

PALM BEACH COUNTY BAR ASSOCIATION BULLEATIN

Tri-County Appellate Seminar September 16

Mark your calendars now for the Tri-County Appellate Seminar – "An Afternoon with the Judges of the Fourth DCA" to be held on September 16. The Seminar will start with a luncheon at 11:30 a.m. and we are very pleased to have Florida Supreme Court Chief Justice Barbara Pariente as our keynote speaker. The seminar will end with a cocktail reception from 5 – 6 p.m. This seminar is being cosponsored by the Palm Beach County, South Palm Beach County and Broward Bar Associations. Look for more information via email soon.

www.palmbeachbar.org





Summer Cocktail Reception

Please join us for our annual Summer Cocktail Reception & Spelling Bee on Thursday, August 18 from 5:30 p.m. to 7:30 p.m. at The President Country Club in West Palm Beach. The club is conveniently located just east of the Palm Beach Mall off Congress Avenue. For \$10.00, you'll receive complimentary valet parking, a drink, plus plenty to eat for dinner.

Proceeds from this Lawyers for Literacy event will benefit local literacy efforts in our area. Please register on line at www.palmbeachbar.org today!

New Officers and Directors for 2005-06 year sworn in at The Breakers June 4



July/August 2005

Pictured above back row l-r are: Director Bryan Poulton; Immediate Past President Stanley D. Klett, Jr.; Director Scott C. Murray; Young Lawyers Section President C. Wade Bowden; South County Bar President Jeffrey Marks; and North County Section President William Fleck.

Front row 1-r are: President-elect Manuel Farach; Director Michelle Suskauer; President Theodore J. Leopold; Director Meenu Sasser and Director Richard D. Schuler. Not pictured is Director V. Lynn Whitfield. *See more banquet photos on page 5*.

YLS to host annual summer intern happy hour July 14

Join the Young Lawyers Section for their annual summer intern happy hour on Thursday, July 14 beginning at 5:30 p.m. at O'Sheas Irish Pub, 531 Clematis Street, Downtown West Palm Beach. This event is free to members of the YLS as well as the summer associates. Reservations are required. The cost for Bar members who aren't YLS members and aren't summer interns is \$20.

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the mediation group

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President's Message



Who Are We?

By Theodore J. Leopold, President

This is my first "President's" page since being sworn in as Bar Association President. I walk in the steps of previous Bar Presidents who have come from diverse personal and professional backgrounds. Like them, I hope I can make a difference in a resounding and meaningful way.

During my tenure over the next year I hope we can all be reminded and inspired by who we are as professionals. With all of the harsh rhetoric and public disdain about attorneys, I believe it is time to restate, reinforce and provide examples of how vital our profession is, and the important service that attorneys provide to the community in which we live, work and raise families.

As attorneys we have taken an oath to follow and defend the United States Constitution. We are perceived in our community as a group with intellectual ability, foresight and public-spiritedness. Our community looks to us as protectors of the constitution and individual rights. As attorneys we are prepared to fight to ensure that every individual has his/her day in court to obtain justice and equality.

We have followed in the footsteps of the United States' founding fathers, who framed and signed the Declaration of Independence and the Constitution. These founders had remarkable intellectual ability, foresight and courage. They were respected leaders in their communities and states. Thirty five of them were attorneys or had the benefit of legal training. A number of them were judges. Much like the founding fathers, there are countless dedicated, skilled, passionate attorneys in our community who have given selflessly to their clients, causes and community without fanfare or recognition.

We are at times ridiculed, often are the butt of a comedian's joke, and sometimes the subject of a story at a cocktail or dinner party. Underneath that inaccurate and often jaded public perception, however, I believe our community looks to us in the same light as they did our founding fathers. They perceive us as a cross section of well educated men and women who are dedicated to building and protecting our community, while defending the constitution and ensuring our rights.

For these reasons, my goal as President of our Bar Association is to remind our community why lawyers enrich lives, protect rights, strengthen our community, and strive everyday to fight for justice, equality, and promote integrity.

Towards these goals I hope our Bar Association can touch the lives of our community by instituting diversity programs, and conducting outreach programs with discussions about how we can help others help themselves.

Continued on page 19

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BULLETIN

THEODORE J. LEOPOLD

President

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PATIENCE A. BURNS, CAE

Executive Director

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The mission of the PBCBA is to foster professionalism, serve its members, and enhance public access to the legal system through education and service.

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

Letters

The North County Section recently honored **Judge Peter Blanc** with its third Annual **Jurist of the Year** Award. The award was presented during the section's end-of-the year dinner at Ruth's Chris Steak House in North Palm Beach. Judge Roger Colton, who received the award last year, was given the honor of presenting the award to Judge Blanc.

Re: 2005 Jurist of the Year Award

Dear Patience:

Please convey my gratitude to the North County Section of the Bar for their kindness in presenting me with the 2005 Jurist of the Year Award. As both a long time resident of the North County and a sitting judge at the North County Courthouse for three years, this recognition is particularly meaningful to me. As always, the dinner was outstanding and the comradery exceptional. I greatly appreciate this honor and I am humbled to have been recognized in light of many outstanding candidates for such an award. I will continue to do my best to serve

the legal community and the public keeping in mind the words of Will Rogers who said, "Even if you are on the right track, you get run over if you don't keep moving." Thank you again.

/s/ Peter D. Blanc Circuit Judge

> Pictured from left to right: Bill Fleck, president-elect of the section, Judge Peter Blanc and Judge Roger Colton.



Re: 2005 PBCBA Installation/Annual Dinner

Dear Ted, Stan and Patience:

I thank you all and the Bar for acknowledging, recognizing and honoring me for forty (40) years of membership, involvement and service to the Bar. Don't ask me how forty years went by so fast. It just doesn't seem possible. As I think I may have shared with you, I still remember vividly taking the Bar exam at the old Dupont Plaza Hotel in Miami, having come down from Michigan in April, 1965 and having looked out my window, seeing mostly guys coming at me with either jackets, shirts and ties wondering who all those people were and why they were coming to the hotel. It never dawned on me that they were coming to take a Bar exam. I had just recently taken the Michigan Bar exam at the University of Michigan in Ann Arbor, in shorts, a t-shirt and sandals—not having shaved for two weeks.

It has been a great forty years and I thank the Bar, which has been so important to me and to my family.

Best Regards,

Michael B. Small, Esq.

Re: Youth Court Challenge

Dear Ms. Burns:

Please accept our sincerest appreciation on behalf of the recipients of the U.S. Savings Bonds awarded to the Youth Court student attorneys. We are very grateful for the support of the PBCBA's Young Lawyers Section in sponsoring the Youth Court Challenge each year. This year the competition was a huge success due to the efforts of John Whittles, Jason Guari and Bryan Poulton. Please extend an invitation to your members to visit Youth Court at any time and see our volunteers in action.

Once again, thank you.

/s/ James P. Kelly, Chief School District Police Department

Annual Installation Banquet Highlights



Roslyn & Ted Leopold, Michael Gora and Richard Schuler



Jamie & Katie Pressly with their son Grier and his fiancée Kristy Kay



Ansley & Wade Bowden



Ron & Rachel Ponzoli



David Prather & Ted Leopold





Members of The Florida Bar Board of Governors: Jay White; Immediate Past President Kelly Johnson; President-elect Hank Coxe; and Board Member Jerry Beer



Julianna and Judge Peter Blanc



Lynne & Doug Poirier (Congratulations and thank you Lynne for your 5 years as the Bar's Communications Director!)



Who are they?

In continuing with a project started by the Historical Committee, we will continue to run old photos of some of our members.

Can you guess who they are?

Ans

Answers on page 18













Minutes of the Palm Beach County Junior Bar Association Meeting, January 6, 1967, Holiday Inn

Approximately fifty members and guests were present. Proposed and accepted for membership were Joel Sachs and John Kaylor, who are both associated with Farish & Farish.

Our treasurer, John Flanigan, announced that our Treasury has been almost entirely depleted, and that he found it necessary to kite checks in order to be able to pay our bills.

President Royce announced that he was putting a stop to the ultra-liberal policy of spend, spend, spend. Our President then recalled the platform on which he ran for office, when he stated that our Association could provide increased services to the community, and that we would realize additional revenue by the application of sound business practices to our fiscal policy, and that there would be no need for an increase in dues.

Larry Clarkson gave a rather lengthy report about why his "committee to find out our real name" has not accomplished anything.

The guest speaker was Dave Kacourek, Captain of the Miami Dolphins, who spoke on various interesting facets of professional football, both on and off the field. His talk was one of the most interesting and entertaining, which has ever been presented to our Association.

There being no further business, the meeting was adjourned.

/s/ Larry Klein, Secretary



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The MacMillan Family

by Grier Pressly on behalf of the Historical Committee

Brothers (Judge) Hugh and Neil MacMillan were encouraged to go into the practice of law by their father, Neil Thomas MacMillan, Sr., a successful entrepreneur from Winnipeg, Canada who had moved his family south to Florida from Canada in 1925. Despite his successes in real estate and insurance, Neil, Sr. suggested to his young sons before his untimely death in 1931 that law was a worthy course of study because "every time I turn around, I needed another lawyer." Those words helped to inspire 3 generations of MacMillan family lawyers.

After spending his undergraduate days at the University of Florida in Gainesville, Hugh MacMillan met his wife Anne at Stetson Law School where he graduated in 1936. After serving a short stint as the City Attorney for Daytona Beach, Hugh enlisted with the FBI during World War II. As a special agent under the direction of J. Edgar Hoover, Hugh was stationed in Arizona and Washington D.C. before happily being reassigned to West Palm Beach where he tracked German submarines off the Eastern coast of Florida and scoured the sugar cane fields around Lake Okeechobee for German escapees from the P.O.W. camps in Belle Glade and Clewiston. After the War, Hugh practiced mostly real estate law in West Palm Beach and Boca Raton and served as counsel to the predecessor to today's South Florida Water Management District. Hugh answered his country's call again during the Korean War when he reenlisted with the FBI and was stationed in New Orleans. Hugh returned to his law practice in West Palm Beach at the conclusion of the Korean War until he was appointed as a criminal court judge by Governor Leroy Collins in 1957. Hugh remained on the bench until his retirement in 1982. Shortly after his judicial appointment, Judge MacMillan became a vocal proponent of providing legal representation to poor criminal defendants before the practice became mandatory in 1962. In the early 1970's Judge MacMillan upheld the constitutional rights of teenagers to surf the waves off Palm Beach. When the Florida Legislature created the present two-tier system of county and circuit courts in 1972, Judge MacMillan was

chosen by his peers as the first chief of the newly formed circuit court where he served in several different divisions, ending his distinguished career on the probate bench. Hugh was known as "the quiet scholar" among his family and his friends on the bench. He would watch the "Continental classroom" and other educational television programs in the early morning hours before

early morning hours before work. Other mornings he would team up with Judge Knott on the tennis court in a game of doubles before heading for the courthouse. Outside of his profession, Judge MacMillan was a devout member of his downtown West Palm Beach Presbyterian church, where he sang for the church choir, and was a committed member of the Kiwanis Club, serving as President and holding a perfect attendance record for several decades of club meetings. Judge MacMillan's trademark was his Scotch plaid tie which he wore to work virtually every day to honor his Scottish heritage. Hugh's sons were obligated to don only plaid ties as well.

Like his father before him, Hugh encouraged his children to enter the legal profession. And they did. Hugh MacMillan, Jr., a bona fide football and track star at Palm Beach High and Princeton, received his law degree from the University of Florida before settling down in Palm Beach County to practice. Hugh, Jr. is now a lobbyist in Tallahassee. Hugh, Jr.'s brother Neil (named after his Uncle) also graduated law school at UF and has run his own probate and real estate practice in Jensen Beach for more than thirty years. Anne MacMillan Baldy became Judge MacMillan's third child to graduate with a J.D. from UF after which she practiced in Hillsborough County.

Following in his older brother's footsteps, Neil MacMillan graduated Stetson law school in 1940 at the age of 22 and immediately joined the Army Judge Advocate's office, serving his country during World War II in New Haven, Ct., Miami Beach, and ending his service in Boca Raton. After the War, Neil



Neil and Hugh MacMillan in 1987 at Neil's Ranch in Indiantown.

became one of the first lawyers in the history of Delray Beach when he opened his law firm in downtown Delray Beach. Neil depended on his wife Nell to run the office. Legal work was hard to come by in Delray Beach in the mid-1940's so Neil spent the early years of his practice doing a little bit of everything, from handling the divorces of American troops returning home from the War to buying and selling tax deeds.

A decade later Neil was hired by brothers John Weir and Milton Weir (who were protégés of Arthur Vining Davis, founder of Arvida) who were opening banks and financing commercial and residential real estate development in south Palm Beach County. Neil was a founder of First Federal of Delray Beach and at one time was on the Board of five area banks. Even as Neil's legal practice began to flourish as Delray Beach began to build up throughout the 1950's and 1960's, Neil always paid tribute to the city's rural roots by wearing cowboy boots to work and spending many afternoons telling stories with his farmer friends in the gas stations and hardware stores around town. Neil earned the nickname "Lawyer MacMillan" through his active involvement in the Delray Beach area community. Neil represented Bethesda Hospital in Boynton Beach in its formative years virtually free of charge. He provided free legal services for any local church that needed them. He served as City Attorney. Among other community organizations, Neil was President of the South County Bar Association, the Elks, Kiwanis, the Chamber of Commerce and the Jaycees.

Neil's law practice helped him develop an eye for real estate. Neil always Continued on page 19

Board of Governors Report For June 2005

Submitted by Governor Amy L. Smith

The last Board meeting for the Bar year was held in June in Palm Beach. By the time you read this, the 2005 Bar year will be over, the Annual Meeting will have passed and Kelly Johnson's very successful year as Florida Bar President will have come to an end.

Hopefully you have seen the newly revamped Florida Bar website. One of the best features may not be online quite yet, but will be shortly. The Bar is bringing a free basic legal research tool, Fastcase, to our site.

We received a report from our Legislative Committee and Steve Metz, the Bar's chief lobbyist. The 2004 session was generally successful for us and neither the Bar nor the judiciary suffered any real damage. In addition, a bill was enacted clarifying some confusion that existed after last year relating to the authority of chief judges to direct court clerks in the administration of the trial courts. And, as you know by now, 55 new judges were approved statewide. The Supreme Court certified the need for 110 new judges, and we hope to get the balance in 2006. The only real disappointment was that after the Legislature approved a whopping \$5 million for the Civil Legal Assistance Program, the Governor then vetoed that line item in the budget. That came as a surprise. Steve and his team will be meeting with the Governor's office to try to restore at least part of that money.

Speaking of the last legislative session, several key legislators expressed significant interest in developing regulations governing the paralegal profession. While nothing passed, a very clear message was given to the Bar to either 'get on or get out of the way.' We plan to be proactive and a special committee will be formed to develop some proposals. We anticipate a very tough session in 2006.

One of the most important efforts started in this past year was the formation of the Judicial Independence Committee. This Committee will be around for the long term to help preserve and protect this most important principle. Members of the Committee met with our Citizen's Forum to get their input. For those of you that don't know, the Citizen's Forum is a group of non-lawyers representing a wide variety of constituencies that provide us with great advice from their various perspectives. They will be an important part of the team working on judicial independence in the months ahead.

The Board heard from lots of you with regard to the Petition filed with Supreme Court to adopt rules implementing Amendment 3 passed last year limiting fees in malpractice cases. The Petition asks the Court to approve a rule prohibiting fee agreements that waive the caps. Ultimately, the Board voted to direct our counsel (Barry Richard) to urge the Court to deny the Petition. The Board believes that the Petition is a premature vehicle to address this subject, and that the Court should not adopt the proposed rule before it has had an opportunity to address some of the legal issues regarding the amendment that likely will come before the Court in cases yet to be litigated.

The June meeting is always a little bittersweet as we say goodbye to retiring Board members. It was a little tougher this year as both Jerry and Amy are leaving the Board. However, we want to welcome Lisa Small and Greg Coleman to the Board. Lisa and Greg, along with Scott and Jay, welcome your comments, questions and suggestions.

Amy L. Smith Jerry Beer Jay White Scott Hawkins



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Personal Injury Corner



Work Product Discovery

by Ted Babbitt

In the recent case of Gabriel v. Northern Trust Bank of Florida, N.A.,

890 So. 2d 517 (Fla. 4th DCA 2005), the Fourth District had another opportunity to review the limitations on discovery which touch upon counsel's mental impressions. That was a securities case in which the Defendant asked the Plaintiff to produce "all documents that relate to or otherwise support" the allegations of plaintiff's complaint. The trial court overruled objections based upon work product and the plaintiff sought a writ of certiorari.

In granting the writ, the Fourth District reviewed the litigation history that resulted in the Supreme Court's decision of Northup v. Acken, 865 So. 2d 1267 (Fla. 2004). In that case, the Supreme Court concluded that a party does not have to disclose which documents the attorney for that party believes constitutes documents to be utilized for pretrial purposes and those to be used for trial unless and until a decision is made that the evidence will be expected or intended to be used at trial. The time for making that decision would normally be at the time the Court requires the listing of exhibits pursuant to a pretrial conference order.

In the Northup case, the Supreme Court specifically disapproved a statement by the Fourth District in Gardner v. Manor Care of Boca Raton, Inc., 831 So. 2d 676 (Fla. 4th DCA 2002) by requiring an attorney to review a category of documents and reveal those which were relevant to the issues in the case. The Supreme Court concluded that such a requirement potentially invades counsel's strategy and is, therefore, violative of the work product rule. In Northup at Page 518, the Supreme Court held:

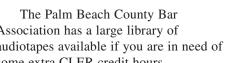
The district court's approval in Gardner of an order requiring "counsel to 'cull' through various surveys and personnel files to determine which ones are relevant," Gardner, 831 So. 2d at 678, an action which the court admitted "may indicate counsel's strategy," id., goes entirely too far. The overriding touchstone in this area of civil discovery is that an attorney may not be compelled to disclose the mental impressions resulting from his or her investigations, labor, or legal analysis unless the product of such investigation itself is reasonably expected or intended to be presented to the court or before the jury at trial. Only at such time as the attorney should reasonably ascertain in good faith that the material may be used or disclosed at trial is he or she expected to reveal it to the opposing party.

In the Gabriel case, the Fourth District concluded that requiring an attorney to provide documents which "relate" to specific allegations in the complaint is just as improper as the conclusion reached in Gardner which was rejected by the Supreme Court. For an attorney to divine what is or isn't

relevant or "relates to" the claim in question comes perilously close to revealing counsel's strategy in the conduct of a case. For that reason, the Fourth District granted the petition for certiorari and overruled the trial court's order compelling the response to a request for production that required the party to produce all documents that relate or otherwise support the allegations in the complaint. This opinion further amplifies the limitations on discovery which may invade counsel's thought processes and, thus, violate the work product discovery exception.

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

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North County Section News

The North County Section awarded its first two college scholarships to two local high school seniors. Both girls received a check for \$2,000.00, which will be used towards tuition, books and student fees.



Scott Kramer, president of the section, shakes hands and presents the check to award winner Holly Legner from Jupiter High School. Next to Holly is Paula Nessmith, principal of Jupiter High and Holly's parents Donna and Robert.

In addition to Holly's extra curricular activities, she ranked 46 out of her graduating class of 437. Legner will attend the Honors College at Florida Atlantic University in Jupiter this fall.

Scott and Dr. Jon Prince, principal of Palm Beach Gardens High, congratulate award winner Jessica Franza.

Jessica was a member of the National Honor Society, President of the Chemistry Club, and played softball and volleyball. She ranked 49 out of her graduating class of 531. She will attend Palm Beach Community College in Palm Beach Gardens.



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North County Scholarship Fund Off To A Great Start

Over three years ago, the North County Section recognized that compelling even a few of our most talented and deserving graduating high school seniors to stay in the local area would have a positive and direct impact within our community. With that in mind the section created a scholarship fund and announced its first two award winners for 2005-2006.

In order to expand these gifts and help more deserving students with scholarship monies, we need you to join our list of gracious supporters:

Salutatorians:

Burlington & Rockenbach, P.A.; Gordon & Doner; Kramer Ali Fleck Hughes Gelb & Bornstein; and Rutherford Mulhall, P.A.

Benefactors:

Ackerman Link & Sartory; McHale & Slavin, P.A.; Watterson Eavenson & Zappolo.

A special plaque recognizing these firms is on display in the Bar Office.

If you would like to make a donation, or for further information, please call our scholarship co-chairs Michael Slavin at 625-6527 or Scott Zappolo at 627-5000.

Do You Need a Mentor?

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



program. Call the Bar office at 687-2800, if you need a Mentor.

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North County Section News

Pictures From Ruth's Chris Event

A special thanks to the event sponsors: Grand Bank & Trust; Braman Motorcars; Land America Financial Group; and the law firms of Kramer Ali Fleck Hughes Gelb and Bornstein; and Rutherford Mulhall, P.A.



Judge Debra Moses Stephens, Bob Bertisch, Juliana and Judge Peter Blanc



Adam Doner, Gary Gomoll and Tim Gaskill



Judge Cory Ciklin; Judge Karen Miller; Clerk & Comptroller, Sharon Bock; and Judge Tom Barkdull



Ben Salzillo, Scott Murray, Patricia and Ned Reagan



Judge Nancy Perez and Un Cha Kim



Andrew Pineiro and Judge Jeffrey Winikoff



Judges Ciklin, Labarga and Fine





JOHN CLEARY RECOGNIZED AS PRO BONO ATTORNEY OF THE MONTH

The Fifteenth Circuit Pro Bono Committee is pleased to announce this month's Pro Bono Attorney of the Month, JOHN CLEARY. John, a solo practitioner in West Palm Beach, focuses his practice in Criminal and Government Litigation. At the request of Legal Aid, John represented a disabled elderly couple who were having problems with a Home Owners Association and Code Enforcement. The couple who had been living in their home for over thirty years had an R/V parked alongside their home. The R/V was the only way that the couple could travel to visit their children due to medical issues. A few years ago the neighborhood formed an HOA and the clients declined to join. Soon thereafter, Code Enforcement received numerous complaints about the R/V even though other neighbors had violations. The clients attempted many times to resolve the issue by putting up a screen and a hedge but Code Enforcement was requiring the removal of the R/V. John assisted the client by attending many hearings and was successful in defending the clients so that the R/V could stay on the property. In addition, as a compromise, John along with Legal Aid staff members, Ric Collier and Carlton Smith constructed a six foot fence alongside the R/V. For going above and beyond the call of duty on behalf of his clients, John Cleary is recognized as Pro Bono Attorney of the Month.



Legal Aid Paralegal, Ric Collier: Fair Housing Project Legal Aid, J.D., Carlton Smith; Fair Housing Project Client, Robert Ouimette and Attorney, John Cleary

Attorneys that closed pro bono cases in May June 2005

The following attorneys closed their pro bono cases in May June 2005:

Sara Alijewicz Kevin R. Anderson **Marc Barmat David Beckerman** Jerri M. Blaney William P. Cagney Jennifer S. Carroll John I. Chalif **Eric Cheshire** John B. Cleary **Bonnie Eyler** J. Andrew Fine Deborah Graham Mark Hektner Randall W. Henley Elliot F. Hochman **Cary Klein Bruce Kravitz Tanique Lee** Camille R. McBride Shannon M. Mahonev Patrick J. Malone Catherine Mazzullo Melvnda Melear Darin Wade Mellinger Daniel L. Monahan Allan E. Monica

Michael William Morell **Colleen Nelson** Joseph Pack Steven M. Parrish Paul Rampbell C. Brooks Ricca Jr. Henry J. Ross Elisha D. Rov Moria Rozenson Steven D. Rubin David R. Schwartz **Jeffrey Shaffer Edward Shipe** Leonard I. Singer **Karlene Stevens** Doria K. Stibolt Scot J. Topolski J. Stephen Tracy Joan B. Tucker Rolando A. Vasallo Victoria Vilchez Jan Peter Weiss Sylvia Wenger Mark Wilensky Alan S. Zangen

Jordan L. Rappaport

Total number of hours: 580.50

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- > Certified NASD Arbitrator since 1995
- > Member of the Florida Academy of Professional Mediators
- > Former Assistant General Counsel and Vice President to National & Regional Brokerage Firms (1992-2002)
- > Assistant Public Defender, 15th Judicial Circuit in and for Palm Beach County (1987-1992)
- > Series 7 Securities License (1997-2004)
- > JD University of Miami School of Law (1987)
- > BSM Tulane University School of Business (1984)

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Bulletin Page 12

Seventeenth Annual Pro Bono Event A Jazz Filled Evening

The Seventeenth Annual Pro Bono Recognition Evening held on Saturday night, May 14 at the Cohen Pavilion at the Kravis Center for the Performing Arts was a great success for the Legal Aid Society and its clients and the Sun Sentinel's WB/39 Children's Fund.

The annual event co-chaired by Amy and Jeff Devore and Shelley and Mariano Garcia was attended by over 700 individuals and netted over \$190,000 all of which goes to provide free legal assistance to the 5,000 disadvantaged children, families and elders Legal Aid serves each year.

Our sincere thanks to The Bak Middle School of the Arts' outstanding Jazz Band under the direction of Cleve Maloon. A special appreciation to Director/Choreographer Garry Q. Lewis and his multi-talented students from the Dreyfoos School of the Arts as well as our own exciting Master of Ceremonies, Bill Bone. Our thanks to our generous supporters who made the event possible. And last but by no means least, congratulations to all of the deserving award winners and their families.



(left to right) Jeff Devore, Amy Devore, Joel Feldman, Donna Krusbe, L. Martin Flanagan, Kathryn Mchale, Bill Manikas, Steve Rubin, Chris Jette, Joyce Conway, Rand Hoch, Todd Feldman, Shelley Garcia, Mariano Garcia



Judy Consor, Judge Ron and Elaine Alvarez



Robb and Judge Liz Maass and Bob Bertisch

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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.

RYAN P. AIELLO – Adak, Alaska; 2003; Ohio State University Maritz College of Law; Nason, Yeager, Gerson, White & Lioce, P.A., in West Palm Beach.

JAMILA V. ALEXANDER – Miami; 2002; University of Miami; Associated with Powers, McNalis and Torres, in West Palm Beach.

SCOTT L. ASTRIN – Maryland; 1996; Nova Southeastern University; Associated with Law Offices of Scott L. Astrin, in West Palm Beach.

KATHLEEN M. BONCRYK -

Philadelphia; 2004; Nova Southeastern University; Associate in the law firm of Powers, McNalis & Torres, in West Palm Beach.

JOHN P. CLEMENT – Atlantic City, New Jersey; 1999; University of Miami; Associate in the law firm of Wiederhold & Moses, P.A., in West Palm Beach.

MARK A. COEL – North Miami; 1988; University of Florida; Partner in the Law Firm of Coel & Warren, P.L., in Boca Raton.

CHRISTINE COUSINS – Plantation; 2005; St. Thomas University; Associated with the State Attorney's Office, in West Palm Beach.

LYSA FRIEDLIEB – Miami;1991; Brooklyn Law School; Associate in the Law firm of Sellars, Marion & Bachi, P.A., in West Palm Beach.

JOHN T. GETZ – Brooklyn, NY; 1993; University of Miami; Partner in the Law Offices of Feldman & Getz, LLP, in Boca Raton.

ELLIOT AARON HALLAK -

Plainview, NY; 2004; University of Virginia; Associate in Law Firm of Ruden McClosky, et al., in West Palm Beach.

XIOMARA HERNANDEZ - New

York; 2001; Cornell Law School; Associate in the law firm of Devore & Devore, in Palm Beach Gardens.

RICHARD L. HORN – New York; 1965; University of Florida; Associated with Akerman & Senterfitt, in West Palm Beach.



JOHN C. HORNACK – Chicago; 1997; University of Illinois at Urbana-Champaign; Associate in the Law

Firm of Nason, Yeager, Gerson, White & Lioce,

P.A., in West Palm Beach.

NIA D. JOHNSON – Petersburg, VA; 2004; University of Florida; Associate in the Law Firm of C. Deborah Bain, P.A., in North Palm Beach.

SUSAN KELLNER – Queens, NY; 1981; State University of New York at Buffalo; Associate in the Law Firm of Adams, Coogler, Watson, Merkel, Barry & Kellner, in West Palm Beach.

LAURA L. MALL – Albany, GA; 1999; Nova Southeastern University; Associate in the Law Firm of Christine D. Hanley & Associates, P.A., in West Palm Beach.

MARIBEL C. MEZQUITA – Cuba; 2004; Nova Southeastern University; Associate in the Law Firm of McIntosh, Sawran, Peltz & Cartaya, P.A., in West Palm Beach.

MARK H. MILLER – Indianapolis; 1991; Northwestern University School of Law; Associate in the Law Firm of Montgomery & Larson, LLP, in West Palm Beach.

HECTOR JAMES MONTALVO -

1991; Hofstra Law School; Associate in the Law Firm of Nagin, Gallop & Figueredo, P.A., in Miami.



VICTORIA J. MORTON – New Jersey; 2003; Nova Southeastern University; Associate in the Law Firm of Hilley & Wyant-Cortez, P.A., in North

Palm Beach.

IOLA MOSLEY – Eglin Air Force Base, FL; 1987; Howard University; Associated with the School District of Palm Beach County, in West Palm Beach.

JOHN C. ROSS – Washington, D.C.; 2005; George Washington University; Associate in the Law Firm of Robin Roshkind, P.A., in West Palm Beach.

JOSHUA D. SELMYER – Rochester, NY; 2002; University of Miami; Associate in the Law Firm of Powers, McNalis & Torres, in West Palm Beach.



ZARA C. SETTE – Smithtown, New York; 1999; Quinnipiac Law; Affiliate Member associated with the Law Firm of Bargas & Rodriguez, in Corpus

Christi, Texas.

WILLIAM C. WRIGHT – Dublin, GA; 1998; Thurgood Marshall, University of San Diego; Sole Practitioner in West Palm Beach.

CORY S. ZADANOSKY – New York; 2003; Nova Southeastern University; Associate in the Law Firm of Boose Casey Ciklin Lubitz Martens McBane & O'Connell, in West Palm Beach.



Page 14



W. JAY HUNSTON, JR. Mediator/Attorney

- J.D. Stetson Univ. College of Law (1976)
- Florida Bar Board Certified Civil Trial Lawyer (1983-2003)
- Florida Bar Board Certified, Emeritus in Civil Trial Law (2003-Present)
- Florida Certified:

Circuit Civil Mediator (1991-Present) Family Mediator (1998-Present)

- NASD Approved Mediator
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Legal Aid Announces Joint Project With The Family Law Section Of The Florida Bar

The Legal Aid Society's Pro Bono Program, in conjunction with the Florida Pro Bono Coordinators Association, and the Family Law Section of the Florida Bar, is pleased to announce a pilot project to address the statewide shortage of pro bono attorneys willing to handle family law cases. The Mentoring Program, originally started over 10 years ago in Miami, is being replicated here in Palm Beach County, as well as in Tampa, Orlando, and Tallahassee. Through this Program, lawyers who do not regularly practice family law will be recruited and trained to handle pro bono family law cases. In addition, the Family Law Section will be providing experienced family law attorneys to act as mentors to any of the attorneys who request this assistance. This Program will not only assist the community by providing much-needed services, but it will also provide attorneys with additional training and resources to enhance their practice. It is anticipated that training will be available this Fall. Look for the ads in upcoming editions of the Palm Beach County Bar Association Bulletin.

In the meantime, if you would like more information about this Program, contact Kim Rommel-Enright, LAS Pro Bono Coordinator, at 561/655-8944 ext. 265 or email kenright@legalaidpbc.org; being a Family Law Section mentor, contact Tom Sasser, Chair Elect, Family Law Section of the Florida Bar, at 561/689-4394 or email tomsasser@sasserlaw.com; and/or joining the Family Law Section of the Florida Bar, contact Debby Beck, Family Law Section Administrator, at 850/561-5650 or email dbeck@flabar.org, or Robin J. Scher, Family Law Section Membership Chair, at 561/655-8944 ext. 281 or email rjscher@legalaidpbc.org.

FOURTH DISTRICT COURT OF APPEAL, STATE OF FLORIDA P.O. Box 3315, West Palm Beach, FL 33402 June 10, 2005

ADMINISTRATIVE ORDER RE ELECTRONIC FILING

- 1. Effective July 1, 2005, in addition to the paper original of the document, all Counsel shall also transmit to the Court an electronic copy of any of the following documents:
 - a. All Briefs in appeals under Rules 9.110, 9.130, 9.140, 9.141, 9.145, 9.146 and 9.160;
 - b. All Petitions and responses under Rule 9.100;
 - c. All responses to Orders of this Court; and
 - d. All motions for rehearing or relief under Rules 9.330 and 9.331.

In addition to the foregoing, any Transcript shall be filed electronically with the Initial Brief. Any Appendix shall also be electronically filed with the above. The electronic filing shall be made on the earlier of the day of filing the paper original or the day of service. The official filing date shall remain as the day of filing the paper original.

- 2. Electronic filing shall be made by transmitting a document as an attachment to an e-mail to the following address: **efiling@4dca.org**. The e-mail attached documents shall be in Microsoft Word, Corel Word Perfect, or .pdf (Adobe) format. A Transcript may be in the format used by the Reporter who prepared the transcript. The subject or reference line of the e-mail shall contain the Fourth District case name and a case number if available. No other use or mailings shall be made with this address.
- 3. The Clerk of this Court shall cause a copy of this Order to be published in the Florida Bar News in at least two issues and in local Bar Association news publications within this district.
- 4. An attorney filing any paper document in this Court shall also include therein an e-mail address to receive notices, advisories or Orders from this Court.



Gary M. Farmer, Chief Judge

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Save the Date

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Here's the way to relax...

The Quality of Life Committee recently hosted its first spa day for members at The Breakers in Palm Beach. Pictured is Denise Nieman, chair of the committee and Sheryl Wood. Many thanks to Denise for all her hard work in coordinating event.

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Bulletin

Bankruptcy

Bankruptcy Abuse Prevention and Consumer Protection Act of 2005: Changes to Tax Issues and Domestic Support Obligations

by Mark S. Roher, Esq., Furr and Cohen, P.A. mroher@furrcohen.com or (561) 395-0500

Domestic Support Obligations

As a result of the new changes to the Bankruptcy Code, all property settlements arising from divorce or separation proceedings that are not considered to be in the nature of support will be nondischargeable when this change becomes effective on October 17, 2005. This is a very significant change because under the old law (which remains in effect for all bankruptcy petitions filed prior to October 17, 2005) debtors were able to argue that they did not have the ability to pay the debt arising from the property settlement agreement or that discharging the debtor would equate to a benefit to the debtor that was greater than the negative consequences to the former spouse if such debt was discharged.

Under the new law, support obligations are to be treated as a first priority in terms of distributions from the bankruptcy estate, but the administrative costs of a trustee are paid ahead of the support costs to the extent that the trustee is administering assets that can be used to pay support costs.

The new law will also provide that the automatic stay does not apply to the payment of a domestic support obligation from property that is not property of the estate or to the enforcement of a wage withholding order under a judicial or administrative order, or statute, including obligations accruing from both before and after the filing.



Finally, a debtor's failure to remain current on support claims is grounds for conversion or dismissal of a case under the new law and the debtor must be current on post petitions obligations in order to confirm a Chapter 13 plan.

Tax Returns Mandatory

Under the new provisions of the Bankruptcy Code, the Debtor must provide a copy of their latest tax return or a transcript at least 7 days before the meeting of creditors or the case "shall" be dismissed. In other words, people contemplating filing for bankruptcy must make sure they have copies of their tax returns or transcripts, or obtain copies of them from the I.R.S. prior to filing bankruptcy, otherwise the case "shall" be dismissed.

Additionally, the tax returns or transcripts must also be provided to any creditor who requests. Finally, all tax returns must be filed for a plan to be confirmed in Chapter 13. The debtor must file all returns from 4 years prior to the Chapter 13 filing.

The above information is a summary of some of the changes to the new bankruptcy laws. The "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005" is complicated and thoroughly changes the previously existing bankruptcy laws.

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Circuit Court Report CIVIL DIVISIONS • April 2005

DIVISION	JURY TRIALS	NON-JURY TRIALS	MOTIONS	CASES PENDING
DIAIZION			MOTIONS	
\mathbf{A}	09/05	09/05	07/05	1075
В	01/06	01/06	07/05	1446
D	04/06	11/05	07/05	1298*
${f E}$	09/05	09/05	07/05	1424
\mathbf{F}	08/05	08/05	09/05	1153
\mathbf{G}	11/05	11/05	06/05	981
Н	10/05	10/05	06/05	1177
I	08/05	08/05	06/05	1160
J	12/05	09/05	06/05	1370
N	10/05	09/05	08/05	1208
0	11/05	09/05	06/05	1375
_				

All Civil Division Judges schedule their own Jury and Non-Jury Trials.

Pending cases as of 5/5/05

*(Asbestos 549)

The Young Lawyers Section recently hosted a judicial breakfast at the Fourth District Court of Appeal



John Ross & Kenneth Schwartz



Judge Mark Polen and Siobhan Shea



Ben Salzillo and Robin Rosenberg



Kara Rockenbach, Judges Robert Gross & Fred Hazouri



Cary Sabol, Judge Gary Farmer & Jason Guari



Judges George Shahood and Carole Taylor and Sherri Renner and Tricia Duthiers



Scott Atherton, Allison Lane and Cyrus Toufanian



Photo Answers:

From Page 6

- I. David Baker
- 2. Kathryn Beamer
- 3. Thomas Kingcade
 - 4. Ray Ingalsbe
- 5. Preston Mighdoll



Judge Matthew Stevenson, Bruce Harris and Jane Gordon

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Who Are We?

(Continued from page 3)

Topics will include living wills, health insurance, elder law and access to small claims court. I also hope to re-energize our luncheon series with high profile keynote speakers that can enlighten and intellectually stimulate us.

I am proud to be an attorney. For me, being an attorney means being involved in our community, helping those less fortunate, and working to have the ability and foresight to help make our community a better place to live. You, too, play a vital role in our community. Like our forefathers, our community looks to you to carry the torch of the American ideals. Through the next year I hope that you will help me in revitalizing those ideals and the core beliefs about who we really are.



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The MacMillan Family

(Continued from page 7)

enjoyed telling the story of his investment in a 400 acre property on the southern border of Delray Beach in 1948 for \$50/acre which sold ten years later for \$600/acre. Congress Ave. runs through the property today. Aside from his family ranch and orange grove in Indiantown, Neil's favorite real estate investment was the historic property in downtown Delray Beach that would later become the law office where his daughter Carol still practices today. Family members still chuckle today at Neil's ultraconservative financial philosophy; despite owning many investment properties, Neil never had a mortgage.

By the time his daughter, Carol (MacMillan) Stanley, had graduated law school in 1970 and joined her father's practice, Neil's law firm had grown to 7 lawyers and 20 staff members. Neil continued to practice law into his 70's even after Parkinson's disease confined him and his cowboy boots to a wheelchair; he retired in 1993 at the age of 75. After Neil's retirement, Carol opened her own firm concentrating in probate and real estate law where she still practices at her father's desk. Four years ago, Carol was joined in her practice by her son, Tom Stanley who is recognized in Delray Beach as the first student in 17 years from a Delray Beach public high school to attend Princeton University.

While the oldest child of Neil MacMillan, Sr., Ruby (MacMillan) Strawn, did not follow her brothers into the practice of law, the legal careers of Hugh and Neil inspired Ruby's son, Joel, to pursue a career in law. Joel Strawn graduated from the University of Florida law school in the mid-1960's and immediately joined his Uncle Neil's practice in Delray Beach. In the early 1980's Joel started his own practice specializing in real estate and hospital law. However, he didn't venture far from the family practice; he opened his office across the street from Neil and Carol and remains a neighbor of Carol today. Joel gained a law partner in the early 1990's when his daughter, Elizabeth Strawn, graduated from Stetson law school and joined her father's practice until she received her higher calling, leaving the practice of law to pursue a Masters degree in Divinity at Yale where she now works in the development office.

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you are overwhelmed and don't want to pay for unreasonable overhead. I have opened my home office with 25 + years experience, specializing in the organization of your files, your medical records, your discovery documents (including records summaries); answering and organizing all discovery requests; preparing you for trial from beginning to end, including deposition summaries/annotations. Call me: Dorlynne C.A. Maynor @ 723-5537 or 792-3304, or email me: Dorlynne@adelphia.net.

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exp. Large firm top 10% credentials preferred. Superb salary/benefit package/opportunities. Sophisticated practice in growing N. Palm Beach County AV firm. Great work/lifestyle balance. Fax resume to Office Manager (561) 747-4113.

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Bulletin Board -

GREGORY TENDRICH: Former Vice President and in-house counsel to national and regional NYSE & NASD brokerage firms, is available to accept referrals, provide consultation or assist in all securities investor related litigation and arbitrations involving stock broker misconduct, fraud, misrepresentation, churning and suitability. Call 561-733-5113 or email 10drich@bellsouth.net.

MARK R. HANSON: All admiralty and maritime matters, including personal injury actions, boating accidents, cruise line injuries and insurance claims. 240 Tenth Street, West Palm Beach, FL 33401, (561) 833-7828 Mhanson@PalmBeachInjuryLawyer.com.

W. GREY TESH: Criminal Defense Attorney. Over 50 jury trials. Former assistant public defender experience in felony, misdemeanors, juvenile, and appeals. Federal and State cases. Private investigator services included. Director, Palm Beach Association Criminal Defense Lawyers. Young Lawyers Section, PBCBA. 1610 Southern Blvd. WPB, FL 33406. www.wgtlaw.com (561-686-6886).

RICHARD D. NADEL: Bankruptcy. Twenty years experience in the Southern and Middle District. Florida Bar designated 1996. Address: 3300 PGA Blvd., Ste. 970, Palm Beach Gardens, FL 33410, Telephone: (561) 622-9353 Email: nadelgrp@bellsouth.net.

KATE LYNN: The Law Offices of Kate

Lynn, LLC are pleased to announce the relocation of their offices on July 1, 2005 to: The Comeau Building, 319 Clematis Street, Suite 109, West Palm Beach, FL. 33401, Tel: (561) 659-2280; Fax (561) 659-2208 E-mail: katelynnlaw@bellsouth.net. The Law Offices of Kate Lynn, LLC concentrates on criminal defense (felony, misdemeanor, DUI, traffic), family law and civil litigation.

RICHARD HUJBER: Former

Immigration Attorney-Advisor to the Miami Immigration Court and the Board of Immigration Appeals, is pleased to announce the opening of his new law office in Boca Raton. Mr. Hujber has 10 years experience, exclusively in immigration law. He and his staff speak Spanish, Hungarian, and Portuguese fluently. The office accepts ALL types of immigration matters. 980 N. Federal Hwy. Suite 306, Boca Raton, Florida, 33432. Tel: (561) 417-VISA (8472); Fax: (561) 417-2575; Richardhujber@yahoo.com.

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JUPITER OFFICE SPACE: River Place on Indiantown Road – new professional law office – marble, granite, mahogany throughout. 2000 sq. ft.; 3 offices available w/secretarial stations, reception area, conference room & kitchen. Possible sign on building. Available July 2005. 561-625-4110.

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Bulletin Board

HEARSAY

Schwarzberg Spector Duke Schulz & Rogers proudly welcomes **David I. Spector** and **Christopher S. Duke**, formally partners with Steel Hector & Davis, LLP, as shareholders of the firm. Mr. Spector focuses his practice on Employment, Civil Rights and Commercial Litigation and Mr. Duke focuses his practice on Employment Law and Complex Commercial Litigation.

Laura L. Mall, an associate of Christine D. Hanley & Associates, P.A., a labor and employment law firm in West Palm Beach, received a special commendation from the Legal Aid Society of Palm Beach County, The Florida Supreme Court and the Florida Pro Bono Coordinator Association for her pro bono work in the year 2004. Laura provided over 100 hours (Gold level) of pro bono assistance.

Buckingham, Doolittle & Burroughs, LLP is pleased to announce that **L.A. Perkins** has been elected Shareholder by Kelley & Warren, P.A. is pleased to announce that **Glenn D. Kelley** has been certified by the Supreme Court as Circuit Civil Mediator. Mr. Kelley's practice continues to emphasize commercial litigation and securities related matters. You may contact Mr. Kelley at 1555 Palm Beach Lakes Blvd., #1006, West Palm Beach, Florida 33401-2328; Telephone: 561-681-9494; Facsimile: 561-681-9436.



Christopher J. Schuster has joined the Boca Raton office of Hodgson Russ LLP as an associate in its Business Litigation Practice Group. Mr. Schuster was formerly

associated with Adorno & Yoss, P.A., in Boca Raton. Mr. Schuster concentrates his practice in commercial and civil litigation matters.



Stephanie A. Russo, an associate with the law firm of Fowler White Boggs Banker, has been appointed the chairperson of the Palm Beach County Bar Association

Health Law Committee. Ms. Russo practices in the firm's West Palm Beach office in the Health Care Practice Group and is certified in Health Law by the Florida Bar. She concentrates her practice in the area of health care operations and litigation, including issues regarding HIPAA, medical staff privileges, peer review and medical records, and commercial litigation generally.

Philip B. Harris and Brett A. Elam announce the formation of Harris & Elam, P.A., with offices located at 1300 Corporate Center Way, Suite 103, Wellington, FL. 33414. The firm will handle general legal matters, and will specialize in consumer bankruptcy and real estate transactions. Ph: (561) 753-6010 and fax (561) 753-3211.



Do we have your email address?

Is your current email address on file with the Palm Beach County Bar Association? If not, please be sure to send it to pburns@palmbeachbar.org. We send out a weekly eNewsletter with updated legal news and information about upcoming events and seminars. Bar members were sent emails after the hurricanes to keep them up-to-date on courthouse and clerk's offices closings and we also post information about judicial openings and any other critical information that comes from the Chief Judge's office. Don't be left out, send your email address in today.



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Bulletin

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Thursday, July 14, 5:30 p.m.

YLS Summer Intern Happy Hour
O'Shea's in West Palm Beach

Friday, July 15, 12 noon **Cunningham Bar Association Mtg.** Law Library

Saturday, July 16, 7:30 a.m. **YLS Golf Tournament** Emerald Dunes Country Club

Wednesday, August 3, 12 noon **Hispanic Bar Association Meeting** Judicial Dining Room, Courthouse Thursday, August 18, 5:30 p.m. 3rd Annual Bar Spelling Bee/Reception
The President Country Club, West Palm Beach

Friday, August 19, 12 noon Cunningham Bar Association Meeting Law Library

Wednesday, August 24, 12 noon Lawyers for Literacy Committee Meeting Bar Association Office Wednesday, August 24, 5:00 p.m. **Legal Aid Board of Directors Meeting** Bar Association Office

Thursday, August 25, 5:00 p.m. **Board of Directors Meeting**Bar Association Office

Friday, August 26, 11:00 a.m. **Chairperson's Meeting**Bar Association Office



PALM BEACH COUNTY BAR ASSOCIATION

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