



# PALM BEACH COUNTY BAR ASSOCIATION

# BULLETIN

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

February 2017

## Amanda Knox to Speak



We are excited to announce Amanda Knox will be the keynote speaker for our annual Law Day Luncheon! Amanda is an exoneree, criminal justice advocate, writer and journalist. She was twice convicted and acquitted of murder. She spent nearly four years in prison and eight years on trial for the murder of her roommate, Meredith Kercher, while studying abroad in Perugia, Italy in 2007. Italy's highest court definitively pronounced her innocent in March 2015. She wrote a memoir about her wrongful conviction, *Waiting to Be Heard*, published by HarperCollins in 2013. Most recently a Netflix documentary aired September 2016 entitled "Amanda Knox"

Please don't miss this year's Law Day Luncheon. Save the date and join us on Wednesday, April 26 from 11:30 a.m. to 1:00 p.m. at the Embassy Suites Hotel in West Palm Beach.

Save your seat by registering online today at [www.palmbeachbar.org](http://www.palmbeachbar.org)



## No Shave All Headliners

The Young Lawyers Section hosted their 2nd annual No Shave November fundraiser to benefit the Legal Aid Society and the Cancer Alliance for Help & Hope. Our headliners this year featured: Eddie Stephens, Rob Shalhoub, Bob Bertisch, Greg Huber, R.T. White (rear), Rick Chaves and Paul Shalhoub. A special thanks to our ESPN Host Josh Cohen and Emily (the Stylist). Photo Credit: Patricia R. Brown

## Mark your calendar for upcoming Membership Events

### February 10

2nd Annual Screen on the Green

### February 16:

NCS PGA National Happy Hour and Putting Contest

### March 10:

Annual Bench and Bar Conference

### April 26:

Law Day Luncheon, Guest Speaker: Amanda Knox

### May 2:

Judicial Reception

## New Member Benefit



Clio is the most widely-used, cloud-based practice management system in the world. Every day, tens of thousands of lawyers use Clio to schedule meetings, organize cases, track time, and invoice their clients. Palm Beach County Bar Association members receive a 10% lifetime discount on Clio.

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THE  
**BULLE<sup>T</sup>IN**

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BAR ASSOCIATION

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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  
1507 Belvedere Road  
West Palm Beach, FL 33406

## Bench Bar 2017



By Amy Borman and Jennifer Feld,  
2017 Bench Bar Conference Chairs  
Celebrating the Past with an iToward the Future



We are excited to introduce #BenchBar2017!  
For almost 40 years, the judges and lawyers of  
the Fifteenth Judicial Circuit have been meeting

at an annual conference to work through issues pending in the circuit, discuss new developments in the law, and reconnect with colleagues. The conference continues to serve as the largest gathering of Palm Beach County judges and attorneys, offering a unique forum to discuss pressing issues with the judiciary.

This year, the Bench Bar Conference, to be held on Friday, March 10, 2017 at the Palm Beach County Convention Center, is receiving a makeover. The theme is "Celebrating the Past with an iToward the Future." We want to get back to what the Bench Bar is truly about - a dialogue between the bench and bar. We'll celebrate the past by recognizing our attorneys and judges who have been members of The Florida Bar for 50+ years. We'll look toward the future, by assisting attorneys and staff with the latest technological advancements in the legal profession. New this year, the Clerk's Office and Court Administration will have computers set up in the hallways to work one-on-one with attorneys and staff to learn about eCaseView, the E-Portal, and the Fifteenth Judicial Circuit's Bench Viewer.

The Bench Bar Conference is being promoted with the slogan "New Practice Areas, New Topics, New Sessions, New Bench Bar." But what does that actually mean?

**New Practice Areas:** The Bench Bar Conference has expanded to include the practice areas of Guardianship, Workers' Compensation, Foreclosure, and Bankruptcy.

**New Topics:** This year, there will be topic-specific "cross-over" sessions - where the interests of two different areas of law intersect. Are you a state court civil practitioner whose case was removed to federal court? There is a session for you. Are you a trial attorney who wants to ensure that you don't create reversible error in jury selection? There is a session for you. Are you a probate or family lawyer whose clients face foreclosure? Yes, there is also a session for you.

**New Sessions:** Along with the staff session in the morning, there will also be more attorney sessions. Additional attorney sessions will accommodate all of the new practice areas - plus there will be so many sessions to choose from. You can attend sessions in the morning, afternoon, or all day. The morning will be broken up into two 75-minute morning sessions (with a 15-minute break in between). After lunch, there will be three 60-minute sessions (with a 15-minute break in between each session). There will be plenty of signs and volunteers willing to help you find your sessions.

**Lunch:** Come out and help us recognize the attorneys and judges who have been members of The Florida Bar for 50+ years. Hear from Chief Judge Jeffrey Colbath on the State of the Court. Congratulate the winners of the Diversity and Professionalism Awards. Enjoy the company of those at your table.

**Cocktail Reception:** Attending the Bench Bar Conference provides an opportunity to both interact with judges and network with other attorneys from diverse practice areas. After the conference, stay for happy hour and reconnect with friends and acquaintances you haven't seen since the last Bench Bar Conference. Introduce yourself to practitioners who may be new to the community.

**New Bench Bar:** This is an exciting time for the Bench Bar Conference and we look forward to seeing you Friday, March 10, 2017 at the New Bench Bar!

**Bench Bar Conference**  
"Celebrating the Past with an iToward the Future"  
#BenchBar2017  
**Friday, March 10, 2017**  
Morning Session 8:30am - 11:15am  
Afternoon Session 1:30pm - 5:00pm  
**Palm Beach County Convention Center**  
More Details Coming Soon



## A Brief Introduction to The Florida Bar Foundation

by John R. Whittles

Just what is the Florida Bar Foundation anyway? As lawyers, we have all heard of the Foundation, but to many attorneys and the general public, the organization is not well understood.

The Foundation was created as a not-for-profit corporate entity in 1956 and obtained 501(c)(3) (tax exempt charity) status in 1961. In its early years, it was small and lightly funded; but from modest beginnings changes came that elevated the work of the Foundation to levels far beyond its humble beginning. The transformation began in 1978 when a first-in-the-nation program of collecting interest on law firm trust accounts ("IOTA") was adopted. The alchemy of IOTA takes advantage of trust account funds that would otherwise realize no interest income to create sizable revenues by pooling all of those funds so that the interest may be used to support legal aid services. The IOTA program developed further in 1981, as formalized by the Florida Supreme Court's opinion in Matter of Interest of Trust Accounts, 402 So.2d 389 (Fla. 1981), and then really took off in 1989, when the program became mandatory. Matter of Interest on Trust Accounts, 538 So.2d 448 (1989). As a result, all law firms in Florida now comply with rules that interest on nominal and short-term funds held in trust accounts be paid to the Foundation to improve the administration of justice and to expand the delivery of legal services to the poor. And this has not just benefitted Floridians; the path blazed here has since been followed by every other state.

In addition to IOTA funds, the Foundation also receives charitable contributions and government recoveries. The Office of the Florida Attorney General has been quite helpful in the latter regard and sums from various settlements with financial institutions relating to mortgage and foreclosure abuses have been entrusted to the Foundation for distribution to assist with foreclosure prevention and community redevelopment.

All funds coming to the Foundation are administered by a highly competent staff that is led by Executive Director Bruce Blackwell and overseen by a 33-member Board of Directors. The Board's current President is attorney Matt Brenner of the Lowndes Drosdick firm in Orlando.

The core mission of The Florida Bar Foundation is to improve access to justice. Although we are blessed in this country with an exceptional justice system, that system is not reasonably accessible to many people with real need. That justice gap means about eighty percent (80%) of those who cannot afford an attorney will not have assistance for their legal needs.

Currently, twenty-eight (28) grantee organizations receive funds from The Florida Bar Foundation to provide legal services to those who otherwise would not have such services. Highlighting the significant work done by these organizations is beyond the scope of this brief introduction, but I encourage you to read the heartwarming stories of justice

which are regularly published on the Foundation's website, in The Florida Bar News, and in other publications, and which is expected to be featured in the March 2017 issue of The Florida Bar Journal.

Since 1982, nearly half a billion dollars have been generated for the cause of justice from IOTA funds. The amount realized does vary depending on the amounts held in law firm trust accounts, and the interest rates these earn. IOTA initially generated just a few million dollars per year until it became mandatory in 1989 and began generating more than \$12 million annually. When banks were required to pay comparable interest rates on IOTA accounts beginning in 2004, revenues reached a high of \$72 million. But in the last seven years, historically low interest rates have dropped annual IOTA revenues to roughly \$5.5 million. The good news is that, during the boom years, the Foundation Board and staff made the wise decision to retain funds in order to have a reserve for future years when rates may drop. The bad news is that rates have now been at historic lows since 2009, and that reserve fund will be completely depleted in 2017.

Some of the reduction in funds has been made up by charitable contributions, cy pres awards, and other sources, but the reality is the Foundation is now staring into an abyss where the level of funding for legal services for the poor distributed to grantee organizations is on the verge of effectively dropping from roughly \$7.6 million this year for general legal assistance to the poor from IOTA to \$2.2 million per year in general support from IOTA by 2018, and may stay at that low level until rates paid on IOTA accounts recover. For the last several years, the Board and staff, along with the various grantee organizations, have been making plans and adjustments and very hard choices have been made. There is no avoiding that the coming years may be very difficult for individuals who have legal needs but cannot afford an attorney.

If you are so inclined to support the cause of civil justice, there are many ways you might help. First, take a pro bono case. Second, you can support the Foundation by becoming a Fellow, or by legacy in your will, or through a simple contribution. Finally, you can directly support our Palm Beach County Legal Aid Society.

As officers of the Court, we are privileged to serve within a justice system that is one of our civilization's greatest achievements. Unfortunately the system does suffer from a sizable justice gap, which the Foundation does much to fill. As it is now seriously limited in its ability to bridge that gap, the assistance of the Bar and the general public to support that cause is sorely needed. We can help; and we should.

Note: Thank you to former Florida Board of Governor Member (and my pal), David C. Prather and Florida Bar Foundation Board Member, Tom Oldt for their work on this article.

# No Shave November



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## Board Meeting Attendance

	JUL	AUG	SEPT	OCT	NOV	DEC
<b>Barnes</b>	X		phone	X	X	X
<b>D’Amore</b>	X	X	X	phone	X	X
<b>Huber</b>	X	X	X	X	X	X
<b>Mason</b>	phone	X	X	X	X	X
<b>McElroy</b>	X	X	X	X	X	X
<b>Pressly</b>	X	X	X	X	X	
<b>Reagan</b>	X	X	X	phone	X	X
<b>Smith, G.</b>	X	X	X	X	X	X
<b>Smith, S.</b>	X	X	X	X	X	X
<b>Whittles</b>	X	X	X	X	X	X
<b>Wilson</b>	X	X	X	X	phone	X
<b>Wyda</b>	X	X	X	X	X	
<b>Xenick</b>	X	X	X	X	phone	X



## Earned Fees to Be Shared Between Counsel – Operating Account or Trust Account?

By D. Culver Smith III

We lawyers all know (we do, don't we?) that an earned fee must be deposited into the

operating account and not the trust account, because the latter would be considered impermissible commingling of personal funds with trust funds. But what about an earned fee that is subject to division with a lawyer not in the same firm?

Rule 4-1.5(g) of the Rules Regulating The Florida Bar permits the division of a fee between counsel not in the same law firm if certain conditions are met. Rule 41.5(f)(4)(D) imposes additional conditions for the sharing of a contingency fee between lawyers in a personal-injury case. A division of a fee in this sense means "a single billing to a client covering the fee of 2 or more lawyers who are not in the same firm." R. Regulating Fla. Bar 41.5, cmt. para. [22]. An unsettled question in some circles is how a lawyer receiving an earned fee that is subject to such an arrangement should initially handle the funds: deposit them in the lawyer's operating account, as normally is the case with an earned fee, or deposit them in the lawyer's trust account?

The answer turns on whether the other lawyer is a "third person" within the meaning of Rule Regulating Fla. Bar 51.1(a)(1), which requires a lawyer to "hold in trust, separate from the lawyer's own property, funds and property of clients or third persons that are in a lawyer's possession in connection with the representation of a client." The rule applies in many situations, including fee and cost advances, receipt of settlement funds, holding client funds to which creditors have claims, and fee disputes between lawyer and client. In those circumstances, the involvement of the client or a "third person" is clear—someone other than the lawyer. One logically might view two or more participating counsel as a unit for these purposes, given that they are sharing a single fee. Some jurisdictions have reached that conclusion, but others the opposite. To this writer's knowledge, no Florida court decision or ethics opinion has addressed the issue. There is at least one disciplinary proceeding, however, in which The Florida Bar charged that a lawyer who deposited such funds in his operating account pending a dispute with his co-counsel

violated the mandate of rule 5-1.1(a)(1) that funds belonging to a third person be held separately from the lawyer's own property. See Fla. Bar v. Medina, No. SC09-644 (Fla. July 20, 2009) (Report of Referee approving settlement), available at <[http://www.floridabar.org/DIVADM/ME/MPDisAct.nsf/DISACTVIEW/F0EFC321DF8152F0852579E40005AD06/\\$FILE/789860\\_3306.PDF](http://www.floridabar.org/DIVADM/ME/MPDisAct.nsf/DISACTVIEW/F0EFC321DF8152F0852579E40005AD06/$FILE/789860_3306.PDF)>.

On December 7, 2016, the ABA Standing Committee on Ethics and Professional Responsibility issued Formal Opinion 475, which concludes that the lawyer with whom the fee is to be shared is a third person under comparable ABA Model Rule 1.15 and, therefore, that the fee should be deposited in the receiving lawyer's trust account. This is the more logical conclusion. In a very real sense, the earned fee is a res in which the other lawyer has a direct interest, and the receiving lawyer's depositing the fee in

the operating account could be seen as a conversion. There is a safe alternative in the event of a prolonged dispute between counsel: opening a separate account into which the fee is deposited pending resolution of the dispute and disbursing any undisputed amounts from that account. This would satisfy the requirement that the funds coming into a lawyer's possession in which a third party has an interest be held separate from the lawyer's own property and would avoid any claim of commingling. So long as any undisputed amounts are promptly disbursed, however, opening a separate account should be unnecessary. Given the Moreno case and ABA Formal Opinion 475, The Florida Bar is unlikely to assert a commingling claim when an earned fee to be shared between counsel is deposited in the receiving lawyer's trust account, the other lawyer is notified of the receipt of the funds, and any undisputed amounts are promptly disbursed.

*D. Culver "Skip" Smith III focusing his practice on the law of lawyering, including grievance defense, ethics consultation, disqualification and sanctions motions, and expert-witness services.*

## ALEXANDER "SANDY" MYERS, ESQUIRE



Mediator/Arbitrator (Admitted to the FL Bar 1970)

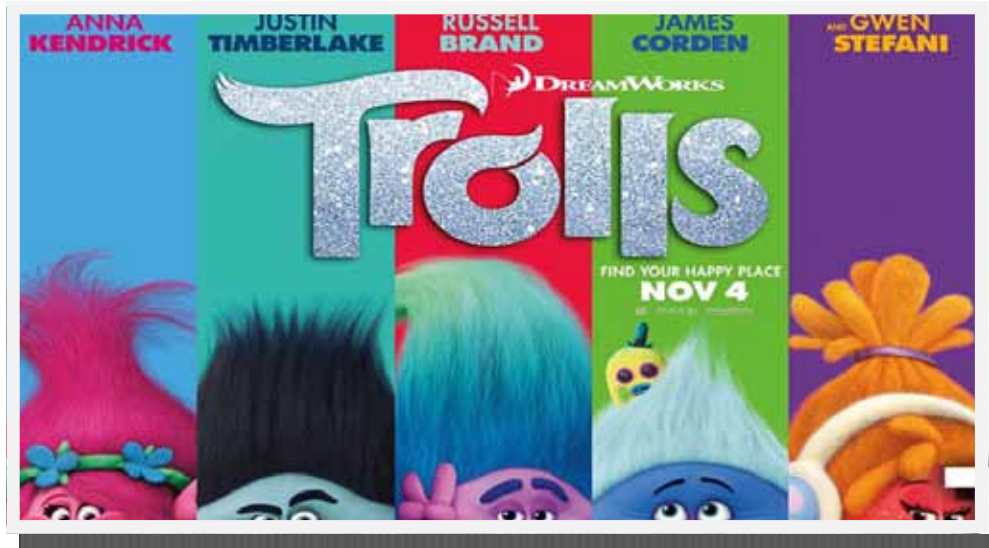
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Email: [SandyMyersMediation@gmail.com](mailto:SandyMyersMediation@gmail.com)

# JOIN US FOR DINNER AND A FAMILY MOVIE!



Friday, February 10, 2017



**Dinner:** 6:30 p.m. Catered dinner with adult beverages, family photos, popcorn, candy and more!

**Movie:** 8:00 p.m. Trolls. Rated PG. Featuring Justin Timberlake

**Place:** The Lake Pavilion, 101 South Flagler Drive, WPB (across from E.R. Bradley's)

**Registration:** Adults \$30.00 and Children \$15.00

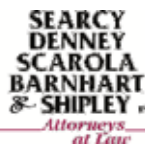
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North County Section



Young Lawyers Section



# Annual Holiday Party!

Several hundred members attended this year's Holiday Party and Silent Auction at PGA National Resort in Palm Beach Gardens. The evening included a cocktail reception, an amazing silent auction with more than 125 gifts, and plenty of networking. Close to \$17,000.00 was raised for several programs, including a holiday party for foster children.



**Hard working YLS Silent Auction Co-Chairs Christine Bialczak and Leslie Metz along with Rene Iosco**



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The Alternative Dispute Resolution Committee of the Palm Beach County Bar Association  
presents:



**ADR - A Help and Not a Hurdle**

Monday, February 13, 2017, 8:00 a.m. - 4:40 p.m., PBCBA, 1507 Belvedere Rd., WPB

- 8:00 am - 8:30 am **Check in/Breakfast**
- 8:30 am - 8:40 am **Welcome & Opening Remarks:** *Theodore Deckert, Esq., Matrix Mediation, LLC; Certified Circuit Civil, Family and County Mediator; Florida Supreme Court Qualified Arbitrator; ADR Committee Chair*
- 8:40 am - 9:30 am **Diversity Issues in Mediation (CV):** *Stephanie McHardy, Florida Dispute Resolution Center. (Special thanks to Theodore Deckert for underwriting speaker's transportation costs.)*
- 9:30 am - 10:20 am **Taking ADR Seriously:** *Circuit Judge (Retired) Kenneth Stern, Esq., Stern Dispute Resolution*
- 10:20 am - 10:30 am **Break**
- 10:30 am - 11:20 am **Arbitration - Love it/Hate it Q&A - Interactive discussion between attendees and Moderated Panel of Judge, Arbitrator, Plaintiff and Defense Attorney addressing Current developments and issues regarding arbitration:** **Moderator:** *Donna Greenspan Solomon, Esq., Solomon Appeals, Mediation & Arbitration; Certified Circuit Civil, Appellate & Family Mediator; Member of AAA's Roster of Arbitrators (Commercial Panel); Florida Supreme Court Qualified Arbitrator* **Panel:** *Hon. Richard L. Oftedal, Circuit Judge; Arbitrator Hon. Lucy Chernow Brown, Ret. Circuit Judge, JAMS, Certified Circuit Civil Mediator; Plaintiff Attorney William A. Dean, Esq., Ford & Dean PA; Defense Attorney Matthew C. Martin, Esq., Gaebe, Mullen, Antonelli & DiMatteo PA*
- 11:20 am - 12:10 pm **ADR Case Law & Ethics Update (E):** *W. Jay Hunston, Jr., Esq., W. Jay Hunston, Jr., PA; Florida Certified Circuit Civil Appellate and Family Mediator; Florida Supreme Court Qualified Arbitrator*
- 12:10 pm - 12:45 pm **Lunch \*\*\* Sponsored by**  **\*\*\***
- 12:45 pm - 1:35 pm **Use of Technology in Mediation:** *Christopher Hopkins, Esq., McDonald Hopkins LLC; Florida Certified Circuit Civil Mediator*
- 1:35 pm - 2:25 pm **The Role of Civility in Mediation:** *Michael D. Mopsick, Esq., Shapiro, Blasi, Wasserman, & Hermann, P.A.; Florida Supreme Court Certified Circuit Civil Mediator*
- 2:25 pm - 2:35 pm **Break**
- 2:35 pm - 3:50 pm **Timing of Mediation - Four Quarters of the Dispute - Interactive discussion between attendees and Moderated Panel of Mediators:** **Moderator:** *W. Jay Hunston, Jr., Esq.;* **Panel:** *Theodore Deckert, Esq.; William J. Cea, Esq., Becker & Poliakoff; Board Certified in Construction Law; Florida Certified Circuit Civil Mediator; Victoria Calebrese, Esq.; Victoria Calebrese, PA; Board Certified in Marital and Family law; Florida Certified Family Mediator*
- 3:50 pm - 4:40 pm **Domestic Violence – It's Not Just About Violence:** *Sara Trosty Walsh, LCSW; Psychotherapist & Director Rosenberg Domestic Abuse Program, Alpert Jewish Family & Children's Service & Levine Jewish Residential & Family Service*

Credit: 8.5 CLER; 1.0 Ethics; 1.0 Technology. Cost \$ 240 PBCBA members/paralegals; \$ 280 non-PBCBA attorney members/paralegals. After 2/6/17, add \$10.00 late fee. All refund requests must be made no later than 48 hours prior to the date of the seminar. This course is eligible for up to 8.5 CME hours. Mediators are required to self report those hours applicable to their areas of certification at the time of their renewal. For more information on the CME requirement, visit, [www.flourts.org](http://www.flourts.org), select Alternative Dispute Resolution. Certificate of attendance will be provided at seminar.

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\_\_\_\_ I will not be able to attend the seminar, but would like to order the CD. The cost is the same as listed above, however please include \$10 for shipping and handling. Allow four weeks for delivery. PBC Bar Association, 1507 Belvedere Rd., W. Palm Beach, FL 33406. 561-687-2800. (2.13 ADR)





## Prepare Your Client for Success at Mediation

By Judge Lucy Chernow Brown (Ret.)

The attorneys most likely to experience a successful mediation prepare early and effectively. Perhaps the single most important pre-mediation step you can take is to prepare your client for success, helping him to understand and trust the mediation process. Ideally, by the time mediation takes place, your client should be ready to work toward resolution by effectively participating in building a positive atmosphere of collaboration. Of course, this is often far from easy, especially if you are mediating close in time to your trial date, after a lengthy period of contentious discovery and motion practice. However, once your client thoroughly understands the benefits and the meaning of successful resolution of his issues without the risks and anxiety of trial, he can help you achieve his goals by working effectively with you during the negotiations throughout the mediation process.

Fully explain the mediation process, including opening statements, confidential caucuses, and the fact that many mediators find it effective to meet with different groups of lawyers and/or clients at different stages of the process. Tell your client in advance that mediations are very often more lengthy than might be expected, and that he may spend some time waiting while the mediator works in caucus with the other side.

Initially, recognize that many, if not most, clients have intense emotions wrapped into their litigation cases. Over the course of my twenty-four years on the circuit bench, I have learned that even the most sophisticated business clients can become so trapped in the powerful emotions and the personalities involved in their litigation cases that they completely lose sight of the practicality and even the reality of their disputes. As a mediator, I have seen this particular obstacle deprive more clients of the chance to achieve success at mediation than any other.

While it is not likely that you will be able to erase or overcome strong client emotions, the lawyer skilled in preparing her client for success at mediation will use her persuasion skills

to convince the client of the wisdom of temporarily setting aside those emotions to marshal all his brain power, creativity and energy into achieving resolution and closure. Remind your client that working hard to reach a collaborative resolution will not negate his final option for a trial if the parties are not able to agree on a settlement.

Work to help your client understand the perspective of those on the other side of the case. Ask him to keep an open mind and pay very careful attention to the opening statement made by the other side. Make certain your client recognizes the weaknesses as well as the strengths in his own case, despite the convincing-sounding opening statement you expect to give, glossing over those weaknesses. It is vital that your client appreciate the fact that, hard as you will work for him, there is no guarantee of a favorable result at trial. Point out the benefits of an immediate and final disposition. Encourage him to appreciate the benefits of a voluntary, confidential, definite and final settlement of the dispute.

While maintaining confidence in your case, give your client a realistic view of the evidence. Review all significant evidentiary issues likely to come up, and help the client appreciate the weaknesses, as well as the strengths, of your position on each element of evidence you expect at trial, both for and against your position. Discuss how your trial strategy may need to be changed should the evidence on which you plan to rely be excluded by the judge, or if other pre-trial rulings are not favorable to your side.

Before mediation, it is essential to have an open and frank talk with your client about money. Make sure he truly understands each of the specific categories of costs associated with taking his case through a trial and appeal. Explain all possible outcomes with respect to attorney's fees and costs for which he may be responsible *on both sides of the case*.

It is only fair to give your client a realistic picture of what success at trial may look like for him, in dollars that he will ultimately pay or receive. Likewise, prepare him to keep an open

mind to consider the analysis of the experienced mediator. Do your best to avoid his coming to the mediation with unrealistic expectations. If, despite your best efforts, you see that your client continues to view his case in an unrealistic manner, you should consider a brief, confidential pre-mediation frank discussion about this with your mediator, who can help expand your client's perspective.

A properly prepared client will appreciate that a successful resolution of his case at mediation can beat a "win" and appeal following an expensive trial.

*Judge Lucy Chernow Brown (Ret.) served 24 years as Circuit Judge presiding over thousands of civil cases of all types. Since her December 2014 retirement Judge Brown has been active- mediating and arbitrating cases, and working as a Court appointed Special Master/ Special Magistrate. A Florida Supreme Court certified Civil Circuit Mediator, Judge Brown is a Neutral associated with JAMS, the international ADR provider.*

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**Late Registration/Lunch**

11:55 a.m. - 12:00 p.m.  
**Welcome and Opening Remarks**  
**Kent Frazer, Esq., Akerman; Business Litigation CLE Committee, Chair**

12:00 p.m. - 1:00 p.m.  
**Silka M. Gonzalez, President and Founder, Enterprise Risk Management**  
**Aurora Fagan, Esq., Assistant U.S. Attorney, Southern District of Florida, U.S. Attorney's Office**

- ◆ How to prepare your practice and firm for the worst and to provide useful knowledge and counsel if and when your clients hacked
- ◆ Discussion of what law firms must do when their data security systems have been breached
- ◆ A view on the required response to data breach
- ◆ What plans and procedures need to be in place to mitigate the damage from a data breach?
- ◆ Best Practices for Victim Response and Reporting of Cyber Incidents

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# Real Property and Business Litigation Report



by *Manuel Farach*

**pdrGrayson Dental Lab, LLC v. Progressive Dental Reconstruction, Inc.**, – So. 3d –, 2016 WL 6804588 (Fla. 1st DCA 2016).

Documents which are not privileged in the hands of a party do not become protected by the accountant-client privilege merely by turning them over to an accountant.

**743 Mahoney, LLC v. MDC 5, LLC**, – So. 3d –, 2016 WL 6775869 (Fla. 2d DCA 2016).

While an appraisal report for deficiency purposes should value the property as of foreclosure sale date, an appraisal report valuing the property six days after foreclosure sale is not so non-probative of value that it should be excluded from evidence.

**Barton v. Metrojax Property Holdings, LLC**, – So. 3d –, 2016 WL 6781827 (Fla. 3d DCA 2016).

Florida Statute section 701.02 (1) does not give later lienors priority over an earlier recorded mortgagee who failed to record an assignment of mortgage.

**The Tropicana Condominium Association, Inc. v. Tropical Condominium, LLC**, – So. 3d –, 2016 WL 6778379 (Fla. 3d DCA 2016).

The failure of a condominium declaration to have “Kaufman language,” i.e., language stating that the declaration would be subject to Florida’s Condominium Act “as amended from time to time,” prohibits amendments to the Condominium Act having retroactive application to a condominium’s declaration if doing so impairs contractual obligations.

**Adweiss LLLP v. Daum**, – So. 3d –, 2016 WL 6778383 (Fla. 3d DCA 2016).

Applying Delaware law, the term “defend” in the phrase “indemnify, defend and hold harmless” in a LLC agreement provides for the advancement of attorney’s fees and costs prior to the conclusion of the litigation as the term “defend” means more than “indemnify” under Delaware law.

**Bank of New York Mellon v. Withum**, – So. 3d –, 2016 WL 6778674 (Fla. 4th DCA 2016).

A lender accepting partial payments after notice of acceleration may, depending on the language of the mortgage, not need to send out new default and acceleration notices.

**Boardwalk at Daytona Development, LLC v. Paspalakis**, Case No. 5D15-1944 (Fla. 5th DCA 2016).

A description of the land to be conveyed is a necessary element of a claim for breach of a land sales contract; “[n]either law nor equity can furnish a sufficient description of land to be conveyed where the parties have failed to do so.”

**Rodriguez v. Ocean Bank**, – So. 3d –, 2016 WL 6901638 (Fla. 3d DCA 2016).

A borrower who does not release claims against its lender in a Loan Modification Agreement (LMA) is free to pursue lender liability claims against the lender, including delay damages.

**Aligned Bayshore Marina, LLC v. American Watersports Coconut Grove, LLC**, – So. 3d –, 2016 WL 6901638 (Fla. 3d DCA 2016).

A trial court order to maintain the status quo during litigation may amount to a temporary injunction, and if so, must comply with Florida Rule of Civil Procedure 1.610.

**Sebo v. American Home Assurance**, – So. 3d –, 2016 WL 7013859 (Fla. 2016).

The Concurrent Cause Doctrine (“coverage may exist where an insured risk constitutes a concurrent cause of the loss even when it is not the prime or efficient cause”), instead of the Efficient Proximate Cause Doctrine (“where there is a concurrence of different perils, the efficient cause—the one that set the other in motion—is the cause to which the loss is attributable”) applies to all-risk insurance policies in Florida.

**Citibank, N.A. v. Olsak**, – So. 3d –, 2016 WL 6992272 (Fla. 3d DCA 2016).

An expert, including a “mortgage foreclosure fraud investigator and securitization auditor,” may not testify as to legal opinions in a conclusory fashion.

**Jarrette Bay Investments Corporation v. BankUnited, N.A.**, – So. 3d –, 2016 WL 6992220 (Fla. 3d DCA 2016).

A party seeking 57.105 fees for appellate proceedings must comply with Florida Rule of Appellate Procedure 9.410(b), including the Rule’s service of proposed motion and “safe harbor” provisions.

**Tixe Designs, Inc. v. Green Ice, Inc.**, – So. 3d –, 2016 WL 6992296 (Fla. 3d DCA 2016).

A tenant suing a landlord may, as “a sign of good faith,” deposit rent into the Registry of the Court pursuant to Florida Rule of Civil Procedure 1.600.

**Palma v. JPMorgan Chase Bank, Nat’l Ass’n, Case No.** 5D15-3358 (Fla. 5th DCA 2016).

A note and mortgage which incorporates the Federal Housing Administration regulations, including the face-to-face meeting requirement of 24 C.F.R. § 203.604, transforms the face-to-face meeting requirement into a condition precedent.

**Olson v. Pickett Downs Unit Iv Homeowner’s Association, Inc.**, Case No. 5D15-4043 (Fla. 5th DCA 2016).

The “significant issues test” of *Moritz v. Hoyt Enterprises, Inc.*, 604 So. 2d 807 (Fla. 1992), does not apply when attorneys’ fees are awardable only on some of the counts that are pled and tried.

**Palm Beach Florida Hotel And Office Building Limited Partnership v. Nantucket Enterprises, Inc.**, – So. 3d –, 2016 WL 7118850 (Fla. 4th DCA 2016).

Florida law does not permit self-help repossession, even if permitted in the lease between the parties and even if the landlord has terminated the lease.

**Liberty Home Equity Solutions, Inc. v. Raulston**, – So. 3d –, 2016 WL 7118841 (Fla. 4th DCA 2016).

Failure to pay taxes and insurance are a material breach permitting foreclosure. To prove a prima facie case of foreclosure, a plaintiff must only prove: “(1) an agreement between the parties; (2) a default by the defendant; (3) acceleration of the debt to maturity; and (4) the amount due.”



The Business Litigation Committee of the  
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# E-Discovery Cost Shifting

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**Late Registration / Lunch**

11:55 a.m. - 12:00 p.m.  
**Welcome and Opening Remarks**  
**Kent Frazer, Esq., Akerman; Business Litigation CLE Chair**

12:00 p.m. - 1:00 p.m.  
**Guest Speaker: Gregory S. Weiss, Esq.,**  
**Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A.**

- **2012 E-Discovery Amendments to Florida Rules of Civil Procedure**
- **Case Law Interpreting Florida E-Discovery Amendments**
- **Federal Rules Addressing E-Discovery**
- **Zubulake: Landmark Decision in the Area of E-Discovery**
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## Some Of The Women Judges of the Fifteenth Judicial Circuit: Who They Are, What They Have Done and What You Should Know About Them

by: *Lisa Kohring*

Even though it's not women's history month, we can still celebrate and recognize the accomplishments and positive impact that the female judges on the Fifteenth Judicial Circuit have made on our community. We've supported these female judges through local elections and appointments on their rise to the bench and they've supported our community. We've set in motion change that will have a lasting ripple effect on our diversity, locally and across the State. But, it is nearly impossible to appreciate the impact these women have made without a firm grasp and robust knowledge of their backgrounds, cultural influences and unwavering commitment to our community. Here is what you should know about these female judges, how their experiences have shaped them, and the significant impacts they've made to pave the way for women in our field.

Judge Meenu Sasser is a perfect example of the strong and effective women judges we have on our Circuit. Fifteen years ago, Judge Sasser helped create the Committee for Diversity and Inclusion, which has been successfully impacting diversity in our community for over a decade. As a Shareholder at Gunster, she helped create the firm's Women's Alliance Program, supporting the firm's efforts to hire and retain female attorneys, and she was the fifth woman elected to President of the Palm Beach County Bar Association. Since her appointment in 2009, she is one of the most highly regarded judges in Palm Beach County in the last three Palm Beach County Bar Polls.

During our interview, Judge Sasser offered insightful comments about the positive changes she's noticed in our community's perception of women judges. Discussing her first-hand experience witnessing an increase in women attorneys taking on significant roles in complex litigation cases in her courtroom, Judge Sasser said: "I'm the happiest to know that women are being successful in attaining positions on our judiciary and [law] in general." While explaining her efforts to pave a way for women, she remains optimistic that we'll continue to improve diversity and committed to making a concerted effort to be a driving force behind diversifying our judiciary. She has passion for diversity and has already shown she embodies the type of work ethic necessary to make a lasting impact.

Although some may say she's green because she's one of the newest female members of our judiciary, Judge Jessica Ticktin is someone to watch. As a result of living in Canada, the Bahamas and Florida before turning seven, she acquired a unique perspective on different cultures, customs and ethnicities at a young age. She gained significant inspiration from her father, a successful attorney, and benefited from an upbringing that encouraged inclusivity and diversity. By age 30, Judge Ticktin was a named partner with Matthew Nugent, practicing family law and, thereafter, Judge Ticktin became the Managing Partner of The Ticktin Law Group and grew the firm to 10 offices. As an attorney, Judge Ticktin applied

the strengths derived from her experiences to build-up strong, hard-working women and now she's harnessing that strength as a judge. She's a firm believer that "women and minorities need a bench that represents the community" and explained that when we have a diverse judiciary, jurors and litigants may be more receptive and confident in the system.

Judge Samantha Schosberg Feuer was elected to our Circuit in 2014 and is also a newcomer to our judiciary. She's been a public servant for the better part of her career. Raised by a father in the United States Army and mother who was a teacher, it wasn't long before she learned she was passionate about working to give back to the community. During her career serving as a South Florida Bureau Chief and a Special Prosecutor in Miami, she had occasion to receive resistance because of her gender; she didn't shy away from the challenges, she met them head on and she's made it her mission to advance women in our community. She is one of the founders of the Women's Foundation of Palm Beach County, helping to create its Girl's Leadership Institute program, and she also served as the President of the PBC chapter of FAWL. Since her election, Judge Schosberg Feuer said "the bench has been a place where people are supported by one another, both men and women," and emphasized that even though women "don't even comprise 50% of the bench, we're moving in the right direction," in part, because "women judges have proven to be hard-working, diligent, have good judicial dispositions and are team players."

Judge Daliah Weiss is also one of the newest female judges to join our Circuit, but she's been serving on the bench since she was appointed in 2012. Judge Weiss' mother practiced law in South America and personified the classic example of a strong-willed and intelligent woman. Through watching her mother, Judge Weiss developed a deep appreciation for strong work ethic and became fascinated with the law. During her seventeen years working as a prosecutor, she realized it wasn't uncommon for her authority and strength in prosecuting to be judged simply because she was a petite female handling cases in the SVU unit. To combat this implicit bias, she began developing creative skills to emphasize her strengths to take the focus off her petite stature and onto her knowledge of the law and command of the facts. Judge Weiss has proven she has a keen ability to adjust herself to meet the challenges she's faced and she's committed to mentoring women in our community to exude resilience, innovation and strength.

Despite the fact that on a national level women remain underrepresented at trial, in leadership roles throughout civil litigation,<sup>1</sup> in equity partnership pools<sup>2</sup> and overall in states

*Continued on page 14*

<sup>1</sup> Women Lawyers Beginning to Break Through Glass Ceiling in the Courtroom. April 13, 2016 by Lieff Cabraser; <http://www.lieffcabraser.com/2016/04/women-lawyers-break-through-glass-ceiling/>

<sup>2</sup> only 17.4% of equity partners are women. Women and Minorities Maintain Representation Among Equity Partners, Broad Disparities Remain, NALP Bulletin, March 2016. <http://www.nalp.org/0316research>

# Welcome New Members!

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

**Miguel Aristizabal:** Emory University, 2016; Associate in Eraclides Gelman Hall Indek Goodman & Waters, Royal Palm Beach.

**Kyle M. Brown:** University of Miami, 2016; Office of State Attorney, West Palm Beach.

**Nicole E. Corring:** Florida State University, 2015; Office of State Attorney, West Palm Beach.

**Jenice A. Dellepiane:** Florida Registered Paralegal Membership, Palm Beach Gardens.

**Ashley Eagle:** St. Thomas University of Florida, 2014; Associate in Law Office of Maaz Quraishi, West Palm Beach.

**Anne Gehle:** Florida Registered Paralegal Membership, Boca Raton.

**Marcela Gyires:** University of Texas, 2009; Associate in Pozo Goldstein, West Palm Beach.

**Amanda Hoy:** Ave Maria School of Law, 2015; Vero Beach.

**Amanda Klopp:** Harvard University, 2016; Associate in Akerman, West Palm Beach.

**Keven Leveille:** Florida State University, 2012; Solo Practitioner, Sunrise.

**Melissa Papa:** Nova Southeastern University, 2015; Solo Practitioner, Deerfield Beach.

**Scott E. Reiter:** University of Miami, 1998; Solo Practitioner, West Palm Beach.

**Ryan J. Vataaro:** Akron University, 2016; Associate in Eraclides Gelman Hall Indek Goodman & Waters, West Palm Beach.

**Charles A. Vercillo:** University of Miami, 2016; Florida Rural Legal Services, Inc. Riviera Beach.



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**Eric H. Luckman** is the founder of MediationWorks. He has been a lawyer for over 33 years and has been a Florida Bar Board Certified Civil Trial Lawyer for over 20 years. Eric is also a Florida Supreme Court Certified Circuit Civil Mediator. His areas of expertise include personal injury and wrongful death, insurance coverage and bad faith claims, professional malpractice claims and condominium and homeowners association disputes.



**Wallace B. McCall** has been a lawyer for over 40 years and has been a Florida Bar Board Certified Civil Trial Lawyer for over 30 years. Wally is also a Florida Supreme Court Certified Circuit Civil Mediator. His areas of expertise include personal injury and wrongful death, medical malpractice and products liability claims.



**Philip G. Thompson** has been a lawyer for over 20 years and is an active civil trial lawyer, handling cases for both plaintiffs and defendants. Phil is also a Florida Supreme Court Certified Circuit Civil Mediator. His areas of expertise include personal injury and wrongful death, professional malpractice claims, worker's compensation claims and general civil litigation matters.



**Cecelia Dempsey** has been a lawyer for over 30 years and is licensed to practice in Florida, New York and Vermont. Cecelia is also a Florida Supreme Court Certified Circuit Civil, County and Appellate Mediator. Her areas of expertise include corporate, commercial, trademark and intellectual property disputes.



**Donna Greenspan Solomon** has been a lawyer for over 20 years and is one of only 3 lawyers certified by The Florida Bar as both an Appellate Expert and Business Litigation Specialist. Donna is also a Florida Supreme Court Certified Circuit Civil, Family and Appellate Mediator. Her areas of expertise include contract disputes, business torts, partnership agreements, and insurance coverage claims.

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## Women Judges

*Continued from page 13*

courts of general jurisdiction,<sup>3</sup> Florida has one of the highest percentages of women judges<sup>4</sup> and Palm Beach County remains a leader in the State in terms of judicial diversity.

We are fortunate to have these trailblazers on our Circuit, and if we recognize the strides we've made and the strengths that we derive from having intelligent and hard-working women on the bench, we'll be able to appreciate how significantly we have evolved into the diverse community that we represent today.

*Lisa Kohring practices employment law and commercial litigation with Schwarzberg & Associates and sincerely appreciates the participation of Judges Sasser, Tickin, Schosberg Feuer, and Weiss in this article.*

<sup>3</sup> A Current Glance at Women in the Law, May 2016, ABA, [http://www.americanbar.org/content/dam/aba/marketing/women/current\\_glance\\_statistics\\_may2016.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/marketing/women/current_glance_statistics_may2016.authcheckdam.pdf)

<sup>4</sup> Racial and Gender Diversity on State Courts, An AJS Study, [http://www.judicialselection.us/uploads/documents/Racial\\_and\\_Gender\\_Diversity\\_on\\_Stat\\_8F60B84D96CC2.pdf](http://www.judicialselection.us/uploads/documents/Racial_and_Gender_Diversity_on_Stat_8F60B84D96CC2.pdf)



## Mishandling Collateral Might Result in Nondishchargeable Debt

by Jason S. Rigoli

In an unpublished opinion, the Eleventh Circuit held that a Debtor's mishandling of collateral resulted in a nondischargeable debt under 11 U.S.C. § 523(a)(6). See *Monson v. Galaz (In re Monson)*, Case No. 15-14939, – Fed.Appx.–, 2016WL6833332 (11th Cir. Nov. 21, 2016).

### Background

The debtor entered into a loan agreement for \$130,000.00, the proceeds of which were to be used to fund, create, and manage an internet café. *Id.* at \*1. By contract the loan was secured by the equipment purchased by the internet café. *Id.* In addition, the contract gave the creditor “free access” to all of the internet café’s records and required the creditor’s approval for “[a]ny material decisions relating to the [internet café],” such as the selection of vendors, the hiring of employees, and the signing of contracts. The Agreement provided that the parties jointly agreed not to open or be involved with ‘any additional sweepstakes Centers without the consent of the other party’ and that, if the parties were to open additional centers, the Agreement’s terms would apply.” *Id.* at \*2.

Within a few weeks of opening the internet café was raided by police, who seized all of the assets and shut down the internet café alleging it was engaged in illegal online gaming. *Id.* While the police were in possession of the equipment, the creditor provided notice to the debtor, that it wished to terminate the agreement and demanded liquidation of the equipment to repay the loan. *Id.* The debtor then entered into an agreement with the police to retrieve the equipment, which required him to remove all of the equipment from Hillsborough County, Florida. *Id.* The debtor did so, moving the equipment to Jacksonville and opening a new internet café with a new partner.

The creditor then sued the Debtor in Texas State Court, which resulted in a Rule 11 Agreement, and Order from the Texas State Court, which was then moved to Federal District Court and finally to the Florida Bankruptcy Court. *Id.* at \*3.

The creditor instituted a dischargeability adversary proceeding, which resulted in the Bankruptcy

Court finding that the debt was nondishchargeable under 523(a)(6). *Id.* at \*4. The District Court affirmed and the debtor appealed.

### Eleventh Circuits’ Opinion

The Eleventh Circuit followed its *Kane* opinion, *In re Kane*, 755 F.3d 1285 (11th Cir. 2014), holding that an “intentional act” gives rise to a nondishchargeable debt under Section 523(a)(6) if it was “substantially certain to cause injury.” *Id.* at \*7. And, for breaches of contract a “separate independent tort” is not required, only a “knowing breach of a clear contractual obligation that is certain to cause injury may prevent discharge under Section 523(a)(6), regardless of separate tortious conduct.” *Id.* (quoting *Kane*, at 1295-96).

The debtor argued that failing to turn over the equipment was justifiable because the lien evidently was unperfected since a proper financing statement had not been filed. The debtor nonetheless admitted knowing the loan was intended to be secured by a perfected security interest.

Upholding the finding of nondishchargeability, the Eleventh Circuit approvingly cited two Florida bankruptcy court opinions for the proposition that

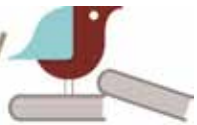
“whether or not a lienholder’s security interest is properly perfected or recorded, where the debtor has knowledge of the lienholder’s claim and subsequently sells or disposes of the property at issue without notice to the lienholder, that act constitutes a willful and malicious injury under Section 523(a)(6).” *Id.* at 8 (citing *In re Garcia*, 442 B.R. 848, 851–52 (Bankr. M.D. Fla. 2011); *In re Giffen*, 195 B.R. 951, 953–54 (Bankr. M.D. Fla. 1996)).

The Eleventh Circuit further reiterated that Section 523(a)(6) does not require proof of an intentional tort. “Rather, all that is required is that [the debtor’s] behavior was ‘willful’ and ‘malicious,’” *Id.* at \*8, and in a footnote avoided taking sides on a circuit split “as to whether the ‘substantially certain’ prong of the standard requires a subjective or objective standard.” The evidence, according to the opinion, supported the bankruptcy court’s finding that the debtor “intentionally committed an act that he knew was substantially certain to injure.” *Id.* at \*8 n. 9.

*This article submitted by Jason S. Rigoli, Furr Cohen, 2255 Glades Road, Suite 337W, Boca Raton, FL 33431, jrigoli@furrcohen.com*



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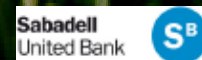
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## Elections: North County Section Seeks 5 Directors and President-Elect

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The Section seeks five new members to serve a two year director position, plus president-elect. Petitions will be available starting on Wednesday, March 1. The Board meets once a month to plan various networking events and programs for its members. To be considered, you must submit a completed nomination form to the Bar Office no later than 5:00 p.m. on Thursday, March 30. If there is a contested election, voting will take place online in April and the winners will be announced online.

The current Board includes President, Rosemarie Guerini; President-Elect, W Mason; Immediate Past President Lawrence P. Buck.

Directors serving terms ending June 2017 are David Steinfeld, Lawrence Strauss, Nicholas Johnson, Lindsay Warner and Gregory Zele.

Directors serving a two year term expiring June 2018 include Misty Chaves, Malinda Hayes, Tanique Lee, R. Wayne Richter and Kate Watson.

Contact Lynne for a petition form at [lpoirier@palmbeachbar.org](mailto:lpoirier@palmbeachbar.org)

## Legal Aid Brooks Brothers' Annual Holiday Event Benefits County's Most Vulnerable

On November 15, 2016, one hundred twenty-five (125) young professional friends of the Legal Aid Society of Palm Beach County enjoyed holiday drinks, hors d'oeuvres, and shopping at Brooks Brothers in the Gardens Mall to benefit the disadvantaged children, families and elderly in our community.

This event, now in its 12th year, supports Legal Aid's 21 Projects which provide critical needed legal services to abused, neglected, abandoned, disabled, and foster children, survivors of domestic violence, sexual assault and stalking, fragile and exploited elders, victims of discrimination and individuals facing unfair and deceptive trade practices, to name a few.

For the first time this year's evening included a fashion show which highlighted the modeling skills of 5 renowned Palm Beach County attorneys – Abigail Beebe, Theo Kypreos, Gary Lesser, Patricia Leonard, and Michelle Suskauer.

The Legal Aid Society of Palm Beach County, Inc., founded in 1949, is a private nonprofit, 501 (c)(3) organization dedicated to providing free legal services to disadvantaged children, families, elders and individuals living in Palm Beach County. Projects include the Domestic Violence Project, Juvenile Advocacy Project, Foster Children's Project, Ryan White Project, Fair Housing Project and Elder Law Project.

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JOIN OUR INITIATIVE  
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**NEW!**  
**Online**  
Interactive Bulletin  
**GO GREEN**  
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The Estate and Probate CLE Committee of the Palm Beach County Bar Association  
presents:



## Guardianship Boot Camp

Thursday, February 9, 2017, 8:00 a.m. - 4:40 p.m., Embassy Suites Hotel, 1601 Belvedere Rd., WPB

- 8:00 a.m. - 8:20 a.m. **Late Registration and Breakfast**
- 8:20 a.m. - 8:30 a.m. **Welcome and Opening Remarks** - Peter Forman, Esq., and Brett C. Barner, Esq.  
Committee Co-Chairs
- 8:30 a.m. - 10:00 a.m. **Big Changes: Guardianship Legislative and Case Law Update** -  
Hun Nguyen, Esq., Chairman, Guardianship Committee RPPTL Section; FL Supreme Court  
Certified Circuit Civil Mediator; The Nguyen Law Firm
- 10:00 a.m. - 10:15 a.m. **Break**
- 10:15 a.m. - 11:05 a.m. **Ethical Considerations in Representing Persons With Diminished Capacity** -  
D. Culver (Skip) Smith, III, Esq., Culver Smith III, P.A.
- 11:05 a.m. - 12:00 p.m. **The Examining Committee – Challenging and Supporting Capacity  
Determinations** – Peter Forman, Esq., Gutter Chaves Josepher Rubin Forman Fleisher PA.
- 12:00 p.m. - 1:00 p.m. **Lunch Program: The Progression and Manifestation of Dementia and Legal  
Rights** - Stephen R. Alexander, Psy.D., Clinical Psychologist
- 1:00 p.m. - 1:30 p.m. **Alternatives to Guardianship and the Verified Statement** - Brett C. Barner, Esq.,  
Barner & Barner, P.A.
- 1:30 p.m. - 2:00 p.m. **Who Controls What? Trusts in Guardianship Proceedings** - William T. Hennessey,  
ACTEC Fellow, and Nicklaus Curley, Esq., Gunster
- 2:00 p.m. - 2:50 p.m. **15<sup>th</sup> Judicial Circuit: Accounting Requirements in Guardianship Proceedings  
and New AO for Appointment of Professional Guardians From a Wheel** -  
Anthony Palmieri, Deputy Inspector General for the Clerk's Guardianship Fraud Program
- 2:50 p.m. - 3:00 p.m. **Break**
- 3:00 p.m. - 3:20 p.m. **Joint Ownership of Property in Guardianship Proceedings** - Lawrence J. Miller,  
Esq., Gutter Chaves Josepher Rubin Forman Fleisher PA.
- 3:20 p.m. - 3:40 p.m. **When Does It Really End? Guardianship Proceedings After the Death of the  
Ward** - Brian M. O'Connell, Esq., Board Certified in Wills Trusts and Estates;  
Ciklin Lubitz & O'Connell
- 3:40 p.m. - 4:10 p.m. **Mock Hearing on Alternatives to Guardianship v. The Appointment of a Guardian** -  
John Farina, Esq., Board Certified in Wills Trusts and Estates & Duane L. Pinnock Esq.,  
Boyes Farina & Matwiczynk, P.A.
- 4:10 p.m. - 4:40 p.m. **Probate Judges' Panel - Rulings on the Mock Hearing and Discussion** -  
Moderator: Matthew H. Triggs, Esq., Proskauer Rose LLP



7.5 CLER, 1.0 Ethics. Certification credits: 7.5 Juvenile Law. \$ 250 PBCBA members/paralegals, \$ 290 non-PBCBA attorney members/paralegals. Those registering after 2.2.17 add \$10.00 late fee. All refund requests must be made no later than 48 hours prior to the date of the seminar.

**HOW TO REGISTER**

**BY CHECK:** Return a copy of this flyer with your contact information

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

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

I will not be able to attend the seminar, but would like to order the CD. The cost is the same as listed above, however please include \$10 for shipping and handling. Allow four weeks for delivery. PBC Bar Association, 1507 Belvedere Rd., W. Palm Beach, FL 33406. 561-687-2800. (2.9 E & P)



## Death During Litigation. Procedural Impediments to Continuing the Lawsuit

by David M. Garten

How does a surviving party continue with the litigation when the opposing party dies and no estate is opened? Can the court appoint a representative to represent the decedent's interests in the litigation? This question was answered in *Gomez v. Fradin*, 199 So. 3d 554 (Fla. 4th DCA 2016).

In *Gomez*, the defendant died during the course of the litigation. The plaintiff, an unliquidated creditor of the estate, petitioned the trial court to appoint a representative for the decedent in their proceeding for breach of fiduciary duty because no estate had been opened for the deceased. The trial court concluded that it had no authority to appoint a representative and denied the motion,

noting that the plaintiffs could petition for administration in the probate court. The appellate court affirmed on the same basis, citing *Harrison-French v. Elmore*, 684 So. 2d 323 (Fla. 3d DCA 1996) and *In re Estate of Raymond*, 237 So. 2d 84 (Fla. 1st DCA 1970). Judge Warner, in his concurring opinion, reasoned that there is no authority in statute or rule for the trial court to appoint either an administrator ad litem or a guardian ad litem to represent the deceased in the litigation without first opening an estate.

In *Harrison-French*, an order requiring the attorney for a civil defendant who died during the pendency of a negligence action to open that person's estate and substitute the personal representative of the estate as party defendant was held to be improper because the attorney was the defendant's

representative only for the purpose for which he was retained, i.e., to defend the negligence action, and consequently, the court was without authority to order him to undertake other matters.

**PRACTICE TIP:** A creditor should jump at the chance to open an estate for the deceased opposing party. Assuming the creditor is appointed as curator for the estate, the letters of curatorship entitle the curator to possession and control of the decedent's property, which the court may enforce through contempt proceedings. In addition, the court can authorize the curator to perform any duty or function of a personal representative. See §733.501(1), F.S. and Fla. Prob. R. 5.122. In this way, the creditor can obtain all of the decedent's financial and email information without a subpoena.

## Upchurch Watson White and Max MEDIATION GROUP is pleased to announce that

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has joined the firm's distinguished panel of neutrals.

He continues to practice law full-time in Palm Beach County, representing litigants in serious and complex personal injury and commercial litigation matters.

A graduate of the University of Florida for both undergraduate and law school, Ted brings more than five decades as a highly respected civil litigator to his mediation practice.

We proudly welcome Ted to our team. His cutting-edge methods, experience as a trial lawyer, quiet authority and proven record of satisfying results will greatly benefit our clients in reaching successful resolutions in all matters from the simplest to the most complex.



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The Personal Injury CLE Committee of the  
Palm Beach County Bar Association  
presents:



**Litigating Personal Injury/Wrongful Death Cases –  
The Rules Have Changed. Things You Need to Know For Trial**

Friday, February 17, 2017, 8:30 a.m. - 2:30 p.m.  
PBCBA, 1507 Belvedere Rd., WPB

- 8:30 a.m. - 8:55 a.m. **Late registration and Breakfast**
- 8:55 a.m. - 9:00 a.m. **Welcome and Opening Remarks:** *Timothy Murphy, Esq., Personal Injury of Florida and Matthew Lane, Esq., Matthew Lane & Associates, P.A. Personal Injury/Wrongful Death CLE Co-Chairpersons*
- 9:00 a.m. - 9:50 a.m. **How to Handle Collateral Source Setoffs - Medicare, Medicaid, etc.:** *Peter Hunt, Esq., LaBovick, LaBovick & Diaz Law Group*
- 9:50 a.m. - 10:40 a.m. **Professionalism Presentation:** *Kara Berard Rockenbach, Esq., Methe & Rockenbach, P.A.*
- 10:40 a.m. - 10:50 a.m. **Break**
- 10:50 a.m. - 11:40 a.m. **Healthcare Lien Resolution - How to Cut Through the Red Tape:** *David Place, Esq., Vice President, Synergy Settlement Services*
- 11:40 a.m. - 12:30 p.m. **Lunch**
- 12:30 p.m. - 1:20 p.m. **Obtaining Medical Records - The Buck Starts Here:** *Jasmine Rodriguez, Domnick, Cunningham & Whalen*
- 1:20 p.m. - 2:30 p.m. **Ethics in Advertising - How to Ethically Cast the Net:** *Brenda Fulmer, Esq., Searcy Denney Scarola Barnhart and Shipley*



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**5.5 CLER and 1.0 Ethics. Certification credits: 5.5 Civil Trial**

\$ 150 PBCBA members/paralegals, \$190 Non- PBCBA attorney members/paralegals. Those registering after 2.10.17 add \$10.00 late fee.  
All refund requests must be made no later than 48 hours prior to the date of the seminar.

<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> 	Materials will be emailed to registrants prior to the seminar
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**Palm Beach County Bar Association, 1507 Belvedere Road, West Palm Beach, FL 33406**



## Limits On Compensation Of An Adult Child's Loss

by Ted Babbitt

*R.J. Reynolds Tobacco Co. v. Odom*, 41 Fla. L. Weekly D2670 (Fla. 4th DCA Nov. 30, 2016) is an Engle progeny case tried in Palm Beach County. Suit was brought by the daughter and personal representative of the estate of a woman who allegedly died because of smoking the defendant's cigarettes. The jury found in favor of the plaintiff and awarded her \$6 million in compensatory and \$14 million in punitive damages.

The defendant alleged on appeal that the award of \$6 million in compensatory damages for an adult child was excessive.

The appellate court confirmed the law as we know it regarding a jury's right to determine the amount of noneconomic loss. At 2670, the Court held:

Where the loss is of a non-economic nature, however, such as for mental pain and anguish and for loss of consortium, the valuation is inherently difficult. *R.J. Reynolds Tobacco Co. v. Townsend*, 90 So. 3d 307, 310 (Fla. 1st DCA 2012). Because no formula can determine the value of such a loss, great deference is given the jury's estimation of the monetary value of the plaintiff's mental and emotional pain and suffering. *Id.* "The fact that a damage award is large does not in itself render it excessive nor does it indicate that the jury was motivated by improper consideration in arriving at the award." *Id.* (quoting *Allred v. Chittenden Pool Supply, Inc.*, 298 So. 2d 361, 365 (Fla. 1974)). Rather, a compensatory damage award is only excessive if it is so large that it exceeds the maximum limit of a reasonable range. *Id.*

Nevertheless, in *Odom* the appellate court established what appears to be a bright line conclusion that an adult child not living with the decedent is incapable of having sufficient mental anguish to justify a substantial award no matter what the testimony shows. At 2671 the Court holds

Although the evidence established that Plaintiff and her mother had a very close and unique relationship, at the time of Ms. Thurston's illness and death, Plaintiff was not living with Ms. Thurston and was not financially or otherwise dependent on her. Instead, Plaintiff was married with two children of her own and Ms. Thurston was living with her long-time partner. Although Plaintiff took her mother to many of her appointments and was devastated by her decline and subsequent death, the relationship between an adult child living independent of their parent is simply not the type of relationship which can justify the magnitude of the Plaintiff's compensatory damage award. Accordingly, we hold that the trial court abused its discretion when it denied RJR's motion for remittitur or a new trial.

The Court relied upon *R. J. Reynolds Tobacco Co. v. Webb*, 93 So. 3d 331, 337 (Fla. 1st DCA 2012) which concluded that an \$8 million award to an adult surviving child was excessive because at that time there had been no other cases with verdicts

of similar magnitude. This was despite the fact that there was evidence in the *Webb* case of a very close relationship between the father and child, there was a grandchild who had special needs and who had a very special relationship with his grandfather, that the plaintiff was deaf and relied substantially on her father for assistance.

The *Odom* Court also relied on *Phillip Morris USA, Inc. v. Putney*, 199 So. 3d 465, 470-471 (Fla. 4th DCA 2016) in which a \$10 million award divided between two children was found to be excessive despite heartbreaking testimony concerning the progression of the decedent's death and the close relationship between the decedent and the plaintiffs. Looking at these two cases, the Court concludes at 2671:

Read together, *Webb* and *Putney* establish that no matter how strong the emotional bond between an adult child and a decedent parent may be, an adult child who lives independent of the parent during the parent's smoking related illness and death is not entitled to multi-million dollar compensatory damages award, even if the child was involved in the facilitation of the parent's treatments and suffered tremendous grief over the loss of the parent.

While there is obviously precedent for the decision in *Odom*, supra, as well as the cases on which *Odom* relies, a hard and fast rule that an adult child simply cannot suffer enough to justify a multi-million dollar award seems to fly in the face of the very authority cited initially by the Court. Why is an adult child's anguish so inferior to that of a wife or the parents of a deceased child? The *Odom* Court cites with approval the affirmance of a \$10.8 million compensatory award in favor of the wife of a deceased smoker in *R. J. Reynolds Tobacco Co. v. Townsend*, supra.

This author's verdict in *Kia Motor Corp. v. Cintron*, 873 So. 2d 336 (Fla. 4th DCA), rev. dis. 880 So. 2d 11 (Fla. 2004) was a per curiam affirmance of a jury award of \$10 million for the parents of a 19 year old girl who died in a rollover accident. There was no economic loss and the jury awarded precisely the amount that I asked it to award purely for the parents' mental pain and anguish. The Fourth District did not even think an opinion was necessary in order to affirm that award.

Mental pain and anguish is difficult to evaluate. The law in Florida cited in *Odom* concludes that a jury verdict, regardless of its amount, should rarely be overturned. Nevertheless, this appellate court and other appellate courts cited above have apparently concluded that there is a distinction between emotional distress and pain and suffering suffered by an adult child who does not live with the decedent and that of other types of plaintiffs. While this distinction is difficult to fathom, it is clear that the law of Florida as espoused by the district courts of this state does make that distinction and has created a body of law isolating that class of suffering from other damage awards.



The Family Law CLE Committee of the Palm Beach County Bar Association  
presents



**Modification of Parenting Plans: Seven Practical Tips**

Friday, April 28, 2017, 8:00 a.m. - 3:40 p.m.  
PBCBA, 1507 Belvedere Rd., WPB

- 8:00 a.m. – 8:20 a.m. **Late registration**
- 8:20 a.m. – 8:30 a.m. **Welcome and Introductions**
- 8:30 a.m. – 9:20 a.m. **Use of G.A.L. and Experts in Modification** -  
Kim Yueh-Mei Nutter\*, Esq., Brinkley Morgan
- 9:20 a.m. – 10:10 a.m. **Children’s Issues: Establishing a Substantial Change for Modification  
of Parental Responsibility and Timesharing** - R.T. White\*, Esq., Schultz &  
White, LLP
- 10:10 a.m. – 10:20 a.m. **Break**
- 10:20 a.m. – 11:10 a.m. **Attorney Fees** - Robert M.W. Shalhoub\*, Esq., Robert M.W Shalhoub, P.A.
- 11:10 a.m. – 12:00 p.m. **Discovery Related to Social Media and Technology** -  
Eddie E. Stephens\*, Esq., Ward Damon Posner Pheterson & Bleau
- 12:00 p.m. – 1:00 p.m. **Lunch**
- 1:00 p.m. – 1:50 p.m. **Professionalism Presentation** - D. Culver (Skip) Smith, III, Esq.,  
Culver Smith III, P.A.
- 1:50 p.m. – 2:40 p.m. **Calculating Child Support after Time Sharing is Modified** -  
Roderick C. Moe, CPA, P.A.
- 2:40 p.m. – 2:50 p.m. **Break**
- 2:50 p.m. – 3:40 p.m. **A View from the Bench** - Judges and Magistrates

\* Florida Bar Board Certified in Marital and Family Law

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7.0 CLER; 1.0 Ethics. Certification credits: 7.0 Juvenile Law and 7.0 Marital and Family Law. Cost: \$200 PBCBA members/paralegals; \$ 240 non-PBCBA attorney members/paralegals. Those registering after 4/12/17 add \$10.00 late fee. All refund requests must be made no later than 48 hours prior to the date of the seminar.

<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>Materials will be emailed to registrants prior to the seminar</b>
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## YLS Foster Kids Holiday Party

The Young Lawyers Section once again hosted their annual holiday party for 75 foster kids. The children enjoyed visiting with Santa "Santo" Claus. Each child was presented with a gift, compliments of our member-wide Silent Auction and Holiday Party. They were treated to pizza, cookies and juice. Closing out the night with festive songs lead by the Bar Board President John Whittles and his band. A very special thank you to the West Palm Beach Marriott for donating the space for us to host this joyous event.



**Want to see a movie?  
Buy your discounted tickets  
through the Bar!**



The PBCBA has discount movie tickets available for its members. Remember, these tickets make great gifts for family, babysitters, staff, clients or end of the year gifts for teachers. Savings are available for the following theaters:

Muvico (Carmike) Theater  
\$8.00 each

Regal Theaters  
\$8.50 each

Come by the office and pick up your tickets today (payment only by check or credit card). Tickets will only be FedEx'd (not mailed) if member provides us with a FedEx number.

PRICES ARE SUBJECT TO CHANGE



The Technology and Solo Practitioner Committees of the  
Palm Beach County Bar Association  
present:



**Recognizing and Addressing Common Security  
Threats in your Practice**

Tuesday, February 7, 11:30 a.m. - 1:00 p.m.  
PBCBA, 1507 Belvedere Rd., WPB

**11:30 a.m. - 11:55 a.m.  
Late Registration/ Lunch**

**11:55 a.m. - 12:00 p.m.  
Welcome and Opening Remarks  
Robert Wilkins, Esq., Jones Foster; Technology Committee, Chair**

**12:00 p.m. - 1:00 p.m.  
Silka M. Gonzalez, President and Founder  
Enterprise Risk Management**

Since security incidents and breaches continue to increase globally, this presentation will provide the audience relevant information about different aspects of breaches that need to be considered by all organizations. The presentation will cover current security breach trends using computer forensics and security knowledge to investigate the breach, legal considerations, remediating the problems that contributed to the breach, and preventive measures to mitigate and deal with future incidents.

Sponsor



**1.0 CLER and 1.0 Technology credit** ; \$ 25 PBCBA members/paralegals, \$ 65 non-PBCBA attorney members/paralegals. Support staff wishing to attend must mail in their registration. Support staff pay price reflective of their attorneys PBCBA member/non-member status. After 1.31.17 add \$10.00 late fee. All refund requests must be made no later than 48 hours prior to the date of the seminar.

<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>Materials will be emailed to registrants prior to the seminar</b>
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[View Webinar](#) If you can't leave the office, you can attend via webinar by registering at <http://www.palmbeachbar.org> Webinar can be viewed LIVE or ON-DEMAND. WEBINAR REGISTRATION IS **NOT** HANDLED THROUGH THE BAR OFFICE. Please call (888) 449-2512 for webinars or visit <http://palmbeachbar.org/>

Name: \_\_\_\_\_ Email address: \_\_\_\_\_

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\_\_\_\_ I will not be able to attend the seminar, but would like to order the CD. The cost is the same as listed above, however please include \$10 for shipping and handling. Allow four weeks for delivery. PBC Bar Association, 1507 Belvedere Rd., W. Palm Beach, FL 33406. 561-687-2800. (2.7.17 Technology seminar)





The Technology Committee of the  
Palm Beach County Bar Association  
presents:



**iPad for Litigators and Trial Presentations**

Friday, March 3, 2017, 11:30 - 1:00p.m.  
PBCBA, 1507 Belvedere Rd., WPB

11:30 a.m. - 11:55 a.m.  
**Late registration/Lunch**

11:55 a.m. - 12:00 p.m.  
**Welcome and Opening Remarks**  
*Robert Wilkins, Esq., Jones Foster; Technology Committee, Chair*

12:00 p.m. - 1:00 p.m.  
**Guest speaker: Spencer T. Kuvin, Esq., Law Offices of Craig Goldenfarb, P.A.**

- ⇒ **Trial Preparations**
- ⇒ **Depositions**
- ⇒ **Hearings**
- ⇒ **Mediations**

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**1.0 CLER ; 1.0 Technology**

The cost of the seminar is \$ 25 for PBCBA members/paralegals, \$ 65 for non-PBCBA attorney members/paralegals. Those registering after February 24, add \$10.00 late fee. All refund requests must be made no later than 48 hours prior to the date of the seminar.

<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>Materials will be emailed to registrants prior to the seminar</b>
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**View Webinar** If you can't leave the office, you can attend via webinar by registering at <http://www.palmbeachbarcle.org> Webinar can be viewed LIVE or ON-DEMAND. WEBINAR REGISTRATION IS **NOT** HANDLED THROUGH THE BAR OFFICE. Please call (888) 449-2512 for webinars or visit <http://palmbeachbarcle.org/>

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**Palm Beach County Bar Association, 1507 Belvedere Road, West Palm Beach, FL 33406**

The Palm Beach County Bar Association's Elder Law Affairs Committee  
presents:



# 17th Annual View From The Bench



Thursday, April 6, 2017  
The Colony Hotel, 155 Hammon Avenue, Palm Beach

6:00 - 6:30 p.m. Registration and Cash Bar  
6:30 - 8:30 p.m. Dinner and Panel Presentation  
Moderated by radio personality, Scott Greenberg, CAEd

## JUDICIAL PANEL (expected)

Judges Howard K. Coates, Jr.; Jaimie R. Goodman; Judge Kathleen Kroll  
Janis B. Keyser; Karen M. Miller; Rosemarie Scher; Jessica J. Ticktin



Have an issue or question you would like the judges to address?  
Email Heather Samuels: [HSamuels@solhoff.com](mailto:HSamuels@solhoff.com)

Evening includes dinner, CLE, complimentary drink and valet parking

Please select one of the following:

- \_\_\_ Brown Sugar & Horseradish Crusted Salmon, Mascarpone Mashed Potatoes, Grilled Zucchini
- \_\_\_ Chicken Marsala, Mascarpone Mashed Potatoes, Grilled Zucchini
- \_\_\_ Cheese Tortellini with Golden Tomato Fondue, White Truffle Essence

### Sponsors

JoAnn Abrams, Esq.



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



**CLER pending. Early registration cost (includes dinner, 1 complimentary drink, valet parking and CLE) is \$ 80 for PBCBA members/paralegals; \$ 120 for non-PBCBA attorney members/paralegals if registered by 3/30/17; add \$20 to registration fee after that date. All refund requests must be made no later than 48 hours prior to the date of the event. "Credit card registration payment not accepted by Fax to comply with PCI regulations"**

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**PAYMENT BY CHECK ONLY, WITH THIS FORM. PBCBA, 1507 Belvedere Road, West Palm Beach, FL 33406. (561) 687-2800**

# Register Today Get In Early!



## February's CLE Hit List

- Workers' Comp- 02/06
- Technology - 02/07
- Estate & Probate - 02/09
- ADR - 02/13
- Personal Injury - 02/17
- Business Lit - 02/24

## March's CLE Hit List

- Technology - 03/03
- Business Lit - 03/17

## April's CLE Hit List

- Elder Law - 04/06
- Securities Law - 04/12
- Family Law - 04/28

## CLE CD's available for purchase

*Please visit our website at: [www.palmbeachbar.org](http://www.palmbeachbar.org)*

Webinar's can be viewed at: [www.palmbeachbarcle.org](http://www.palmbeachbarcle.org)

CLE Downloads Available at: [www.palmbeachbar.org/continuing-legal-education](http://www.palmbeachbar.org/continuing-legal-education)



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



**The Changing Landscape of Securities  
Regulation, Arbitration and Litigation**

Wednesday, April 12, 2017, 12:30 - 6:00 p.m.  
PBCBA, 1507 Belvedere Rd., WPB

- 12:30 p.m. - 1:00 p.m. **Lunch, Check-in and Opening Remarks** – Jonathan B. Butler, Esq., Akerman LLP, Securities Law CLE Chairperson
- 1:00 p.m. - 1:30 p.m. **Securities Law Update & Other Hot Topics** – Jeremy M. Colvin, Esq., McDonald Hopkins LLC
- 1:30 p.m. - 2:15 p.m. **Expert Panel on the Department of Labor's Fiduciary Duty Rule** - Moderated by Jonathan B. Butler, Esq., Akerman LLP. Ryon M. McCabe, Esq., McCabe Rabin, P.A.; Jon A. Jacobson, Esq., Jacobson Law P.A.; and Gregg Breitbart, Esq., Kaufman Dolowich Voluck
- 2:15 p.m. - 2:30 p.m. **BREAK**
- 2:30 p.m. - 3:00 p.m. **FINRA Update & Hot Topics** - Manly Ray, FINRA Southeast Regional Director, Boca Raton. Moderated by Kelly Shivery, McCabe Rabin, P.A., Florida Registered Paralegal
- 3:00 p.m. - 4:00 p.m. **Mock Arbitration** - University of Miami Law Students and The Investor Rights Clinic at the University of Miami will present legal arguments on liability and damages in Oil & Gas Limited Partnership Cases. Moderated by Teresa J. Verges, Director, University of Miami Law School of Law Investor Right Clinic
- 4:00 p.m. - 5:00 p.m. **FINRA Arbitrators' Rulings & Rationale and Open Q&A with FINRA Arbitrators.** Moderated by Jonathan B. Butler, Esq., Akerman LLP
- 5:00 p.m. - 6:00 p.m. **Happy Hour**

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4.5 CLER and 4.5 Business Litigation Certification credits. Cost \$ 115 PBCBA members/paralegals; \$ 155 non-PBCBA attorney members/paralegals. After 4/5/17, add \$10.00 late fee. All refund requests must be made no later than 48 hours prior to the date of the seminar.

<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>Materials will be emailed to registrants prior to the seminar</b>
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**33<sup>RD</sup> ANNUAL JUDICIAL RECEPTION**  
**FLORIDA ASSOCIATION FOR WOMEN LAWYERS PALM BEACH COUNTY CHAPTER**  
**Wednesday, February 8, 2017 · 5:30 p.m. – 7:30 p.m. · West Palm Beach Lake Pavilion**  
 \$70 FAWL members, \$80 non-members: Judiciary & Judicial Assistants Complimentary

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**Heather Greenhill Stohlman, Esq. at [Heather@GreenhillStohlman.com](mailto:Heather@GreenhillStohlman.com) & Linda M. Berns, Esq. at [LBerns@RRBPA.com](mailto:LBerns@RRBPA.com).**

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The Workers' Compensation Committee of the  
Palm Beach County Bar Association  
presents:



## Judicial Panel Discussion Regarding JCC Procedures

Monday, February 6, 2017, 11:30 a.m. - 1:00 p.m.  
PBC Bar Association, 1507 Belvedere Road, WPB

11:30 a.m. - 12:00 p.m.

**Late registration, check-in and lunch**

12:00 p.m. - 12:05 p.m.

**Welcome and Opening Remarks: Jeff Friedman, Esq.;**  
**Vassallo, Bilotta, Friedman & Davis**

12:05 p.m. – 1:00 p.m.

**The Honorable Mary A. D'Ambrosio**  
**The Honorable Thomas A. Hedler**  
**The Honorable Gregory J. Johnsen**

### PROGRAM

**Discussion with the judges regarding their courtroom  
procedures and information they need when filing  
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**REV. 12/14/16**

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		<b>PBCBA</b>					
	PBCBA	Effective Jury Communication: Voir Dire and Beyond	1.0		\$25.00	\$65.00	12/19/16
	PBCBA	Amended Local Rule 4 – Art of Uniform Motion Calendar	1.5		\$35.00	\$75.00	03/16/17
	PBCBA	Digital Preparation & Presentation (Technology)	1.0	0.0	\$25.00	\$65.00	5/3/17
	PBCBA	It's All Your Fault, Maybe Not... +++Marital & Family 4.5	4.5	.5	\$135	\$175.00	5/13/17
	PBCBA	Workers Comp – Carving Out Comp Issues +++5.0 WC	5.0	0.0	\$125.00	\$165.00	5/19/17
	PBCBA	Proposals for Settlement +++1.0 CT	1.0	0.0	\$25.00	\$65.00	5/30/17
	PBCBA	Social Media Law and Order	1.0	1.0	\$40.00	\$80.00	5/18/17
	PBCBA	Collection & Bankruptcy for Community Associations	3.5		\$85.00	\$125.00	6/4/17
	PBCBA	18 Annual Elder Law Seminar +++5.0 EL	5.0	1.0	\$140.00	\$180.00	6/10/17
	PBCBA	Personal Property List +++1.0 RE	1.0		\$25.00	\$65.00	7/06/17
	PBCBA	Billing and Liens Issues +++1.0 CT	1.0		\$25.00	\$65.00	7/15/17
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	PBCBA	ADR in 2016 Challenging Old Paradigms	9.5	3.0	\$280.00	\$320.00	08/08/17
	PBCBA	The Revised Florida Arbitration Code +++BL 4.0	4.0	0.0	\$100.00	\$140.00	10/07/17
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	PBCBA	Probate Boot Camp +++ED 8.0 +++EP 8.0	8.00		\$200.00	\$240.00	1109/17
	PBCBA	Professionalism Expectations	1.0	1.0	\$30.00	\$70.00	12/15/17
	PBCBA	9.29.16 Social Media-How to Build Your Presence	1.0		\$25.00	\$40.00	03/29/18
	PBCBA	12.8.16 Ethical Limits in e-Discovery & How to Avoid Sanctions	1.0	1.0	\$40.00	\$80.00	06/08/18
	PBCBA	12.9.16 The 19 <sup>th</sup> Elder Law Seminar	6.0	1.0	\$175.00	\$215.00	06/09/18
		<b>CBA</b>					
	CBA	Forensic Accounting in Family Law +++FL: 1.0	1.0		\$25.00	\$65.00	07/16/17
	CBA	Estate Planners Guide to Business Exit Planning	1.0		\$25.00	\$65.00	09/17/17
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	HCBA	Virtual Law Practice Can Be Virtually Painless	1.0		\$25.00	\$65.00	05/17/17
	HCBA	Administrative Child Support Proceedings+++AG: 4.0	4.0	1.0	\$115.00	\$155.00	05/20/17



	HCBA	Current Topics in Criminal Tax Enforcement	1.0		\$25.00	\$65.00	06/08/17
	HCBA	Practice Pointers for Attorneys Representing Deplo+++AG: 2.0	2.0		\$50.00	\$90.00	07/13/17
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	HCBA	Education or Incarceration Examining the School to Prison Pipeline+++AP: 2.5 +++CR: 2.5 +++FL: 2.5 +++IL: 2.5	2.5		\$60.00	\$100.00	09/10/17
Not Online	HCBA	Written Discovery :How to Draft to Get What You Need	1.0	1.0	\$40.00	\$80.00	09/30/17
	HCBA	What Attorneys Should Know Regarding the US Immigration and Customs Enforcement +++IM: 2.0 +++LE: 2.0	2.0		\$50.00	\$90.00	10/11/17
	HCBA	Florida Family Law Involving Active Duty, Reserve...+++FL:2.0	2.0		\$50.00	\$90.00	10/28/17
	HCBA	The Ins and Outs of Securities Arbitration and Mediation +++1.0	1.0		\$25.00	\$65.00	11/02/17
	HCBA	The Future of IP Law: The Next 10 Years +++IP: 4.5	4.5		\$110.00	\$150.00	11/06/17
	HCBA	What's Appealing to Appellate Courts: Procedures, Practices, and Professionalism +++AP: 4.0	4.0	1.0	\$115.00	\$155.00	11/11/17
<b>OCBA</b>							
	OCBA	Proposed Amendments to the Federal Rules of Civil+++1.0 Civil Trial	1.0	0.0	\$25.00	\$65.00	01/01/17
	OCBA	What Every Lawyer Should Know About Social Security +++2.5	2.5	0.0	\$60.00	\$100.00	01/09/17

+++Indicates Certification credits available; \*\*CME credits.

Please contact the Palm Beach County Bar Association for more detailed information.

Please call Kathy Clark at (561) 687-2800 with any questions or for additional information.

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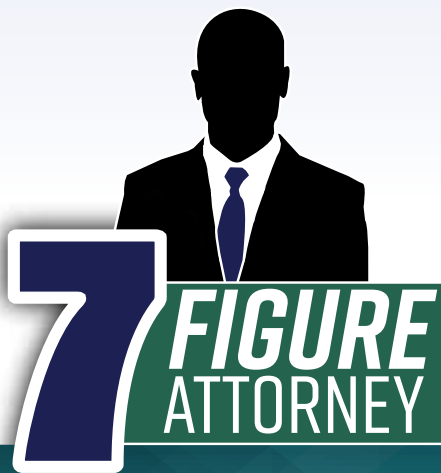
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# SUMMIT

Thursday, March 16th, 2017

HILTON WEST PALM BEACH

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**March 16th, 2017**

HILTON WEST PALM BEACH

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## SCHEDULE

7:00 am-7:45 am Breakfast and Registration  
7:45 am-9:15 am Craig Goldenfarb [break]  
9:30 am-10:45 am - Michelle Winfree [break]  
11:00 am-12:15 pm - Tom Copeland [break for lunch]  
12:30 pm-2:30 pm - Group Lunch, Panel Discussion, and Q&A

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

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## MISCELLANEOUS

**The Christian Legal Society February luncheon** will be held on Wednesday, February 15, from 12 PM to 1 PM at Grato Restaurant, 1901 S Dixie Hwy, West Palm Beach, FL 33401.

**Lost/Missing Will:** Did you prepare a will for Norbert A. Jontza (a/k/a Norberto Andre Jontza) of Lake Worth, Florida? Curator of his estate is searching for his last will and testament or other dispositive testamentary instrument. Anyone having information relating thereto is encouraged to contact: [tns@floridaprobatecounsel.com](mailto:tns@floridaprobatecounsel.com) or (561) 775-7500. Cash reward possible.

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arrangement available with family law sole practitioner in east Boca at 301 Yamato Road. Three offices available with shared conference room, kitchen, lobby, reserved parking space. Building has 24 hour security, parking garage, restaurant, cafe, and other amenities. Very reasonable. Call 561-544-6861.

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## HEARSAY



The Florida regional tax law firm of Comiter, Singer, Baseman & Braun is proud to announce that attorney **Andrew R. Comiter** has been named a partner of the firm.



Best Lawyers recently named **Ray Royce** as "Best Real Estate Lawyer of the year" in WPB for 2017.



**Richard B. Comiter**, and managing partner of the Florida regional tax law firm, **Comiter, Singer, Baseman & Braun, LLP**, have each been selected as one of America's Top 100 Attorneys for Southern Florida.



**Beasley Kramer & Galardi, P.A.** is ranked as a "Best Law Firm" 2017 by U.S. News & World Report and Best Lawyers for litigation in the areas of Banking & Finance, Securities, Real Estate, Estate & Trusts and Mergers and Acquisitions.



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# CALENDAR

## February 2017

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|---|---|--|--|
| Tuesday – Thursday,<br>January 31 – February 2<br><b>NABE Midyear Meeting</b><br>Miami              | Tuesday, February 7, 12 pm – 1 pm<br>• <b>Transaction Law</b><br>• <b>Committee Meeting</b><br>• Bar Association Office | Tuesday, February 14, 12pm – 1pm<br>• <b>YLS Board Meeting</b><br>• Bar Association Office   | Friday, February 17, 4pm – 5pm<br>• <b>Judge Harper's Investiture Ceremony</b><br>• Palm Beach County Court House<br>Courtroom 11A |
| Wednesday, February 1, 12pm – 1pm<br><b>Law Related Education Meeting</b><br>Bar Association Office | Tuesday, February 7, 6:30pm – 7:30pm<br>• <b>Landlord Tenant</b><br>• W. Boynton Branch Library                         | Wednesday, February 15<br>7:45am – 8:15am<br>• <b>UMC Coffee with the Judges</b><br>• Judicial Dining Room                           | Tuesday, February 21, 12pm – 1pm<br>• <b>CDI Meeting</b><br>• Bar Association Office   |
| Wednesday, February 1, 5:30pm – 6pm<br><b>South County Bar Board Meeting</b><br>Boca Raton          | Wednesday, February 8, 12 pm – 1pm<br>• <b>Appellate Practice Meeting</b><br>• Bar Association Office                   | Wednesday, February 15<br>11:30am – 1pm<br>• <b>Solo Luncheon</b><br>• Bar Association Office  | Tuesday, February 21, 12pm – 1pm<br>• <b>NCS Board Meeting</b><br>• Duffy's NPB  |
| Thursday, February 2, 6pm – 6:30pm<br><b>South County Bar Diversity</b><br>Networking Event         | Thursday, February 9, 8am – 4:40pm<br>• <b>Estate and Probate</b><br>• Embassy Suites                                   | Thursday, February 16<br>12pm – 1:30pm<br>• <b>Unified Family Practice</b><br>• <b>Committee Meeting</b><br>• Judicial Dining Room   | Tuesday, February 21, 5:30pm – 7pm<br>• <b>Legal Aid Board Meeting</b><br>• Bar Association Office                                 |
| Friday, February 3, 8:30am – 9:30am<br><b>ADR Committee Meeting</b><br>Bar Association Office       | Thursday, February 9, 11:45am – 1pm<br>• <b>Judicial Relations Committee Meeting</b><br>• Judicial Dining Room          | Thursday, February 16<br>5:30pm – 7:30pm<br>• <b>Federal Bar Association</b><br>• <b>Cocktail Reception</b><br>• Colony Hotel        | Wednesday, February 22, 12pm – 1pm<br>• <b>Professionalism Committee Meeting</b><br>• Bar Association Office                       |
| Friday, February 3, 4pm – 4:30pm<br><b>Judge Luis Delgado</b><br><b>Robing Ceremony</b>             | Friday, February 10, Half Day<br>(Times TBA)<br>• <b>Real Estate Seminar</b><br>• Bar Association Office                | Thursday, February 16<br>5:30pm – 7:30pm<br>• <b>NCS PGA National Happy Hour</b><br>• <b>and Putting Contest</b><br>• Honda Pavilion | Wednesday, February 22, 5pm – 6:30pm<br>• <b>Board Meeting</b><br>• Bar Association Office   |
| Saturday, February 4<br><b>Kozyak Minority</b><br><b>Mentoring Picnic</b>                           | Friday, February 10, 5:30pm – 9:30pm<br><b>Second Annual Screen on the Green</b><br>Lake Pavilion                       | Thursday, February 16<br>5:30pm – 7:30pm<br>• <b>NCS PGA National Happy Hour</b><br>• <b>and Putting Contest</b><br>• Honda Pavilion | Thursday, February 23, 12pm – 1pm<br>• <b>Bench Bar Committee Meeting</b><br>• Bar Association Office                              |
| Monday, February 6, 11:30am – 1pm<br><b>Worker's Comp Seminar</b><br>Bar Association Office         | Monday, February 13, 8am - 4:40pm<br>• <b>ADR Seminar</b><br>• Bar Association Office                                   | Friday, February 17, Full Day<br>(Times TBA)<br>• <b>PI Seminar</b><br>• Bar Association Office                                      | Thursday, February 23, 5:30pm – 7pm<br>• <b>YLS Happy Hour</b><br>• TBA  |
| Tuesday, February 7<br>11:30am – 1:30pm<br><b>Technology Seminar</b><br>Bar Association Office      | Tuesday, February 14, 11:30am – 1pm<br>• <b>Judicial Lunch</b><br>• North End Cafeteria                                 |  | Friday, February 24, 11:30am – 1pm<br>• <b>Business Literature Seminar</b><br>• Bar Association Office                             |