



# PALM BEACH COUNTY BAR ASSOCIATION

# BULLE<sup>IN</sup>

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

December 2014



## Nominating petitions available for Board of Directors

The annual election of officers and directors for the Palm Beach County Bar will take place via online voting in April. Persons seeking to run for a position on the Board of Directors will need to obtain a nominating petition and must be a member in good standing of the Palm Beach County Bar Association. The nominating petition must be signed by no fewer than 20 members in good standing of the Association. Petitions for President-elect will be available on December 12 and are due back in the office by 5 p.m. on January 12. Petitions for director-at-large seats will be available on December 19 and are due back in the Bar office by 5 p.m. on January 20. Petitions may be obtained by calling the Bar office at 687-2800 or by sending an e-mail requesting it to [pburns@palmbeachbar.org](mailto:pburns@palmbeachbar.org). For any of the positions, it is the candidate's responsibility to verify ahead of time through the Bar office that the members that sign their petitions are members in good standing, otherwise, the petition will be deemed invalid.

## Mark your calendar for upcoming Membership Events

**January 9:** "Screen on the Green" Family Event Downtown West Palm Beach

**February 2:** Joint Luncheon with Forum Club with guest speaker U.S. Supreme Court Justice Sonia Sotomayor

**February 26:** Judicial Recognition Luncheon

**March 27:** Bench Bar Conference

**April 28:** Judicial Reception

**May 1:** Law Day Luncheon with guest speaker Mark Curriden, attorney and award-winning legal journalist. Senior writer for the ABA Journal

## New Family Event! Screen on the Green, plus dinner January 9

We're excited to host a new event for our members and their children! Join us on Friday, January 9 starting at 6:30 p.m. for dinner and a movie. We've rented The Lake Pavilion on South Flagler Drive where we'll eat dinner and then open the sliding glass doors to watch Willy Wonka and The Chocolate Factory.

Bring blankets or chairs so your kids can see the show from the private terrace.

The cost is just \$15.00 for adults; \$5.00 for children; and Judges are complimentary.

Please let us know you can attend by registering online @ [www.palmbeachbar.org](http://www.palmbeachbar.org)

A special thank you to our sponsors:

Deutsche Bank (Dinner Sponsor); Palm Beach Motorcars (Dessert Sponsor); Northwestern Mutual (Beer Sponsor); Pressly & Pressly (Wine Sponsor); Jones Foster Johnston & Stubbs, P.A. (Chocolate Sponsor) Complete Legal Investigations (Popcorn Sponsor); and Sabadell Bank (Parking Sponsor).

## Investitures Scheduled

Mark your calendars for the following investitures for the three newly elected judges. All ceremonies begin at 4:00 pm at the Palm Beach County Courthouse. All Bar members are invited to attend (RSVPs are not required).



**January 16**  
**The Honorable**  
**Jessica Tickton**



**January 30**  
**The Honorable**  
**Jamie Goodman**



**February 6**  
**The Honorable**  
**Samantha Schosberg Feuer**

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THE  
**BULLETIN**

PALM BEACH COUNTY  
BAR ASSOCIATION

THEODORE S. KYPREOS  
President

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

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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  
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Contact Lynne at [lpoirier@palmbeachbar.org](mailto:lpoirier@palmbeachbar.org)





## Don't Be A Scrooge This Holiday Season!

by Theo Kypreos

December is here, so it's time to put your job on hold (yea, right) and start planning for the holidays. Among other things, that means taking time to decide how and with whom to share some holiday cheer. I know all of you are busy practicing law and might not necessarily have the time to figure out who's been naughty or nice this year. I certainly can't tell you which of your family members, neighbors, in-laws, contractors, or kids' teachers to shop for, but as a fellow attorney I can at least remind you of certain people within the legal community who you should consider when planning your holiday shopping and festivities. Otherwise, you might end up being the scrooge who lost your law practice.

**Clients.** If you are in private practice, you can't forget your clients. Without clients there isn't anything to practice, so please make sure your clients are reasonably happy and feel appreciated this holiday season. Now, depending on your practice and the type of clients you have, this category may be long or short. Either way, just make sure you give your clients some consideration so you don't overlook anyone obvious this year.

**Referral Sources.** After you take a look at your current client list, it's time to give some thought to how those clients came through your door. Without referral sources, you might be sitting at your desk twiddling your thumbs rather than complaining to your colleagues about the clients you do have. So real estate attorneys, remember your broker buddies. Estate planners... don't forget the trust officers and investments advisers. If you want them to refer you another client or two down the road, make sure you thank them this year for the referrals they have sent your way in the past. Note: If you have a hard time identifying individuals under this category, I hope to see you at our Bar's upcoming networking events!

## Board Meeting Attendance

	JUL	AUG	SEP	OCT
Barnes	x	x	x	Phone
Demmery	x	x	x	x
Huber	x	x	x	x
Kypreos	x	x	x	x
Mason	x	x	x	x
McElroy	x	x	x	Phone
Pressly	x	x		x
Reagan	x	x	x	x
Weiss	x	x	x	x
Whittles	x	x	x	x
Wyda	x	x	x	x
Xenick	x	x	x	x
Yaffa	x			x

**Co-Workers.** Now that you have thanked your clients and the referral sources who sent them to you, turn your attention to the people around you that help you keep your clients happy on a day-to-day basis. This category is not exclusive to private practice attorneys, as it is equally applicable to all the judges, government lawyers and in-house counsel out there. Whether it's your administrative assistant, judicial assistant, paralegal, associate, law clerk, case manager, partner, supervisor or chief judge (assuming you receive your divisional rotation of choice), someone at your job is making you look good (at least on most days) to others, so let's not forget them this year.

**Other Professionals.** Whether you are a litigator or transactional attorney, there are likely a few other people in the business community on whom you heavily rely as part of your routine practice. For litigators, maybe it's your favorite court reporter or private investigator. I know enough of you family law attorneys to know that you better keep your forensic accountants in good spirits this season if you want them to be in tip-top shape next time in court. And if, by chance, you find yourself serving as president of a local voluntary bar association... don't forget to pick up something for that Bar's executive director if you know what's good for you!

Obviously, the above isn't an exhaustive list of those deserving gratitude, but I am confident if you start with the above categories, you will have more friends than foes this holiday season.

So now that you have formed your list, what do you do? Well, how you show your appreciation to these folks can take on a variety of forms. If it's in your budget, you can always send them a nice gift, perhaps a bottle of wine and some fancy chocolates with a catchy name (*See e.g.* <https://www.theochocolate.com/>). Looking for something less-extravagant, yet thoughtful? Maybe take them to lunch or send them a gift certificate to their favorite coffee shop or restaurant (if you're shopping for Bob Bertisch, I'd suggest City Celler).

No room in the budget for work-related gifts? No problem! The reality is you don't necessarily need to give someone a lavish gift for them to know they are appreciated during the holiday season. Simply add them to your holiday card list, invite them to meet you at a holiday party of mutual interest, or just call them on the phone and wish them a happy holiday (though, if they are a client, I recommend you not bill them for the call). Or, take the classic route... take the time to craft a genuine and personal handwritten note. With time being one of our most precious assets, using a bit of it to thank the people who support us and our practices shows true gratitude. I think you'll find that most folks will be grateful you remembered them during the hectic holiday season – and will be far less concerned with what you gave or did for them in the process.

I wish you and your families a happy and safe holiday season this year, and I look forward to seeing all of you in 2015!

Theo  
tkypreos@jonesfoster.com



## NCS Second Annual Pink Party

Wearing pink and raising money for breast cancer awareness month was the purpose for the North County Section's second annual Pink Party with FAWL. This year's event raised \$2,445.00 for the Smiley Wiley Breast Cancer Foundation. Smiley Wiley provides financial assistance to local women and men with breast cancer who cannot meet their own costly health insurance deductibles and treatments.



Judge Don Hafele, NCS Director Malinda Hayes, and Jamie Goodman



Jill Weiss in the spirit wearing fabulous pink pumps!



Rebecca Brock, Maureen Martinez and Tanique Lee



NCS Director and event co-chair Dan Zuniga, Ashley Peyton with Smiley Wiley, NCS President Greg Yaffa, FAWL President Nicole Hessen, Lindsey Mesches with Smiley Wiley, FAWL Director and event co-chair Domenic Celeste



Nicole Hessen, Domenic Celeste and Lana Shrode from U.S. Legal Support



Andrea McMillian and NCS Immediate Past President Todd Stewart

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Office: North Palm Beach



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



## **"How to Ethically Perform e-Discovery"**

**Monday, December 8, 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>How to Ethically Perform e-Discovery</b> -<br><i>David Steinfeld, Esq., Law Office of David Steinfeld, P.L., Board<br/>Certified Business Litigation Attorney,</i>                                     |

#### **This program will cover:**

- e-Discovery terms and terminology
- Data preservation obligations
- A review of some salient sanctions case law

#### **Lunch Sponsored By:**



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**This course has been granted 1.0 CLER incl. 1.0 Ethics credits from The Florida Bar.**

**Early registration** cost for the seminar, which includes lunch, is **\$40** for PBCBA member attorneys/paralegals;  
**\$80** for non-PBCBA member attorneys/paralegals if registered by 12/1/14; 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.palmbeachbar.org/>. **PLEASE NOTE: If you register for the webinar, you cannot attend the live version.**



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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) (Business Litigation CLE Seminar 12/8/14) 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**

## Law Related Education Committee Expands Community Outreach Efforts



**By Lanelle Meidan  
of Ackerman, Link &  
Sartory, P.A.**

The Law Related Education Committee continues to keep busy! The mission of the Committee is to promote adult civics education and increase the understanding of the role of the court system. Committee members, including attorneys and judges, reach out to various community groups and present engaging, educational programs about civics called Benchmarks, developed by The Florida Bar.

Brennan Grogan, an attorney with Levine Law Group, presented “Judge for Yourself” at the Palm Beach Gardens Library. This collaborative program

explains and encourages discussion about the duties and performance of judges, the merit selection and merit retention process, and separation of powers in government. “Judge for Yourself” was the library’s second Benchmarks program this fall. “The programs are informative and it goes to show learning can be fun!” said Rhonda Gold, reference librarian.

Committee member Alyssa Lunin, a law clerk at the Fourth District Court of Appeal, presented “What’s Not in the Bill of Rights?” for the Valencia Lakes Men’s Club in Boynton Beach. “What’s Not in the Bill of Rights?” is an interactive presentation in which the audience learns about the amendments in the Bill of Rights, the process for amending the U.S. Constitution, and is tasked to consider and develop ideas for potential future amendments to the Constitution. With

approximately 115 audience members discussing and participating, this lively program was able to reach many members of our community.

“It was gratifying to see how eager the participants were to learn and to share their perspectives. The Bill of Rights is subject to interpretation by individuals and the courts, and makes for energetic discussion,” said Alyssa.

Get involved with the Law Related Education Committee! Please contact Committee Chair Liz Herman of Rosenbaum Mollengarden PLLC at (561) 653-2900 or [yherman@r-mlaw.com](mailto:yherman@r-mlaw.com) if you would like to become a presenter or if you can suggest any community groups that might be interested in a Benchmarks presentation.

## Second Annual Legislative Update Sold Out

The Committee for Diversity and Inclusion (CDI) teamed up with the F. Malcolm Cunningham, Sr. Bar Association for their Second Annual Legislative Update and Community Forum. Eleven (11) elected officials participated in the program including Sen. Jeff Clemens, Sen. Joseph Abruzzo, Rep. Mark Pafford,

Rep. Lori Berman, Rep. Bobby Powell, Rep. Dave Kerner, State Attorney Dave Aronberg, Supervisor of Elections Susan Bucher, and School Board Member Marcia Andrews; Lobbyist Vern Crawford; and Anthony Palmieri from Clerk and Comptroller Sharon Bock’s Office.



**Kalinthia Dillard, moderator for the Second Annual Legislative Update and Community Forum**



**Eleven (11) speakers presented valuable information about electionday issues and updates for the 2015 Legislative Session**

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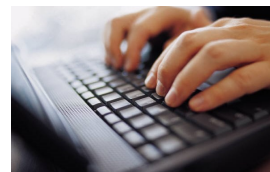




***"What you don't know may kill your case.  
What is the jury saying on the web?"***

Friday, December 12, 2014 - 11:45 a.m. - 1:00 p.m.  
North end of cafeteria, Main Courthouse, WPB

**Program Schedule**



- 11:45 a.m. - 12:00 p.m.      **Lunch / Late Registration and Check In**
- 12:00 p.m. - 12:05 p.m.      **Moderator - Karen E. Terry, Esq., Searcy Denney Scarola Barnhart & Shipley, P.A..**
- 12:05 p.m. - 1:00 p.m.      **Panelists: Honorable Jack S. Cox, Honorable Janis B. Keyser, Honorable Meenu T. Sasser, Fifteenth Judicial Circuit; and Spencer T. Kuvin, Esq., Board Certified Civil Trial Attorney, Law Offices of Craig Goldenfarb, P.A.**

**SPONSORED BY:**



This course has been granted **1.0 CLER** from The Florida Bar.

**Early Registration** cost is **\$25** for PBCBA members/paralegals; **\$65** for non-PBCBA members/paralegals if registered by **12/5/14**.  
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.**

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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) (12/12/14 PI) Cost is the same as listed above, In addition to \$10 for shipping and handling. **PAYMENT BY CHECK ONLY, WITH THIS FORM.**

## YLS October Happy Hour Highlights

YLS President Lindsay Demmery presents Michael Nadeau of the Palm Beach Yacht Club with a plaque of appreciation for all that they have done for the YLS over the years.



Stacie Townsend and Jessica Shapiro



Kelly and Federal Magistrate Judge Paul Hyman, Judge Diana Lewis and YLS President Lindsay Demmery



Benjamin Eisenberg and Cameron Kirby



Gina Grandinette and Nazli Sonmez Matt



Ian Robinson and Bridget Schultz



Ryan Fogg and Adam Myron



Chris Bristow, Santo DiGangi and Stephen Walker



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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)





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

## *The 17th Annual Elder Law Seminar*

### *“The Elder Law Practice: Policy, Procedure and Protocol”*

Wednesday, December 10, 2014 - 8:00a.m. - 2:35p.m.

Bar Association Offices - 1507 Belvedere Rd., WPB 33406

#### Program Schedule

8:00am - 8:20am	Late Registration - Check In
8:20am - 8:30am	Welcome - Opening Remarks - Benjamin H. Greenberg, Esq., Chair PBCBA Elder Law Affairs Committee, Greenberg Elder Law Services, LLC, Delray Beach, FL
8:30am - 9:15am	COFFEE ROUNDTABLE: Academy of Florida Elder Law Attorneys (“AFELA”) Hot Elder Law Topics on the AFELA Listserv - Gregory G. Glenn, Esq., Certified Elder Law Attorney by the Elder Law Foundation; Gregory Glenn PA, Boca Raton, FL
9:15am - 10:05am	Guardian Practice and Procedure: When Is a Guardianship Ethically Necessary? - Carolyn Landon, Esq., Florida Bar Certified Elder Law Attorney, West Palm Beach, FL
10:05am - 10:20am	Break
10:20am - 10:55am	The Elder Law Practice: Managing Your Focus in an Expansive Field - Mitchell I. Kitroser, Esq., Law Office of Mitchell I. Kitroser, P.A., Palm Beach Gardens, FL
10:55am - 11:45am	Medicaid Planning: The Process of Planning Ahead - Scott A. Solkoff, Esq., Florida Bar Certified Elder Law Attorney, Delray Beach, FL
11:45am - 12:00pm	LUNCH (included in registration)
12:00pm - 12:45pm	LUNCH ROUNDTABLE: Caregiver Radio-Emerging Legal Issues in the Complex World of Caregiving - Scott Greenberg, Author and Host of the radio show: “Oh, I’m Getting Older and So is My Mom” Seaview Radio, 95.9 FM
12:45pm - 1:35pm	Annual Tax Law and Ethics Update - Michael A. Lampert, Esq., Michael A. Lampert, P.A., Florida Bar Board Certified Tax Attorney, West Palm Beach, FL
1:35pm - 2:05pm	Securities Law and the Elderly - Peter M. Spett, Esq., Law Office of Peter M. Spett, Boca Raton, FL
2:05pm - 2:35pm	The Elder in Transition: Marketing and the Branding of an Elder Law Attorney - Michele Bellisari, Realtor and owner of Probate, Estate and Senior Real Estate Resources

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**This course has been granted 6.0 CLER including 2.0 Ethics credits/  
4.5 Elder Law Certification credits from The Florida Bar.**

Early registration cost for the seminar, **including lunch**, is **\$185** for PBCBA members/paralegals, **\$225** for non-PBCBA members/paralegals, if registered by 12/3/14. **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.

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

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

\_\_\_ I will not be able to attend the seminar but would like to order the CD Rom. (allow four weeks for delivery) (Elder Law 12/10/14))

**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**



## Elective Share Made Easy

by David M. Garten

This is a five part series regarding Florida's elective share. Part I pertains to the relevant time periods associated with the elective share; Part II pertains to the property included in the elective estate ("inclusion amount"); Part III pertains to the property excluded from the elective estate; Part IV pertains to the value of assets passing to or for the benefit of the surviving spouse ("satisfaction amount"), and Part V pertains to the estate's/beneficiaries liability for the unsatisfied balance of the elective share ("apportionment and contribution").

What is an "elective share"? The surviving spouse of a person who dies domiciled in Florida has the right to claim a portion of the deceased spouse's estate known as the "elective share", as opposed to the estate subject to administration. The elective estate encompasses not only the decedent's probate estate but also a variety of non-probate transfers, including: (a) property passing by right of survivorship; (b) property in a revocable trust or a discretionary trust for the decedent's benefit; (c) the cash surrender value of insurance policies on the decedent's life; (d) death benefits payable under qualified and nonqualified retirement plans; and (e) certain other transfers.

Once the petition for the elective share is filed, the court must determine the amount of the elective share by calculating 30% of the fair market value of all of the deceased spouse's property that is subject to the elective estate. The elective share is exclusive of the surviving spouse's property and all exempt property such as homestead, furnishings, automobiles in the decedent's name, and family allowances.

Next, the court must determine whether the value of assets passing to or for the benefit of the surviving spouse is greater than (>) or less than (<) the amount of the elective share.

If the value of assets passing to or for the benefit of the surviving spouse is less than the amount of the elective share, the elective share is payable from assets passing under the will and revocable trust. If these assets are insufficient to satisfy the elective share, then the elective share is payable other recipients of elective share property.

Once the elective share is satisfied, the remaining assets of the estate are distributed as though the surviving spouse had predeceased the decedent.

### Elective Share Formula:

1. Determine the amount included in elective estate ("inclusion amount")
2. Inclusion amount x 30% = elective share
3. Determine the amount satisfying the elective share (i.e., the value of assets passing to or for the benefit of the surviving spouse) ("satisfaction amount")
4. If the satisfaction amount is greater than the amount of the elective share, then there is no elective share (it has been satisfied). Alternatively, if the satisfaction amount is less than the amount of the elective share, then there is an elective share; however, that amount is reduced by the satisfaction amount.
5. If the satisfaction amount is less than the amount of the elective share, the elective share is payable from assets passing under the will and revocable trust ("apportionment"). If these assets are insufficient to satisfy the elective share, then the elective share is payable other recipients of elective share property ("contribution").

### Did you miss the November Estate & Probate Seminar?

Download it today to your computer or purchase the CD by going to our webpage at <http://www.palmbeachbar.org/continuing-legal-education/>

## CLE @ Sea 2015



Once again, the Palm Beach County Bar Association will be joining with members of the Clearwater Bar Association for a CLE @ Sea cruise.

Mark your calendar for September 26 – October 3, 2015 for a Mediterranean cruise on the Emerald Princess.

The cruise leaves from Rome and you will visit Sicily, Tunis, Florence, Genoa, Toulon and Barcelona.

Rates are as follows (rates are per person, based on double occupancy and subject to availability. Additional taxes are \$95 pp):  
 Inside staterooms \$1249; Ocean view (obstructed) \$1399;  
 Ocean view (unobstructed) \$1649; Balcony staterooms \$1799;  
 and Mini-suites start at \$2099.

A total of 6 CLE credits will be presented at an additional cost of \$150. For more information about booking the cruise, contact

David Moorcroft, Ships-N-Trips, Inc. at  
 (727) 736-1318, [dmoorcroft@tampabay.rr.com](mailto:dmoorcroft@tampabay.rr.com).

To register for CLE or inquire about speaking opportunities, contact  
 Karen France at the Clearwater Bar Association  
[kfrance@clearwaterbar.org](mailto:kfrance@clearwaterbar.org)





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

**"What is an e-Neutral and How Can One Benefit You In e-Discovery"**

**Tuesday, January 21, 2015 - 11:30am - 1:00pm**

Bar Offices - 1507 Belvedere Road, WPB 33406

**Program Schedule**

- 11:30am - 11:55am **Lunch / Check In / Late Registration**
- 11:55am - 12:00pm **Welcome - Opening Remarks** - *David Steinfeld, Esq.,  
Law Office of David Steinfeld, P.L., Board Certified Business  
Litigation Attorney, Business Litigation CLE Committee Chairperson*
- 12:00pm - 1:00pm **Don't Go It Alone: Navigate E-Discovery Issues with the Help of  
an E-Neutral** - *Allison O. Skinner, Esq., American College of e-Neutrals*

The American College of e-Neutrals ([www.acesin.com](http://www.acesin.com)) provides the world's only directory of qualified and experienced discovery neutrals for a digital age. In this program you will learn:

- *What is an e-Neutral*
- *What type of e-Neutral you need for your case*
- *When do you use an e-Neutral*
- *What are the benefits of using an e-Neutral*
- *Where do you find an e-Neutral right for your case*
- *How do you become an e-Neutral*
- *How courts are using e-Neutrals to promote judicial economy*
- *What is eMediation and how it can help your case*

Come learn how an e-Neutral promotes effective and efficient case management in cases with electronic discovery. The presenter, Allison Skinner, Esq., is the co-founder of the American College of e-Neutrals, an adjunct professor of e-discovery, a prolific writer and speaker on this topic and pioneer of using ADR for discovery disputes, coining the terms "eMediation," "Mediated eDiscovery Plan" and "e-Neutral."

***Lunch Sponsored By:***



**This course has been granted 1.0 CLER 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 1/14/15; 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.**

**"This course may be eligible for up to 1.0 CME hours. Mediators are required to self report those hours applicable to their areas of certification at the time of their renewal. For more info on the CME requirement, visit, [www.flcourts.org](http://www.flcourts.org), select Alternative Dispute Resolution/Mediation."**

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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

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

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## WELCOME

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***Our New Attorneys:***

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**JENNIFER PARKER, ESQ.**

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*Per Administrative Order No. 2.105/6-13, In Re: Fifteenth Circuit Professionalism Panel, when an attorney appears before the Panel because of conduct inconsistent with the PBCBA's 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 Council session  
March 14, 2012**

Dear [Name]:

This letter serves as a follow up to the April 15, 2014 meeting of the Fifteenth Judicial Circuit Professionalism Panel ("Panel"). You were asked to appear before the Panel to address allegations of unprofessional conduct stemming from irrelevant questioning of opposing counsel in an attorney's fee hearing. The questioning of the attorney pertained to a prior Florida Bar grievance for an arrest for driving under the influence. Although you were invited to appear before this Panel you chose not to attend. The Panel also requested a written response to which you sent an email stating that "[t]here is little to tell" and that you have litigation with the opposing counsel.

The Panel reviewed the referral letter, your response and met to discuss the complaint. This letter sets forth the Panel's findings. It is intended to point out to you the unprofessional nature of your questions of opposing counsel during cross examination for reasonable attorney's fees and to remind you of the importance of civility and professional conduct between attorneys.

The Panel concluded that your questioning of opposing counsel in an attorney's fees hearing regarding his prior bar discipline for a DUI was unprofessional conduct. Although neither side had a court reporter present at the hearing, a brief synopsis of the questioning as depicted in the referral letter is as follows:

**Counsel:** Now, you testified that you are an attorney in good standing with The Florida Bar. Correct?

*Opposing*

**Counsel:** Yes.

**Counsel:** Has that always been the case – has there ever been a time at which you were subject to bar discipline?

*Opposing*

**Counsel:** Yes.

**Counsel:** And what was that about?

*Opposing*

**Counsel:** I received a reprimand for a DUI that occurred in 2009.

While the Panel did not have a transcript of the hearing regarding attorney's fees, the questions as stated above were not proper grounds for impeaching the credibility of the witness and were asked only to denigrate and embarrass opposing counsel. These questions, when asked during cross examination in the attorney's fee hearing, although not objected to, were not consistent with the Ideals and Goals of Professionalism adopted by the Board of Governors of The Florida Bar.

In particular the questions violated Ideal 2- Adherence to a Fundamental Sense of Honor, Integrity and Fair Play. Ideal 2 states that: "A lawyer should at all times be guided by a fundamental sense of honor, integrity, and fair play, and should counsel his or her client to do likewise." Further, your questioning of counsel violated a goal of Ideal 2. Goal 2.14 states that "A lawyer should abstain from conduct calculated to detract or divert the fact-finder's attention from the relevant facts or otherwise cause it to reach a decision on an impermissible basis." Moreover, your conduct at the hearing violated Ideal 5- Courtesy. Ideal 5 states: "A lawyer should treat all persons with courtesy and respect and at all times abstain from rude, disruptive and disrespectful behavior...." For the reasons stated above, your conduct was not consistent with the Ideals and Goals of Professionalism.

Your questions during the cross examination of opposing counsel at the attorney's fees hearing was also in violation of the Palm Beach County Bar Association Standards of Professional Courtesy Rule III(1). This rule states that "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." Questioning opposing counsel regarding his prior bar discipline was not only irrelevant in an attorney's fees hearing but was degrading and embarrassing to the witness thus violating the Standards of Professional courtesy.

Attorneys who practice in the Fifteenth Judicial Circuit should endeavor to be knowledgeable about the Ideals and Goals of Professionalism adopted by the Board of Governors of The Florida Bar as well as the Palm Beach County Bar Association Standards of Professional Courtesy. A primary focus and design of the Panel that was mandated by the Supreme Court of Florida in each Circuit, 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 encourage you to read the Ideals and Goals of Professionalism and the Standards of Professional Courtesy, copies of which are enclosed. It is our hope that this letter will have a positive impact, serve as a guide to your future conduct, and educate you to the expected level of civility and professionalism in Palm Beach County.

/s/

Amy S. Borman,  
2013-14 Co-Chair, Fifteenth Judicial Circuit  
Professionalism Panel

### Sidney A. Stubbs Professionalism Award Nominations Sought

Deadline to submit nomination February 3

Applications can be found on the Bar's website

## Striking Pleadings

by Matt Triggs and Jonathan Galler

No litigant ever wants to hear the words “striking” and “your pleading” in the same sentence. (Unless, of course, the speaker is characterizing your complaint as flashy or attractive. As in, “My goodness, your pleading is quite striking!”)

Most often, where there is a pleading being stricken by a trial court, there is a litigant being sanctioned. The misconduct at issue might be a pattern of refusing to respond to discovery, or it might be a failure to amend a dismissed complaint in timely fashion. Our appellate courts, however, go to great lengths to protect a litigant from having his or her pleadings stricken where the dilatory behavior or other misconduct is due primarily to bad or neglectful lawyering.

To ensure such protection, the discretionary authority of the trial court to impose the “ultimate sanction” of striking pleadings may not be exercised without the express consideration of six enumerated factors known as the *Kozel* factors. See, e.g., *Gerbino v. Isel of Paradise B, Inc.*, 2014 WL 4083262, at \*2 (Fla. 4th DCA Aug. 20, 2014); *PNC Bank, N.A. v. Duque*, 137 So. 3d 476, 478 (Fla. 4th DCA 2014).

The *Kozel* factors are: (1) whether the attorney’s disobedience was willful, deliberate, or contumacious, rather than an act of neglect or inexperience; (2) whether the attorney has been previously sanctioned; (3) whether the client was personally involved in the act of disobedience; (4) whether the delay prejudiced the opposing party through undue expense, loss of evidence, or in some other fashion; (5) whether the attorney offered reasonable justification for noncompliance; and (6) whether the delay created significant problems of judicial administration. *Kozel v. Ostendorf*, 629 So. 2d 817, 818 (Fla. 1993).

“After considering these factors, if a sanction less severe than dismissal of the suit is a viable alternative, then the court should employ such

an alternative.” *Gerbino*, 2014 WL 4083262, at \*2.

It is insufficient for the trial court to merely indicate in its order that it considered the six *Kozel* factors. *Duque*, 137 So. 3d at 479. Instead, the trial court’s order must contain specific factual findings as to each factor. *Id.*

The appellate courts are not hesitant to reverse orders striking pleadings that do not comply strictly with *Kozel*. As the Fourth District wrote in *Duque*: “The law does not always provide a good roadmap for trial courts. In this area of sanctioning non-compliant parties, however, our supreme court has done just that. When the trial court fails to follow that roadmap, reversal is warranted.” *Id.* (citations omitted).

That said, another recent case, this one from the Third District, illustrates an important distinction in this area of the law. *Ledo v. Seavie Resources, LLC*, 2014 WL 4628549 (Fla. 3d DCA Sep. 7, 2014). There, a mortgage foreclosure defendant was sanctioned after numerous instances of noncompliance with court orders. The trial court ultimately struck his pleadings and entered a default judgment against him as to liability. The defendant in that case, however, was representing himself pro se. On review, the Third District noted that because the defendant “was sanctioned for his own failures to comply with court orders while he was acting *pro se*, *Kozel* has no application here.” *Ledo*, 2014 WL 4628549, at \*3.

In other words, because compliance with *Kozel* is intended to protect a litigant from being sanctioned for his or her attorney’s neglect, *Kozel* does not apply where the litigant is unrepresented. Instead, in such circumstances, the trial court must make a “finding that the conduct upon which the order is based was equivalent to willfulness or deliberate disregard.” *Ledo*, 2014 WL 4628549, at \*3. Moreover, where the record itself “demonstrably establishes” such deliberate disregard, the appellate court



will not find reversible error in the trial court’s failure to provide written findings of fact in the order striking the litigant’s pleadings. *Id.*

May all of your pleadings be striking; and may none of them be stricken.

*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.*

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



## "Real Estate Lessons for the Real World"

**Friday, January 16, 2015 - 8:00am - 12:00pm**  
**Bar Association Offices**



### Program Schedule

- 8:00am - 8:30am **Late Registration / Check In / Breakfast**
- 8:30am - 8:35am **Welcome and Opening Remarks** - *Sandra R. B. Wallace, Esq., Wallace Law, P.A., Real Estate CLE Committee Chairperson*
- 8:35am - 9:25am **Commercial Leases - Major negotiating points and ethical considerations** - *Gregory R. Cohen, Esq., Cohen, Norris, Wolmer, Ray, Telepman & Cohen, Board Certified Real Estate Attorney*
- 9:25am - 10:15am **Not Your Ordinary Judgments and Liens** - *Karla J. Staker, Esq., Fidelity National Title Group, Board Certified Real Estate Attorney*
- 10:15am - 11:05am **Alternative Dispute Resolution - Considerations for the Real Estate Practitioner** - *W. Jay Hunston, Jr., Esq., W. Jay Hunston, Jr., P.A., Certified Circuit Civil, Appellate and Family Mediator*
- 11:05am - 12:00pm **The Consumer Finance Protection Bureau and practical tips for your practice** - *Richard Davis, Greenstein & Associates*

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This course has been granted **4.0 CLER including 1.0 Ethics /** Certification credits include **3.0 Business Litigation** and **4.0 Real Estate** from The Florida Bar. Early registration cost for the seminar is \$115 for PBCBA members/paralegals, \$155 for non-PBCBA members/paralegals if registered by 1/9/15; 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.

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



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





### Legal Ethics: Check Your iOS 8 Privacy Settings

by Christopher B. Hopkins

In September 2014, Apple released its new iOS 8 mobile operating system which changed functions and privacy standards. If you update an existing device or buy a new one, there are ethical implications to how you configure your iPhone or iPad. Rule 4-1.1 requires competent representation which includes knowing the benefits and risks of new technology. Rule 4.1-4 demands that client communications be prompt and reasonably thorough. If you text (SMS) with a client, you are likely aware of the challenges since SMS messages are short, difficult to save, and they appear on your lock screen without warning. Ethics Opinion 10-2 and Rule 4-1.6 insist upon confidentiality of client information, which includes making a reasonable effort to ensure privileged data is secure -- even if you are just momentarily lending your device to family or colleagues. Configure these iOS settings for optimal confidentiality:

**Snowden Says Lawyers Should Encrypt:** In an August 2014 interview, the famous whistleblower warned that all professionals need to encrypt their data. Apple increased its encryption standards in iOS8, which appears to thwart most law enforcement capabilities, *but you must password protect the device*. Go to Settings / Touch ID & Passcode. You should also backup to your computer, not the iCloud, and turn on encrypted backups (in iTunes, select "backup encrypted"). Because the typical 4-digit Passcode is insecure, de-select Simple Passcode. Note, using Touch ID to open your device with your finger is likely not sufficiently safe from a warrant or court order since a fingerprint is non-testimonial and can be compelled.

**Your Photos Are Not Deleted Until You Double-Delete:** Deleted photos can be viewed on your phone without any hacking or special skills. In iOS 8, if you delete a photo, it is removed from the camera roll and placed into the photo album, "Recently Deleted," for up to 30 days. Open the camera app, hit the photo icon in the bottom left corner, then tap "all photos" in the top left corner, and then "albums" in the bottom right corner. "Recently Deleted" holds all of your unwanted photos for up to a month. Beware.

**Hide Photos (But Be Careful):** When viewing your camera roll (Camera app / bottom left icon / All Photos), you can press and hold a photo to "hide" it so that it does not appear in Moments, Collections, Years (the main camera roll). However, be aware that "hide" will not remove the photo from any photo albums you have made.

**Your Text Messages Are Also Going to Your iPad:** When you upgrade to a newer version of iOS, Apple automatically sets iMessages to go to all devices using the same Apple ID. This is a problem if you have a family-shared iPad since anyone with access will see your iPhone texts. On the iPad (or other secondary iDevices), go to Settings / iMessage / Send & Receive and check only your phone number (not email addresses).

**Prevent Tracking of Your Internet Searches:** if you are concerned that your internet searches on Safari are being tracked by Google, head to Settings / Safari / Search Engine and select DuckDuckGo (note: Apple may still collect your data).

**Limit Tracking of Your Internet Viewing:** for Safari users, go to Settings / Safari and turn on Do Not Track and Fraudulent Website Warning.

**Be Careful With Private Browsing:** In prior versions of iOS, when you exited Safari while using Private browsing, it would remind you to close the webpage. In iOS8, however, it does not. After you finish private browsing, you must close out the window otherwise the next person to open Safari will see the last page you visited.

**Three Ways to Protect Your Location:** Go to Settings / Privacy / Location Services. First, turn off Share My Location. Second, the apps on that long list are monitoring your location -- unless they are essential, turn them to "Never" or "When Using the App." Third, scroll to the bottom of the list to System Services and turn off Location-Based iAds, Frequent Locations, Diagnostics & Usage, and Popular Near Me.

**Two Ways to Protect Your Privacy:** Under Settings / Privacy, scroll down to Diagnostics & Usage and select Don't Send. Back out to the Privacy tab and select Advertising. Hit "Reset Advertising Identifier" and then turn on Limit Ad Tracking.

**Prevent Apps from Listening:** Some apps need access to the microphone (e.g., Google Translate, Shazam) whereas other apps seemingly want access without a real purpose (e.g., Instagram, Florida 511). Under Privacy / Microphone, turn off any apps that you do not want to be able to access your microphone.

**Turn Off Google Maps Tracking:** if you rely on Google Maps, be aware that Google tracks your location history. This is not a setting on your iDevice. On a PC or Mac, go to your Google settings webpage. Hit the "Places You've Been" icon to see Google's information. You can then "Manage History."

**Auto Delete Texts:** Configure Setting / Messages / Keep Messages to delete SMS messages after 30 days.

**Two Step Verification:** Prevent unauthorized use of your Apple ID by selecting Manage Your Apple ID from [appleid.apple.com](http://appleid.apple.com). Anytime you purchase from iTunes or access iCloud, you will enter your password and the code sent via SMS.

**For the hyper paranoid:** Concerned that the plane overhead is surveilling you? Just ask Siri, "what planes are overhead?" to confirm they are just commercial flights.

**Christopher B. Hopkins** is a partner at Akerman LLP. Send a tip of the jaunty (tin)foil cap to [christopher.hopkins@akerman.com](mailto:christopher.hopkins@akerman.com).

# MEDIATION CONFIDENTIAL:

## What Mediators Want You & Your Clients To Know

Presented by our Solo & Small Firm Practitioners Committee

**Wednesday, January 7, 2015**

11:45 a.m. to 1:00 p.m.

Bar Office



**CHOOSING THE RIGHT MEDIATOR** presented by Michael Mopsick, Esq., Shapiro, Blasi, Wasserman & Gora, P.A.

- Learn how to customize your mediation.
- Choose wisely. Hiring the right mediator can help build your case. Find out what characteristics to look for in your mediator.
- Should you pick a mediator based on their practice area?
- Find out how to educate your mediator for the best chance of success.
- The role of civility in mediation.

**PREPARING YOUR CLIENT FOR MEDIATION** presented by Sandy Myers, Esq.

- What is the best way to prep your client for mediation?
- Who pays for mediation and when is payment due?
- Is it ok to include "professional attendees" to mediation, such as a CPA? If so, who pays for his or her time? What about clients who want to bring a friend for moral support?
- There are ethical concerns that can take place during and after a mediation. Do you know what they are?

**THE UGLY TRUTH** presented by Rodney Romano, Esq., Matrix Mediation

- How is your conduct during mediation? You may be surprised. Your perception of strength may actually indicate weakness.
- Should you agree to phone appearances? What is "full authority?"
- Learn the five most important steps to maximize the benefit and success of your mediation.

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Solo Luncheon January 7, 2015

## 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.

**Whitney M. Baldwin:** Florida A&M University, 2013; Florida Rural Legal Services, Inc., West Palm Beach.

**Melissa Eggers:** Nova Southeastern University, 2009; Office of the Attorney General, West Palm Beach.

**Joseph Robert Greco:** University of Miami, 1953; Solo Practitioner, Palm City.

**Holly Lynn Griffin:** Florida State University, 2011; Associate in Gunster, Yoakley & Stewart, West Palm Beach.

**Tabitha G. Harnage:** Law Student Membership, West Palm Beach.

**Nazmul Islam:** Penn State University, 2011; Solo Practitioner, West Palm Beach.

**Amanda P. Kriberney:** Florida Registered Paralegal Membership; Searcy Denney Scarola Barnhart & Shipley, P.A., West Palm Beach.

**Olivia D. Liggio:** Bates College of Law, 2014; Associate in Clark, Fountain, LaVista, Prather, Keen & Littky-Rubin.

**John B. Myer:** University of Missouri, 1991; Next Era Energy, Juno Beach.

**Chase M. Nugent:** University of Florida, 2014; Associate in Lytal Reiter Smith Ivey & Fronrath, West Palm Beach.

**Arlety Rodriguez:** University of Florida, 2014; Associate in Morgan & Morgan, P.A., West Palm Beach.

**Bridget Schultz:** University of Miami, 2014; Associate in Adams Coogler, P.A. West Palm Beach.

**Fred A. Schwartz:** New York University, 1968; Partner in Kopelowitz Ostrow, P.A., Boca Raton.

**Samantha Silverstein:** DePaul University, 2013; Office of Public Defender, West Palm Beach.

**Stacie K. Townsend:** University of Iowa, 2014; Associate in Gunster Yoakley & Stewart, West Palm Beach.

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## Awards to be presented at Bench Bar Conference – Nominations Requested

Awards to be presented at Bench Bar Conference – Nominations Requested

Two awards will be presented at the March 27, 2015 Conference: the 4th Annual **Judge Edward Rodgers Diversity Award** and the 16th Annual **Sidney A. Stubbs Professionalism Award**. Members are encouraged to nominate a member or organization for either of these prestigious awards.

Criteria for the **Professionalism Award** are individual members of the Palm Beach County Bar Association. The Professionalism Award recognizes an attorney that has demonstrated or promoted outstanding professionalism in Palm Beach County, as defined by exemplary ethical conduct, character and integrity, respect for the legal system and all of its participants, commitment to maintaining the highest levels of professional competence, courtesy and civility, and commitment to serving clients, the community and the public good. **The deadline to submit nominations will be February 3.**

Criteria for the **Diversity Award** requires that the recipient should be a person (must be a PBCBA member) or organization who:

1. Demonstrates a consistent pattern of (either the individual or organization)'s commitment to the recruitment, retention and promotion of individuals of underrepresented populations;
2. Cultivates and promotes diversity and gender initiatives that establish and foster a more inclusive and equitable work environment;
3. Promotes and facilitates education, community outreach and social engagement with and between people of varying ethnic or religious backgrounds, gender, socioeconomic status, sexual orientation, and/or physical and mental capabilities so that persons of diverse background can enter and prosper in the legal field;
4. Exhibits visionary and insightful leadership to confront and resolve inequities through strategic decision-

making, allocation of resources, and establishment of priorities;

5. Outlines defined goals, actions steps and accomplishments toward achieving a work environment that recognizes, promotes and encourages a diverse workforce at all levels throughout an organization;
6. Implements and carries out best practices that support diversity and inclusion goals.

The deadline to submit nominations will be February 3.

Applications for either of these awards can be found on the Bar's home page at [palmbeachbar.org](http://palmbeachbar.org).

**Save the Date**  
**Bench Bar Conference**  
**March 27, 2015**

**Registration will be available Mid-January**

### Need a holiday gift? Buy Movie Ticket



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



**"UPDATE"**

*ESI Discovery for the Technically Challenged*

**Monday, January 26, 2015 - 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 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 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 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 Kramer & Galardi, P.A.*

**SPONSORED BY:**



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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 **1/20/15**; add \$10 to registration fee after that date.

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

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



## Expert Power – Is it Different for Men and Women?

By Anika Campbell

Is being an expert witness perceived as a masculine role? It certainly appears that way by the overall ratio of men versus women experts retained at trial. It seems that attorneys think that male experts appear more credible to a Jury than female experts.

They are not entirely to blame, however, as studies have shown that an expert's gender has some impact on their perceived credibility and that in certain contexts, women are perceived differently from men when they enter court solely by way of their gender.

In the mid-1980s and early 1990s several state and federal courts commissioned studies on gender-based discrimination. The Minnesota Supreme Court Task Force for Gender Fairness in the Courts (1989), found that 55% of female attorneys, compared with 13% of male attorneys, believed judges assigned more credibility to male than to female expert witnesses.<sup>1</sup> Studies examining gender bias in the Ninth Circuit and by the Texas Supreme Court found that, whereas male attorneys and judges generally believed gender prejudice had virtually disappeared over time, their female counterparts reported many continuing areas of bias.<sup>2</sup>

Although the boundaries of women's social roles have changed over time, professional women within the court system continue to report experiencing gender discrimination. It cannot be ignored that stereotypes play a role in how Juries perceive male vs. women experts. One study found that male experts were usually described as competent, assertive, rational, logical, able to make decisions and act as leaders.<sup>3</sup> However, their female counterparts on the same characteristics were described as illogical, unable to separate emotions from ideas or had difficulty making decisions. The study showed that overall, the "masculine characteristics" were often deemed more desirable than feminine characteristics.<sup>4</sup> More comprehensive studies show that men are perceived more influential as experts in traditionally masculine roles i.e. automotive or engineering and women were perceived more influential in traditionally feminine roles i.e. child custody or sexual assault. However, when women crossed over and testified in the traditional "masculine" roles – the female expert's credibility declined, whereas when men testified in the traditional "feminine" roles, the male expert's credibility remained the same.<sup>5</sup>

Studies on this matter have been all over the spectrum. One study finding gender has no real effect on Juror decision making.<sup>6</sup> Other more recent studies found that gender impacts

Juror perception and Jury verdicts, specifically, those awarding compensatory damages.<sup>7</sup> These studies indicate that the women experts fared better in certain types of situations and same goes for men. One study indicated that male experts were more persuasive in cases involving construction, antitrust litigation and automation, and female experts more persuasive in cases involving, child care, cosmetic sales, or crimes against women.<sup>8</sup> Researchers refer to this stereotypical discrepancy as "gender congruency" and suggest that practitioners be cognizant of this phenomenon when selecting trial experts. The explanation is that if an expert is perceived as having some special insight in the subject of their testimony, i.e. a female testifying about battered women's syndrome, then the Jury may attribute more weight to the testimony. Why? Most Juries have a pre-conceived expectation of appropriate gender roles and when an expert violates the Juror's expected gender behavior, Juries tend to find the expert less likeable and less persuasive.<sup>9</sup>

Can a Juror's misperception, affect the actual outcome at trial? Empirical research using mock Jurors in an automotive accident case where both male and female experts were used to testify about a defective clamp on the car seatbelt revealed that defendants obtained favorable verdicts more often than plaintiffs<sup>10</sup> when a gender congruent male expert testified, (54.9% plaintiff to 63% defendant). When a non-congruent female expert testified, plaintiffs obtained favorable verdicts more often (45.1 % Plaintiffs 37.0% Defendants). Notably, the same studies show that the expert's gender did not significantly affect the actual verdict award. In other words, gender of the expert did not significantly affect amounts awarded for medical expenses, pain and suffering, lost wages etc. The study concluded that usually people correct their own bias when they recognize it. Researchers did caution that Juror bias exists and different trial scenarios may skew these results unfavorably for female experts.<sup>11</sup>

What, if anything, can we do as practitioners to eliminate or diminish gender bias in expert testimony? While varying perceptions of male versus female experts exist, they are nevertheless contextual and could be contained. Jurors will likely correct their own bias when recognized; even overcorrect at times. Subtly highlighting potential gender bias to the Jury may alert the Jury to correct a potentially biased judgment. Optimistically, notions of gender bias and "gender congruency" are faltering and will hopefully become obsolete as societal roles are merging and changing. With women undertaking more "masculine roles" and/or "leaning in," the new norm in the courtroom reflects more female engineers, automotive and complex business transaction experts.

*Anika Campbell, Esq. is a Partner at the Law Firm of Cole, Scott and Kissane, P.A. Her practice areas include general civil litigation, legal malpractice, professional liability, commercial litigation, personal injury, premises liability and community association law.*

1 Minnesota Supreme Court Task Force for Gender Fairness in the Courts. (1989). Juror's responses to expert witness testimony: The effects of gender stereotypes. Group Processes and Intergroup Relations, 7, 131-143.

2 Texas Supreme Court Gender Bias Task Force (2004). Guidelines for practicing gender neutral courtroom procedures. Austin, TX: Texas center for Legal Ethics and Professionalism. <https://www.supreme.courts.state.tx.us/rules/pdf/GenderNeutralCourtroomProcedures-NoCovers.pdf>

3 Broverman, I.K., Vogel, S.R., Broverman, D.M. Clarkson, F.E. & Rosenkrantz, P.S. (1972). Sex-role stereotypes: A current appraisal. Journal of Social Issues, 28, 59-78.

4 *Id.*

5 Eagly, A.H. & Karau, S.J. (2002). Role congruity theory of prejudice toward female leaders. Psychological review, 109, 573-598.

6 Titcomb-Parrott, C., Neal, T.M.S., Wilson J.K., & Brodsky, S.L.: Differences in expert witness knowledge: Do mock Jurors and does it matter? Journal of the American Academy of Psychiatry and the Law.

7 Couch, J.V., & Siegler, J.N. (2002). Gender of an expert witness and the jury verdict. The psychological record, 52, 281-287.

8 Schuller, R.A., Terry, D., & McKimmie, B. (2005). The impact of expert testimony on Juror's decisions. Law and Psychological Review, 25, 59-79.

9 Neal, T.M.S., Guadagno, R.E., Eno, C.A. & Brodsky, S.L. (2012). Warmth and competence on the witness stand: Implications for credibility of male and female expert witnesses. Journal of the American Academy of Psychiatry and the Law, 40, 488-497.

10 Couch Siegler (2002)

11 *Id.*



# Real Property and Business Litigation Report



by Manuel Farach

**Freiday v. OnWeest Bank, FSB**, – So.3d –, 2014 WL 4840750 (Fla. 4th DCA 2014).

A summary judgment of foreclosure is improper when the letter declaring default (and satisfying a condition precedent to foreclosure) is unauthenticated.

**Mana v. Cho**, – So.3d –, 2014 WL 4852897 (Fla. 3d DCA 2014).

A plaintiff's personal financial information is not relevant for discovery purposes if the plaintiff is seeking damages only for the difference between the contract price and fair market value of land, and the plaintiff is not seeking compensatory damages for breach.

**Inetianbor v. CashCall, Inc.**, – F.3d –, 2014 WL 4922225 (11th Cir. 2014).

The failure of a chosen arbitration forum when the choice of forum is integral to the arbitration agreement precludes arbitration under the Federal Arbitration Act.

**Bates v. JPMorgan Chase Bank, NA**, – F.3d –, 2014 WL 4815564 (11th Cir. 2014).

Failure to comply with Department of Housing and Urban Development regulations referenced in the deed as conditions precedent to acceleration can constitute basis for breach of contract action against mortgagee's successor in interest.

**Branch Banking and Trust Co. v. ARK Development/Oceanview, LLC**, – So.3d –, 2014 WL 4988471 (Fla. 4th DCA 2014).

A bank account sought to be garnished is presumed to be owned by the person named as owner of the account.

**Andre Franklin, Inc. v. Wax**, – So.3d –, 2014 WL 5002130 (Fla. 2d DCA 2014).

A defendant does not waive the right to arbitration by filing a motion to dismiss, a counterclaim and motion to compel arbitration; it is the participation in discovery that waives a party's right to arbitration.

**Luani Plaza, Inc. v. Burton**, – So.3d –, 2014 WL 5012990 (Fla. 3d DCA 2014).

A community association may amend its restrictive covenants so long as doing so is reasonable and not arbitrary and capricious. Amending restrictive covenants of a business community association to prohibit residential uses is reasonable and not arbitrary and capricious.

**Delia v. GMAC Mortg. Corp.**, – So.3d –, 2014 WL 5284995 (Fla. 5th DCA 2014).

Lender seeking to reestablish a lost promissory note must produce evidence of adequate protection to the borrower under Florida Statute §§ 673.3091 and 702.11.

**Beauchamp v. Bank of New York**, – So.3d –, 2014 WL 5149104 (Fla. 4th DCA 2014).

Allowing hearsay evidence of amounts owed on promissory note over objection of a mortgagor not liable on the note is not harmless error because the amount owed on the note affects the amount the mortgagor must pay in order to exercise his equity of redemption at foreclosure sale.

**Laura M. Watson, P.A. v. Stewart Tilghman Fox & Bianchi, P.A.**, – So.3d –, 2014 WL 5149106 (Fla. 4th DCA 2014).

A judgment debtor has no legal power to control a garnishee's responses and cannot prohibit a garnishee from waiving formal service of process through filing an answer.

**Wyandt v. Voccio**, – So.3d –, 2014 WL 5151322 (Fla. 2d DCA 2014).

An injunction issued under Florida Statute § 784.0485 requires substantial, competent evidence of two incidents of "stalking," even if the dispute is between business owners.

**Lacombe v. Deutsche Bank Nat. Trust Co.**, – So.3d –, 2014 WL 5139296 (Fla. 1st DCA 2014).

Florida Rule of Civil Procedure 1.530(e) (contemporaneous objection not necessary in bench trials to preserve appellate review whether there was substantial, competent evidence to support decision) applies in mortgage foreclosure cases tried to the court.

**Antico v. Sindt Trucking, Inc.**, – So.3d –, 2014 WL 5099433 (Fla. 1st DCA 2014).

Data contained on a personal smartphone that is relevant to pending issues may be the subject of discovery notwithstanding the privacy rights contained in Article I, Section 23, of the Florida Constitution.

**2245 Venetian Court Bldg. 4, Inc. v. Harrison**, – So.3d –, 2014 WL 5394515 (Fla. 2d DCA 2014).

Relevance of financial discovery in post judgment proceedings is broader than its relevance prior to judgment, and relevant discovery includes that on third parties with connections to the judgment debtor. It is not necessary to have alleged a fraudulent conveyance to have financial discovery on third parties.

**Harper v. HSBC Bank USA, Nat. Ass'n**, – So.3d –, 2014 WL 5370029 (Fla. 1st DCA 2014).

A mortgage foreclosure affirmative defense that the promissory note (not the mortgage) has not been properly accelerated is effective when the note incorporates the mortgage.

**Southern Nat. Track Services, Inc. v. Gilley**, – So.3d –, 2014 WL 5370033 (Fla. 1st DCA 2014).

An express warranty in a real estate contract for sale of a modular home which claims there are no violations of "land use plans, zoning, restrictions, prohibitions and other requirements imposed by governmental authority...." does not merge into the deed when the "modular house" is actually a storage shed improperly converted into a residence in violation of building codes and governmental regulations.

**HSBC Bank USA, N.A. v. Serban**, – So.3d –, 2014 WL 5370041 (Fla. 1st DCA 2014).

Trial court's failure to follow Florida Rule of Civil Procedure 1.440, including setting a case for trial with less than thirty days' notice, is waived if not objected to at trial.

**Spicer v. Tenet Florida Physician Services, LLC**, – So.3d –, 2014 WL 5343503 (Fla. 4th DCA 2014).

A purported agreement to arbitrate which does not contain any reference to the procedure to be used in arbitration and does not make reference to "gap fillers" such as the Florida Arbitration Code is not a sufficient agreement and is not enforceable.

**Zelaya/Capital Intern. Judgment, LLC v. Zelaya**, – F.3d –, 2014 WL 5375611 (11th Cir. 2014).

A judgment debtor may interplead the judgment amount claimed by multiple parties into the court registry, and thereby satisfy the judgment against him. There is no absolute right to a jury trial in garnishment proceedings when a jury trial would serve no purpose.



## "ADR - Making it Work!"

**Monday, February 9, 2015 - 8:00a.m. – 4:30p.m.**  
**Bar Association Offices, 1507 Belvedere Rd., WPB 33406**

### Program Schedule

8:00a.m. – 8:30a.m.	<b>Late Registration/Check In</b>
8:30a.m. – 8:40a.m.	<b>Welcome &amp; Opening Remarks</b> - <i>Amber E. B. McMichael, Esq., Clarfield, Okon, Salomone &amp; Pincus, P.L., Certified Circuit Civil, and Family Mediator, Committee Chair</i>
8:40a.m. – 9:30a.m.	<b>Domestic Violence</b> - <i>Eunice I. Baros, Esq., Certified Circuit Civil Mediator</i>
9:30a.m. – 10:20a.m.	<b>Cultural Diversity</b> – <i>Najah N. Adams, Esq., Adams &amp; Griggs, P.A.</i>
10:20a.m. – 10:30a.m.	<b>BREAK</b>
10:30a.m. – 11:20a.m.	<b>Trench Warfare - Arbitration Pitfalls and Opportunities</b> - <i>Rodney G. Romano, Esq., Matrix Mediation, LLC, Certified Circuit Civil Mediator</i>
11:20a.m. – 12:10p.m.	<b>Panel of Attorneys Q&amp;A -</b> <b>Panel Moderated by</b> <i>Amber E. B. McMichael, Esq., Clarfield, Okon, Salomone &amp; Pincus, PL</i> <b>Panel:</b> <i>Adam T. Rabin, Esq., McCabe Rabin, P.A., Certified Business Litigation and Business Law Attorney; Scott G. Hawkins, Esq., Jones, Foster, Johnston &amp; Stubbs, P.A.; Certified Business Litigation and Business Law Attorney; Jill G. Weiss, Esq., Dimond Kaplan &amp; Rothstein P.A.</i>
<b>***LUNCH SPONSORED BY: MATRIX MEDIATION, LLC***</b>	
12:10p.m. - 1:00p.m.	<b>LUNCH</b>
1:00p.m. - 1:50p.m.	<b>Case Law/Ethics Update</b> - <i>W. Jay Hunston, Jr., Esq., W. Jay Hunston, Jr., P.A., Certified Circuit Civil and Family Mediator, Board Certified Civil Trial Lawyer Emeritus</i>
1:50p.m. - 4:30p.m. (includes break at 2:40p.m. - 2:50p.m.)	<b>Comparative Techniques for Various Practice Areas:</b> <b>Personal Injury</b> - <i>Louis L. Williams, Esq., Matrix Mediation, LLC, Certified Circuit Civil Mediator</i> <b>Commercial</b> - <i>Theodore A. Deckert, Esq., Matrix Mediation, LLC, Certified Circuit Civil and Family Mediator</i> <b>Family</b> - <i>Victoria S. Calebrese, Esq., Victoria Calebrese, P.A., Certified Marital and Family Law Attorney, and Certified Family Mediator,</i> <b>Construction</b> - <i>William J. Cea, Esq., Becker &amp; Poliakoff P.A., Certified Circuit Civil Mediator, Board Certified Construction Law Attorney</i> <b>Workers Comp</b> - <i>Michael H. Imber, Esq., Office of the Judges of Compensation Claims, State Mediator</i> <b>Probate/Trust/Guardianship</b> - <i>Michael D. Mopsick, Esq., Shapiro, Blasi, Wasserman &amp; Gora, P.A., Certified Circuit Civil Mediator</i>

This course has been granted **8.0 CLER** including **1.0 Ethics credits**/Certification credits include **6.0 Civil Trial** from the Florida Bar.

**Early registration** cost is **\$200** for PBCBA members/paralegals; **\$240** for non-PBCBA members/paralegals if registered by 2/2/15; add \$25 late fee after that date. **All refund requests must be made no later than 48 hours prior to the date of the seminar.**

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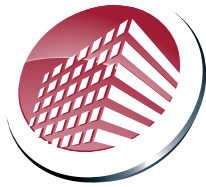
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The Palm Beach County Bar Association's Employment Law Committee Presents:

## BROWN BAG LUNCH SERIES

February 18, 2015 - 11:55 a.m. - 1:15 p.m.

Bar Association Offices

1507 Belvedere Rd., West Palm Beach, FL 33406

### "National Labor Relations Board's 2014 Hot Topics"

Can an employer terminate an employee for a social media post about work? Can an employer enforce a policy prohibiting employees from discussing pay? This topic of the Brown Bag Lunch Series will examine regulations employers need to know, and protections to employees, when it comes to the National Labor Relations Act.

#### Program Schedule

11:55 am - 12:00 pm      **Welcome** - *Lindsey B. Wagner, Esq., Cathleen Scott & Associates, P.A.,  
Employment and Labor Law CLE Committee Chair*

**Moderator** - *Cathleen Scott, Esq., Cathleen Scott & Associates, P.A.,  
Board Certified Labor and Employment Law Attorney*

12:00 pm - 1:00pm      **Presenter:** *Marinelly Maldonado, Esq., Field Attorney, National Labor  
Relations Board, Region 12 Miami Resident Office*

**\*\* Please e-mail your questions to: [lwagner@csapalaw.com](mailto:lwagner@csapalaw.com) \*\***

This course has been granted 1.0 CLER / 1.0 Labor and Employment Law Certification 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 2/11/15; add \$15 late fee after that date.

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

## Legal Aid's 14<sup>th</sup> Annual Cup of Justice Golf Classic

The Legal Aid Society of Palm Beach County's 14<sup>th</sup> Annual Cup of Justice Golf Classic raised \$50,000 to support its Educational Advocacy Project. The project's mission is to ensure positive educational outcomes for disabled children attending Palm Beach County schools.

Attorney Robert Shalhoub chaired the October 13<sup>th</sup> tournament at Bear Lakes Country Club. The presenting sponsor of the event was Sabadell United Bank.

The luncheon sponsor was Florida Crystals and the dinner sponsor was Dex Imaging, Inc. Other major sponsors included Caler, Denten, Levine, Cohen, Porter & Veil, P.A.; Daily Business Review; Dailey Janssen Architects, P.A.; Dr. Ryan Grand, M.D., D.C.; Furr & Cohen, P.A.; Law Office of Benjamin T. Hodas, LLC; Legal Graphicworks; Moore, Ellrich & Neal, P.A.; Schwed, Adams, Sobel & McGinley, P.A.; Schwed, Kahle & Kress, P.A.; Sentencing Consultants and Private Investigators, LLC & UBS Financial Services - Christian D. Searcy, Jr.

The golf tournament committee members included Richard Benrubi, Esq.; Bob Bertisch, Esq.; Harreen Bertisch; Scott Bester; Rick Collier; Ben Hartman; Devin Krauss; Heidi LeRoy; David McClymont; Scott Murray, Esq.; Grier Pressly, Esq.; Paul Shalhoub, Esq.; Michael Spillane; Vicky Vilchez, Esq.; Gary Woodfield, Esq.; Colin White, Esq. and Robert A. Wight, Esq.

Schwed, Adams, Sobel & McGinley, P.A. was awarded the "Cup of Justice" trophy after an outstanding round of golf. Other winners included Glickman, Witters & Marell, P.A. (Flight A - 1<sup>st</sup> Place); Team Shalhoub (Flight B - 1<sup>st</sup> Place); Moore, Ellrich & Neal, P.A. (Flight C - 1<sup>st</sup> Place).

David Bennett won "Closest to the Pin" & Jason Welt and Daniela Gordon won "Longest Drive".



**Champions: Schwed, Adams, Sobel & McGinley, P.A.; Jason Dollard, Steve Schwed, John Powers and Brad Ball**



**Matt Ferguson, Cater Randolph & Grier Pressly**

## SAVE THE DATE!

### 31<sup>ST</sup> ANNUAL JUDICIAL RECEPTION

PRESENTED BY THE PALM BEACH COUNTY CHAPTER OF FAWL

FEBRUARY 11, 2015 | 5:30 P.M. - 7:30 P.M.

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## "The Ever-Changing Landscape of Workers' Compensation: New Rules, New Judges ... and New Court Precedents?"

Friday, January 30, 2015

11:15am - 6:00pm

Marriott Hotel, West Palm Beach (Okeechobee Blvd.)

### Program Schedule

11:15a.m. - 11:30a.m.	<b>Late Registration / Check In / Welcome &amp; Opening Remark</b> - Kurt A. Wyland, Esq., Wyland & Tadros, LLP, Chair of the Workers' Compensation Committee
11:30a.m. - 12:15p.m.	<b>Traumatic Head Injuries and Use of DTI Scans</b> - Andrew Walker, M.D.
12:15p.m. - 12:45p.m.	<b>LUNCH</b>
12:45p.m. - 1:30p.m.	<b>Election of Remedies and Third Party Liens</b> - Kenneth B. Schwartz, Esq., Scott J. Sternberg & Associates, P.A.; Daniel M. Bachi, Esq., Sellars, Marion & Bachi, P.A., Board Certified Civil Trial Attorney; Kenneth E. Ehrlich, Esq., Hicks Motto & Ehrlich; Philip G. Thompson, Esq., Thompson & Thomas, P.A.
1:30p.m. - 2:15p.m.	<b>Hot Topics and Hot Cases</b> - Scott J. Sternberg, Esq., Sternberg & Associates, P.A.; Steven E. Foor, Esq., Wyland & Tadros, LLP
2:15p.m. - 3:00p.m.	<b>Treatment of Knee Injuries</b> - Richard Weiner, M.D.
3:00p.m. - 3:15p.m.	<b>BREAK</b>
3:15p.m. - 4:00p.m.	<b>What Not to Do When Litigating a Workers' Compensation Case</b> - Audience Participation
4:00p.m. - 4:45p.m.	<b>Q &amp; A Session/Perspectives from the Bench</b> - With Presentations By Palm Beach, St. Lucie, Miami-Dade and Broward County Judges of Compensation Claims. Moderated by Rand Hoch, Esq., The Law & Mediation Offices of Rand Hoch, P.A.
4:45p.m. - 6:00p.m.	<b>Cocktail Reception and Presentation of the Kennie Edwards Award</b>

**Sponsored By:** Esquire Solutions; Evidence Investigations, Inc.; Horizon Legal Solutions; Prose Court Reporting; David R. Rigell & Associates, P.A.; Gordon & Doner, P.A.; Law Offices of Franks, Koenig & Neuwelt; Miller, Kagan, Rodriguez & Silver; Steinger, Iscoe & Greene; Waterman and Wolfe, P.A.; and Wyland & Tadros, LLP

#### **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.

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This course is expected to receive **5.0 CLER / Worker's Comp. Certification credits are pending from The Florida Bar.**

The cost of the seminar, lunch included, is **\$125.00 PBCBA Attorneys/Paralegals; \$165.00 Non-PBCBA Attorneys/Paralegals** if registered by 1/23/15; add **\$15** late fee after that date.

**All refund requests must be made in writing 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.



## Upcoming CLE Seminars

Your CLE Committee Chairs have been very busy at work planning live CLE seminars for our membership for this year. For more information about these seminars, please visit the Bar's website: [palmbeachbar.org](http://palmbeachbar.org) and click on the calendar icon at the bottom of the page. Also, don't forget, most of these seminars are also held live via webinar if you are not able to leave your office to attend in person.

<b>December 8:</b> Business Litigation Luncheon Seminar	<b>April 9:</b> Employment Law Webinar
<b>December 10:</b> Elder Law Seminar	<b>April 15:</b> Business Litigation Luncheon Seminar
<b>December 12:</b> Personal Injury Lunch & Learn Seminar	<b>April 16:</b> Elder Law Annual Dinner Seminar
<b>January 16, 2015:</b> Real Estate Seminar	<b>April 17:</b> Bankruptcy Law Seminar
<b>January 21:</b> Business Litigation Luncheon Seminar	<b>April 22:</b> Securities Law Seminar
<b>January 26:</b> Technology Luncheon Seminar	<b>April 29:</b> Technology Luncheon Seminar
<b>January 30:</b> Workers' Compensation Seminar	<b>May 8:</b> Family Law Seminar
<b>February 5:</b> Technology Luncheon Seminar	<b>May 11:</b> Employment Law Webinar
<b>February 9:</b> ADR Seminar	<b>May 15:</b> Estate & Probate Seminar
<b>February 11:</b> Personal Injury Lunch & Learn Seminar	<b>May 19:</b> Business Litigation Luncheon Seminar
<b>February 18:</b> Employment Law Webinar	<b>May 21:</b> Personal Injury Lunch & Learn Seminar
<b>February 20:</b> Family Law Seminar	<b>May 29:</b> Real Estate Seminar
<b>February 24:</b> Business Litigation Luncheon Seminar	<b>June 5:</b> Community Association Law Seminar
<b>March 11:</b> Technology Luncheon Seminar	<b>June 12:</b> Employment Law Seminar & Reception
<b>March 24:</b> Business Litigation Luncheon Seminar	<b>June 19:</b> Business Litigation Luncheon Seminar

## 15th Judicial Circuit 2015 Court Holiday Schedule

Below is the list of the Fifteenth Judicial Circuit holidays for the calendar year 2015:

New Year's Day	Thursday, January 1, 2015
Martin Luther King Jr. Birthday	Monday, January 19, 2015
Good Friday	Friday, April 3, 2015
Memorial Day	Monday, May 25, 2015
Independence Day (Observed)	Friday, July 3, 2015
Labor Day	Monday, September 7, 2015
Rosh Hashanah	Monday, September 14, 2015
Yom Kippur	Wednesday, September 23, 2015
Veteran's Day	Wednesday, November 11, 2015
Thanksgiving Day	Thursday, November 26, 2015
Friday after Thanksgiving	Friday, November 27, 2015
Day before Christmas	Thursday, December 24, 2015
Christmas Day	Friday, December 25, 2015

### PLEASE NOTE:

**Monday, February 16, 2015, and Monday, October 12, 2015** are not court holidays. However, both are County holidays and County buildings will be closed. **Therefore, court hearings cannot be scheduled on those days.** Therefore:

Monday, February 16, 2015, will be a regular work day for State employees. Dress is casual.

Monday, October 12, 2015, the Court will hold an in-service training for all 15th Judicial Circuit employees.

**January 1, 2016**, falls on a Friday and will be the first holiday in 2016. This corresponds to the County's holiday schedule.

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## North County Section Members Volunteer at FAU Honors College

Officers, directors and members of the North County Section, along with County Court Judge Laura Johnson, recently judged the Honors Moot Court at Florida Atlantic University in Jupiter.

To better prepare students for their regional tournament in Orlando, our members provided valuable courtroom tips during their practice presentation. The fact pattern concerned the 4th Amendment and Presidential powers to detain belligerent Americans.

In addition to volunteering for Moot Court, our members also teach a class at the Honors College called "Law In The Real World." Each week, a different lawyer presents a class giving students the opportunity to learn about different practice areas. If you would like to participate, please contact Greg Yaffa at 561-625-6260.

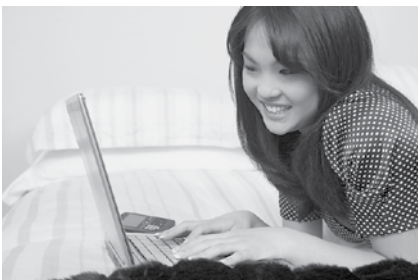


**Sitting from left: Students Benjamin Paley, Franklin Sklar, Mumbi Ngugi; NCS Director Eunice Baros; County Court Judge Laura Johnson; and student Claudel Louis**  
**Standing from left: NCS President Greg Yaffa; NCS President Elect Larry Buck; Eric Rosen, Esq.; Students Khalil Ricketts, Andrew Faris, Selene Vazquez, Alexandra Ledesman; Debra Jenks, Esq; and NCS Director David Steinfeld.**

### PBCBA Online Courses & Services

- Florida Notary Public
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[www.palmbeachbar.org/online\\_courses.php](http://www.palmbeachbar.org/online_courses.php)



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**Congratulations** to the Stuart-based law firm **Goldstein, Schmitt & Cambron PL**, which recently won a \$15.2 million jury award, before deduction for attorneys' fees and expenses, on behalf of the widow and son of a 29-year-old Navy veteran killed in a June 2011 crash with a semi-trailer truck in Orlando.

The award was the second-largest ever in Florida in a motorcycle case.

An Orlando jury held for the plaintiff, finding that the truck driver was 93 percent liable for the accident and that the trucker's employer, Jacksonville-based Landstar Ranger Trucking, was negligent in failing to adequately supervise the driver.



Lead counsel Thomas P. Schmitt, a partner in Goldstein, Schmitt & Cambron, said the key to the case was proving the driver had been on the road in excess of the Federal Motor Carrier Safety Administration hours of driving limits.

Attorney Lauri J. Goldstein, the law firm's founding partner, said evidence showed how Landstar Ranger failed to maintain adequate recordkeeping by utilizing paper logs, known in the industry as "comic books," instead of electronic logs that most other large trucking companies used.

For more information on the case or about Goldstein, Schmitt & Cambron PL, go to [www.femaleinjurylawyer.com/](http://www.femaleinjurylawyer.com/) or call (772) 222-2222.

Most cases result in a lower recovery. It should not be assumed that your case will have as beneficial a result.

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## New Attorney Breakfast

The PBCBA's Professionalism Committee, along with the 15th Judicial Circuit, presented its 4th Annual New Attorney Breakfast. Over 85 new attorneys attended the breakfast, together with judges and representatives from other local voluntary bar associations in Palm Beach County. Pictured at right is Chief Judge Jeff Colbath with PBCBA President Theo Kypreos.



Event Chair Amy Borman and Chief Judge Jeff Colbath



New attorneys Matthew Chiapperini, Stratton Smiley and Evan Kohn



Judges Jeffrey Gillen, Catherine Brunson and Glenn Kelly

## Young Lawyers Section Dolphins Trip



Over 35 people attended the 2nd Annual YLS Dolphins Trip. It was a great day, cool weather, great camaraderie and the Dolphins winning 37-0.



Greg Salnick and Ed Walker

Michael and Leslie Metz, Nicole Barna, YLS President Lindsay Demmery and Stephanie Cagnet



Bar Staff Member Kathy Clark with YLS President-elect Lou Delgado



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**The Palm Beach County Bar Association, its officers, directors, and staff do not endorse any product or service advertised.**

**The PBCBA is committed to equal employment opportunity and does not accept employment ads which imply a preference based on race, color, sex, religion, national origin, disability, familial status, sexual orientation, age, marital status and gender identity or expression.**

## PROFESSIONAL ANNOUNCEMENTS:

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

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

**GREGORY TENDRICH, Esq.:** "AV Preeminent" rated, FINRA Arbitrator and Mediator, Certified County Court Mediator and former Series 7 licensed VP & Asst. General Counsel to national and regional stock brokerage firms. All securities & investment related matters involving the recovery of losses due to stock broker fraud, misrepresentation, churning and unsuitable recommendations, in addition to representation of advisors in SEC, FINRA, regulatory enforcement, contract and employment matters. (561) 417-8777 or visit www.yourstocklawyer.com.

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**SPACE SHARING:** Office sublease in FCB Bank building with established law firm, 1555 Palm Beach Lakes Boulevard, West Palm Beach. 1,564 square feet on the 16th floor, Penthouse. Includes 4 window offices, 4 secretarial workstations, file space and use of common areas & conference rooms. Class "A" rated building with 24/7 access & manned security, on site banking, café, fitness center, car wash, free guest parking, covered secure parking. Price upon request. Call Susan (561) 478-4500 x152 or email [sjennings@adamscoogler.com](mailto:sjennings@adamscoogler.com).

## HEARSAY

**John F. Schutz** of Schutz & White, LLP, was recently nationally Board Certified in Family Law Trial Advocacy by the National Board of Trial Advocacy.

**Clarke & Platt, P.A.** has relocated its offices to 1920 Palm Beach Lakes Blvd, Suite 202, West Palm Beach, FL 33409. The firm focuses on Workers' Compensation Defense.



**David C. Prather**, a Partner at Clark, Fountain, La Vista, Prather, Keen & Littky-Rubin, was recently presented the prestigious Diversity Award by the Florida Justice Association.



Palm Beach County Clerk & Comptroller **Sharon Bock** is one of South Florida's Top 20 Women in Law, according to the Daily Business Review.



Clark, Fountain, La Vista, Prather, Keen & Littky-Rubin recently welcomed **Jason Cornell** and

**Olivia Liggio** to the firm. Mr. Cornell has 14 years of experience as a Civil Litigator and Ms. Liggio was a former Summer Associate at the firm.

**Kelly V. Landers**, rated AV Preeminent in Criminal Law for the past 10 year, has been elected to the role of Treasurer of the Executive Board of Directors of Comprehensive Alcoholism Rehabilitation Programs (CARP), Inc.





### IN NEED OF CLER CREDIT? WE CAN HELP

The Palm Beach County Bar Association (PBCBA) offers CLE hours from the sale of audio CD's recorded at previously held live seminars of the Association. We also have copies of audio CD's of live seminars from the Orange Co. Bar Assoc. (OCBA), Clearwater Bar Assoc.(CBA), Hillsborough Co. Bar Assoc.(HCBA), and the Dade Co. Bar Assoc.(DCBA). Members and non-members alike can benefit from this simple way of acquiring CLE and Ethics hours. To order, place an "x" next to the CD's you would like to order, complete this form and return to the Palm Beach County Bar Association, 1507 Belvedere Road, West Palm Beach, FL 33406. To order with credit card, please place your order online at <http://www.palmbeachbar.org/continuing.php>

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✓	Sponsor	Course Title	Credit Gen'l	Ethics Hours	PBCBA Member	Non Member	Expires
	PBCBA	The 24 <sup>th</sup> Annual Community Assn. Law Seminar++4.5 R/E Cert.	4.5	4.0	\$165	\$205	12/07/14
	OCBA	Cross Examination of Vocational Experts at SSD Hearings+++2.0 Elder Law Cert.	3.0		\$75	\$115	01/11/15
	PBCBA	Important Factors for Every R/E Attorney+++4.0 R/E Cert.	4.0	.50	\$110	\$150	02/23/15
	PBCBA	Social Media Tips (Solo)	1.0	1.0	\$35	\$75	03/20/15
	PBCBA	Panel Discussion on E-Discovery for Comm'l Litigators +++1.0 Business Lit. Cert.	1.0		\$25	\$65	03/24/15
	PBCBA	Technology in and out of Law Office	1.0		\$25	\$65	04/11/15
	OCBA	Appeal This, Preserve That+++05 Appellate Practice Cert.	1.0		\$25	\$65	04/15/15
	HCBA	Patent Litigation, Social Media & Intellectual Property Update+++2.0 Bus Lit; 3.0 Intellectual Prop. Law Cert.	3.0	1.0	\$85	\$125	04/22/15
	PBCBA	Patient Protection and Affordable Care Act++1.0 Labor & Employment Law Cert.	1.5		\$35	\$75	05/05/15
	PBCBA	Law Office Management (SOLO event)	1.0		\$25	\$65	05/07/15
	OCBA	How Well Do You Know Your Malpractice Ins?	5.0	3.0	\$170	\$210	05/08/15
	PBCBA	Spying Spouses: Divorce in a World of Cyber Warfare +++4.0 Marital and Family Law Cert.	5.0	1.0	\$135	\$175	05/08/15
	OCBA	Social Media and Electronic Evidence: What to Look For and How to Get It	2.5		\$60	\$100	05/14/15
	PBCBA	The 31 <sup>st</sup> Ann'l Estate & Probate Seminar – Part 1 +++ 4.0 Elder Law; 4.0 Wills, Trusts Estates Cert.	5.5		\$135	\$175	05/15/15
	HCBA	Important Legislative, Agency and Judicial Developments Over the Past Year+++2.0 Labor and Employ Law Cert.	2.5		\$60	\$100	05/20/15
	PBCBA	Evidentiary & Ethical Issues in Bankruptcy	2.0	2.0	\$75	\$115	05/22/15
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	PBCBA	Deposition Skills (PI)	1.0	1.0	\$40	\$80	06/06/15
	OCBA	Adv. Deposition Practice & Procedure	1.0		\$25	\$65	06/12/15
	PBCBA	16 <sup>th</sup> Annual Elder Law Seminar +++4.5 Elder Law Cert.	6.0	1.0	\$165	\$205	06/13/15
	PBCBA	Trial Skills: Opening & Closing +++2.0 Civil Trial Cert.	2.5		\$60	\$100	07/14/15
	PBCBA	Visual Evidence/Trial on a Shoestring Using iPad	1.0		\$25	\$65	07/17/15
	HCBA	Special Nuances in Litigating Parenting Issues+++3.5 Marital & Fam Law Cert.	4.5		\$110	\$150	07/22/15
	HCBA	Arbitration in FL Gets a Facelift: The Revised FL Arbitration Code+++2.0 Civil Trial Cert.	2.5		\$60	\$100	07/29/15
	PBCBA	Inside the Appellate Court+++2.5 Appellate Prac. Cert. credits	5.0		\$125	\$165	07/31/15
	PBCBA	<b>DVD</b> Inside the Appellate Court+2.5 Appellate Prac. Cert.credits	5.0		\$125	\$165	07/31/15
	PBCBA	A View From the Bench: Professionalism from Judges Perspective (NCS)	1.0	1.0	\$40	\$80	08/07/15
	PBCBA	The Yin & Yang of Mediation+++7.0 Civil Trial; 7.0 Labor Employ; 7.0 Marital & Fam Law Cert. credits	9.0	1.0	\$240	\$280	08/10/15
	OCBA	Cloud 9 Talks Professionalism & Ethics in the Virtual World	4.0	4.0	\$125	\$165	08/13/15
	PBCBA	YLS Side Bar Series – Part 2 "Technology"	3.0		\$25	\$65	08/19/15
	HCBA	Construction Litigation: Stuff You Will Use+++4.5 Construction Cert.	4.5		\$110	\$150	08/20/15
	PBCBA	Representing Public Employers+++1.0 Labor & Employ Cert. credits	1.5		\$35	\$75	08/24/15
	PBCBA	Hot Topics in Consumer Bankruptcy Law	2.0		\$50	\$90	08/25/15
	HCBA	Speech Etiquette for Lawyers	1.0	1.0	\$40	\$80	08/25/15
	HCBA	How to Prepare for and Present your Domestic Violence Injunction Case	2.5		\$60	\$100	08/27/15
	PBCBA	Not Just Comp+++4.0 Wkrs Comp. Cert. credits	5.5		\$135	\$175	08/28/15
	PBCBA	Employment Arbitration+++1.5 Labor & Employ Cert. credits	1.5		\$35	\$75	09/14/15

PBCBA	IOTA Trust Accounts +++1.0 Wills, Trusts Estates Cert. credits	1.0		\$25	\$65	09/28/15
HCBA	Five Stages of Grief – What Every Attorney Should Know+++2.0 Marital and Fam. Law Cert.	2.5	1.0	\$75	\$115	10/03/15
PBCBA	“Post-judgment Issues: Modify This, Enforce That....” +++6.5 Marital & Family Law Cert. credits	8.5	1.0	\$225	\$265	10/04/15
HCBA	Recent Developments in Patent, Copyright & Trademark Law+++1.5 Bus Lit.; 2.0 Intellectual Prop. Law Cert.	2.0		\$50	\$90	10/09/15
PBCBA	Electronically Stored Information (ESI) Discovery for the Technically Challenged +++1.0 Civil Trial Cert.	1.0		\$25	\$65	10/11/15
PBCBA	Uniform Motion Calendar Hearings	1.5		\$35	\$75	10/15/15
HCBA	Current Issues Before the EEOC+++1.5 Labor & Employ Cert.	2.0		\$40	\$80	10/16/15
OCBA	What You Need to Know Now in Employment Law+++2.0 Labor & Employment Law Cert.	3.0		\$75	\$115	10/23/15
PBCBA	Anatomy of a Securities Arbitration Case+++4.0 Bus Lit. Cert.	5.0		\$125	\$165	10/24/15
OCBA	Trial Techniques & Practices+++3.5 Criminal Appellate Law; 3.5 Criminal Trial Law Cert.	4.5		\$110	\$150	10/25/15
OCBA	“Advanced Legal Writing in a Paperless, Digital Age+++4.0 Appellate Practice Cert.	4.0	1.0	\$115	\$155	10/30/15
PBCBA	Whistleblower & Qui Tam Actions +++4.0 Bus.Lit. / 4.0 Civil Trial; 4.0 Labor & Employment/ 5.0 State & Fed'l Government & Admin. Practice Certification	5.0		\$125	\$165	11/02/15
PBCBA	Ethics & New Rules In Advertising	1.0	1.0	\$40	\$80	11/06/15
PBCBA	31 <sup>st</sup> Annual Estate & Probate – Part 2 +++4.0 Elder Law/4.0 Wills, Trusts Estates Cert. credits	5.0	.50	\$135	\$175	11/07/15
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PBCBA	Effective Settlement Negotiations+++1.0 Civil Trial Cert. credits	1.0		\$25	\$65	11/16/15
PBCBA	Restrictive Covenants +++1.0 Labor & Employment Cert.	1.5		\$35	\$75	11/21/15
PBCBA	25 <sup>TH</sup> Ann'l Community Assn. Law Seminar +++5.0 R/E Cert.	5.0	1.0	\$140	\$180	12/06/15
PBCBA	Employment Litigation at its Best+++4.0 Labor & Employ Cert.	5.0	1.0	\$140	\$180	12/20/15
PBCBA	The NEW World: New Closing Disclosures, NEW Best Practices and NEW Law +++4.0 R/E Cert. credits	4.0		\$100	\$140	12/17/15
PBCBA	Crash Course on Auto Negligence Cases+++1.0 Civil Trial Cert.	1.0		\$25	\$65	01/25/16
PBCBA	Getting to Basics of Bankruptcy	3.0	1.0	\$90	\$130	03/12/26
PBCBA	Art of Motion Calendar	1.0		\$25	\$65	03/24/16
PBCBA	A Mediator's Secrets to Mediating Business Disputes	1.0		\$25	\$65	03/16/16
PBCBA	Ethics of Technology Assisted Review	1.0	1.0	\$40	\$80	04/22/16

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

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

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

**PLEASE ALLOW SEVEN (7) BUSINESS DAYS PREPARATION TIME WHEN ORDERING CD's.**

**THERE WILL BE A \$25 FEE FOR RUSH ORDERS. NEW MEMBERS MAY JOIN THE PBCBA FOR \$100. APPLICATIONS FOR MEMBERSHIP, OR RENEWAL, CAN BE OBTAINED ON OUR WEBSITE AT [www.palmbeachbar.org](http://www.palmbeachbar.org).**

***CLE content is now available to purchase to download either to your computer or your iPod***

**ORDER INFORMATION:** Please fill out this form and return it to Kathy Clark, Palm Beach County Bar Association, 1507 Belvedere Road, West Palm Beach, FL 33406. To order with credit card, please place your order online at <http://www.palmbeachbar.org/continuing.php>

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☐ Add \$25 for rush fee (order processed w/in 3 business days) ☐ Please call when order is ready to be picked up

☐ Please mail (add \$10.00 for shipping and handling) (**payment must be received before items will be mailed or picked up**)

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Payment Enclosed: Check # \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Order Subtotal: \$ \_\_\_\_\_

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**Total Due: \$ \_\_\_\_\_**

**NOTE: THE PURCHASE OF EACH CD IS VALID FOR INDIVIDUAL USE ONLY.  
DEFECTIVE RECORDINGS WILL BE REPLACED ONLY IF RETURNED WITHIN 30 CALENDAR DAYS FROM INVOICE DATE.**



## 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 December 2014

Tuesday, December 2, 12 – 1pm  
**NCS Board Meeting**

Wednesday, December 3,  
12 – 1pm  
**PBACDL Judicial  
Meet and Greets**  
Judicial Conference Room,  
Main Courthouse

Thursday, December 4, 5:30pm  
**PBCBA Holiday Party**  
Frenchman's Reserve

Friday, December 5, 8:30 – 9:30am  
**ADR Committee Meeting**  
PBCBA Office

Monday, December 8,  
11:30 am – 1pm  
**Business Litigation  
CLE Seminar**  
PBCBA Office

Tuesday, December 9,  
11:30 – 12:30pm  
**Unified Family Practice  
Committee Meeting**  
Judicial Conference room,  
Main Courthouse

Tuesday, December 9, 12 – 1pm  
**YLS Board Meeting**  
PBCBA Office

Wednesday, December 10 – 12  
**The Florida Board of  
Governors Meeting**  
Amelia Island

Wednesday, December 10,  
9am – 2:35pm  
**Elder Law CLE Seminar**  
PBCBA Office

Wednesday, December 10,  
12 – 1pm  
**FAWL Board meeting**  
PBCBA Office

Thursday, December 9,  
10 – 11:30 am  
**New Attorney Breakfast  
"Differences between Local  
Rules, Administrative Orders,  
and Divisional Instructions"**  
PBCBA Office

Thursday, December 11,  
11:30 am – 1:30 pm  
**Federal Bar Association Court  
Orientation Program**  
Federal Courthouse,  
West Palm Beach  
Contact Traci Willard  
[twillard@pm-law.com](mailto:twillard@pm-law.com) for more info

Thursday, December 11, 12pm  
**Transaction Law  
Committee meeting**  
PBCBA Office

Thursday, December 11, 5:30pm  
**South PBC FAWL  
Holiday Party**

Thursday, December 11, 6:30pm  
**Small Claims Court Clinic**  
West Boca Branch Library

Friday, December 12, 11:30am  
**PI CLE Lunch  
and Learn Seminar**  
Main Courthouse  
(North end of cafeteria)

Friday, December 12, 12pm  
**PBACDL General meeting**  
Main Courthouse  
(Judicial Conference room)

Monday, December 15, 12 – 1pm  
**CDI Committee meeting**  
PBCBA Office

Monday, December 15, 5pm  
**PBCBA Board of  
Directors meeting**

Tuesday, December 15, 12 – 1pm  
**Bench Bar Conference  
Committee Meeting**  
PBCBA Office

Thursday, December 18, 12 – 1pm  
**Professionalism  
Committee meeting**  
PBCBA Office

Thursday, December 18, 6pm  
**South County Bar Association  
Holiday Party**  
Ruth's Chris at Mizner Park

Thursday, December 25 - 31  
**Christmas Holiday**  
PBCBA Office closed