



PALM BEACH COUNTY BAR ASSOCIATION

BULLETIN

www.palmbeachbar.org

March 2014

New Officers and Directors for 2014-15

Congratulations to the following board members who have been reelected without opposition: President-elect designate: Grier Pressly and Directors: Jessica Callow Mason, Lee McElroy, Ned Reagan, John Whittles and Julia Wyda. They will be sworn in on June 7 at the Breakers with the rest of the Board: incoming President Theo Kypreos and board members; Sia Baker-Barnes, Greg Huber, Dean Xenick, Lindsay Demmery, Greg Yaffa and Jill Weiss.



Mark your calendar for upcoming Membership Events

March 7, 2014:

Bench Bar Conference; Luncheon guest speaker will be Laurence Leamer, author of fifteen books including five New York Times bestsellers. Leamer is perhaps best known for his trilogy on the Kennedys including *The Kennedy Women*.

April 22:

Law Day Luncheon with guest speaker Former FL Supreme Court Chief Justice Charles Wells

April 29:

Annual Judicial Reception

May 9:

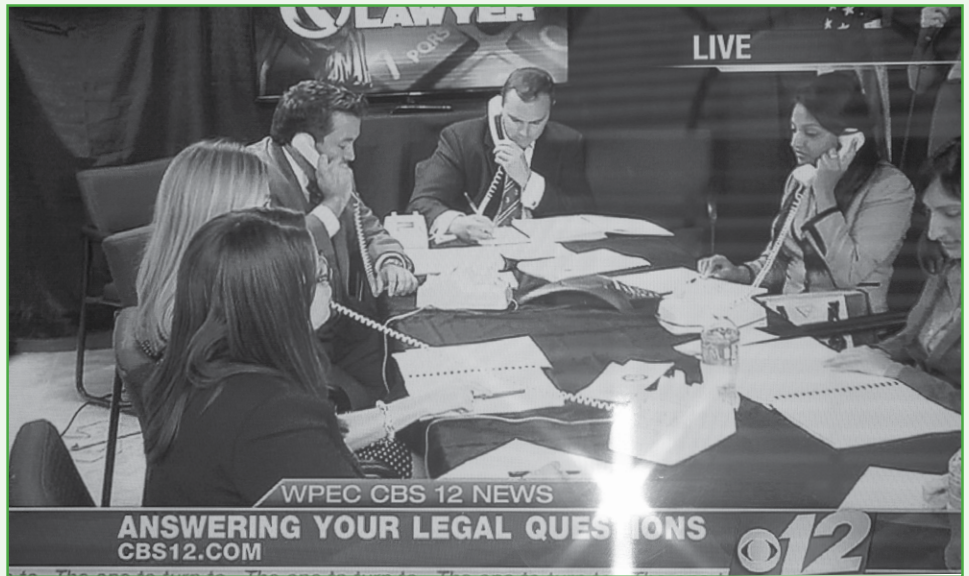
Young Lawyers Section
End of the Year Luncheon

May 15:

North County Section's
Jurist of the Year Dinner

June 7:

Annual Installation Banquet



As part of our Young Lawyers Pro Bono Project, members recently volunteered their time answering general legal questions from viewers watching WPEC Channel 12. The phones rang non-stop during the live broadcast from 5:00 p.m. to 6:30 p.m.

Contributions sought for 2014 Law Week Judicial Reception

The Law Week Committee is requesting contributions from law firms for its annual Judicial Reception honoring the local judiciary and judicial assistants. The event will be held on Tuesday, April 29 at The Harriett in West Palm Beach. Sponsors will be recognized on 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, 1507 Belvedere Road, 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
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The mission of the Palm Beach County Bar Association is to serve its members, foster professionalism and enhance the public's understanding and awareness of the legal system.

LETTERS TO THE EDITOR

The Palm Beach County Bar Association Bulletin welcomes your comments on topics relating to the law, the legal profession, the Palm Beach County Bar Association or the Bar Bulletin. Letters must be signed, but names will be withheld upon request. The editor reserves right to condense.



Send letters to:
EDITOR Bar Bulletin
Palm Beach County Bar Association
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West Palm Beach, FL 33406

Elections for North County Section Board of Directors

Elections for the North County Section's Board of Directors will take place this month. Petitions will be available March 3 for five (5) director positions (for a two year term), plus president-elect.

The Board meets once a month to plan various networking events for its 600 members.

To apply for a position, you must submit a completed nomination form to the Bar Office no later than 5:00 p.m. on Friday, March 28. If there is a contested election, voting will take place online in April and winners will be announced online in May.

The current Board includes President, Todd Stewart; President-Elect, Greg Yaffa; and Immediate Past President Ken Johnson.

Directors serving terms ending this June are Mitch Beers, Reid Bierer, Keith Campbell, Eric Rosen and Daniel Zuniga.

Directors serving a two year term ending June 2015 are Eunice Baros, Rosemarie Guerini, W Mason, Erskine Rogers and David Steinfeld.

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President's Message



Want to Know What Women Lawyers Really Want?

By Jill G. Weiss

Several weeks ago, The Shriver Report, also known as *A Woman's Nation Pushes Back from the Brink*, was presented to the White House. The Report examines the financial insecurities of women and seeks to promote solutions to strengthen the financial status of women in the United States. Included in the report was the oft quoted statistic that women earn 77 cents to every dollar earned by their comparable male counterparts performing the same job.¹ Some people fault women for their choice of a job or career as a reason for the disparity. However, the number of jobs where women earn comparable or more pay than their male counterparts is severely limited.² It includes historically female jobs such as restaurant servers and preschool teachers – not high school teachers, mind you. In almost every professional job across the board including doctors and lawyers, there was some disparity.

Some people believe that the gender pay gap is a myth as to the legal profession. After all, a Forbes article states that the legal profession is the third best job for women.³ Women comprise nearly half the JD's awarded in the United States. And while for women with less education and earning power than female attorneys, the divide is more pronounced, the gender pay gap does exist for female attorneys, and it unfortunately starts right out of law school. The American Bar Association's Commission on Women in the Profession published its most recent study - *A Current Glance at Women*

in the Law in February 2013. The Commission found that women lawyers' weekly salaries were 86.6% of their male colleagues. Even more startling is that the divide continues even as women advance up the ladder to partnership levels. At the median, women equity partners in the 200 largest firms earn 89% of the compensation of their male colleagues.

While many will attribute this disparity to women taking time off to raise children, or seeking a position with flexible time, these reasons alone cannot explain the difference. There are many female attorneys who have not taken time off for child rearing and are still the victims of this inequality. Pay inequities, along with lesser opportunities for advancement, lead to dissatisfaction for women lawyers and contributes to the high rate of attrition for female lawyers.

Anecdotally, these issues are common for women lawyers in South Florida. The Daily Business Review reported that none of the five 51 Am Law that announced partner promotions reported a new female partner.⁴ Pay and promotion go hand in hand.

So what do women want? It's not complicated. Women want equal pay for equal work, period. Certainly, a woman equity partner should not earn anything less than her male counterpart based on the same criteria. All factors equal, women lawyers should be paid equal to male lawyers. Further, understand that money matters as much to us as it does to our male counterparts. As a single mother raising two children without any support, I can personally attest to that. We understand that if we are in a position with flex time, we should be paid less. Work less get paid less, we get it.

¹ The Shriver Report – A Woman's Nation Pushes Back From the Brink,

² www.forbes.com, The 15 Jobs Where Women Earn More Than Men, March 14, 2011.

³ www.forbes.com, Top 20 Best-Paying Jobs for Women in 2013, February 28, 2013.

⁴ Daily Business Review, "Women Partners Missing from Promotion Lists, January 14, 2014.

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	AUG	SEP	OCT	NOV	DEC	JAN
Barnes	X	Phone	Phone	Phone	X	X
Huber	X	X	X	X	X	X
Kypreos	X	X	X	X	X	X
Mason	X	X	X	X	X	X
McElroy	X	X	X	X	X	phone
Pressly	X	X	X	X	X	X
Rabin	X	X	X	X	X	X
Reagan	X	X	X	X	X	X
Stewart	X	X	X	X	X	X
Weiss	X	X	X	X	X	X
Whittles	X	X	X	X	X	X
Wyda	X	X	X	X	X	X
Xenick	X	X	X	X	X	X



Lawyers for Literacy Committee invites you to an open house at Learning Ally.

Learning Ally is a recording studio on Florida Atlantic University's Boca Raton Campus dedicated to digitally recording textbooks and literature for K-12, college and graduate students.

These recordings are for those who cannot read print due to blindness, visual impairment, dyslexia or other learning disabilities. They rely on volunteer readers to help them with their mission.

Join us on Thursday March 6 from 6:00 p.m. to 8:00 p.m. (or) Saturday, March 22 from 10:00 a.m. to 12 noon when learning Ally will open its doors to Lawyers and their families who want to learn more about their organization. There will be a tour of the facility and light refreshments.

If you want to try your hand and voice at recording, there will be volunteers available to lead you through the process. For the last few years, the Lawyers for Literacy Committee has had a wonderful time learning and experiencing how important this studio is to the community. This year we are inviting you! Space is limited. Please RSVP to Judith Migdal-Mack at jmigdalmack@legalaiddpb.org

Our Newest Bricks

Thanks to the following members who have recently purchased bricks for our building. If you're interested in buying one for yourself, your firm or in memory of a loved one, contact Lynne Poirier at the Bar office.

Stuart and Allison Haft
Judge William Owen
Ernest Simon



Shaving the Way to Conquer Kids' Cancer

Young lawyers shave their heads for a purpose

Members of the Young Lawyers Section will be joining in with the Akerman law firm for the annual St. Baldrick's Foundation event. Members of the YLS will be shaving their heads to raise money to conquer children's cancer. Women can also participate by having their hair cut which will then be donated to Locks of Love. This event will take place on March 12 from 4-7 pm at Duffy's Sports Grill on Clematis Street in downtown West Palm Beach. If you'd like to volunteer or you'd like to make a contribution, please go to the YLS All-Stars page located at <http://www.stbaldricks.org/teams/mypage/88804/2014>

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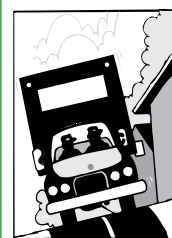
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A New Twist on Florida's Enhanced Exemptions

by Jason S. Rigoli

In a recent opinion by the Honorable Raymond B. Ray, the Court once again had to determine whether a debtor was "receiving the benefits of a homestead exemption". See, *in re Walton*, – B.R. –, 2013WL6987089 (Bankr. S.D.Fla. 2013).

Florida's Enhanced Personal Property Exemption

Florida is an "opt-out" state, meaning that a debtor filing bankruptcy in the State of Florida applies the exemptions set forth in Florida's Constitution and/or Statutes.¹ Section 4, Article X of Florida's Constitution exempts from forced sale any person's homestead with three limited exceptions (the "Homestead Exemption").² Section 222.25(4) provides that a debtor may claim an exemption "in personal property not to exceed \$4,000, if the debtor does not claim or receive the benefits of a [H]omestead [E]xemption." Fla. Stat. §222.25(4). This additional exemption in personal property is referred to as an enhanced personal property exemption or "wildcard exemption."

In recent years there had been split in authority among the Florida bankruptcy courts as to the proper interpretation of "receiving the benefit" of the Homestead Exemption. "Some courts... interpreted the phrase broadly to mean that if a debtor is eligible to claim the Homestead Exemption under Florida law then the debtor receives the benefit of the exemption unless there was a clear intent to abandon the homestead property." *Walton*, at *1 (internal citations omitted). Other Florida bankruptcy courts took a narrow view "that a debtor is not receiving the benefits of the Homestead Exemption if the debtor does not affirmatively exempt their property under the Homestead Exemption or shield the property

from creditors, and leaves it open for administration by the trustee." *Id* at 2 (internal citations omitted).

In 2011, the Florida Supreme Court "resolved the conflict, and held that the narrow view is appropriate as it gives a full meaning to the language and policy of the Personal Property Exemption." See, *Osborne v. Dumoulin*, 55 So.3d 577, 582 (Fla. 2011). Importantly, the *Dumoulin* court adopted the following analysis of the Bankruptcy Court of the Middle District of Florida in *In re Bennett*:

"Whether a debtor has equity in the property, lives in the home, or enjoys any other types of tax benefits has no relevance to the question of whether a debtor receives the benefits of the Florida Homestead Exemption."

See, *Walton* at *2 (quoting *In re Bennett*, 395 B.R. 781, 788 (describing certain advantages that do not constitute a benefit of the Homestead Exemption in an analysis that was adopted in *Dumoulin*.).

Relevant Facts of *Walton*

In *Walton* a husband and wife jointly filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code (the "Bankruptcy Code"). The wife owned the homestead property solely in her own name and claimed it exempt applying the Homestead Exemption. The husband applied Florida's "wildcard exemption" and claimed an additional \$4,000 of his personal property as exempt. *Walton* at *1. The Trustee objected to the "wildcard exemption" claiming that the husband was "receiving the benefit" of the Homestead Exemption. *Id*.

Applying *Dumoulin* To The Facts

The court analyzed *Walton* through the framework set forth in *Dumoulin*. The crux of the analysis is whether the husband was able to apply the Homestead Exemption to the real property at the time of filing. Because the wife "maintain[ed] a premarital 100% ownership interest of the [r]eal

[p]roperty" and the property was not held TBE³ the husband was not receiving the benefit of the Homestead Exemption. *Id*.

Further, the Court held that the benefit of residing in the homestead has no relevance in determining whether the husband was receiving the benefit. The determination rested upon the fact that at the time the husband and wife filed the joint petition the husband had no interest in the real property. Because the husband had no ownership interest in the property the creditors of the husband and wife were not losing any protections. *Id*.

The husband's creditors never had any legal right to any interest in the home outside of bankruptcy because the husband had no ownership interest. The joint creditors were not losing any protections for the same reason as outside of the bankruptcy context the wife could apply the Homestead exemption and the husband could properly exempt the additional \$4,000 in personal property by applying Florida's wildcard exemption. Accordingly, the Court found that the husband was not benefitting from the claimed Homestead Exemption and overruled the Trustee's objection.

Conclusion

The application of exemptions in bankruptcy is crucial in each individual case. A thorough understanding of the applicable exemptions, the current state of the law and a debtor's or debtors' current financial situation is important to successful representation.

This article submitted by Jason S. Rigoli, Furr and Cohen, P.A., One Boca Place, Suite 337W, 2255 Glades Road, Boca Raton, FL 33431, jrigoli@furrcohen.com

¹ The application of Florida's exemptions is subject to a debtor satisfying the residency requirements as set forth in 11 U.S.C. §522(b)(3)(A).

² The exceptions are not relevant to this article.

³ TBE means Tenancy by the Entirety - a legal distinction, recognized in Florida, in which the married couple by reason of their legal unity takes the whole estate as a single person with the right of survivorship as an incident thereto so that if one dies, the entire estate belongs to the other by virtue of the original title. See, e.g., *Gerson v. Broward County Title Co.*, 116 So. 2d 455 (Fla. 2d DCA 1959).



Who Is A Reasonably Ascertainable Creditor?

By: David M. Garten

To administer an estate in an orderly manner, the personal representative must ascertain what debts and claims are to be paid by the estate, because no assets should be distributed until the personal representative is certain that these debts and claims can be paid. In furtherance of his duties, the personal representative shall promptly make a diligent search to determine the names and addresses of creditors of the decedent who are "reasonably ascertainable", even if the claims are unmatured, contingent, or unliquidated. Impracticable and extended searches are not required. *Refer to* §733.2121(3)(a), F.S. and Fla. Prob. R. 5.241(a). A personal representative may be personally liable for the shortfall in the estate's assets that are insufficient to pay a reasonably ascertainable creditor's claim. *See, Miller v. Estate of Baer*, 837 So. 2d 448 (Fla. 4th DCA 2002).

A "reasonably ascertainable creditor" of the decedent is one that the personal representative would discover upon exercise of reasonable diligence -- a personal representative has no duty to speculate and conjecture that someone might possibly have a claim against the estate. *See, Strulowitz v. The Cadle Company, II, Inc.*, 839 So. 2d 876 (Fla. 4th DCA 2003), *citing, Jones v. Sun Bank/Miami, N.A.*, 609 So. 2d 98 (Fla. 3d DCA 1992). To be reasonably ascertainable, the claimant need only be a "potential" creditor; the merits of the claim are determined in an independent action. *See, Strulowitz v. The Cadle Company, II, Inc.*, 839 So. 2d 876 (Fla. 4th DCA 2003); *Simpson v. Estate of Simpson*, 922 So. 2d 1027 (Fla. 5th DCA 2006).

The determination of whether a creditor is reasonably ascertainable is an evidentiary matter; therefore, evidence must be presented to support the notion that a creditor was in fact reasonably ascertainable by the personal representative. *See, Faerber v. D.G.*, 928 So.2d 517 (Fla. 2d DCA 2006). The Committee Notes to Fla. Probate Rule 5.241 read in part that "[t]he steps to be taken by a personal representative in conducting a diligent search for creditors depends, in large measure, on how familiar the personal representative is with the decedent's affairs. Therefore, the committee believes it is inappropriate to list particular steps to be taken in each estate, since the circumstances will vary from case to case." Although there is no specific checklist for a reasonable diligent search, it is clear that a personal representative is deemed to have exercised reasonable diligence upon conducting a reasonable review of the decedent's correspondence, including correspondence received after the date of death, and financial records, including personal financial statements, loan documents, checkbooks, bank statements, and income tax returns, that are in the possession of or reasonably available to the personal representative.

In *Strulowitz v. The Cadle Company, II, Inc.*, 839 So. 2d 876 (Fla. 4th DCA 2003), after the statutory claims-bar date had run, the creditor, Cadle, made a claim on its debt. The personal representative subsequently sought to strike the claim and the probate court referred the matter to an attorney ad litem who interviewed the parties and issued a report concluding that Cadle was a reasonably ascertainable creditor. The attorney ad litem acknowledged the difficulty he had tracking down Cadle and the debt, but, concluded that the personal representative could have conducted a more diligent search. Specifically, had the personal representative flipped back just a few more pages in the decedent's check register, he might have noticed a pattern of

checks for \$1,500 and determined the identity of the creditor. The lower court found that the fact there were four recurring payments in an identical amount to Cadle over the past year and an attorney ad litem was able to locate Cadle and confirm the debt with two phone calls, indicated that Cadle was a reasonably ascertainable creditor and was entitled to notice. The order was affirmed on appeal. The personal representative's argument that Cadle was not a reasonably ascertainable creditor is instructive:

The personal representative counters that he conducted a diligent search for creditors and Cadle was neither known nor reasonably ascertainable. He maintains that his first knowledge of the debt came from Cadle's phone call in January 2001. At that point, he had not received any bills, letters, payment books, phone calls, or correspondence of any kind concerning an outstanding debt to the company. The decedent's personal and business files did not contain a copy of the Joint Stipulation of Settlement; nor did his files contain the order approving the settlement. Contrary to the report of the attorney ad litem, he argues, there was nothing among the decedent's personal and business records that would have revealed Cadle's claim without "a handwriting interpreter and detective." Further, he submits, there was no way of knowing whether those checks represented an outstanding debt or simply a store purchase. As the Jones court explained, it is not just the claimant's identity but its "claim" that must be reasonably ascertainable. *Jones*, 609 So. 2d at 102. The personal representative has no duty to speculate and conjecture that someone might possibly have a claim against the estate. *Id.*

The personal representative asserts that requiring the administrator of an estate to locate and study all checks written by the decedent during the year preceding his or her death and to chart out patterns in the amounts paid, where no bill, phone call, or correspondence reflects an outstanding debt, places a greater burden on the personal representative than what is required by law. He reminds us that section 733.212(4)(a) does not require impracticable and extended searches. Additionally, the personal representative argues that there is no legal authority requiring him to review any check stubs at all, let alone those beyond seventeen weeks. In so arguing, the personal representative highlights a concern that makes his appeal problematic: the absence of any written rules or guidelines on specific steps that an estate administrator must take during the course of a diligent search.

Service of notice to creditors: Service of the notice to creditors shall be either by informal notice, or in the manner provided for service of formal notice at the option of the personal representative. Service on one creditor by a chosen method shall not preclude service on another creditor by another method. *Refer to* Fla. Prob. R. 5.241(a).



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Candid Feedback: Straight from the Bench

Submitted by Roger Feicht

Each year the Palm Beach County Bar Association's Judicial Relations Committee interviews all of the judges in our community. For the past two years, I have had the pleasure of serving as Chair of the Judicial Spokesperson Subcommittee, which conducts these annual interviews of all of the county, circuit, and appellate judges in Palm Beach County.

The judges are asked to provide their feedback to the Judicial Spokesperson Subcommittee on a variety of topics including: Civility & Professionalism; the Annual Bench Bar Conference; the Monthly Judicial Luncheons; Ways for the Palm Beach County Bar Association to Improve; and Ways for Palm Beach County Lawyers to Improve. All of the judges provide their comments anonymously. The comments are then assembled and presented to the Judicial Relations Committee.

I would like to thank all of the judges for taking the time out of their busy schedules to provide this invaluable feedback. It is clear from compiling the pages of notes that the judges were generous with their time and were candid in their feedback, both positive and negative.

I would also like to thank the members of the Judicial Spokesperson Subcommittee for their enthusiasm and conscientiousness in completing the interviews under a tight deadline.

This is a selection of the anonymous comments directly from the judges in Palm Beach County. Because of the restrictions on the length of articles, these are the comments that were repeated by more than one judge.

Our Judges on Civility & Professionalism

Civility has decreased with the increase in the number of lawyers practicing in our community. Many lawyers think that because they might not litigate against opposing counsel in the future, there is little reason to remain professional. However, civility and professionalism increase a lawyer's credibility with the Court. In a close case, credibility may be the deciding factor.

Work out problems during discovery without court intervention. A phone call is much more effective than an email at resolving disputes. Avoid the temptation of sending unprofessional e-mails back and forth with opposing counsel. Judges can tell when lawyers have made a real effort to limit the issues before a hearing.

Attorneys should show respect to all Court personnel such as judicial assistants, clerks, and bailiffs. Disrespectful or condescending behavior will get back to the judge.

When the Courts makes a ruling, stop your argument. Continuing to argue with the Court after a decision has been made shows a severe lack of professionalism. If necessary, use the proper appellate process.

Many of the problems with civility result from lawyers from nearby counties. Lawyers in Palm Beach County can

improve the overall situation by ensuring there are always open and cordial lines of communication with opposing counsel on each case.

Review the rules governing professionalism in the Rules of Civil Procedure and Rules of Judicial Administration. You might think you are compiling with the rule, but are not! For example, judges often see motions without the proper certification that a good faith effort was made to resolve a motion.

Jurors are often surprised and disgusted at the behavior they witness while inside our courtrooms. Attorneys should not pride themselves on being aggressive. They should instead strive to be civil and professional at all times.

Our Judges on How Lawyers Can Improve Their Practice

Before beginning your argument on a motion, remember to introduce yourself and your client, tell the Judge what your motion is, and then argue the motion as succinctly as possible including an explanation of precisely the relief you are requesting. It is a constant source of amazement that lawyers forget these basics.

Lawyers are not reading the Judges' divisional instructions. They are fairly simple and should be followed universally. Read them before appearing before any judge in Palm Beach County.

(Note: Divisional instructions can be found on the 15th Judicial Circuit's recently updated website, www.15thcircuit.com)

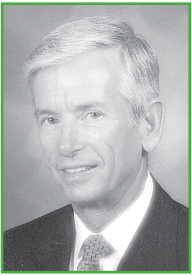
Emergency motions are being abused. Attorneys need to understand what constitutes an "emergency." A discovery dispute is never an emergency. If someone could get hurt or a building is going to be torn down, that is an emergency. Lawyers should stop and read the rule carefully before labeling a motion an "Emergency."

Don't ruin your case by arguing unfavorable points. Read the law and give it a fair interpretation. Concede the issue when your interpretation is stretched. If you waste the Court's time with a bad argument, you will lose credibility. "Your Honor, I concede..." or "Your Honor, we have resolved" will always get the Court's full attention on the remaining issues.

Many lawyers inappropriately schedule hearings in time slots that are too short, which can preclude the Court from having the benefit of full arguments by both sides on all the issues. Think twice before setting the next motion for Uniform Motion Calendar.

The quality of trial attorneys is suffering because there is not sufficient mentoring by more seasoned attorneys with the younger attorneys. If you are a young lawyer, find a mentor. If you are an experienced lawyer, please take the time to be a mentor. It will dramatically improve our profession and will very likely lead to a mutually beneficial relationship.

Roger W. Feicht practices Business & Employment Litigation with Gunster, Yoakley & Stewart, P.A. out of Gunster's West Palm Beach office. He can be reached at RFeicht@gunster.com



Repayment Of Medicaid Lien

By Ted Babbitt

Dillard v Agency for Health Care Administration, 38 Fla. L. Weekly D2486 (2nd DCA Fla., Nov. 27, 2013) involved an action by a catastrophically injured minor taken into custody at a juvenile detention center as a result of cocaine overdose.

His mother filed suit against the Sheriff of Collier County and others claiming that her son had been denied appropriate medical care at the detention center and, as a result, suffered the injuries sued upon. The case was settled and the Agency for Healthcare Administration, which administers Florida's Medicaid Program, claimed a Medicaid lien for the amount it had provided to the injured plaintiff. The trial court enforced the lien under Fla. Stat. 409.910(11)(f) utilizing the formula set out in that statute against the entire amount of the settlement. The formula provides that after deduction of 25% of any award, judgment or settlement and taxable costs, up to one-half of the remaining recovery must be paid to reimburse Medicaid for the services provided. Section 4 of that statute provides the following:

Notwithstanding any provision of this section to the contrary, the Agency shall be entitled to all medical coverage benefits up to the total amount of medical assistance provided by Medicaid. For the purposes of this paragraph, "medical coverage" means any benefits under health insurance, a health maintenance organization, a preferred provider arrangement, or prepaid health clinic and the portion of the benefits designated for medical payments under coverage for workers' compensation, personal injury protection, and casualty."

The trial court relied upon Russell v. Agency for Health Care Administration, 23 So. 3d 1266 (Fla. 2nd DCA 2010) where the Second District approved the application of the

statutory formula to the entire settlement unless there was evidence that the Medicaid lien was in excess of the portion of the settlement designed to cover medical damages. After the trial court's decision, the United States Supreme Court issued Wos v E.M.A. ex rel. Johnson, 133 Sup. Ct. 1391 (2013) and based on that the Second District issued its opinion in Health Care Administration v Riley, 119 So. 3d 514 (Fla. 2nd DCA 2013). In Riley, the Second District, in keeping with the holding in Wos, supra, ruled that a plaintiff must be given the opportunity to reduce the Medicaid lien as set forth in the statutory formula with evidence that the lien amount exceeded the amount recovered in the settlement for medical expenses. Dillard provides that Medicaid is precluded from recovering its lien from the entire settlement and that the statutory formula can only be applied to the portion of the settlement already allocated to past medical expenses. The issue of future medical expenses was not decided by the Dillard Court because of failure to timely raise that issue.

Florida Statute 409.910 has now been substantially amended.

In accordance with the above-cited cases that statute now provides that after a settlement the plaintiffs may file a petition within 21 days of paying the Medicaid lien or after setting up an account placing the benefits in a trust account for the benefit of the agency. That petition can request that a hearing be held at which time evidence can be presented asking that a court limit the Medicaid lien in accordance with the statute.

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.

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Circuit Court Report

CIVIL DIVISIONS • As of January 13, 2014

DIVISION	JURY TRIALS	NON-JURY TRIALS	MOTIONS	CASES PENDING
AA BLANC	05-14	05-14	02-14	1263
AB GILLEN	05-14	05-14	04-14	1305
AD G. KEYSER	06-14	06-14	02-14	1418
AE FINE	08-14	08-14	02-14	1502
AF J. KEYSER	07-14	07-14	01-14	1232
AG CROW	06-14	05-14	02-14	1343
AH BROWN	04-14	04-14	04-14	1272
AI SASSER	04-14	03-14	01-14	1087
AJ J. MARX	06-14	06-14	03-14	1067
AN COX	08-14	08-14	04-14	1475
AO BRUNSON	03-14	03-14	01-14	1437

Solo & Small Firm Highlights

Our Solo and Small Firm members recently exchanged ideas of what works and what doesn't work in running their practices. The CLE/Mixer was held at Abacoa Golf Club in Jupiter and included about 50 attendees. Join us for the next Solo program scheduled for March 28 at the Bar Office when we'll be discussing IOTA Trust Accounts. For details, go to www.palmbeachbar.org



Fred Cunningham



Todd Stewart



Domenic Celeste



Jonathan Phillips and Eleanor Halpern



Cary High (left) from Keiser University talks with member Brian Balaguera and his wife Pamela



Jared Chaykin, Ryan Kadyszewski, Kelly Buist and Jonathan Wasserman



Jane Hunston

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Real Property and Business Litigation Report



By Manuel Farach

Marian Farms, Inc. v. SunTrust Banks, Inc., – So.3d –, 2014 WL 25585 (Fla. 5th DCA 2014).

Relying on *Tiara Condo. Ass'n, Inc. v. Marsh & McLennan Co.*, 110 So.3d 399 (Fla.2013), the Fifth District holds that a bank's alleged acts of negligence toward its customer are actionable despite there being a contract (depositor agreement) between the

parties. The waiver of jury trial in the depositor agreement is not applicable to these independent torts.

U.S. ex rel. Lesinski v. South Florida Water Management Dist., – F.3d –, 2014 WL 23737 (11th Cir. 2014).

A water management district is an instrumentality of the state, and thus cannot be sued in *qui tam* under the False Claims Act, 31 U.S.C. §§ 3729–3733.

Bright House Networks, LLC v. Cassidy, – So.3d –, 2014 WL 84237 (Fla. 2d DCA 2014).

Customer lists can be a “trade secret” so long as the list satisfies the requirements of Fla. Stat. § 688.002 (4) that they “(a) [d]erive[] independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) [are] the subject of efforts that are reasonable under the circumstances to maintain its secrecy.”

Smith v. Effective Teleservices, Inc., – So.3d –, 2014 WL 51686 (Fla. 4th DCA 2014).

An assignment for the benefit of creditors transfers all claims an assignor may have, including claims for fraudulent conveyance, and a creditor may not bring a fraudulent conveyance claim against the assignee to who the assets were transferred unless the assignee has abandoned or sold the claim.

Pacific Coast Marine Windshields Ltd. v. Malibu Boats, LLC, – F.3d –, 2014 WL 53904 (Fed. Cir. 2014).

Patent prosecution history estoppel applies to design patents.

Leila Corporation Of St. Pete v. Ossi, – So.3d –, 2014 WL 185202 (Fla. 2d DCA 2014).

The Doctrine of Unclean Hands may, upon proper pleading and proof, be employed to deny recovery to a plaintiff who has acted with unclean hands toward a third party with respect to the matter in litigation.

East Avenue, LLC v. Insignia Bank, – So.3d –, 2014 WL 185205 (Fla. 2d DCA 2014).

Trial court departs from essential requirements of law and certiorari is proper when court issues a judgment that may be executed on but may not be appealed because the judgment cannot be subject to a final appeal because other interrelated issues remain pending.

In re Steffen, – Fed.Appx. –, 2014 WL 170860 (11th Cir. 2014).

An appellate court cannot review the sale of property under 11 U.S.C. § 363 unless the bankruptcy court has ordered a stay; the mere seeking of a stay (even if denied) is not sufficient to permit appellate review as to whether the sale is wrongly authorized.

Chace v. Loisel, – So.3d –, 2014 WL 258620 (Fla. 5th DCA 2014).

The solicitation by a presiding judge of litigant to be a “Facebook friend” states sufficient basis to disqualify the presiding judge.

North Carillon, LLC v. CRC 603, LLC, – So.3d –, 2014 WL 241918 (Fla. 2014).

The Rule of Lenity can be applied in civil cases, and accordingly, the criminal penalties for violating the escrow provisions of the Florida Condominium Act, Fla. Stat. § 718.101 *et seq.*, require that the more lenient interpretation be given to escrow provision. Accordingly, the separate deposits required by Fla. Stat. § 718.202 (1) and (2) may be maintained in one account and contracts where this was not done are not voidable.

RC/PB, Inc. v. Ritz-Carlton Hotel Co., L.L.C., – So.3d –, 2014 WL 222992 (Fla. 4th DCA 2014).

A corporation can only act through its agents, and accordingly, the scope of the attorney-client privilege is different for corporations than natural persons. A corporate communication to third persons may still be protected by the privilege depending on whether the:

- (1) communication would not have been made but for the contemplation of legal services;
- (2) employee making the communication did so at the direction of his or her corporate superior;
- (3) superior made the request of the employee as part of the corporation's effort to secure legal advice or services;
- (4) content of the communication relates to the legal services being rendered, and the subject matter of the communication is within the scope of the employee's duties;
- (5) communication is not disseminated beyond those persons who, because of the corporate structure, need to know its contents.

Harris v. Aberdeen Prop. Owners Ass'n, Inc., – So.3d –, 2014 WL 223072 (Fla. 4th DCA 2014).

On rehearing, the Fourth District Court of Appeal holds that statute of limitations with regard to amendments to restrictive covenants begins to run when the amendments are recorded, and binds all owners presently affected by the restrictive covenants and those who purchase in the future (i.e., the statute of limitations binds those who are not owners at time of amendment but purchase after the amendment).

Medtronic, Inc. v. Mirowski Family Ventures, LLC, – S.Ct. –, 2014 WL 223040 (2014).

The burden of persuasion of patent infringement rests with patentee, notwithstanding that patentee has been sued for declaratory relief regarding the patent.

Smith v. Casey, – F.3d –, 2014 WL 223599 (11th Cir. 2014).

A (not for hire) author who has assigned his rights in a work in exchange for license fees and has the work registered by another is a beneficial owner that has sufficient standing to prosecute a copyright violation.

Manuel Farach is Of Counsel to Richman Greer, P.A. in West Palm Beach and practices in the areas of Real Estate, Business Litigation and Appellate Law. Request the weekly version of the Case Law Update by sending an email to mfarach@richmangreer.com and writing “Request Update” in the subject line.

Judicial Luncheon series of December 4, 2013

“Making the Most of Your UMC and Special Set Hearings-Improving the Odds of Getting What You Want”

Judges Peter Blanc, Lucy Chernow Brown, Joseph Marx and Greg Keyser answered questions and provided insight into effective ways to prepare for, and present argument during, both UMC and specially set hearings. They had similar views on several issues, and the statements attributable to them below were often shared by the others; they all overwhelmingly emphasized the importance of professionalism, courtesy, and communication in the course of litigating our cases.

Judge Blanc:

- Think of yourself as the judge and consider what information you would need if being presented with the motion (e.g., include the complaint with your motion to dismiss or the affirmative defenses with your motion to strike).
- Prior to hearings, contact opposing counsel; this does not mean that your secretary should contact their secretary or that you should just send them an email; it means that you should pick up the phone and call them the old fashioned way.
- Follow Local Rule 4 which requires you to speak to opposing counsel before you set the motion for hearing – not in the hall prior to the hearing.
- The certification on a notice of hearing is not supposed to say that you “will make an effort” to resolve the matter and instruct opposing counsel to contact you if they agree.
- Remember that the five minutes per each side at UMCs, as found in Local Rule 4, includes time necessary to read the documents.
- Be familiar with all of the local rules. For example, do not set a hearing in order to request an emergency hearing; file it and wait to hear from the Judge.
- If a motion requires you to provide a binder in conjunction with the hearing, it is probably not suitable for UMC.
- There are no searching mechanisms on their computerized docket system, so it is important to give the judges whatever documents they need to decide your motion or they will have to take time otherwise spent on your motion looking for documents.
- Don’t object to discovery and provide answers – it is not only confusing, but is misleading and has been found to act as a waiver of all discovery objections except privilege.
- Don’t make blanket objections at the top of discovery responses but provide specific objections to each request. If asked, Judge Blanc may strike general objections. He suggested a motion to modify the discovery procedure in order to require specific responses to each question.
- General discovery objections such as vague, overbroad, burdensome, etc. without explanation or factual support can also act as a waiver of those objections.
- When asked how to deal with an attorney who delays giving you hearing times, he said that judges are often able to decide motions without the necessity of a hearing. See if opposing counsel will agree to allow the court to rule based upon written submissions only. If not, remember that for UMC, opposing counsel can appear by phone as long as you bring a contact number.
- Judge Blanc uses all day Monday after UMCs and 45 minutes between 8:00 and 8:45 Monday through Thursday for specially

set hearings.

- Since he has returned to the circuit civil division, he has been surprised and disappointed at the number of discovery issues being presented at hearings that should be resolved, and at attorneys misstating the law in reference to those disputes. The particular rules require that discovery only be propounded in good faith and that objections only be made in good faith. Working out discovery matters benefits your practice, your clients and your reputation.
- He wants motions and memoranda received in his office seven days in advance so that he can prepare to discuss issues upon which he will rule
- Judge Blanc made it a point to say that he enjoys his job when attorneys act professionally and come to court well prepared; he emphasized that this will make your professional life easier without jeopardizing your client’s case.

Judge Brown:

- Before a hearing, provide what will be necessary for the determination of the motion; for example, a redlined copy of an amended complaint if the issue is the difference between the amended and initial complaints.
- Do not hand copies of your authority to opposing counsel at the hearing or Judge Brown will send you into the hall.
- Be cognizant of the five minute limit for each side at UMCs; sometimes, by the time parties tell about their cases, their time is over.
- Use tabs (even post-it notes) and highlights, and cross-reference them in both your written submissions and your oral argument so that the judge can turn quickly to the important parts of the material and find whatever you need for him or her to review.
- Be organized and succinct; as soon as you begin, advise the judge of your name, who you represent, what you want and why.
- The key is to make everything easy to access, including pointing out your opposition’s position and distinguishing it if possible.
- Advise the court immediately if you have settled any portion of the motion.
- Only one hearing will be held at each UMC per case unless there is additional time; if you piggy-back hearings, you will go to the end of the line in order to argue all but the motion initially set. One exception is if the motions are mirror images of each other, in which case you should tell her up front.
- For discovery disputes, it would be impossible to argue the applicability of all boiler plate objections that are often made; get to the point of one such objection that really makes a difference and do not try to argue each of them, even if you are an attorney covering for someone else.
- Consider choosing one representative discovery dispute and agreeing in advance that her decision relating to that particular issue will govern other, similar issues within the discovery.
- Do not object and answer – this is totally meaningless.
- Make sure that there is a correlation between the amount of time set aside for the hearing and the amount of time you expect the judge to spend reviewing the material. The more voluminous the material, the more likely the hearing will have to be longer.

Continued on page 16



Conflicting Court Opinions on NSA Surveillance

By Christopher B. Hopkins

It was one year ago, before anyone had heard of Edward Snowden, that the Supreme Court held that a challenge to spy tactics under Foreign Intelligence Surveillance Act (FISA) failed because there was little evidence in Amnesty International v.

Clapper (Clapper I) that the National Security Agency (NSA) had even conducted surveillance which would have touched the petitioners. Four months later, in June 2013, the Snowden disclosures shattered the nation's innocence by revealing that *everyone* in the United States has been the subject of bulk telephony surveillance. As the year 2013 closed, two judges wrote conflicting opinions about whether NSA mass surveillance practices were legal. This article discusses what we have learned from the Klayman I and Clapper II cases.

The Authority for "Bulk Telephony Surveillance"

The 1970's was an era spawning modern distrust in the government: the Vietnam war ended bitterly, the floods of Watergate opened, and two congressional committee investigations concluded there was a conspiracy in the Kennedy assassination (later discredited) and revealed illegal intelligence and covert activities by the CIA and NSA. That latter investigation, the Church Committee, led to the enactment of FISA which was supposed to "strike a fair and just balance between protection of national security and... personal liberties." Embracing the notion that government has to keep secrets, the Foreign Intelligence Surveillance Court (FISC), a "part time assignment" for federal judges in the D.C. area, was created to discreetly review FISA surveillance.

Originally, FISA provided procedures for ex parte (secret) wiretaps and physical searches. That was later stretched to allow the FBI to obtain "business records" if there were "specific and articulable facts" of foreign surveillance. After 9/11, however, Section 215 of the Patriot Act dispensed with mere "business records" and permitted the FBI to obtain any "tangible thing." Along the way, the standard for such requests loosened from the requirement of "specific and articulable facts" to merely "reasonable grounds" of simple relevancy. Section 1861 of FISA imposes limitations on the government's application for searches.

What Is Being Collected?

After the Snowden disclosures, the government confirmed the authenticity of an April 2013 FISC Order which acknowledged a "Bulk Telephony Metadata Program" where the FBI obtained an order compelling telephone companies to produce "call detail records" to the NSA... *on a daily basis*. This metadata included phone numbers used to make or receive calls, when the calls occurred, and how long the calls lasted (not the content). The metadata from all phone companies were then blended into one massive NSA database which grew every day.

NSA intelligence analysts could access the database, without court approval, for counterterrorism purposes. Specifically, analysts would use an "identifier" (e.g., a suspected terrorist's phone number) to make a "query" to see what other phone

numbers were associated (presumably other previously-unknown terrorists). The query, also known as a "seed," only required internal NSA approval. The search could go out three "hops" meaning all of the phone numbers which were directly contacted by the target (first hop); all of the numbers contacted by those numbers (second hop); and all numbers associated with the second hop (third hop). Think of the 1980's shampoo commercial where the announcer suggests that "you tell ten friends and they tell ten friends..." That would be two of the three hops. As mentioned in one case, imagine the expanse of hits if one hop included a "Domino's Pizza outlet in New York City."

Two Differing Court Opinions

In Klayman v. Obama et al. (Klayman I), Judge Leon in D.C. entered a preliminary injunction which was stayed pending appeal. Unlike the petitioners in Clapper I who "could only speculate as to whether they would be surveilled at all," the Klayman petitioners, armed with the Snowden disclosures, were deemed to have standing since everyone was subject to telephony metadata collection and analysis.

The difficulty lay in a 1979 case, Smith v. Maryland, where the Supreme Court held that police could search the same type of phone metadata without a warrant since it was "generally known that phone companies keep such information." The Klayman I opinion declined to apply Smith claiming that profound changes in surveillance capabilities, our phone habits, and the relationship between government and telecom companies meant that "precedent like Smith simply does not apply." There is nominal precedent that a constitutional search (phone records) becomes unconstitutional when it is multiplied exponentially (the "mosaic theory"); even still, that concept has only applied when the government focuses on an individual, not gathering data on the public.

In ACLU v. Clapper (Clapper II), Judge Pauley in New York concluded that, to combat terrorism, the NSA's program was a "blunt tool [which] only works because it collects everything." The ACLU claimed that it contacts journalists, politicians, and activists and the program creates a chilling effect if the government is watching. Unlike Klayman I, the Clapper II court held that the ACLU had standing (again, since *everyone's* metadata is acquired) but that their claim fails under Smith: the records belonged to the phone company which voluntarily complied; a query of the database was akin to running fingerprints; and the "collection of breathtaking amounts of information unprotected by the Fourth Amendment" does not convert it into an unconstitutional search.

Christopher B. Hopkins is a shareholder at Akerman LLP. Send comments – encrypted or not, it apparently does not matter – to christopher.hopkins@akerman.com.

Ten Tips on How to Be More Effective Local Counsel



by Adam Rabin

The role of local counsel is an important and necessary one. Below are ten tips on how to serve as more effective local counsel.

10. Define Your Role as Local Counsel Up Front

The role of local counsel comes in several forms, ranging from “mail drop” to active co-counsel. It is important that you define your expected role up front with lead counsel and the client. Define your role early so that you know what to expect and can manage your role from a workload, staffing, and financial standpoint.

9. Determine Whether the Client or Lead Counsel Will Be Responsible for Payment

Local counsel relationships vary as to whether the client or lead counsel will be engaging and paying you, as local counsel, for your services. In many cases, the client will retain you and be responsible for making payment. In other cases, lead counsel will retain you, be responsible for payment, and seek reimbursement from the client. Either type of relationship is acceptable, but make sure the terms of engagement are clear.

8. Communicate the Need to Satisfy Federal Rule 11 and Florida Statute § 57.105

In a federal action, lead counsel should already know about counsel’s duties under Rule 11. In the Southern District of Florida, however, local counsel’s compliance with Rule 11 is particularly precarious. This is because only local counsel may e-file papers under CM/ECF. This makes it critical for local counsel to remind lead counsel to get papers to local counsel early enough to be properly reviewed before filing. Similarly, local counsel should advise lead counsel of Florida Statute § 57.105 and its analogous tenets to Rule 11.

7. Manage Expectations

Make sure lead counsel and the client know how long it may take to get a motion specially set in state court, the “at issue” rule, and the length of time it often takes to get a case to trial. Likewise, explain the improbability that anyone will be granted summary judgment in state court. Similarly, in federal court, educate lead counsel and the client on how the Southern District of Florida is now one of the fastest moving districts in the country and how the judges are very conscious of their statistics for case disposition.

6. Impact Unwritten Practices, Procedures, and Customs

Every locality has certain unwritten practices, procedures, and customs. An example in state court is that counsel may set any appropriate motion on UMC by providing opposing counsel with proper notice. In contrast, it may take several months to schedule a specially set hearing. Another example is that while a motion may be e-filed with the clerk of court, the judge will not receive that motion unless you hand-deliver a copy to the judge’s chambers. Informing lead counsel of unwritten practices, procedures, and customs will help decrease the learning curve for lead counsel.

5. Meet and Communicate with the Client

A key area in which there are problems in a local counsel relationship is when local counsel has no or little contact with the client. Local counsel should make clear with lead counsel early on that he or she expects to be able to communicate directly with the client as appropriate. If lead counsel is open to local counsel communicating with the client, your direct contact can help you build rapport with the client and manage client expectations.

4. Be Responsive

One of the critical roles of local counsel is to respond promptly to inquiries from lead counsel or the client. Being responsive to lead counsel and the client is an easy way to build credibility. On the other hand, failing to respond promptly to inquiries is a quick way to lose credibility. Timely responses remind lead counsel and the client of your value to the team.

3. Know the Standards of Professional Courtesy

Beyond the local procedural rules, local counsel should know our Standards of Professional Courtesy (“Standards”). Our Standards are inherent in our local practice culture. Informing lead counsel and the client early in a case that our judges enforce the Standards will be more effective than after an issue arises. Educate lead counsel and the client that zealous advocacy is acceptable so long as it remains within the parameters of our Standards.

2. Know the Local Rules

An effective way to show your value as local counsel is to know the local rules. This provides great assistance to lead counsel and reaffirms your value. Lead counsel often will not know our state or local federal rules. Refreshing your recollection of these rules will help you integrate more with lead counsel in defining the case strategy and decision-making.

1. Know Your Judge

The most important role of local counsel is to educate lead counsel and the client on your judge. Each judge has different practices, procedures, interpretations, preferences, styles, biases, routines, demeanor, habits, and idiosyncrasies. Know and communicate them to lead counsel and the client. This will instill their confidence in you and help you manage their expectations.

Conclusion

The role of local counsel is an important and necessary one. Learning as much as possible about the judge, local rules, standards and practices, and responding timely to lead counsel and the client, will make you more effective as local counsel.

Adam Rabin is board certified in business litigation and practices business, securities and whistleblower litigation with McCabe Rabin, P.A. in West Palm Beach. You may e-mail him with any comments at arabin@mccaberabin.com.



The Future of Diversity in the Palm Beach County Legal Community

*By Chioma Deere, Esq. and John Whittles, Esq.
Co-Chairs of the Committee for Diversity & Inclusion*

Recently, at one of the Committee for Diversity and Inclusion (CDI) meetings, our group had an animated discussion about the future of diversity in the legal profession. The monthly Diversity Corner Articles reflect the energy of our attorneys regarding the importance of this topic today. We must continue to have a view toward the future as diversity itself continues to evolve.

A Vision

As highlighted in our Diversity Corner, Palm Beach County has had its share of visionaries and trailblazers regarding the promotion of equality and diversity in the legal profession. Those trailblazers include the most recent Florida Bar leadership, including South Florida's Eugene Pettis, President-Elect Greg Coleman, and recently announced, Ray Abadin. Our legal profession has been electrified with the idea of making diversity in our esteemed profession a reality. Palm Beach County's legal community has great attorneys and judges to show that our journey to that reality is a more inclusive one.

Nevertheless, the statistics are still stark regarding the reality of inclusion in our profession. Thankfully, Palm Beach County has made great strides, with the cooperation of other voluntary bar associations, non-profit groups, and government agencies, to promote diversity and inclusion. The CDI has held two Diversity Summits in which the legal community discussed important topics such as, diversity statistics, the employment and attrition of diverse attorneys, inclusive workplace culture, and the activities of the CDI. The CDI has supported over 100 diverse law students with the Diversity Internship Program, mentored diverse attorneys on the road to the bench and the JNC, and hosted events to promote diversity. As a community, we must continue these efforts to take stock and move forward.

A Challenge

As the only standing committee of the Palm Beach County Bar, the CDI understands that diversity work is an ongoing and evolving effort. It is also clear that our bar association's commitment to a standing Committee for Diversity and Inclusion has been matched by the amazing efforts of its members to continue to promote diversity here in Palm Beach County. Our efforts may however prove to fall prey to what has been dubbed as "diversity fatigue." This phenomenon – which ranges from thinking that we have done enough to diversity losing its luster as a cutting-edge concern – should be avoided at all costs. This effort will be as important 50 years from now as it was 50 years ago, regardless of incremental successes and failures.

This year, the Palm Beach County Bar will award for the third time the Judge Edward Rogers Diversity Award at the Bench Bar Conference on March 7, 2014. However, even as some forms of exclusions are reversed, others will persist and new ones will emerge without attention and action from our profession. The oaths that we take as attorneys reflect that diversity work is at the core of our profession. In a phrase, inclusion means "having a seat at the table," and is not simply the catch-phrase du jour, but an undertaking of making our phenomenal legal community even better. As an example, the CDI can assist in Diversity Training for various types of law firms with different types of diversity training and policies.

Our challenge then is not to stay entrenched in the grooves, though created with much effort, but to continue to enlarge the ideas of diversity to also be inclusive of gender, race and ethnicity, sexual orientation and disability. We must continue to question, discuss, and assert where our place is within the future of diversity. With the support of the Palm Beach County legal community, the CDI



has explored and addressed the many faces of diversity. The CDI will continue to do so in order to encourage, support, and empower all members of our profession.

Chioma Deere is a litigation associate with Vernis & Bowling of Palm Beach, P.A. Chioma's practice focuses on Personal Injury Protection Litigation, General Insurance Defense Litigation, and General Civil Litigation. She may be reached at CDeere@national-law.com.

John Whittles is a shareholder with Richman Greer, P.A. Mr. Whittles practices commercial litigation, employment law, constitutional law, and election law, primarily in the West Palm Beach office of Richman Greer, P.A.



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.

Judicial Luncheon series

Continued from page 12

- She does not mind big binders if they are well organized, easily accessed with tabs, with the important cases in the front.
- Sometimes she is given big binders but then, by the same attorney, is given smaller binders and told “this is what you really need.” When that happens, you can probably just supply the smaller binders.
- If moving for sanctions, produce all previous orders, list them, identify how they were violated, and follow the list of progressively severe sanctions set forth in the rules – do not request dismissal until all other avenues have been exhausted and the rigorous conditions for the ultimate sanction have been met
- She schedules special set hearings between 8:15 and 8:45 in the morning and will hear those telephonically; no telephone hearings for UMCs.

Judge Marx:

- Professionalism!
- Decency!
- Courtesy!
- Even if you think that the other side is a jerk and it will not help to call him or her in advance of a hearing, you must do it because it's required by Rule 4 and otherwise things will just go downhill from there at the hearing.
- In advance of the hearing, he hopes to receive a short motion, a case that supports your position, and whatever else that he will need to make a decision (i.e., a complaint for a motion to dismiss).
- Begin your presentation with indicating that you called your opposing counsel and specifying what still needs to be resolved.
- Since he reads everything, big binders received prior to UMCs are not good ideas. If things are that difficult to understand or time consuming, you do not want it at a UMC- particularly if it is important.
- Do not schedule long hearings at uniform motion calendars, he notices other attorneys waiting their turn and getting very frustrated at those taking too much time.
- It is “all about the presentations;” he is very visual; creative, organized way to present your argument, including slide shows, have proven effective.
- Be judicious with your time; do not, for example, provide string sites or multiple cases for the something as well recognized as the standards on summary judgment.
- Avoid a lot of background about prior transgressions; it detracts from his ability to concentrate on the merits of your position.
- He and others are working toward a universal pretrial order for all judges to follow (Judge Brown expressed skepticism that every judge will follow it because they each like to run their divisions according to their own preferences).

Judge Keyser:

- Bickering, showing strings of emails to illustrate the unreasonableness of the other side, arguing about opposing counsel's failure to provide discovery not set for hearing that day, etc. is very distracting and time consuming... Focus on the actual motion to be decided.

- Though difficult, it is much more effective to take the high ground and focus on the actual motion to be decided.
- It is obvious when attorneys have not spoken, so everyone should speak in advance, even about such things as whether production can be limited to a shorter period than that requested in the document request.
- Provide a brief background of the case at the start of the hearing to give the Court context of who you represent, what the motion is and what relief is being sought - similar to what you would do if you were talking to another attorney in your office to get his or her input.
- Binders for UMCs are distracting and there is almost never enough time to hear such a case at UMC; while you can't expect to be heard, he will hear you if there is unexpected time available.
- If you have a hearing that is important and you don't think you can wait until a specially set time is available, try scheduling a case management conference for UMC, but be prepared to argue the motion itself in case there is a cancellation or it is a very light day.
- When judges tell you that they have read the material, it is probably not a good use of your time for you to read your motion again at the hearing. Time is better spent focusing on details of your case, distinguishing the opposing parties' position, and providing details of specific cases.

Have your clients been court ordered to take a parenting course?

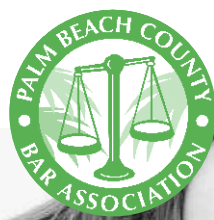
Refer them to the PBCBA's Parent Education and Family Stabilization Course Online!

Clients simply study the online course materials at their leisure and answer the quiz questions! No long lectures. No books to read. No classroom time.

Find the online Parent Education and Family Stabilization Course at:

http://www.palmbeachbar.org/online_courses.php

- Register now - start immediately.
- Multiple choice and true/false questions
- Open-book test.
- Do the course in sections. Go on and off line as many times as you like.
- Website available 24 hours a day, 7 days a week.
- Live phone personnel available for registration or questions during business hours.



This course is required by law in order for the concerned parties to obtain a final judgment of dissolution of marriage in Florida where there are children involved. It is provided by the University of Continuing Education and approved by the Florida Department of Children and Families



A Belated New Year's Celebration

Members of our North County Section recently hosted a networking reception at the Palm Beach Marriott on Singer Island. Taking advantage of our cooler weather, more than 60 members and judges enjoyed the outdoor setting. The evening was sponsored by D'Amore Law Firm; Fox Rothschild LLP; Law Office of Mitchell J. Beers and Visual Evidence.



Judge Alan Forst, Joyce Anne Conway and Vicki Vilchez



Stan Klett and Larry Mesches



New member Kelly Zarcone pictured with Brett Barner



Judge Krista Marx and Judge Joe Marx



Laurie Briggs and Victoria Calebrese

Additional pictures from the evening can be seen on the Bar's Facebook page at www.palmbeachbar.org

Welcome New Members!

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

Hector Concepcion: Florida A&M University, 2013; Associate in Gonzalez & Cartwright, P.A., Lake Worth.

Shannon E. Darsh: Nova Southeastern University, 2013; Associate in Pike & Lustig, LLP, West Palm Beach.

Michael J. Friedman: University of Miami, 2003; Associate in Vezina, Lawrence & Piscitelli, P.A., Ft. Lauderdale.

Scott H. Holtz: University of Florida, 2009; Partner in Prestia | Holtz P.A., Lake Worth.

Sommer C. Horton: California Western School of Law, 2013; Solo Practitioner, Boca Raton.

Anthony Kakoyannis: University of Florida; Law Student Membership, Gainesville.

George Paul Kastrenakes: University of Florida, 2013; Associate in Wicker, Smith, O'Hara, McCoy & Ford, West Palm Beach.

Alyssa B. Lunin: University of Florida, 2012; Fourth District Court of Appeal, West Palm Beach.

Frank J. Morelli: Seaton Hall University; Solo Practitioner, Wellington.

Kelly A. Schulz: University of Florida, 2013; Associate in Wicker, Smith, O'Hara, McCoy & Ford, West Palm Beach.

Colleen B. Sullivan: Wake Forest University, 2013; West Palm Beach.

Alison K. Thomas: Florida Coastal School of Law, 2013; Associate in Cole, Scott & Kissane, P.A., West Palm Beach.

David Saul Vogel: Rogers Williams University, 1998; Partner in Aul & Vogel, PLLC, West Palm Beach.

Samuel A. Walker: Howard University, 1996; Associate in CPLS, P.A., Wellington.

Michael Walrath: University of Baltimore, 2006; Associate in Medical Bill Clinic, P.A., Miami.

Kelly V. Zarcone: Buffalo University, 1998; Solo Practitioner, Boca Raton.

WELCOME



INSURANCE COMPANIES DON'T RESPECT YOU.

If you are a non-Personal Injury attorney trying to handle a Personal Injury case, the insurance company you are up against knows you don't practice PI. They will not make a fair offer on the case.

Refer the case to us for a 25% referral fee - Personal Injury is all we do.

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HOME ABUSE • WRONGFUL DEATH • HEART ATTACKS IN PUBLIC PLACES



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If you would like to establish a referral relationship, contact our Marketing Director, Tom Copeland, at (561) 697-4440 or TCopeland@800GOLDLAW.com to schedule a lunch with Mr. Goldenfarb - *our treat!*

Bulletin Board

*** Ad Rates ***

CLASSIFIED ADVERTISING RATES: TO PLACE AN AD: 1) Please fax all ads to 561/687-9007. 2) Upon receipt you will be notified of cost. 3) Send payment by the 25th of the month. 4) Cost: 50 words or less \$50, 50-75 words \$65, up to 75 words with a box \$75. 5) Members receive 1 free classified ad per year (excluding professional announcements). Ads will only be re-run by re-faxing ad to 561/687-9007. Web-site advertising is also available for a cost of \$75 for a three week run. Payment must be received prior to publication and renewable only upon receipt of next payment.

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

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

POSITIONS AVAILABLE:

WELLINGTON: Growing Wellington legal group seeks attorneys in diverse practice areas to share office space in a Class A building in the heart of Wellington. Single or multiple offices available with or without administrative space; conference rooms and other amenities also available. Inquiries confidential. Please reply to attorneyofficespace@gmail.com.

PART-TIME PI LEGAL ASSISTANT:

Phillip C. Houston, Esq., Board Certified Personal Injury Trial Lawyer in need of part-time PI legal assistant with current knowledge of pleadings. Quiet and friendly office on Forum Place in West Palm Beach. Please call (561) 712-8080.

PROFESSIONAL ANNOUNCEMENTS:

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

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

GREGORY TENDRICH, Esq.: "AV" rated, FINRA Arbitrator, Certified County Court Mediator & Former Series 7 licensed VP & Asst. General Counsel to national and regional NYSE & FINRA stock brokerage firms, is accepting referrals and is available to co-counsel, provide trial/arbitration consultation or assistance in matters involving the recovery of losses due to stock broker fraud, unsuitability, churning and misrepresentation, in addition to SEC, FINRA, NYSE and other regulatory enforcement matters. Please call (561) 417-8777 or visit www.yourstocklawyer.com.

GREY TESH: "Law is not black and white, it's Grey." Passionate, caring, truthful, prepared. Soul (sic) practitioner. Criminal Defense (Board Certified in Criminal Trial) and Personal Injury. Over 100 jury & non-jury trials to verdict. (561) 686-6886. greytesh.com

MARINA D. PETILLO: Experienced Marital/Family Law Attorney is available as a QUALIFIED PARENTING COORDINATOR. Visit www.petilloparentingcoordinationandmediation.com or call me. Also available as a SUPREME COURT CERTIFIED FAMILY LAW MEDIATOR (mediating cases for over 14 years) and GUARDIAN/ATTORNEY AD LITEM. Reasonable rates for services throughout all of Palm Beach and Martin County. Located at 800 Village Square Crossing, Suite 105, Palm Beach Gardens, FL 33410. Please call for additional information. Tel. (561) 656-2015 or e-mail mpetilloesq@gmail.com.

OFFICE SPACE

OFFICE SUBLEASE IN CENTURION TOWER: McCabe Rabin, P.A., 1601 Forum Place, West Palm Beach. Includes office, file space and a secretarial station, use of phone system, access to a high speed copier/scanner/fax, two conference rooms, a full kitchen and internet. \$1,500/month. Call Beth (561) 659-7878.

OFFICE SPACE: Prime Lake Worth location. Professional office space to share. Conference room/library, phone system, internet, secretary station. Rent negotiable based on needs. Call (561) 582-2411.

EAST BOCA RATON ATTORNEY

OFFICE: One or two beautifully decorated attorney's office(s), with use of two conference rooms, secretarial cubical, kitchen, new phone system, receptionist, high speed copier/printer/scanner. Call John Schuttler (561) 441-9294.

HEARSAY

Philippe Jeck was elected to a 2 year term as Vice Chair for 2014-15 and serves on the Executive Committee for the Palm Healthcare Foundation, Inc. Board of Trustees.

Jones, Foster, Johnston & Stubbs, P.A. announces that **Sidney A. Stubbs, Jr.** was recently honored by the Forum Club of the Palm Beaches with their Outstanding Public Service Award.



Jane S. Hunston, 37 year practitioner of Real Estate law, announced the formation of Jane S. Hunston, P.A. Her practice includes all aspects of Transactional Real Estate, predominately in Palm Beach and Martin counties. Ms. Hunston is a Certified Circuit Civil and Appellate Mediator in the State of Florida.



Ward Damon, PL announced **Adam Seligman** as an Equity Partner of the firm. Mr. Seligman is a Real Estate and Business attorney who joined the firm in 2012.



Nason, Yeager, Gerson, White & Lioce, P.A. announces the opening of the law firm's Boca Raton, Florida, office. The firm also announced it has named

John J. Fumero an Equity Shareholder and Managing Shareholder of the Boca Raton office.





**VOLUNTEERS NEEDED FOR LAW WEEK:
MOCK TRIALS & SPEAKERS
April 28 – May 2**

The Law Week Committee needs volunteers to present Mock Trials and serve as guest speakers during Law Week, April 28 – May 2. Programs are held in elementary, middle and high 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. **Volunteer deadline is March 7.**

----- 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 ☐ SPEAKERS PROGRAM

SCHOOL PREFERENCE (if any): _____

SCHOOL LEVEL PREFERENCE: ☐ Elementary ☐ Middle ☐ High School

GEOGRAPHICAL PREFERENCE:

☐ Palm Beach

☐ West Palm Beach

☐ Boynton Beach

☐ Palm Beach Gardens

☐ Lake Worth/Lantana

☐ Delray Beach

☐ North Palm Beach

☐ Belle Glade

☐ Jupiter/Tequesta

☐ Boca Raton

☐ Wellington/Royal Palm Beach

☐ Other, please specify _____

☐ Riviera Bch/Lake Park

PLEASE RETURN BY MARCH 7 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



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

Employment Arbitration

WEBINAR ONLY

March 14, 2014 - 11:55 a.m. - 1:15 p.m.

Program Schedule

- 11:55 am - 12:00 pm **Welcome** - *Cathleen Scott, Esq., Cathleen Scott & Associates, P.A., Board Certified Labor and Employment Law Attorney, Employment and Labor Law CLE Committee Chair*
- 12:00 pm - 1:15pm **Presenter:** *Brian D. Buckstein, Esq., Brian D. Buckstein, P.A.*

Matthew N. Thibaut, Esq. hosts a Webinar that examines employment arbitration, the forums including FINRA and AAA. Topics will include discovery limitations, nuances, and defamation.

Please e-mail your questions to: cscott@floridalaborlawyer.com

This course has been granted **1.5 CLER / 1.0 Labor & Employ Law Certification credits** from The Florida Bar.

HOW TO REGISTER:

Attend this live **WEBINAR**: register here <http://www.palmbeachbarcle.org/>

Enjoy an "Early Bird" discounted registration cost of **\$35 each** for PBCBA members/paralegals; **\$75 each** for non-PBCBA members/paralegals. After **3/7/14**, add \$15 late fee.

- **November 5, 2013** - "The Patient Protection and Affordable Care Act, What You and Your Clients Need to Know about "Obama Care" Presented by: *Joseph G. Santoro, Esq., Tanya M. Reed, Esq., and Steven D. Muscatello, Esq., Gunster, West Palm Beach, FL*
- **February 24, 2014** - "Representing Public Employers" Presented by: *Glenn J. Torcivia, Esq., Torcivia and Associates, P.A., West Palm Beach, FL*
- **March 14, 2014** - "Employment Arbitration" Presented by: *Matthew N. Thibaut, Esq., Ciklin Lubitz Martens & O'Connell, West Palm Beach, FL*
- **May 21, 2014** - "Restrictive Covenants. I'm Leaving My Job, Can I Compete? What Information Can I Use? Who's Coming With Me?" Presented by: *Daniel R. Levine, Esq., Bennardo Levine, LLP; and Joseph Curley, Esq., Gunster, West Palm Beach, FL*

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

_____ I will not be able to attend the webinar but would like to order the audio CD (allow 4 weeks for delivery) (3/14/14 Employ. Law.) Cost is the same as listed above, in addition to \$10 for shipping and handling. **PAYMENT BY CHECK ONLY, WITH THIS FORM.**

Name: _____ Telephone #: _____

Address: _____ Email Address: _____

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

SOLO & SMALL FIRM LUNCHEON

presented by the Solo & Small Firm Committee



IOTA TRUST ACCOUNTS: ARE YOU IN COMPLIANCE?



Friday, March 28

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

Bar Office

Program includes new rules and guidelines on FDIC coverage for IOTA Trust Accounts. Attend this luncheon and make sure your clients' assets are covered. Presented by Vinnie Cuomo, VP of Commercial Loan, Grand Bank & Trust of Florida

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Not a member of the PBCBA? We will pay your dues!

Already a member?

How would you like a free conference room or virtual office?

Find out how at the lunch!

Take advantage of your early registration price of just \$10.00, which includes lunch, CLE credit and networking. Register online @ www.palmbeachbar.org

Price goes up by \$5.00 after 3.25.14

**HOW TO
REGISTER**



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form



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

Name: _____

Telephone: _____ Email: _____

Address: _____



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

"The 14th Annual View From The Bench"

The Judges' View of Proper Attorney Etiquette

Thursday, April 10, 2014 - 6:00pm - 8:30pm

The Colony Hotel, Palm Beach, 155 Hammon Avenue

Program Schedule

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

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

Honorable Martin H. Colin

Honorable Diana Lewis

Honorable John L. Phillips

Honorable David E. French

Honorable Krista M. Marx



This course is expected to receive **2.0 CLER/Certification credits** are pending from The Florida Bar. **Early registration cost (including 1 free drink ticket)** is **\$70** for PBCBA members/paralegals; **\$110** for non-PBCBA attorney members/paralegals if registered by 4/3/14; add \$25 after that date.

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Estate & Trust Litigation

Jo Ann Abrams, Attorney at Law



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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

If you have an issue or question you would like the judges to address , please e-mail it to bgreenberg@floridaelderlawservices.com

Please select one of the following:

- ___ ***Chicken Marsala, Mascarpone Mashed Potatoes, Grilled Zucchini***
- ___ ***Broiled Mahi-Mahi, Tropical Fruit Salsa, Rice Pilaf, Julienne Vegetables***
- ___ ***Wild Mushroom Ravioli, with Golden Tomato Fondue, White Truffle Essence***

"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) (4/10/14) Cost is the same as listed above, In addition to \$10 for shipping and handling. . **PAYMENT BY CHECK ONLY, WITH THIS FORM.**

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



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

Friday, April 4, 2014 - 8:15 a.m. – 6:15 p.m.

Bar Association Office - 1507 Belvedere Road, WPB, FL 33406

POST-JUDGMENT ISSUES: MODIFY THIS, ENFORCE THAT, AND WHAT DO YOU MEAN I HAVE TO PAY YOU?

Whether you are new to the area of family law or a seasoned practitioner, this CLE has something for everyone. Speakers will take a fresh look at evaluating, developing, and trying cases based on issues which arise after the entry of the final judgment. Procedural matters will be addressed such as 1) whether your case should be heard before the Judge or Magistrate, 2) how practicing before a Magistrate differs from practicing before a Judge, and 3) the non-uniform practice of the Uniform Motion Calendar. In addition, there will be in-depth presentations on key substantive law issues such as modification of alimony, child support and parenting plans, enforcement of existing orders and last, but not least, how to get paid.

Program Schedule

8:15am - 8:30am	Late Registration / Check in
8:30am - 9:00am	Welcome, Introduction of Program Committee, and Opening Remarks - C. Debra Welch, Esq., The Law Firm of C. Debra Welch, P.A., Family Law CLE Committee Chair; Co-Chairs: Craig J. Pohlmann, Esq.; Cathy Purvis Lively, Esq.; Ted Miloch, Esq.; Ashley B. Poulter, Esq.; and Merin Seifer, Esq.
9:00am - 10:00am	Practice and Procedure: How to Make Happen, What You Actually Want to Happen - *Jeffery A. Weissman, Esq., Gladstone & Weissman, P.A.
10:00am - 10:50am	Discovery: Knowing What You Need and Knowing How to Get it - *Odette M. Bendeck, Esq., Fisher & Bendeck, P.L.
10:50am - 11:00am	BREAK
11:00am - 12:00pm	Enforcement: You Can't Make Me! Oh, Yes, I Can! - *Joel M. Weissman, Esq., Joel M. Weissman, P.A.
12:00pm - 1:00pm	LUNCH
1:00pm - 1:45pm	Modification of Parenting Plans - *Peter L. Gladstone, Esq., Gladstone & Weissman, P.A..
1:45pm - 2:45pm	Modification of Alimony: Can I Get More? Can I Pay Less? Let's Play Alimony Roulette with the Florida Legislature! - *Howard M. Rudolph, Esq., Rudolph & Associates, LLP
2:45pm - 3:00pm	BREAK
3:00pm - 4:00pm	Modification of Child Support - Julia Wyda, Esq., Shapiro Blasi Wasserman & Gora, P.A.
4:00pm - 5:00pm	Attorney's Fees: How to Get Them Ordered & How to Collect Them - *Robert M. W. Shalhoub, Esq., Robert M. W. Shalhoub, P.A.
5:00pm - 5:30pm	A View From the Bench - The Do's and Don'ts of Presenting Your Case - Judge John L. Phillips, Judge Lisa Small, Magistrate Sara Alijewicz, *Magistrate Diane M. Kirigin
5:30pm - 6:15pm	Happy Hour

*Board Certified Marital and Family Law Attorney

Matthew Lundy Law

QDRO Law

SPONSORED BY:



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BENJAMIN T. HODAS, LLC
Marital & Family Law

This course is expected to receive 8.5 CLER / Marital & Family Law Certification credits are pending from the Florida Bar.

Early Registration cost is \$175 for PBCBA member/paralegals 0-5 years experience; \$210 for PBCBA members/paralegals w/5+ yrs. experience; \$250 for non-PBCBA attorney members/paralegals. After 3/28/14 add \$25 late fee to registration.

LEGAL AID ATTORNEY cost is \$175. PBCBA member Legal Aid attorney may register on line; non-PBCBA member Legal Aid attorney should mail in \$175 check to PBCBA, 1507 Belvedere Rd., WPB., FL 33406. After 3/28/14 add \$25 late fee to registration.

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.

PAYMENT OPTIONS:



If paying by credit card, please go to our secure website to register: www.palmbeachbar.org



If you can't leave your office, you can attend this via live webinar by registering here <http://www.palmbeachbar.org/>. PLEASE NOTE: If you register for the webinar, you cannot attend the live version.



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



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

Name: _____

Telephone: _____

Address: _____

City/Zip: _____

Email Address: _____

I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (4/4/14 Family 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, 1507 Belvedere Rd., West Palm Beach, FL 33406



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

"ESI Discovery for the Technically Challenged"

Friday, April 11, 2014 - 11:45a.m. – 1:05p.m.

**Bar Association Offices
1507 Belvedere Road, WPB, FL**

Program Schedule

- 11:45 a.m. - 12:00 p.m. **Late Registration / Check In / Lunch**
- 12:00 p.m. - 12:05 p.m. **Welcome & Opening Remarks** - *Edwin M. Walker, III, Esq., Walker Law Firm, P.A. Committee Chair*
- 12:05 p.m. - 12:15 p.m. **Intro to ESI: What is meant by "ESI, types of ESI, etc.** - *Andrew S. Kwan, Esq., Beasley Hauser Kramer & Galardi, P.A.*
- 12:15 p.m. - 12:35 p.m. **Basic ESI Law: Federal Rules of Civil Procedure, relevance/ discoverability case law, process for obtaining ESI from opposing party and nonparty** - *Andrew S. Kwan, Esq., Beasley Hauser Kramer & Galardi, P.A.*
- 12:35 p.m. - 12:50 p.m. **Cost-Shifting Law: Zuculake factors and other cost-shifting analyses** - *Andrew S. Kwan, Esq., Beasley Hauser Kramer & Galardi, P.A.*
- 12:50 p.m. - 1:05 p.m. **Persuading the Court: Tips for negotiations with opposing counsel and drafting motions to compel/for protective order** - *Andrew S. Kwan, Esq., Beasley Hauser Kramer & Galardi, P.A.*

SPONSORED BY:



This course is expected to receive 1.0 CLER from The Florida Bar.

The **early registration** cost of the seminar is **\$25.00 (includes lunch)** for PBCBA members/paralegals;
\$65.00 for non-PBCBA members/paralegals if registered by **4/4/14**; add \$15 to registration fee after that date.

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

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

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

PAYMENT OPTIONS:



If paying by credit card, please go to our secure website to register: www.palmbeachbar.org



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



If you can't leave your office, you can attend this via live webinar by registering here <http://www.palmbeachbar.org/>. PLEASE NOTE: If you register for the webinar, you cannot attend the live version.



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

Name: _____

Telephone: _____

Address: _____

City/Zip _____

Email Address: _____

___ I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (4/11/14 Technology.) Cost is the same as listed above, in addition to \$10 for shipping and handling. PAYMENT BY CHECK ONLY, WITH THIS FORM..

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

North County Section to host its annual

BEACH BASH!

Sunday, April 13

11:30 a.m. to 2:30 p.m.

Hilton, Singer Island



Lunch - Live Music - Fire Dancers
Third Annual Ponzoli Sandcastle Competition
Face Painting
Jewelry Making & More!

Bring Your Family For The Fun!

RSVP online @ www.palmbeachbar.org

Take advantage of early registration
\$20.00 for adults; \$5.00 for children 13 and under.
Judges are complimentary



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



**ANATOMY OF A SECURITIES ARBITRATION CASE:
A LIVE VIEW FROM THE PANEL**



April 24, 2014, 12:30p.m. - 6:00p.m.

Bar Association Offices, 1507 Belvedere Road, WPB, FL

Program Schedule

12:30 p.m. - 1:00 p.m.	Lunch and Opening Remarks - <i>Matthew N. Thibaut, Ciklin Lubitz Martens & O'Connell, Committee Chairperson</i>
1:00 p.m. - 2:00 p.m.	FINRA Presentation: Paperless Initiative, Portal Discussion and Hot Topics - <i>Manly Ray, Regional Director, FINRA Southeast Regional Office</i>
2:00 p.m. - 2:10 p.m.	BREAK
2:10 p.m. - 4:00 p.m.	Mock Securities Arbitration - <i>University of Miami Law Students and Teresa J. Verges, Esq., Director of Investor Rights Clinic at the University of Miami.</i> <i>(This presentation will consist of opening and closing arguments, direct and cross examination of Claimant and Respondent. Arbitration Panel selected by FINRA will hear the case or deliberate.)</i>
4:00 p.m. - 4:30 p.m.	Mediator's Point of View By Mediators - <i>Jeffrey S. Grubman, Esq., and Howard A. Tescher, Esq.</i>
4:30 p.m. - 5:00 p.m.	Arbitration Panel's LIVE Rulings & Reasoning
5:00 p.m. - 5:30 p.m.	Q & A with FINRA Arbitrators
5:30 p.m. - 6:00 p.m.	Happy Hour

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This course is expected to receive **5.0 CLER / Cert. Credits are pending from The Florida Bar.**

Early Registration cost is **\$125.00** for PBCBA members/paralegals;

\$165 for non-PBCBA attorney members/paralegals if registered by **4/17/14**; add \$15 late 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.

PAYMENT OPTIONS:



If paying by credit card, please go to our secure website to register: www.palmbeachbar.org



If you can't leave your office, you can attend this via live webinar by registering here <http://www.palmbeachbarcle.org/>. PLEASE NOTE: If you register for the webinar, you cannot attend the live version.



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

Name: _____

Telephone: _____

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____ I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (4/24/14 Securities 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, 1507 Belvedere Rd., West Palm Beach, FL 33406



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

Whistleblower & Qui Tam Actions

May 2, 2014 - 8:15 a.m. - 1:45 p.m.

1507 Belvedere Road, West Palm Beach, FL 33406

Program Schedule

8:15 am - 8:30 am	Late Registration
8:30 am - 8:40 am	Welcome - Cathleen Scott, Esq., Cathleen Scott & Associates, P.A., Board Certified Labor and Employment Law Attorney, Employment and Labor Law CLE Committee Chair
8:40 am - 9:15 am	Florida's Whistleblower Act, Plaintiff's Perspective - Lindsey B. Wagner, Esq., and Cathleen Scott, Esq., Cathleen Scott & Associates, P.A.
9:15 am - 9:50 am	Florida Whistleblower Act, Defendant's Perspective - Eric A. Gordon, Esq., Akerman LLP
9:50 am - 10:00 am	BREAK
10:00 am - 10:35 am	Protections for the Qui Tam Relator Under the False Claims Act - Dina Kever, Esq., Senior Counsel, McCabe Rabin, P.A.
10:35 am - 11:10 am	Working With the Government During Its Qui Tam Investigation, Plaintiff's Perspective - Bruce E. Reinhart, Esq., McDonald Hopkins, LLC
11:10 am - 11:20 am	BREAK
11:20 am - 11:55 am	Defending the Target of a State or Federal Qui Tam Investigation: Corporate Perspective - William N. Shepherd, Esq., Holland & Knight LLP
11:55 am - 12:30 pm	Different Types of Fraud that Lead to Successful Qui Tam Actions (Federal and Florida) - Ryon M. McCabe, Esq., McCabe Rabin, P.A., Board Certified in Business Litigation
12:30 pm - 1:45 pm	Lunch and Panel Discussion: How are Qui Tam Cases Viewed by the Court and the Government? Panelists: U.S. District Judge Kenneth Marra; Assistant U.S. Attorney, Health Care Fraud Coordinator, Mark Lavine, Esq., and Russell Kent, Esq., Special Counsel for Litigation, Office of the Florida Attorney General Moderator: Adam T. Rabin, Esq., McCabe Rabin, P.A., Board Certified in Business Litigation

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This course has been granted 5.0 CLER / 4.0 Bus Lit.; 4.0 Labor & Employment Law; 5.0 State and Fed'l Government & Administrative Practice Certification credits from The Florida Bar.

Enjoy an "Early Bird" discounted registration cost of \$125 for PBCBA members/paralegals; \$165 for non-PBCBA members/paralegals. After 4/24/14, add \$25 late fee. All refund requests must be made no later than 48 hours prior to the date of the seminar.

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

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

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

Name: _____

Telephone: _____

Address: _____

City/Zip: _____

Email Address: _____

I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (5/2/14 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, 1507 Belvedere Road, West Palm Beach, FL 33406. Telephone: (561) 687-2800



The Estate and Probate Law Continuing Legal Education Committee presents:

"The 31st Annual Estate and Probate Seminar—Part 2"

Wednesday, May 7, 2014 - 12:30p.m. - 6:10p.m.

Bar Association Office, 1507 Belvedere Rd., West Palm Beach, FL

Program Schedule

- 12:30p.m. - 12:55p.m. **Late Registration and Check In**
- 12:55p.m. - 1:00p.m. **Welcome & Opening Remarks** - *John M. Severson, Esq., Burns & Severson, P.A., Board Certified Wills, Trusts and Estates Attorney, Committee Chair*
- 1:00p.m. - 1:50p.m. **Case Law Update** - *John C. Moran, Esq., Gunster*
- 1:50p.m. - 2:10p.m. **Legislative/Rules Update** - *Tasha K. Dickinson, Esq., Jones, Foster, Johnston & Stubbs, P.A., Board Certified Wills, Trusts and Estates Attorney*
- 2:10p.m. - 2:40p.m. **Tax Law Update** - *Michael A. Lampert, Esq., Michael A. Lampert, P.A., Board Certified Tax Law Attorney*
- 2:40p.m. - 3:10p.m. **Disbarment for Dummies - Ethical Issues in Probate** - *David M. Garten, Esq., Law Office of David M. Garten*
- 3:10p.m. - 3:20p.m. **BREAK**
- 3:20p.m. - 4:00p.m. **Bifurcation and Delegation of Trustee Duties under Florida Law** - *Tasha K. Dickinson, Esq., Jones, Foster, Johnston & Stubbs, P.A., Board Certified Wills, Trusts and Estates Attorney*
- 4:00p.m. - 4:35p.m. **Coordination of Probate and Trust Administration** - *Shane Kelley, Esq., The Kelley Law Firm, PL, Board Certified Wills, Trusts and Estates Attorney*
- 4:35p.m. - 5:10p.m. **Trust Protectors** - *Elaine M. Bucher, Esq., Gunster, Board Certified Wills, Trusts and Estates Attorney*
- 5:10p.m. - 6:10p.m. **Cocktail Reception**

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estate & trust litigation

This course is expected to receive 5.0 CLER incl. .50 Ethics credits / Certification credits are pending from the Florida Bar.

Early registration cost for the seminar is \$135 for PBCBA member attorneys/paralegals;

\$175 for non-PBCBA member attorneys/paralegals if registered by 4/30/14; add \$25 late fee after that date.

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

PAYMENT OPTIONS:



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If you can't leave your office, you can attend this via live webinar by registering here <http://www.palmbeachbar.org/>. PLEASE NOTE: If you register for the webinar, you cannot attend the live version.



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

Name: _____

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____ I will not be able to attend the seminar but would like to order the CD (allow 4 weeks for delivery) (Estate/Probate Seminar 5/7/14)
Cost is the same as listed above, **in addition to \$10 for shipping and handling.** PAYMENT BY **CHECK ONLY**, WITH THIS FORM.

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

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



"The **NEW** World: New Closing Disclosures, **NEW** Best Practices and **NEW** Law"

Tuesday, June 17, 2014 - 8:15a.m. - 12:05p.m.
Bar Association Offices



Program Schedule

- 8:15am - 8:25am **Late Registration/Check In**
- 8:25am - 8:30am **Welcome and Opening Remarks** - *Gregory R. Cohen, Esq., Cohen, Norris, Wolmer, Ray, Telepman & Cohen, Board Certified Real Estate Attorney, Real Estate Committee Chairperson*
- 8:30am - 9:45am **NEW Mortgage Disclosures (the NEW "New HUD") and NEW CFPB Rules and Revisions** - *Deborah Boyd, Esq., Assistant Vice-President and Underwriting Counsel, Fidelity National Title Group*
- 9:45am - 11:00am **NEW Best Practices - What are They and How do I Prepare?** - *Deborah Boyd, Esq., Assistant Vice-President and Underwriting Counsel, Fidelity National Title Group*
- 11:00am - 11:15am **BREAK**
- 11:15am - 12:05pm **NEW Law: Case Law Update with a Focus on Foreclosures, and New Statutes** - *Catherine Mulcahey, Esq.,*

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**This course is expected to receive 4.0 CLER credits;
Real Estate Certification credits are pending by the Florida Bar.**

Early registration cost for the seminar is \$100 for PBCBA members/paralegals, \$140 for non-PBCBA members/paralegals if registered by 6/10/14; Add \$25 to registration fee after that date.

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

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



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



IN NEED OF CLER CREDIT? WE CAN HELP

The Palm Beach County Bar Association offers CLE hours from the sale of audio CD's recorded at previously held live seminars of the Association. Members and non-members alike can benefit from this simple way of acquiring CLE and Ethics hours. Shown below is just a sampling of some of the seminars that we have. For a full list go to our website <http://www.palmbeachbar.org/continuing-legal-education/> This same library is also available for a quick download straight to your computer where you can listen to the seminar and view any PowerPoint presentations that may accompany that seminar. Or you can download just the audio to your MP3 player.

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

✓	Sponsor	Course Title	Credit Gen'l	Ethics Hours	PBCBA Member	Non Member	Expires
	PBCBA	PI – Before the Case is Filed+++3.0 Civil Trial Cert.	4.0	.50	\$110	\$150	10/12/14
	PBCBA	Discovery That Wins Cases (Family Law)+++6.0 Marital & Family Law Cert.	8.0	1.0	\$215	\$255	10/19/14
	PBCBA (DVD)	Discovery That Wins Cases (Family Law)+++6.0 Marital & Family Law Cert. ---DVD---	8.0	1.0	\$215	\$255	10/19/14
	PBCBA	Ethical Issues in Negotiation and Mediation+++1.0 Civil Trial Cert.	1.0	1.0	\$40	\$80	10/26/14
	PBCBA	Lawyers from all Disciplines-Be Aware! (Securities) +++3.5 Bus. Lit; 3.5 Criminal Appellate; 3.5 Criminal Trial Cert. credits	4.5	1.0	\$115	\$155	11/08/14
	HCBA	Advanced Appellate Jurisdiction & Ethics+++3.5 Appellate Cert.	3.5	1.0	\$100	\$140	11/02/14
	PBCBA	Legal Legends vs. Younger Guns+++6.5 Bus Lit Cert.	8.5	1.0	\$175	\$225	11/10/14
	PBCBA	---DVD--- Legal Legends vs. Younger Guns+++6.5 Bus Lit Cert.	8.5	1.0	\$175	\$225	11/10/14
	PBCBA	The 30 th Ann'l Est/Probate Seminar – Part 2+++3.5 Elder Law; 3.5 Wills, Trusts Cert. credits	4.5	.05	\$110	\$150	11/15/14
	PBCBA	The View from the Local Bench (Bankruptcy)	2.5	.50	\$50	\$90	11/24/14
	PBCBA	The 24 th Annual Community Assn. Law Seminar+++4.5 R/E Cert.	4.5	4.0	\$165	\$205	12/07/14
	PBCBA	Important Factors for Every R/E Attorney+++4.0 R/E Cert.	4.0	.50	\$110	\$150	2/23/15
	PBCBA	Social Media Tips (Solo)	1.0	1.0	\$35	\$75	3/20/15
	PBCBA	Panel Discussion on E-Discovery for Comm'l Litigators +++1.0 Business Lit. Cert.	1.0		\$25	\$65	3/24/15
	PBCBA	Technology in and out of Law Office	1.0		\$25	\$65	4/11/15
	PBCBA	Patient Protection and Affordable Care Act +++1.0 Labor & Employment Law Cert.	1.5		\$35	\$75	5/05/15
	PBCBA	Law Office Management (SOLO event)	1.0		\$25	\$65	5/07/15
	PBCBA	Spying Spouses: Divorce in a World of Cyber Warfare +++4.0 Marital and Family Law Cert.	5.0	1.0	\$135	\$175	5/08/15
	PBCBA	The 31 st Ann'l Estate & Probate Seminar – Part 1 +++ 4.0 Elder Law; 4.0 Wills, Trusts Estates Cert.	5.5		\$135	\$175	5/15/15
	PBCBA	Palm Beach Co. & The JFK Assassination+++1.5 Criminal Appellate; 1.5 Criminal Trial Law Cert.	2.0		\$50	\$90	6/3/15
	PBCBA	16 th Annual Elder Law Seminar +++4.5 Elder Law Cert.	6.0	1.0	\$165	\$205	6/13/15

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

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

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

PLEASE ALLOW SEVEN (7) BUSINESS DAYS PREPARATION TIME WHEN ORDERING TAPES. THERE WILL BE A \$25 FEE FOR RUSH ORDERS. NEW MEMBERS MAY JOIN THE PBCBA FOR \$100. APPLICATIONS FOR MEMBERSHIP, OR RENEWAL, CAN BE OBTAINED ON OUR WEBSITE AT www.palmbeachbar.org.

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PALM BEACH COUNTY BAR ASSOCIATION

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CALENDAR March 2014

Tuesday, March 4, Noon – 1:30pm
NCS Board Meeting
Duffy's North Palm Beach

Friday, March 7, 8am – 6pm
Bench Bar Conference
Convention Center

Tuesday, March 11, Noon – 1pm
YLS Board Meeting
Bar Association Office

Wednesday, March 12,
Noon – 1pm
Professionalism Committee Meeting
Bar Association Office

Wednesday, March 12, 5pm -6pm
YLS St. Baldrick's Event
Duffy's in Downtown West
Palm Beach

Thursday, March 13, Noon – 1pm
South County FAWL
LaCigale, Delray Beach

Friday, March 14,
8:30am – 9:30am
ADR Committee Meeting
Bar Association Office

Friday, March 14, 11:30 am – 2pm
Employment Law Lunch
CLE Webinar

Saturday, March 15
Haitian Lawyers Assoc.
Scholarship Gala
Info: contact bguillaume@
byrnesglaw.com

Tuesday, March 18, Noon – 1pm
CDI Committee Meeting
Bar Association Office

Wednesday, March 19,
11:30am – 1pm
Criminal Law Practice Committee Luncheon
North end of cafeteria,
Main Courthouse

Wednesday, March 19,
Noon – 1pm
Law Related Education Committee Meeting
Bar Association Office

Thursday, March 20,
5:30pm – 7pm
YLS Happy Hour w/FAWL
Roxy's Pub,
309 Clematis Street, WPB

Friday, March 21, Noon – 1pm
Cunningham Bar Meeting
Law Library Conference Room

Monday, March 24,
5:30pm – 6:30pm
Legal Aid Society Board Meeting
Bar Association Office

Tuesday, March 25,
5:30pm – 6:30pm
American Inns of Court Meeting
Judicial Conference Room,
Main Courthouse

Wednesday, March 26 – 28
FL Bar Board of Governors Meeting
Palm Coast

Wednesday, March 26,
10am – 11:30am
New Attorney Breakfast
Bar Association Office

Wednesday, March 26, 5pm – 6pm
PBCBA Board of Directors Meeting
Bar Association Office

Thursday, March 27
PBCJA Dinner Meeting
go to www.pbcja.org for info

Thursday, March 27,
11:45am - 1pm
PBC FAWL Luncheon
West Palm Beach Marriott

Thursday, March 27
Criminal Law Practice Committee Seminar
Bar Association Office

Thursday, March 27,
5:30pm – 7:30pm
Raise the Bar Event
Kravis Center

Friday, March 28, 8am – 5pm
South County Golf Tournament

Friday, March 28,
11:30am – 1pm
FAWL Lunch with Lois Frankel
Marriott, West Palm Beach

Friday, March 28,
Noon – 1:30pm
Solo Luncheon
Bar Association Office