



PALM BEACH COUNTY BAR ASSOCIATION

BULLE^{IN}

www.palmbeachbar.org

January 2012



Lawyer Variety Show — Buy Your Tickets Today!

If you haven't already done so, be sure to buy your tickets and join us for our Third Annual Lawyer Variety Show on Saturday, January 21 at the Eissey Theatre in Palm Beach Gardens.

The evening includes a cocktail reception beginning at 6:30 p.m. followed by great entertainment at 7:30 p.m. Tickets are just \$30.00 for orchestra seats and \$20.00 for the balcony. Seating is reserved. The deadline for purchasing tickets online is January 12.

Mark your calendar for upcoming Membership Events

Investiture Ceremony for Judge Robert Panse

January 20, 2012
Palm Beach County Courthouse

Third Annual Lawyer Variety Show

January 21, 2012
Eissey Theatre, Palm Beach State College

Joint Luncheon with Forum Club

Speaker: U.S. Supreme Court Justice Alito

January 31
Convention Center

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

Annual Installation Banquet

June 2
The Breakers Hotel, Palm Beach



*The Collection of the Supreme Court
of the United States.*

January Membership Luncheon to Feature U.S. Supreme Court Justice Samuel Alito

The Palm Beach County Bar Association, along with the Forum Club of the Palm Beaches, is pleased to announce that U.S. Supreme Court Justice Samuel Alito will be the guest speaker at a joint luncheon to be held on January 31. The luncheon will be held at the Palm Beach County Convention Center from 11:15 - 1:00 p.m. Registration will be by pre-paid reservations only and can be made at www.palmbeachbar.org.

Samuel Anthony Alito, Jr., Associate Justice, was born in Trenton, New Jersey on April 1, 1950. He married Martha-Ann Bomgardner in 1985. After graduating from Yale Law School in 1975, he served as a law clerk for Judge Leonard I. Garth of the United States Court of Appeals for the Third Circuit from 1976-1977. He served as an Assistant U.S. Attorney, District of New Jersey, 1977-1981, as Assistant to the Solicitor General, U.S. Department of Justice, 1981-1985, as Deputy Assistant Attorney General, U.S. Department of Justice, 1985-1987, and as U.S. Attorney, District of New Jersey, 1987-1990. He was appointed to the United States Court of Appeals for the Third Circuit in 1990. President George W. Bush nominated him as an Associate Justice of the Supreme Court, and he took his seat on January 31, 2006.

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 15 and are due back in the office by 5 p.m. on January 13. Petitions for director-at-large seats will be available on December 22 and are due back in the Bar office by 5 p.m. on January 23. Petitions may be obtained by calling the Bar office at 687-2800 or by sending an e-mail requesting it at 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.

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THE
BULLETIN
PALM BEACH COUNTY
BAR ASSOCIATION

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President

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



Bench Bar Conference scheduled for March 9 at Convention Center

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 will be 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 early and look for new sessions for attorneys this year.

Sponsorship opportunities are available to assist in the underwriting of this year's conference in the following amounts:

\$575 for law firms of 11 or more attorneys;
\$375 for law firms with 3-10 attorneys; and
\$225 for law firms with 1-2 attorneys.

Checks should be made payable to the PBCBA and mailed to:
Patience Burns, 1601 Belvedere Road #302E, WPB, FL 33406.

Discount Movie Tickets

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

- * Muvico Theater - \$8.00 each
- * Regal Theaters \$8.00 each

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



Judge Panse Investiture January 20

Please join members of the Bar for the investiture ceremony of newly appointed County Court Judge Robert Panse to be held at 4:00 p.m. on January 20. The ceremony will take place in Courtroom 11A in the Palm Beach County Courthouse. Judge Panse at one time was with the firm of Paxton & Smith in West Palm Beach that includes four other attorneys who went on to become judges: David Crow, Sandra Bosso-Pardo, Greg Keyser and Bob Hawley.

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What You Need & Don't Need To Run Your Practice

presented by the Solo & Small Firm Practitioners Committee
Lunch & Learn Series

Tuesday, January 17, 2012

11:45 am to 1:00 pm
Bar Office



What do I do with all
this paper?
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President's Message



A More Perfect Union in 2012

By John M. Howe

Over the past few years, there have been nationwide assaults on the independence of the judicial branch of government and a general disengagement of public interest, and ignorance of the function of our courts and government. Daily, our constitutional rights are preserved and defended in our courts of law, but it goes mostly unnoticed. Americans are largely uninformed of the vital role played by the relatively small number of lawyers and judges to protect the rights and freedoms we all enjoy. This lack of awareness creates a dysfunction in our union because the most effective way to deprive people of their rights is to misinform them or keep them uninformed of these rights.

This lack of public knowledge is partly, if not mostly, our fault as lawyers because lawyers are natural leaders who have the ability influence those around them. There is a misconception, however, that there is an over-abundance of lawyers in our country and our county. There is not. Comparing Florida Bar records against U.S. Census statistics, lawyers comprise merely .005% of the population in Palm Beach County. This means we do not have the luxury of leaving it up to the next lawyer to bring awareness to the other 99.005% of the population. It is up to all of us to provide our neighbors with facts and information to help them understand the workings of their government and the essentiality of having three effective branches of government.

There is also a misconception that Florida's judiciary is adequately funded. After all, it is one of three co-equal branches of our government, right? Not so; Florida's allotment for court funding accounts for a mere .007% of the state's budget. It is no wonder that Florida ranks 46th among other states in the number of judges per 100,000 residents. Don't you believe that Florida voters should know that? Would this not help to explain why there is an overwhelming backlog of cases in our courts? The answer is obviously "Yes."

We have also discovered that there is inadequate emphasis on civics education in schools. Last year, social studies educators declared that "civics health" in Florida schools was among the worst in the nation. An uneducated student population inevitably leads to an uninformed electorate. Recently, a major news outlet interviewed random people to seek their thoughts on gerrymandering. A large number of the interviewees said they had never heard of that person. The problem became so severe that last year the Florida legislature passed a law requiring the testing of middle school students' civics knowledge.

To address these issues, the Bar has formed a Law Related Education Committee ("LREC"). The purpose of the LREC is to facilitate opportunities for lawyers to engage with members of the public in order to promote and increase knowledge of our courts and government. This year, the LREC is chaired by Kalinthia Dillard, who is also Senior Counsel for the Palm Beach County School District. In order to tackle these issues, the LREC is planning several programs and activities.

You might not know it, but the Bar has had a Speakers Bureau for many years. Traditionally, members of the public would call and request speakers on certain legal topics. The request was then forwarded to the appropriate committee chair for further handling. This year, I have requested our LREC to be more proactive. We are no longer passively waiting for requests. We are reaching out to civic groups, community associations and other organizations to inform them that we have lawyers at the ready to come speak to their members. We have also added a brand new page to the Bar's website on which users can request lawyers to speak online. The user can select from a menu of legal topics or make more specific requests. Please visit the new page at www.palmbeachbar.org/speakers.php. I would encourage you to contact Kalinthia at Kalinthia.Dillard@palmbeachschools.org to be added as a speaker. Speaking materials can be provided for you. Also,

if you are a member of a civic, community or religious group, inform your leadership and membership of this service.

The LREC this year will also be highlighting civics and law related education in schools. We are continuing our support of the law magnet programs at Palm Beach Lakes High School and Inlet Grove High School and are looking to add more. We are also working on getting the Florida Commissioner of Education to come and speak about Florida's new civics education law.

I would urge you to join your Bar in this effort. A more informed union is a more perfect union. It is up to us in 2012 to get it done.

Featured Board Member

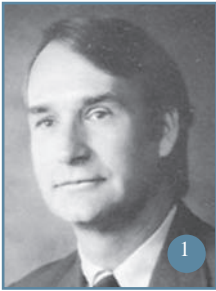
J. Grier Pressly, III



This month's featured director is Grier Pressly. I have known this dynamic gentleman for the past 14 years since we met in law school at the University of Florida. His wife, Kristy, also an attorney, serves as Director of Legal Services at the Breakers. They are the parents of Ms. Parker Grace who is four years old. For the past 12 years, Grier has practiced in the area of estate and trust litigation at the law firm of Pressly & Pressly, P.A. in West Palm Beach where he is fortunate to have the opportunity to practice law with his father (Jamie) and uncle (David). The Pressly family pet is a yellow lab named Doodles. Grier, a native of West Palm Beach, also serves on the boards of the Historical Society of Palm Beach County and the Legal Aid Society of the Palm Beaches. When he's not donating his time, he enjoys all family activities, golfing, Gator sports, history and philanthropy. His creed is The Golden Rule, and his favorite quote is: "If you ain't a Gator, you must be Gator bait." Amen.

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.



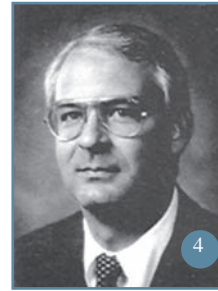
1



2



3



4



5

YLS Happy Hour



The Young Lawyers Section recently hosted a happy hour at Longboard's in West Palm Beach. Attending were Joseph Chase and Andrei Korotkov



Bankruptcy Judge Paul Hyman and YLS President Jason Lazarus



Melissa Lazarchick, Julia Wyda, Adam Myron and Steven Grant



Richard Carey, Shavarne Dahlquist and Christine Bialczak



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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

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



Personalized bricks:

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.
 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
 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
 Law Offices of Irwin J. Block PLLC
 Law Offices of Robin Bresky
 Lazarus, Jason
 Legal Aid Society of Palm Beach County
 Leopold ~ Kuvlin
 Maschler, Matthew H.
 Massa, Patrick
 McBane, Louis R.
 McCabe Rabin
 McCall, Wallace
 McClosky, D'Anna & Dieterle, LLP
 McHale & Slavin
 Murray & Guari
 Murrell, Donnie
 Napoleone, Michael
 Palm Beach Spine & Diagnostic Institute
 Pateman, Mark
 PBC Chapter of Paralegal Association
 Pineiro Byrd PLLC
 Pressly & Pressly
 Prior, Ted
 Proskauer Rose LLP
 Rock Legal Services & Investigations
 Royce, Catherine S.
 Royce, Raymond W.
 Rutherford Mulhall, P.A.
 Sabadell United Bank
 Sasser, Tom & Meenu
 Schutz & White LLP
 Signature Court Reporting
 Small, Michael
 Smith, Amy
 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
 Whittles, John
 Wroble, Art & Mary Ellen

Fourth DCA Reception Highlights



The Fourth DCA 50th Anniversary Committee held a kick-off reception after the recent appellate seminar. Pictured above is Committee President Jack Aiello and Vice-president Preethi Sekharan. This Committee will be working on projects and organizing events to celebrate the 2015 50th anniversary of the Fourth DCA. For more information about the Committee and its activities, contact Jack Aiello at jaiello@gunster.com



Len Rubin, Julie Littky-Rubin, Scott Greenblatt and Judge Spencer Levine



County Court Judge Reginald Corlew, Gloretta Hall and 4th DCA Judge Burton Conner



Jeffrey Kuntz, 4th DCA Judge Robert Gross, Dan Bushell and Malcolm Cunningham



4th DCA Chief Judge Melanie May, James Sawran and 4th DCA Martha Warner



4th DCA Judge Cory Ciklin, Circuit Judge Peter Blanc and Ron Gache



Circuit Judge Edward Fine, 4th DCA Judge Mark Polen and Circuit Judge David French



4th DCA Judge Jonathan Gerber, Scott Konopka and 19th Circuit Judge Mark Klingensmith

DIVORCE QUESTIONS?



www.familylawwpb.com
 Robin Roshkind, P.A.
 625 N Flagler Drive #509
 West Palm Beach, FL
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The Palm Beach County Bar Association's Commercial and Business Litigation CLE Committee presents:



***Substantive Law and Practical Advice
from the Masters
in the Litigation and Trial of Business Disputes -
A Lunchtime Seminar Series***

January 18, 2012

March 1, 2012

April 4, 2012

May 9, 2012

11:45 a.m.—1:00 p.m.

Judicial Conference Room, Main Courthouse, WPB

Lunches Sponsored By: BankAtlantic

January 18, 2012 - "The Use of ADR in Business Litigation" - *L. Louis Mrachek, Board Certified Civil Trial and Business Litigation Lawyer, Page, Mrachek, Fitzgerald & Rose, P.A.*

(This course has been granted 1.0 CLER/1.0 Business Litigation Certification Credits by the Florida Bar)

****BRING YOUR BUSINESS CARDS - DRAWING AT LUNCH FOR FLORIDA PANTHERS HOCKEY TICKETS****

(Panthers vs Islanders (NY) - Sunday, March 25, 2012 - 5:00pm)

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

James W. Beasley, Jr., Beasley, Hauser, Kramer & Galardi, P.A.

(This course has been granted 1.0 CLER/ 1.0 Civil Trial Certification Credits by the Florida Bar)

****BRING YOUR BUSINESS CARDS - DRAWING AT LUNCH FOR FLORIDA PANTHERS HOCKEY TICKETS****

(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.*

(This course has been granted 1.0 CLER/ 1.0 Business Litigation Certification Credits by the Florida Bar)

May 9, 2012 - "View from the Bench" - *Judges TBA*

(This course has been granted 1.0 CLER by the Florida Bar)

The cost of each seminar is \$25 for PBCBA members/paralegals, \$65 for non-PBCBA members/paralegals if registered 7 days before each seminar; Add \$15 to registration fee after that date.

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

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

**HOW TO
REGISTER**



BY CHECK
Return this
form



BY CREDIT CARD
For security purposes, you must register
online at www.palmbeachbar.org



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

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

Please register me for the following (checked) seminar(s):

____ January 18, 2012 ____ March 1, 2012 ____ April 4, 2012 ____ May 9, 2012

Name: _____ Telephone #: _____

Address: _____ Email Address: _____

____ I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery). (Commercial/Business). 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, 1601 Belvedere Road, Suite 302E, West Palm Beach, FL 33406. Telephone: (561) 687-2800

North County Section

Members of the North County Section recently enjoyed cocktails, dinner and dessert at III Forks in Palm Beach Gardens.



Sarah Cortvriend and Ron Ponzoli,
NCS President



Jeff D'Amore and Rosemarie Guerini



Debra Jenks, Michael Slavin and Julianne Frank



Jonathan Mann and Christine Hoke



Judge Richard Oftedal, Judge John Phillips, Stan Klett and Louis Williams

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The Palm Beach County Bar Association's PI Wrongful Death CLE Committee Presents:

“Medical School 101 for Lawyers”

Tuesday, February 7, 2012 - 8:30 a.m. – 5:00 p.m.

Bar Association Office, **NEW LOCATION:** 1507 Belvedere Road, WPB, FL

Program Schedule

8:30 a.m. - 8:50 a.m.	“Hot” Breakfast / Late Registration and Check In
8:50 a.m. - 9:00 a.m.	Welcome & Opening Remarks - <i>Daniel A. Zuniga, Esq., Lytal, Reiter, Smith, Ivey & Fronrath, LLP</i>
9:00 a.m. - 9:45 a.m.	Back to Basics: The Anatomy and Physiology of Trauma - <i>Dr. Jon Ehrich - Physiatrist</i>
9:45 a.m. - 10:30 a.m.	Diagnostic Testing - Reading a Cervical and Lumbar MRI: What is the difference between bulges, protrusions, herniations? - <i>Dr. Andrew Walker - Neuroradiologist</i>
10:30 a.m. - 10:45 a.m.	BREAK
10:45 a.m. - 11:30 a.m.	Diagnostic Testing - Reading a Cervical and Lumbar MRI and DTI: How do you know if the patient is suffering from a pre-existing condition or aggravation of one? - <i>Dr. Michael Raskin - Neuroradiologist</i>
11:30 a.m. - 12:15 p.m.	Pain: What is it? How is it treated and how can it be measured? - <i>Dr. Fred Cohen - Neurosurgeon & Trial Lawyer</i>
12:15 p.m. - 1:15 p.m.	LUNCH
1:15 p.m. - 2:15 p.m.	Treatment Options: What are some of the cutting edge surgical techniques available to the patient? - <i>Dr. Pasqual Montesino - Orthopedic Surgeon</i>
2:15 p.m. - 3:00 p.m.	Traumatic Brain Injuries: What are the different types of brain injuries, how can they be diagnosed, what are the patient's treatment options? - <i>Dr. Jose Zuniga - Neurologist</i>
3:00 p.m. - 3:15 p.m.	BREAK
3:15 p.m. - 4:00 p.m.	Joints: What are the different types of injuries to these areas, how can they be diagnosed, what are the patient's treatment options? - <i>Dr. Lawrence Gorfine - Anesthesiologist</i>
4:00 p.m. - 4:45 p.m.	Extremities: What are the different types of injuries to these areas, how can they be diagnosed, what are the patient's treatment options? - <i>Dr. Rajen Naidoo - Orthopedic Surgeon</i>
4:45 p.m. - 5:00 p.m.	Medical Illustrations: Making the patient or other layperson understand medical information through visual aids - <i>Michael Downey - Visual Evidence</i>

SPONSORED BY: Sabadell United Bank



This course is expected to receive 8.0 **CLER credits** from The Florida Bar. The cost of the seminar is **\$200** for PBCBA members/paralegals; **\$240** for non-PBCBA members/paralegals if registered by 1/31/12; 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.

HOW TO REGISTER



BY CHECK
Return this form



BY CREDIT CARD
For security purposes, you must register online at www.palmbeachbar.org



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

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

Name: _____ Telephone #: _____

Address: _____ Email Address: _____

I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (2/7/12 PI) 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, 1601 Belvedere Road, Suite 302E, West Palm Beach, FL 33406. Telephone: (561) 687-2800

Diversity Intern Program

IMPORTANT/IMPORTANT/IMPORTANT/IMPORTANT

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 & Teebagy; Richman Greer; Rutherford Mulhall; Schwarzbarg & Associates; Searcy Denney Scarola Barnhart & Shipley; Shapiro, Fishman & Gache; Shutts & Bowen and Squire Sanders.



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Awards to be presented at Bench Bar Conference

Two awards will be presented at the March 9 Conference, including the new **Committee for Diversity & Inclusion Diversity Award** in addition to the 11th Annual Professionalism Award.

Members are encouraged to nominate a member or organization for either of these prestigious awards.

Criteria for the new 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

Criteria for the Professionalism Award are individual members of the Palm Beach County Bar Association or a law firm or organization in Palm Beach County. The **Professionalism Award** recognizes an attorney, law firm, or organization 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.

Applications for either of these awards can be found on the Bar's home page at palmbeachbar.org.



Eleventh Circuit Decides Ponzi Scheme Case

By Marc P. Barmat

Once a Ponzi scheme operated by a bankrupt debtor is established, the bankruptcy trustee can avoid

the transfers received by the investors which were in excess of their principal investment. *Donell v. Kowell*, 533 F.3d 762 (9th Cir. 2008). These transfers are known as fictitious profits. The fictitious profits are considered fraudulent transfers because the source of the profits was a theft from other investors. *Id.* at 771. Requiring investors to return the fictitious profits prevents the injustice that would result if the investors were allowed to retain these funds at the expense of other defrauded investors.

Pursuant to 11 U.S.C. § 548(c), a transferee, including a Ponzi scheme investor, has an affirmative defense if the transferee acts in good faith and gives value in exchange for the transfer. The term “value” is defined to include “satisfaction or securing of a present or antecedent debt of the debtor.” 11 U.S.C. § 548(d)(2)(A). Accordingly, a good faith, defrauded investor gives “value” to the debtor in exchange for a return of the principal amount of the investment, but

not as to any payments in excess of the principal. *Id.* at 772.

For the first time in the Eleventh Circuit, the issue of whether the “for value” defense can also apply to an investor who has an equity interest in the Ponzi scheme debtor was addressed in the case of *Perkins v. Haines*, 2011 WL 5103951 (11th Cir.). In *Perkins*, the Debtor corporations, which operated as purported hedge funds, allowed capital contributions from later equity investors to be used to repay earlier investors more than their investments were actually worth. *Id.* at 1.

A receiver ultimately filed voluntary chapter 11 bankruptcy petitions on behalf of the Debtors. *Id.* The Chapter 11 Plan Trustee then instituted a number of adversary proceedings seeking to avoid and to recover distributions made to the Debtors’ investors. *Id.* The Trustee claimed that transfers to the investors prior to the collapse of the Ponzi scheme were “fraudulent transfers” under 11 U.S.C. § 548(a)(1)(A) and applicable state law. *Id.* The Trustee sought to avoid and recover not just the fictitious profits, but all payments to the investors, claiming that all payments were to redeem their equity interests, rather than

in satisfaction of a debt. *Id.* at 2. The investors asserted an affirmative defense under 11 U.S.C. § 548(c), claiming that the transfers were “for value.” *Id.* The Trustee moved for partial summary judgment, which the bankruptcy court denied, effectively upholding the availability of the investors’ affirmative defense. *Id.* The Trustee appealed to the Eleventh Circuit.

The Circuit Court recognized that the equity investors were fraudulently induced into making their investments and therefore possessed fraud claims that would be satisfied in whole or in part by virtue of the later transfers. *Id.* at 3. Therefore, in affirming the bankruptcy court, the Circuit Court rejected the Trustee’s attempt to distinguish between equity investments and debt-based claims when applying the general rule to fraudulent transfer actions arising out of a Ponzi scheme. *Id.*

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

Board Meeting Attendance

	Retreat	Aug	Sep	Oct	Nov
Barnes	x	x	x	x	x
Bowden	x	x	x	x	x
Bresky	x	x	x	x	x
Guari	x	x	x	x	x
Howe	x	x	x	x	x
Kypreos	x	x		x	x
Lazarus	x	x	x	x	x
Napoleone	x	x	x	x	x
Ponzoli	x	x	x	Buck	x
Pressly	x	x	x	x	x
Rabin	x	x	x	x	x
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The Bankruptcy Law CLE Committee of the Palm Beach County Bar Association
presents:



"The View From the Local Bench"

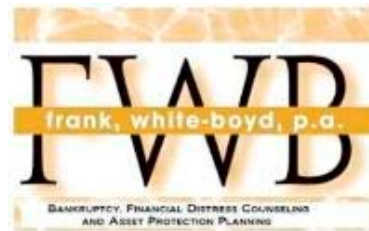
Wednesday, February 22, 2012 - 11:45a.m. - 2:00p.m.

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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Palm Beach County Bar Association, 1601 Belvedere Rd. #302E, West Palm Beach, FL 33406.

Real Property and Business Litigation Report

November 2011 Summary

Submitted by Manuel Farach



Oldock v. DL&B Enterprises, Inc., – So.3d –, 2011 WL 4467636 (Fla. 2d DCA 2011).

A non-resident defendant that has continuous and systematic contacts with Florida for pecuniary gain establishes general (as opposed to specific act) long-arm jurisdiction and fulfills constitutional requirements of due process.

Swindell v. Accredited Home Lenders, Inc., Slip Copy, 2011 WL 4469121 (11th Cir. 2011).

There is no right to state appointed counsel to defend a party in a mortgage foreclosure case because there is no risk of loss of liberty if defendant loses case.

Fidelity Warranty Services, Inc. v. Firstate Ins. Holdings, Inc., – So.3d –, 2011 WL 4577530 (Fla. 4th DCA 2011).

An owner can testify as to the value of his business, but his testimony becomes expert testimony when he offers an opinion based on special knowledge, skill, experience or training. Any of the three different methods used for valuing a business (income, market or asset based) must be based on non-speculative evidence, and using prior years' sales to determine market value is speculative. "Pure opinion" is not actionable as defamation.

Gemini Investors III, L.P. v. Nunez, – So.3d –, 2011 WL 4578015 (Fla. 3d DCA 2011).

Failing to inform a purchaser of shares in a company that the company is at risk of losing 50% of its business from one client is both a fraudulent inducement into a contract and securities violation under Florida Statute § 517.301 (1)(a).

Grimsley v. Moody, Jones, Ingino & Morehead, P.A., --- So.3d ----, 2011 WL 4578188 (Fla. 4th DCA 2011).

Issues of non-material fact are

irrelevant to the summary judgment process.

Stock Building Supply of Florida, Inc. v. Soares Da Costa Const. Services, LLC, – So.3d –, 2011 WL 4578320 (Fla. 3d DCA 2011).

A notice to owner supplied when there is no payment bond on a construction project only perfects rights under the construction lien statute and not against the bond. If a Notice of Termination is filed and then a new Notice of Commencement is filed, a new notice to owner must be served in order to perfect rights of a party not in privacy.

USAmeribank v. Klepal, – So.3d –, 2011 WL 4809107 (Fla. 2d DCA 2011).

The following language authorizes waiver of the head of household exemption from garnishment both as the issuance and enforcement of the continuing writ:

I consent to the issuance of a continuing writ of garnishment or attachment against my disposable earnings, in accordance with Section 222.11, Florida Statutes, in order to satisfy, in whole or in part, any money judgment entered in favor of [the Bank].

TRG Brickell Pointe NE, Ltd. v. Gravante, – So.3d –, 2011 WL 4809209 (Fla. 3d DCA 2011).

A contract for sale of real estate does not need two witnesses in order to be enforceable.

Coral Wood Page, Inc. v. GRE Coral Wood, LP, – So.3d –, 2011 WL 4819816 (Fla. 2d DCA 2011).

A tenant does not have to prove a constructive eviction as a condition precedent to claiming a violation of the covenant of quiet enjoyment.

Lower Fees, Inc. v. Bankrate, Inc., – So.3d –, 2011 WL 4949835 (Fla. 4th DCA 2011).

A "merger and integration" or "no reliance" clause does not bar a claim for rescission based on fraudulent inducement into a contract unless the clause itself explicitly waives fraud in the inducement claims.

Del Monte Fresh Produce Co. v. Net Results, Inc., – So.3d –, 2011 WL 4949872 (Fla. 3d DCA 2011).

A non-breaching party in a breach of contract case is entitled to either restitution or expectation damages. Lost profits need not be calculated with mathematical precision, but must be calculated with "reasonable certainty."

BLT Now, LLC v. Coldwell Banker Residential Real Estate, – So.3d –, 2011 WL 4949884 (Fla. 3d DCA 2011).

The question of whether a party exercised reasonable diligence in fulfilling a financing contingency in a contract is ordinarily a question of fact for the trier of fact and not subject to summary judgment.

Cuccarini v. Rosenfeld, – So.3d –, 2011 WL 5061347 (Fla. 3d DCA 2011).

A general preapproval letter, i.e., a financing approval letter not tied to any specific property, may satisfy a financing contingency in a real estate sales contract.

Tampa HCP, LLC v. Bachor, – So.3d –, 2011 WL 5061541 (Fla. 2d DCA 2011).

An arbitration agreement may be rescinded if it is unconscionable, but both procedural and substantive unconscionability must be proven. Procedural unconscionability, i.e., a lack of meaningful choice, must first be proven before reaching the issue of substantive unconscionability.

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/manuelfarach.



www.palmbeachbar.org



Proper Use Of Gifting Powers Under A Durable Power Of Attorney

By David M. Garten, Esq.

Chapter 709 entitled "Powers Of Attorney And Similar Instruments" (effective October 1, 2011) reads in relevant part:

709.2202 Authority that requires separate signed enumeration.—

(1) Notwithstanding s. 709.2201, an agent may exercise the following authority only if the principal signed or initialed next to each specific enumeration of the authority, the exercise of the authority is consistent with the agent's duties under s. 709.2114, and the exercise is not otherwise prohibited by another agreement or instrument:

* * * *

(c) Make a gift, subject to subsection (3);

* * * *

(2) Notwithstanding a grant of authority to do an act described in subsection (1), unless the power of attorney otherwise provides, an agent who is not an ancestor, spouse, or descendant of the principal may not exercise authority to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

(3) Unless the power of attorney otherwise provides, a provision in a power of attorney granting general authority with respect to gifts authorizes the agent to only:

(a) Make outright to, or for the benefit of, a person a gift of any of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under 26 U.S.C. s. 2503(b), as amended, without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to 26 U.S.C. s. 2513, as amended, in an amount per donee not to exceed twice the annual federal gift tax exclusion limit; and

(b) Consent, pursuant to 26 U.S.C. s. 2513, as amended, to the splitting of a gift made by the principal's spouse in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses.

An agent may exercise the authority to make a gift only if the principal signed or initialed next to a specific enumeration giving the agent the authority to make a gift. Pursuant to subparagraphs (2) and (3) above, the principal may expand the gifting powers beyond those stated in the statute by signing or initialing next to a specific enumeration giving the agent those powers. For example, the principal may give an agent who is not an ancestor, spouse, or descendant unlimited gifting powers to make gifts to himself. However, use of the gifting powers beyond those referenced in (3)(a) and (b) could be problematic for the agent, especially if the gifts are made to himself.

For example, in *Siegel v. JP Morgan Chase Bank*, 2011 Fla. App. Lexis 16365 (Fla. 4th DCA October 19, 2011), the court found that the following principles apply in determining whether an agent under a Florida durable power of attorney breached his fiduciary duty by making gifts. The relevant portion of the opinion reads:

While not directly on point, *In re Francis*, 19 Misc.

3d 536, 853 N.Y.S.2d 245 (N.Y. Sur. 2008), is an example of the misuse of a power to gift by an attorney-in-fact. There, a 98-year-old woman gave a power of attorney to her neighbor. The instrument included a broad power to make gifts, including gifts to the attorney-in-fact. The neighbor then used this power, transferring all of the woman's accounts and property to himself. After her death, when her heirs sued to set aside the transfers, the attorney-in-fact defended based upon the provision of the power of attorney absolving the attorney-in-fact of all liability to her estate or heirs for any act done under the power of attorney. The court rejected this claim. In doing so it noted:

Respondent's use of the POA is a classic example of how such an instrument may be abused by an attorney-in-fact for his personal benefit. At his deposition respondent admitted that he transferred to himself or his mother virtually all of decedent's liquid assets and secured a life tenancy in the real property.

19 Misc. 3d at 541. The court concluded that a clause which seeks to exonerate an attorney-in-fact from any and all liability runs afoul of the spirit of New York's public policy and the duty of an attorney-in-fact as established under *Ferrara* [*Matter of Ferrara*, 7 N.Y.3d 244, 819 N.Y.S.2d 215, 852 N.E.2d 138 (2006)]. *Ferrara*, in turn, held that an attorney-in-fact must act in the best interests of the principal, which is consistent with the fiduciary duties that the courts have imposed on the attorney-in-fact.

"[A] power of attorney ... is clearly given with the intent that the attorney-in-fact will utilize that power for the benefit of the principal" (*Mantella v. Mantella*, 268 A.D.2d 852, 852, [701 N.Y.S.2d 715] [3d Dept. 2000] [internal quotation marks and citation omitted]). Because "[t]he relationship of an attorney-in-fact to his principal is that of agent and principal ..., the attorney-in-fact must act in the utmost good faith and undivided loyalty toward the principal, and must act in accordance with the highest principles of morality, fidelity, loyalty and fair dealing" (*Semmler v. Naples*, 166 A.D.2d 751, 752, [563 N.Y.S.2d 116] [3d Dept. 1990] [internal quotation marks and citations omitted]).

Ferrara, 7 N.Y.3d at 254; 852 N.E.2d at 144. Although the power of attorney in this case was a Florida durable power of attorney, Florida law states that an attorney-in-fact must exercise the powers conferred as a fiduciary. See, e.g., *In re Estate of Schriver*, 441 So. 2d 1105 (Fla. 5th DCA 1983); § 709.08(8), Fla. Stat. (2011). Therefore, the principles of the foregoing case are applicable as they also consider an attorney-in-fact a fiduciary.

Based on the above, it is reasonable to conclude that giving an agent unlimited gifting powers to make gifts to himself may be considered a conflict of interest, in which case the agent would have the burden of proving, by clear and convincing evidence that he acted: (a) Solely in the interest of the principal; or (b) In good faith in the principal's best interest, and the conflict of interest was expressly authorized in the power of attorney. Refer to §709.2116(4), Fla. Stat.



The Estate and Probate Law Continuing Legal Education Committee presents:

"The 29th Annual Estate and Probate Seminar - Part I"

Wednesday, January 25, 2012 - 8:00a.m.- 12:00p.m.
Crowne Plaza Hotel, Banyan Room, 1601 Belvedere Rd., WPB, FL 33406

Program Schedule



- 8:00a.m. - 8:25a.m. **"Hot" Breakfast Buffet / Late Registration and Check In**
- 8:25a.m. - 8:30a.m. **Welcome & Opening Remarks** - John M. Severson, Esq.,
Board Certified Wills, Trusts & Estates Attorney, Burns & Severson, P.A.,
Committee Chair
- 8:30a.m. - 9:00a.m. **Civil Law** - Eugene F. Pollingue, Jr., Esq., The Wagner Law Group
- 9:00a.m. - 9:30a.m. **Ancillary Administration Potpourri** - Robert L. McElroy, IV, Esq.,
Downey and Downey, P.A.
- 9:30a.m. - 9:45a.m. **Unusual Assets** - Lesley S. Hogan, Esq., Akerman Senterfitt
- 9:45a.m. - 10:00a.m. **Legislative Preview** - Tasha K. Dickinson, Esq., Board Certified Wills, Trusts &
Estates Attorney, Jones Foster Johnston & Stubbs P.A.
- 10:00a.m. - 10:10a.m. **BREAK**
- 10:10a.m. - 10:40a.m. **Same Sex Couples Estate Planning** - George D. Karibjanian, Esq., Proskauer Rose LLP
- 10:40a.m. - 11:10a.m. **Guardianship Fee Issues** - David R. Carlisle, Esq., Duane Morris LLP
- 11:10a.m. - 11:40a.m. **Intellectual Property Rights (Pre and Post Death)** - Patricia M. Carlson, Esq.,
Akerman Senterfitt
- 11:40a.m. - 12:00p.m. **Judicial Presentation** - Judges TBA



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Rules of Civil Procedure

By Matt Triggs and Jonathan Galler

Amended Rule 1.720: Mediation Procedures

President George H.W. Bush was fond of saying that ninety percent of life is just showing up. But when it comes to mediation, the definition of “just showing up” is not always as simple as it sounds. And the consequences for not showing up can prove costly. The recent amendments to Rule 1.720, which took effect on January 1, 2012, explain what “showing up” means in a mediation setting.¹

Rule 1.720 governs mediation procedures, including the requirement that a party or its representative be physically present, as well as the availability of sanctions for noncompliance.

The amended rule is the culmination of work begun in November 2006 by the Supreme Court Committee on Alternative Dispute Resolution Rules and Policy.² The Committee initially set out to resolve the tension between the statutory requirement that all mediation communications must remain confidential, on the one hand, and the procedural rule authorizing sanctions for failure to appear, on the other hand. As noted by the Committee, the confidentiality requirement would seem to preclude any participant in the mediation from actually reporting noncompliance to the court for the purpose of seeking to impose sanctions.³ Ultimately, the Committee proposed substantial revisions to Rule 1.720, which the Supreme Court adopted in November 2011.⁴

Notable Amendments

Subsection (b) of the rule now relates solely to the issue of appearance at mediation. It clarifies that an appearance, for purposes of mediation, means the physical presence of (1) the party or a party representative having full authority to settle without further consultation; and (2) the party’s counsel of record, if any; and (3) a representative of the insurance carrier for any insured party. The Committee emphasized that the amended language is intended to eliminate the possibility that a party would designate its counsel as its party representative, a practice that the Committee called “a subversion of the process.”⁵

Subsection (c) of the rule now defines a “party representative having full authority to settle” as “the final decision maker with respect to all issues presented by the case who has the legal capacity to execute a binding settlement agreement on behalf of the party.”



Practitioners should be mindful that the Fifth District has held that the presence of a party representative, in lieu of a party, “relates to a party such as a corporation, partnership, incapacitated person, or minor which must appear through a duly authorized representative.”⁶ The implication is that a party who sues, or is named as a defendant, in his or her individual capacity does not have the option of designating a representative for purposes of attendance at mediation.

Subsection (e) of the rule is the most significant of the revisions. It requires that, unless otherwise stipulated by the parties, each party must file with the court and serve on all parties a written notice identifying the person or persons who will attend the mediation as a party representative or as an insurance carrier representative and confirming that those persons have the requisite authority. The pre-mediation notice must be filed and served at least 10 days before the mediation. The Committee explained that the pre-mediation notice is intended to address the tension described above: “Filing the notice prior to mediation places in the court file a record document unrelated to confidential mediation communication, thereby later affording the court an opportunity, upon motion, to consider imposition of sanctions without imposing an obligation upon the mediator or anyone else to report matters subject to confidentiality provisions under the statute.”⁷

Subsection (f) of the rule authorizes the imposition of sanctions for failure to appear. The text remains unchanged from the prior rule but for the addition of a provision that the failure to file the pre-mediation notice described in subsection (e), or the failure of the persons identified in that notice to appear at the mediation, creates a rebuttable presumption of a failure to appear.

The language of the other portions of the amended rule remains substantially unchanged.

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.

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¹ Incidentally, President Bush attributed the quote to Woody Allen, who acknowledged authorship but recalled having put the percentage at merely eighty. See William Safire, *On Language*, N.Y. Times Magazine, Jan. 14, 2001.

² See Petition of the Committee on Alternative Dispute Resolution Rules and Policy to Amend the Florida Rules of Civil Procedure, http://www.floridasupremecourt.org/decisions/probin/sc10-2329_Petition.pdf.

³ See *id.*

⁴ *In re: Amendments to Florida Rule of Civil Procedure 1.720*, 2011 WL 5216685 (Fla. Nov. 3, 2011).

⁵ See Petition of the Committee at p.10.

⁶ *Carbino v. Ward*, 801 So. 2d 1028, 1031 (Fla. 5th DCA 2002).

⁷ See Petition of the Committee at p.12.



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

"Real Estate in Tough Times - The New Norm"

**Friday, January 27, 2012 - 8:00a.m. - 12:15p.m.
Bar Association Offices**

Program Schedule



- 8:00am - 8:20am **Late Registration/Check In**
- 8:20am - 8:30am **Welcome and Opening Remarks - Gerald R. Pumphrey, Esq., Gerald R. Pumphrey, P.A., Real Estate Committee Chairperson**
- 8:30am - 9:30am **Foreclosures, Short Sales and Loan Modifications -**
From the Borrower's and Purchaser's Perspectives - Adam R. Seligman, Esq., Cohen, Norris, Wolmer, Ray, Telepman & Cohen, Board Certified Real Estate Attorney
From the Lender's Perspective - Speaker TBA
- 9:30am - 10:30am **Foreclosure Law Update - Manuel Farach, Esq., Of Counsel, Richman Greer P.A., Board Certified Real Estate Law and Business Litigation Attorney**
- 10:30am - 10:45am **BREAK**
- 10:45am - 11:45am **Outlook for the Near Future— James Merola, Esq., James Merola, P.A. and Professor of Law at Strayer University**
- 11:45am - 12:15pm **Ethics and Professionalism: A Cut Above the Ordinary – Representatives from the Professionalism Committee of the Palm Beach County Bar Association**
- 12:15pm **LUNCH - SPONSORED BY:**



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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, 1601 Belvedere Road, Suite 302E, West Palm Beach, FL 33406. Telephone: (561) 687-2800



By: Eunice T. Baros
Assistant Public Defender

"If there is one thing I would impart to you tonight," cautioned 15th Judicial Circuit Judge John Kastrenakes to the Nova Southeastern University (NSU) Law School

Alumni in Palm Beach County recently, "is that your reputation is everything: Cases come and go; litigants come and go. But how people think of you – as being honest, straightforward, prepared and candid – lasts forever."

Judge Kastrenakes joined Al Johnson, executive director of the Palm Beach County Commission on Ethics, and Carolyn



Bell, Assistant United States Attorney and co-chairperson of the local Bar's Professionalism Committee, at a CLE dinner on ethics and professionalism

recently, sponsored by NSU alums. His comments reflected the thoroughness and commitment he had as lead counsel at the United States Attorney's Office in prosecuting various crimes, including several politicians several years ago who were convicted of honest services fraud.

"Remember," Judge Kastrenakes said, "It is easy to tell the same story again and again if you tell the truth. It is hard to do that when we practice deceit. So it is with *professionalism*."

"Professionalism: Think of character, integrity, honesty and civility. We must practice being professionals 24 hours a day, seven days a week. We must take measure of our character every day, in every situation -- at home, in our dealings with our friends, at work. Then it becomes easy," Judge Kastrenakes said. "Be honest when answering questions by your family and friends. Treat those who work with and for you with candor. It is not enough that we turn on that *honest character thing* when we turn on the lights at the office – but then become deceitful in our other dealings."

Judge Kastrenakes referred to the oft-quoted statement that *character is doing the right thing when you think nobody's looking*. "We (in the legal profession) are held to a higher standard," he said. "Our actions reflect upon us personally and our profession generally. At the end of the day, we cannot win every case; the evidence will not allow it. But when we lose, we lose with dignity and with our reputations for honesty intact."

While the Judge quoted his heroes and mentors (Presidents Theodore Roosevelt and Abraham Lincoln, United States Supreme Court Justice Sandra Day O'Connor, Benjamin Franklin and United States Magistrate Judge John O'Sullivan among them) he offered his own view of being a professional in the courtroom:

In two words: ***Be Prepared.***

Further:

- Anticipate legal issues. File bench memos on unusual or novel issues. File evidentiary motions with a memorandum of law before trial.
- Stand when addressing anyone, including the Court.
- Do not interrupt.
- Do not engage in personal attacks.
- Treat everyone with dignity and respect.
- Use only surnames.
- Do not curry favor with the jury.
- Do not engage in speaking objections.
- Do not have unauthorized communication with the jury: All communications must go through the Bench.
- Have a good faith basis for objections.
- Try to resolve issues with the opposing party before filing a motion.
- Do not tell the judge, "I just got the file this morning, so I don't know"... or that "I gave it to my secretary to send, but I don't know what happened."

Judge Kastrenakes entertained the alums when he referred to a California case, *U.S. v. Alvarez*, 638 F. 3rd 666 C.A. 9 (Cal.), 2011 in which Chief Judge Alex Kozinski of the U.S. 9th Circuit Court of Appeals discussed the constitutionality of a federal statute which criminalized the false receipt of military medals, known as "*The Stolen Valor Act*." 18 U.S.C. 704 (b). In the decision, about a man who won a seat on the Three Valley Water District Board of Directors and who boasted of earning medals of honor that were never awarded, Judge Alvarez opined about a lot of things in life that we take for granted, said Judge Kastrenakes.

Judge Kozinski wrote, "Saints may always tell the truth, but for mortals living means lying... We lie to protect our privacy... to avoid hurt feelings... to make others feel better... avoid recriminations... to prevent grief... to maintain domestic tranquility... to avoid social stigma... for career advancement... to avoid being lonely ('I love opera')... to eliminate a rival... to achieve an objective... to defeat an objective... to make an exit... to delay the inevitable ('The check is in the mail')... to communicate displeasure... to get someone off your back... to name drop... to set up a surprise party... to keep up appearances... to avoid taking out the trash ('My back hurts')... to duck an obligation... to maintain a public image... to make a point... to humor... to avoid embarrassment... to curry favor... to get a clerkship... to save the dollar... to maintain innocence..."

"And then he goes on to opine that we just don't talk the talk, we walk the walk as reflected by the popularity of plastic surgery, elevator shoes, wood veneer paneling, cubic zirconia, toupees, artificial turf and cross-dressing," Judge Kastrenakes quoted from Judge Kozinski's opinion.

"This causes one to take pause," said Judge Kastrenakes. "Is that what we've come to? Is that how we deal with each other? Is that how we conduct ourselves in our everyday lives? I say to you, while it is legally protected to lie in society by our First Amendment, we must practice honesty and truthfulness to accept it – not as an exception to a general policy of deceit and untruthfulness – but as a part of our character."

Welcome New Members!

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

Jaime J. Baca - Nicaragua; St Thomas University, Partner in Adams, Adams, Baca; Miami.

Ashley Drumm - Ocala, Florida; University of Florida, 2010; U.S. District Court, West Palm Beach.

Adriana Gonzalez - Armenia, Colombia; Florida Coastal School of Law, 2007; Partner in Gonzalez & Cartwright, P.A., Lake Worth.

Sari Gottlieb - Hollywood, Florida; Nova Southeastern University, 2010; Associate in Gottlieb & Gottlieb, Attorneys at Law, P.A., Hollywood.

Nicole Grassi - West Palm Beach, Florida; Nova Southeastern University, 2011; Associate in Higer Lichter & Givner, LLP, Adventura.

Scott Greenblatt - North Miami Beach, Florida; Florida State University, 2007; Jupiter.

Joshua Hauserman - Ft. Lauderdale, Florida; Florida Coastal School of Law, 2007; Associate in Harrington Law Associates, West Palm Beach.

Christopher Hudock - Flemington, New Jersey; American University, 2011; Office of the State Attorney, Palm Beach County.

Shashi Jairam - Guyana, South America; University of Maryland, 2011; Office of the State Attorney, Palm Beach County.

Barbara G. Lanshe - Canton, New York; St Thomas University School of Law, 1987; Partner in Lanshe & Torres, P.A., Palm Beach Gardens.

Margo Lyon - University of Florida, 2011; Associate in Proskauer Rose, Boca Raton.

Ashley Noll - Wisconsin; Barry University School of Law, 2011; Office of the State Attorney, Palm Beach County.

Melissa Ocasio - Atlanta, Georgia; Barry University School of Law, 2011; Partner in CMO Law Group, LLC, West Palm Beach.

Tamara Sager - Quinnipiac University School of Law, 2010; West Palm Beach.

Jed Robert Schneck - Pottsville, Pennsylvania; Stetson University School of Law, 2003; Associate in Rose, Sundstrom & Bentley, LLP, Boca Raton.

Jeffrey Vivo - Florida State University, 2011; Office of the State Attorney, Palm Beach County.

Heidi Weinzettl - Minnesota; University of St. Thomas School of Law, 2005; Associate in Shapiro, Fishman & Gache, LLP, Boca Raton.



Annual Judicial Reception

Florida Association for Women Lawyers Palm Beach County Chapter

Wednesday, February 8, 2012 5:30 p.m. – 7:30 p.m. Norton Museum of Art

\$55 FAWL members, \$65 non-members: Judiciary & Judicial Assistants Complimentary

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If you are interested in sponsoring this event and attending please e-mail pbcfawl@att.net for more details.

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



SECURITIES LITIGATION UPDATE 2011

March 12, 2012 - 8:20a.m. – 12:30p.m.

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

SPONSORED BY: Stein & Stein, P.A.

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.*

This course is expected to receive **4.0 CLER including .50 Ethics credits from The Florida Bar.**

Hot Breakfast included in Registration.

The cost of the seminar is **\$100.00** for PBCBA members/paralegals;

\$140 for non-PBCBA members/paralegals if registered by **3/5/12**; 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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Holiday Party

Our annual Holiday Party was held at Frenchman's Reserve in Palm Beach Gardens for more than 300 members. The evening included good food, good drinks and great silent auction items!



Marty Perry



Jerri Blaney and Mitch Beers



Sarah Alijewicz, Tanique Lee and Laurie Cohen



Ashley Bolender, Sarah Sauli & Kristen Terry



Kalinthia Dillard & Sia Baker-Barnes



Michael McAuliffe & Sally Benson

Additional pictures can be found on the Bar's Facebook Page.

Keens & Presslys to Co-Chair 24th Annual Pro Bono Night

The Legal Aid Society is pleased to announce that Hampton and Joette Keen together with Grier and Kristy Pressly will be co-chairing the 24th Annual Pro Bono Recognition Evening. The event will be held on Saturday, May 19, 2012 at the Palm Beach County Convention Center.

This event honors all the attorneys, law firms and other professionals in the community who provided pro bono services in 2010. Special recognition will be given to those firms and individuals whose volunteer services in 2010 were extraordinary.



Grier and Kristy Pressly and Joette and Hampton Keen

The theme of the evening will feature a silent auction, cocktail reception, dinner buffet, awards ceremony and entertainment from the students at the Dreyfoos School of the Arts.

For information regarding how to participate in the recognition evening, call Harreen Bertisch, Director of Development at (561) 822-9763.

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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

Thank you!

Mark Greenberg

Lawyers for Literacy Committee Chair



On October 26 and 27, 2011, between 10-12 volunteers each day took a lunch hour and visited Washington Elementary School, in Riviera Beach, to read books to the children at the school, as part of the Young Lawyers Section's ongoing Reading is Fundamental project, sponsored by the Holland & Knight Charitable Foundation. Volunteers came from the Young Lawyers Section and from across the Bar Association. Through a donation from the Holland & Knight Charitable Foundation, every student at the school received a new book of their choice. The students, teachers and volunteers had a great time reading books together!



CLE CLASSES NOW BEING OFFERED ONLINE

We are very pleased to bring you another way to obtain your CLE credit. In addition to the CD's that we currently sell, these same programs are now being offered for purchase online to either download to your MP3 player or to listen to right on your computer. That means when your CLER reporting period is approaching, you can go right online and download seminars any time of the day or night. To view a full listing of the seminars available, be sure to log on to our website at www.palmbeachbar.org/continuing.php

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20 Free Programs You Should Have on Your PC in 2012

By: Christopher B. Hopkins

While you may have mastered installing apps on your smartphone, you may not be as resourceful in finding good (free) software for your computer. For Windows, there is no single walled garden of an “app store” where you can quickly find and test small programs. Nonetheless, there are a number of free PC apps which you should have installed on at least some of your computers. Many publications offer lists of favored free programs (e.g., <http://gizmo.do/vPVmpv>) but few collections are geared towards lawyers. The list below includes recovery tools, virus/malware protection, audio, image, and system analysis tools – apps which help you practice law, develop Powerpoint presentations, and generally avoid tech problems. To find and download these programs, Google their names or visit a reliable site like Download.com.

Audacity: this application will allow you to edit audio files as well as convert them into different formats (e.g., mp3, wav, aif). In discovery, I have received audio recordings of 911 calls, speaking events or even witness statements which are produced in odd file formats. Audacity will not only allow you to open nearly any audio file, you can also edit long segments of silence/static or even isolate select quotes. Best of all, you can save into a more recognizable format, like mp3.

AVG 2012: a free, routinely updated anti-virus program which runs silently in the background. It verifies downloads, Internet links, and scans your PC.

Belarc Advisor: sometimes it is important to know what exactly is inside your computer – including software product keys. Do you have enough memory or hard drive space? Will your current video card run Trial Director or something graphically intensive? This app generates a thorough report.

CCleaner: Arguably the most important app on the list. CCleaner will scour your hard drive for temporary files, abandoned pieces of software, lost registry items, and other internal digital detritus left behind by daily use. It is the oil change for Windows. Use it monthly.

Cropper – Windows 7 includes “Snipping Tool” to capture and “snip” part of the screen to save as an image file. But, if you are using a prior version of Windows, download Cropper which serves the same function. Perfect if you need a screenshot to paste into a Powerpoint presentation.

Exif Pilot: digital photographs have hidden metadata including dates, camera, settings, and even GPS locations. Access (or purge) this data from photos using Exif Pilot. The paid version allows you to process photos in batches and log the information to Excel files.

Freemaker Video Downloader (Free YouTube to MP3 Converter): YouTube recently announced that it is sharing three billion videos per day. Certainly there is something on YouTube is worth downloading and playing later. Find the video on YouTube and Freemaker will automatically convert it to an mp4 video which you can play on your computer or smartphone. Just need the audio? Free YouTube to MP3 Converter does exactly as its name implies.

IrfanView (for video, VLC Media Player): We often exchange digital images in JPEG, TIFF or GIF formats. But converting among those formats – or opening more unusual file formats – is best accomplished with IrfanView. If it is an image file, IrfanView can open it. It also is a fairly small (and therefore

fast) application; consider setting this as the default for all image files. Video files, as well, exist in a myriad of formats outside of the usual mp4. Open essentially any moving-picture file using VLC Media Player which, as you might guess, also makes for a pretty good movie watching program for your laptop.

Recovery Toolbox for Outlook (Gmail Backup): If your computer crashes while Outlook is in the middle of something, you run the risk of corrupting essential email files. Recovery Toolbox can fix problems which Outlook cannot solve on its own. Gmail, meanwhile, does not have a standard backup function so you will need a small program called Gmail Backup.

Recuva64 – Need to “un-delete” something? This small program may be your last hope to resurrect a deleted file.

Revo Uninstaller – sometimes when you “uninstall” an application, it leaves pieces behind. Worse, some applications do not readily have an uninstall option. Revo does the job correctly.

Spybot Search & Destroy – second to Ccleaner, this may be the next most important app on our list. Scour and remove cookies and nefarious malware from your machine (use monthly).

StalledPrinterRepair – if a printer problem arises, this efficient app clears the printer queue quickly so you can try again. Surprisingly faster than right-clicking the printer icon and trying to clear the logjam that way.

SyncBack FreeWare – a simple backup program which will do either a straight-backup (a copy) or synchronize (make two drives or folder mirror one another). Do a backup of your drive once and then synchronize monthly.

WinDirStat – if your harddrive is filling up, this utility shows you the files which are consuming the most space so you can determine the problematic data hogs.

WinPatrol – clean and protect your PC from malware and bad internet sites using this free app. Also disables start-up applications, monitors the registry, and generally let’s you know of unusual activity.

WizMouse – if your mouse has a scroll wheel, you need this small app which allows you to scroll a window without having to click on it first – just roll the pointer over the window and it will scroll. Also allows you to use the mouse wheel in any app. Hard to describe but it’s an app you did not know you needed until you try it.

Christopher B. Hopkins is the chair of the Law Office Technology Committee and a shareholder at Akerman Senterfitt. Email about any overlooked apps to christopher.hopkins@akerman.com.

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American Board of Trial Advocates Palm Beach Chapter

What is ABOTA?

ABOTA is a national, invitation only organization that was established over 50 years ago. It is comprised of experienced lawyers who have exemplary reputations for both ethics and skill in the courtroom. Potential members are subjected to rigorous peer review. ABOTA's membership is equally divided between plaintiff and defense attorneys.

What does ABOTA do?

- Promotes ethics, professionalism, civility, and excellence in advocacy; the Florida Supreme Court acknowledged ABOTA when it recently changed the Bar's oath of admission to add a civility pledge
- Fights to ensure an independent and fully funded Judiciary; ABOTA led this fight in Tallahassee during the last Legislative session and will do so again this year
- Responds to unfair criticism of Judges, who are ethically prohibited from responding themselves
- Promotes the right to civil jury trials, as provided by the 7th Amendment
- Educates students locally and nationwide about the Constitution and our justice system

"I am grateful for ABOTA's constant and unwavering support of the third branch of government. ABOTA's efforts in the area of civics education raise the public level of understanding of the critical role that the judicial branch plays in our system of government. These efforts, when combined with your membership's emphasis on ethics, professionalism, and excellence in advocacy, help to restore public trust and confidence in the legal system." Chief Judge Peter D. Blanc

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The Palm Beach County Bar Association's Employment Law Committee Presents:
"Third Annual Martinis and Migraines"

Thursday, February 2, 2012 - 1:00pm—5:00pm
Bar Association office



Program Schedule

12:45 - 1:00pm - **Late registration check-in**

1:00 - 1:10pm - **Welcome & Opening Remarks** - *Cathleen A. Scott, Esq., Board Certified Labor & Employment Law Attorney, Employment Law CLE Committee Chairperson, Cathleen Scott & Associates, P.A.*

1:10 - 2:00pm - **Case Law Update & Hot Topics** - *Steven L. Schwarzbarg, Esq., Schwarzbarg & Associates*

2:00 - 2:50pm - **Litigating Non Competes & Other Restrictive Covenants** -
Gerard Joseph Curley, Jr., Esq., Board Certified Business Litigation Law Attorney, Gunster

2:50 - 3:00pm - **BREAK**

3:00 - 3:50pm - **Handling Class and Collective Actions** - *Daniel R. Levine, Esq., Shapiro Blasi Wasserman & Gora PA, Board Certified Labor & Employment Law Attorney*

3:50 - 4:20pm - **Tax Implications of Severance and Settlement Agreements from Employment Practitioner** -
Michael Tomberg, Esq., Tomberg Law Firm, P.L.

4:20 - 5:00pm - **Agency Update from EEOC, NLRA, and New Legislation Regarding Public Employee Cases** -
Cathleen A. Scott, Esq., Board Certified Labor & Employment Law Attorney, Cathleen Scott & Associates, P.A.

5:00 p.m. **Happy Hour:** *Share a Martini with colleagues Please drink responsibly*

Sponsored By:



This course is expected to receive **4.5 CLER credits from The Florida Bar.**

The cost of the seminar is **\$110** for PBCBA members/paralegals;

\$150 for non-PBCBA members/paralegals if registered by **1/26/12**; 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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A Primer on the New SEC Whistleblower Program



By Rob Glass

The U.S. Securities and Exchange Commission's (SEC) Office of the Whistleblower opened for business in August 2011. In light of the

devastating securities-fraud cases of the last decade, Congress included a provision in the Dodd-Frank Act that incents private citizens to report suspected securities fraud. A tip, if it leads to a successful enforcement action by the SEC, can lead to a multi-million dollar award.

Under the whistleblower program, a whistleblower who voluntarily provides information to the SEC leading to recovery of monetary sanctions over \$1 million is entitled to an award of ten to thirty percent of whatever the government recovers. 15 U.S.C. § 78u-6(b)(1). The amount of the bounty is within the discretion of the SEC, but the Act requires the agency to consider the following:

1. The significance of the information provided to the success of the SEC's suit;
2. The degree of assistance provided by the whistleblower; and
3. The SEC's interest in deterring violations.

15 U.S.C. § 78u-6(c)(1)(B)(i).

The SEC may also, in its discretion, consider as follows: a) whether the whistleblower's assistance was ongoing; b) whether the whistleblower provided the information in a timely manner; c) whether the whistleblower experienced any unique hardships by reporting the information; and d) whether the whistleblower shared in culpability for the illegal acts. 17 C.F.R. § 240.21F-6(a)-(b).

A whistleblower will be disqualified from receiving an award if he or she is criminally convicted for any of the securities law violations giving rise to the recovery or if he or she knowingly provides false information. 15 U.S.C. § 78u-6(c)(2)(B), (i). In the event that the SEC makes awards to multiple whistleblowers, the aggregate amount of the awards cannot exceed thirty percent

of the amount recovered. 17 C.F.R. § 240.21F-5(c).

In developing the whistleblower program, a point of contention with the business community was the amount of emphasis to place on compliance with a corporation's own internal compliance systems. The agency considered, but ultimately rejected, a proposal from the business community requiring tipsters to report violations internally before going to the SEC. Securities Whistleblower Incentives and Protections, Final Rule, 76 Fed. Reg. 34300-34384 (June 13, 2011). Instead, the final regulations encourage use of internal compliance procedures by tying the amount of the award to an individual's cooperation with corporate investigations.

If a whistleblower reports the possible violations to his or her company prior to or at the same time as he or she reports the suspicious acts to the SEC, the award may be increased. 17 C.F.R. § 240.21F-6(a)(4). Conversely, if the whistleblower "undermine[s] the integrity" of a corporate internal compliance system or interferes with a company investigation, the amount of the award may be reduced. 17 C.F.R. § 240.21F-6(b)(3). A whistleblower has 120 days from the date of providing his or her company with the information to provide the same information to the SEC. The whistleblower will receive credit for the tip if the company later reports the same information (or the results of an investigation initiated as a result of the information) to the SEC. 17 C.F.R. § 240.21F-4(c)(3).

The information provided must be "original," as in not known from any other source, and the whistleblower must have "independent knowledge" of the suspected securities law violation. Knowledge gained through an attorney-client relationship, an internal audit or investigation, or a violation of a state or federal law will not qualify an individual for an award. 17 C.F.R. § 240.21F-4(b).

Submissions may be made online at the Office of the Whistleblower's website or by mail. Tips may be sent to the Office

of the Whistleblower anonymously, but anonymous whistleblowers must be represented by an attorney. 15 U.S.C. § 78u-6(d)(2)(A). Each submission must be sworn under penalty of perjury; otherwise, the reporting individual will be disqualified from recovering an award. (In the event the tip is submitted anonymously, the attorney must keep the sworn statement.) 17 C.F.R. § 240.21F-9.

The Dodd-Frank Act also protects whistleblowers from retaliation by employers. The Act specifies that an employer may not "discharge, demote, suspend, threaten, harass... or in any other manner discriminate" against a whistleblower for providing information to the SEC and creates a private cause of action against employers for retaliation.

In sum, proponents of the program are hopeful that the system will snare more fraudsters before they can do substantial damage, though the system works only if private citizens and the SEC remain vigilant.

Rob Glass is an associate at McCabe Rabin, P.A. He practices in business, securities and whistleblower litigation. He previously worked as a law clerk to U.S. District Judge Kenneth Marra and Fourth District Court of Appeal Judge Spencer Levine.



Who Are They?

From Page 4

1. David Dickenson
2. Bill Fleck
3. Tim Henry
4. John Hewitt
5. George Okell



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

***Commission on Ethics and Inspector General Initiatives:
Transparency and Accountability in Local Government***

**Friday, February 10, 2012 - 11:30 a.m. – 2:00p.m.
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*



This course is expected to receive **2.0 CLER including 1.0 Ethics credits from The Florida Bar.**

The cost of the seminar is **(includes lunch) \$75.00** for PBCBA members/paralegals;
\$115 for non-PBCBA members/paralegals; **\$37.50** PBCBA Gov't Members; **\$57.50** Non-PBCBA Gov't Members;
if registered by **2/3/12**; add \$15 to registration fee after that date.

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

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

**HOW TO
REGISTER**



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form



BY CREDIT CARD
For security purposes, you must register
online at www.palmbeachbar.org



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

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

Name: _____ Telephone #: _____

Address: _____ Email Address: _____

____ I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (2/10/12 Law Related Education.) Cost is the same as listed above, in addition to \$10 for shipping and handling. **PAYMENT BY CHECK ONLY, WITH THIS FORM..**

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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.

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.

GREY TESH: "Law is not black & white, it's Grey." Passionate, caring, prepared, truthful. Criminal defense (board certified) and personal injury, over 100 jury & non-jury trials, Federal (nationwide) and State. aaacriminaldefense.com & floridainjuryaccidentlawyers.com. 1610 Southern Blvd, WPB, FL 33406. (561) 686-6886.

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.

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.

OFFICE SPACE

WOULD YOU LIKE TO SELL YOUR PALM BEACH COUNTY LAW PRACTICE? I may be interested in purchasing it. Call or email (561) 880-0155; Paul@paulburkhart.net. You are assured of strict confidentiality.

OFFICE SUBLEASE IN CENTURION TOWER: 1601 Forum Place, West Palm Beach. Includes office (one or two offices available), file space, secretarial station, copier/scanner, conference rooms and internet. Call Beth (561) 659-7878.

OFFICE SPACE TO SUBLET: PGA Blvd. Class A building. Law firm with very nicely built out space across the street from courthouse. Has 2 professional offices available for sublease with room for up to 2 additional support staff, perfect for small firm or solo practitioner. All amenities included. \$3000 per month, plus sales tax. (561) 799-6040

SOLO OFFICE 4 RENT: \$800/mo, includes lawyer's office, secretary space, conference room, free parking, cleaning, water, electric, T-1 phone line and internet \$60/mo, shared fax/copier/high speed scanner, I-95 & Southern Blvd. (561) 686-6886.

2 LOFT-STYLE OFFICES DOWNTOWN WPB in recently renovated historic 2-story building 5 blocks from Courthouse. Sophisticated and urban-cool! Hardwood floors, high ceilings, large windows, lots of natural light. Includes parking, electric, water, kitchen area and 2 conference rooms. (561) 789-8818.

DOWNTOWN WEST PALM BEACH OFFICE SPACE FOR LEASE:

Office space for lease at 707 N. Flagler Drive. Up to 7 offices plus shared use of reception, 2 conference rooms, break room and work room. Large principal's office has patio and private restroom. On site parking. AVAILABLE IMMEDIATELY. Very reasonable. Contact: Bo Paty, Navarro Lowrey Properties (561) 688-2530 ext 102. Lic. RE Broker.

BOCA RATON CLASS A OFFICE SPACE:

Near Glades Road and I-95. One large attorney office with secretarial station in all attorney suite. Includes shared copier/scanner, internet, phone system, reserved covered parking, kitchen and conference room. For information call Kristen (561) 962-2715.

FAMILY ATTORNEY seeks to share office space with attorney in complimentary practice. Office overlooks courtyard of the Via Jardin building. Two separate office spaces with secretarial work stations available, includes reception area and conference rooms (from \$670.00 per month). Client referrals a possibility. Call (561) 628-4845 for additional information.

HEARSAY

Lewis, Longman & Walker, P.A. was among 966 law firms to be named to Martindale-Hubbell's first-ever Top Ranked Law Firms. More than half of the attorneys at Lewis, Longman & Walker achieved an AV Preeminent rating. Also, Shareholder **Michelle Diffenderfer** was recently selected as a recipient of the 2011 Women Extraordinaire Award by Business Leader Magazine.

Victoria Vilchez has been appointed to membership on the Florida Board of Bar Examiners by the Supreme Court of Florida. Her term of office will extend through October 31, 2016.

Rutherford Mulhall, P.A. is pleased to announce **Charles E. Rutherford**, Founding Shareholder, Chairman and Managing Director, has been appointed to serve an additional 1-year term as a Board Member on the Business Development Board.

The Palm Beach County Bar Association's Alternative Dispute Resolution Committee Presents:

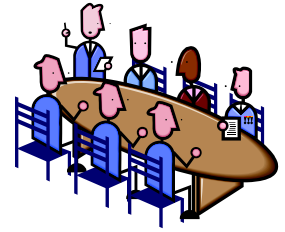
"ADR in 2012: The Solution to Resolution"

Monday, February 13, 2012 8:30a.m. – 4:40p.m.

Bar Association Offices

NEW ADDRESS: 1507 Belvedere Road, WPB

Program Schedule



8:00a.m. – 8:30a.m.	Late Registration/Check In
8:30a.m. – 8:40a.m.	Welcome & Opening Remarks - <i>W. Jay Hunston, Jr., Esq., Certified Circuit Civil and Family Mediator, Board Certified Civil Trial Lawyer Emeritus, Committee Chair</i>
8:40a.m. – 9:40a.m.	Mediator Intruders? Does the Judiciary have the right to inquire of mediation under any circumstances? - <i>Melvin A. Rubin, Esq.</i>
9:40a.m. – 10:20a.m.	Understanding the Mediation Process - <i>Dr. Bernard H. Shulman, Certified Circuit Civil and Family Mediator</i>
10:20a.m. – 10:35a.m.	BREAK
10:35a.m. – 11:35a.m.	Diversity Issues in Mediation—Language, Race, Gender & More - <i>Robin Caral Shaw, Esq., Of Counsel to Shapiro Blasi Wasserman & Gora, P.A..</i>
11:35a.m. – 12:15p.m.	Negotiation Tactics—What Works; What Doesn't? - <i>Theodore A. Deckert, Esq., Theodore A. Deckert P.A.</i>
12:15p.m. – 1:05p.m.	LUNCH Provided by Sponsor
1:05p.m. – 2:05p.m.	ADR Ethics: Recent Case Law & MEAC Opinion Update - <i>W. Jay Hunston, Jr., Esq., Certified Circuit Civil and Family Mediator, Board Certified Civil Trial Lawyer Emeritus</i>
2:05p.m. – 2:55p.m.	Marketing an ADR Practice in a Crowded Field - Panel Discussion
2:55p.m. – 3:10p.m.	BREAK
3:10p.m. – 3:40p.m.	Update on Mandatory Mediation - 2 Years Later - <i>Speaker TBA</i>
3:40p.m. – 4:40p.m.	Ethical Dilemmas in Mediation - Panel Discussion <i>Moderator: Amber Elizabeth Borum McMichael, Esq., Certified Circuit Civil and Family Mediator</i>

SPONSORED BY:

W. Jay Hunston, Jr., P.A.—"Effective Dispute Resolution"

This course has been granted **8.0 CLER** hours including **2.5 Ethics credits** / **6.0 Civil Trial; 6.0 Marital & Family Law Certification** credits from the Florida Bar.

The cost of the seminar is **\$225 for PBCBA members/paralegals; \$265 for non-PBCBA members/paralegals** if registered by 2/6/12; 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.**

"This course is eligible for up to 8.0 CME hours including 2.5 Ethics credit; 1.0 Cultural Diversity credit. 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, select Alternative Dispute Resolution/Mediation."

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

HOW TO REGISTER	BY CHECK Return this form	BY CREDIT CARD For security purposes, you must register online at www.palmbeachbar.org	CLE	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.

Name: _____ Telephone #: _____

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____ I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (2/13/12 ADR) 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, 1601 Belvedere Road, Suite 302E, West Palm Beach, FL 33406.

Bulletin Board

Rosenthal, Levy & Simon, P.A. announces **Jonathan Levy**, Shareholder at the firm, has been invited to join the American Board of Trial Advocates (ABOTA). Also, the Workers' Injury Law and Advocacy Group (WILG) have announced **Gerry Rosenthal**, Shareholder at the firm, as Vice President, an at-large member of the executive committee.



Lesser, Lesser, Landy & Smith, PLLC (LLL&S) announces that all firm attorneys are now AV Preeminent rated by Martindale-Hubbell, the highest rating in ethics and legal ability.



Hicks, Motto & Ehrlich, P.A. is pleased to announce **Mark H. Mirkin** and **Phyllis L. Shuster** have both joined the firm as partners in the Palm Beach Gardens office. Mr. Mirkin focuses on corporate and securities law, emphasizing entrepreneurship and emerging growth companies.



Ms. Shuster is a corporate, commercial real estate and regulatory attorney.



Richman Greer, P.A. is pleased to announce that attorney **Marta Stypulkowski** has joined the firm as an Associate.

Stypulkowski focuses her practice on commercial and complex civil litigation.



On November 15, 115 young professional friends of the Legal Aid Society of Palm Beach County mingled, partied and shopped at the Brooks Brothers store at the Gardens.

The event benefited Legal Aid's Children's Advocacy Projects and raised over \$3000 which will go to Legal Aid's Children's Advocacy Programs, which provide critical legal services to abused, neglected, disabled and foster children. Pictured below left are Edrick Barnes, John Howe, Michelle Suskauer and David Prather



Lloyd Comiter, Rick Benrubi



Scott Murray, Adam Rabin, Amy Triggs and Matt Triggs



Welcomes Jack H. Cook*

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PALM BEACH COUNTY BAR ASSOCIATION

BULLETIN

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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 January 2012

Friday, January 6, 11:45am - 1pm
**Criminal Practice
Committee Meeting**
Judicial Conf. Room,
Main Courthouse

Tuesday, January 10, Noon - 1pm
YLS Board Meeting
Bar Assn. Office

Wednesday, January 11, Noon - 1pm
**Professionalism
Committee Meeting**
Bar Assn. Office

Thursday, January 12, 11:45am - 1pm
**Judicial Relations
Committee Meeting**
Judicial Conf. Room,
Main Courthouse

Thursday, January 12, Noon - 1pm
**Lawyers for Literacy
Committee Meeting**
Office of Mark Greenberg

Thursday, January 12,
Noon - 1:30pm
**South County FAWL Luncheon
Abe and Louies**
Contact mstein@mindystein.com

Friday, January 13, 9am - 5pm
**Family Law CLE Seminar
"Psychological Dimensions of a
Family Law Case"**
Bar Assn. Office

Friday, January 13,
11:45am - 1:30pm
Federal Bar Luncheon
The Colony Hotel, Palm Beach
Contact Kerry.Baron@usdoj.gov

Monday, January 16
**Court Holiday -
Martin Luther King Jr.**
Bar Office Closed

Tuesday, January 17,
11:30am - 1pm
Solo Luncheon

Tuesday, January 17,
5:30pm - 6:30pm
Inns of Court Meeting
Judicial Conf. Room,
Main Courthouse

Wednesday, January 18,
11:45am - 1:00pm
**Commercial/Business
CLE Lunch Seminar**
Judicial Conf. Room,
Main Courthouse

Wednesday, January 18,
Noon - 1:30pm
Bench Bar Committee Meeting
Bar Assn. Office

Thursday, January 19,
1:30pm - 7:00pm
FAWL Diversity Seminar
Contact www.pbcbawl.org

Thursday, January 19,
5:30pm - 6pm
YLS Happy Hour

Friday, January 20, 4:00pm
Judge Panse Investiture
Palm Beach County Courthouse

Friday, January 20, 5pm - 6:30pm
**Cunningham Bar
General Member Meeting**
Contact: LDS@lynnsolomonpa.com

Saturday, January 21, 6:30pm - 9pm
Variety Show
Eissey Theatre

Tuesday, January 24, Noon - 1pm
**Committee for Diversity &
Inclusion Committee Meeting**
Bar Assn. Office

Wednesday, January 25 - 27
TFB BoG Meeting
The Florida Bar, Tallahassee

Wednesday, January 25, 8am - 1pm
Estate & Probate CLE Seminar
Crowne Plaza Hotel,
West Palm Beach

Wednesday, January 25, 5pm - 6pm
**PBCBA Board of Directors
Meeting**
Bar Assn. Office

Thursday, January 26,
5:30pm - 7:30pm
**FAWL Welcome to
2012 Reception**
Contact www.pbcbawl.org

Friday, January 27, 8am - 12:15pm
**Real Estate CLE Seminar
"Real Estate in Tough Times -
The New Norm"**
Bar Assn. Office

Friday, January 27, Noon - 1pm
Law Week Committee Meeting
Bar Assn. Office

Tuesday, January 31,
1:30pm - 2:30pm
**Appellate Practice Committee
Meeting - 4th DCA**



IN NEED OF CLER CREDIT? WE CAN HELP!

12.9.11

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 tapes you would like to order, complete this form and return to the Palm Beach County Bar Association, 1601 Belvedere Road, Suite 302E, West Palm Beach, FL 33406 or **fax to 561/687-9007**. **PLEASE WATCH EXPIRATION DATES**, we attempt to remove expired CD's but due to the distribution of this list occasionally courses will appear even though they have expired.

CLE content is now available to purchase online to download either to your computer or your iPod @
<http://pbcba.fastcle.com/store/provider/provider09.php>

✓	Sponsor	Course Title	Credit Gen'l	Ethics Hours	PBCBA Member	Non Member	Expires
	OCBA	Foreclosure Defense on Short Sales (CD)	1.0		\$25	\$65	01/16/12
	DCBA	Seize the Opportunity – A Conversation on Anti-Counterfeiting +++ Intellectual Property Cert credits	2.0		\$50	\$90	01/27/12
	OCBA	Attorneys as Agents of Social Change (Substance Dependence) (1.0 Substance Abuse)	1.0		\$25	\$65	01/29/12
	OCBA	Quickbooks Basics Including Trust Accts.	1.0		\$25	\$65	02/28/12
	OCBA	Update on Residential Foreclosure Mediation Process +++ 1.0 Real Estate Cert.	1.0		\$25	\$65	03/03/12
	OCBA	BP Oil Spill Damage Claim +++ 1.0 Civil Trial Cert.	1.0		\$25	\$65	03/15/12
	OCBA	Agreements Not to Compete +++ 1.0 Intellectual Prop. Cert.	1.0		\$25	\$65	03/28/12
	PBCBA	2 nd Martinis and Migraines (Employment Law) (CD) +++3.0 Labor & Employment Cert.	4.0	1.0	\$115	\$155	03/30/12
	OCBA	Legislative Update – Estate, Guardianship & Trusts +++ 1.0 Elder Law Cert; 1.0 Wills, Trusts & Estates Cert. credits	1.0		\$25	\$65	04/13/12
	PBCBA	Breaking News You Can Use (R/E) (CD)+++4.5 R/E Cert.	4.5	4.5	\$165	\$205	04/15/12
	DCBA	Condo Distressed Relief Act +++ R/E Cert credit	1.0		\$25	\$65	05/16/12
	OCBA	Professionalism & Ethics (Abstaining from offensive personality & the oath of admission)	2.0	2.0	\$75	\$115	05/18/12
	DCBA	(19 th Annual Nuts & Bolts Divorce) Fundamentals of Family Law in a Changed World +++ 3.5 Marital & Fam Law; .50 R/E Cert.	4.5	.50	\$120	\$160	05/19/12
	PBCBA	Leadership Academy(CD)	3.5		\$85	\$125	06/03/12
	PBCBA	Impact of Social Media (PI) (CD)	1.5	.5	\$45	\$85	06/07/12
	PBCBA	Practical Aspects of Conducting Family Law Trials(CD) +++4.5 Marital & Fam Law Cert.	6.0	.5	\$160	\$200	06/10/12
	PBCBA	13 th Annual Elder Law Update	6.0	2.5	\$165	\$205	06/16/12
	PBCBA	28 th Estate & Probate Seminar – Part I +++ 3.0 Elder Law; 3.0 Wills, Trusts & Estates Cert. credits	4.0	1.5	\$125	\$165	07/26/12
	HCBA	Attorneys Fees Update	2.5	2.5	\$95	\$135	08/09/12
	PBCBA	Back to Basics – Nuts & Bolts Litigating Auto Negligence(PI) +++ 2.5 Civil Trial Cert. credits	4.0	.50	\$110	\$150	08/11/12
	PBCBA	Maintaining ADR Relevance in 2011 +++ 6.0 Civil Trial; 1.0 Real Estate Cert. credits **CME (1.0 DV / 1.0 Cultural Diversity)	8.0	3.0	\$225	\$265	08/14/12
	HCBA	Mediation Ethics: Why Bother?	3.0	3.0	\$110	\$150	08/15/12
	OCBA	Get to Know Domestic Gen'l Magistrates (Orange Co.)	1.0		\$25	\$65	08/18/12
	HCBA	Continuing Mediation Education +++1.0 Civil Trial; 1.0 Int'l Law; 6.5 Marital & Fam Law Cert. credits **CME eligible	8.5	2.0	\$225	\$265	08/23/12
	PBCBA	View From High Places (Bankruptcy)	3.0		\$75	\$115	09/09/12
	PBCBA	Best Legal Apps for iPhone, Android & Blackberry	2.5		\$60	\$100	09/11/12
	DCBA	Intellectual Property Issues in Launching a Social Media Presence +++ Intel Prop. Cert. credits	2.0		\$50	\$90	09/23/12
	PBCBA	Funding a New Business Venture+++ 2.0 Business Lit Cert.	2.5	.50	\$70	\$110	09/29/12
	HCBA	Cutting Edge Cross Examination Techniques	2.0		\$50	\$90	10/07/12
	DCBA	FL Courts E Filing Portal (Dade Co Clerk of Court, Harvey Rubin)	2.5		\$60	\$100	10/12/12

	PBCBA	The Ethics of Closing Argument+++2.0 Criminal Appellate; 2.0 Criminal Trial Cert. credits	2.5	2.5	\$95	\$135	10/15/12
	PBCBA	The Ethics of Closing Argument (DVD) +++2.0 Criminal Appellate; 2.0 Criminal Trial Cert. credits	2.5	2.5	\$95	\$135	10/15/12
	HCBA	ABC's of Mediation ***CME eligible	4.0	1.0	\$115	\$155	10/19/12
	PBCBA	Hot Topics in Employment+++ 2.5 Labor/Employ Cert. credits	3.5	.50	\$95	\$135	11/13/12
	PBCBA	28 th Estate & Probate Seminar-Part 2+++ 3.5 Elder Law; 3.5 Wills, Trusts Cert. credits	4.5		\$110	\$150	11/17/12
	PBCBA	Emerging Issues In Discovery (Federal Bar)	3.5		\$85	\$125	11/20/12
	HCBA	Collections Issues in Family Law+++2.0 Marital Family Law Cert.credits	2.5		\$65	\$105	11/26/12
	PBCBA	Mediating the Construction Dispute+++3.5 Bus. Litigation 3.5 Constr. Law Cert.credits ***CME eligible	3.5		\$85	\$125	12/07/12
	PBCBA	22 nd Annual Community Assn. Law+++3.5 R/E Cert. credits	3.5	3.5	\$125	\$165	12/10/12
	OCBA	War and Peace Negotiating+++2.5 Appellate; 4.5 Bus Lit. Cert.	6.0	3.5	\$190	\$230	12/10/12
	PBCBA	Intermediate Facebook	2.0	.50	\$60	\$100	12/24/12
	OCBA	Diversity Summit Providing a Roadmap to Implementation	4.0	1.0	\$115	\$155	02/31/13
	PBCBA	Intellectual Property Issues that Affect Client +++1.5 Intel. Prop Certification	1.5	1.5	\$60	\$100	03/28/13
	DCBA	Real Property 2010 Revisions +++1.5 R/E Cert. credits	1.5		\$35	\$75	04/05/13
	PBCBA	Tips from the Pros (Bankruptcy)	3.5	.5	\$95	\$135	04/05/13
	PBCBA	Collaborative Practice+++3.0 Marital & Family Law Cert. credits	4.0	.5	\$110	\$140	04/21/13

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

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

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

PLEASE ALLOW SEVEN (7) BUSINESS DAYS PREPARATION TIME WHEN ORDERING TAPES. **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.

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