

# PALM BEACH COUNTY BAR ASSOCIATION

# BULLE<sup>T</sup>IN

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

April 2014

Statements being mailed out next week

## Dues Statements Mailed

Annual membership dues statements have been mailed to all PBCBA members for fiscal year 2014-2015, which begins July 1. If you do not receive a bill, contact Shoshanah at the Bar Office (687-2800) or [sspence@palmbeachbar.org](mailto:sspence@palmbeachbar.org)

## Note from the Executive Director

We would like to remind our members that our Bar events (including events for the North County and Young Lawyers Sections) are restricted to members of the PBCBA or attorneys who are not yet members. They are not open to vendors or business associates, other than the paid sponsors that have been obtained for each specific event. If you have a business associate that is interested in marketing to our members, please have them contact Lynne Poirier at [lpoirier@palmbeachbar.org](mailto:lpoirier@palmbeachbar.org) or by calling her at 687-2800. Thank you for your cooperation.

## Mark your calendar for upcoming Membership Events

### April 22:

Law Day Luncheon with guest speaker  
Former FL Supreme Court Chief Justice  
Charles Wells

### April 29:

Annual Judicial Reception

### May 9:

Young Lawyers Section  
End of the Year Luncheon

### May 15:

North County Section's  
Jurist of the Year Dinner

### June 7:

Annual Installation Banquet



## Former Florida Supreme Court Chief Justice Charles Wells to Speak

Join us for our annual Law Day Luncheon on Tuesday, April 22 at the Marriott Hotel in West Palm Beach. Lunch begins at 11:45 a.m. and ends at 1:00 p.m. We promise you'll be out the door and on the road on time!

This year's keynote speaker will be Former Florida Supreme Court Chief

Justice Charles T. Wells. Wells was a member of the Florida Supreme Court from 1994 until 2009. He is perhaps most noted for presiding over appeals brought to the Court as part of the dispute over Florida's electoral votes in the U.S. presidential election of 2000. In 2013, he authored a book called *Inside Bush v. Gore*. Wells will talk about the lessons learned during this time.

Join us by registering online at [www.palmbeachbar.org](http://www.palmbeachbar.org). Lunch sponsored by Sabadell United Bank, Rock Legal Service and Investigations, Bob Greenberg, CLTC MetLife Insurance Services and Searcy Denney Scarola Barnhart & Shipley.



## Banquet June 7 Save the date!

Our annual Installation Banquet will be held on Saturday, June 7 at The Breakers Hotel in Palm Beach. Please join us for the induction of our Board of Directors including Theo Kypreos as president and Grier Pressly as president-elect. The evening includes a reception beginning at 7:00 p.m. followed by dinner and dancing. Invitations will be mailed at the end of the month. Thank you to our gracious underwriters from Jones Foster Johnston and Stubbs; Sabadell United Bank; Lesser Lesser Landy & Smith; Searcy Denney Scarola Barnhart & Shipley; Daily Business Review; Phipps Reporting; Rock Legal Services and Investigations; Fox Rothschild; USI Affinity; Joel M. Weissman and Pressly & Pressly, P.A.

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THE  
**BULLETIN**

PALM BEACH COUNTY  
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

## Volunteer for Dial-A-Lawyer

Volunteers are still needed to staff the Dial-A-Lawyer program as part of the PBCBA's Law Week activities. Volunteers answer general legal questions by telephone during Law Week on April 28, April 29 or April 30 at the PBCBA office in West Palm Beach. Shifts are 90 minutes running from 9 am through 4:30 pm and participants can count their time toward their pro bono hours reported to the Florida Bar for the year. We need attorneys to be able to answer questions from the following practice areas:

- a. immigration
- b. wills/trusts and probate
- c. bankruptcy
- d. labor/employment
- e. criminal
- f. real estate/foreclosure/LL-T
- g. consumer
- h. personal injury
- i. public benefits
- j. elder law
- k. guardianship and/or other mental health matters
- l. business

If you are willing to answer calls, please contact Robin J. Scher at [rjs1990esq@bellsouth.net](mailto:rjs1990esq@bellsouth.net) or Sara Blumberg at [sblumberg@pbcgov.com](mailto:sblumberg@pbcgov.com) for available shifts.



## Jurist of the Year Nominations Due April 17

The North County Section is now taking letters of recommendations for its 12<sup>th</sup> Annual Jurist of the Year Award. Send us a letter including which local judge you feel deserves to be honored for his or her dedication to the Bench and to our community. The letters will be reviewed and voted on by the section's Board of Directors. A winner will be selected based upon the following criteria: The judge should be one with an excellent reputation for sound judicial decisions and an unblemished record of integrity as a lawyer and as a judge; is generally recognized by Bar members as highly qualified; and active in Bar related activities. He or she should be respectful of the law and understanding of cases. Who is eligible? Any judge who currently presides over cases in Palm Beach County will be eligible to win the award. Who is eligible to make a nomination? Any NCS member.

Send your nomination to the Bar Office at 1507 Belvedere Road, West Palm Beach, FL 33406 or email your letter to [lpoirier@palmbeachbar.org](mailto:lpoirier@palmbeachbar.org). Nominations are due no later than Friday, April 17.

Previous winners include Judges Mary Lupo, Roger Colton, Peter Blanc, Thomas Barkdull, Barry Cohen, Jonathan Gerber, David Crow, Edward Fine, Jack Cook, Ron Alvarez, and Richard Oftedal.

## Summer Bowling League for All Those in Legal Profession

Enjoy hot summer Tuesday nights in the cool comfort of Verdes Tropicana Bowling Center. An 8 week league will kick off on Tuesday June 10, 2014 at 6:30 p.m. The league will be every Tuesday from June 10 to July 29. Cost will be \$15 per night. We will bowl 3 games each night. The league is open to all those in the legal profession, including Judges, lawyers, paralegals, and support staff. The number of bowlers on a team will be determined by the number of people that register. Get a few people in your firm to come with you to form a team.

For more information, contact Brian McMahon at [brian@bkmbankruptcy.com](mailto:brian@bkmbankruptcy.com)



# President's Message



## A Tribute to Sid Stubbs: A Lawyer's Lawyer

By Jill G. Weiss

"Ethics is knowing the difference between what you have the right to do and what is right to do."

*Potter Stewart, Associate Justice of the Supreme Court of the United States, 1958-1981*

At last month's Bench Bar Conference, the Palm Beach County Bar announced that it had renamed its prestigious Professionalism Award to the Sidney A. Stubbs Professionalism Award. The award's new namesake, a past winner of the award himself in 2005 and a past president of the Palm Beach



County Bar Association, is the epitome of professionalism and embodies Justice Stewart's quote. He is a "lawyer's lawyer." His practice includes defending attorneys in malpractice suits and law firm break-ups. The distinctions earned by Sid Stubbs are too numerous to list here. However it would be remiss not to mention some of the highlights: Sid is a recent recipient of the

Forum Club's Outstanding Public Service Award; Best Lawyers in America named him West Palm Beach "Bet-the-Company Litigator of the Year" in 2009 and 2010; Chambers USA lists him among America's Leading Business Lawyers and says "According to sources, Sidney Stubbs 'remains the shining light and beacon of the Bar in Palm Beach County.'" He was the subject of the cover article of Florida Super Lawyers 2013 with the caption: "Franchise Player - The quiet persuasiveness of business litigator Sid Stubbs." Sid is a Life Fellow in the American Bar Foundation, Former Florida State Chair of the American College of Trial Lawyers, and he served as Special Counsel to the Honorable Bob Graham, Governor of Florida, in 1983 and 1984. His contributions to the community at large reach across the areas of religion, education, public service and the legal profession.

Sid joined what is now Jones, Foster, Johnston & Stubbs, P.A. early in his nearly 50-year career after he graduated the University of Florida College of Law with honors, where he served as Executive Editor of the University of Florida Law Review. Sid proved to be not only an accomplished litigator, but also an outstanding leader and vocal proponent of professionalism.

According to Larry Alexander, managing partner at Jones Foster, one aspect that makes Sid an outstanding role model for professionalism is his uncanny ability to put others first. Whether in regard to clients or other colleagues, Sid, by actions and words, is an effective advocate who practices with civility and professionalism.

The high level of civility exemplified by Sid has always been on display in the courtroom. When Judge Glenn Kelly was practicing in the 1980's at Gunster Yoakley & Stewart, he admired and looked upon Sid as a role model. As Judge Kelly stated, "Sid is a model of what a lawyer ought to be. Sid is an effective advocate for his clients while maintaining the highest level of professionalism and civility." Years later Judge Kelly asked Sid to speak at his investiture. Sid does not bring unnecessary motions before the court and seeks to resolve issues outside the courtroom. His type of quiet persuasion has worked effectively for his many clients over the years.

It is rare to find a litigator who does not raise his voice or lose his temper when confronted with the unprofessional practitioner or that very unpleasant trial surprise. Skip Smith, who once practiced with Sid, never saw any negativity. Skip, who also is a past winner of the PBCBA Professionalism Award holds Sid in the highest regard. When faced with an issue of professional behavior, Skip asks, "What would Sid do?"

Sid Stubbs is a humble, devoted family man. When told that the PBCBA had renamed its award for him, he was genuinely touched. He thanked us for the honor, Well, Sid, we thank you for showing the rest of us how it should be done, We should all do what Sid would do.

It's time to sign up to stay on a committee or join a new one for next year. [Click here for sign up form.](#)

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## Board Meeting Attendance

	AUG	SEP	OCT	NOV	DEC	JAN	FEB
Barnes	X	phone	phone	phone	X	X	
Huber	X	X	X	X	X	X	X
Kypreos	X	X	X	X	X	X	X
Mason	X	X	X	X	X	X	X
McElroy	X	X	X	X	X	phone	X
Pressly	X	X	X	X	X	X	X
Rabin	X	X	X	X	X	X	X
Reagan	X	X	X	X	X	X	phone
Stewart	X	X	X	X	X	X	X
Weiss	X	X	X	X	X	X	X
Whittles	X	X	X	X	X	X	X
Wyda	X	X	X	X	X	X	X
Xenick	X	X	X	X	X	X	X





**By: Larry B. Alexander, Chairman  
Jones, Foster, Johnston & Stubbs, P.A.**

A southern gentleman, Sid Stubbs is the epitome of our profession at its highest level. I proudly call him my friend and colleague, and am delighted that his legacy will live on through the award which now bears his name.

As the first recipient of the Sidney A. Stubbs Professionalism Award, Scott Hawkins is also a highly principled man. He has been privileged to work with Sid for over thirty-one years, so it is no accident that he too has become a respected professional. I say this with no disrespect to Scott's parents who instilled in him a strong faith, a powerful work ethic and an unbreakable code of personal conduct.

I have worked closely with Scott since he first became a lawyer. With every step in his career, Scott's emphasis has always been on the importance of elevating our profession to a higher level for the benefit of the clients and communities we serve. From the beginning, his life has reflected his dedication to the ideal that lawyers should act at all times in a respectful manner.

When Scott was President of the Palm Beach County Bar he summed up his philosophy on professionalism in an piece he wrote entitled: *"What is your legacy?"* I'd like to share that article, with this side note: Years after this article ran in the Bar Bulletin when Scott was running for the Board of Governors, he received a call from United States Immigration Court Judge Phillip J. Montante, Jr. (New York). The Judge, who Scott has never met, moved from Palm Beach County but was still a member of the Bar. After reading that Scott was running for the Board of Governors, the Judge called to wish him well and to advise that he hands a copy of Scott's "legacy" article to every lawyer who appears in his courtroom, and he urges them to read it.

In Scott's article he asks: "Will your actions today elevate or denigrate the esteem in which our profession is held?" The answer for Scott came in that phone call from Judge Montante.

Here is this year's Sidney A. Stubbs Professionalism Award recipient, in his own words:

## What is your legacy?

**President's Message  
by Scott G. Hawkins  
(September 2000)**



Our tendency in this culture of modern America is to focus on the "here and now." As busy lawyers, we occupy our minds and energies with those demands that are most pressing, most urgent. Our everyday actions and thoughts are dictated by the force of expediency.

The problem with this approach to living (and practicing) is that it detracts from the perspective that one's actions create one's legacy. If your actions are dictated by the urgent, that pattern of behavior will form your legacy - like it or not.

To create a legacy is to leave in others, including children, families, law firms, colleagues, organizations, and those you influence, the contributions of one's core values and spirit. A senior partner may leave a legacy of integrity. A mother may leave a legacy of caring. A father may leave a legacy of "family first" in all things.

All of us will leave a legacy as the result of our actions and words. Some will regret the legacy they leave by demonstrating little concern for others and little commitment to core values and institutions. Others will leave behind legacies rich with demonstrations of commitment to enduring values and principles.

There is no question that what you do in the present will influence in the future the persons and institutions you serve. The future of our bench is influenced by the judges of today. The future of our law firms is influenced by the actions of today's partners and how they respond to today's challenges. The future of the Bar and our profession will be influenced by our actions as lawyers today. Will your actions today elevate or denigrate the esteem in which our profession is held?

Obviously, it is your choice what legacy you choose to leave behind. Make no mistake, all of us will leave one. Think today about your actions in the context of what others will think tomorrow of your legacy.

***Measure your actions today against the legacy you will leave tomorrow.***

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## Motion Calendar 101

**REALLY! 3 simple steps to make the most of your time during Motion Calendar:**

Before starting, ask yourself:

1. Is the motion really necessary?
2. Have you really spoken with opposing counsel?
3. Is the relief really worth the Court's and your time?

Avoid the potential of losing the issue and/or your credibility, and save valuable time, yours and the Court's!



## Does a 9019 Settlement Trigger Section 363?

by Jason S. Rigoli

Whether a bankruptcy trustee can sell an avoidance action is debatable. The courts are split on issues such as whether an action constitutes property of the estate and if so, how and when was that action acquired<sup>1</sup>, to whether the purchaser can prosecute that claim. Nonetheless, there are courts that have approved the disposition of avoidance actions to creditors. This article compares two specific cases and the very narrow issue of whether a settlement under Bankruptcy Rule 9019 triggers section 363 of the Bankruptcy Code.

### Applicable Provisions<sup>2</sup>

Bankruptcy Rule 9019(a) sets forth the procedural mechanism for a trustee to seek court approval of a compromise or settlement. In this circuit, the bankruptcy court applies the *Justice Oaks* factors and determines whether the settlement “falls above the lowest range of reasonableness.” Section 363(b) (1) permits a trustee to use, sell, or lease property of the estate outside the ordinary course of business. 11 U.S.C. § 363. The standard applied under section 363 is the “business judgment standard” to determine whether the sale constitutes the “highest and best offer.”

Assuming the claim is property of the estate, the question becomes whether a “settlement” is actually a sale of the claim to the defendant subject to higher and better offers. The following two cases contrast the two rationales.

### In re Land Resource, LLC

In this case, the trustee and a creditor entered into an agreement wherein the creditor agreed to fund the

<sup>1</sup> See, *In re Van Diepen, P.A.*, 236 Fed.Appx. 498 (11<sup>th</sup> Cir. 2007) (“...any money recovered from the fraudulent conveyances from the P.A. to Van Diepen and to OIM is property of the estate. Therefore, the bankruptcy court had jurisdiction over any claims that would recover such property, and it had authority to enjoin Romagosa from pursuing these claims against Van Diepen and OIM in state court.”) (Citing *In re Zwirn*, 362 B.R. 536, 540-41 (Bankr. S.D.Fla. 2007)(Cristol,C.J.)).

<sup>2</sup> For the purposes of this article avoidance action claims are assumed to be property of the estate and all other issues are irrelevant.

litigation of certain avoidance actions, up to \$750,000.00; in exchange, the creditor received certain percentages of the net recoveries. *In re Land Resource, LLC*, --B.R.--, 2014 WL 521080, \*3 (Bankr. M.D.Fla. 2014). The agreement provided that the trustee would maintain control of the prosecution of the claims, but would be required to provide monthly updates to the creditor and would be required to consult with the creditor prior to the settlement or dismissal of any portion of the claims. *Id.* Furthermore, if the creditor disagreed with the trustee regarding any settlement or dismissal, then the creditor had two options: (1) prosecute their own objections in the bankruptcy court proceedings or (2) pay the Trustee the proposed settlement amount, continue to fund the litigation in whole, and retain settlement authority over the specific compromise of the litigation to which they objected, while maintaining the right to collect 100% of any recovery resulting from that aspect of the litigation. *Id.*

In seeking bankruptcy court approval of the agreement, the trustee filed a motion to compromise pursuant to Bankruptcy Rule 9019. Over the objection of the avoidance action defendants and in accordance with *Justice Oaks*, the bankruptcy court approved the agreement. On appeal, the District Court affirmed the bankruptcy court’s approval of the settlement. *Id.* at 14.

Although not giving a thorough analysis, the District Court addressed the defendant’s objection that the agreement should have been examined under the standard for a sale outside the ordinary course of business, i.e., 11 U.S.C. § 363(b)(1). *Id.* The District Court stated the agreement does not constitute a sale because:

Contrary to Appellants’ arguments, the Trustee is not transferring control over the Euram Litigation to the Bond Safeguard Parties. The Euram Litigation Agreement expressly provides that the

Trustee maintains ultimate decision-making authority over the Euram Litigation, unless the Bond Safeguard Parties exercise their “buy-out” rights under the agreement. See Euram Litigation Agreement § II(a)(2). Under the buy-out clause, if the Bond Safeguard Parties object to any proposed settlement with the Euram Litigation defendants, they have the option to pay the Trustee the full amount of the proposed settlement in exchange for the right to maintain future settlement authority over that aspect of the litigation. See *id.* § VII(B). Thus, even where the Bond Safeguard Parties exercise their buy-out rights, the Trustee would receive the full amount of the proposed settlement that it negotiated.

*Id.* Compare this holding with the Fifth Circuit’s opinion in *In re Moore*, 608 F.3d 253 (5<sup>th</sup> Cir. 2010)

### In re Moore

In a similar situation, the Fifth Circuit squarely addressed the issue of whether a trustee may sell the rights to an avoidance action under 363(b)(1). See generally, *Moore*.

In *Moore*, a creditor was prosecuting a pre-petition avoidance action. After the bankruptcy filing, the trustee continued to prosecute the creditor’s avoidance action. However, because the bankruptcy estate did not have sufficient funds to prosecute the avoidance action, the creditor continued to fund the litigation. *Id.* at 255-56. Eventually, the trustee and the defendant entered into a settlement agreement and filed a motion to approve under Bankruptcy Rule 9019. The creditor objected to the proposed settlement and offered the Trustee \$50,000 for the “claims.” The bankruptcy court overruled the creditor objection and concluded that the trustee could not sell the claims. *Id.* at 257. The creditor appealed and the district court affirmed the bankruptcy court’s ruling. *Id.*

The Fifth Circuit overruled the

Continued on page 7



## Extension Of Time To File A Late Claim

By: David M. Garten

Sec.733.702(1), F.S. reads in relevant part that “[i]f not barred by s. 733.710, no claim or demand against the decedent’s estate that arose before the death of the decedent . . . is binding on the estate, on the personal representative, or on any beneficiary unless filed in the probate

proceeding on or before the later of the date that is 3 months after the time of the first publication of the notice to creditors or, as to any creditor required to be served with a copy of the notice to creditors, 30 days after the date of service on the creditor...”

Due process requires the personal representative to promptly serve a copy of the notice to creditors on all creditors of the decedent who are reasonably ascertainable or known to ensure actual notice of the running of the non-claim period. *See, North County Co. v. Goforth (In re Estate of Ortolano)*, 766 So. 2d 330 (Fla. 4<sup>th</sup> DCA 2000) citing, *Tulsa Professional Collection Servs., Inc. v. Pope*, 485 U.S. 478, 491, 99 L. Ed. 2d 565, 108 S. Ct. 1340 (1998); *Golden v. Jones*, 126 So. 3d 390 (Fla. 4th DCA 2013).

If a known or reasonably ascertainable creditor was not served with a copy of the notice to creditors, the statute of limitations set forth in §733.702(1), F.S. never begins to run and the creditor’s claim is timely if it is filed within two years of the decedent’s death. *See, Golden v. Jones*, supra. However, **if the**

**claim’s period provided in §733.702(1), F.S. has expired, the creditor must seek an extension of time in which to file a claim. Refer to §733.702(3), F.S.** The court’s role is limited to a determination as to whether there was fraud, estoppel or insufficient notice of the claims period and not to determine the validity of the claim because the merits of the claim are determined in an independent action. *See, Simpson v. Estate of Simpson*, 922 So. 2d 1027 (Fla. 5<sup>th</sup> DCA 2006). *But see, Golden v. Jones*, 126 So. 3d 390 (Fla. 4th DCA 2013) wherein the court stated in dicta that when the claim is timely under §733.702(1), F.S., it would be unnecessary for a reasonably ascertainable creditor to file a motion for extension of time under §733.702(3), F.S.

If the personal representative or any other interested person serves on the creditor a notice to file a petition for an extension, the creditor shall be limited to a period of 30 days from the date of service of the notice in which to file a petition for extension. Refer to §733.702(3), F.S.

A claimant may bring an independent action or declaratory action upon a claim which was not timely filed only if the claimant has been granted an extension of time to file the claim and the claim is filed within two years after the date of death. *Refer to §§733.702(3), 733.705(6) and 733.710(1), F.S. See also, Lube v. Adams*, 77 So. 3d 882 (Fla. 2<sup>nd</sup> DCA 2012).



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## 9019 Settlement

*Continued from page 5*

lower courts. In so holding, the Fifth Circuit concluded that the causes of action constituted property of the estate and more importantly that the settlement of the claim with the defendant constituted a proposed sale of estate property triggering §363. See, *Moore*, at 263-266.

The difference between the *Land Resource* and *Moore* opinion seems to be based upon how the courts construe the character of a settlement.

### What is the Nature of a Settlement?

What is a settlement? Does a settlement constitute a “sale” of the claim to a defendant? And, how does a trustee and a court determine which standard to apply? While this issue may not arise often, determining the appropriate standard will have a major effect in those cases in which it does.

For example, if 363 is triggered, would the *Land Resource* “buy-out” proposal actually be the “highest and best” offer? The financial gain to the

estate would be a wash, but does the benefit of ending the litigation by way of the trustee’s settlement with the defendant result in a “better” offer? The business judgment standard is broad and courts are generally not disposed to challenge a trustee’s judgment as to accepting or denying an “offer” to purchase. The implications, however, are great because a trustee has fiduciary duties to many parties and an obligation to maintain the integrity of the bankruptcy system. Does a trustee’s decision to sell the claim result in a degradation of these policies?

However, if Bankruptcy Rule 9019 controls and 363 is not triggered, then the court applies a “reasonableness” standard. Applying *Justice Oaks* and the “lowest range of reasonableness” to the facts of *Moore*, the trustee’s settlement may not be unreasonable. The effect, however, would be a lower financial benefit to the estate. Has the trustee contravened her duties by not liquidating an asset to obtain the greatest benefit for estate?

### Conclusion

The determination of whether 9019 triggers section 363 can have substantial effect on whether a bankruptcy court will approve a settlement over the objection of a creditor.

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



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## The ABC's of Professionalism

By Amy Shayne Levenberg, Esq.  
On behalf of the Professionalism Committee

ABC. Always Be Courteous. In theory, easy to remember. In practice, easy to forget. Professional courtesy, as outlined in the Palm Beach County Bar Association's Standards of Professional Courtesy, includes things like coordinating scheduling of depositions and hearings, granting reasonable requests for extensions of time, not using discovery to harass or cause undue delay, refraining from criticizing opposing counsel, and not misleading the court. The spirit of professional courtesy is, in a word: cooperation.

While it seems that many attorneys believe that unprofessional conduct will give them some sort of advantage, the truth is, courtesy and cooperation are far more likely to lead to favorable results for clients. In fact, Florida Supreme Court Justice R. Fred Lewis, chairman of the Florida Commission of Professionalism, was quoted in the February 2014 issue of Florida Trend magazine as saying: "[J]udges have to decide cases based on what the law is, what the Constitution is, not based upon the behavior of the lawyer. But I'm going to tell you what: I have seen many, many courtrooms where the obnoxious litigator, the nasty-mouth individual who wants to do anything and everything to win, certainly doesn't receive any breaks and doesn't receive the positive end of discretionary type things. It doesn't help them."

So how can the ABCs of professionalism help you, your client, and your case? Here are some basic examples:

**A**nswer. We all know the routine: you send an email asking opposing counsel if he or she is available on the following dates for a hearing on your motion. No answer. You follow up with a voicemail. No answer. A week goes by, you email again. No answer. Another phone call or email. No answer. You decide to notice the hearing. Finally, an answer – opposing counsel is, of course, unavailable that day and asks that you reschedule the hearing to the latest possible date and time on the list you previously sent. Aside from the rare instances where a two week delay is truly necessary, any benefits to the unresponsive attorney's client are likely to be minimal. Tactics like these belie professional courtesy, cause nothing but frustration, and waste your time and your client's money. The better approach is to simply respond and find a mutually agreeable time through

cooperation. It is always easier to be the attorney showing the judge your ten emails asking for hearing dates than to be the attorney who never responded. Likewise, before refusing to grant an extension to the other side, remember that you may one day find yourself on the opposite side of that predicament. Professional courtesy dictates agreeing to reasonable extensions when requested by opposing counsel.

**B**e the bigger person. If opposing counsel is being obstinate or rude, avoid retorting in kind. Do not criticize or belittle opposing counsel despite the frustrations they may be causing you. Criticizing opposing counsel to the court or to your client only makes one person look bad in the end. If an attorney is constantly belittling opposing counsel to his or her client, lamenting how "bad" opposing counsel is, what will that client think of his attorney who loses an argument to the "bad" attorney? Whatever the true circumstances may be, the client is inclined to think that his attorney must be "even worse."

Be the bigger person when it comes to discovery disputes and opposing counsel may follow in kind. Cooperation in discovery undoubtedly benefits both sides and saves clients' money. Courts are loathe to resolve never ending discovery disputes. Moreover, gamesmanship in discovery can sometimes lead to dire consequences. *See, e.g., Jones v. Publix Super Mkts., Inc.*, 114 So. 3d 998 (Fla. 5th DCA 2012) (requiring trial court to impose sanctions and referring matter to Florida Bar where counsel withheld a single witness's address under the pretense of not knowing it).

**C**ommunicate wisely. Although emails are easy to send, they are impossible to retrieve. Once you hit send, there is no taking back the words you've used. Before you send an email to opposing counsel, consider whether you would want the judge on your case to read it. If the answer is no, do not send it. It is easy enough for opposing counsel to attach your email as an exhibit to a discovery motion, so choose your words carefully. A thoughtful, courteous email aimed at cooperation can be a tool that may help you get the decision you want. An email devoid of professional courtesy (that is threatening or insulting) is likely to get you and your client nothing but an angry judge. Or, as occurred in an extreme case, possibly even suspended from the practice of law. *See Florida Bar v. Norkin*, 2013 WL 5878901 (Fla. 2013) (finding that Norkin's relentless unethical and unprofessional behavior toward opposing counsel violated Florida Bar Rule 4-8.4(d)).

When in doubt, just remember the ABC's: always be courteous.

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## Duty in a Medical Malpractice Case

By Ted Babbitt

Granicz v. Chirillo, Case No. 2D12-5244 (Fla. 2nd District, Feb. 19, 2014) was a medical malpractice case against a primary care doctor who was treating plaintiff's decedent for depression. The patient was on an antidepressant for a period of time and then voluntarily stopped taking it because of side-effects. She called the doctor's office and detailed symptoms of significant depression. She informed the doctor's office that she had stopped taking the antidepressant and the doctor ordered another medication for her without asking that she come in for an examination. Plaintiff's experts testified that this fell below the applicable standard of care and that had the patient been seen, it was more likely than not that her eventual suicide could have been prevented.

The trial judge granted a motion for summary judgment, holding as a matter of law, that the physician had no duty to prevent the patient's suicide because it was an unforeseeable event, not under his control.

The Second District reversed, finding that because plaintiff's experts had testified that the defendant physician had breached the applicable standard of care by failing to recognize the seriousness of the plaintiff's symptoms, by failing to speak to the patient and insist that she come in for an evaluation, by failing to refer her to an expert in depression and by failing to conduct a proper evaluation of the antidepressant that was ordered which was known to cause suicidal ideations.

In its reversal, the Second District discusses the distinction between a defendant's duty and proximate cause. At Page 5, the Court holds:

The Florida Supreme Court has discussed the trial court's role in assessing foreseeability in the context of determining the issue of duty. See McCain v. Fla. Power Corp., 593 So. 2d 500, 502-04 (Fla. 1992).

"The duty element of negligence focuses on whether the defendant's conduct foreseeably created a broader 'zone of risk' that poses a general threat of harm to others." Id. at 502. This concept is not to be confused with the proximate cause element of negligence which focuses on "whether and to what extent the defendant's conduct foreseeably and substantially caused the specific injury that actually occurred." Id. The duty element is a question of law for the court to resolve; the element of proximate cause presents a fact question for the jury.

By focusing on whether Jacqueline's suicide was foreseeable, the trial court analyzed Dr. Chirillo's duty under the standard of proximate cause. The proper inquiry that the court should have made to determine the legal issue of duty "is whether the defendant's conduct created a foreseeable zone of risk not whether the defendant could foresee the specific injury that actually occurred." McCain, 593 So. 2d at 504.

\* \* \*

In this case, Granicz provided expert testimony regarding the standard of care for a primary care physician when a patient being treated for depression calls the office and complains of symptoms that suggest worsening depression. According to this testimony, the standard of care requires physicians to personally assess the patient's condition to determine if she is having thoughts of suicide and to intervene if necessary. This evidence is sufficient to establish that Dr. Chirillo owed a legal duty to Jacqueline that precluded summary judgment.

This recitation of the law has broader application than medical malpractice suicide cases. The distinction between establishing a duty as opposed to the issue of proximate cause is often confused and this case clarifies the distinction. The duty issue is answered by whether defendant's conduct expanded the zone of risk to the plaintiff while the issue of proximate cause focuses on foreseeability of the actual injury and is almost always a jury question.

With respect to medical malpractice suicide cases, it is important to note that this case is in conflict with the First District case of Lawlor v. Orlando, 795 So. 2d 147 (Fla. 1st DCA 2001) which rejected a similar argument and held as a matter of law that a psychotherapist did not have a legal duty to prevent a patient's suicide because it was unforeseeable.

While the Supreme Court will eventually have to resolve the conflict between these two decisions, the underlying legal reasoning of Granicz, *supra*, gives substantial guidance in medical malpractice cases.

NOTE: BECAUSE A NUMBER OF PEOPLE HAVE REQUESTED COPIES OF PAST ARTICLES, A COMPILATION OF THESE ARTICLES IS NOW AVAILABLE TO MEMBERS OF THE PALM BEACH COUNTY BAR ASSOCIATION, FREE OF CHARGE, BY CALLING (561) 684-2500.

### Circuit Court Report CIVIL DIVISIONS • As of February 21, 2014

DIVISION	JURY TRIALS	NON-JURY TRIALS	MOTIONS	CASES PENDING
AA BLANC	07-14	07-14	04-14	1265
AB BARKDULL	06-14	06-14	05-14	1323
AD G. KEYSER	09-14	09-14	04-14	1434
AE FINE	08-14	08-14	04-14	1522
AF J. KEYSER	08-14	08-14	02-14	1251
AG HAFELE	09-14	09-14	03-14	1355
AH BROWN	06-14	06-14	05-14	1280
AI SASSER	05-14	04-14	02-14	1061
AJ MCCARTHY	05-14	05-14	03-14	1072
AN COX	11-14	11-14	04-14	1473
AO BRUNSON	05-14	04-14	02-14	1430

## Young Lawyers Section News

Our local YLS members have been very busy. They've recently hosted a luncheon with the Judges of the 4th DCA; held a seminar luncheon in Judge Meenu Sasser's Courtroom; participated in a habitat for humanity project and held a seminar on technology. Mark your calendars for their upcoming events: April 15 – Side Bar Series on Uniform Motion Calendar Hearings; and May 9 for their Inaugural YLS Awards luncheon featuring keynote speaker Circuit Judge Robin Rosenberg. For more photos of any of these events, be sure to check out the Bar's facebook page.



**4th DCA Luncheon Chair Thomas Allison, 4th DCA Chief Judge Dorian Damoorgian and YLS President Julia Wyda**



**Gabrielle Jackson and 4th DCA Judge Matthew Stevenson**



**Nazli Sonmez Matt and Alex St. Pierre**



**The first Sidebar Series was held in Judge Meenu Sasser's courtroom with the topic being Motions for Summary Judgment. Pictured here are: YLS President Julia Wyda, Laura Zborowski, Jessica Callow Mason, event chair Allison Percy, Joanne O'Connor, Sid Stubbs and Judge Meenu Sasser.**



**About 50 members of the YLS attended the mock hearing presented by Joanne O'Connor, Sid Stubbs Jessica Callow Mason and Laura Zborowski**



**About 30 members recently worked on a habitat for humanity project in Jupiter. A special thank you to Federal Magis. Judge William Matthewman, Circuit Judges James Martz and Rosemarie Scher and Magis. Jorge Maxion for lending a helping hand.**



**Scott Perry and YLS Treasurer Ashley Ortagus Wilson**



**Judge James Martz and Fed. Magis. Judge William Matthewman work on the trusses**



**These t-shirts say it all!**



**Event chair Lisa Kohring gets busy with a nail gun.**

## Visit the Bar's New Website!

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# Real Property and Business Litigation Report



By Manuel Farach

**Effective Teleservices, Inc. v. Smith**, – So.3d –, 2014 WL 304973 (Fla. 4th DCA 2014).

Claims are inextricably intertwined, for attorney's fee purposes, when determination of issues on one claim will determine another claim. Where a party is entitled to fees for only some of its claims, a full fee may be

awarded only when the claims arise from a common core of facts and are based on related legal theories. Not every attorney who works on a file must testify at a fees hearing to support the fees claim.

**Archstone Palmetto Park, LLC v. Kennedy**, – So.3d –, 2014 WL 305086 (Fla. 4th DCA 2014).

Fla. Stat. § 163.3167 (8) prohibits referenda on development orders.

**Town of Jupiter v. Byrd Family Trust**, – So.3d –, 2014 WL 305124 (Fla. 4th DCA 2014).

Absent delegation from the Florida Department of Environmental Protection, local government cannot enforce provisions of the Florida Mangrove Act, Fla. Stat. § §§ 403.9321 et seq.

**Dingle v. Dellinger**, – So.3d –, 2014 WL 470679 (Fla. 5th DCA 2014).

An attorney that drafts a non-testamentary conveyance instruments (e.g., a quitclaim deed) may be responsible in malpractice to intended beneficiaries even if not clients.

**Alascia v. State, Dept. of Legal Affairs**, – So.3d –, 2014 WL 470721 (Fla. 5th DCA 2014).

An order allowing a lis pendens does not result in the seizure of property that allows appeal under Florida Rule of Appellate Procedure 9.130 (a) (3) but may constitute grounds for certiorari review under Rule 9.040 (c). Real property is not subject to forfeiture under the Florida Contraband Act if the only basis for the forfeiture is the purchase of the real estate with alleged gambling proceeds.

**Chevaldina v. R.K./FL Management, Inc.**, – So.3d –, 2014 WL 443977 (Fla. 3d DCA 2014).

A temporary injunction against former tenant posting defamatory statements on website is not permissible unless landlord can prove loss of potential tenants, the commission of a future tort by the former tenant, or cyberstalking.

**Bloch v. Wells Fargo Home Mortg.**, – Fed.Appx. –, 2014 WL 351688 (11th Cir. 2014).

There is no private cause of action under the Home Affordable Modification Program (HAMP) for lender's refusal to permanently modify a loan. A statement that borrower would be considered for HAMP does not constitute estoppel, and oral promises to that effect are barred by the Banker's Statute of Frauds, Fla. Stat. 687.0304.

**General Elec. Capital Corp. v. Shattuck**, – So.3d –, 2014 WL 562968 (Fla. 2d DCA 2014).

Even if they have an identity of interest, parties may not be added to a final judgment after trial if they have not been served and joined in the case before the trial.

**Minty v. Meister Financial Group, Inc.**, – So.3d –, 2014 WL 537396 (Fla. 4th DCA 2014).

The First, Second and Fifth Districts require a change in circumstances before modifying a temporary injunction; the Third and Fourth Districts do not. Notwithstanding not having to show changed circumstances, a court cannot modify a temporary injunction to fully award the relief sought in the litigation before conducting the trial.

**Jenkins v. Plaza 3000, Inc.**, – So.3d –, 2014 WL 537494 (Fla. 4th DCA 2014).

The inability to obtain a conventional loan, loss of a contract to sell, inability to lease, damage to creditworthiness, and costs of removing the cloud are all special damages arising from a wrongful lis pendens.

**General Elec. Capital Corp. v. Bio-Mass Tech, Inc.**, – So.3d –, 2014 WL 538694 (Fla. 2d DCA 2014).

Filing an answer without demanding arbitration waives the right to arbitration, notwithstanding non-waiver language contained in the arbitration agreement. Non-waiver language is not conclusive of, but merely a factor to consider, in waiver analysis.

**State Farm Fla. Ins. Co. v. Coburn**, – So.3d –, 2014 WL 539874 (Fla. 2d DCA 2014).

A party need not file a privilege log until its objections to discovery are ruled upon.

**In re Brown**, – F.3d –, 2014 WL 563601 (11th Cir. 2014).

Chapter 13 bankruptcy is filed in bad faith when Chapter 13 is chosen over Chapter 7 primarily to allow the debtor to pay his attorneys' fees in installments, there are no assets that can be garnished in a Chapter 7 proceeding, and it is reasonably possible that the Chapter 13 plan is not subject to confirmation.

**Condominium Ass'n of La Mer Estates, Inc. v. Bank of New York Mellon Corp.**, – So.3d –, 2014 WL 620238 (Fla. 4th DCA 2014).

Receding from Fourth District precedent and its prior decision in this case, the Fourth District holds that a default final judgment based on a complaint which fails to state a cause of action is voidable, not void, and must be attacked within one year under the restrictions of Florida Rule of Civil Procedure 1.540. Conflict is certified with decisions from the First and Third Districts as to this issue of law.

**Keane v. President Condominium Ass'n, Inc.**, – So.3d –, 2014 WL 626710 (Fla. 3d DCA 2014).

A license is a mere right to do or not do something on another's real property, is not an interest in real property, and is generally revocable. A condominium parking space may consist of a revocable license.

**Hoffman v. BankUnited, N.A.**, – So.3d –, 2014 WL 627020 (Fla. 2d DCA 2014).

A foreclosure sale may not be conducted while a timely motion for rehearing of the final judgment of foreclosure remains pending and unresolved.



*Per Administrative Order No. 2.105/9-10, In Re: Fifteenth Circuit Professionalism Council, when an attorney appears before the Council because of conduct inconsistent with the Standards of Professional Courtesy or the Ideals and Goals of Professionalism, a summary of that meeting is to be published in the Bar Bulletin with the name(s) redacted.*

### Re: Fifteenth Judicial Circuit Professionalism Panel

On August 26, 2013, the Fifteenth Judicial Circuit Professionalism Panel (“Panel”) met with you, pursuant to a referral by the presiding judge, to discuss your conduct during a period of several months of litigation of a matter pending in the 15th Judicial Circuit. The discussion with the Panel focused on two main issues regarding your conduct: multiple misrepresentations of fact made to the Court during several hearings and repeated unprofessional and uncivil conduct during depositions of witnesses.

Your attitude exhibited at the outset of the meeting gave the Panel great concern. You began the discussion derisively suggesting that the only reason you were asked to appear before the Panel was the fact that you are a Broward County lawyer. You further stated that you believed you were singled out for that reason alone, and that your conduct would not have been questioned had you been based in Palm Beach County. We wish to assure you that the conduct which we reviewed was unacceptable under any circumstances from any attorney in any circuit. Further, the 17th Judicial Circuit has its own Professionalism Panel, as mandated by the Florida Supreme Court, and the conduct presented to us for consideration would surely have been questioned in that venue as well.

As the Panel discussed with you, you have been a member of The Florida Bar since 1972 and as such should be well aware of the high standards of professional conduct to which you are held as a member of The Florida Bar and an attorney appearing in the Fifteenth Judicial Circuit. Despite your over 40 years of practicing in Florida, your conduct during the above referenced depositions appeared to be highly unprofessional and in direct contradiction to the requirements of professional conduct mandated by The Florida Bar as well as the Palm Beach County Bar Association’s Standards of Professional Courtesy.

Pursuant to The Florida Bar’s Ideals and Goals of Professionalism, a “lawyer should treat all persons with courtesy and respect and at all times abstain from rude, disruptive and disrespectful behavior. The lawyer should encourage the lawyer’s clients and support personnel to do likewise even when confronted with rude, disruptive and disrespectful behavior.” Furthermore, the Palm Beach County Bar Association Standards of Professional Courtesy in part mandate the following:

### III. Conduct Toward Other Attorneys, The Court and Participants

1. Attorneys should refrain from criticizing or denigrating the court, opposing counsel, parties or witnesses, before their clients, the public or the media, as it brings dishonor to our profession.
2. Attorneys should be, and should impress upon their clients and witnesses the need to be, courteous and respectful and not rude or disruptive with the court, opposing counsel, parties and witnesses.

The record we reviewed was replete with numerous examples of what appeared to be uncivil and unprofessional conduct during depositions. Some examples follow.

During your examination of a deposition witness, you appeared to be excessively confrontational; you accuse the witness of lying under oath and issued disrespectful snide remarks to opposing counsel, such as “[i]f you were listening you would

know.” In addition to your treatment of the witness, your physical behavior toward the witness (laughing, smirking, and derisive facial expressions [as reflected in the transcript]) appeared also to be inappropriate regardless of the conduct and testimony of the witness.

During opposing counsel’s examination of a witness on another occasion, you appeared to repeatedly state improper speaking objections and appeared to advise opposing counsel in a demeaning manner on how to conduct his deposition. Further, during numerous occasions you instructed your client not to answer opposing counsel’s questions on the following improper bases: compound question, question was argumentative, and document speaks for itself. Rather than simply stating your objection on the record and allowing for the witness to answer, you chose to act in what can be characterized as a confrontational and unprofessional manner.

During your examination of a witness in another deposition, the witness testified “I don’t recall” to a question you posed. Instead of accepting his answer or otherwise asking a follow up question, you appeared to become confrontational with the witness and opposing counsel. Not only did you refuse to accept the witness’s answer and move forward, you accused the witness of being evasive and accused opposing counsel of assisting the witness’s evasion of the question.

At our meeting, the Panel attempted to discuss the above with you in order to gain a better understanding of the events surrounding your conduct as well as to provide additional insight into the requirements and purpose of The Florida Bar’s Ideals and Goals of Professionalism and the Palm Beach County Bar Association’s Standards of Professional Courtesy. It became apparent from the beginning of the meeting that you felt your actions during the depositions were not only appropriate but also justified based on your experiences with opposing counsel and actions of the witnesses. You justified your behavior by asserting that you were being “stonewalled” by opposing counsel and that, therefore, you had to “play hardball”. The Panel attempted to impress upon you that as members of The Florida Bar, we are all held to a very high standard, one that specifically calls for an attorney to act with the utmost professionalism and courtesy even when confronted with unprofessional conduct by another. Attorneys must treat each other, and all members of the public, with civility, professionalism, and courtesy at all times, regardless of the conduct we encounter on the other side of the table. Unprofessional conduct by opposing counsel does not create a free pass to behave uncivilly or unprofessionally ourselves.

The Panel was also asked to consider the issue of alleged misrepresentations of fact during several hearings before the Court. Our Professionalism Panel is neither designed nor intended to investigate or determine issues of fact. However, pursuant to Administrative Order No. 2.105-6/13, and the Florida Supreme Court’s Code for Resolving Professionalism Complaints (Opinion SC13-688), the Panel has discretion to refer appropriate complaints to The Florida Bar’s Attorney Consumer Assistance and Intake Program (ACAP) for further consideration. The Panel is considering whether it will do so in this instance.

The primary focus and design of the Panel is to educate attorneys who practice in the Fifteenth Judicial Circuit as to the requirements of professionalism and civility in the daily practice of law. We thank you for your participation and appearance before the Panel. It is our hope that your experience with the Panel will have a positive impact and serve as a guide to your future conduct.

Very truly yours,

/s/ Michael D. Mopsick and Amy S. Borman  
Co-Chairs, PBCBA Professionalism Committee for the  
Fifteenth Judicial Circuit Professionalism Panel



### Tor Anonymizer for Lawyers

By Christopher B. Hopkins

As a young student, did you ever dream of skipping school by pulling the fire alarm? Maybe you thought of a devilish plan to call in a fake bomb threat to avoid a test. In our wireless era, such felonious hijinx would be a pitifully low-tech way to violate Florida

Statutes 790.164 or 806.101. Just ask Eldo Kim, a (now former) sophomore at Harvard who anonymously *emailed* a bomb threat to avoid an exam. A perspicacious idea... until the FBI followed the electronic trail back to his laptop.

Lawyers and their clients can travel the internet undetected as long as they use “Tor,” an internet anonymizing service, and take certain steps before sending emails or files. Tor is a legitimate service which you and your clients should to consider in light of the Snowden disclosures about mass surveillance. Originally developed by the U.S. Naval Research Laboratory, and now operated by a non-profit association, Tor encrypts your identity on the internet -- which is completely legal -- using standards which even the NSA has admitted is “the king of high-secure, low latency anonymity.” If you can avoid human errors, Tor is the safest way to be anonymous online.

#### What is Tor and Is It Legal?

“Tor” stands for “The Onion Router” which creates anonymity on the web by bouncing your internet traffic through a myriad of nodes before reaching your intended destination. The end result is that your internet protocol address is obscured. It is legal to use Tor. Head over to [TorProject.org](http://TorProject.org) and, within five clicks, you can install a Tor browser.

#### Why Do I Need to Be Anonymous?

As a website operator, I can see details about visitors: what Google search lead them to my site; whether they are using a Mac or PC; and even what browser they are running. Commercial sites are tracking visitors in greater detail (e.g., if you close Facebook but never log off). A lot of sites can see your IP address -- the equivalent to the license plate on your getaway car -- which could lead someone back to your computer.

You may not want every internet search you perform to be tracked. At least occasionally, you will want to be anonymous on the internet. Likewise, there are times when you may want to send a document or image without it being traced back to you. Using Tor, you could create an email account and send files without the recipient knowing your identity.

#### Why Don't We Use Tor as a Default and Always Be Anonymous?

Speed and convenience keep us from using Tor for all internet traffic. First, using Tor takes twice as long to load a webpage. Second, there is a convenience to being “tracked.” The exchange of “cookies” allows frequently-visited sites to appear more welcoming based upon your prior visits. Finally, for true

anonymity, you would not log into accounts, accept cookies, or run “plug-ins” since those steps would betray your identity.

To this end, do not confuse Chrome’s “incognito” mode or Explorer’s “InPrivate Browsing” for Tor. The two former settings leave no trace of your web cruising *on your computer* by not saving cookies or browser history. Anyone in contact with you on the internet can still see you.

#### Can't the NSA Already Crack Tor?

It is hard to tell if the government can crack Tor. In September 2013, the New York Times reported, “NSA Able to Foil Basic Safeguards on the Web.” That said, the NSA was identifying people by intercepting their transmissions *before* they reached Tor. On the other hand, four months ago, the Guardian published an internal NSA presentation entitled “Tor Stinks” which bemoaned the fact that “we will never be able to de-anonymize all Tor users all the time.” Rather than be concerned about weaknesses in Tor’s encryption, the first rule of anonymity is not making careless mistakes.

#### Lessons from Mr. Kim and Mr. Post

So how did our Harvard student get caught sending bomb-threat emails if he was smart enough to use Tor? Mr. Kim reportedly used his student ID to log into Harvard’s wifi to send the anonymous email. The IP address on the email header was clearly anonymized so the school could not track him. But Harvard’s IT people guessed that the threat was internal and they looked to see whether anyone on Harvard’s system was using Tor around the time that the threatening email was sent. Once confronted, the FBI reports that Mr. Kim confessed. Lesson: to be truly anonymous, how you connect to the internet needs to be hidden from those who may be looking for you.

Similarly, to be anonymous, anything you transmit must not betray your identity. In *United States v. Post*, the defendant was apprehended uploading child pornography despite the fact he used Tor. Federal agents simply downloaded the images and found metadata revealing GPS coordinates, date, and that the images were taken with an iPhone 4. Using Yahoo Maps, the authorities visited Mr. Post and discovered a couch shown in the photos and his iPhone 4. Lesson: even though Tor transmissions are anonymous, any files sent over the internet need to be scrubbed of any identifying information.

Anonymity online is not just for alleged criminals. But you can learn from their mistakes.

*Christopher B. Hopkins is a shareholder at Akerman LLP. Send your unscrambled questions or comments to christopher.hopkins@akerman.com.*

### Technology Seminar

April 11, 11:45-1:00 p.m.

“ESI Discovery for the Technically Challenged”

## Enforcing A Forum-Selection Clause

By Matt Triggs and Jonathan Galler

Your new client has been sued in federal court for breach of contract. The CEO informs you that the contract contains a bulletproof forum-selection clause (the parties had negotiated over the clause endlessly) and that the lawsuit is in the wrong jurisdiction.

The client instructs you: “Take care of this. If I have to travel for this case, we’re going to do it in warm, sunny Florida, not Fargo, North Dakota.”

Suffice it to say that you’d better know how to enforce that clause. *Correctly*.

It’s not as simple as it may seem. Fortunately, the U.S. Supreme Court issued an opinion a few months ago that provides something of a roadmap. *Atlantic Marine Constr. Co. v. United States District Court for Western District of Texas*, 134 S.Ct. 569 (2013). In the three months after the *Atlantic Marine* opinion was issued, it was cited by other courts no less than forty-six times.

A brief look at the menu of potential options demonstrates why a roadmap is helpful.

- Federal Rule 12(b)(3) – provides for dismissal of a case based on improper venue;
- 28 U.S.C. § 1406(a) – provides for dismissal or transfer of a case laying venue in the wrong division or district;
- 28 U.S.C. § 1404(a) – provides for transfer of a case to any other district or division where it might have been brought or to any district or division to which all parties have consented; and
- The doctrine of *forum non conveniens* provides that a court may dismiss or stay an action when an adequate alternative forum is available and the balancing of various private and public interests weigh in favor of dismissing or staying the action.

How’s a lawyer supposed to choose?

As you would expect, the Supreme Court’s opinion provides an exhaustive and thoughtful analysis. But we’ll skip straight to the answers.

Rule 12(b)(3) and section 1406(a) are to be employed only when the case has been commenced in a federal district that is “improper” or “wrong.” The analysis of whether the forum is improper is controlled

by 28 U.S.C. § 1391, which governs venue for all federal civil actions. Critically, the existence of a forum-selection clause does not make an alternative forum improper or wrong as those terms are used in Rule 12(b)(3) and section 1406(a). So the presence of a forum-selection clause does not trigger the availability of those options.

Section 1404(a) is different. That statute may be employed without regard to whether the case is in the “wrong” forum. In other words, a transfer under section 1404(a) is available even when the case is in a proper forum, so long as the transfer is for the convenience of the parties and witnesses and is in the interests of justice. Where the parties have contractually agreed to an alternative forum, that agreement is to be given controlling weight in all but the most exceptional circumstances. *Atlantic Marine*, 134 S.Ct. at 579.

The opinion goes on to explain that [t]he presence of a valid forum-selection clause requires the district court to adjust their usual section 1404(a) analysis in three ways. *Atlantic Marine*, 134 S.Ct. at 581. First, the plaintiff’s choice of forum in commencing the lawsuit is to be given no deference. Second, arguments regarding the balancing of the parties private interests should not be considered. And third, an action that is transferred under section 1404(a) due to a plaintiff’s decision to ignore a valid forum-selection clause will not carry with it the original venue’s choice-of-law rules. In most other transfers under section 1404(a), the original venue’s choice-of-law rules (which, in diversity cases, means the choice-of-law rules of the state in which it sits) continue to govern so as to preclude defendants from using the statute to benefit from the state law of another jurisdiction.

But what about a forum-selection clause in which the selected forum is not a federal district court but, rather, a state court or the court of a foreign country? In that instance, even section 1404(a) would not be available to the parties because it provides only for a transfer to a different federal district or division. Instead, the way to enforce a



forum-selection clause of that nature is through the doctrine of *forum non conveniens*. In fact, as the Supreme Court opinion explains, section 1404(a) is simply a codification and revamping of the doctrine of *forum non conveniens* for the limited subset of cases in which the transferee court is within the federal court system. The difference with respect to that subset is that section 1404(a) provides for a transfer of the action rather than a dismissal or stay.<sup>1</sup>

So choose from the options wisely & and be sure to tell your client to pack a bathing suit.

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

<sup>1</sup> Florida Rules of Civil Procedure 1.060 and 1.061 address transfers of action and/or dismissals for *forum non conveniens* in our state court system.

## Do You Need a Mentor?



The Palm Beach County Bar Association’s Mentor Program is designed to provide members with a quick and simple way to obtain advice, ideas, suggestions, or general information from an attorney that is more experienced in a particular area of law. The mentors provide a ten-to-fifteen-minute telephone consultation with a fellow attorney, at no fee. Any member of the Palm Beach County Bar, whether newly admitted or an experienced practitioner, can use the program. Call the Bar office at 687-2800, if you need a Mentor.





### Diversity in the Workplace

*Submitted by Diversity Relations Subcommittee Chair Grace Murillo*

Diversity in the workplace means much more than just observing legal requirements, and the posting of an Equal Employment Opportunity statement. It also means actively promoting differences, recognizing those differences as valuable, and fostering an environment of inclusiveness.

Diversity encompasses a wide variety of differences, including, but not limited to, race, color, culture, national origin, religion, creed, mental or physical abilities, disability, heritage, age, gender, sexual orientation, gender identity or expression, as well as other characteristics not typically associated with diversity such as, work experience, educational background, marital status, familial status, and U.S. Military or veteran status.

The variety of experiences and perspective which arise from these differences can provide substantial value and benefits in the workforce such as, increased creativity, critical analysis, teamwork, employee morale, outside-the-box thinking, and an environment of mutual respect. Workplace diversity has also been shown to drive economic growth by, among other things, assisting in capturing a greater share of the client market and producing a more qualified workforce. It also discourages "group-think," a phenomenon in which people fail to consider alternatives or a solution due to a desire to conform to the group.

Practices that present barriers to workplace diversity should be scrutinized, challenged, and eliminated. We all play a critical role in improving our workplace culture. To begin addressing diversity concerns, consider the following: what rules, policies or practices within your work environment have a negative impact on different groups? What changes should be made to meet the needs of our diverse Bar?

As part of your diversity efforts, consider joining The Committee for Diversity and Inclusion ("CDI"), the Palm Beach Bar Association's only permanent standing committee. The CDI has a strong

commitment to bringing diversity to the legal workforce. It takes pride in its many diversity efforts including, the Diversity Placement Database, which is designed to be a useful tool for law firms and government agencies eager to recruit attorneys from diverse backgrounds. Among other efforts, the CDI also has established the Diversity Internship Program to provide students of diverse backgrounds an opportunity to gain valuable work experience in the legal workplace. Additional projects by the CDI include the Road to the Bench Mentor Program, which focuses on the need to strive for diversity on Palm Beach County's Bench and Judicial Nominating Commission, a diversity website that focuses on welcoming lawyers of diverse ethnic, racial, and gender backgrounds to Palm Beach County, meetings with law firms' hiring

partners to assist with recruiting, and the hosting of an annual diversity luncheon.

We encourage all members of the legal workforce to continue embracing our differences and congratulate Shutts & Bowen LLP, the recipient of the 2014 Judge Edward Rogers Diversity Award. Shutts & Bowen demonstrates a consistent pattern of commitment to the recruitment, retention and promotion of individuals of underrepresented populations. We applaud Shutts & Bowen's continued diversity efforts.

*Grace Murillo is the Chair of the Diversity Relations Subcommittee of the CDI and President-Elect of the Palm Beach County Hispanic Bar Association. She is a Labor and Employment Attorney at the law firm of Weiss Serota Helfman Pastoriza Cole & Boniske.*

### Kennie Edwards Award:

On September 19, 1996 a horrible tragedy occurred in the workers' compensation community that most will never forget. An injured worker armed with a shotgun and a handgun burst into a workers' compensation defense firm in West Palm Beach, Florida. Attorney Kennie Edwards was shot and killed at age 38 leaving behind his pregnant wife and five year old son. The injured worker then shot and killed himself. Following this horrific event the workers' compensation community established the Kennie Edwards Award which is presented annually to the Workers' Compensation attorney who best exemplifies those professional qualities admired in Kennie- honesty, integrity, cordiality, good humor, high ethical standards and advocacy tempered by a sense of humility.

On Friday, February 28, 2014 the Palm Beach County Bar Association's Workers' Compensation Practice Committee presented the 2014 Kennie Edwards award to Nicole Hessen of Wender, Hedler & Hessen, P.A. Pictured with Nicole Hessen is Judge Timothy Basquill a past recipient of the award!

Past recipients of the Kennie Edwards Award are: Honorable Timothy Basquill, Jason Goldstone, Alison Schefer, Randy Porcher, Honorable Shelley Punancy, Michael Celeste, Lyle Platt, Michelle Leissle, Charles Williams, Lloyd Findler, Walter Beisler, Art Pumpian, David Rigell, Michael McManus and Stan Narkier



## Welcome New Members!

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

**David K. Blazek:** University of Wisconsin, 1994; Solo Practitioner, Boca Raton.

**Patrick Gallagher Broderick:** Georgetown University, 1997; Solo Practitioner, West Palm Beach.

**Rachael M. Bruce:** University of Florida, 2013; Associate in Lewis, Longman & Walker P.A., West Palm Beach.

**Richard Lee Cartledge, Jr.:** Stetson University, 2009; Associate in Kubicki Draper, West Palm Beach.

**Judy Chaverri:** Villanova University, Law Student Membership, Plymouth Meeting, PA

**Kurt M. Ciell:** University of Florida, 2013; Associate in C. Debra Bain, P.A., Jupiter.

**Stephen L. Cook:** University of Florida, 1976; Solo Practitioner, Riviera Beach.

**Sean C. Fahey:** University of Alabama, 2012; Fifteenth Judicial Circuit, West Palm Beach.

**Jared S. Gillman:** St. Mary's University, 2008; Associate in Clikin Lubitz Martens & O'Connell, West Palm Beach.

**Candice N. Goldbaum:** University of Miami, 2013; Office of the State Attorney, West Palm Beach.

**Melissa A. Goldman:** University of Miami, 2012; Associated with Trackdoxs, Inc; Boca Raton.

**Gaille Shalleene Gregoire:** St. Thomas University, 2011; Associate in Boyd, Richards, Parker & Colonnelli, P.L., Ft. Lauderdale.

**Whitney L. Harrington:** Boston College, Law Student Membership, Delray Beach.

**Kristen N. King Jaiven:** St. Thomas University, 2013; Associated with Global Towers, Boca Raton.

**Troy Klein:** University of Miami, 1999; Solo Practitioner, West Palm Beach.

**Tara L. Kopp:** Nova Southeastern University, 2009; Associate in Schuler, Halvorson, Weissner & Zoeller, P.A., West Palm Beach.

**Matthew L. Lundy:** University of Florida, 2008; Solo Practitioner, Boca Raton.

**Natalie E. Green Moore:** Nova Southeastern University, 2003; Solo Practitioner, West Palm Beach.

**Heather L. Pattok:** Nova Southeastern University, 2007; Associate in Scott J. Sternberg & Associates, P.A., West Palm Beach.

**Luzardo Pendas:** St. Thomas University, 1997; Solo Practitioner, Orlando.

**Laura K. Phillips:** Nova Southeastern University, 2013; Solo Practitioner, Wellington.

**Zachary W. Phillips:** Nova Southeastern University, 2013; Solo Practitioner, Wellington.

**Rachel N. Portnoy:** Northeastern University, 2002; Solo Practitioner, Delray Beach.

**Marissa Joy Pullano:** Nova Southeastern University, 2008; Associate in Brinkley Morgan, Ft. Lauderdale.

**Eric L. Reichenberger:** Florida State University, 2010; Associate in Vernis & Bowling North Palm Beach.

**Elizabeth Melissa Schoenthal:** University of Florida, 2013; Associate in the Law Office of Jay Cohen, Ft. Lauderdale.

**Ryan M. Shirley:** Stetson University, 2012; Associate in Ronald R. Wolfe & Associates, Tequesta.

**Michael Stewart:** Stetson University, 2011; West Palm Beach.

**WELCOME**



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- Fla. Cert. Circuit Civil, Appellate & Family Mediator
- Member, AAA Roster of Neutrals for Commercial and Construction Arbitration and Mediation
- Qualified Fla. Arbitrator
- FINRA Approved Mediator
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## A Message From United States Supreme Court Justice Samuel Alito

More than 1,100 members of the Palm Beach County Bar Association and Forum Club of the Palm Beaches listened to Justice Alito talk about the highest Court and the importance of an independent judiciary.



Justice Alito says "it's fine if we are not all that popular. What is important is the independence of the judiciary."



Federal Magistrate Judge James Hopkins and Patricia Lowry



Directors Ned Reagan and Jessica Callow Mason



Immediate Past President Adam Rabin, Director Grier Pressly, Dina Keever and Robin Bresky



Judge August Bonavita and Denise Nieman

## 15th Judicial Circuit Administrative Orders

[www.15thcircuit.com/adminorders](http://www.15thcircuit.com/adminorders)



### NEW ADMINISTRATIVE ORDERS

#### 5 Series: Unified Family Court

Administrative Order 5.108 - *Family/Juvenile Hybrid Division "FA/JM"*. Issued January 3, 2014. Reestablished Juvenile Division "JM". Sets forth the procedure for allocating cases in Family Division "FA" and Juvenile Division "JM".

Administrative Order 5.212 - *Order to Attend Parenting Class, and to File Financial Disclosure and Child Support Guideline Worksheet in Paternity and Dissolution of Marriage Cases with Minor Children*. Issued January 2, 2014. Provides instruction to parties in family cases regarding attendance and completion of parenting classes as well as filing and serving financial affidavits and Child Support Guideline Worksheets.

### REVISED ADMINISTRATIVE ORDERS

#### 2 Series: General

Administrative Order 2.506 - *Court Interpreter Policies*. Amended January 7, 2014. Defines Court Interpreter's Office and Staff Interpreters. Gives the additional option for an attorney who requires the services of the Court Interpreter's Office to directly contact the office. Provides that staff interpreters shall not translate audio or video recordings during court proceedings.

#### 4 Series: Criminal

Administrative Order 4.205 - *Forfeiture and Discharge of Surety and Cash Bonds*. Amended January 21, 2014. Allows for additional instances when the Clerk of Court can automatically discharge a bond and a bond forfeiture. Provides direction to the Clerk of Court when a bond is forfeited.

#### 6 Series: Probate & Guardianship

Administrative Order 6.103 - *Assignment Of Cases, South County Probate/Guardianship Mental Health And Substance Abuse Divisions "IX" "IY" and "IZ"*. Amended December 30, 2013. Reestablishes Probate Guardianship Division IZ.

#### 11 Series: Internal Policies and Procedures

Administrative Order 11.102 - *Administrative Judges and Executive Committee*. Amended January 17, 2014. Identifies the current administrative judges.

Administrative Order 11.105 - *Judicial Rotation Policy*. Amended January 10, 2014. Describes the process for a judge rotating into a division which previously implemented technological practices.

Administrative Order 11.106 - *Alternate Assignments*. Amended January 17, 2014. Identifies a judge's alternate.

### VACATED ADMINISTRATIVE ORDERS

#### 5 Series: Unified Family Court

Administrative Order 5.506 - Vacated February 2014. the Administrative Order which created Family Division FW2 in Belle Glade.





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## Members Making A Difference

Our members recently took the time out of their busy day to proof essays, which were written by adults learning to read and write English for the first time through the Literacy Coalition of Palm Beach County.

Students wrote about the most difficult thing they've done in their life. Our volunteers were asked to provide positive feedback to the authors for their inspirational stories. The winning author was honored during the Coalition's Love of Literacy Luncheon last month. Thank you to all 30 volunteers.



*"I applaud the students for sharing their essays with us regarding such private moments in their lives. That is not an easy task with total strangers"*

—Pamela Guerrier



*"It was a privilege to read the stories of those bettering themselves, who overcame serious obstacles and their essays showed an impressive ability to translate their thoughts into written language."*

—Marc Reiner



**Lawyers for Literacy Committee members Georgina Jimenez-Orosa, Melynda Melear and Judith Migdal-Mack**

### COME JOIN US!!!

### TENTH ANNUAL LAWYERS FOR LITERACY DAY

AT

#### THE ADULT EDUCATION CENTER

2161 N. Military Trail  
West Palm Beach

**THURSDAY, APRIL 17, 2014 ~ 8:30 a.m. - 10:00 a.m.**

Please join us for this life changing opportunity! The purpose of the Lawyers for Literacy Day at the Adult Education Center is to give adult learners the opportunity to meet and get to know local attorneys and community leaders. Participants speak with adult students in a classroom setting regarding the importance of education and reading for future success.

Please R.S.V.P. to Abigail Jorandby at [abby@cwd-legal.com](mailto:abby@cwd-legal.com)

### And the winner is...



Congratulations to Diana Martin (left) first place winner in our Mock Trial Writing Contest! Law Week Chair Kirsten Herndon presented Diana with a brand new computer, which was donated by Office Depot in Boca Raton. Additional winners were Amy Borman, 2nd place; Gail Silver, 3rd and Sherry Collins 4th.

### Law Suit Day Clothing Drive May 1

The Law Week Committee will host its annual "Law Suit Day Clothing Drive" on Thursday, May 1. Clean out your closet and donate dresses, suits, pants, shirts and blouses. We need clothes in all sizes for both men and ladies. We're also accepting purses, shoes and belts. Items will be given to The Lord's Place, the Salvation Army and the Public Defender's Boutique. Participate by donating your gently used items to the Bar Office May 1 between 9:00 a.m. and 4:30 p.m.



### Member Benefits!

Be sure to check out all of your member benefits by visiting our website at [www.palmbeachbar.org](http://www.palmbeachbar.org).

Discounts include credit card processing, office supplies, CLEs, payroll services and so much more.

## ABA Midyear Report: Chicago 2014



*By Donnie Murrell, PBCBA ABA Delegate*

It has been brought to my attention that lately my reports regarding the activities (or in-activities) of the House of Delegates have been somewhat negative. In an effort to be more upbeat and positive, I present the following report:

I am positive that (with the wind-chill) it was minus 27 degrees Fahrenheit during our meeting in Chicago. I am positive that the city was experiencing its fifth highest snow fall on record. I am positive that the Great Lakes (and the Chicago River) were frozen over. I am positive that I was frozen over. I am positive that I was very happy to get home.

I am also positive that the ABA is going to increase its dues. I know that because it was voted on by the House, and that was the *only* item on the agenda which was expected to generate debate – which it did not. The House voted on a few other Mom & Apple Pie resolutions that no one spoke against, we harrumphed and applauded new officers, and we adjourned by 4:00 p.m. I am positive we could have been done by 11:00 a.m.

Positively,

Donnie Murrell

## CLE On-Demand: Anytime & Anywhere

The PBCBA's seminars are available for immediate delivery through our website. You can purchase any of our seminars in MP3 format for immediate download, or you can still request a CD that will be mailed to you. We have a large library of courses recorded not only from our seminars but also those presented by the Orange County, Hillsborough County and Clearwater Bar Associations. If your CLE deadline is coming up, be sure to check out our site to order your CLE today! [www.palmbeachbar.org](http://www.palmbeachbar.org)

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## And The Winners Are... 2014 Pro Bono Awards

### Family Law Award

Pamela Balaguera  
The Balaguera Law Firm, P.A.

### Real Property Law Award

Steven Brannock  
G. Steven Brannock, P.A.

### Law Firm Award

Burlington & Rockenbach, P.A.

### Elder Law Award

Garry M. Glickman  
Glickman, Witters & Marell P.A.

### Juvenile Law Award

Anne Hinds  
Boies, Schiller & Flexner LLP

### Non Profit Award

Frank T. Pilotte  
Murphy, Reid LLP

### Emeritus Award

Lou Reidenberg

### Civil Litigation Award

Lloyd Schwed  
Schwed Kahle & Kress, P.A.

### Special Services Award

Dr. Karen Severson

### Voluntary Bar Association Award

Young Lawyers Section of the  
Palm Beach County Bar Association



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## Florida Supreme Court Recognizes Local Attorneys for Pro Bono Work

Florida Supreme Court Chief Justice Ricky Polston and the Florida Pro Bono Coordinators Association in collaboration with the Legal Aid Society of Palm Beach County and with the support of the Young Lawyer's Division of The Florida Bar are proud to recognize the efforts of local attorneys who provide pro bono service through a legal services organization. Attorneys to be recognized will receive a lapel pin designating their level of pro bono activity. Three levels will be recognized:

- Bronze level - 20 to 49 hours
- Silver level - 50 to 99 hours
- Gold Level - 100 or more hours

All hours are based on cases closed in the year 2013. The pins, along with a letter of recognition from the Chief Justice of the Florida Supreme Court, will be distributed this spring through the Legal Aid Society. The attorneys will be recognized at the 26th Annual Pro Bono Recognition Evening, additional local recognition for these attorneys is anticipated. A list of the award recipients follows:

### LAPEL PIN WINNERS 2013

#### GOLD (100+)

Richard Abedon  
Bridget Ann Berry  
Steven G. Brannock  
Ron Gache  
Amy Genet  
Grant Gisondo  
Garry Glickman  
Anne E. Hinds  
Alfred J. Malefatto  
Lawrence Moncrief  
Paul Rampell  
Michael Stern  
Barry Weiss

#### SILVER (50-99)

Rae Franks  
Georgina Jimenez-Orosa  
Richard Kleid  
Steven Rubin  
David Schmidt  
Samantha J. Vacciana

#### BRONZE (20-49)

Jayne Regester Barkdull  
Christopher Chopin  
Ronald E. Crescenzo  
Jeffrey Farwell  
Isidro M. Garcia  
Adam Gumson  
Jeffrey Hurcomb  
Nia D. Johnson  
Jacqueline LaVoie  
James McCann  
E. Novoa  
Cary Sabol  
Stephanie Serafin  
Carl J. Spagnuolo  
Linda Spector  
Julia Wyda  
Ronald M. Zakarin  
Randy Zeldin

## Amy U. Hickman Receives The Florida Bar President's Pro Bono Service Award

The 15th Judicial Circuit Pro Bono Committee Chair Ron Ponzoli, is pleased to announce that Amy U. Hickman was awarded the 2014 Florida Bar President's Pro Bono Service Award for the 15th Judicial Circuit. The award, established in 1981, was given at a ceremony before the Florida Supreme Court in January. Its purpose is twofold: "to further encourage lawyers to volunteer free legal services to the poor and to communicate to the public a sense of the substantial volunteer services provided by Florida lawyers to those who cannot afford legal fees."



Ms. Hickman is The Florida Bar 2011 Board Certified Attorney of the Year and a 1989 graduate of the University of Florida College Of Law. As a partner in Hausmann & Hickman, P.A. and a Board Certified Adoption Lawyer, Amy specializes in adoption law with an additional focus on reproductive law. Amy has placed hundreds of children for adoption, created numerous families through surrogacy and preplanned adoption arrangements and represented parties in contested adoption proceedings.

Prior to founding Hausmann & Hickman, P.A., Amy was an attorney with the Juvenile Advocacy Project of the Legal Aid Society where she represented children in State and Federal Court.

In 2009, the President of The Florida Bar appointed Amy to The Florida Bar's Inaugural Adoption Certification Committee. She is also a member of the Executive Council of the Family Law Section of The Florida Bar and past chair of the Sections Juvenile and Adoption Committee. Through the Family Law section, Amy advocates to improve and reform Florida's Adoption Law. Her skill and expertise in adoption law, resulted in the Family Law Section's instrumental role in reforming Florida's Adoption Statutes.

She is a founding board member of the Florida Adoption Council, a fellow of the American Academy of Adoption Attorneys and a member of the board of directors of the Children's Home Society of Florida, South Coastal Division..

Amy has been a member of the Legal Aid Society's Pro Bono Panel since 1998. In addition to providing financial support to Legal Aid, Amy has represented numerous children and logged hundreds of pro bono hours. One case in particular led to Amy receiving the Pro Bono award for Child Advocacy from the Legal Aid Society in 2013. She spent almost 1.5 years on this complicated juvenile case giving it all her time as needed while working a full private case load, pushing family/adoption issues in Tallahassee, and assisting her mother who was ill.

Amy is worthy of this recognition by virtue of her innumerable hours of dedication to the children and families of Palm Beach County and across the state. For her consistent and longstanding dedication Amy is the deserving recipient of The 15th Judicial Circuit Florida Bar President's Pro Bono Service Award.



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## POSITIONS AVAILABLE:

### LITIGATION ASSOCIATE (WPB):

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**ASSOCIATE ATTORNEY:** Busy North Palm Beach Civil Litigation firm seeks associate attorney with a minimum of 2-5 years of Civil Trial and Appellate experience. Strong research and writing skills are required. Excellent computer skills a necessity. Insurance Defense experience preferred. Please submit resume and writing samples to [sue@wlclaw.com](mailto:sue@wlclaw.com).

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**GREGORY TENDRICH, Esq.:** "AV" rated, FINRA Arbitrator, Certified County Court Mediator & Former Series 7 licensed VP & Asst. General Counsel to national and regional NYSE & FINRA stock brokerage firms, is accepting referrals and is available to co-counsel, provide trial/arbitration consultation or assistance in matters involving the recovery of losses due to stock broker fraud, unsuitability, churning and misrepresentation, in addition to SEC, FINRA, NYSE and other regulatory enforcement matters. Please call (561) 417-8777 or visit [www.yourstocklawyer.com](http://www.yourstocklawyer.com).

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## HEARSAY

**Alicia Marie Phidd** has been appointed by the Palm Beach County Board of County Commissioners to the Environmental Control Hearing Board to serve a term of three years. Phidd has a master's degree from Stony Brook University and a law degree from St. Thomas University.

The Law Office of Glen J. Torcivia & Associates, P.A. is pleased to announce that **R. Brian Shutt**, formerly Delray Beach City Attorney, has joined the firm. Mr. Shutt's practice will focus on local government law.

Jones, Foster, Johnston & Stubbs, P.A. announces that **Grasford W. Smith** was recently elected to the Board of Directors of the Black Chamber of Commerce of Palm Beach County.



Nason, Yeager, Gerson, White & Lioce, P.A. announces that **Thomas F. Mullin** has joined the firm as an Associate in its recently added Boca Raton office.



**Kelly V. Landers**, rated AV Preeminent in Criminal law for the past ten years, has been appointed to the Board of Directors of Comprehensive Alcoholism Rehabilitation Programs (CARP), Inc.



Ward Damon announces that **Jared Lindsey and Amy Slaman** recently joined the firm's expanding Real Estate litigation practice group.

**Michelle Diffenderfer** was honored with the Alumni Achievement Award by the University of Miami School of Law.



**Tara Lynn Kopp** has become an Associate with Schuler, Halvorson, Weisser & Zoeller, P.A. Ms. Kopp's primary area of practice is PIP litigation.





**VOLUNTEERS NEEDED FOR LAW WEEK:  
MOCK TRIALS & SPEAKERS  
April 28 – May 2**

The Law Week Committee needs volunteers to present Mock Trials and serve as guest speakers during Law Week, April 28 – May 2. Programs are held in elementary, middle and high schools throughout the county. In return for your support, you'll receive pro bono credits. If you can help, please fill out the form below and mail it back to Sherry Ingram, Palm Beach County Attorney's Office, 300 North Dixie Highway, Suite 359, West Palm Beach, FL 33401.

----- Clip and Mail -----



JUDGE/ATTORNEY NAME: \_\_\_\_\_

FIRM ADDRESS & PHONE: \_\_\_\_\_

E-MAIL ADDRESS (**REQUIRED**): \_\_\_\_\_

AREA(S) OF SPECIALTY: \_\_\_\_\_

PREFERRED DAY (please circle)   Monday   Tuesday   Wednesday   Thursday   Friday

EVENT PREFERENCE:   ☐ MOCK TRIAL   ☐ SPEAKERS PROGRAM

SCHOOL PREFERENCE (if any): \_\_\_\_\_

SCHOOL LEVEL PREFERENCE:   ☐ Elementary   ☐ Middle   ☐ High School

GEOGRAPHICAL PREFERENCE:

- |   |   |  |  |
|---|---|--|--|
| <input type="checkbox"/> Palm Beach         | <input type="checkbox"/> Lake Worth/Lantana | <input type="checkbox"/> Jupiter/Tequesta            | <input type="checkbox"/> Riviera Bch/Lake Park |
| <input type="checkbox"/> West Palm Beach    | <input type="checkbox"/> Delray Beach       | <input type="checkbox"/> Boca Raton                  |  |
| <input type="checkbox"/> Boynton Beach      | <input type="checkbox"/> North Palm Beach   | <input type="checkbox"/> Wellington/Royal Palm Beach |  |
| <input type="checkbox"/> Palm Beach Gardens | <input type="checkbox"/> Belle Glade        | <input type="checkbox"/> Other, please specify _____ |  |

**PLEASE RETURN BY APRIL 11**

Sherry C. Ingram, CP, FCP, FRP  
Palm Beach County Attorney's Office  
300 N. Dixie Highway, Suite 359  
West Palm Beach, FL 33401  
Direct: 561/355-4389. Fax: 561/355-4234.  
Email: [singram@pbcgov.org](mailto:singram@pbcgov.org)



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

Friday, April 4, 2014 - 8:15 a.m. – 6:15 p.m.

Bar Association Office - 1507 Belvedere Road, WPB, FL 33406

**POST-JUDGMENT ISSUES: MODIFY THIS, ENFORCE THAT, AND  
WHAT DO YOU MEAN I HAVE TO PAY YOU?**

*Whether you are new to the area of family law or a seasoned practitioner, this CLE has something for everyone. Speakers will take a fresh look at evaluating, developing, and trying cases based on issues which arise after the entry of the final judgment. Procedural matters will be addressed such as 1) whether your case should be heard before the Judge or Magistrate, 2) how practicing before a Magistrate differs from practicing before a Judge, and 3) the non-uniform practice of the Uniform Motion Calendar. In addition, there will be in-depth presentations on key substantive law issues such as modification of alimony, child support and parenting plans, enforcement of existing orders and last, but not least, how to get paid.*

**Program Schedule**

8:15am - 8:30am	<b>Late Registration / Check in</b>
8:30am - 9:00am	<b>Welcome, Introduction of Program Committee, and Opening Remarks</b> - C. Debra Welch, Esq., The Law Firm of C. Debra Welch, P.A., Family Law CLE Committee Chair; Co-Chairs: Craig J. Pohlmann, Esq.; Cathy Purvis Lively, Esq.; Ted Miloch, Esq.; Ashley B. Poulter, Esq.; and Merin Seifer, Esq.
9:00am - 10:00am	<b>Practice and Procedure: How to Make Happen, What You Actually Want to Happen</b> - *Jeffery A. Weissman, Esq., Gladstone & Weissman, P.A.
10:00am - 10:50am	<b>Discovery: Knowing What You Need and Knowing How to Get it</b> - *Odette M. Bendeck, Esq., Fisher & Bendeck, P.L.
10:50am - 11:00am	<b>BREAK</b>
11:00am - 12:00pm	<b>Enforcement: You Can't Make Me! Oh, Yes, I Can!</b> - *Joel M. Weissman, Esq., Joel M. Weissman, P.A.
12:00pm - 1:00pm	<b>LUNCH</b>
1:00pm - 1:45pm	<b>Modification of Parenting Plans</b> - *Peter L. Gladstone, Esq., Gladstone & Weissman, P.A..
1:45pm - 2:45pm	<b>Modification of Alimony: Can I Get More? Can I Pay Less? Let's Play Alimony Roulette with the Florida Legislature!</b> - *Howard M. Rudolph, Esq., Rudolph & Associates, LLP
2:45pm - 3:00pm	<b>BREAK</b>
3:00pm - 4:00pm	<b>Modification of Child Support</b> - Julia Wyda, Esq., Shapiro Blasi Wasserman & Gora, P.A.
4:00pm - 5:00pm	<b>Attorney's Fees: How to Get Them Ordered &amp; How to Collect Them</b> - *Robert M. W. Shalhoub, Esq., Robert M. W. Shalhoub, P.A.
5:00pm - 5:30pm	<b>A View From the Bench - The Do's and Don'ts of Presenting Your Case</b> - Judge John L. Phillips, Judge Lisa Small, Magistrate Sara Alijewicz, *Magistrate Diane M. Kirigin
5:30pm - 6:15pm	<b>Happy Hour</b>

\*Board Certified Marital and Family Law Attorney

**Matthew Lundy Law**

**QDRO Law**

**SPONSORED BY:**



LAW OFFICE OF  
**BENJAMIN T. HODAS, LLC**  
Marital & Family Law

This course is expected to receive **8.5 CLER / Marital & Family Law Certification credits** are pending from the Florida Bar.

**Early Registration** cost is **\$175** for PBCBA member/paralegals **0-5 years** experience; **\$210** for PBCBA members/paralegals **w/5+ yrs.** experience; **\$250** for non-PBCBA attorney members/paralegals. **After 3/28/14** add \$25 late fee to registration.

**LEGAL AID ATTORNEY** cost is **\$175**. PBCBA member **Legal Aid attorney** may register on line; **non-PBCBA member Legal Aid attorney** should mail in \$175 check to PBCBA, 1507 Belvedere Rd., WPB., FL 33406. **After 3/28/14** add **\$25** late fee to registration.

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

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

**PAYMENT OPTIONS:**



If paying by credit card, please go to our secure website to register: [www.palmbeachbar.org](http://www.palmbeachbar.org)



If you can't leave your office, you can attend this via live webinar by registering here <http://www.palmbeachbarcle.org/>. **PLEASE NOTE:** If you register for the webinar, you cannot attend the live version.



If paying by check, please send payment, along with this form, to the Bar office.



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

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

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

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

City/Zip \_\_\_\_\_

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

I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (4/4/14 Family Law) Cost is the same as listed above, in addition to \$10 for shipping and handling. **PAYMENT BY CHECK ONLY WITH THIS FORM.**

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



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

## ***"The 14th Annual View From The Bench"***

### ***The Judges' View of Proper Attorney Etiquette***

*Thursday, April 10, 2014 - 6:00pm - 8:30pm*

*The Colony Hotel, Palm Beach, 155 Hammon Avenue*

### **Program Schedule**

6:00pm - 6:30pm      Registration and Cash Bar

6:30pm - 8:30pm      Dinner and Presentation:

***Honorable Martin H. Colin***

***Honorable Diana Lewis***

***Honorable John L. Phillips***

***Honorable David E. French***

***Honorable Krista M. Marx***

***Honorable Jeffrey D. Gillen***



This course is expected to receive **2.0 CLER/Certification credits** are pending from The Florida Bar. **Early registration cost (including 1 free drink ticket) is \$70** for PBCBA members/paralegals; **\$110** for non-PBCBA attorney members/paralegals if registered by 4/3/14; add \$25 after that date.

### ***Sponsored by:***



THE PRIVATE BANK



*Estate & Trust Litigation*

***Jo Ann Abrams, Attorney at Law***



LAW OFFICES OF  
**CRAIG GOLDENFARB, P.A.**  
PERSONAL INJURY • NURSING HOME NEGLECT • MEDICAL AND LEGAL MALPRACTICE

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

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

#### **HOW TO REGISTER**



**BY CHECK**  
Return this form



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



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

***If you have an issue or question you would like the judges to address , please e-mail it to [bgreenberg@floridaelderlawservices.com](mailto:bgreenberg@floridaelderlawservices.com)***

***Please select one of the following:***

- \_\_\_ ***Chicken Marsala, Mascarpone Mashed Potatoes, Grilled Zucchini***
- \_\_\_ ***Broiled Mahi-Mahi, Tropical Fruit Salsa, Rice Pilaf, Julienne Vegetables***
- \_\_\_ ***Wild Mushroom Ravioli, with Golden Tomato Fondue, White Truffle Essence***

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

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

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

\_\_\_ I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (4/10/14) Cost is the same as listed above, In addition to \$10 for shipping and handling. . **PAYMENT BY CHECK ONLY, WITH THIS FORM.**

**Palm Beach County Bar Association, 1507 Belvedere Road, West Palm Beach, FL 33406. Telephone: (561) 687-2800**





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

## ***"ESI Discovery for the Technically Challenged"***

**Friday, April 11, 2014 - 11:45a.m. – 1:05p.m.**

**Bar Association Offices  
1507 Belvedere Road, WPB, FL**

### **Program Schedule**

- 11:45 a.m. - 12:00 p.m. **Late Registration / Check In / Lunch**
- 12:00 p.m. - 12:05 p.m. **Welcome & Opening Remarks** - *Edwin M. Walker, III, Esq., Walker Law Firm, P.A. Committee Chair*
- 12:05 p.m. - 12:15 p.m. **Intro to ESI: What is meant by ESI, types of ESI, etc.** - *Andrew S. Kwan, Esq., Beasley Hauser Kramer & Galardi, P.A.*
- 12:15 p.m. - 12:35 p.m. **Basic ESI Law: Federal Rules of Civil Procedure, relevance/ discoverability case law, process for obtaining ESI from opposing party and nonparty** - *Andrew S. Kwan, Esq., Beasley Hauser Kramer & Galardi, P.A.*
- 12:35 p.m. - 12:50 p.m. **Cost-Shifting Law: Zubulake factors and other cost-shifting analyses** - *Andrew S. Kwan, Esq., Beasley Hauser Kramer & Galardi, P.A.*
- 12:50 p.m. - 1:05 p.m. **Persuading the Court: Tips for negotiations with opposing counsel and drafting motions to compel/for protective order** - *Andrew S. Kwan, Esq., Beasley Hauser Kramer & Galardi, P.A.*

**SPONSORED BY:**



This course has been granted 1.0 CLER / 1.0 Civil Trial Certification credits from The Florida Bar.

The **early registration** cost of the seminar is **\$25.00 (includes lunch)** for PBCBA members/paralegals;  
**\$65.00** for non-PBCBA members/paralegals if registered by **4/4/14**; add \$15 to registration fee after that date.

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

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

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

#### **PAYMENT OPTIONS:**



If paying by credit card, please go to our secure website to register: [www.palmbeachbar.org](http://www.palmbeachbar.org)



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



If you can't leave your office, you can attend this via live webinar by registering here <http://www.palmbeachbar.org/>. **PLEASE NOTE: If you register for the webinar, you cannot attend the live version.**



If paying by check, please send payment, along with this form, to the Bar office.

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

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

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

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

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

\_\_\_ I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (4/11/14 Technology.) Cost is the same as listed above, in addition to \$10 for shipping and handling. **PAYMENT BY CHECK ONLY, WITH THIS FORM..**

**Palm Beach County Bar Association, 1507 Belvedere Road, West Palm Beach, FL 33406. Telephone: (561) 687-2800**

North County Section to host its annual

# BEACH BASH!

**Sunday, April 13**

11:30 a.m. to 2:30 p.m.

Hilton, Singer Island



Hula Dancers - Fire Dancers - Cartoonist

Lunch - Live Music

Third Annual Ponzoli Sandcastle Competition

Face Painting

Jewelry Making & More!

Bring Your Family For The Fun!

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

Cost: \$20.00 for adults; \$5.00 for children 13 and under.

Judges are complimentary



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INTELLECTUAL PROPERTY LAW  
ESTABLISHED 1992



Law Offices of Todd S. Stewart, P.A.



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



**ANATOMY OF A SECURITIES ARBITRATION CASE:  
A LIVE VIEW FROM THE PANEL**



**April 24, 2014, 12:30p.m. - 6:00p.m.**

**Bar Association Offices, 1507 Belvedere Road, WPB, FL**

**Program Schedule**

12:30 p.m. - 1:00 p.m.	<b>Lunch and Opening Remarks</b> - <i>Matthew N. Thibaut, Ciklin Lubitz Martens &amp; O'Connell, Committee Chairperson</i>
1:00 p.m. - 2:00 p.m.	<b>FINRA Presentation: Paperless Initiative, Portal Discussion and Hot Topics</b> - <i>Manly Ray, Regional Director, FINRA Southeast Regional Office</i>
2:00 p.m. - 2:10 p.m.	<b>BREAK</b>
2:10 p.m. - 4:00 p.m.	<b>Mock Securities Arbitration</b> - <i>University of Miami Law Students and Teresa J. Verges, Esq., Director of Investor Rights Clinic at the University of Miami.</i> <i>(This presentation will consist of opening and closing arguments, direct and cross examination of Claimant and Respondent. Arbitration Panel selected by FINRA will hear the case or deliberate.)</i>
4:00 p.m. - 4:30 p.m.	<b>Mediator's Point of View By Mediators</b> - <i>Jeffrey S. Grubman, Esq., and Howard A. Tescher, Esq.</i>
4:30 p.m. - 5:00 p.m.	<b>Arbitration Panel's LIVE Rulings &amp; Reasoning</b>
5:00 p.m. - 5:30 p.m.	<b>Q &amp; A with FINRA Arbitrators</b>
5:30 p.m. - 6:00 p.m.	<b>Happy Hour</b>

**SPONSORED BY:**

CIKLIN LUBITZ MARTENS & O'CONNELL

**McCABE RABIN, P.A.**  
ATTORNEYS AT LAW

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ATTORNEYS AT LAW

**Smolin Lupin**  
CERTIFIED PUBLIC ACCOUNTANTS  
AND CONSULTANTS

This course is expected to receive **5.0 CLER / Cert. Credits are pending from The Florida Bar.**

Early Registration cost is **\$125.00** for PBCBA members/paralegals;

**\$165** for non-PBCBA attorney members/paralegals if registered by **4/17/14**; add \$15 late fee after that date.

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

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

**PAYMENT OPTIONS:**



If paying by credit card, please go to our secure website to register: [www.palmbeachbar.org](http://www.palmbeachbar.org)



If you can't leave your office, you can attend this via live webinar by registering here <http://www.palmbeachbarcle.org/>. **PLEASE NOTE: If you register for the webinar, you cannot attend the live version.**



If paying by check, please send payment, along with this form, to the Bar office.



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

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

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

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

City/Zip \_\_\_\_\_

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

\_\_\_\_ I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (4/24/14 Securities Law) Cost is the same as listed above, in addition to \$10 for shipping and handling. **PAYMENT BY CHECK ONLY WITH THIS FORM.**

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





*Don't miss this final  
luncheon of the 2013/2014  
Solo Series!*

## **ETHICS & NEW RULES IN ADVERTISING**

Tuesday, May 6 from 11:45 a.m. to 1:00 p.m.

Bar Office

Presented by the Solo & Small Firm Committee

Guest speaker: Ghenete Wright Muir, Bar Counsel, The Florida Bar

Attend this luncheon and find out about filing requirements; unfavorable reviews; consequences of a violation; exemptions; new rule requirements; lawyer referral service; lawyer advertisement regulations; and special rules for different advertising such as tv, radio, websites and social media.

Plus, you'll hear about prosecution of advertising cases.

**QUEST**  
WORKSPACES



Early registration is just \$10.00 and includes lunch, CLE and networking!

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

**HOW TO  
REGISTER**



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form



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

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

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



The Estate and Probate Law Continuing Legal Education Committee presents:

**"The 31st Annual Estate and Probate Seminar—Part 2"**

Wednesday, May 7, 2014 - 12:30p.m. - 6:10p.m.

Bar Association Office, 1507 Belvedere Rd., West Palm Beach, FL

**Program Schedule**

- 12:30p.m. - 12:55p.m. **Late Registration and Check In**
- 12:55p.m. - 1:00p.m. **Welcome & Opening Remarks** - *John M. Severson, Esq., Burns & Severson, P.A., Board Certified Wills, Trusts and Estates Attorney, Committee Chair*
- 1:00p.m. - 1:50p.m. **Case Law Update** - *John C. Moran, Esq., Gunster*
- 1:50p.m. - 2:10p.m. **Legislative/Rules Update** - *Tasha K. Dickinson, Esq., Jones, Foster, Johnston & Stubbs, P.A., Board Certified Wills, Trusts and Estates Attorney*
- 2:10p.m. - 2:40p.m. **Tax Law Update** - *Michael A. Lampert, Esq., Michael A. Lampert, P.A., Board Certified Tax Law Attorney*
- 2:40p.m. - 3:10p.m. **Disbarment for Dummies - Ethical Issues in Probate** - *David M. Garten, Esq., Law Office of David M. Garten*
- 3:10p.m. - 3:20p.m. **BREAK**
- 3:20p.m. - 4:00p.m. **Bifurcation and Delegation of Trustee Duties under Florida Law** - *Tasha K. Dickinson, Esq., Jones, Foster, Johnston & Stubbs, P.A., Board Certified Wills, Trusts and Estates Attorney*
- 4:00p.m. - 4:35p.m. **Coordination of Probate and Trust Administration** - *Shane Kelley, Esq., The Kelley Law Firm, PL, Board Certified Wills, Trusts and Estates Attorney*
- 4:35p.m. - 5:10p.m. **Trust Protectors** - *Elaine M. Bucher, Esq., Gunster, Board Certified Wills, Trusts and Estates Attorney*
- 5:10p.m. - 6:10p.m. **Cocktail Reception**

***Sponsored By:***



THE PRIVATE BANK



estate & trust litigation

This course has been granted 5.0 CLER incl. .50 Ethics credits / 4.0 Elder Law; 4.0 Wills, Trusts & Estates Certification credits from the Florida Bar.

Early registration cost for the seminar is \$135 for PBCBA member attorneys/paralegals;

\$175 for non-PBCBA member attorneys/paralegals if registered by 4/30/14; add \$25 late fee after that date.

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

**PAYMENT OPTIONS:**



If paying by credit card, please go to our secure website to register: [www.palmbeachbar.org](http://www.palmbeachbar.org)



If you can't leave your office, you can attend this via live webinar by registering here <http://www.palmbeachbar.org/>. PLEASE NOTE: If you register for the webinar, you cannot attend the live version.



If paying by check, please send payment, along with this form, to the Bar office.



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

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

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

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

City/Zip \_\_\_\_\_

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

\_\_\_\_ I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (Estate/Probate Seminar 5/7/14)  
Cost is the same as listed above, **in addition to \$10 for shipping and handling.** PAYMENT BY **CHECK ONLY**, WITH THIS FORM.

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

The Business Litigation CLE Committee of the Palm Beach County Bar Association  
presents:



## ***"E-Discovery in Action"***

**Monday, May 12, 2014 - 11:30am - 1:00p.m.**  
Bar Offices - 1507 Belvedere Road, WPB 33406

### **Program Schedule**

- |                   |  |
|-------------------|--|
| 11:30am - 11:55am | <b>Lunch / Check In / Late Registration</b>  |
| 11:55am - 12:00pm | <b>Welcome - Opening Remarks</b> - <i>David Steinfeld, Esq.,<br/>Law Office of David Steinfeld, P.L., Board Certified Business<br/>Litigation Attorney, Business Litigation CLE Committee Chairperson</i>  |
| 12:00pm - 1:00pm  | <b>Electronic Discovery</b> - <i>Chioma R. Deere, Esq., Vernis &amp; Bowling<br/>of Palm Beach, P.A</i> <ul style="list-style-type: none"><li>- <i>An Electronic Discovery Request</i></li><li>- <i>E-Discovery Vendors</i></li><li>- <i>Nuts and Bolts of E-Discovery Experts and Special Masters</i></li></ul> |

**LUNCH SPONSORED BY: Ventura Insurance Solutions**

.....

**This course is expected to receive 1.0 CLER credits from The Florida Bar.**

**Early registration** cost for the seminar, which includes lunch, is **\$25** for PBCBA member attorneys/paralegals;  
**\$65** for non-PBCBA member attorneys/paralegals if registered by 5/5/14; add \$15 late fee after that date.

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

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

#### **PAYMENT OPTIONS:**



If paying by credit card, please go to our secure website to register: [www.palmbeachbar.org](http://www.palmbeachbar.org)



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



If you can't leave your office, you can attend this via live webinar by registering here <http://www.palmbeachbarcle.org/>. **PLEASE NOTE: If you register for the webinar, you cannot attend the live version.**



If paying by check, please send payment, along with this form, to the Bar office.

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

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

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

City/Zip \_\_\_\_\_

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

\_\_\_ I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (Business Litigation CLE Seminar 5/12/14) Cost is the same as listed above, **in addition to \$10 for shipping and handling.** PAYMENT BY **CHECK ONLY, WITH THIS FORM.**

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





## ***"EFFECTIVE SETTLEMENT NEGOTIATIONS"***

Friday, May 16, 2014 - 11:45am - 1:00 p.m.  
Bar Association Office, 1507 Belvedere Road, WPB, FL

### **Program Schedule**

- |                         |  |
|-------------------------|--|
| 11:45 a.m. - 12:00 p.m. | <b>Lunch / Late Registration and Check In</b>  |
| 12:00 p.m. - 12:05 p.m. | <b>Welcome &amp; Opening Remarks</b> - <i>Kelly Hyman, Esq., Searcy Denney Scarola Barnhart &amp; Shipley, P.A.</i>  |
| 12:05 p.m. - 1:00 p.m.  | <b>Effective Settlement Negotiations</b> - <i>Spencer T. Kuvin, Esq., The Law Offices of Craig Goldenfarb, P.A., Board Certified Civil Trial Attorney.</i> |

**SPONSORED BY:**



This course is expected to receive **1.0 CLER / 1.0 Civil Trial Cert. credits** from The Florida Bar.

**Early Registration** cost is **\$25** for PBCBA members/paralegals; **\$65** for non-PBCBA members/paralegals if registered by **5/9/14**.  
Add \$15 late fee to registration fee after that date.

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

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

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

### **PAYMENT OPTIONS:**



If paying by credit card, please go to our secure website to register: [www.palmbeachbar.org](http://www.palmbeachbar.org)



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



If you can't leave your office, you can attend this via live webinar by registering here <http://www.palmbeachbar.org/>. **PLEASE NOTE: If you register for the webinar, you cannot attend the live version.**



If paying by check, please send payment, along with this form, to the Bar office.

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

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

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

**Restrictive Covenants. I'm Leaving My Job, Can I Compete?  
What Information Can I Use? Who's Coming With Me?**

# WEBINAR ONLY

May 21, 2014 - 11:55 a.m. - 1:15 p.m.

## Program Schedule

- 11:55 am - 12:00 pm      **Welcome** - *Cathleen Scott, Esq., Cathleen Scott & Associates, P.A., Board Certified Labor and Employment Law Attorney, Employment and Labor Law CLE Committee Chair*
- 12:00 pm - 1:15pm      **Presenters:** *Daniel R. Levine, Esq., Bennardo Levine, LLP; and Gerard J. Curley, Jr., Esq., Gunster*

This webinar discusses the practical aspects of restrictive covenants and common law competition issues.

Please e-mail your questions to: [cscott@floridalaborlawyer.com](mailto:cscott@floridalaborlawyer.com)

This course has been granted **1.5 CLER / 1.0 Labor & Employ Law Certification credits** from The Florida Bar.

## **HOW TO REGISTER:**

Attend this live **WEBINAR**: register here <http://www.palmbeachbarele.org/>

Enjoy an "Early Bird" discounted registration cost of **\$35 each** for PBCBA members/paralegals; **\$75 each** for non-PBCBA members/paralegals. After **5/14/14**, add \$15 late fee.

- **November 5, 2013** - "The Patient Protection and Affordable Care Act, What You and Your Clients Need to Know about "Obama Care" Presented by: *Joseph G. Santoro, Esq., Tanya M. Reed, Esq., and Steven D. Muscatello, Esq., Gunster, West Palm Beach, FL*
- **February 24, 2014** - "Representing Public Employers" Presented by: *Glenn J. Torcivia, Esq., Torcivia and Associates, P.A., West Palm Beach, FL*
- **March 14, 2014** - "Employment Arbitration" Presented by: *Brian D. Buckstein, Esq., Brian D. Buckstein, P.A., Wellington, FL*
- **May 21, 2014** - "Restrictive Covenants. I'm Leaving My Job, Can I Compete? What Information Can I Use? Who's Coming With Me?" Presented by: *Daniel R. Levine, Esq., Bennardo Levine, LLP; and Joseph Curley, Esq., Gunster, West Palm Beach, FL*

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

\_\_\_\_ I will not be able to attend the webinar but would like to order the audio CD (allow 4 weeks for delivery) (5/21/14 Employ. Law.) Cost is the same as listed above, in addition to \$10 for shipping and handling. **PAYMENT BY CHECK ONLY, WITH THIS FORM.**

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

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

**Palm Beach County Bar Association, 1507 Belvedere Road, West Palm Beach, FL 33406. Telephone: (561) 687-2800**



The Palm Beach County Bar Association's  
Community Association Law Continuing Legal Education Committee presents:

## THE 25th ANNUAL COMMUNITY ASSOCIATION LAW SEMINAR

**Friday, June 6, 2014 7:45 a.m. – 12:15 p.m.**  
**Bar Association Office - 1507 Belvedere Rd., WPB**

### **Program Schedule**

7:45am - 8:00am	<b>Late Registration and Check In</b>
8:00am - 8:05am	<b>Welcome - Tanique G. Lee, Esq., Committee Chairperson, Gelfand &amp; Arpe, P.A.</b>
8:05am - 8:45am	<b>What's New at the Office of Equal Opportunity - Pamela Guerrier, Esq., Palm Beach County Office of Equal Opportunity</b>
8:45am - 9:45am	<b>Defending Fair Housing Claims - Ron M. Campbell, Esq. and Katie M. Merwin, Esq., Cole Scott &amp; Kissane, P.A.</b>
9:45am - 9:55am	<b>BREAK</b>
9:55am - 10:55am	<b>Retroactive "?" Application of Amendments to Condominium and HOA Acts - Mark B. Schorr, Esq., Mark B. Schorr, P.A.</b>
10:55am - 11:45am	<b>Legislative &amp; Case Law Update: Practical and Ethical Implications - Michael J. Gelfand, Esq., Florida Bar Board Certified Real Estate Attorney, Gelfand &amp; Arpe, P.A.</b>
11:45am - 12:15pm	<b>The Ins and Outs of the Foreclosure Division - The Honorable Richard L. Oftedal, Fifteenth Judicial Circuit</b>

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**This course is expected to receive 5.0 CLER including 1.0 Ethics credits /  
Certification credits are pending from The Florida Bar.**

Early registration cost is \$140 for PBCBA members/paralegals; \$180 for non-PBCBA attorney members/paralegals  
if registered by 5/30/14; add \$25.00 late fee after that date.

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

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

#### **PAYMENT OPTIONS:**

-  If paying by credit card, please go to our secure website to register: [www.palmbeachbar.org](http://www.palmbeachbar.org)
-  If you can't leave your office, you can attend this via live webinar by registering here <http://www.palmbeachbarcle.org/>. **PLEASE NOTE: If you register for the webinar, you cannot attend the live version.**
-  If paying by check, please send payment, along with this form, to the Bar office.



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

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

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

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

City/Zip \_\_\_\_\_

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

\_\_\_\_ I will not be able to attend the seminar but would like to order the CD. (cost same as listed above/allow four weeks for delivery)  
(25th Annual Comm. Assn Seminar 6/6/14)

**Palm Beach County Bar Assn., 1507 Belvedere Road, West Palm Beach, FL 33406.(561)687-2800**



The Palm Beach County Bar Association's Real Estate CLE Committee presents:



## "The **NEW** World: New Closing Disclosures, **NEW** Best Practices and **NEW** Law"

**Tuesday, June 17, 2014 - 8:15a.m. - 12:05p.m.**  
**Bar Association Offices**



### **Program Schedule**

- 8:15am - 8:25am **Late Registration/Check In**
- 8:25am - 8:30am **Welcome and Opening Remarks** - *Gregory R. Cohen, Esq., Cohen, Norris, Wolmer, Ray, Telepman & Cohen, Board Certified Real Estate Attorney, Real Estate Committee Chairperson*
- 8:30am - 9:45am **NEW Mortgage Disclosures (the NEW "New HUD") and NEW CFPB Rules and Revisions** - *Deborah Boyd, Esq., Assistant Vice-President and Underwriting Counsel, Fidelity National Title Group*
- 9:45am - 11:00am **NEW Best Practices - What are They and How do I Prepare?** - *Deborah Boyd, Esq., Assistant Vice-President and Underwriting Counsel, Fidelity National Title Group*
- 11:00am - 11:15am **BREAK**
- 11:15am - 12:05pm **NEW Law: Case Law Update with a Focus on Foreclosures, and New Statutes** - *Catherine Mulcahey, Esq.,*

### **SPONSORED BY:**



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#### **This course has been granted 4.0 CLER / 4.0 Real Estate Real Estate Cert. credits from the Florida Bar.**

Early registration cost for the seminar is \$100 for PBCBA members/paralegals, \$140 for non-PBCBA members/paralegals if registered by 6/10/14; Add \$25 to registration fee after that date.

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

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

#### **PAYMENT OPTIONS:**



If paying by credit card, please go to our secure website to register: [www.palmbeachbar.org](http://www.palmbeachbar.org)



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



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City/Zip \_\_\_\_\_

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\_\_\_ I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (6/17/14R/E) Cost is the same as listed above, in addition to \$10 for shipping and handling.

**Palm Beach County Bar Association, 1507 Belvedere Road, West Palm Beach, FL 33406. Telephone: (561) 687-2800**



## Employment Litigation At Its Best

June 20, 2014 - 12:00 p.m. - 6:00 p.m.  
1507 Belvedere Road, West Palm Beach, FL 33406

### Program Schedule

12:00 pm - 12:25 pm	<b>Late Registration / Lunch</b>
12:25 pm - 12:30 pm	<b>Welcome</b> - Cathleen Scott, Esq., Cathleen Scott & Associates, P.A., Board Certified Labor and Employment Law Attorney, Employment and Labor Law CLE Committee Chair
12:30 pm - 1:15 pm	<b>Case Law Update</b> - Lindsey B. Wagner, Esq., and Danielle L. Lassiter, Esq., Cathleen Scott & Associates, P.A.
1:15 pm - 2:00 pm	<b>Jury Selection &amp; Voir Dire</b> - Gerard J. Curley, Jr., Esq., Gunster
2:00 pm - 2:10 pm	<b>BREAK</b>
2:10 pm - 3:00 pm	<b>Expert Witnesses</b> - Sally Still, Esq., Ward Damon Posner Pheterson & Bleau, Board Certified Labor and Employment Law Attorney
3:00 pm - 4:00 pm	<b>Motions in Limine</b> - Robyn S. Hankins, Esq., Hankins & Ator, P.L., Board Certified Labor and Employment Law Attorney
4:00 pm - 5:00 pm	<b>Show me the money - Ethical and Practical considerations for obtaining and defending attorney fee awards</b> - Arthur T. Schofield, Esq., Arthur T. Schofield, P.A.,
5:00 pm - 6:00 pm	<b>Happy Hour</b>

SPONSORED BY:



This course is expected to receive **5.0 CLER** / including **1.0 Ethics Credits** / **5.0 Labor & Employ Law Certification** credits from The Florida Bar. Enjoy an **"Early Bird"** discounted registration cost of **\$140** for PBCBA members/paralegals; **\$180** for non-PBCBA members/paralegals. After **6/13/14**, add \$25 late fee.

**Can't leave your office?** Attend this via live **WEBINAR**: register here <http://www.palmbeachbarcle.org/>

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

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

**HOW TO  
REGISTER**



**BY CHECK**  
Return this  
form



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



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

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

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

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\_\_\_\_ I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (6/20/14 Employ. Law.) Cost is the same as listed above, in addition to \$10 for shipping and handling. **PAYMENT BY CHECK ONLY, WITH THIS FORM.**



## PALM BEACH COUNTY BAR ASSOCIATION

# BULLETIN

1507 Belvedere Road, West Palm Beach, FL 33406

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

# CALENDAR

## April 2014

Friday, April 4, 8:00am – 5:00pm  
**Family Law CLE Seminar**  
Bar Association Office

Friday, April 4, 8:30am – 9:30am  
**ADR Committee Meeting**  
Bar Association Office

Tuesday, April 8, Noon-1:00pm  
**Judicial Relations Committee Meeting**  
Judicial Conference Room, Main Courthouse

Tuesday, April 8, Noon – 1:00pm  
**YLS Board Meeting**  
Bar Association Office

Wednesday, April 9, Noon – 1:00pm  
**Professionalism Committee Meeting**  
Bar Association Office

Wednesday, April 9, 5:30pm – 8:00pm  
**Paralegal Association Monthly Dinner Meeting**  
Hilton, WEST PALM BEACH

Thursday, April 10, Noon – 1:00pm  
**South County FAWL**  
Mariposa @ Neiman Marcus, Boca Raton

Thursday, April 10, Noon – 1:00PM  
**Transaction Law Committee Meeting**  
Bar Association Office

Thursday, April 10, 5:30pm – 7:00pm  
**YLS Happy Hour**

Thursday, April 10, 6:00pm – 9:00pm  
**Elder Law CLE Dinner Seminar**  
The Colony Hotel, Palm Beach

Friday, April 11, 11:45am – 2:15pm  
**Technology Committee Seminar**  
Bar Association Office

Sunday, April 13, 11:30 – 2:30pm  
**NCS 3rd Annual Beach Bash**  
Hilton, Singer Island

Tuesday, April 15, 11:30am – 1:00pm  
**YLS Sidebar Series**  
Judge Meenu Sasser's Courtroom

Thursday, April 17, 11:45am – 1:00pm  
**Judicial Luncheon**  
North end of cafeteria, Main Courthouse  
Friday, April 18

**Court Holiday – Good Friday**  
Bar Office Closed

Friday, April 18, Noon – 1:00pm  
**Cunningham Bar Meeting**  
Law Library Conference Room

Saturday, April 19 - 20  
**Law Week Softball**  
John Prince Park

Tuesday, April 22, 11:45 – 1:00pm  
**Law Day Luncheon**  
Marriott, WEST PALM BEACH  
*Speaker: Former FL Supreme Court Justice Charles Wells*

Tuesday, April 22, Noon – 1:00pm  
**CDI Committee Meeting**  
Bar Association Office

Tuesday, April 22, 5:30pm – 6:30pm  
**American Inns of Court Meeting**  
Judicial Conference Room, Main Courthouse

Tuesday, April 22, 5:30pm – 6:30pm  
**Legal Aid Society Board Meeting**  
Bar Association Office

Wednesday, April 23, Noon – 1:00pm  
**Law Related Education Committee Meeting**  
Bar Association Office

Wednesday, April 23, 5:00pm – 6:30pm  
**PBCBA Board of Directors Meeting**  
Bar Association Office

Thursday, April 24, Noon – 1:30pm  
**NCS Board Meeting**  
Duffy's, North Palm Beach

Thursday, April 24, 12:30pm – 5:30pm  
**Securities Law CLE Seminar**  
Bar Association Office

Thursday, April 24, 6:30pm – 7:30pm  
**Small Claims Clinic**  
West Boynton Branch Library

Friday, April 25  
**PBCJA – 1st Annual Casino Night**  
For details: [www.pbcja.org](http://www.pbcja.org)

Friday, April 25, 1:00pm – 6:00pm  
**2nd Annual Golf CLE**  
Bear Lakes Country Club

Monday, April 28 – 30  
**Dial A Lawyer Law Week Project**  
Bar Association Office

Tuesday, April 29, 5:30pm – 7:00pm  
**Judicial Reception**  
The Harriett at City Place