



# PALM BEACH COUNTY BAR ASSOCIATION BULLETIN

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

February 2012

## Deadline February 27 to Register for Bench Bar Conference

This year's Bench Bar Conference has been scheduled for Friday, March 9 at the Palm Beach County Convention Center. The Bench Bar Conference is an opportunity for attorneys and judges to meet informally in a roundtable atmosphere to discuss issues of concern to both the Bench and Bar. Registration forms are available online. Last year, over 1,000 people attended throughout the day and unfortunately, due to space limitations, many attorneys were turned away. Be sure to register by the deadline of February 27.



## Mark your calendar for upcoming Membership Events

**North County Section  
BBQ & Casino Night**  
February 2  
Bonnette Hunt Club, Palm Beach Gardens

**Bench Bar Conference**  
March 9  
Palm Beach County Convention Center

**Annual Judicial Reception**  
May 1  
The Harriet at City Place

**Law Day Luncheon**  
May 4  
Marriott WPB  
Guest Speaker: Elizabeth Smart

**Annual Installation Banquet**  
June 2  
The Breakers Hotel, Palm Beach

## We're Moving! New Bar Headquarters to Open February 13



The Bar is officially moving to its permanent headquarters on February 13. The office will be closed on Friday, February 10 for the actual move. We will start our first day in our new office with our annual ADR Seminar in our new state-of-the-art conference and seminar room graciously sponsored by Searcy Denney, Scarola, Barnhart & Shipley. Watch your email for information about our open house. We hope you will be as proud as we are of this new building where we will continue to work hard to serve you... our members.



Thanks to all the members who bid on silent auction items at the holiday party at Frenchman's Reserve. Your bidding enabled the YLS to buy toys for 75 foster kids and host a holiday party for them with food, drinks and Santa Claus! Back row: Colleen Farnsworth, Jamie Gavigan, John Howe, Santa and his elf, Jason Lazarus, Tim Stevens, Julia Wyda, Stephanie Rapp, Noelle Page, Melissa Lazarchick, John Whittles, Bill Lazarchick and Ashlee Richman. Front Row: Lou Delgado, Lee McElroy and Miles McGrane.

## Inside...

President's Message .....	3
Who Are They?.....	4
Capital Campaign .....	5
NCS Partners with FAU .....	6
Personal Injury Corner.....	7
Real Property Report .....	10

Probate Corner .....	11
Civil Procedure Corner .....	12
New Members.....	14
Real Life Practice .....	15
Lawyers For Literacy .....	16
Technology Corner .....	17
Bulletin Board.....	23

THE  
**BULLETIN**

PALM BEACH COUNTY  
BAR ASSOCIATION

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President

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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  
1601 Belvedere Road, #302E  
West Palm Beach, FL 33406



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT, 1525 PALM BEACH LAKES BOULEVARD  
WEST PALM BEACH, FLORIDA 33401

**ADMINISTRATIVE ORDER No. 2011-2**  
**In re: Agreed Extension of Time for Briefs**

Effective February 1, 2012, in lieu of an agreed motion for extension of time to file an initial, answer, or reply brief, pursuant to Fla. R. App. P. 9.300(a), the court will accept a notice from a party that the parties have agreed to a specific extension of time. This notice shall state:

The undersigned, as counsel for (appellant[s] or appellee[s], and name[s]) has agreed with (name[s]), counsel for (appellant[s] or appellee[s], and name[s]) that the time for serving (appellant's or appellee's) (initial, answer or reply) brief may be extended for \_\_\_\_\_ days to \_\_\_\_\_ (date).

An agreed notice of extension of time will be accepted for up to a total of 120 days for an initial or answer brief, and 60 days for a reply brief. The notice need not be signed by both parties. No order will issue from the court.

This procedure shall apply to criminal and civil appeals, including dissolutions of marriage. It shall not apply to appeals from adoptions, dependency, termination of parental rights, non-final orders, or any expedited or emergency appeal.

DONE and ORDERED at West Palm Beach, Florida on the 7<sup>th</sup> day of December, 2011.

ATTEST:

Marilyn Beutenmuller, Clerk of Court

Chief Judge Melanie G. May

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## Black History and its Influence on American Law

By John M. Howe

As most of us know, February is Black History Month. Black History Month was started in 1926 by Dr. Carter

G. Woodson (a descendant of slaves) as Negro History Week to recognize contributions of African-Americans to American culture. In 1986, the U.S. Congress passed Public Law 99-244 calling on President Ronald Reagan to issue a proclamation calling for its observance. Beginning with President Bill Clinton in 1996, every president has issued annual proclamations for the American people to observe and celebrate it in February. However, some might ask, why does one group of people have an officially recognized month, and what is its significance in the evolution of American law?

The answer is that the African-American experience in our country's history is unique when compared to migration patterns of all other migrant groups. The original African migrants did not relocate to the Americas of their own volition. Their forced migration was preceded by the kidnapping and forceful transportation of Africans to Europe beginning in the 1400s. This practice came to the U.S. in 1619 when 20 kidnapped Africans were delivered to Jamestown, Virginia, on a Dutch ship. This evil and systemic importation of humans was legal in the U.S. until 1808. However, kidnapped Africans were still smuggled into the U.S. for another 50 years. This massive and long-lasting passage resulted in the deaths of millions of people and came to be known as the African Diaspora. It remains one of the greatest illustrations of human-against-human savagery in the history of the world.

The legal enslavement of humans in our country's earlier years did however create some very interesting conundrums for the Constitutional framers. The southern states, for purposes of taxation and apportionment of seats in Congress and the Electoral College, conveniently wanted to include enslaved African-Americans in the census of the population, even though the enslaved were not paid (no taxes) and could

not vote. Because the more industrial northern states were more densely populated than the more agricultural southern states, the southern states would have had an unfair advantage in Congress and presidential elections. At the Philadelphia Convention of 1787, the two sides compromised and agreed to count the captives as 3/5 of a person. This Constitutional provision remained in place until slavery was abolished by the 13th Amendment in 1865.

In 1861, the Confederate States of America seceded from the union resulting in the Civil War. Although the main reason for secession was slave ownership, at its commencement, the North's objective was not to free the enslaved people. The objective was simply to bring the other states back into the union. In 1863, however, President Abraham Lincoln issued the Emancipation Proclamation declaring "that all persons held as slaves" in the rebellious areas "are, and henceforward shall be free." Ironically, this proclamation only freed slaves held in the south but not slaves in the north. Newly freed African-Americans played a key role in the country's re-unification. Upon being allowed to enlist in the military, many African-Americans did, and by the end of the war, approximately 200,000 had served.

After the civil war, Howard University was commissioned by Congress to educate the newly freed African-Americans. Recognizing the immediate need for lawyers to secure and defend the newly acquired rights of African Americans, in 1869, Howard opened the first law school for Blacks and would go on to produce some of the most influential figures in American legal history, including U.S. Supreme Court Justice Thurgood Marshall and many local African-American legal pioneers like F. Malcolm Cunningham, Sr.

Prior to his appointment to the high court, Justice Marshall and many other early African-American lawyers traveled the country pursuing justice and defending the civil rights of African Americans. In 1954, Marshall successfully argued the case of *Brown v. Board of Education*, which ended segregation and remains one of the

most groundbreaking decisions in American jurisprudence. In 1964, the Congress passed Public Law 82-352, which came to be known as the Civil Rights Act of 1964.

This law came about largely as the result of egregious violations of the rights of African-Americans in the south; however, this law had a much larger effect, and to this day, it secures the rights of women, gays, disabled citizens and all minority groups.

Black History Month represents more than just African-American achievement. It represents the triumph of good over evil and the unity and humanity of the American people. All of the progress which has been made to date would not have been possible without the collaboration, character and resolve of Americans as a whole. Black History is American History. So this Black History Month, let us all join together and celebrate America's collective progress.

### Featured Board Member

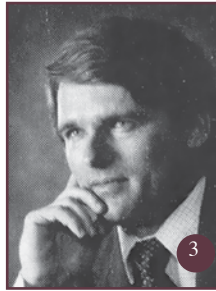
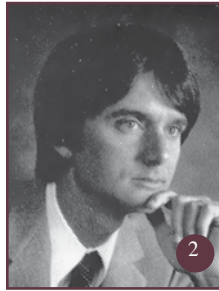
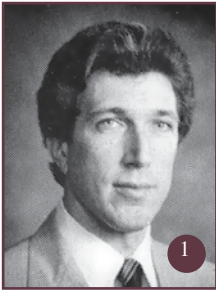


This month's featured director is Jill Weiss. Jill is a wonderful woman with whom I have had the privilege of working with on our board for the past four years. Jill possesses boundless energy, and she enthusiastically undertakes every project or task. A graduate of Nova Southeastern Law School, she has practiced Commercial Litigation for the past 8 years and currently practices at Sachs Sax Caplan in Boca Raton. Jill is the mother of two lovely children, Jake (21), a junior at the College of William and Mary, and Eden (17), a high school junior. She is also the stepmom of Melissa (29), Allison (27) and Adam (27). Something you might not know about Jill is that she is a breast cancer survivor. Her hobbies are travel, cooking and healthy living. Her favorite quote is "Be a yardstick of quality. Some people aren't used to an environment where excellence is expected." (Steve Jobs)

# Historical Committee

## Who are they?

Can you guess who these members are? Answers can be found on page 19. If you have old pictures of yourself or other members that you'd like featured, please send them to Patience Burns at the Bar Office.



The 9th Annual Bookfest and Luncheon benefitting Legal Aid was recently held at Barnes & Noble in West Palm Beach. Over 120 members and their guests donated over 100 books and gifts for Legal Aid's silent auction to be held on Saturday evening May 19, 2012 at the Palm Beach Convention Center as part of the 24th Annual Pro Bono Recognition Evening. The event honors those attorneys and other professionals in our community who performed outstanding volunteer work in 2011.

Bob Bertisch, Judge Ron Alvarez and John Howe

We the jury find these attorneys guilty of inducing boredom and confusion.



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



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

We sincerely thank the following firms and members who have contributed as of 11/25/11:

Searcy Denney Scarola Barnhart & Shipley .....	Classroom
Richman Greer, P.A.....	Executive Director's Office
Schuler, Halvorson, Weisser & Zoeller, P.A.....	Small Conference Room
Holland & Knight LLP .....	Member Services Office
North County Section & Young Lawyers Section .....	Communication Director's Ofc
Lesser, Lesser, Landy & Smith .....	Front Bench
Lytal Reiter Smith Ivey & Fronrath .....	Reception Area
Jones, Foster, Johnston & Stubbs .....	LRS Office
Gunster .....	Landscape
Fisher & Bendeck .....	Landscape
Wyland & Tadros .....	Workroom
H. Irwin Levy.....	Visiting Attorney's Office
In Memory of Bob & Sandy Rogers .....	Lounge
Brian Scher & Debbie Meltzer .....	Women's Lounge
Greenberg Traurig.....	Admin. Asst. Workstation

*Additional rooms are still available!*

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

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



### Personalized Bricks Purchased (As of 12/11/11)

Akerman  
 Adams, Coogler, Watson, Merkel, Barry & Keller, P.A.  
 Agnant, Linda  
 Babbitt, Johnson, Osborne & LeClainche, P.A.  
 Beer, Jerald  
 Bertisch, Robert & Harreen  
 Breton, Lynch, Eubanks & Suarez-Murias, P.A.  
 Brewer, Carol  
 Burns, John L.  
 Burns, Tom & Patience  
 Clark, Fountain, LaVista, Prather, Keen & Littky-Rubin  
 Coleman, Greg & Monica  
 Colton, Roger B.  
 Cortvriend, Sarah  
 Downey, Edward  
 Farrell, John  
 Fine, Edward  
 Fox Rothschild  
 Gamot, Melinda  
 Gerber, Tracy & Jonathan  
 Glickman, Garry  
 Glickman, Witters & Marell  
 Gordon & Doner, P.A.  
 Hispanic Bar Association  
 Howe, John  
 Hunston, Jay and Jane  
 Jenks, Debra & Robert Harvey  
 Jones, Foster, Johnston & Stubbs  
 Kenwood, Joel  
 Klett, Stan  
 Kreusler-Walsh Compiani & Vargas, P.A.  
 Kypreos, Theo & Jennifer  
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 Law Offices of Robin Bresky  
 Lazarus, Jason  
 Legal Aid Society of Palm Beach County  
 Leopold ~ Kuvin  
 Maschler, Matthew H.  
 Massa, Patrick  
 McBane, Louis R.  
 McCabe Rabin  
 McCall, Wallace  
 McClosky, D'Anna & Dieterle, LLP  
 McCracken, John (in memory of)  
 McHale & Slavin  
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 Signature Court Reporting  
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 Smith, Amy  
 Smith, Scott & Molly  
 Sorgini & Sorgini, P.A.  
 South Palm Beach County Bar Association  
 Stewart, Todd  
 Suskauer, Michelle  
 U.S. Legal Support  
 Walsh, Michael P.  
 Weiss, Jill  
 Weissman, Joel & Alexandra  
 Wennet, Richard  
 Whittles, John  
 Wroble, Art & Mary Ellen





**NCS Board Members (front row): Ken Johnson, president-elect; Ron Ponzoli, president; and Ned Reagan, immediate past president.**

**Standing left to right: Spencer Kuvin, director; Michael Slavin, past president; Mitch Beers, past president; Larry Buck, secretary; Marina Petillo, director; Jerry Beer, director; Keith Campbell, director and Carl Spagnuolo, director.**

**(not pictured Rosemarie Guerini, director; Greg Yaffa, director; Stan Klett & Debra Jenks, past presidents; Todd Stewart)**

As a way of giving back to our community, members of the Board of Directors for the North County Section have taken an active role in teaching classes at FAU Honors College.

FAU Honors College fall semester included a moot court class where the students argue First Amendment & Fourth Amendment issues in a nationwide competition. NCS found this

to be a unique opportunity to offer its assistance. Over a period of five weeks, NCS Board members Ron Ponzoli, Larry Buck, Debra Jenks, Stanley Klett, Spencer Kuvin, Keith Campbell and Michael Slavin donated their time to support the competition by acting as judges on a "hot panel" and providing argument critiques to assist the students as they prepare for the national competition.

Classroom Instruction: FAU Honors College spring semester is offering a course entitled "Law in the Real World" also staffed by NCS members. The one credit course will meet once a week wherein an attorney will provide basic but concentrated instruction in a particular field of law. While an objective of the class is to provide students with an understanding of the various law specialties, participating attorneys will gain an incredible insight to FAU's campus and educators. Each week a different subject will be discussed including: Bankruptcy Law; Business Law; Catastrophic Injuries Cases/ Personal Injury; Congress, the Legislative Process, and Legislative Branch Agencies; Contract Law; Corporate Law; Entertainment Law/ Sports Law; Employment Law; Family Law; Juvenile Law; Immigration Law; Intellectual Property Law; Product Liability Law; Federal Prosecutors role; Real Property Law; and Securities Law. For instance, the Bankruptcy Law session will provide a general discussion of bankruptcy and creditors' rights and out of court debt restructuring, secured and unsecured creditors in cases under Chapters 11, 7 and 13, post petition financing to debtors-in-possession. The Juvenile Law session will provide a general discussion of criminal law, Florida Statute 985, Rules of Juvenile Procedure with discussion regarding children prosecuted as adults. The Intellectual Property Law session will provide a basic understanding of trademarks and patents including patent searching.

Upon FAU offering the class, the max capacity of 30 students filled immediately. If the pilot class works well, the plan includes expanding to the Boca Campus, teleconferencing, enlarging enrollment, and possibly leading to a 3 credit class. Michael Slavin, a past president of the NCS, is organizing the class. If you would like to participate you may e-mail Michael at [MSlavin@MchaleSlavin.com](mailto:MSlavin@MchaleSlavin.com).



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## 57.105 Has Teeth

by Ted Babbitt

Florida Statute 57.105 in pertinent part states the following:

(1) Upon the court's initiative or motion of any party, the court shall award a reasonable attorney's fee,

including prejudgment interest, to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney on any claim or defense at any time during a civil proceeding or action in which the court finds that the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial:

(a) Was not supported by the material facts necessary to establish the claim or defense; or

(b) Would not be supported by the application of then-existing law to those material facts.

It is important to note that this statute provides for the imposition of attorney's fees not just against a party who has been found to have filed a frivolous lawsuit but against the attorneys for that party as well.

The recent case of South Bay Lakes Homeowners Association, Inc. v. Wells Fargo Bank, N.A., 53 So. 3d 1239 (Fla. 2nd DCA 2011) is one of several where a trial court has been reversed for the failure to award attorney's fees under Fla. Stat. 57.105. This was a case where Wells Fargo Bank brought a foreclosure action against both the mortgagors and the homeowners association of a defaulted mortgage. The mortgagors failed to answer the complaint except for the filing of a letter in which they disputed the amount owed. The homeowners association filed an answer disputing that the Bank had any standing to bring the action and served the Bank with a series of requests for admission which asked the Bank to admit that it did not have an assignment of the mortgage or any evidence that showed that it was the owner of the note or the mortgage. Wells Fargo failed to answer the requests for admission and so they were deemed admitted. The homeowners association filed a motion for summary judgment based on the admissions as well as an affidavit showing that its attorneys had searched the public records and not found any assignment on behalf of Wells Fargo. Wells Fargo failed to appear at the motion for summary judgment and a summary judgment was entered.

Prior to the filing of the summary judgment, a motion for attorney's fees pursuant to 57.105 was served but not filed and Wells Fargo did nothing to resolve the matter within the 21 day Safe Harbor period.

The trial court denied the subsequently filed motion for attorney's fees under the assumption that while Wells Fargo had no apparent basis for filing the lawsuit some banks did in order to foreclose on the property so that a valid lawsuit could have been filed, and attorney's fees were, therefore, not appropriate.

On appeal, the Second District reversed the trial court finding that the failure to award attorney's fees amounted to an abuse of discretion. At 1241, the Court held:

Section 57.105 entitles a party to attorney's fees if the losing party, or the losing party's attorney, knew or should have known that a claim was not supported by the material facts necessary to establish the claim when the party initially presented the claim to the court or at any time before trial. ...

The undisputed facts at the hearing established that Wells Fargo was required to take a voluntary dismissal of this action or some other appropriate action during the allotted twenty-one days and that it had no right to compel the association to proceed to judgment on the motion for summary judgment.

Although the trial court has discretion in awarding fees under section 57.105, we conclude that the trial court abused its discretion when it declined to award fees in these circumstances.

The fact that the Courts are overwhelmed by the number of foreclosure actions that have been brought no doubt influenced the appellate court in this decision. Nevertheless, this opinion stands for the proposition that Fla. Stat. 57.105 is not a toothless tiger. This statute exists for a reason and there are circumstances under which the failure to award attorney's fees constitutes reversible error.

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

## Board Meeting Attendance

	Retreat	Aug	Sep	Oct	Nov	Dec
Barnes	x	x	x	x	x	x
Bowden	x	x	x	x	x	x
Bresky	x	x	x	x	x	x
Guari	x	x	x	x	x	x
Howe	x	x	x	x	x	x
Kypreos	x	x		x	x	x
Lazarus	x	x	x	x	x	x
Napoleone	x	x	x	x	x	x
Ponzoli	x	x	x	Buck	x	x
Pressly	x	x	x	x	x	x
Rabin	x	x	x	x	x	x
Weiss	x	x	x	x	x	x
Whittles	x	x	x		x	x

# ADMIRALTY & MARITIME

## NAVIGATING INJURIES ON THE WATER

Admiralty and maritime cases are a specialized area of law. Admiralty and maritime matters include all personal injuries, property losses or wrongful deaths that occur on board a boat or ship. The ship or boat can be used for professional, commercial or recreational reasons. This includes everything from cruising vessels and cruise ships to recreational boats and Jet Skis.

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# Real Property and Business Litigation Report

## December 2011 Summary

Submitted by Manuel Farach



### **In re Amendments to Florida Rule of Civil Procedure 1.720, --- So.3d ---, 2011 WL 5216685 (Fla. 2011).**

Florida Rule of Civil Procedure 1.720 is amended to clarify who has to attend a mediation, and that the attorney must certify the authority of the party representative to settle the case.

### **Animal Wrappers and Doggie Wrappers, Inc. v. Courtyard Distribution Center, Inc., --- So.3d ---, 2011 WL 5170288 (Fla. 4th DCA 2011).**

The Fourth District holds that for purposes of determining attorneys' fees awards in contract disputes, there is always one party that is the "prevailing party."

### **Taylor v. Bayview Loan Servicing, LLC, --- So.3d ---, 2011 WL 5374772 (Fla. 2d DCA 2011).**

The mortgage follows the debt (i.e., the promissory note) unless the parties have expressed a different intent. Accordingly, a note endorsed in blank at closing is enforceable by bearer without the necessity of an assignment unless the defendant raises the affirmative defense of and can establish that the parties did not intend the mortgage to follow the debt.

### **KPMG LLP v. Cocchi, --- S.Ct. ---, 2011 WL 5299457 (2011).**

A court must direct arbitrable claims to arbitration, even if doing so leaves non-arbitrable claims in litigation and subjects the parties to possibly conflicting judgments and awards.

### **Glarum v. Lasalle Bank National Association, --- So.3d ---, 2011 WL 5573941 (Fla. 4th DCA 2011).**

The prior opinion of the court is withdrawn, and a new opinion is substituted in its place which reflects that this case stands on its own" to reflect the lack of competence of the witness to testify in this case and also to reflect that affidavits under the Business Records Exception may be aggregated and a witness under the Exception is not required to lay a predicate or

foundation with regard to the business records of an organization other than the witnesses' entity. Nonetheless, a witness testifying under Fla. Stat. § 90.803 (6) (a), the Business Records Exception to the Hearsay Rule, must have personal knowledge or be otherwise qualified to testify with regard to the following:

(1) the record was made at or near the time of the event; (2) was made by or from information transmitted by a person with knowledge; (3) was kept in the ordinary course of a regularly conducted business activity; and (4) that it was a regular practice of that business to make such a record.

### **Morgan v. Wilkins, --- So.3d ---, 2011 WL 5561293 (Fla. 1st DCA 2011).**

The Florida Consumer Collection Practices Act applies to anyone collecting a debt, whether the collector meets the traditional definition of "debt collector" or whether the collector is collecting its own debt.

### **MHB Const. Services, L.L.C. v. RM-NA HB Waterway Shoppes, L.L.C., --- So.3d ---, 2011 WL 5864801 (Fla. 4th DCA 2011).**

An owner landlord signing a Notice of Commencement for a tenant does not, without more, subject the owner's estate to construction liens if the tenant does not pay the contractor.

### **Gessa v. Manor Care of Florida, Inc., --- So.3d ---, 2011 WL 5864823 (Fla. 2011).**

and

### **Shotts v. OP Winter Haven, Inc., --- So.3d ---, 2011 WL 5864830 (Fla. 2011).**

Courts (not arbitrators) must determine whether arbitration provisions violate public policy, limitation of liability provisions in nursing home contracts undermine statutorily granted remedies and are unenforceable, and limitation of remedies provisions are not severable if there is no delegation provision.

### **Alvarez v. Cooper Tire & Rubber Co., --- So.3d ---, 2011 WL 5964329 (Fla. 4th DCA 2011) (en banc).**

Reversing its prior opinion, the Fourth District holds that discovery in products cases can be limited, in the discretion of the trial court, to similar and substantially similar products.

### **Bryson v. Branch Banking and Trust Co., --- So.3d ---, 2011 WL 5964567**

(Fla. 2d DCA 2011).

A party's letters sent to another party are not "self-authenticating" unless they are sworn to or certified. Therefore, unauthenticated letters sent to the defendant purporting to give notice of default (as required under a mortgage) are not admissible without testimony and do not overcome an affirmative defense of failure of notice.

### **Jensen v. Bailey, --- So.3d ---, 2011 WL 5964572 (Fla. 2d DCA 2011).**

In order to establish liability under Johnson v. Davis, the plaintiff must establish the seller of the home had actual knowledge of the defect at the time the contract was entered into. It is not sufficient to establish constructive knowledge for liability.

### **Wal-Mart Stores East, L.P. v. Endicott, --- So.3d ---, 2011 WL 6117220 (Fla. 1st DCA 2011).**

Improper for court order on discovery to provide for a "sharing provision," i.e., dissemination of confidential material and trade secrets to non-party litigants, without finding the sharing provision is specifically tailored to meet the needs of both parties while balancing the need to maintain confidentiality and without also considering whether the material (1) conceals a fraud or (2) works an injustice contrary to section Florida Statute § 90.506.

### **Pino v. Bank of New York, --- So.3d ---, 2011 WL 6089978 (Fla. 2011).**

Florida Rule of Appellate Procedure 9.350 does not require a court to accept a stipulated voluntary dismissal of an appeal, especially when a party alleges a fraud on the court. Accordingly, a party may object under Florida Rule of Civil Procedure 1.540 (b) to a voluntary dismissal filed by the opposing party.

Weekly editions of the Case Law Update can be requested by emailing mfarach@richmangreer.com; past issues of the Case Law Update can be found at [www.richmangreerblog.com/author/manuefarach](http://www.richmangreerblog.com/author/manuefarach).



## Homestead - Registered Aliens Under A Temporary Visa

By David M. Garten, Esq.

Art. X, § 4, Fla. Const. provides in pertinent part:

SECTION 4. Homestead; exemptions.—

(a) There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by a natural person:

(1) a homestead,....

...

(b) These exemptions shall inure to the surviving spouse or heirs of the owner.

In *Grisolia v. Pfeffer*, 2011 Fla. App. LEXIS 18673 (Fla. 3<sup>rd</sup> DCA 11/23/11), the decedent moved his family to the United States in 2005 following a kidnapping attempt on his son the previous year. Although he was attending school in Venezuela at the time of the attempted kidnapping, his son was a United States citizen with an American passport. The decedent subsequently purchased an apartment in Florida where he resided along with his son and spouse. The decedent and his spouse were registered aliens legally allowed to reside in the United States under a temporary visa.

Lenders loaned the decedent \$500,000.00. The decedent died in 2009 and lenders asserted a claim against the decedent's estate to recover the balance of the loan. The estate objected to the claim and filed a petition for the determination of the homestead status of the property. Arguing that the property was protected by Florida's homestead exemption from forced sale, the estate alleged that it was exempt from creditors. The probate court denied the petition for declaration of homestead and the estate appealed.

The appellate court reversed. The court distinguished those cases where the decedent was temporarily in the United States as a tourist because the decedent did not have the legal right to reside permanently in Florida and therefore, could not legally formulate the requisite intent to make the Florida property his family's permanent place of residence.

Here, the situation is quite different. It is undisputed that the decedent and the Widow were not in the United States as tourists. Instead, they were registered aliens legally allowed to reside in the United States under their temporary visa. Moreover, in the son's case, he was an American citizen who was born in Miami, Florida and had resided in Florida since his family moved here in 2005. The widow testified at the evidentiary hearing that her intent, along with that of the decedent, was that the family reside permanently in the apartment due to safety concerns stemming from

the attempted kidnapping of the son in Venezuela. The widow further testified that she and the decedent had applied for permanent residence in the United States prior to the decedent's passing. These specific circumstances are sufficient to demonstrate the decedent's intent to have his family permanently reside in Florida.

The court also distinguished several bankruptcy cases where a debtor, because of his immigration status, could not formulate the requisite intent to make the property his permanent residence. The court reasoned that those "cases ignore that eligibility for the homestead exemption depends on the intent of the homesteader rather than that of the U.S. Citizenship and Immigration Services."

Finally, the court distinguished those cases that involve Florida's homestead exemption from taxation (article VII, section 6 of the Florida Constitution) from Florida's homestead exemption from forced sale (article X, section 4 of the Florida Constitution). The court reasoned that although homeowners who held only temporary visas could not form the requisite intent to become permanent residents for purposes of tax exempt status, they could form the requisite intent to become permanent residents for purposes of Florida's homestead exemption. Although the decedent never claimed a tax exemption according to the tax rolls, the court held that failure to claim the tax exemption is not evidence that property is not, in fact, homestead.

**HOLDING:** Under the specific facts of this case, because the decedent's American-born son resided in the property since its purchase, the decedent and widow had a visa which gave them the legal right to reside in Florida, and were actively pursuing permanent residence status prior to the decedent's death, the court found that the decedent demonstrated the requisite intent to make the property his family's permanent residence.

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## Rule 1.090(b): Enlargement of Time

By Matt Triggs and Jonathan Galler

A wise procrastinator once said that if it weren't for the last minute, nothing would ever get done. But, thanks to Rule 1.090(b), even "the last minute" can be postponed. *Sometimes.*

Rule 1.090(b) authorizes the court, in its discretion, to extend certain types of deadlines. It even authorizes the court to effectively grant an extension after a deadline has already passed, so long as the failure to act was the result of "excusable neglect."

However, the rule expressly states that the court "may not extend the time for making a motion for new trial, for rehearing, or to alter or amend a judgment; making a motion for relief from a judgment under Rule 1.540(b); taking an appeal or filing a petition for certiorari; or making a motion for a directed verdict."

But there is yet another category of deadlines, one far less obvious, that cannot be extended under Rule 1.090(b): deadlines that are established pursuant to special statutory proceedings.

Rule 1.090(b) is limited, by its terms, to acts that are required or allowed to be done within a specified time by order of court or by the rules of civil procedure. Thus, "by not expressly mentioning statutes, [Rule 1.090(b)] is inapplicable to procedural deadlines under a special statutory proceeding."<sup>1</sup>

This is consistent with Rule 1.010, which provides that the "time for pleading in all special statutory proceedings shall be as prescribed by the statutes governing the proceedings unless these rules specifically provide to the contrary." Because Rule 1.090(b) does not "specifically provide to the contrary," enlargements of time in special statutory proceedings are prescribed by the statutes governing the proceedings, not by the rules of civil procedure.

By contrast, the rule that governs how to *compute* time, Rule 1.090(a), does "specifically provide to the contrary." That rule governs the computation of "any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute." Thus, the computation of time for special statutory proceedings is prescribed by Rule 1.090(a).

Interestingly, as the Second District Court of Appeal has noted, "there is no specific definition of 'special statutory proceedings.'"<sup>2</sup> Some of the proceedings that have earned the label, however, include garnishment, lien enforcement, adoption, eminent domain, attachment, and replevin.<sup>3</sup>

Attempting to rely on Rule 1.090(b) for an extension of time in a special statutory proceeding can have severe and unpleasant consequences. A lien enforcement proceeding is a powerful example. A complaint brought under Fla. Stat. § 713.21(4) triggers a strict 20-day deadline within which a lienor must file an action to enforce the lien or show cause why an enforcement action should not be commenced. The Fourth District Court of Appeal has stated that "[t]he twenty day period provided in

section 713.21(4) does not allow for exceptions, such as extensions of time & nor does it leave the court with any discretion to excuse a failure to comply."<sup>4</sup> As

a result, there are several reported cases of parties who have lost their right to enforce their liens (and the accompanying right, under section 713.29, to prevailing party attorneys' fees) because of a missed deadline.<sup>5</sup> Rule 1.090(b) was not of any help.

Even where Rule 1.090(b) does apply, one question that arises periodically is whether merely filing a pre-deadline motion for an extension of time automatically tolls the deadline at issue, pending an order on the motion. The courts that have addressed the issue seem to have taken the position that it does.<sup>6</sup> Rule 1.090(b) itself, however, does not address this. Appellate practitioners will note that Rule 9.300(b) expressly provides that, other than specifically enumerated exceptions, service of any appellate motion tolls the time of any proceeding in the appellate court until disposition of the motion. Such a rule may be a better fit for the appellate courts, however, where the timing of a decision on a motion does not turn on the parties' inclinations to set a hearing.

Finally, as long as we are on the subject of rules governing time, we note that proposed Rule of Judicial Administration 2.514, if adopted, will establish a new uniform computation of time rule. As of the submission deadline for this column, Rule 2.514 had not yet been adopted by the Florida Supreme Court. If it is adopted, we expect to address the new rule in a future column.

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



## Circuit Court Report CIVIL DIVISIONS • As of December 15, 2011

DIVISION	JURY TRIALS	NON-JURY TRIALS	MOTIONS	CASES PENDING
AA KELLEY	05-12	05-12	01-12	1475
AB HAFELE	06-12	06-12	02-12	1527
AD FRENCH	04-12	04-12	01-12	1771
AE MCCARTHY	09-12	09-12	01-12	1880
AF KEYSER	06-12	06-12	01-12	1601
AG CROW	06-12	04-12	01-12	1862
AH BROWN	05-12	05-12	12-11	1537
AI SASSER	04-12	02-12	12-11	1122
AJ ROSENBERG	04-12	04-12	01-12	1222
AN COX	04-12	04-12	02-12	1615
AO BARKDULL	03-12	03-12	02-12	1582

<sup>1</sup>BNP Paribas v. Wynne, III, 944 So. 2d 1004, 1006 (Fla. 4th DCA 2005).

<sup>2</sup>Cartwright v. State, 870 So. 2d 152, 162 (Fla. 2d DCA 2004).

<sup>3</sup>See Bruce J. Berman, Florida Civil Procedure § 010.5, at 9 (2010 ed.) (providing citations).

<sup>4</sup>Brookshire v. GP Constr. of Palm Beach, Inc., 993 So. 2d 179, 180 (Fla. 4th DCA 2008).

<sup>5</sup>See, e.g., Brookshire, 993 So. 2d at 179; Dracon Constr., Inc. v. Facility Constr. Mgmt., 828 So. 2d 1069, 1070-71 (Fla. 4th DCA 2002); Sturge v. LCS Dev. Corp., 643 So. 2d 53, 55 (Fla. 3d DCA 1994).

<sup>6</sup>See Pinnacle Corp. of Cent. Florida, Inc. v. R.L. Jernigan Sandblasting & Painting, Inc., 718 So. 2d 1265, 1266 (Fla. 2d DCA 1998) (citing Goldy v. Corbett Cranes Svcs., Inc., 692 So. 2d 225, 228 (Fla. 5th DCA 1997)).



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**Christa McCann Diaz** - Stuart, FL; University of Florida, 2011; Associate in Wicker, Smith, O'Hara, McCoy & Ford, P.A., West Palm Beach.

**John George** - Delray Beach, FL; University of Florida, 2011; Delray.

**Dana Gizzi-Elizabeth**, N.J.; Florida State University College of Law, 2009; Office of Florida Senator Maria Sachs, Delray Beach.

**Michelle Hollister** - Massachusetts; St Thomas University, 1997; Partner in Solkoff Legal, P. A. Delray Beach.

**Justin Hoover** - Alexandria, VA; William and Mary School of Law, 2011; Office of the State Attorney, Palm Beach County.

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**Jason Rigoli**, Florida International University, 2011; Associate in Furr and Cohen, P.A. Boca Raton.

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**Kelly J. Shivery** - Florida Registered Paralegal Membership, McCabe Rabin, P.A., West Palm Beach.

**Jeremy Soffler**, University of Florida, 2011; Jacksonville.

**Tara L. Stephens** - Kentucky; University of Florida, 2011; Associate in Wicker, Smith, O'Hara, McCoy & Ford, P.A., West Palm Beach.

**Peter Stoumbelis** - Winthrop, MA; Florida State University; Department of Highway Safety & Motor Vehicles, Lake Worth.

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March 12, 2012 - 8:20a.m. – 12:30p.m.

Bar Association Offices, *NEW LOCATION* - 1507 Belvedere Road, WPB, FL

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### Program Schedule



- 8:20 a.m. - 8:50 a.m. **"Hot" Breakfast / Late Registration/ and Check In**
- 8:50 a.m. - 9:00 a.m. **Welcome & Opening Remarks** - *Craig D. Stein, Esq., Committee Chair, Stein & Stein, P.A. Attorneys and Counselors*
- 9:00 a.m. - 10:00 a.m. **Recent Developments and Decisions in the Madoff Securities Litigation** - *Jonathan B. Butler, Esq., Akerman Senterfitt*
- 10:00 a.m. - 11:00 a.m. **Recent Developments in Financial Regulatory Investigations and Parallel Criminal Matters** - *James D. Sallah, Esq., Sallah & Cox, LLC; Jeffrey L. Cox, Esq., Sallah & Cox, LLC; and Joshua A. Katz, Esq., Sallah & Cox, LLC*
- 11:00 a.m. - 12:00 p.m. **FINRA - HOT TOPICS** - *Manly Ray, Southeast Regional Director for FINRA Dispute Resolution; Kevin Dale Rosen, Associate Regional Director with FINRA Dispute Resolution; Joanne Sorrentino, Processing and Logistical Manager, FINRA Southeast Regional Dispute Resolution office; and Jill A. Wile, Deputy Regional Director, Southeast Region, FINRA Dispute Resolution*
- 12:00 p.m. - 12:30 p.m. **Ethics and Professionalism: A Cut Above the Ordinary** - *Representative from the Professionalism Committee of the Palm Beach County Bar Association.*

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Palm Beach County Courthouse, North end of Cafeteria  
205 N. Dixie Highway, West Palm Beach, FL 33401**

**Program Schedule**

- 11:30 a.m. - 12:00 p.m. **Late Registration / Check In / Lunch**
- 12:00 p.m. - 12:10 p.m. **Welcome & Opening Remarks** - *Kalintia Dillard, Esq., Chairperson, Law Related Education Committee*
- 12:10 p.m. - 1:00 p.m. **Palm Beach County Commission on Ethics Training** -  
*Alan S. Johnson, Esq. - Executive Director of the Palm Beach County Commission on Ethics*
- 1:00 p.m. - 1:10 p.m. **BREAK**
- 1:10 p.m. - 2:00 p.m. **The Role of the Inspector General and Process** - *Inspector General Sheryl G. Steckler*



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**March 1, 2012 - "Proving and Defending Against Damage Claims in Business Litigation" -**

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*(Panthers vs Hurricanes (Carolina) - Saturday, April 7, 2012—7:30pm)*

**April 4, 2012 - "Commercial Consultants, LLC v. BBA US Holdings, Inc.: A Case Study In Fee-Shifting Issues" - John "Jack" Scarola, Board Certified Civil Trial and Business Litigation Lawyer, Searcy, Denney, Scarola, Barnhart & Shipley, P.A.**

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



## ***"The View From the Local Bench"***

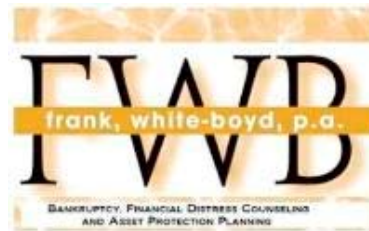
**Wednesday, February 22, 2012 - 11:45a.m. - 2:00p.m.**

Bar Offices - **NEW LOCATION:** 1507 Belvedere Rd., WPB

### **Program Schedule**

11:45am - 12:00pm **Check In / Late Registration**

12:00pm - 12:25pm **Buffet Lunch - Sponsored by:**



12:25pm - 12:30pm **Welcome - Opening Remarks -** *Julianne R. Frank, Esq.,  
Frank, White-Boyd, P.A., Bankruptcy CLE Committee Chair*

12:30pm - 2:00pm **The View From the Bench: The Words and Wisdom of  
Our Bankruptcy Judges -** *Honorable Paul G. Hyman and  
Erik P. Kimball, United States Bankruptcy Court -  
Moderated by Julianne R. Frank, Esq.*

---

**This course has been granted 2.0 CLER from The Florida Bar.**

The cost of the seminar, **including lunch**, is **\$40** for PBCBA members/paralegals, **\$80** for non-PBCBA members/paralegals. **After 2/15/12, add \$10.00 late fee.**

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

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## Membership in your local bar association: WIIFY?



By **Nora Riva Bergman**

OK. You're reading this article, so you're already a member of the Palm Beach County Bar Association. Good. Very good. So, the question is "why?" Why are you a member? WIIFY – What's in it for you? Or to paraphrase Janet Jackson, "What has your bar association done for you lately?" All right, that was sort of a trick question. The answer is: A lot.

But before I go on, I've got to put something on the table. I'm a former bar exec. There, I've said it. So my biases about bar membership are firmly in place. But I'm a lawyer, too. And I was a member of my local bar long before I became a bar exec. Now, that was back in the stone age, long before LinkedIn, Facebook, and Twitter. And while I am a huge proponent of social media networking and marketing, local bar associations offer something that those online services can't: personal contact and the opportunity to build real relationships with people in your community.

### **Relationships. Relationships. Relationships.**

There is no greater indicator of our quality of life than the relationships in our lives. The more positive, meaningful relationships we have in our lives, the more our stress levels go down and our overall health improves. In fact, medical research has shown that the quality of our relationships can have a positive impact on everything from our heart health to our ability to overcome diseases – even cancer. But being a "connector" who seeks out and develops quality relationships won't only improve the quality of your life, it will improve the quality of your practice. Everything about the practice – and business – of law is about relationships. And the better the relationships, the more satisfying and profitable your practice will be. Building quality relationships is the most important investment you can make in your life and your profession.

So where does bar membership fit in to this equation? Simple. Bar membership helps you build relationships with your colleagues in three very important ways.

### **1. Professional Relationships**

You've heard it many times, maybe you've even said it, "There just isn't the level of professionalism in the profession that there used to be." Professionalism in this context means treating each other with respect and courtesy and being – dare I say it – nice to each other. You really can be an advocate for your clients and be nice to opposing counsel at the same time. And it becomes a whole lot easier to be nice if you know that lawyer on the other side. Maybe you've sat together at a bar luncheon and talked about your kids or your mutual love of sailing. Maybe you've had the opportunity to work through a sticking point in a case over a glass of wine at the Judicial Reception. Maybe you've worked together on a project to deliver legal services to the poor. Whatever the situation, you've had the opportunity to get to know the voice on the other end of the phone. Bottom line: it's a whole lot easier to be nasty (unprofessional) to someone you don't know.

### **2. Marketing Relationships**

Write this down and stick it someplace you'll see it every day. People want to work with people that they know, like and trust. Attorneys want to refer work to other attorneys that they know, like and trust. Think about that. Then think about where your best referrals typically come from. Other attorneys, right? And who are those attorneys? (Another trick question.) They are attorneys who know you, and like you, and trust you. So if you want to grow your practice and develop great referral sources, get out there and get to know your colleagues. Develop real relationships – not phony, just for the referral relationships – real relationships. Think of the quality of referrals you'd consistently be receiving if you developed just twenty real, true, friendships with any of the thousands of lawyers in Palm Beach County. Start with your own bar association, get involved, make some friends, have fun and watch your revenues grow.

### **3. Friendships**

Here's the real secret, once you start developing the first two types of relationships, you'll see that they are really all the same. You're getting to know people that you work with professionally, and that you genuinely know, like and trust. Those people will often turn into friends. And what could be better than working with your friends. OK, so you're not going to be best friends with every lawyer you know. There are still going to be some lawyers you don't get along with. That's life. But, I'll bet you a latte at Starbucks that those folks that you get to know, like and trust will be far greater in number than those you don't.

*Nora is a business coach and certified practice advisor with Atticus. She has practiced as an employment law attorney and certified mediator and has served as an adjunct professor at both Stetson University College of Law and the University of South Florida. She has also served as the Executive Director of the St. Petersburg Bar Association. Visit Nora online at [www.reallifeppractice.com](http://www.reallifeppractice.com) and [www.atticisonline.com](http://www.atticisonline.com).*



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## Rewarding Volunteer Opportunity: Done in an Hour

Looking for a rewarding volunteer opportunity that won't take more than 1 hour? Please join me and help grade essays from adults learning English. These people are so thankful for the opportunities presented in America, and their stories will inspire you. I guarantee you will get more out of it than you expect.

We will be grading essays in 1 hour blocks on Friday, February 24 from 8:30 am to 9:30 am and then again from 11:45 am to 1:00 pm. Light snacks and drinks will be provided.

If you're able to volunteer, please let us know by calling Lynne at the Bar Office at 687-2800 or [lpoirier@palmbeachbar.org](mailto:lpoirier@palmbeachbar.org)

Thank you!  
Mark Greenberg  
Lawyers for Literacy Committee Chair

## Lawyers for Literacy Giving Back to Our Community



These volunteers recently spent their morning talking to adult learners at the Adult Education Center in West Palm Beach. Attorneys talked to the students about the legal process, legal careers and the importance of an education.

This annual program was held in partnership with the Literacy Coalition of Palm Beach County.

Thank you, volunteers!

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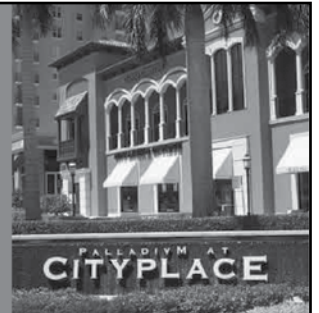
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### Can You Keep a Secret? Florida's New Redaction Rule

By: Christopher B. Hopkins and Tracy T. Segal

If you have practiced for more than a decade, you have likely spent time with black markers or redaction tape trying to remove confidential information from discovery documents. Using a computer to redact electronic documents makes that job easier but may also increase the possibility of error – even among savvy parties. Recently, a California U.S. District Court judge intended to redact information from the publicly released version of her ruling in a high-profile patent litigation case between Apple and Samsung. Because she used the wrong redaction method, however, anyone copying and pasting the opinion text from the PDF version into a new document could read the sensitive information she had intended to protect.

Avoid potentially disastrous mistakes in your own practice by reviewing your redaction methods and Florida's new procedural rules requiring removal of certain information.

Since October 1, 2011, Judicial Administration Rule 2.425 has limited the sensitive personal information which may be filed with the court. For example, with certain exceptions, a birth year (not date) is permitted whereas no portion of a bank account number may be included. Failure to comply with the rule could result in sanctions. Rule of Civil Procedure 1.280, Judicial Administration Rule 2.420, and other rule amendments work in conjunction with Rule 2.425 to limit the use of confidential and sensitive information obtained in discovery (federal court practitioners should review F.R.C.P. 5.2). The Florida Bar offers a free 90 minute CLE, "New Rule 2.420 Seminar," at <http://bit.ly/t21uqE>.

Electronic case filing ("e-filing") is standard in federal courts, increasing in the Seventeenth Circuit, and on the near horizon for Florida appellate courts. Information redacted from court filings must be able to withstand electronic scrutiny. In addition, a rule current being revised by the Rules of Judicial Administration Committee at the direction of the Florida Supreme Court will require most attorneys to serve documents, including discovery, by email when mandatory electronic filing is phased into the circuit courts.

Old-fashioned redaction of a paper document before scanning can be effective, so long as the covering is completely opaque. That said, covering information with ink or semi-translucent tape or paper can sometimes reveal critical information when scanned. Redaction of an electronic file can be easier, but care must be taken that the redaction is complete and final. Avoid these common pitfalls:

- DO NOT change the text's font to white. DO NOT cover text with black highlighting or shapes. This will make it seem that the words have disappeared but cutting and pasting the text into a new document can retrieve them.
- DO NOT rely on your word-processing program alone because all programs retain hidden code (called "metadata") that may include the history of revisions you have made. Even if you think you are not tracking your changes, information you have redacted may be retrievable.

- DO NOT rely on the edit tools in older versions of Adobe Acrobat to remove or cover over text because these edits can be removed to view the original information.

One effective redaction method is to replace confidential information in a word processing document with the phrase "text redacted" and then use your software to convert the document to PDF format. Only use this method if you are certain your PDF conversion will not include any metadata. Alternatively, you can print the document and scan it to a PDF file.

Another safe method is to redact a document in your word processing software and then copy the entire document into a simple-text editor such as Windows Notepad. Because this program does not save any hidden code, no metadata is preserved. After saving a document in Notepad, a PDF of the document will only contain the information visible on the screen. Unfortunately, most of the formatting of your original document will also be lost. If, however, you open the redacted Notepad document into a brand new Word document and reformat it, there should be no metadata relating to the redaction. This new Word document can be converted to PDF and shared electronically.

Instead you may wish to invest in software designed to efficiently and completely redact information. Keep in mind that you will want to redact information from both word processing documents and paper documents converted to electronic form and this may require different approaches. For word processing, some newer versions of common software offer redaction tools that remove metadata. Other companies, including Microsoft, offer downloads to add redaction tools to existing software.

For PDF documents, Adobe Acrobat Professional (Version 8.0 or later) includes redaction tools and will also examine a document to locate metadata. When you save a document after making redactions, the program permanently removes the redacted information. Adobe add-on programs such as Appligent's Redax perform the same functions for older versions of Adobe.

Other programs such as Redact-It, Adeptol Redaction Software, and RapidRedact perform complete redactions of any type of document with the added ability to search documents and flag information which may be sensitive, such as variations on a name or phone numbers.

Whatever method you chose, you can be confident that you are keeping your clients' secrets safe by knowing the rules for what to redact and having an irreversible method to remove information from electronic documents.

*Christopher B. Hopkins and Tracy T. Segal are with Akerman Senterfitt (West Palm Beach).*



### Mark Your Calendar

This year's Law Day Luncheon, scheduled for May 4, will feature Elizabeth Smart.



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Newly appointed Circuit Judge Rosemarie Scher takes the oath of office from Chief Judge Peter Blanc as her sister Nicole Gasparri holds the Bible.



President John Howe presents Judge Scher with a gavel.

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# Historical Committee

## Who Are They?

From Page 4

1. Jeff Pheterson
2. Don Pickett
3. Charles Pigott
4. Debbie Pucillo
5. David Pressly



## Need CLE Credit?

The Palm Beach County Bar Association has a large library of CD's available if you are in need of some

extra CLER credit hours.

Be sure to check the Bar's website at [www.palmbeachbar.org/continuing.php](http://www.palmbeachbar.org/continuing.php) to download the complete list of tapes available, see the insert in this issue, or call 687-2800 to have an order form faxed to you.

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

## ***"The 12th Annual View From The Bench"***

*Tuesday, March 27, 2012 - 6:00pm - 8:30pm  
The Colony Hotel, Palm Beach, 155 Hammon Avenue*

### **Program Schedule**

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

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

- *Honorable Martin H. Colin*
- *Honorable Diana Lewis*
- *Honorable James L. Martz*
- *Honorable John L. Phillips*
- *Honorable Rosemarie Scher*



This course is expected to receive **2.0 CLER** /  
**Certification credits are pending** from The Florida Bar.

The cost of the seminar (including 1 free drink ticket) is \$60 for PBCBA members/paralegals;  
\$100 for non-PBCBA members/paralegals if registered by 3/20/12; add \$25 to registration fee after that date.

**Sponsored by:** *Jo Ann Abrams, Attorney at Law*



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

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## Diversity Intern Program

### DID YOU KNOW?

- There is a Diversity Law Internship Program available to you for placement of a summer intern with a diverse background.
- For several years now, law firms in Palm Beach County have participated in the Diversity Law Internship Program, a program committed to diversity.
- Several local law firms were recognized by the Florida Bar for their commitment to diversity through its Diversity Law Internship program.
- The Diversity Law Internship program has even resulted in diverse law clerks being offered permanent positions based upon the quality of the clerk's work and the firms' hiring needs.
- Each year, more corporations and businesses are refusing to do business with law firms that do not reflect the diversity of their patrons, customers and clients.

### IF YOU DID NOT, DON'T MISS OUT AGAIN ON THIS OPPORTUNITY TO BE INVOLVED AND PARTICIPATE

Join us! You can enrich your firm, expand your books of business and support the diversity of the Palm Beach County Bar by:

1. Agreeing to Place a Diverse intern at your firm.
2. Making a contribution to the program to help defray the costs of an internship.

Please contact Julia Wyda, Esq. for details on participation at 561-253-2208.

We would like to sincerely thank those firms who hired or sponsored an intern this past summer: Akerman; Beasley Hauser Kramer & Galardi, PA; The Law Offices of Robin Bresky; Law Offices of Paul J. Burkhardt; Casey Ciklin Martens McBane & O'Connell; Clark, Fountain, La Vista, Prather, Keen & Littky-Rubin; Gonzalez & Shenkman; Gordon & Doner; Greenberg Traurig; Lesser Lesser Landy & Smith; Liggio Benrubi; McCabe Rabin; Powers, McNalis, Torres & Teebagay; Richman Greer; Rutherford Mulhall; Schwarzberg & Associates; Searcy Denney Scarola Barnhart & Shipley; Shapiro, Fishman & Gache; Shutts & Bowen and Squire Sanders.

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# Bulletin Board

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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.**

## PROFFESIONAL ANNOUNCEMENTS

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

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

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**RICHARD D. NADEL, Esq.:** Bankruptcy. 26 years of experience. Available for referrals and assistance. The Gardens Plaza, 3300 PGA Blvd., Suite 530, Palm Beach Gardens, FL 33410; (561) 622-9353; [nadelgrp@bellsouth.net](mailto:nadelgrp@bellsouth.net).

## OFFICE SPACE

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## HEARSAY

Rutherford Mulhall, P.A. is pleased to announce that **John R. Banister**, Shareholder, has been appointed to the Gulfstream Goodwill Board of Directors. Also, **Julia Luyster** has been chosen to be a participant on the Arbitration Panel for the ABA Conference, U.S. and India: Key Legal Aspects of Cross Border Business, January 2012 in Mumbai, India.

## MISCELLANEOUS

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## PALM BEACH COUNTY BAR ASSOCIATION

# BULLETIN

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

## CALENDAR February 2012

Thursday, February 2, 1pm - 5pm  
**Employment Law CLE Seminar  
"Third Annual Martinis  
& Migraines"**  
Bar Assn. Office

Thursday, February 2, 5:30pm  
**NCS - BBQ & Casino Party**  
Bonnette Hunt Club

Friday, February 3, 8:00pm  
**Legal Aid Gift Gathering Gala**  
Woodfield Country Club, Boca

Tuesday, February 7, 8:30am - 5pm  
**PI Wrongful Death CLE Seminar  
"Medical School 101 for Lawyers"**  
Bar Assn. Office

Wednesday, February 8, 5:30pm  
**PBC Paralegal Assn. Meeting**  
Crown Plaza Hotel  
Contact Sue Ellen Hurley, 585-5000

Wednesday, February 8, Noon - 1pm  
**Professionalism Committee Meeting**  
Bar Assn. Office

Wednesday, February 8, 5:30pm  
**FAWL Judicial Reception**  
Norton Art Gallery

Thursday, February 9, 9am - 10am  
**Real Estate CLE  
Committee Meeting**  
Bar Assn. Office

Thursday, February 9, 11:45am - 1pm  
**Judicial Relations Committee Mtg.**  
Judicial Conference Room,  
Main Courthouse

Thursday, February 9, Noon - 1pm  
**South County FAWL Luncheon**  
Seasons 52 - Contact www.fawl.org

Thursday, February 9, 5pm  
**YLS Panthers Game**

Friday, February 10, 11:30am - 2pm  
**Law Related Education  
Committee Seminar  
"Commission on Ethics and  
Inspector General Initiatives"**  
Palm Beach Co. Courthouse,  
North end of cafeteria

Monday, February 13,  
8:30am - 4:40pm  
**ADR Committee Seminar  
"ADR in 2012: The Solution to  
Resolution"**  
Bar Assn. Office

Tuesday, February 14, Noon - 1pm  
**YLS Board Meeting**  
Bar Assn. Office

Thursday, February 16, 5:30pm - 7:30pm  
**Federal Bar Association  
Cocktail Reception**  
The Colony Hotel, Palm Beach  
RSVP to Peggy Stumhofer at  
PStumhofer@pm-law.com

Friday, February 17, 11:30am - 1pm  
**Cunningham Bar Luncheon**  
Annual William Holland  
Scholarship Luncheon  
Contact: www.cunninghambar.org

Monday, February 20  
**Court Holiday - President's Day**  
Bar Office Closed

Tuesday, February 21, 11:45am - 1pm  
**Family Law/Unified Family  
Practice Committee Meeting**  
Law Library, Main Courthouse

Tuesday, February 21, Noon - 1pm  
**Committee for Diversity &  
Inclusion Committee meeting**  
Bar Assn. Office

Tuesday, February 21,  
5:30pm - 6:30pm  
**Inns of Court Meeting**  
Judicial Conference Room,  
Main Courthouse

Tuesday, February 21,  
5:30pm - 6:30pm  
**Legal Aid Board Meeting**  
Bar Assn. Office

Wednesday, February 22,  
11:45am - 2pm  
**Bankruptcy Law CLE Seminar**  
Bar Assn. Office

Wednesday, February 22,  
Noon - 1pm  
**Bench Bar Committee Meeting**  
Bar Assn. Office

Wednesday, February 22, 5pm - 6pm  
**PBCBA Board of Directors Meeting**  
Bar Assn. Office

Thursday, February 23,  
8:30am - 4:30pm  
**TFB - "Practicing with  
Professionalism"**  
The Marriott Hotel, West Palm Beach

Thursday, February 23, Noon - 1pm  
**Historical Committee Luncheon**  
Bar Assn. Office

Thursday, February 23, 5:30pm  
**South County FAWL Annual  
Judicial Reception**  
Contact: www.fawl.org

Thursday, February 23, 6pm - 7pm  
**Palm Beach Justice Association  
Dinner Meeting**  
McCormick & Schmicks (tentative)  
Contact: www.pbctla.org

Wednesday, February 29,  
11:45am - 1pm  
**Judicial Luncheon**  
Main Courthouse,  
North end of Cafeteria