



PALM BEACH COUNTY BAR ASSOCIATION

BULLETIN

www.palmbeachbar.org

March 2011

Bar elections will be online

This year's election for the Board of Directors will once again be conducted electronically. An email will be sent to all members in good standing. **Please be sure to set your spam filters to preapprove anything from ballotboxonline.com**

Voting will take place beginning on April 14 and ending on April 25 at 5 p.m. Winners will be announced via e-mail and will be posted on the Bar's website.

A contested election will take place for the position of director. There are five members running for four seats: Rosalyn Sia Baker-Barnes, C. Wade Bowden, James "Grier" Pressly III, Ned Reagan and Jill Weiss.

Mark your calendar for upcoming Membership Events

Bench Bar Conference

March 4, 8:00 – 5:00
Palm Beach County Convention Center

Joint Luncheon with South Palm Beach County Bar

March 22, 11:45 a.m. – 1:00 p.m.
Benvenuto's in Boynton Beach
Speaker: FL Bar President Mayanne Downs

"Raise the Bar" Event

March 24, 5:30-7:30
Historic Palm Beach Courthouse

Texas Hold 'Em Poker Tournament

April 7, 5:30 – 8:30
Palm Beach Kennel Club

Annual Judicial Reception

May 3, 5:30 – 7:00 p.m.
The Harriet at City Place

Law Day Luncheon

May 6, 11:45 – 1:00 p.m.

Annual Installation Banquet

June 4, 7:00 – Midnight
The Breakers Hotel, Palm Beach

Judge Keyser Investiture Ceremony Scheduled

The investiture ceremony for Judge Gregory Keyser has been scheduled for Friday, March 11 at 4:00 p.m., Courtroom 11A.



Joint Luncheon with South County Bar March 22

The Florida Bar's 62nd president, Mayanne Downs, will address the 8th annual joint luncheon of the Palm Beach and South Palm Beach County Bar Associations on March 22. The meeting will be held from 11:45 - 1:00 p.m. at Benvenuto's, 1730 N Federal Highway in Boynton Beach. The cost to attend the luncheon is \$35 for members of either organization if registered before March 17, after that date, the cost will be \$45; judges complimentary. Registration is available online at www.palmbeachbar.org/register.php.

Downs earned her bachelor and juris doctorate degrees from the University of Florida, graduating with High Honors. While earning her law degree, Downs served as chancellor of the University of Florida Student Honor Court and was the senior executive editor for the University of Florida Law Review. She was inducted into both the University of Florida Hall of Fame and Florida Blue Key. Downs has served as the Orlando City Attorney since 2007. She is a shareholder in King, Blackwell, Downs & Zehnder P.A., where she handles civil trial, appellate and domestic relations cases.

Downs has been a member of The Florida Bar Board of Governors since 2002 and has served on the Executive Committee since 2005. She is the organization's fourth woman president since its founding in 1950.

Join the North County Section for Happy Hour!

Stop by the Yard House on your way home from work and enjoy cocktails & conversation with colleagues.

Thursday, March 31

5:30 pm to 7:00 pm

Yard House, Palm Beach Gardens

Cost: \$15.00 for NCS Members; \$20.00 for attorneys who are non-section members; and judges are complimentary.

Rsvp: online @palmbeachbar.org no later than 3/29/11 to avoid a \$5.00 late fee

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THE
BULLETIN

PALM BEACH COUNTY
BAR ASSOCIATION

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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

RAISE THE BAR
Support Future Women Leaders

The Women's Foundation of Palm Beach County Invites You To A Networking and Cocktails Event to Benefit the Girls' Leadership Institute at the

HISTORIC PALM BEACH COUNTY COURTHOUSE
THURSDAY, MARCH 24, 2011

5:30 - 7:30 PM

Complimentary Wine, Beer and Hors d'oeuvres

This is the first annual Raise the Bar event in Palm Beach County and 100% of the proceeds from this year's event will be given to the Girls' Leadership Institute, a one-day seminar that provides hands-on leadership training and support for future women leaders of Palm Beach County.

RSVP to Kim Daniel at pbcfawl@att.net and send a \$25 check to Women's Foundation of Palm Beach County, PO Box 7576, West Palm Beach, Florida 33405. Tickets will be available at the door, but space is limited so please buy your ticket early.

Contributions sought for 2011 law week judicial reception

The Law Week Committee is beginning its efforts to request contributions from law firms to assist in underwriting the cost of the annual judicial reception honoring the local judiciary to be held on May 3, 2011. Sponsors will be recognized on the email notices, on a sign at the reception and in the Bar Bulletin.

Those interested in making contributions should send a check no later than April 1 to the Palm Beach County Bar Association, ATT: Patience Burns, 1601 Belvedere Road, Ste. 302E, WPB, FL 33406. Sponsorship amount are as follows:

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

Thank you for your consideration!

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The Importance of an Independent Judiciary

By Michael J. Napoleone, President

"The doctrine of the separation of powers was adopted... not to promote efficiency but to preclude the exercise of arbitrary power." - Justice Louis

Brandeis, Meyers v. U.S. (1926)

"Maybe Supreme Court judges should do their deliberations in the Sunshine." - Florida Senate President Mike Haridopolos (December, 2010)

With increasing frequency, the independence of our judiciary is being challenged. Typically, the outrage at a decision reached by a particular judge or court comes from politicians or media pundits who fail to understand that the judiciary is a separate and independent branch of government, and who decry as "activist" those judges with the courage to strike down laws that violate the constitution. Contrary to popular belief, Republicans do not have a monopoly on invective. Take for example the White House statement denouncing as "judicial activism" the recent decision by Judge Vinson in the Northern District of Florida that struck down as unconstitutional the Affordable Care Act. Apparently, an "activist judge" is simply one who disagrees with your point of view or opinion of what the law should be.

The independence of the judiciary was provided for by the framers of the Constitution as a remedy for abuses suffered at the hands of a ruling and unchecked monarchy. They believed that the creation of a system of checks and balances between three distinct and co-equal branches of government would prevent any one branch from abusing its power. As the Constitution was drafted, Congress has the power to make laws, the Executive branch has the power to enforce the laws, and the and the Judicial branch is charged with interpreting those laws in individual cases. It was under this political framework that our country operated throughout most of its history. Lately, it seems that the legislative branch has forgotten its role as well as the importance of the role played by the judicial branch.

This last election cycle proved how high a price some judges have paid for remaining independent. Take the much talked about case of the three Iowa supreme court justices who were voted off the bench because of their decision that allowed same-sex couples to marry. In Florida, two of our own Supreme Court Justices were the target of a campaign to have them denied merit retention because they had the courage to strike from the ballot a proposed but unclearly worded amendment to the Florida Constitution. The charge for their removal was aided by an elected state senator.

In speaking about the role of the court's following the historic Iowa election, Iowa Supreme Court Chief Justice Mark Cady said that attacks on judges based on divisive rulings pose a threat to the check-and-balance system that

guarantees individual rights and constitutional freedom. "Courts serve the law, not the demands of special-interest groups," he said. "By serving the rule of law, courts protect the civil, political, economic and social rights of all citizens."

The role of a judge is to interpret the law and apply that law to the facts of the matter at hand. Sometimes, those decisions are unpopular, especially when they invalidate a law near and dear to a politician or political party. Ethics is often defined as "doing the right thing, even when no one is watching." Judges don't have that luxury. Their decisions - especially the ones at the center of a political controversy - are quickly made public, and the judges are often vilified for opposing "the will of the people."

In a 2008 speech, former U.S. Supreme Court Justice Sandra Day O'Connor noted: "For as long as we have had elected officials in this country, we have had interest groups who try to influence the outcome of elections. That's part of the process. It goes hand in hand with democracy and elections," O'Connor said. "But judges are not ordinary politicians. Their job is not to interpret the will of the people." If judges are removed from the bench because they make unpopular decisions, they will be chilled from acting to uphold the Constitution and protect the rights of all citizens. The abuse of power feared by the framers will come to pass.

As lawyers, we are duty bound to protect and preserve the independence of our judiciary. We need to educate the public about the importance of that role and help people understand that sometimes, even seemingly well intended laws or ballot initiatives don't always pass judicial scrutiny. When they don't, we depend on our courts to do the right thing, unbowed by political pressure.

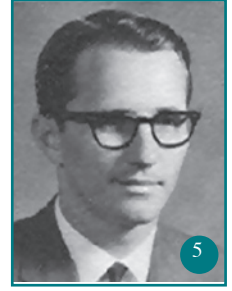
Board of Directors Meeting Attendance

	Retreat	Aug	Sept	Oct	Nov	Dec	Jan
Bowden	x	x	x	x	x	x	x
Bresky	x	x	x	x	phone	x	x
DiSalvo		x	x		Schwartz		x
Guari	x	x	x	x	x	x	x
Howe	x	x	x	x	x	x	x
Kapner	x	x	x	x	x	x	x
Napoleone	x	x	x	x	x	x	x
Pressly	x	x	x	x	x	x	x
Rabin	x	phone	x	x	x	x	x
Reagan		x	Ponzoli	x	x	x	x
Suskauer	x	x	phone	x	x	x	x
Weiss	x	x	x	x	x	x	x
Whittles	x	x	x	x	x	x	x

Historical Committee

Who are they?

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



Community Outreach

Ryon McCabe, Law Related Education Committee Chair and **Peggy Wood**, Lawyers for Literacy Chair, recently participated in the 3rd Annual Career Showcase at Suncoast High School in West Palm Beach. If you're interested in volunteering in schools, we need speakers and help with mock trials during Law Week May 2 – 6. Please call Sherry Ingram at 355-4389 today!

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In Memoriam

John L. Remsen
1928 - 2010

Terrence F. Dytrych
1955 – 2011

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VOLUNTEERS NEEDED FOR LAW WEEK: MOCK TRIALS & SPEAKER PROGRAMS

May 2 – 6, 2011

We need volunteers to present Mock Trials and be guest speakers in schools throughout the county. In return for your support, you'll receive pro bono credits. If you can help, please fill out the form below and mail it back to Sherry Ingram, Palm Beach County Attorney's Office, 300 North Dixie Highway, Suite 359, West Palm Beach, FL 33401.

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



JUDGE/ATTORNEY NAME: _____

FIRM ADDRESS & PHONE: _____

E-MAIL ADDRESS (REQUIRED): _____

AREA(S) OF SPECIALTY: _____

PREFERRED DAY (please circle) Monday Tuesday Wednesday Thursday Friday

EVENT PREFERENCE: ☐ MOCK TRIAL ☐ SPEAKER'S BUREAU

SCHOOL PREFERENCE (if any): _____

SCHOOL LEVEL PREFERENCE: ☐ Elementary ☐ Middle ☐ High School

GEOGRAPHICAL PREFERENCE:

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

PLEASE RETURN BY MARCH 18 TO:

Sherry C. Ingram, CP, FCP, FRP

Palm Beach County Attorney's Office

300 N. Dixie Highway, Suite 359

West Palm Beach, FL 33401

Direct: 561/355-4389. Fax: 561/355-4234.

Email: singram@pbcgov.org

Attorneys showcase their talent during the Lawyer Variety Show

The Bar's Second Annual Lawyer Variety Show was recently held at the Eisse Theatre in Palm Beach Gardens for more than 450 members, judges and guests and raised more than \$15,000 for the new Armed Services Advocacy Project for Legal Aid. The evening was a lot of fun which included a cocktail reception followed by a terrific cast of entertainers. A huge thank you to Michelle Suskauer for serving as emcee, and to all of our performers, sponsors and guests for their support. Be sure to save the date for next year's show scheduled for Saturday, January 21, 2012.



Juliana Blanc, Ethan Blanc and Chief Judge Peter Blanc

Retired Judge Harold Cohen and his wife Linda, with his brother Judge Barry Cohen and his wife Bonnie



"Let's Talk Dirty in Hawaiian" a parody performed by Al Johnson



Ted and Roslyn Leopold



Cyndi and Michael Napoleone



Ron Ponzoli, Patti and Tim Leonard, Michelle Suskauer and Rachel Ponzoli



Sandra Powery, Edrick Barnes and Sia Baker-Barnes



Seth and Fran Marmor and Bruce Harris



North County Section's Board of Directors sing "Piano Man" for tips (good thing they have day jobs!)



John Whittles, Grey Tesh, Jeremy Slusher and Brian Denney rock the house by playing "Fire"

Of all the banks in South Florida, only one has the distinction of being called "The Lawyers' Bank."

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Additional pictures can be found on the Bar's website



No Resulting Trust for Father of Debtor Who Purchased Cars in Debtor's Name

Submitted by: Marc P. Barmat

In a recent case, Bankruptcy Judge, John K. Olson, sustained a Chapter 7 trustee's objection to a Debtor's claimed exemption in three cars which the Debtor's father purchased for use by the Debtor's daughters. In re DiStefano, 10-19596-BKC-JKO, 2010 WL 5300896 (Bankr. S.D. Fla. Dec. 22, 2010). The Debtor's father paid in full for the vehicles and titled the vehicles solely in the Debtor's name. Id. at 1. The Debtor testified that she chose to title the cars in her name rather than her daughter's names because she thought the insurance would be cheaper. Id. In response to the trustee's objection, the Debtor amended her Statement of Financial Affairs to list the owner of the three vehicles as "[Debtor's Father] Equitable Owner via potential resulting Trust." Id. The Debtor then argued that the three vehicles were either exempt or not property of the bankruptcy estate. Id.

In sustaining the trustee's objection, Judge Olson found that "the decision to title a vehicle in one name or another has consequences" and that "[w]here a certificate of title exists, it 'invariably establishes presumptive ownership.'" Id. (internal citations omitted). Accordingly, Judge Olson found that because the certificates of title showed that the Debtor owned the vehicles free and clear, they were presumptively property of her bankruptcy estate. Id.

Judge Olson further disagreed with the Debtor's alternative argument that the Debtor's father was the equitable owner of the cars via a potential resulting trust. Judge Olson found that the equitable theory of a resulting trust was not applicable as "the daughters did not contribute to the purchase price of the vehicles." Id. Judge Olson explained the concept of a resulting trust as "aris[ing] by implication of law and . . . founded on the presumed intention of the parties that the one furnishing the money should have the beneficial interest, while the other held title for convenience or for a collateral purpose." Id. (internal citations omitted). In In re DiStefano, the uncontroverted evidence was that the cars were driven by the Debtor and/or her daughters, not by the Debtor's father; therefore, the Debtor's father was neither the legal owner nor enjoying a beneficial interest in the cars. Id.

The typical resulting trust case arises when elderly parents purchase real property with their own money, but the property is titled in their children's name. In that case, the children are presumed to hold title on a resulting trust for the parents. Before filing a chapter 7 bankruptcy for a client, Debtor's attorneys must carefully evaluate whether a debtor who has property in their name can successfully make a resulting trust argument.

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

Need CLE Credit? We've Got 'Em!

Please take a moment to review the schedule below of upcoming CLE seminars. Thank you to the many attorneys who have volunteered to organize and speak at these seminars. All seminars will be held in the offices of the Bar Association unless otherwise noted.

Wednesday, March 9, 10:30am – 2:00pm

Bankruptcy Law Seminar

"View from High Places-Insights from the Courts and a Trustee"

Friday, March 11, 11:30am – 2:10pm

Law Practice Technology Seminar

"Best Legal Apps for iPhone, Android, and Blackberry – Dueling Smartphones"

Friday, March 25, 8:00am – 12:30pm

Real Estate Seminar

"Real Estate Transactions A – Z"

Thursday, March 31, 6:00pm – 8:30pm

Elder Law Affairs Seminar @ The Colony Hotel

"The 11th Annual View from the Bench"

Friday, April 29, 7:45am – 10:15am

Commercial Litigation Seminar

"Practical Use of Damages Expert in Commercial Litigation"

Monday, May 9

PI Wrongful Death Seminar

Friday, May 13

Employment Law Seminar

Tuesday, May 17

Estate & Probate Law Seminar

Tuesday, May 24

Bankruptcy Law Seminar

Tuesday, June 7

Construction Law Seminar

Friday, June 10

Community Association Law Seminar

Friday, June 24

Law Practice Technology Seminar

"Intermediate Facebook"



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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

Board of Governors Candidates

There are three candidates running for the 15th Circuit Florida Bar Board of Governors Seat 4, Gary Lesser, Seth Marmor and Ron Ponzoli. Below are their candidate statements:



Gary S. Lesser

Firm: *Lesser, Lesser, Landy & Smith, PLLC*

Year admitted to practice: 1992

Law School: *University of Miami School of Law*

What do you feel you can contribute to The Florida Bar as a Board member:

Since I started off in a two lawyer, one secretary office nineteen years ago, I have worked hard for our profession and in our community. I will be an active voice for our legal community, and I will be a good listener to what our local lawyers have to say.

We need to improve the public image of lawyers. I will work hard for there to be a greater emphasis on the good work done by lawyers every day, on their cases and in their communities. As the former Florida Bar Ethics Chair, I understand the issues that lawyers have to deal with every day. I served as the former local Professionalism Chair for many years, and I will continue to make this a priority.

Our Florida Bar needs greater input from government lawyers who serve our community, and from solo practitioners and small firms that make up the majority of lawyers in Florida. I will work hard to increase diversity through greater communication with voluntary and minority bar associations.

With challenging times ahead, I will work hard to do a good job, as that's what this position is about - serving our profession.



Seth A. Marmor

Firm: *Shapiro, Blasi, Wasserman & Gora, P.A.*

Year admitted to practice: 1982

Law School: *University of Miami School of Law*

What do you feel you can contribute to The Florida Bar as a Board member:

I am proud to be running for the open Board of Governors seat in Palm Beach County where I have lived and worked for more than 25 years. I believe that the depth and breadth of my experience and expertise makes me the best candidate to succeed Circuit Judge Lisa Small as your Board of Governors representative.

I see two critical issues which our profession currently faces. First, is our approach to the inevitable technological changes in the practice of law. Second, is dealing with the public's perception of attorneys and our Bar's commitment to protecting the integrity of our profession.

Throughout my career I have maintained the highest level of professionalism as exemplified by my Board Certification in Wills, Trusts & Estates and in Elder Law, serving as President of the South Palm Beach County Bar, Chair of the Attorney/Trust Officer Liaison Conference, Vice Chair of the Guardianship Committee for the RPPTL Section, and as Chair of the Elder Law Committee for the Palm Beach County Bar. I try to lead by example, striving to be a role model for our Bar in furtherance of our collective goal to be respected professionals in our community.



Ron Ponzoli

Firm: *Richman Greer, P.A.*

Year admitted to practice: 1997

Law School: *The University of Miami School of Law*

What do you feel you can contribute to The Florida Bar as a Board member:

You can count on me to bring the voices of the attorneys of Palm Beach County to The Florida Bar. As a member of the Board of Governors, my tireless devotion to getting the job done right will ensure that Palm Beach County will be well represented. Since I graduated with honors from law school, I have always practiced in Palm Beach County. I have had the pleasure of listening to government attorneys, private attorneys, and members of our many Bar Associations and organizations. I will make certain that your issues are addressed by the Board of Governors.

I had the unique honor of serving for six years as an elected member of The Florida Bar Young Lawyers Division Board of Governors. During that time, I worked with current members of the Board of Governors and participated in joint meetings with the Board. My firsthand knowledge of the operation of the Board of Governors and my relationship with sitting members will make me an effective voice on the Board. My reputation for working hard for The Florida Bar is evidenced by the number of past Bar Presidents who have endorsed me.

I greatly appreciate your support.



Proper Venue (Jurisdiction) for Proceedings Against a Foreign Trust

By David M. Garten, Esq.

Sec.736.0205, Fla. Stat. reads:
736.0205 Trust proceedings; dismissal of matters relating to foreign trusts.

– Over the objection of a party, the court shall not entertain proceedings under s. 736.0201 for a trust registered, or having its principal place of administration, in another state unless all interested parties could not be bound by litigation in the courts of the state where the trust is registered or has its principal place of administration. The court may condition a stay or dismissal of a proceeding under this section on the consent of any party to jurisdiction of the state where the trust is registered or has its principal place of business, or the court may grant a continuance or enter any other appropriate order.

This statute is not jurisdictional, but rather has the purpose of having trust litigation proceed in the most appropriate forum, where there is a possibility of litigating in more than one forum. The nature and purpose of this statute was explained by the court in In re Estate of McMillian, 603 So. 2d 685 (Fla. 1st DCA 1992), as follows:

This statute is not a jurisdictional bar. It is more in the nature of a venue statute, and speaks in terms of whether a Florida court will “entertain” trust proceedings. The statute further does not seem to require the judge to dismiss a case, even after the statutory provision is invoked, as evidenced by the final sentence of the statute which provides that the judge may enter orders of continuance, or other appropriate orders. The comments of the drafters of the Uniform Probate Code, accompanying section 7-203, which is materially similar to our section 737.203, indicate:

It is assumed that under this section a court would refuse to entertain litigation involving the foreign registered trust unless for jurisdictional or other reasons, such as the nature and location of the property or unusual interests of the parties, it is manifest that substantial injustice would result if the parties were referred to the court of registration... [T]he issue is essentially only one of forum non conveniens in having litigation proceed in the most appropriate forum. This is the function of this section.

In Covenant Trust Company v. The Guardianship of Lillian Ihrman, 45 So. 3d 499 (Fla. 4th DCA 2010), Covenant was the trustee of the Ihrman Trust which was being administered in the State of Illinois. The Trust reads in part “[t]his instrument and the disposition under it shall be construed and regulated and their validity and effect shall be determined by the laws of the State of Illinois.” A guardianship over Ms. Ihrman was pending in Broward County. The guardian filed a Petition to Order Payment of Monthly Cost of Care/Petition to Remove Covenant as Trustee. In response, Covenant filed a motion to dismiss the petition based, in part, on §736.0205, F.S., and argued that the action should be brought in Illinois. Judge Speiser

denied the motion to dismiss. Based on Covenant’s affidavit, the appellate court found that the Trust’s principal place of administration was Illinois and reversed and remanded, in part, with directions to hold an evidentiary hearing to determine if all interested parties could be bound by litigation in Illinois. The court reasoned:

It is not clear from the record if “all interested parties could not be bound by litigation in the courts of the state where the trust is registered or has its principal place of administration.” Thus, if the trial court determines it has in personam jurisdiction, it will next need to determine if the interested parties could be bound by litigation in Illinois. See Meyer v. Meyer, 931 So. 2d 268, 269-70 (Fla. 5th DCA 2006) (trust administered in New York where trustee resided; no parties had any connections with Florida; trial court should have applied section 737.203 (predecessor to section 736.0205); thus, it “reverse[d] the order denying the motion to dismiss and remand[ed] for the purpose of allowing the trial court to determine whether all interested parties could be bound by litigation in New York”).

In Straub v. Nationsbank, 732 So. 2d 48 (Fla. 4th DCA 1999), the testamentary trust was created pursuant to the will of a resident of Missouri whose estate was probated in Missouri and was being administered by the co-trustees in Missouri. The beneficiary of the trust was a resident of Florida and brought suit in Florida alleging improper conduct by the trustees. The trial court dismissed the case for lack of jurisdiction based on the representation of the trustees that Missouri would have jurisdiction over the action. The appellate court affirmed on the basis that dismissal should have been ordered under Fla. Stat. § 737.203 [predecessor to §736.0205] which restricted Florida courts from entertaining trust proceedings relating to a foreign trust.

Circuit Court Report CIVIL DIVISIONS • January 2011

DIVISION	JURY TRIALS	NON-JURY TRIALS	MOTIONS	CASES PENDING
AA KELLEY	05-11	05-11	04-11	1700
AB HAFELE	09-11	09-11	03-11	1591
AD FRENCH	06-11	06-11	03-11	1773
AE McCARTHY	10-11	10-11	03-11	1910
AF MAASS	07-11	07-11	04-11	1418
AG CROW	06-11	06-11	04-11	2050
AH BROWN	07-11	08-11	03-11	1743
AI SASSER	05-11	03-11	02-11	1077
AJ ROSENBERG	08-11	08-11	03-11	1208
AN COX	06-11	06-11	04-11	1651
AO BARKDULL	07-11	06-11	02-11	1723

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



"The 11th Annual View From The Bench"

*Thursday, March 31, 2011 6:00pm - 8:30pm
The Colony Hotel, Palm Beach, 155 Hammon Avenue*

Program Schedule

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

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

- *Honorable Martin H. Colin*
- *Honorable Jack H. Cook*



This course has been granted **2.0 CLER /**

1.5 Elder Law; 1.5 Wills, Trusts, & Estates Certification credits from The Florida Bar.

The cost of the seminar is \$60 for PBCBA members/paralegals; \$100 for non-PBCBA members/paralegals if registered by 3/24/11; add \$25 to registration fee after that date.

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___ *Mahi Mahi over spinach w/feta cheese*

___ *Mushroom Ravioli w/Tomato Fondue*

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Substantial Similarity

by Ted Babbitt

In product liability cases and particularly automobile rollover cases, defendants

often seek to introduce tests done on exemplar vehicles. These tests are extremely expensive to perform and are generally not available to be duplicated by the plaintiff because of their excessive costs. In addition, automobile manufacturers have testing materials readily available to them because of their need to perform similar tests in the design and manufacture of their vehicles. These tests are often quite dramatic and can be extremely persuasive. Plaintiffs often argue that the admissibility of these tests is subject to objection because they fail the substantial similarity test.

That issue was raised in the recent case of Mitsubishi Motors Corp. v. Liliberte, 35 Fla. L. Weekly D2849 (Fla. 4th DCA, Dec. 15, 2010). That case came up on appeal based upon a multi-million dollar verdict in a product liability case against Mitsubishi arising out of a rollover accident with one of its vehicles. The plaintiff claimed a defect in the seatbelt and seat design of the vehicle which allegedly resulted in ejection of a young boy and his ultimate death.

Defendants sought to introduce into evidence four different crash tests designed to show that their seat design was safe, that the plaintiff's alternative seat design was, in fact, more dangerous and that the seat and seatbelt conformed to industry standards.

In addition to the tests, Mitsubishi attempted to introduce statistical information concerning other rollover accidents as well as slides and a video of the tests.

The trial court granted plaintiff's objection and refused to allow admission of any of the tests or statistical information. Importantly, the trial court did not exclude testimony by expert witnesses on the subjects in question because the defendants did not claim that any of those expert opinions were based upon the tests.

The substantial similarity test is described by the Court at 2851 as follows:

Generally, the doctrine of substantial similarity applies in products liability claims when a party attempts to introduce evidence of prior accidents, to recreate the accident involving the defendant's product, to show notice of defect, magnitude of the danger involved, the defendant's ability to correct a known defect, or the lack of safety for intended uses. *See Tran v. Toyota Motor Corp.*, 420 F.3d 1310, 1316 (11th Cir. 2005).

It is important to note that the defendants never made a representation that they were trying to recreate this accident. Instead, defendants admittedly performed these tests on other makes and models of vehicles in other scenarios involving different seats and different forces. The appellate court thus held that the substantial similarity test did not apply to this case. At 2851, the Court stated:

Here, Mitsubishi admittedly did not attempt to recreate the accident. Instead, Mitsubishi attempted to "demonstrate" body movement in a rollover accident, the advantages of its seat back and seatbelt design in other types of accidents, and the unique nature of the movement of this vehicle during the rollover accident.

"The substantial similarity doctrine does not apply to situations . . . where the evidence is 'pointedly dissimilar' and 'not offered to reenact the accident.'" *Tran*, 420 F.3d at 1316 (quoting *Heath v. Suzuki Motor Corp.*, 126 F.3d 1391, 1396-97 (11th Cir. 1997)).

Nevertheless, the appellate court affirmed the trial court's refusal to admit the tests in question or the statistical information. The trial court carefully explained in her ruling that her decision was based specifically on the issue for which the evidence was offered. The Court sustained the plaintiff's objection to hearsay as to the statistical information. Furthermore, the Court found that there was a lack of relevance to many of the tests because they were, in fact, based upon differing crash scenarios and that the tests had a high likelihood of misleading the jury.

Using the abuse of discretion test,

the Court found that the trial court's reasoning based upon relevance, hearsay, foundation and prejudice in deciding whether or not to admit what amounted to demonstrative evidence was not reversible error and thus, on rehearing, sustained the trial court's rulings and the ultimate verdict.

This case teaches a valuable lesson, which is amplified by Judge Ciklin's special concurring opinion emphasizing a trial court's ability and need to use appropriate discretion with reference to evidentiary rulings. The trial court, and not the appellate court, listens to all the evidence face to face. Only the trial court is in a position to strike the proper balance as to what is probative and what will unfairly prejudice a jury. Only the trial court can view relevance and unfair prejudice in the context of a real trial. It is these tenets which underscore the abuse of discretion standard. It is a plain fact that tests of these kinds can, in fact, unfairly prejudice and overwhelm a jury. Attempting to actually recreate an accident is extremely difficult because the forces can never truly be duplicated. Allowing into evidence tests which purportedly are only utilized for demonstrative purposes have an extraordinary propensity to confuse and mislead a jury which doesn't have the technical expertise to distinguish between dissimilar vehicles or forces. The Court found that it should be left to the trial judge to determine just how probative such tests are and the dangers inherent in their admissibility.

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



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

“Practical Use of Damages Expert in Commercial Litigation”



Friday, April 29, 2011 - 8:00am - 12:30pm
Bar Offices - 1601 Belvedere Rd., Suite 302E, WPB

Program Schedule

- 7:45am - 8:00am **Check In / Late Registration**
- 8:00am - 8:10am **Welcome - Opening Remarks** - *Phillip H. Hutchinson, Esq.,
Greenberg Traurig, P.A., Commercial Litigation Committee Chairperson*
- 10:00am - 10:15am **Break**
- 8:10am - 12:00pm **A Lawyer-moderated discussion addressing legal, strategic
and client/practice-management issues concerning Economic
Damages in complex commercial litigation. Discussion will
focus on enhancing litigator's understanding of the potential
scope and extent of the Economic Damages Expert, generally
accepted damages methodologies, coordination of litigation
strategies with the expert's basis for damages, and other
areas -**
Moderator: *Phillip H. Hutchinson, Esq., Greenberg Traurig, P.A.*
Panel Members: *Andrew C. Bernstein, Director, Forensic &
Business Valuation Services, Berkowitz Dick Pollack & Brant
and Scott Bouchner, Director, Berkowitz Dick Pollack & Brant*
- 12:00pm - 12:30pm **Ethics and Professionalism: A Cut above the Ordinary** -
*Representative from the Professionalism Committee of the Palm
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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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Is pleased to announce that **Steven Foor** (insurance defense, insurance coverage, workers' compensation) and **Jerry McKim** (workers' compensation, appellate practice) have joined the Firm as partners.

In addition, **David Fagerstrom** (insurance defense, commercial litigation, insurance coverage) and **Anthony Forte** (workers' compensation) have joined the Firm as associates.

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Young Lawyers Section News



The Young Lawyers Section, in conjunction with the Holland & Knight Charitable Foundation, participated in the Reading is Fundamental project at Washington Elementary School. Some of the members who volunteered were: Jason Lazarus, Julia Wyda, Judge Frank Castor, Larry Saunders, Siobhan Shea, Will Lewis, Shavarne Dahlquist, Rena Taylor, Adam McMichael, Lisa Paige Glass and Alana Zorilla-Gaston.



Jeremy Dicker reads to a group of students.

Lunch with the Judges

The YLS recently hosted a "Lunch with the Judges" event at the courthouse where approximately 30 young lawyers have a chance to hear from some of the judges in an informal setting. Other luncheons are scheduled for March 24, April 19 and May 26. Register online for these sold-out luncheons.



Event chair
Luis Delgado
with Judge
Edward Fine.



Judge Lucy
Brown and
Shannon
Rountree



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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.

DODGER ARP – Florida; Nova Southeastern, 2007; Solo Practitioner, West Palm Beach

KERRY NATALIA BARRETT – Stetson University, 2010; Solo Practitioner, Law Office of Kerry Natalia Barrett, P.A., Boca Raton

ELINA BASHAM – Russia; University of Florida, 2011; Law Student Membership, Gainesville

MICHAEL BECK – Florida; University of Florida Levin College of Law, 2010; Associate in Gary Roberts & Associates, West Palm Beach

ASHLEIGH BROLE – Emory University School of Law, 2010; Associate in Akerman Senterfitt, West Palm Beach

CHRISTINE BIALCZAK – New Jersey; Nova Southeastern University, 2006; Associate in Downey & Downey, P.A., Palm Beach Gardens

AMY BOCK – Michigan; Southern Methodist University, 2010; Solo Practitioner, Wellington

CARTER JUSTICE CHOATE, JR. – Georgia; Florida Coastal School of Law, 2008; Guardian ad Litem, West Palm Beach

DEBORAH DEARTH – Pennsylvania; South Texas College of Law, Affiliate Member, New York

MICHAEL E. DUTKO, JR. – Florida; Florida State University, 2009; Office of State Attorney, West Palm Beach

GEOFFREY GILBERT – New York; University of Miami, 2002; Solo Practitioner, Law Offices of Geoffrey Gilbert, P.A., Boca Raton

THORNTON HENRY – Florida; University of Florida, 2008; Associate in Matwiczuk & Brown, LLP, West Palm Beach

ANGELA HILDENBRAND – Florida; Florida Coastal School of Law, 2010; West Palm Beach

ANGELIQUE JACKSON – FAMU College of Law, 2010; Associate in The Levers Law Firm, West Palm Beach

SAI KORNSUWAN – Florida; Florida Coastal School of Law, 2010; West Palm Beach

TIMOTHY J. LE DUC – Wisconsin; University of Minnesota, 2010; Of Counsel at Akerman Senterfitt, West Palm Beach

RACHEL L. MALKOWSKI – Wisconsin; University of Florida, 2010; Associate in Banker Lopez Gassler, P.A., Plantation

A. SHAWN MURRAY II – New York; Nova Southeastern University, 2013; Law Student Membership, Delray Beach

ALISON PAWLOSKY – 2010, Jupiter

ZACHARY R. POTTER – Oregon; Yale Law School, 2009; Associate in Fisher Bendeck, P.A., West Palm Beach

NOELVIS RODRIGUEZ – Cuba; St. Thomas University, 2010; Miami

AILEEN E. SPIKER – Georgia; Barry University, 2010; Associate in The Law Offices of David W. Spicer, P.A., Palm Beach Gardens

SCOTT SWEIGART – Law Offices of Scott H. Sweigart, Lake Worth

LINDSEY B. WAGNER – Ohio; Stetson University College of Law, 2010; Associate in Powers, McNalis, Torres & Teebag, West Palm Beach

MEGAN WEGERIF – Florida; JD NSU; LLM UF, 2010; Associate in Bobo, Ciotoli, Bocchino, White & Buigas, North Palm Beach

HOWARD WEITZNER – New Jersey; University of Miami, 2006; Associate in Bruce Loren & Associates, West Palm Beach

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Previous winners include Judges Lupo, Colton, Blanc, Barkdull, Barry Cohen, Gerber, Crow and Fine.

Send your nomination to lpoirier@palmbeachbar.org no later than April 7.



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Member, The Florida Supreme Court Historical Society
Fellow, The Florida Bar Foundation
Advisory Council, ABA Center for Human Rights

Dear Palm Beach County Young Lawyers:

I have been honored, this past year, to serve as an ex-officio member of The Florida Bar Young Lawyers Division Board of Governors. I respectfully seek your vote to return for a full two year term.

The unique needs and concerns of young lawyers in Palm Beach County, and across the State of Florida, can be overlooked and ignored. That is the reason I seek this office. I would like to continue to be the voice for the young lawyers of Palm Beach County. I want to be your voice. I hope you will grant me the privilege to speak loud and clear on your behalf. For complete details regarding position on the issues, please go to my firms website: www.csklegal.com. If you would like to contact me regarding any issue that concerns you, feel free to email me: miles.mcgrane@csklegal.com.

My friends, today is a great day to be a Florida lawyer. I am proud to be one. You should be too.

Sincerely,

Miles A. McGrane, IV
Board of Governors, Ex-Officio Member, 2010-2011
The Florida Bar Young Lawyers Division

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Michelle Suskauer 3, 7, 10	Mike Pike 18	Theo Kypros 5, 11	Christine Davis Graves 8	Jacob Speisheimer 8	Stephanie Bolton 8	Grasford Smith 20
RJ Haughley 6	Wade Bowden 5, 8	Jason Guari 5, 11	Cissy Proctor 8	Scott Westheimer 8	Stephanie Bolton 8	Nick Johnson 12, 21
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15. American Bar Association, 11th Circuit Young Lawyers Representative	16. Secretary of the Family Law Section of the Florida Bar	17. Treasurer of the Palm Beach County Hispanic Bar Association	18. Executive Board of the Palm Beach County Justice Association	19. President of Palm Beach County Hispanic Bar Association	20. President of F. Malcolm Cunningham, Sr. Bar Association of Palm Beach County	21. Palm Beach Association for Criminal Defense Lawyers, Board Member.



Rosalyn Sia Baker-Barnes

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I ask for your vote because I believe that I can increase the Bar’s community partnerships so that we have a greater presence, enhancing public perception of lawyers and our role in our society. I am confident, as well, that I can advance the Bar’s efforts to increase diversity in our organization . . . so that it is a true reflection of our community and our shared mission of justice for all. ”

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We're proud and pleased to announce Julia Wyda has joined our firm and has established, and will serve as Chairperson of, the Marital and Family Law Group.



Julia Wyda focuses her practice in the area of Marital and Family Law and also handles commercial litigation, employment law and appellate matters. Previously, Julia served as a judicial law clerk for the Honorable Mark E. Polen at the Fourth District Court of Appeal and was with the law firm of Sasser, Cestero & Sasser, P.A.

Julia handles a wide variety of complex marital and family law matters:

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- Parenting Plans
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- Post Judgment Enforcement
- Post Judgment Modifications
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- Paternity
- Litigation of Prenuptial Agreements

E-mail: jwyda@schwarzberglaw.com

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Party in Boca Raton Benefits Legal Aid Society of Palm Beach County

On Saturday evening, January 15, over seventy-five friends and supporters of the Legal Aid Society of Palm Beach County partied at the beautiful home of Doreen Yaffa and Jeff Wilson in Boca Raton. The cocktail reception benefited Legal Aid's 23rd Annual Pro Bono Recognition Evening, to be held on Saturday evening, May 7, 2011, at the Palm Beach County Convention Center. Guests brought over 50 gifts which will be auctioned at the May 7th event. Entertainment was provided by the students of the Dreyfoos School of the Arts, under the direction of teacher Garry Q. Lewis, who sang "New York State of Mind", "Good Morning, Baltimore," and other songs reflecting this year's "Big City" theme.



Legal Aid President Mariano Garcia
with his wife Shelley



Jamie and Scott Murray



Scott Suskauer, Jeff Wasserman, Bob Bertisch, Linda Sheridan
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Thank you to 100% Club Members

The Palm Beach County Bar Association has created a "100 Club". The 100% Club is a special category of membership that demonstrates a commitment to the legal profession and our community from law firms, law departments and legal organizations with more than three attorneys who enroll 100% of their attorneys as members of the Palm Beach County Bar Association. The 100 Club listing will be published quarterly in the newsletter as well as posted on our website.

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Who Are They?

From Page 4

1. Judge William Owen
2. Judge Marvin Mounts
3. Michael Shalloway
4. Sid Stubbs
5. Ray Royce

Dr. Martin Luther King Recognition: January 18, 2011

Submitted by Judge Barry Cohen

Like it or not, we live in times of danger and uncertainty, as the recent events in Tucson, Arizona make it only too clear.

It is, therefore, proper and fitting that we suspend the work of this court for just a few minutes to remember Dr. Martin Luther King, who would have been 82 years old this past weekend, and whose memory we now honor with a national holiday.

Dr. King won the 1964 Nobel Peace Prize for leading non-violent civil rights demonstrations. In spite of Dr. King's stress on non-violence, he himself was often the target of violence.

Racists threw rocks at him in Chicago, and bombed his home in Montgomery, Alabama. He himself was jailed more than once.

Finally, at the young age of 39, violence ended his life when an assassin shot him on April 4, 1968, while Dr. King was in Memphis, Tennessee, supporting a strike by black sanitation workers.

On August 28, 1963, during the March on Washington, at the Lincoln Memorial in Washington, D.C., Dr. King made a stirring plea for racial equality and justice in his famous, "I Have a Dream" Speech.

It will serve us well today, to recall some of Dr. King's words. Dr. King, in part said these words:

"I say to you today my friends that in spite of the frustrations and difficulties of the moment, I still have a dream. It is a dream. It is a dream deeply rooted in the American dream.

I have a dream that one day on the Red Hills of Georgia, the sons of former slaves and the sons of former slaveholders will be able to sit down together at the table of brotherhood.

I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but, the content of their character.

And when this happens, and when we allow freedom to ring, when we let it ring from every village and hamlet, from every city and state, we will be able to speed up that day when all of God's children, black and white, Jews and Gentiles, Protestants & Catholics will be able to join hands and sing in the words of the old Negro spiritual-Free at last, free at last, thank God Almighty, we are free at last."

Senator Robert Kennedy, campaigning for the Presidency in Indiana, on the day of Dr. King's assassination, made this plea, upon learning of the assassination, a plea that remains particularly relevant today: What we need in the country is not division; what we need is not hatred, what we need in this country is not violence or lawlessness, but, love and wisdom and compassion toward one another and a feeling of justice toward those who still suffer in our country, whether they be white or whether they be black. The vast majority of white people and the vast majority of black people in this country want to live together, want to improve the quality of our life and want justice for all human beings, who abide in our land.

Let us dedicate ourselves to that and say a prayer for our country and for our people"

CONCLUSION

For all those men and women, black and white, young and old, gay and straight, religious and secular, American born and immigrant, Democrat & Republican, Liberal and conservative, tea party or no party, who believe in respect for each other, and non-violent solutions to our shared problems, let us share a moment of silence so that Dr. King's hope shall live and his dream shall never die.

Gordon & Doner Announces Addition Of Veterans' Benefits Division



Mr. Josh Stone will lead the new Veterans' Benefits Division. Mr. Stone is an Accredited Non-Attorney Claims Representative/Agent for benefits within the Department of Veterans Administration.

During his time in the U.S. Navy, Mr. Stone was deployed overseas on multiple occasions with the U.S. Marine Corps as a Combat Medic. He is also a current member of the National Organization of Veterans' Advocates (NOVA).

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2. Improve professionalism throughout The Florida Bar by working closely with local professionalism committees to continue to expand these committees' effectiveness
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- Served six years as an elected member to The Florida Bar Young Lawyers Division Board of Governors
- Current Chair of the Palm Beach County Bar Association Professionalism Committee
- Co-recipient of the 2007 Legal Aid Society Firm Award
- Appointed member of the United States District Court for the Southern District of Florida Ad Hoc Advisory Committee on Rules and Procedures
- Appointed member of The Florida Bar's Professional Ethics Committee
- Emeritus member of the Craig S. Barnard American Inn of Court

*A complete list of endorsements can be found at
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Ron can be reached at: 561-803-3519 or rponzoli@richmangreer.com



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- **Palm Beach County Bar Association** - Professionalism Committee Chair 1999-2000, 2001-2002 and Co-Chair 1998-1999; Medical Legal Committee Chair 2005-2008, 2010-2011
- **Florida Justice Association** - Eagle Patron and CLE Committee Member
- **Boca Raton Chamber of Commerce** - Trustee Member, 2008-present
- **Jewish Federation of Palm Beach County** - Executive Board Member and Chair of Campaign Outreach; Former Chair of the Attorneys Division
- **Florida Bar Foundation** - Former Board Member 2005-2008
- **Arthur I. Meyer Jewish Academy** - Former Fundraising V. President and Legal VP
- **American Cancer Society** - Board Member, North County Unit



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PROFESSIONAL OFFICE CONDO for sale in North Palm Beach. US Hwy 1. Four story professional office building. 3rd floor suite, 1,050 sq. ft. \$232,000. 3 offices, conference room, reception area, kitchen, covered parking. Ready to move in. Call Jeff (561) 714-0660.

LAWYER'S OFFICE \$800/MONTH: I-95/Southern. Includes electric, water, garbage and cleaning. One lawyer's office room, one secretarial space. Access to conference room, fax machine and free parking. Phone and internet T-1 line \$60/month. Shared scanner/copier/printer 14 cents/page. Call Grey Tesh (561) 686-6886.

DOWNTOWN DELRAY BEACH: Share office space with three attorneys in an exceptional building and excellent location, just three blocks from the Delray Courthouse. Space includes Executive and secretarial offices along with use of conference room, photocopiers, fax machines, kitchen, telephone, postage machine, internet access and receptionist. Potential referral base from other attorneys in office. Contact Patti (561) 276-2900.

PALM BEACH GARDENS OFFICE SPACE: Multiple remodeled office spaces within the location with use of kitchen, lobby and conference room. Great location on PGA Blvd. close to turnpike & I-95. Call (561) 691-9227.

BOCA RATON: One private windowed office with separate secretarial area in 5 attorney prestigious office. Sanctuary Centre (Yamato Road and Federal Highway). Class "A" building, close to I-95. Includes covered garage parking, use of office facilities (conference room, kitchen, etc). Contact Steve at (561) 367-7785 or sgmatty@aol.com.

Gary S. Lesser

for

The Florida Bar Board of Governors

*"Over 600 supporters (and growing) is good.
Listening to what our local lawyers have to say is better."*

GOALS FOR THE BOARD OF GOVERNORS

- **Help** improve the image of lawyers by promoting the "good news" of lawyers who do good deeds in our profession and in the community.
- **Ensure** that government attorneys have an adequate voice in the Florida Bar to advance their important interests.
- **Promote** professionalism and ethics throughout the Florida Bar by working closely with voluntary Bar organizations and local professionalism committees so their collective effort can be more effective.
- **Improve** and increase diversity in Bar involvement and leadership by communicating and interacting with minority Bar Associations for development and promotion of leadership in the local and state Bars.
- **Focus** on developing new technologies and how they affect the practice of law and related ethical issues.

Supporter Endorsements

"When asked if I would support Gary Lesser for Florida Bar Board of Governors I was elated. Gary's list of leadership roles speaks to his commitment to our community and his law firm's success."

I am reminded of the quote, "There's a difference between interest and commitment. When you're interested in doing something, you do it only when circumstance permit. When you're committed to something, you accept no excuses, only results." That describes Gary Lesser and why I support him absolutely in his quest for a Board of Governor's seat. Please join me."

Barry E. Krischer, Palm Beach County State Attorney 1992 - 2008
Member of the Florida Bar since 1973

"Gary Lesser and I met through our daughters being on the same gymnastics team. Gary is a dedicated family man and pillar of our community. Gary is a man of his word and puts his words into action. The Bar is very fortunate to have a man of Gary's caliber to run for it's Board of Governors, and I am glad to be supporting him."

David Levy, Mayor of Palm Beach Gardens



For more info, please see two page spread in this newsletter or visit: www.lesserlawfirm.com/gary4BOG.php

Are you sure you are getting your fair share of the pie...



...when you refer a personal injury case?

At the Law Offices of Craig Goldenfarb, we want you to ask yourself these questions about the current lawyer you send cases to:

- ☒ Do I sign the client contract, as required by the Florida Bar Rules?
- ☒ Does the lawyer keep me informed about the status of the case I referred?
- ☒ Do I receive a copy of the lawyer's demand letter to the insurance company?
- ☒ Am I continuously informed of the status of negotiations?
- ☒ Do I get to sign the client's settlement / closing statement, showing me how much the case settled for?
- ☒ Do I receive my referral fee quickly after the case is settled?

At the Law Offices of Craig Goldenfarb, we believe you are entitled to be kept in the loop.



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PERSONAL INJURY • NURSING HOME NEGLECT • MEDICAL AND LEGAL MALPRACTICE

To order a free copy of Mr. Goldenfarb's book about Florida car accidents entitled, "What Insurance Companies Don't Want You to Know," go to our website at 800GOLDLAW.com.

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Main Office: 2090 Palm Beach Lakes Blvd. • Suite 402 • West Palm Beach

Bulletin Board

OFFICE SPACE TO SHARE IN PALM BEACH GARDENS:

Beautiful law office. Separate secretarial station available. Conference room/library, kitchen, private bath. Close to PGA Blvd and North County Courthouse. Ample parking. Call (561) 478-2102 for further details.

OFFICE SPACE BOCA RATON:

Suite for rent. 3 offices with 3 secretarial stations, copy/file room within free standing building with other law firm tenants. Includes receptionist, use of beautiful large conference room, reception area, kitchen area. Utilities included. Call Carol (561) 368-8048.

PROFESSIONAL OFFICE SPACE IN PALM BEACH GARDENS:

Beautiful layout. Close to PGA Blvd. Two suites approx 1100 SF (4 inner offices and private bath) and 1300 SF (large inner offices; private kitchen and bath). Ample parking. Call (561) 478-2102 for further details.

OFFICE SPACE FOR LEASE: U.S. 1 in North Palm Beach, minutes from PGA courthouse. 1200 square feet, carefully renovated. Enclosed conference room with French doors; 3 private offices;

reception area; kitchen; private ½ bath. Separate ground floor entrance, ample on site parking. \$1,800 / month. Please call Claudette at (561) 427-5349.

HEARSAY

The 2011 edition of the *South Florida Legal Guide* named **Jones, Foster, Johnston and Stubbs, P.A.** as a "Top Law Firm."

Gregory W. Coleman has been re-elected for a two-year term without opposition to The Florida Bar Board of Governors. Also, Mr. Coleman has been appointed to the Stetson University College of Law Board of Overseers.



Timothy J. Murphy and **Cyrus S. Niakan** have joined the law firm of

Clark, Fountain, La Vista, Prather, Keen & Littky-Rubin as associates.

Nicole C. Morris, Managing Partner of Morris & O'Malley, has been appointed President of the Palm Beach Chapter of the Nova Law Alumni Association.

Rutherford Mulhall, P.A. is pleased to announce that **Erskine C. Rogers, III** has been elected as Vice Chair to the Board of Directors of Drug Abuse Treatment Association (DATA).

Michael J. Pike has been named partner in the law firm of Burman, Critton, Luttier & Coleman, LLP. Mr. Pike was also recently appointed as Treasurer of the Palm Beach County Justice Association for a one-year term.

Michael "Micky" S. Smith, a partner in Lesser, Lesser, Landy & Smith, PLLC, has been named President of the American Board of Trial Advocates (ABOTA) Palm Beach County Chapter, serving a one-year term from 2011-2012.

Thomas A. Hedler and **Nicole Hessen** are pleased to announce the formation of Hedler & Hessen, P.A. **Karen J. Valente** has also joined the firm of counsel. The practice is focused primarily on workers' compensation claims. 2001 Palm Beach Lakes Blvd., Suite 204, West Palm Beach 33409. (561) 246-6666

Elect



C. Wade Bowden

**Palm Beach County
Bar Association
Board of Directors**

Re-Elect Proven Leadership

Palm Beach County Bar Association Board of Directors

- **Palm Beach County Bar Association Board of Directors 2005-07, 2009-2010**
 - 1916 Courthouse Fundraising Committee
 - Personally responsible for raising \$25,000
 - Current Chair of Investment and Finance Committee
- **The Florida Bar Young Lawyers Division Board of Governors**
 - Governor for 15th Judicial Circuit 2001-07
 - Currently Ex-Officio
- **PBC Bar Association Young Lawyers Section, Past-President**
 - Member, Executive Committee 1998-2005
 - Past-Secretary, Past-Treasurer
 - Chair: Holidays in January Belle Glade event 2001-06
- **Up and Comer, *South Florida Legal Guide* (listed 2006-09)**
- **Top Lawyer, *South Florida Legal Guide* (listed 2010)**
- **Shareholder: Jones, Foster, Johnston & Stubbs, P.A.**
- **Florida Bar Board Certified in Business Litigation**



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

"Real Estate Transactions A - Z"

Friday, March 25, 2011 - 8:00a.m. - 12:30p.m.
Bar Association Offices, 1601 Belvedere Road #302E, WPB

Program Schedule



8:00am - 8:20am	Late Registration/Check In
8:20am - 8:30am	Welcome and Opening Remarks - <i>Deborah Boyd, Esq., Real Estate Committee Chairperson, Board Certified Real Estate Attorney, First American Title Insurance Company</i>
8:30am - 9:20am	The Deal Begins: FR/Bar Contract and Ethical Considerations - <i>John R. Banister, Esq., Board Certified Real Estate Attorney, Rutherford Mulhall, P.A., and Gerald R. Pumphrey, Esq., Gerald R. Pumphrey, P.A.</i>
9:20am - 10:10am	It Hits a Snag: Contract Disputes, Breach of Contract, and Ethical Considerations - <i>Steven D. Rubin, Esq., Board Certified Real Estate Attorney</i>
10:10am - 10:20am	A Brief Word from our Sponsors: Break & Sponsor Raffles
10:20am - 11:10am	Oh Happy Day (Almost): Closing and Post-Closing Issues, with Ethical Considerations - <i>Deborah Boyd, Esq., Board Certified Real Estate Attorney, First American Title Insurance Company</i>
11:10am - 12:00pm	So What's Going on in the Market? <u>BRING YOUR QUESTIONS</u> on Current Market Issues, including Short Sales, Foreclosures, Commercial Transactions, etc. - <i>Gregory R. Cohen, Esq., Board Certified Real Estate Attorney, Cohen, Norris, Scherer, Weinberger & Wolmer</i>
12:00pm - 12:30pm	Ethics and Professionalism: A Cut above the Ordinary - <i>Representative from the Professionalism Committee of the Palm Beach County Bar Association</i>

SPONSORED BY:



First American
Title Insurance Company



HARRIS
PRIVATE BANK

This course has been granted 4.5 CLER including 3.5 Ethics credits / 4.5 Real Estate Certification credits from The Florida Bar.

The cost of the seminar is \$155 for PBCBA members/paralegals, \$195 for non-PBCBA members/paralegals if registered by 3/18/11; 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.

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) (3/25/11R/E) 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)

Lunch with North County Judges

Presented by the North County Section of the Palm Beach County Bar Association

Find out about court policies & procedures at the North County Courthouse, including court expectations of attorneys, courtroom demeanor and professionalism. Learn the "dos and don'ts" in North County Court.

Lunch will be an open question and answer forum where you will be able to ask questions of the Judges concerning these topics and more.

Join us!

Date: Tuesday, April 5, 2011

Time: 11:45 a.m. to 1:00 pm

Place: Hilton Garden Inn

3505 Kyoto Gardens Drive
Palm Beach Gardens



Judges expected to participate: Laura Johnson; Amy Smith; John Phillips; Sandra McSorley and Magistrates Thomas Baker and Sara Alijewicz. (This luncheon is expected to receive CLE credit from the Florida Bar)

Cost: \$25.00 for NCS members; \$35.00 for non-section members.

RSVP BY CHECK or CREDIT CARD

To Pay By Credit Card: log onto palmbeachbar.org and click on register for events.

To Pay By Check: Send this form, along with payment, to the Palm Beach County Bar Association, 1601 Belvedere Road Suite 302E, West Palm Beach, FL 33406.

Name: _____ Telephone: _____

Address: _____ City/Zip _____

Email Address: _____

Enclosed you'll find my check for \$ _____

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

LUNCH WITH THE NORTH COUNTY JUDGES 4.5.11



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

"Hot Topics in Employment: What you must know now"

Friday, May 13, 2011 - 1:00pm—4:50pm

Bar Association office- 1601 Belvedere Rd., Suite 302 East West Palm Beach, FL

Program Schedule



1:00 - 1:30pm **Late registration check-in**

1:30 - 1:40pm **Welcome & Opening Remarks** - Cathleen A. Scott, Esq., Employment Law CLE Committee Co-Chair, Board Certified Labor and Employment Attorney, Cathleen Scott, P.A., and Robyn S. Hankins, Esq., Employment Law CLE Committee Co-Chair, Board Certified Labor and Employment Attorney, Hankins & Ator, P.L.

1:40 - 2:30pm **Case Law Update: A View From the Trenches... Updates and Usable Tools for Your Practice** -
- Update on the recent ADAAA and the Misclassification Prevention Act -
Steven L. Schwarzbarg, Esq., Schwarzbarg & Associates

2:30 - 3:20pm **Social Media & E-Discovery** - Alexander D. delRusso, Esq., Carlton Fields, P.A., Board Certified Business Litigation and Civil Trial Attorney, and Cathleen A. Scott, Esq., Board Certified Labor and Employment Law Attorney, Cathleen A. Scott, P.A.

3:20 - 3:30pm **BREAK**

3:30 - 4:20pm **Restrictive Covenants: Drafting, Enforcement and Litigation of non competes** -
G. Joseph Curley, Jr., Esq., Board Certified Business Litigation Attorney, Gunster, West Palm Beach,
and Joseph G. Santoro, Esq., Gunster, West Palm Beach

4:20 - 4:50pm **"Ethics and Professionalism: A Cut above the Ordinary"** - Representative from the Professionalism Committee of the Palm Beach County Bar Association

4:50pm **Happy Hour, Provided by Sponsors:**

CARLTON FIELDS
ATTORNEYS AT LAW


GUNSTER
ATTORNEYS AT LAW


SCHWARZBERG & ASSOCIATES
ATTORNEYS AT LAW
EXPERIENCED ■ RESPONSIVE ■ STRATEGIC
www.schwarzbarglaw.com

This course is expected to receive **3.5 CLER / .50 Ethics** credits from the Florida Bar. **Certification credits** are pending.

Seminar cost is **\$95** for PBCBA members/paralegals; **\$135** for non-PBCBA members/paralegals if registered by 5/6/11; add \$25 after that date.

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

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

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

HOW TO REGISTER



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



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

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) (5/13/11 Employ. Law) Cost is the same as listed above, in addition to \$10 for shipping and handling. **PAYMENT BY CHECK ONLY WITH THIS FORM.**

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



The Criminal Law Practice Committee of the
Palm Beach County Bar Association
presents:

"The Ethics of Closing Argument"

Friday, April 15, 2011 - 1:30pm - 3:30p.m.
Cafeteria, Main Courthouse, West Palm Beach

Sponsored by: **The Suskauer Law Firm, P.A.**

Program Schedule

1:15pm - 1:30pm **Check In / Late Registration**

Light Refreshments will be served

1:30pm - 1:35pm **Welcome - Opening Remarks** - *Daliah H. Weiss, Esq.,
State Attorney's Office, West Palm Beach, Criminal Law
Practice Committee Chair*

1:35pm - 3:30pm **The Ethics of Closing Argument** -

Moderator: *Judith S. Arco, Esq., State Attorney's Office,
West Palm Beach*

Panel: *Justice Jorge Labarga, Florida Supreme Court
Honorable Theodore S. Booras,
15th Judicial Circuit, County Criminal Division
Douglas N. Duncan, Esq., Roth & Duncan, P.A.*

This course is expected to receive 2.5 CLER including 2.5 Ethics credits from The Florida Bar.

FREE PBCBA Government Members; **\$25.00** Non-PBCBA Government Members;
\$75 PBCBA Members/paralegals

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

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

HOW TO REGISTER



BY CHECK
Return this
form



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



**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) (4/15/11 Criminal Law) Cost is the same as listed above, In addition to \$10 for shipping and handling. **PAYMENT BY CHECK ONLY, WITH THIS FORM.**

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



IN NEED OF CLER CREDIT? WE CAN HELP!

2.18.11

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
	PBCBA	Preparing Client For Mediation (Fam Law) (CD)+++1.0 Marital/Family Law	1.0		\$25	\$65	04/16/11
	PBCBA	Special Needs Trusts(CD) +++1.0 Civil Trial; 4.5 Wills; 4.5 Elder Law; .50 Tax Cert.	6.0	1.0	\$165	\$205	06/15/11
	PBCBA	Winter R/E – Hot Topics in a Cold Market (CD)+++4.0 R/E	4.0	4.0	\$145	\$185	7/27/11
	PBCBA	The View From the Bench (Bankruptcy Seminar) (CD)	2.0		\$50	\$90	7/29/11
	PBCBA	ADR in 2010(CD) +++***6.0 Civil Trial; 8.0 R/E	8.0	2.0	\$225	\$265	8/8/11
	PBCBA	Real Estate Issues in Bankruptcy Cases (Bankruptcy Seminar)(CD)	2.0		\$50	\$90	8/26/11
	PBCBA	View from the Panel – Local Trustees(CD) (Bankruptcy Sem.)	2.0		\$50	\$90	10/20/11
	PBCBA	What's New in Construction Law(CD)+++3.0Bus.Lit; 4.0 Constr.	4.0	.5	\$110	\$150	10/22/11
	PBCBA	Securities Litigation 2010(CD) +++ 2.5 Bus Lit; 2.5 Crim Trial; 2.5 Civil Trial Cert.	3.0	1.0	\$90	\$130	10/28/11
	PBCBA	27 th Estate Probate Seminar(CD)+++6.0 Elder Law/6.0 Wills, Trusts & Estates Cert.	8.0	2.0	\$225	\$265	11/19/11
	PBCBA	21 st Annual Community Assn. Law Seminar(CD)+++3.5 R/E	3.5	3.5	\$125	\$165	12/4/11
	PBCBA	2 nd Martinis and Migraines (Employment Law) (CD) +++3.0 Labor & Employment Cert.	4.0	1.0	\$115	\$155	03/30/12
	PBCBA	Breaking News You Can Use (R/E) (CD)+++4.5 R/E Cert.	4.5	4.5	\$165	\$205	04/15/12
	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

+++Indicates Certification credits available; **CM 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 PALM BEACH COUNTY BAR ASSOCIATION FOR \$100. APPLICATIONS FOR MEMBERSHIP CAN BE OBTAINED ON OUR WEBSITE AT www.palmbeachbar.org. RENEWAL OF DUES FOR PREVIOUS MEMBERS IS \$125.

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>

ORDER INFORMATION: Orders can be faxed to (561) 687-9007

Name: _____ Firm Name: _____

Street Address (no P.O.Boxes): _____

City _____ State _____ Zip _____ ☐ PBCBA Member ☐ Non-PBCBA Member

Telephone: _____ Email Address: _____

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

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

PAYMENT INFORMATION:

Tape Order Subtotal: \$ _____

Shipping/Handling: + \$10.00

Rush Fee: + \$25.00

Total Due: \$ _____

Payment Enclosed: Check # _____ Amount: \$ _____

Please bill my credit card: ☐ MC ☐ VISA ☐ AMEX Amount: \$ _____

Signature _____

Credit Card #: _____

Expiration Date: _____

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



PALM BEACH COUNTY BAR ASSOCIATION

BULLETIN

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

CALENDAR March 2011

Friday, March 4, 9am – 5pm
Bench Bar Conference
Palm Beach County
Convention Center

Monday, March 7, 12 – 1 pm
Hispanic Bar Association Meeting
Judicial Conference Room,
Main Courthouse
For more details contact
dzuniga@foryourrights.com

Tuesday, March 8, Noon – 1pm
YLS Board Meeting
Bar Association Office

Wednesday, March 9,
10:30am – 2pm
**Bankruptcy Law CLE Seminar
“View from the Bench”**
Bar Association Office

Wednesday, March 9, Noon – 1pm
NCS Board Meeting

Thursday, March 10,
6:30pm – 8:30pm
**Christian Legal Society
Women’s Gathering**
Panera Bread Café, 771 Village
Boulevard, West Palm Beach, FL

Thursday, March 10, 5:30pm – 7pm
YLS Happy Hour
Location TBA

Friday, March 11, 8:30am – 9:30am
ADR Committee Meeting
Bar Association Office

Friday, March 11, 11:30am
**Law Practice Technology
Seminar “Best Legal Apps –
Dueling Smart Phones”**
Bar Association Office

Friday, March 11, Noon
Federal Bar Luncheon
The Colony Hotel

Friday, March 11, 4pm
**Judge Gregory Keyser
Robing Ceremony**
Courtroom 11A

Thursday, March 17,
11:30am – 1pm
FAWL Luncheon

Friday, March 18, Noon – 1pm
**Cunningham Bar Association
Monthly Meeting**
Library @ Main Courthouse, WPB

Tuesday, March 22,
11:45am – 1pm
**South Palm Beach Co. Bar Assn.
Joint Membership Luncheon**
**Guest Speaker: FL Bar
President Mayanne Downs**

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

Wednesday, March 23 – 26
Board of Governors Meeting
Disney’s Yacht and Beach Club

Wednesday, March 23,
Noon – 1pm
**Membership
Committee Meeting**
Bar Association Office

Wednesday March 23,
3:30pm – 4:30pm
**Corporate Counsel
Committee Meeting**
Bar Association Office

Thursday, March 24,
5:30pm – 7pm
“Raise the Bar” Event
Historic Palm Beach Courthouse

Friday, March 25, 8am – 12:30pm
**“Real Estate Transactions
A – Z” Seminar**
Bar Association Office

Friday, March 25, Noon – 1pm
Law Week Meeting
Bar Association Office

Saturday, March 26 – April 2
NCS 2nd Annual Ski Trip
Vail, Colorado

Saturday, March 26,
7:30am – 11:30am
YLS Habitat for Humanity

Saturday, March 26,
6:30pm – 7pm
Legal Aid Gift Gathering
Jane & Mike Walsh

Wednesday, March 30,
11:30am – 1pm
Solo Luncheon
Bar Association Office

Wednesday, March 30,
5pm – 5:30pm
**PBCBA Board of
Directors Meeting**
Bar Association Office

Thursday, March 31,
6pm – 8:30pm
Elder Law Dinner Seminar
The Colony Hotel, Palm Beach