. Robert Haile, Jr.

### Board Meeting Attendance

	Retreat	Aug
Barnes	x	x
Bowden	x	x
Bresky	x	x
Guari	x	x
Howe	x	x
Kypreos	x	x
Lazarus	x	x
Napoleone	x	x
Ponzoli	x	x
Pressly	x	x
Rabin	x	x
Weiss	x	x
Whittles	x	x

## PBCBA Online Courses & Services

- Florida Notary Public
  - Florida Online Traffic School
  - First Time Driver (D.A.T.A.) Course
  - Mature Driver Course
  - Parent Education and Family Stabilization Course
- [www.palmbeachbar.org/online\\_courses.php](http://www.palmbeachbar.org/online_courses.php)



## In Memoriam

**John B. McCracken**  
PBCBA President 1980-81  
1945 – 2011

**Rebecca Lee Larson**  
1959 – 2011

**John W. Shelton**  
1942 – 2011

**Frank J. McKeown, Jr.**  
1931 – 2011

**Edward P. Phillips**  
2011

**Michael L. Scheve**  
1980 – 2011



The Palm Beach County Bar Association's Family Law CLE Committee Presents:

## Collaborative Practice: The What, Why and How

Friday, October 21, 2011 9:00 a.m. – 1:00 p.m.

Bar Association Offices 1601 Belvedere Road, #302E, WPB, FL

### Program Schedule



8:30am - 8:55am **Late Registration and Check in**

8:55am - 9:00am **Welcome & Opening Remarks** - *Matthew Jay Lane, Esq., Matthew Lane & Associates, P.A., Committee Chair*

9:00am - 9:15am **What is Collaborative Practice? Who uses it and why?** - *Charles D. Jamieson, Esq., The Law Firm of Charles D. Jamieson, PA, Board Certified Marital & Family Law*

9:15am - 9:30am **Collaborative Practice Statute & Rule Update** - *Ronald L. Bornstein, Esq.*

9:30am - 10:00am **Collaboration & Ethical Duties** - *Pamela S. Wynn, Esq., Pamela S. Wynn, PLLC*

10:00am - 10:15am **BREAK**

10:15am - 12:30pm **Role of Professional Panels**

10:15am - 11:00am **Financial Professionals:**  
*Cary B. Stamp, CDFA, CFP*  
*Myles German, CDFA, CFP*  
*George Koester, CDFA, CFP*  
*Rod Moe, CPA, CDFA*  
*Luisa K. Bosso, CPA*

11:00am - 11:45Am **Mental Health & Mediation Professionals:**  
*Hugh Leavell, PhD*  
*Stephen Peritz, CPA*  
*Lisheyne Hurvitz, MA Ed.*

11:45am - 12:30pm **Attorneys:**  
*Charles D. Jamieson, Esq.*  
*Pamela S. Wynn, Esq.*  
*Vicki Vilchez, Esq.*  
*Doreen Halickman, Esq.*

12:30pm - 1:00pm **NETWORKING LUNCH - SPONSORED BY:**

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**Cary B. Stamp, CFP, CDFA**

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The cost of the seminar is \$75 (includes lunch) for PBCBA members/paralegals;

\$115 for non-PBCBA members/paralegals if registered by 10/14/11; add \$25 to registration fee after that date.

If a phone reservation is made and we do not receive payment and you do not attend, you will be charged \$25. All refund requests must be made no later than 48 hours prior to the date of the seminar.

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## Entitlement To Attorneys Fees For Litigating The Appointment Of A Guardian

By David M. Garten, Esq.

An attorney is entitled to receive a reasonable attorney's fee for professional services rendered and reimbursement of costs incurred for the benefit of the ward or his estate. See *Price v. Austin*, 43 So. 3d 789 (Fla. 1st DCA 2010) and §744.108(1), Fla. Stat. Litigation over the appointment of a guardian may not be considered a benefit to the ward or his estate.

In *Butler v. Guardianship of Peacock*, 898 So.2d 1139 (Fla. 5th DCA 2005), the Ward's daughter and designated pre-need guardian unsuccessfully petitioned to be appointed guardian. Butler thereafter petitioned the trial court for an award of all the attorney's fees and costs incurred by her in these proceedings. The trial court awarded Butler fees up to the date that the dispute arose over who should be appointed the ward's permanent guardian, concluding that after that date Butler's attorney was rendering services on behalf of Butler, not on behalf of the ward. The appellate court, in affirming the lower court, reasoned:

Under section 744.108, in order to be entitled to receive attorney fees' the attorney services must benefit the ward. Here, no evidence was presented regarding how the litigation over who would be appointed Peacock's [ward's] guardian could be considered services rendered on Peacock's behalf, especially when all the parties except Butler agreed that Wood was doing an excellent job overseeing Peacock's care. Therefore, the trial court did not abuse its discretion by awarding Butler only a portion of her attorney's fees.

In *King v. Fergeson, et al*, 862 So.2d 873 (Fla. 2nd DCA 2003), the court reversed the lower court's judgment for attorney's fees and costs and remanded without prejudice to renew the motion. Judge Villanti, in his concurring opinion, addressed the issue of entitlement to attorney's fees, in part, as follows:

As noted by the majority, there is language in the order awarding fees referencing a "benefit to the ward"; however, there are no corresponding findings of fact to justify this conclusion, and there is no evidence in the record to support such a finding.

The record shows that the ward stipulated early in the proceedings to having a guardian of her property appointed. The primary dispute amongst the ward's children was over who that guardian should be. Lynn King initially advocated having herself appointed guardian. When her siblings objected and offered themselves as guardians, Lynn King suggested Lutheran Services as a possible guardian. Ultimately, the trial court appointed Lutheran Services. However, when seeking attorney's fees, Lynn King offered no evidence to demonstrate how having Lutheran Services as guardian rather than some other person or

entity constituted a "benefit to the ward." Moreover, she presented no evidence to establish how having the ward's personal rights, in addition to her property rights, removed was to the ward's benefit. On the record before this court, I do not see how the trial court could have awarded fees on the basis that Lynn King's efforts in getting a specific guardian appointed "benefitted the ward."

As a general proposition, if an interested party hires an attorney to contest any aspect of an incapacity proceeding, including who should be appointed guardian, he or she does so with no assurance that the fees will be reimbursed if a guardianship is ultimately established. This is especially true in an involuntary guardianship proceeding, in which the ward usually does not consent to the hiring of attorneys for any purpose. As the record exists now, there is no evidence that Fergeson, Skipper performed any services "on behalf of the ward" to entitle it to an award of attorney's fees under section 744.108, nor is there any evidence that Fergeson, Skipper performed any services that benefitted the ward or her estate. Therefore, on remand, the trial court should require some evidence that the services at issue were incurred on behalf of or benefitted Thelma King or her estate before it may find that Fergeson, Skipper is entitled to an award of fees from the guardianship estate.

In *Thorpe v. Myers*, 2011 Fla. App. LEXIS 11088, 36 Fla. L. Weekly D1524b (Fla. 2nd DCA July 15, 2011), the ward's spouse was appointed emergency temporary guardian and the examining committee members found the ward to be totally incapacitated. The litigation over the appointment of a guardian was eventually settled in mediation. Michael and Joan, the original petitioners, filed a petition requesting fees and costs for the attorneys who had represented them in the guardianship proceedings. The lower court, in denying their petition, reasoned that "the services provided by counsel for petitioners were not on behalf of the Ward but were on behalf of the petitioners and other family members." The appellate court, in reversing the lower court, reasoned:

We are unable to conclude that the circuit court abused its discretion in denying fees and reimbursement of costs to Michael and Joan's attorneys to the extent that they pursued unproductive litigation over who would be appointed as guardian or other goals that did not benefit the Ward or her estate. See *Butler*, 898 So. 2d at 1141. But the attorneys also initiated the proceedings for the determination of the Ward's incapacity and for the appointment of a guardian. As a direct result of these efforts, the Ward was determined to be totally incapacitated and the circuit court appointed plenary guardians of her person and property. Unquestionably, these services benefitted the Ward. It follows that the attorneys for Michael and Joan were entitled to their fees and costs related to those efforts. *Id.* at 1141. The circuit court erred in ruling to the contrary. Accordingly, we reverse the circuit court's order to the extent that it denied Michael and Joan's petition for attorney's fees and costs related to these efforts.



The Elder Law Affairs Committee of the Palm Beach County Bar Association presents:

### "14th Annual Elder Law Update"

Friday, December 16, 2011 - 8:20a.m. - 2:00p.m.  
Bar Offices - 1601 Belvedere Rd., Suite 302E, WPB

#### Program Schedule

- 8:00am - 8:20am Late Registration - Check In
- 8:20am - 8:30am Welcome - Opening Remarks - Seth A. Marmor, Esq., Shapiro Blasi Wasserman & Gora PA, Chair PBCBA Elder Law Affairs Committee, Florida Bar Board Certified Elder Law, and Wills, Trusts & Estates Attorney
- 8:30am - 9:15am The State Attorney's Office Looks at Elder Abuse - Preston Mighdoll, Esq., State Attorney's Office, Fifteenth Judicial Circuit
- 9:15am - 10:15am New Durable Power of Attorney Act - Howard S. Krooks, Esq., Elder Law Associates
- 10:15am - 10:30am Break
- 10:30am - 11:15am VA Benefits and the Appeals Process - Laura S. Rotstein, Esq., Florida Bar Board Certified Elder Law Attorney
- 11:15am - 12:15pm Qualified Income, Special Needs and Pooled Income Trusts - Travis D. Finchum, Esq., Karol, Hausman, Sosnik & Finchum, LLP, Florida Bar Board Certified Elder Law Attorney
- 12:15pm - 12:30pm LUNCH (included in registration)
- 12:30pm - 1:15pm Annual Tax Law and Ethics Update - Michael A. Lampert, Esq., Michael A. Lampert, P.A., Florida Bar Board Certified Tax Attorney
- 1:15pm - 2:00pm Medicaid Update - Stephanie L. Schneider, Esq., Florida Bar Board Certified Elder Law Attorney

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The cost of the seminar, **including lunch**, is **\$165** for PBCBA members/legal assistants, **\$205** for non-PBCBA members/legal assistants, if registered by 12/9/11. **Add \$25 to registration fee after that date.**

**All refund requests must be made no later than 48 hours prior to the date of the seminar.**

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<b>HOW TO REGISTER</b>	<b>BY CHECK</b> Return this form	<b>BY CREDIT CARD</b> For security purposes, you must register online at <a href="http://www.palmbeachbar.org">www.palmbeachbar.org</a>	<b>CLE</b>	<b>Materials will now be emailed to all registrants prior to the seminar</b>
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Please register me for the December 16, 2011 Elder Law Seminar:

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**Submitted by  
PBCBA ABA Delegate  
Donnie Murrell**

Justice Stephen Breyer stepped to the microphone and with a rather grand flourish removed his wristwatch and placed it on the podium in front of him. After

doing so, he told the story of a minister who walked to the pulpit and did the same thing with his wristwatch. A little boy sitting in the pews turned to his father and asked, "What does that mean, Dad?" The father looked down at his son and said, "Nothing son. It means absolutely nothing." With that, Breyer took off on a forty minute chat that kept the audience riveted. He covered everything from Marbury v. Madison to Bush v. Gore. Without a single note, Breyer spoke to an audience of more than 500 lawyers in a way that made the occasion feel like an intimate conversation. A remarkable performance by a man of truly enormous talent.

Afterwards, Breyer mingled with the crowd at a reception – although he was trailed everywhere by the world's largest "law clerk".

So began the 2011 Annual Meeting of the ABA. In reality, like the Olympics, the meeting had been going full throttle for several days before the opening ceremony. Section and Committee meetings and CLE presentations began as early as Thursday before the Saturday opening ceremony. There are more than 2,000 Sections/Committees/Divisions within the ABA. There is truly something there for every practitioner. CLE presentations ran all day long and into the evening, every day. Putting this event together is a huge job. The event calendar resembles the telephone book for a medium sized town. Events are running constantly. No one could possibly see it all.

The House of Delegates had a fairly light agenda once again. First, I am pleased to report that the Somoans are finally happy. After a long and heated struggle, Samoa, Guam and the Commonwealth of the Northern Mariana Islands were each granted a permanent seat in the House. Anybody that wants to take a 26 hour plane ride to be at the House of Delegates meetings ought to be welcomed with open arms.

One of the more important resolutions passed by the House was introduced by West Palm's own William Shepherd, incoming chair of the Criminal Law

Section. Resolution 105D urges governments to adopt rules requiring the prosecution to disclose to the defense before trial or a guilty plea all information known to the prosecution that tends to negate the guilt of the accused, mitigate the sentence or impeach the prosecution's witnesses. (In other words, to codify Brady requirements.) Bill did an outstanding job presenting and explaining this resolution. It passed by an overwhelming majority. The only real opposition came from: The Department of Justice.

Resolution 110B was by far the most controversial issue taken up by the House. The resolution supported adoption of the Uniform Collaborative Law Act promulgated by the National Conference of Commissioners on Uniform State Laws. The resolution failed by more than 100 votes. Most of the opposition seemed to center on language that allowed legislators to regulate the lawyers involved in collaborative law. Opponents saw this as a step towards lawyer regulation by legislative bodies.

The House received a report by the Commission on Ethics 20/20. For those of you unaware, the Commission is undertaking a top-to-bottom review of the Rules Regulating the Bar. A similar review was done for Ethics 2000. This

time around, many sticky issues are rearing their heads: multi-jurisdictional practice (including foreign attorneys who want to come into the U.S. to represent existing foreign clients with matters here), electronic advertising, attorney/client and work product issues in electronic data storage, and conflict issues. The Commission is seeking public input. Real lawyers with real clients need to be involved in this discussion.

Lastly, I want to brag some. The Florida Delegation is one of the largest in the House. The West Palm Beach contingent is second only to Miami in number. From West Palm we have: Scott Hawkins, President of the Florida Bar (who did a masterful job leading the Florida Bar Caucus and reception); Jay White, past president of the Florida Bar (who did a great job showing up and looking concerned); Bill Shepherd (Chair-elect of the Criminal Law Section of the ABA); Keri Ann Baker (representing the Young Lawyers Division. By the way, this was Keri Ann's first meeting of the House and she gave a wonderful speech supporting Resolution 111A, which passed without opposition. She is undefeated in House debates.) I was there too, and did my part by saying, "Whatever they said, goes double for me."



James W. Beasley, Jr.



Robert J. Hauser



Raymond E. Kramer



Joseph G. Galardi

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Medical Industry Litigation  
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Appeals

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## Rule 1.280(f): Court Filing of Documents and Discovery

By Matt Triggs and Jonathan Galler

To file discovery, or not to file discovery, that is no longer the question.

New Rule 1.280(f), effective October 1, 2011, *prohibits* the filing of information obtained during discovery unless the information is filed for good cause. Moreover, when discovery materials are filed, attorneys must take care to comply with new Rule of Judicial Administration 2.425, which requires the redaction of certain confidential or personal information.

Rule 1.280(f) provides as follows:

**(f) Court Filing of Documents and Discovery.**

Information obtained during discovery shall not be filed with the court until such time as it is filed for good cause. The requirement of good cause is satisfied only where the filing of the information is allowed or required by another applicable rule of procedure or by court order. All filings of discovery documents shall comply with Florida Rule of Judicial Administration 2.425. The court shall have authority to impose sanctions for violation of this rule.

The new rule is one of several amendments to the rules of court recently adopted by the Florida Supreme Court to reduce the amount of personal information in the court records as part of an “ongoing effort to provide the public with electronic access to nonconfidential court records.”<sup>1</sup>

The Supreme Court has referred to the new Rule of Judicial Administration 2.425 as the “centerpiece of the amendments.” That rule, which is modeled after but not identical to Federal Rule of Civil Procedure 5.2, “sets forth the categories of personal information that must not be filed or must be truncated or redacted before filing, and provides exceptions that allow for the filing of complete information in appropriate circumstances.”<sup>2</sup>

<sup>1</sup> In re Implementation of Committee on Privacy and Court Records Recommendations – Amendments to the Florida Rules of Civil Procedure, 2011 WL 2566360, \*1 (June 30, 2011).

<sup>2</sup> Id. at \*3.



By way of just a few examples, new Rule 2.425 provides, with limited exceptions, that no portion of a social security number, bank account number or credit card number may be filed. The rule also provides that only the last four digits of driver’s license numbers and taxpayer identification numbers may be filed and, further, that email addresses must be truncated. As always, practitioners should take the time to familiarize themselves with the various provisions of the new rule.

The Supreme Court also adopted amendments to several other rules of civil procedure to conform to or reference the new rule of judicial administration.

Specifically, Rule 1.310(f) has been amended to provide that copies of depositions may be filed only when “in compliance with Florida Rule of Judicial Administration 2.425 and rule 1.280(f).” Rules 1.340(e) and 1.350(d) have also been amended to provide that answers to interrogatories and documents produced in discovery may be filed only when “in compliance with Florida Rule of Judicial Administration 2.425 and rule 1.280(f).”

The Committee Notes to Rules 1.310, 1.340 and 1.350 explain that the purpose of those amendments is “to require persons filing discovery materials with the court to make sure that good cause exists prior to filing discovery materials and that certain specific personal information is redacted.”

This means that practitioners will sometimes – perhaps frequently -- have to redact discovery materials that are filed in support of or in opposition to various motions, including, for instance, motions for summary judgment. Correspondence

*Continued on page 20*

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The Solo & Small Firm Practitioners Committee  
Presents:

## LAWYER BEWARE:

### Ethical Issues With For-Profit Referral and Legal-Support Services

Wednesday, November 2

11:45 am to 1:00 pm

Bar Offices

#### PROGRAM:

11:45: Lunch & Networking

Noon: Traps, conflicts & pitfalls of running a small firm presented by  
D. Culver "Skip" Smith III, Esq.

Learn about referrals from private, third party, web-based sources including paying for recommending services, fee sharing, advertising & solicitation. Find out about fee sharing with non-lawyers, conflicts of interest and charges to clients. Also to be discussed, billing for services actually rendered & not as a percentage of fees.

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Cost: \$10.00 register by 5:00 pm on October 31 to avoid a \$5.00 late fee

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### Facebook Security Settings for Lawyers (and Their Families)

By Christopher Hopkins, Chair, Law Practice Technology Committee

At a recent bar seminar on Facebook marketing, the principle questions asked by lawyers were not about what to say – but how to secure their accounts. Without question, before you can promote yourself online, you need to protect your voice. Since many of us are parents as well as lawyers, it may be worthwhile to sit down, laptop to laptop, and compare Facebook settings with your family members to ensure that everyone from the firm to the family is protected. The steps below give you a hands-on opportunity to have a parent-child discussion about internet safety. Why would you pass that up?

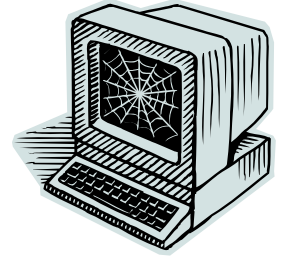
We previously covered Facebook security settings in this column one year ago and, since then, Facebook has revamped its security measures twice (April 2010 and August 2011). The following ten steps will ensure proper security, custom-tailored to you and your family members. To begin, log into Facebook, hit the “Account” tab in the upper right corner. It will drop down a short list. In step 1, we will use “Account Settings.” For steps 2-9, you will need to begin each step at the “Privacy Settings” page under the Account tab.

- 1. Don't Use Me in Your Ads:** Prevent Facebook and its partners from using your likeness. Under the Account tab, go to Account Settings. On the far left, find a list of options and select “Facebook Ads.” In the center of the screen, it will give you two options to edit Third Party Ad Settings and Social Settings. Follow both links, setting them to “no one.” Facebook will pop up a few screens begging you not to turn this off but hold your ground.
- 2. No Facial Recognition:** Facebook has the ability to screen photos uploaded by users and identify if it is you. Convenient for other people... but the answer is no. On the Privacy Settings screen, select “Customize Settings” and find “Suggest Photos of Me to Friends.” Select “disabled.”
- 3. Who Can See Me?** Under Account/Privacy Settings, select “Connecting on Facebook” at the top. For lawyers, consider setting each to “Everyone/Public” except Search for You, Friends List, and Activities which you will set to “Friends.” For teenagers, consider “Friends” or “Friends of Friends” for most settings. In August 2011, there was a scare that Facebook was distributing user phone numbers. It is easy to solve: don't give Facebook your mobile number. Under the Account Tab, select Account Settings and, on the far left, select Mobile. If it is not already blank, delete your mobile number (as needed, uncheck the boxes).
- 4. Tagging in Photos:** back on the Privacy Settings page, uncheck the box in the center of the screen which would otherwise allow non-Friends to tag (identify or link) you in photos floating around Facebook.
- 5. Existing Photos/Video on Facebook:** on the Privacy Settings page, hit “Customize Settings.” In the middle of that page, select, “Edit Privacy Settings for Existing Photo and Video.” With the exception of your profile picture, lawyers should only allow Friends to see photos and video. For teenagers, consider also limiting the visibility of the Profile Picture to Friends of Friends.
- 6. Things I Share:** return to the Privacy Settings page and hit “Customize Settings.” For “Things I Share,” lawyers should limit each setting to Friends except Bio and Website (which will be work-related); teenagers should limit everything to Friends.
- 7. Things Others Share:** On the same Facebook page used in Step 6, consider whether you want people to publicly comment on your wall (I enabled it; if a problem post arises, just delete it). Photos and Videos, Permission to Comment, and Friends Can See Wall Posts should be set to Friends. As mentioned in Step 2, disable Suggest Photos of Me.
- 8. Facebook Places:** Rumored to be discontinued this Fall, Places allows you to “check in” at various locations in real life. But Facebook also permits other people to check you in (i.e., publicly announce you are at a specific location, which may or may not be true). In short, it might be great for me to visibly “check in” and let everyone know that I am at the Palm Beach County Courthouse but I do not want a mischievous friend checking me in at an exotic dance club. Keep the control to yourself. Starting at the same page from Step 6, uncheck “Include Me in People Here Now” and disable “Friends Can Check Me Into Places.”
- 9. Third Party Apps – Worst Offenders:** Unless you already fiercely guard your settings, this step may reveal problems with your current Facebook security regimen. On the Privacy Settings page, select Apps and Websites on the bottom left. If you are a frequent Facebook user, you might find six or more “Apps You Use.” Edit the settings and delete the apps which you do not use. Meanwhile, do not let your friends' apps share info either: Info Accessible Through Friends should be bio/website only (or whatever you chose for Step 5). Skip “Games and Apps” until Step 10. We disabled Instant Personalization in Step 2, above. Public search should be comparable, if not tighter, than your settings from Step 5.
- 10. Keep Your Gaming Habits Quiet:** Too many Facebook users allow apps to publicize the growth of vegetables or number of mafia hits. Do not publicize your gaming nor pester your friends. On the Privacy Settings page, again select Apps and Websites. Disable Game and App Activity.

Christopher B. Hopkins might be able to subtly ignore a Facebook friend request but he cannot resist emails from lawyers (and their family members) at christopher.hopkins@akerman.com.



The Palm Beach County Bar Association's  
Technology Practice Committee Presents:



## *Is Your Website in Compliance with Florida's New Advertising Regulations?*

Friday, November 18, 2011 - 11:30a.m. – 2:10p.m.  
Bar Association Offices 1601 Belvedere Road, #302E, WPB, FL

### Program Schedule

- 11:30 a.m. - 12:00 p.m. **Late Registration / Check In / Lunch**
- 12:00 p.m. - 12:10 p.m. **Welcome & Opening Remarks** - *Christopher B. Hopkins, Esq.,  
Committee Chair, Akerman Senterfitt*
- 12:10 p.m. - 2:10 p.m. **Is Your Website in Compliance with Florida's New Advertising  
Regulations?**

### Speaker

*Jan L. Jacobowitz, Esq., Director  
Professional Responsibility and Ethics Program  
Center For Ethics & Public Service  
University of Miami School of Law*

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## Welcome New Members!

The following represents each new member's name, hometown, law school, and date of admission to the Florida Bar and law firm association.

**Andrew D. Atkins** - Florida; Washington and Lee University, Law Student Membership; West Palm Beach.

**Jeanette Anne Bellon** - Pennsylvania; Duquesne University, 2007; Associate in Seiden, Alder & Matthewman, P.A.; Boca Raton, FL.

**William Bennett** - Florida; St. Thomas University, 2010; Associate in Ellis, Ged, and Bodden, P.A.; Boca Raton.

**Elizabeth A. Bowers** - Florida; University of Florida, Law Student Membership; Wellington.

**Dennis Cappello** -New York; Yeshiva University, Cardozo School of Law, 1980; Sole Practitioner; Elmhurst, New York.

**Sarah Cohen** - Stetson University College of Law, 2010; West Palm Beach.

**Romin Currier** - Nevada; University of Pittsburgh School of Law, 2000; Partner in Pincus & Currier LLP; West Palm Beach.

**Jeffrey Eannarino** - Rhode Island; University of Miami, 1998; Partner in The Cochran Firm Palm Beach, P.A.; West Palm Beach.

**Matthew Fiorello** - Florida; Nova Southeastern University, 2008; Associate in Peterson Bernard Attorneys at Law; West Palm Beach.



**Archie L. Gustin** - Indiana; Cleveland Marshall College of Law, 1995; Sole Practitioner; Jupiter.

**Melinda Lee Hayes** - Washington; Florida State University, 2009; Associate in Frank White-Boyd, P.A.; Palm Beach Gardens.

**Carissa Kranz** - University of California-Berkeley School of Law, 2010; Office of State Attorney, Palm Beach County.

**Chadwick Layton** - Florida; Barry University, 2008; Associate in Harvey, Waddell, Monahan & Layton; Lake Worth.

**Daniel Liss** - Florida; University of Miami, 1994; Sole Practitioner, Law Office of Daniel J. Liss, P.A.; Jupiter.

**Lyle Brian Masnikoff** - Florida; Nova Southeastern University, 1998; Sole Practitioner, Law Office of Lyle B. Masnikoff & Associates, P.A.; West Palm Beach.

**Susan Parker** - New York; St. Johns University, 1980; Sole Practitioner; Briarcliff, New York.

**LeeAnn Williford** - Florida Registered Paralegal Membership, Vitacost.com, Inc., Boca Raton.

**Susan Winston** - Washington D. C.; University of Miami, 2004; Sole Practitioner, Winston Law, P.A; Palm Beach Gardens.



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## Private Employers Can Discriminate Against Debtors When Hiring

By Marc P. Barmat

Section 525 of the Bankruptcy Code addresses whether an employer can discriminate against a debtor. 11 U.S.C. § 525. Although this Bankruptcy Code section prohibits certain discriminatory actions against those who have filed for bankruptcy, it does not prohibit all discriminatory acts. When it comes to employment discrimination against debtors, the Bankruptcy Code distinguishes between private and public employers. Specifically, the Bankruptcy Code states that the government may not “deny employment to, terminate the employment of, or discriminate with respect to employment against” an individual who has filed for bankruptcy. 11 U.S.C. §525(a). However, with regard to a private employer, it may not “terminate the employment of, or discriminate with respect to employment against, an individual” who filed bankruptcy. 11 U.S.C. §525 (b). The conspicuous difference between the two subsections is that §525(a), the one applying to government employers, explicitly forbids them from either denying or terminating employment because of a bankruptcy, while §525(b), the one applying to private employers, forbids them from terminating employment because of bankruptcy, but says nothing about denying employment because of it.

In a recently decided case, the Eleventh Circuit considered whether the §525(b) allows a private employer to deny employment to an individual based solely on his being or previously being in bankruptcy. Myers v. TooJay’s Management Corp., 640 F.3d 1278 (11th Cir. 2011). In Myers v. TooJay’s Management Corp., the plaintiff, who had previously filed for bankruptcy and received his discharge, applied for a managerial position at TooJay’s Gourmet Deli. Id. at 1280. During the interview process, Myers filled out a background check release, which allowed TooJay’s to conduct a review of his credit history and reports. Id. After running a credit check and discovering that Myers

had filed for bankruptcy, Myers was not granted employment. Id. at 1281. When Myers spoke to an individual in the human resources department, she informed him that the only reason he was not hired was because he had filed for bankruptcy. Id. Myers filed suit claiming that TooJay’s had, among other things “discriminated against him because of his bankruptcy in violation of 11 U.S.C. § 525(b), by refusing to hire him...” Id. On this issue, the District Court entered summary judgment against Myers and Myers appealed to the Eleventh Circuit. In affirming the District Court, the Eleventh Circuit compared the statutory language of §525(a) and §525(b) and noted that §525(a) explicitly forbids government employers from either denying or terminating employment because of bankruptcy, while §525(b) only prevents private employers from terminating employment because of bankruptcy. Id.

at 1283. The Eleventh Circuit noted that, “Where Congress has carefully employed a term in one place but excluded it in another, it should not be implied where excluded.” Id. at 1284.

The Eleventh Circuit rejected Myers argument that the court should ignore the contextual meaning of the language in favor of a broad interpretation of “or discriminate with respect to employment” in §525(b) to include denial of employment. In rejecting Myer’s argument, the Court reiterated its inability to ignore the inclusion and omission of statutory language within different subsections of the same statute.

Lastly, the Eleventh Circuit rejected Myer’s assertion that his interpretation of §525(b) should be adopted because it furthers one of the purposes of the Bankruptcy Code, i.e., to provide the debtor with a fresh start. The Eleventh Circuit stated that it cannot “recast the meaning” of a statute or “substitute [its] own views of policy for the legislation which has been passed by Congress.” Id. at 1286

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*Continued on page 20*

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## Florida Bar Board of Governors Summary

At its July 29, 2011 meeting in Palm Beach, The Florida Bar Board of Governors:

- Heard from Bar President Scott Hawkins that Gov. Rick Scott had rejected two of the 26 slates of judicial nomination commission candidates submitted by the Bar in May. Scott rejected the slates for the 17th Circuit JNC (although he appointed one nominee on the 2011 slate to a 2010 position) and the Fourth District Court of Appeal JNC. Hawkins said the governor's general counsel did not give a reason for the rejection but did note F.S. §43.291 gives the governor authority to reject a Bar-nominated slate. Hawkins said the Bar would advertise for new applicants and the Executive Committee would select another slate for those two JNCs.
  - Heard Supreme Court Justice Charles Canady warn that the courts still face money shortfalls because funding remains heavily reliant on foreclosure filing fees. He said foreclosures have increase slightly from earlier in the year but not enough to meet the revenue projections that legislators used in setting the courts budget. Without a further significant increase in those filings, the courts will have to go back to lawmakers and the governor for additional loans to make it through the 2011-12 fiscal year, which began with a \$54 million loan from the state. "This is an intolerable situation for our branch and we have got to in this next session of the Legislature get... a funding arrangement that is reliable," the chief justice told the board.
  - Approved, upon the recommendation of the Legislation Committee, allowing the Legal Needs of Children Committee to advocate for legislation allowing children sentenced in adult criminal court for more than 10 years to have a meaningful opportunity for early release based on demonstrated maturity and rehabilitation.
  - Approved, upon the recommendation of the Board Review Committee on Professional Ethics expressing concerns to the ABA on changes to two preliminary proposals from the ABA Commission on Ethics 2020 affecting outsourcing of legal services and on technology, largely because the suggested changes were less strict than current Supreme Court rules. Upon recommendation of the Standing Committee on the Unlicensed Practice of Law the board voted to object to three proposed changes from the ABA ethics commission. Those are to allow attorneys from other states to practice for a certain amount of time, to be determined by the Supreme Court, either as attorneys or authorized house counsel while their petition to join The Florida Bar or to become an authorized house counsel is pending; to allow a lawyer licensed in another country to appear pro hac vice in Florida; and to allow attorneys licensed in other counties to become authorized house counsel in Florida. The board, on the recommendation of the Standing Committee on UPL, voted to support the ABA ethics commission's recommendation that attorneys from other countries can engage in limited and temporary practice in Florida, since that tracks the Supreme Court's rule on multijurisdictional practice.
  - Heard former Bar President Herman Russomanno, a member of the ABA Commission on Ethics 2020, report on the commission's activities. He said the commission welcomed any input and would not be making any recommendation to the House of Delegates before the ABA's August 2012 annual convention.
  - Heard Florida Bar Foundation President Michele Cummings report that Florida IOTA income has declined 88 percent because of low interest rates, with little improvement expected until late next year at the soonest. The Foundation has used most of its reserves set aside for difficult economic times, she said, and is now exploring working with banks and capital markets on getting a loan to help continue funding legal aid programs, with the loan to be repaid when interest rates recover.
  - Heard Investment Committee Chair Ian Comisky report that the committee is closely monitoring federal debt ceiling extension negotiations because of the potential impacts a deadlock could have on Bar investments. He also reported the Bar's investment funds, after another positive quarter ending in June, are at an all time high.
  - Recommended the Supreme Court approve expedited amendments from the Civil Procedure Rules Committee. Committee Chair Kevin Johnson said the rules are the first codification in Florida procedural rules for handling electronic discovery and are based, with some changes, on federal rules. The board also recommended approval of three-year cycle rules amendments for Juvenile Procedure Rules, Traffic Court Rules, and Criminal Procedure rules.
  - Heard a lunchtime address from Prof. Thomas Morgan of the George Washington College of Law on changes in the legal profession. He said the rapid growth in the number of lawyers, a difficult economy, technology, and the lack of control by bar associations over the legal marketplace are combining to put new pressures on the practice and also leading to rapid changes. Lawyers are likely to have to become more specialized to deal with those changes and be expected to deliver "Wal-Mart efficiency with a Neiman-Marcus feel."
  - Heard Program Evaluation Committee Chair Jay Cohen report the committee would be examining in the coming year a designated seat for government lawyers on the Board of Governors or alternative way of bringing government lawyers into the operations of the Bar and board. Other committee projects are a review of the Lawyer Referral Service Committee, study of what is being done to help the perception of lawyers and judges including relating to next year's merit retention elections, renaming the Judicial Independence Committee, and looking at the role of the procedural rule committees.
  - Heard Communications Committee Chair Greg Coleman report that the committee is working at improving all levels of Bar communications. He noted President Hawkins has sent a short video to all Bar members and which is also posted on the Bar's website. He said a similar video is planned quarterly. The committee is looking at how to effectively communicate both with Bar members and board members during legislative sessions, and with Bar committees, sections, and divisions and with local bars. He said the committee also will be looking at how technology is affecting the practice of law. The committee also recommended and the board approved adding two new areas to the profiles members can post on their member page on the Bar's website. One is to allow lawyers to list their certification in civil and/or family law by the National Board of Trial Advocacy and their status as a civil law notary, which allows lawyers to assist in Hague Convention issues worldwide.
  - Heard Disciplinary Procedure Committee Chair Clif McClelland report the committee will be recommending a change to trust accounting regulations to require law firms to have written policies spelling out who in the firm is responsible for trust accounts and the duties of other partners and associates. He said the committee is soliciting sample policies from lawyer and law firms so one can be included in the rules. The change recognizes the reality that in many firms, especially large firms, associates and some partners have little effective control or oversight of trust funds.
  - Heard Executive Director John F. Harkness, Jr., report that 3,500 people – the largest number every – were taking the next bar exam. He said typically 75 to 78 percent pass and become Bar members. He added that the Bar used to get around 2,000 new members annually, but that is now running 2,500 and is combined with another trend of fewer older lawyers choosing to retire, leading to a rapid growth in Bar membership.
- Should you have any questions, please contact one of the Circuit's four representatives: Greg Coleman, Michelle Suskauer, Gary Lesser, David Prather, or Florida Bar President Scott Hawkins.*





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## Reevaluating the Expert Medical Advisor Statute in Workers' Compensation Claims — Something to Think About

by Jane-Robin Wender Wender, Hedler & Hessen, P.A.

By now, every attorney practicing in the area of workers' compensation knows about Florida Statute 440.13(9)(c). This statute provides for the appointment of an Expert Medical Advisor(EMA), whose opinion is presumed to be correct, when there is a conflict between health care providers. However, unlike Florida Statute 440.13(5) which provides for an Independent Medical Examination (IME) "in any dispute concerning overutilization, medical benefits, compensability, or disability," the EMA statute specifically limits its utilization to three(3) different scenarios. Those circumstances include when health care providers differ on: whether there is medical evidence supporting the claimant's complaints; whether the claimant can return to work; or whether there is a need for additional treatment.

Any fair comparison of the IME and EMA provisions leads the reader to recognize the broadness of the IME statute as opposed to the limiting nature of the EMA statute. Nevertheless, most attorneys accept as a given that the EMA statute is triggered by any dispute, including disputes over compensability and causation. Perhaps because of early interpretations of the EMA statute, many practitioners no longer recognize the vast difference between entitlement to an IME vs. an EMA.

Early cases interpreting the EMA statute discussed the JCC's requirement to appoint an EMA when there is a dispute regarding causation. see. e.g. Palm Springs General Hosp. v. Cabrera, 698 So. 2d (Fla. 1st DCA 1997). Cabrera involved a claim for permanent total disability benefits and a dispute arose between psychological providers as to whether the claimant was capable of working. Without argument, a dispute over PTD would trigger an EMA because it is a dispute over whether the claimant could return to work. But the Cabrera case additionally discussed a dispute over causation.

Was this dicta? Or is causation fair game for an EMA appointment if the dispute encompasses entitlement to additional treatment or the other enumerated disputes in the EMA statute. Should the JCC be granting EMA's based solely on a dispute regarding compensability and/or causation? Most attorneys would argue that any dispute will do.

While the Cabrera case undoubtedly discussed causation, a fine reading of Cabrera reveals that the reason the JCC in that case refused to appoint an EMA was more directed towards whether the JCC should retain the discretion to adjudicate disputes as opposed to which statutory provision imposed the appointment of an EMA. Moreover, the Claimant's ability to return to work was clearly at issue and thus warranted the appointment of an EMA.

Those who have been around long enough, may recall that the 1st DCA usually only rules on the specific arguments presented. Back in 1990, the legislature seemingly removed concurrent wages from the statute. Multiple appeals were rejected until the "right argument" was presented in Vegas v. Globe Sec., 627 So. 2d 76 (Fla. 1st DCA). This author could find no case which really challenged whether a specific dispute really fell within the statutory provisions.

Is the "right argument" still pending when it comes to the issue of the appointment of an EMA? Would the 1st DCA be open to a challenge based upon the difference between the EMA statute and the IME statute? For those of us who would like to see the JCC retain more discretion over disputes, we sure hope so!

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## Can You Hear Me Now? And Who Else Is Listening?

by Culver "Skip" Smith  
On behalf of the Professionalism Committee

Dear Cherished but Peripatetic Client:  
The ABA has issued an opinion (see excerpt below if interested) that obligates me to warn you about our thoroughly modern and cool means of communication, i.e., e-mail and cellphones. Here goes: There is a risk of third parties hacking into our communication devices. I know that because you are not employed by News Corp., this may come as shocking news. The problem is that the ABA seems to think that I need to consider – prior to each communication between us – whether, “given the client’s situation,” there is a significant risk that someone out there with a burning need to know, an inexplicable appetite for mischief, or simply no life will join our communication without our knowledge. Therefore, because this risk may vary according to your “situation” (which seems to change almost hourly), I must ask that before either of us communicates anything substantive to the other you inform me of your situation: where you are (both generally – Florida, north Florida, NC mountains, France, Bangkok – and specifically – office, another’s office, home, another’s home, coffee shop, airport, Wi-Fi hot spot, soccer game, neighborhood saloon, flea market, at sea) and how you are (up, down, mellow, angry, sober, inebriated, making breaking news). I thereupon will provide you with “appropriately tailored” advice on whether and how we may proceed to communicate, which, of course, by training and brain type I am poorly equipped to render. Fear not, however: If the risk is too great, we can resort to carrier pigeons.

On second thought, I will insert the following clause in our engagement agreement and hope for the best:

*You authorize me to use e-mail, facsimile transmissions, and cellphones in place of more traditional methods*

*to communicate with you about this representation. You acknowledge, however, that there exists the risk of third parties improperly or surreptitiously hacking into or intercepting our electronic and wireless communications or obtaining or using metadata imbedded in electronically created or transmitted documents and that the risk varies from time to time according to our respective locations and devices. I will be sensitive to security considerations commensurate with the nature of the particular communication and will take reasonable precautions against the inadvertent disclosure of confidential information to others. You acknowledge, however, that I cannot and do not warrant or insure against the risk of such intrusions.*

Best of luck to you, wherever and however you may be at any given time.

Yours in Serene Ostrichism,  
I. B. Lawyer

\*\*\*\*\*  
ABA Formal Op. 11-459 (applying Model R. 1.1, Competence) (excerpt):

A lawyer sending or receiving substantive communications with a client via e-mail or other electronic means ordinarily must warn the client about the risk of sending or receiving electronic communications using a computer or other device, or e-mail account, to which a third party may gain access. The risk may vary. Whenever a lawyer communicates with a client by e-mail, the lawyer must first consider whether, given the client’s situation, there is a significant risk that third parties will have access to the communications. If so, the lawyer must take reasonable care to protect the confidentiality of the communications by giving appropriately tailored advice to the client.



### Bar offers on-line traffic and parenting courses

The Palm Beach County Bar Association continues to look for non-dues sources of revenue to assist in keeping the cost of Bar dues down. Accordingly, we offer online courses in Business & Personal Services and Traffic Safety such as: Basic Driver Improvement Course, First Time Driver Course, Mature Driver Course, Florida Notary Service and Florida Internet Parenting Course (approved course by the State of Florida). These are all approved courses through the American Safety Council. The Palm Beach County Bar Association will receive a small stipend for each course that is taken through a link on our website. Please help us by remembering to refer your clients to this link if they are in need of taking any of these courses. For more information, visit [www.palmbeachbar.org/online\\_courses.php](http://www.palmbeachbar.org/online_courses.php) or scan this QR code with your smartphone.



### Circuit Court Report CIVIL DIVISIONS • July 2011

DIVISION	JURY TRIALS	NON-JURY TRIALS	MOTIONS	CASES PENDING
AA KELLEY	02-12	02-12	10-11	1533
AB HAFELE	03-12	03-12	11-11	1707
AD FRENCH	01-12	01-12	11-11	1731
AE MCCARTHY	05-12	05-12	10-11	1891
AF KEYSER	04-12	04-12	10-11	1552
AG CROW	04-12	03-12	11-11	1856
AH BROWN	04-12	04-12	10-11	1591
AI SASSER	12-11	12-11	09-11	1099
AJ ROSENBERG	01-12	01-12	11-11	1275
AN COX	02-12	02-12	12-11	1677
AO BARKDULL	01-12	12-11	10-11	1645

## Nominations Sought For 2012 Pro Bono Night Awards

The 24th Annual Pro Bono Recognition Evening will be held on Saturday evening May 19, 2012 at the Palm Beach County Convention Center. Anyone wishing to nominate an attorney, support staff member, law firm, individual or group for a Pro Bono Award for exemplary pro bono work in 2011 please fill out the form below. Reasons for the nomination should accompany this form and client names are not necessary. Client names will not be used for any press releases or for the program the night of the event without the client's written consent.

### ----- Nominating Form -----

Name of Nominee: \_\_\_\_\_  
\_\_\_\_\_

Firm Name: \_\_\_\_\_  
\_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_

Reason for nomination: \_\_\_\_\_  
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**Please mail nomination by December 15th to:** Kimberly Rommel-Enright, Esq., Pro Bono Coordinator, Legal Aid Society of Palm Beach, County, Inc., 423 Fern Street, Suite 200, West Palm Beach, FL 33401. If you have any questions regarding these awards, please call Kim at 655 - 8944 ext. 265 or e-mail her at [kenright@legalaidpbc.org](mailto:kenright@legalaidpbc.org).

*Robert Bertisch, Executive Director*

## Rules of Civil Procedure

*Continued from page 12*

produced by opposing parties in the course of discovery will have to be reviewed for personal information prior to filing, and even something as seemingly innocuous as an email address will have to be redacted or truncated.

In federal court proceedings, Federal Rule of Civil Procedure 5 and Southern District of Florida Local Rule 26.1 similarly provide that deposition transcripts and written discovery (requests as well as responses) are not to be filed with the court unless they are to be used in a proceeding, such as a motion to compel, or are otherwise ordered by the court to be filed. In addition, Federal Rule of Civil Procedure 5.2 mandates that certain limited categories of personal information be redacted prior to filing.

New Rule 1.280(f) authorizes the court to impose sanctions for violations of the rule, but the Supreme Court has seemingly sought to discourage the courts from employing that option in the near term, stating as follows: "The newly enacted rules provide for sanctions of these rules. However, continual education and a change in mindset for all those involved in the litigation process are necessary for these rules to work as intended. After all, with the benefits of electronic access to documents comes the responsibility to minimize unnecessary personal information in court records."

In addition to each of these amendments to the rules of civil procedure, the Supreme Court also adopted amendments to the rules of criminal procedure, the rules of appellate procedure, and the probate rules in connection with the adoption of new rule 2.425.

*Matt Triggs is the head of the litigation department of Proskauer Rose LLP in Boca Raton. Jonathan Galler is a senior associate in the department. Both concentrate their practices in commercial and probate litigation.*

## Private Employers Can Discriminate Against Debtors When Hiring

*Continued from page 15*

important to note the distinction between private and public employers. Whereas private employers may discriminate when hiring employees, they are prohibited from terminating an existing employee

because of their being or previously being in bankruptcy. Government employers, however, may not discriminate against debtors when either hiring employees or terminating existing employees.

*This article was submitted by Marc Barmat, Furr and Cohen, P.A., One Boca Place, Suite 337 West, 2255 Glades Road, Boca Raton, FL 33431; [mbarmat@furrcohen.com](mailto:mbarmat@furrcohen.com)*

# Bulletin Board

## \*\*\* Ad Rates \*\*\*

CLASSIFIED ADVERTISING RATES:  
TO PLACE AN AD: 1) Please fax all ads to 561/687-9007 by the 25th of the month. 2) Upon receipt you will be notified of cost. 3) Send payment by the 25th of the month. 4) Cost: 50 words or less \$50, 50-75 words \$65, up to 75 words \$75. 5) Members receive one free classified ad per year (excluding professional announcements). Web-site advertising is also available for a cost of \$50 for a two week run. Payment must be received prior to publication and renewable only upon receipt of next payment.

**The Palm Beach County Bar Association, its officers, directors, and staff do not endorse any product or service advertised. The PBCBA is committed to equal employment opportunity and does not accept employment ads which imply a preference based on race, color, sex, religion, national origin, disability, familial status, sexual orientation, age, marital status and gender identity or expression.**

## POSITIONS AVAILABLE:

The following announce their availability for referral, assistance and consultation.

**SCOTT SUSKAUER:** "AV" rated, Board Certified Criminal Trial Lawyer. Over 20 years of experience. All criminal matters in State and Federal Court including felonies, misdemeanors, DUI, juvenile and traffic matters, 1601 Forum Place, Ste. 1200, WPB, FL 33401; (561) 687-7866. www.suskauerlaw.com.

**GREGORY TENDRICH, Esq.:** FINRA Arbitrator, Certified County Court Mediator & Former Series 7 licensed VP & Asst. General Counsel to Wachovia Securities and other local NYSE/FINRA brokerage firms, is accepting referrals and is available to co-counsel, provide trial/arbitration consultation or assistance in stock loss and investment related disputes, including prudent-investor, suitability, churning and misrepresentation claims in addition to SEC, FINRA, NYSE and other regulatory enforcement matters. Please call (561) 417-8777 or visit www.yourstocklawyer.com.

**GREY TESH:** "Law is not black and white, it's Grey" personal injury & criminal defense (board certified), tried over 100 jury and non-jury trials to verdict. 1610 Southern Blvd. WPB, FL 33406, 800-4-Fatal-Accident.com and aacriminaldefense.com, (561) 686-6886.

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**OFFICE SPACE:** Available for lease that is perfectly suited for a lawyer. Located in the prestigious Trump Office Suites in Downtown West Palm Beach. Units offer dramatic east views of the Intracoastal Waterway and Palm Beach Island. For information contact Rachel Welt at Rachel@trusteeservices.biz or at (954) 889-3403 ext. 105.

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## HEARSAY



The international law firm of Greenberg Traurig, P.A. announces that **Wade Bowden** has joined as a shareholder in the firm's West Palm Beach office.

Bowden is Board Certified in Litigation Law.

Jones, Foster, Johnston & Stubbs, P.A., announces that **Larry B. "Ben" Alexander** has earned the distinction of Florida Bar Board Certified Real Estate Attorney.

**Carolyn S. Ansay**, former partner of Doran, Sims, Wolfe, Ansay and Kundid, West Palm Beach, has become the General Counsel of the South Florida Water Management District, Office of Counsel, 3301 Gun Club Road, West Palm Beach.



**David C. Prather**, a partner at the law firm of Clark, Fountain, La Vista, Prather, Keen & Littky-Rubin in West Palm Beach, has been named to

the new Judicial Nominating Committee (JNC) established by Senators Bill Nelson and Marco Rubio. Prather will serve for a two-year term.

**Abigail Beebe** has become associated with Sasser, Cestero & Sasser, P.A. The firm limits its practice to complex marital and family law matters.

## Bulletin Board

The Law Office of Cyrus K. Toufania, P.A. is pleased to announce that **Cyrus K. Toufania** is now Board Certified in Criminal Trial Law. Mr. Toufania has also been elected to position of Secretary for the Palm Beach Association of Criminal Defense Lawyers.

**Gary Betensky**, a shareholder at Richman Greer, P.A., has been appointed Chair of the Professional Ethics Committee of The Florida Bar.

**Brenda S. Fulmer** of Searcy, Denney, Scarola, Barnhart & Shipley, P.A., has been appointed delegate to the American Association for Justice (AAJ) and elected secretary of The Women's Caucus by the Florida Justice Association. Ms. Fulmer will serve a three-year term on the AAJ's Membership Oversight and Marketing Committee and the Client Services Committee.



Holland & Knight is pleased to announce that **William Shepherd**, a partner in the firm's West Palm Beach office, has been named Chair-Elect of the American Bar Association's Criminal Justice section.

**Gerald F. Richman**, President of the law firm of Richman Greer, P.A. has been elected as Chairman of the Fourth District Court of Appeal Nominating Commission. **John R. Whittles** of the firm, has earned Florida Bar Board Certification in the specialty area of Business Litigation.



McCabe Rabin announces that **Robert Glass** has joined the firm as an associate. Rob clerked for the Honorable Kenneth Marra of the U.S. District Court for the S.D. Fla and the Honorable Spencer Levine of the Fourth DCA. Rob graduated from the University of Virginia School of Law, where he was an editor on the law review.

## Congratulations to our Spelling Bee Champions!

The Lawyers for Literacy Committee recently hosted its 9th Annual Cocktail Reception and Spelling Bee at Bear Lakes Country Club in West Palm Beach. A big congratulations to our winners (from left to right) Scott Zappolo, alternate; Adam Rabin, Gary Lesser and Evan Frederick. The winners will represent the Palm Beach County Bar Association as a team of three in the Literacy Coalition's Great Grown Up Spelling Bee. Good Luck!



**Wendy Murnan, Mark Murnan and Mark Greenberg, Lawyers for Literacy Chair**



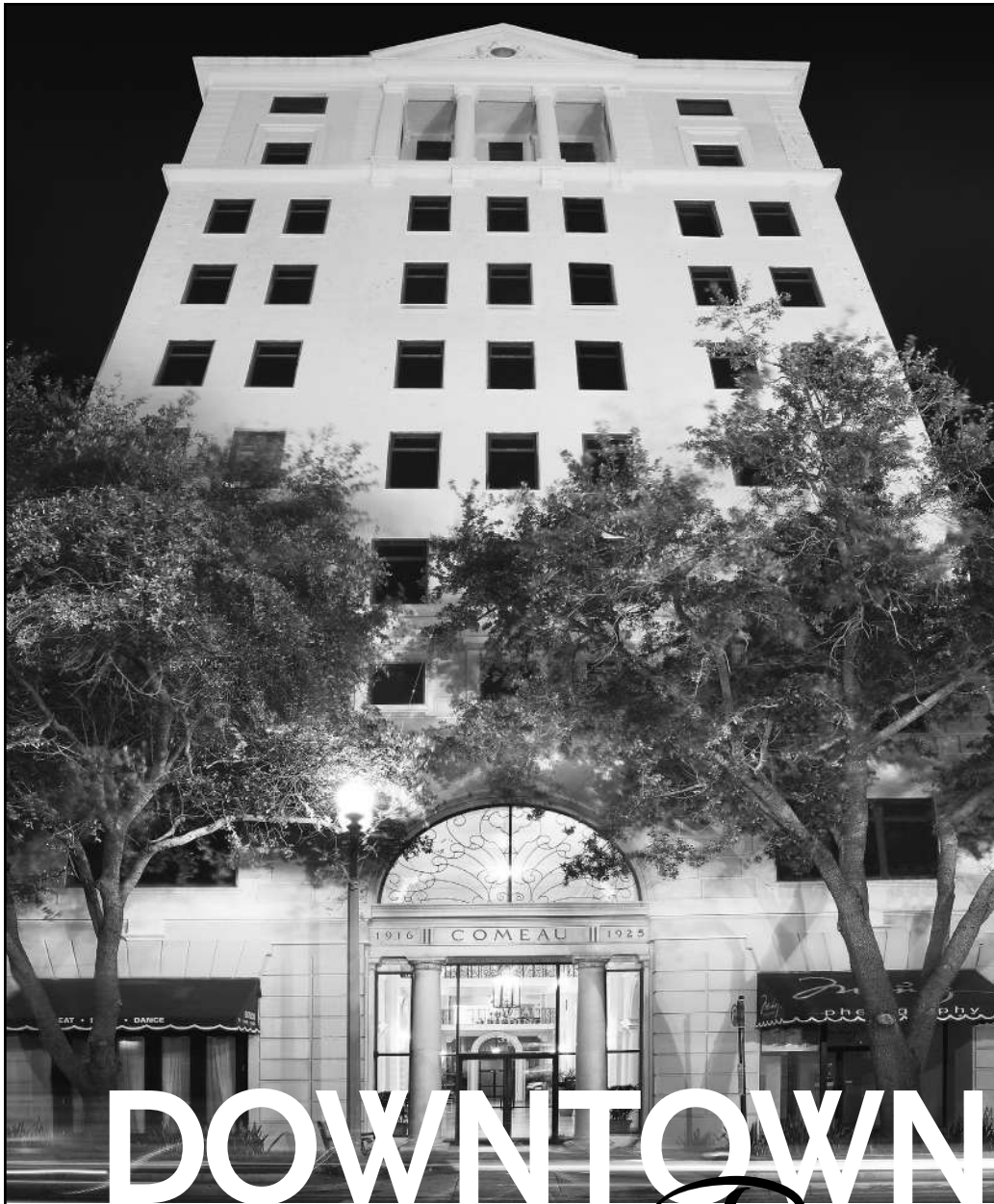
**Cindy Spall and Sheryl Wood**



**Judge Nancy Perez, Judith Migdal-Mack and Jean Marie Middleton**



**Kaleb Bell (right) hands out tickets to Anya Kudzus for a chance to win a gift basket**



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# PALM BEACH COUNTY BAR ASSOCIATION

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\*\*\*\* DECEASED, FLORIDA BAR PRESIDENT  
\*\*\*\*\* DECEASED, FLORIDA BAR PRESIDENT, FEDERAL COURT JUDGE

# CALENDAR October 2011

Saturday, October 1, 8:00am  
**Lawyers Have Heart Run**  
Meyer Amphitheatre, Downtown WPB

Monday, October 3, Noon – 1:00pm  
**Hispanic Bar Association Meeting**  
Judicial Conference Room,  
Main Courthouse  
Contact dzuniga@foryourrights.com

Tuesday, October 4, Noon – 1:00pm  
**PI Wrongful Death CLE  
Committee Meeting**  
Bar Association Office

Wednesday, October 5,  
9am – 12:30pm  
**Bankruptcy Law CLE  
Committee Seminar  
“Tips from the Pros”**  
Bar Association Office

Wednesday, October 5,  
5:30pm – 7:30pm  
**FAWL Networking Reception/  
Happy Hour**

Friday, October 7, 8:30am – 9:30am  
**ADR Committee Meeting**  
Bar Association Office

Monday, October 10  
**Columbus Day – Court Holiday**  
Bar Association Office closed

Monday, October 10  
**Legal Aid Golf Tournament**  
Bear Lakes Country Club

Tuesday, October 11, 11:45 am – 1pm  
**SPBCBA Membership Luncheon**  
Renaissance Boca Raton Hotel  
Contact (561) 482-3838

Tuesday, October 11, Noon – 1:00pm  
**YLS Board Meeting**  
Bar Association Office

Wednesday, October 12, Noon – 1pm  
**NCS Board Meeting**  
Office of McHale & Slavin

Wednesday, October 12,  
5:30pm – 7:30pm  
**Variety Show Auditions**  
Eisey Theatre, PBG

Thursday, October 13,  
11:45am – 1:15pm  
**Judicial Relations  
Committee Meeting**  
Judicial Conference Room,  
Main Courthouse

Thursday, October 13, Noon – 1pm  
**Lawyers for Literacy  
Committee Meeting**  
Bar Association Office

Friday, October 14, 11:45am – 5pm  
**Diversity Summit**  
West Palm Beach Marriott

Saturday, October 15  
**SPBCBA Bench Barrister  
Tennis Bash**  
Delray Beach Tennis Center  
Contact (561) 482-3838

Tuesday, October 18, 11:45am – 1pm  
**Judicial Luncheon**  
North end of Cafeteria,  
Main Courthouse

Tuesday, October 18,  
6:30pm – 7:30pm  
**Small Claims Clinic**  
Wellington Branch Library

Wednesday, October 19 – 22  
**TFB Board of Governors Meeting**  
Charleston Place, Charleston, SC

Friday, October 21, 8:30am – 1pm  
**Family Law CLE Seminar**  
Bar Association Office

Friday, October 21, 11:45am – 1:30pm  
**Federal Bar Association Luncheon**  
The Colony Hotel, Palm Beach  
Contact pstumhofer@pm-law.com

Friday, October 21, Noon – 1pm  
**Law Week Committee Meeting**  
Bar Association Office, Board Room

Saturday, October 22, 10am -1pm  
**Family Picnic**  
Dreher Park, West Palm Beach

Monday, October 24, 5pm – 5:30pm  
**PBCBA Board of Directors Meeting**  
Bar Association Office

Monday, October 24,  
5:30pm – 6:30pm  
**Legal Aid Board Meeting**  
Bar Association Office

Tuesday, October 24, Noon – 1:00pm  
**Committee for Diversity &  
Inclusion Committee Meeting**  
Bar Association Office

Wednesday, October 26,  
Noon – 1:00pm  
**Professionalism Committee  
Meeting**  
Bar Association office

Wednesday, October 26,  
5:30pm – 7:30pm  
**NCS Dinner**  
III Forks in Palm Beach Gardens

Thursday, October 27,  
5:30pm – 7:30pm  
**PB Justice Association Meeting**  
The Colony Hotel, Palm Beach  
Contact Kate Baloga at  
kathyb@pbctla.org

Thursday, October 27,  
5:30pm – 7:00pm  
**YLS Happy Hour**

Friday, October 28, 11:45am – 1:00pm  
**Criminal Practice  
Committee Meeting**  
Judicial Conference Room,  
Main Courthouse