

PALM BEACH COUNTY BAR ASSOCIATION

www.palmbeachbar.org

May 2005

Shhhhh, Call in Sick and blow off work!

The Quality of Life Committee is encouraging you to call in sick and blow off work on Thursday, June 2 and instead spend the day with colleagues relaxing at The Breakers Spa in Palm Beach.

As a bar member, we've made arrangements for you to receive 20% off of your services for the entire day! Plus, please join us for lunch at noon at the beach club.

Play hooky and pamper yourself. Call the spa today at 653-6656 to make your appointment. But, don't forget to mention you're a PBCBA member for your discount.

Young Lawyers bring Easter and Passover cheer to sick children



More photos on page 10

Thanks to the efforts of the Young Lawyers Section, the Easter Bunny...aka Mark Pateman (with a little help from his colleagues) made his annual rounds passing out presents and candy to all of the children in the oncology and pediatric units at St. Mary's Hospital. This was the fifth year the Young Lawyers sponsored the event, which was co-chaired by Theo Kypreos and Heath Randolph.



It's Time ...

... to renew your Palm Beach County Bar Association Membership Dues. Statements were mailed at the end of March. Only members can take advantage of these

Discounts:

- CLE seminars and tapes/CD's
- · Office supplies
- · Movie Tickets
- Theme Park Tickets
- · Three free classified ads per year

and Programs:

- Mentor Program
- · Professionalism Council
- · Young Lawyers Section
- · North County Section

If you did not receive a statement, please contact Shoshana Spence at (561) 687-2800.



Annual installation banquet set for June 4

Mark your calendar for this year's Annual Installation Banquet, which has been scheduled for Saturday, June 4 at the Breakers Hotel in Palm Beach.

A reception will be held from 7:00 - 8:00 p.m. with dinner and dancing immediately following.

Look for your invitation in the mail soon.



Thank You Law Week Volunteers!

A sincere thank you is extended to the 2005 Law Week Committee and the many attorneys and judges who volunteered their time and expertise in making the nationally award-winning PBCBA Law Week program another success! With your assistance, the Bar was able to conduct mock trials in the schools, conduct several legal education seminars for the public as well as the ask-a-lawyer and dial-a-lawyer programs. Hundreds of students and members of the public benefited from the many, many hours of volunteer work given by our members. Thank you!

Inside		Pro Bono	12
President's Message	3	New Members	14
Technology	5	Lawyers for Literacy	15
Historical Committee	6, 8	Spring Break Happy Hour	16
Director's Comment	7	Professionalism	17
Personal Injury Corner	9	Small Claims	18
Securities	11	Bulletin Board	20

mediationscheduling.com

Circuit Civil

Personal Injury

Worker's Comp

Family

Labor & Employment

478-DONE



the mediation group

President's Message



The Importance of the Jury System

By Stanley D. Klett, Jr.

How often have you pondered the role of the jury in our legal system? Besides being the source of many television series, movies and books it is an integral part of American justice. Historically, it was one of the principles for which we fought the revolutionary war. Interestingly, one of our founding fathers, Thomas Jefferson, felt that jury service was even more important than voting. His belief's apparently had a strong influence, as the right to trial by jury is the focus of our 5th, 6th and 7th Amendments to the United States Constitution. The right to trial by jury is also prevalent in our State Constitution in Article I, Sections 15,16,and 22 as well as Article III, Section 11.

That is why I felt that the theme for Law Week this year was well chosen "The American Jury-We the People in Action". With increasing issues regarding the separation of powers the function of the jury has remained steady. There may not be a better time to appreciate and embrace all that it stands for in our State and our Country.

Common everyday people, most of which are not directly involved in the legal system, have the power to decide whether someone is guilty, or not guilty, of a crime. The same people have to decide liability in civil matters, the value of pain and suffering, and sometimes financial damages that are in the hundreds of thousands of dollars or more.

For some of the jurors, they are receiving just a few dollars a day for serving, the stress can be significant and the ordeal intimidating. For litigators, appearing in the Courtroom is somewhat second nature; however, I can still remember the first time I argued before a Judge and how nervous I was at the time. At least I had 3 years of law school as background. I sometimes wonder if this is how a first time juror feels.

Each year, over 5 million people appear for jury duty. Of those, 1 million will actually be picked for a jury. I myself have been called for jury duty 4 times over the past 20 years in Palm Beach County. A few years ago, I was, in fact, chosen to serve on a jury for a weeklong civil trial. I still consider it a valuable and enriching experience to view a case from a different perspective. To observe the attorneys, court personnel, and the Judge from the other side of the bar. I was impressed with the dedication, interest and attention my fellow jurors paid to the case. They took notes, wrote questions to the Judge and did not complain about being there. They told me they felt that it was both a duty and a privilege to serve. As it turned out I was the alternate, nonetheless 3 of the other jurors called me after the trial to tell me the results and discuss how they came to a verdict.

Continued on page 19

mediationscheduling.com

JUDGE HOWARD SCHEINER (RETIRED) JUDGE RAND HOCH (RETIRED) JUDGE STEVEN CULLEN (RETIRED) JUDGE HOWARD BERMAN (RETIRED) **CLARK SMITH BILL McAFEE BRYAN SCOTT HENRY BRIAN CHRISTIANSON** JOE VASSALLO RON FANARO **MARK HAUBER JODIE BASSICHIS JOAN ROBERTSON** JOSEPH LEE **ROBERT SCHWARTZ ALLYSON TOMCHIN ROBIN CARAL SHAW MARIA LEWIS**

- ON-LINE SCHEDULING
- VIDEO CONFERENCING
- PROFESSIONAL CONFERENCE ROOMS
- EXPERIENCED CERTIFIED MEDIATORS
- QUALIFIED ARBITRATORS
- PRIVATE JUDGING
- INTERPRETERS
- COMPLIMENTARY REFRESHMENTS
- SEVERAL TRI-COUNTY LOCATIONS

478-DONE



the mediation group

BULLE-T-IN

STANLEY D. KLETT, JR. President

www.palmbeachbar.org

PATIENCE A. BURNS, CAE Executive Director

PALM BEACH COUNTY BAR ASSOCIATION

Officers

Stanley D. Klett, Jr., President Theodore J. Leopold, President-elect

Manuel Farach Scott C. Murray Meenu Sasser Richard D. Schuler Michelle R. Suskauer V. Lynn Whitfield

Bryan Poulton, Young Lawyers Section President Scott Kramer, North County Section President Howard K. Coates, Jr., South County Bar President Lisa Small, Immediate Past President

FL Bar Board of Governors Representatives

Jerald S. Beer Scott G. Hawkins Amy L. Smith John G. White III

FL Bar Young Lawyers Division Board of Governors

C. Wade Bowden Ginny R. Neal Ronald P. Ponzoli, Jr.

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

(561) 687-2800 FAX (561) 687-9007 e-mail info@palmbeachbar.org.

Views and conclusions expressed in articles and advertisements herein are those of the authors or advertisers and not necessarily those of the officers, directors, or staff of the Palm Beach County Bar Association. Further, the Palm Beach County Bar Association, its officers, directors, and staff do not endorse any product or service advertised. Copy deadline is the first of the month preceding publication.

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

LETTERS TO THE EDITOR

The Palm Beach County Bar Association Bulletin welcomes your comments on topics relating to the law, the legal profession, the Palm Beach County Bar Association or the Bar Bulletin. Letters must

> be signed, but names will be withheld upon request. The editor reserves right to condense.

Send letters to: EDITOR Bar Bulletin Palm Beach County Bar Association 1601 Belvedere Road, #302E West Palm Beach, FL 33406

Dear Editor:

I write to commend Stan Klett on his outstanding message; "Manners Don't Go Out of Style" printed in the March 2005 Palm Beach County Bar Bulletin. During my seventeen years on the Bench, I regretfully observed a drastic decline in common, everyday courtesy of lawyers toward each other, the court and court personnel. Fortunately, only a small minority of the Bar is guilty of such behavior, but we all get painted with the brush.

Decency and decorum never go out of style and it has been my experience that success comes more often with proper behavior than obnoxious behavior. Great article, Stan, keep up the good work.

Sincerely, Walter N. Colbath, Jr., Circuit Court Judge (Retired)

Dear Patience:

I would like to thank the Bar Association for sponsoring and coordinating my investiture on February 4, 2005. You and your staff did an outstanding job to make the ceremony a very special day for me. I think I can say with certainty that it will be an event I will never forget!

I look forward to attending many Association events in the future.

Sincerely, Judge Amy L. Smith



FREE Pickup and Delivery • Copies Returned in 24 Hours

Price List:

X-Ray Duplications & Laser Color Copies

1-25 \$8.75 each 26-50 \$8.50 each \$8.00 each over 50

Price reflects same case and all film sizes.

Supplies:

X-Ray Mailers \$1.00 X-Ray Jackets \$.50

MCU guarantees the quality of all X-Ray services, however, duplicates are only as good as the original.

15610 - 72nd Drive North, Palm Beach Gardens, Florida 33418

Bulletin



iPod - A Hot Rod For The Technology Age

by Bard D. Rockenbach, Chairman, Technology Committee

One of the aspects of technology that I enjoy is the learning process. Manufacturers create a product and a small group of people buy it. These "early adopters" actually act as a test group, only the members of this group pay for the privilege of suffering with a new product. The early adopters provide feedback to the manufacturers about the pros and cons of the new product, usually in the form of web chat groups or hate mail. Not wanting to miss out on free market research, the manufacturers use that feedback to improve the product. In this way manufacturers learn from their mistakes and the mistakes of other manufacturers and, hopefully, eventually develop a useful product.

There are times that I foolishly become a member of the early adopters group, such as with MP3 players. An MP3 player is a device which plays small audio files called "MP3s." The MP3 designation refers to the compression program that took the original sound file and compressed it so it would take up less storage space. We are now up to MP4 as the standard, but looks like the original name is going to stick - the same reason that people still say "tin foil" when that product has been made out of aluminum for about 50 years. My original MP3 player purchase was a Compaq iPaq, a very small player that had a small screen and a huge price tag of about \$400.00. I say huge because it only held about 15 songs! But that was the way all MP3 players started out. I copied some songs from CDs that I already owned and listened to some amazing sound coming from such a small device.

But the product was very limited. The software required that I spend a great deal of time converting CDs to MP3s and then loading them on the player. Because it could hold only a few songs, it meant that I had to constantly change the songs to keep the selection fresh. And then after I went through all that work, all I could do was play songs on earphones. There was no "bonus" use that would make the price I paid seem like a good deal. I had all these songs on my computer and on a very small MP3 player but I kept saying to myself, "Big Deal."

Obviously, Apple listened to the complaints and criticisms of the first MP3 players, added some clever thought of its own, and created a very useful device called an iPod. The first major improvement that Apple made was the storage size. Whereas the first MP3 players held perhaps 15-25 songs, Apple stuffed the iPod with enough disc space to hold about 5000 songs. Subsequent models have increased that capacity and the current iPods will now hold up to 15,000 songs and can also store photographs. The second major improvement was the interface. The iPod has a finger-touch wheel which acts like a racetrack. As you move your finger around the track the list of songs,

artists or playlists scrolls backward or forward. When you find the one you want just press the "Enter" button and it starts playing. Between clever organization and a simple interface, it is a breeze to find what you are looking for, even with thousands of songs to sift through.

I spent the end of 2004 and the beginning of this year copying every CD my wife and I own onto the home laptop and then transferring the songs to the iPod. I could almost hear the iPod laughing at our meager collection of 130 CDs, especially when it informed me that I had only used 15% of the storage space. Adding to the collection was easy, though. The iTunes Music Store lets you purchase and download new music for \$.99 per song. It also makes creating special playlists very easy, so I can set up a set of songs to play for exercising or for dinner parties within a few minutes.

Apple was still short on the "bonus" uses of the music once it had been copied and converted, so third party providers have filled in that gap. Third party manufacturers have created portable stereo systems that have an iPod cradle. Just put the iPod in the cradle and it starts playing out of small speakers with big sound. New cars are being designed with MP3 connections and several manufacturers sell cradles and FM broadcasters to connect your iPod to your current car or home stereo system. There are hundreds of accessories, everything from decorative covers to add-on appliances, listed at http://www.ipodlounge.com. With all of the accessories, you can literally bring your entire music collection with you wherever you go.

As for complaints, the big one is the freeze up problem that plagues iPod. The device sometimes gets locked-up in the middle of a song and will not respond to any more instructions. It then has to be reset and restarted, like when you reboot your computer. I have witnessed it three times in six months, but I have read web accounts of the problem occurring several times a day for some people. It is probably a software problem that can be solved in future releases.

The iPod is one of the best technology purchases for \$300.00. It is smart, fun and useful; everything I look for. If you would like to discuss the iPod, or any other technology issue, please email me at bdr@flappellatelaw.com.





Who are they?

In continuing with a project started by last year's Historical Committee, we will continue to run old photos of some of our members. Can you guess who they are?

Answers on page 18











Minutes of the 156th regular meeting of the Junior Bar Section of the Palm Beach County Bar Association, held at the Town House Hotel on Friday, February 7, 1964 at 12:15p.m.

There were 46 members and guests in attendance. The Vice President noted the absence of the President and all circuit judges.

The minutes of the previous meeting were totally ignored. Somebody introduced Edward Meddlebrook as a guest. Don Beverly introduced and proposed Don Kohl for membership and Earl Boyce introduced and proposed Vincent Messina for membership. There being no violent reaction to these proposals, the Vice President thereupon admitted them into membership subject to the payment of dues. Paul Wolfe introduced Jerry Harom as his guest.

The Vice President noted the presence of one Charles Rowe who has become a legend before his time.

Shepard Lesser overcame his normal reticence and rose in his chair to address the assembly. He pointed out that a referendum on fluoride was fast approaching. The group recognized that Mr. Lesser is a well-known expert on matters concerning the mouth.

The Vice President introduced, J. Stockton Bryan, Deputy Commissioner of the Florida Industrial Commission. He thereupon gave an interesting and detailed talk on the processing of workman compensation claims.

There being no further business, the meeting was adjourned.

Respectfully submitted, Edward D. Lewis, Secretary

Death • Divorce • Estate Planning Guardianship • Bankruptcy • Taxation

APPRAISALS

Residential & Commercial Real Estate
Home Furniture and Furnishings
Art, Antiques, Jewelry
Professional & Trade Fixtures
Business Machinery & Equipment

Allied Appraisal Services

929 SE First Street Pompano Beach, FL 33060

"One Call Does It All"

Tel. (800) 273-4623 • (954) 782-3130 Fax (954) 942-7678

BOARD CERTIFIED PHYSICIAN

With 30 years clinical experience and paralegal certificate.

Seeking in house position to assist with litigation matters.

Interview, resume and references per request.

954-566-4661

Director's Comment



by Scott C. Murray

Have you ever noticed that for almost every "wise" saying, there's another saying that offers contradictory advice? We're told "Look before you leap." But we're also told "He who hesitates is lost." How do we harmonize these different approaches to life?

The answer is simple. It's a matter of balance – the kind of equilibrium that's important in our professional and personal decision-making.

As lawyers, we are no strangers to making decisions regarding our cases and our clients. We do it as a matter of course. Regardless of whether it's a minor decision or a

more complicated one, it's usually a matter of balancing competing interests.

Many of us have or will face the ultimate career decision of staying put or venturing out on our own. Such monumental decisions are never easy. We may think – "Better safe than sorry." Or, on the other hand, "No risk, no reward." Regardless, at the end of the day, it always comes down to weighing and balancing what's important to us. It is only by knowing yourself, knowing what's important to you and knowing what you can accomplish that such decisions can be made with confidence.

So remember – as my mother always told me – "Keep your cross in balance" and you'll always make the right decision.

Movie tickets make great gifts for teachers, clients and staff!

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



*Muvico Theater - \$6.00 each (\$8.00 at box office)
*Regal Theaters \$6.50 each (\$8.25 at box office)

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

Do we have your email address?

Is your current email address on file with the Palm Beach County Bar Association? If not,



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

Pay your Bar Association

Dues promptly.

It pays to be a member!

EXCLUSIVE REPRESENTATION OF THE DISABLED



From initial claims to Federal Court actions – we can help.

Chris R. Borgia, Esquire 561-683-0152

or for more information visit www.SocialSecurityDisabilityLaw.net

Law Firm Histories — Gunster, Yoakley & Stewart, P.A.



Joseph Gunster



Bud Yoakley

Editor's note: From time to time, the Historical Committee will be profiling some of Palm Beach County's oldest law firms.

Gunster, Yoakley & Stewart, P.A., Palm Beach County's oldest law firm, began in 1925 when Ohio native J. Kenneth Williamson relocated to Florida and opened a law office in the Harvey Building in West Palm Beach. In 1942, Williamson moved the office to Palm Beach, establishing the first law office in the town. Joseph F. Gunster joined the practice that year, followed in 1948 by David S. "Bud" Yoakley. Marshall Criser joined in 1951, A. Obie Stewart in 1955, and George Hersey in 1959. When Williamson died in 1964, the firm became known as Gunster, Yoakley, Criser, Stewart & Hersey. In the years between 1970-75, the firm grew from 10 to 15 lawyers,

becoming the largest in the county. Hersey left in 1979 to become a judge in the 4th District Court of Appeals; Criser, in 1984, for the presidency of the University of Florida. By this time, the firm had grown to 50+ attorneys serving clients with real estate, estate planning, corporate and litigation needs.

The firm expanded to Stuart in 1980, and in 1985 the six Palm Beach offices consolidated into 50,000+ square feet of space in Phillips Point, West Palm Beach. In 1989 the firm established a Fort Lauderdale presence via a merger and changed its name to Gunster, Yoakley & Stewart. In 1995 the firm reopened a Palm Beach office, created a Vero Beach office, and established a major presence in Miami through a large merger. Today 120 attorneys and 200+ staff comprise Gunster, Yoakley & Stewart, serving a diverse clientele from six offices throughout South Florida.



J. Kenneth Williamson



is pleased to congratulate our attorneys on their admission as shareholders of the firm

William T. Hennessey Brian M. Seymour Cynthia C. Spall

Gunster Yoakley is home to 120 attorneys and more than 200 dedicated support staff providing counsel to clients through numerous practice groups including corporate, litigation, real estate, and trusts and estates.

For more information, visit www.gunster.com, or call (800) 749-1980.

Fort Lauderdale • Miami • Palm Beach • Stuart • Vero Beach • West Palm Beach

Personal Injury Corner



Governmental Immunity Revisited

by Ted Babbitt

While the Supreme Court's decision in Breaux v. City of Miami Beach, 30 Fla. L. Weekly S176 (Fla. March 24, 2005) deals

with the rather narrow issue of a municipality's potential liability concerning a non-designated swimming area, it also provides a reasoned analysis of governmental responsibility.

Breaux involved the tragic case of a swimmer caught in a rip current at a beach and a second individual who, upon hearing cries for help, attempted rescue with the result that both drowned. The resulting two wrongful death cases ended at the trial level with summary judgments which were affirmed by the Third District. The Courts held that the City had no duty to swimmers to warn them of the existence of a natural occurring event like a rip current because the beach had not been designated by the City as a swimming area and, therefore, the City had not taken on the responsibility of controlling the area.

The Supreme Court, in an opinion written by Chief Justice Pariente, reversed and returned the cases to the trial level for jury consideration. In doing so, the Court reviewed the analysis necessary to determine potential responsibility of a governmental entity. Noting the longstanding holding of Florida Courts that a governmental entity is not responsible for planning decisions but can be responsible for operational decisions, the Court, quoting from Avallone v. Board of County Comm'rs, 493 So. 2d 1002, 1005 (Fla. 1986), reasoned that once such an entity exercises its planning authority to allow swimming, it becomes responsible, like a nongovernmental entity, for the operation of such a facility.

[a] government unit has the discretionary authority to operate or not operate swimming facilities and is immune from suit on that discretionary question. However, once the unit decides to operate the swimming facility, it assumes the common law duty to operate the facility safely, just as a private individual is obligated under like circumstances.

In the case under review, a major issue at both the trial level and in the District Court was the fact that the swimming area in question had not been designated by Miami Beach as a swimming area. The City took the position that, as a matter of law, they had no duty to provide either warnings or lifeguards for that area.

The Supreme Court conceded that in cases of governmental responsibility the first issue is whether the potential defendant owes any duty to the plaintiff before the question of immunity from liability even arises and that only if such a duty is owed must the Courts determine whether

sovereign immunity bars the action. In this case, the facts showed that while the area had not been designated as a swimming area, the City was very much aware that the public was using the beach for swimming. The City provided restrooms, showers, water fountains, telephones and picnic tables as well as parking. In addition, the City had a lease with a beach rental company to rent lounge chairs, umbrellas and water crafts at this beach requiring that all of the employees of that company wear identification badges issued or approved by the City. The evidence was that of all of the beaches in Miami Beach this was the only one that had all of these facilities and yet did not have a lifeguard station.

Under these facts, the Court concluded that the issue is not whether a City makes a formal designation of a recreational area as such but rather whether the totality of the circumstances would allow a jury to conclude that the City was, in fact, operating a public swimming area at the beach in question.

Thus, this opinion concludes that a governmental entity does not have the ability to immunize itself from suit by a fiat, which merely fails to designate a particular area as a public facility. When the facts indicate that the City has either real or imputed knowledge that the facility is, in fact, publicly frequented, a jury is justified in finding that the governmental unit is operating the area as a public facility and has the same responsibility to safeguard the public as it does if the designation had been made.

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.

Personal Property

APPRAISERS

Insurance Claims / Divorce / Expert Witness / Probate

Fine Arts Paintings Antiques Furniture

Jewelry Coins Currency Rugs

Estate Liquidators 561-832-0099 2 1-800-982-0369 Fax 561-832-4541

Appraisers International, Inc.

3805 South Dixie Highway, West Palm Beach, Florida 33405

Established in Palm Beach County Since 1981

May 2005

Young Lawyers bring Easter and Passover cheer to sick children



Jennifer DeSantis, Ben Alexander, Matt Ferguson, Mike Dixon, Theo Kypreos, Heath Randolph, the Easter Bunny and one of the patients.



Circuit Court Report CIVIL DIVISIONS • February 2005

DIVISION	JURY TRIALS	NON-JURY TRIALS	MOTIONS	CASES PENDING
A	06/05	06/05	05/05	1057
В	10/05	10/05	05/05	1414
D	01/06	01/06	04/05	1332*
${f E}$	09/05	09/05	07/05	1375
\mathbf{F}	05/05	05/05	07/05	1164
\mathbf{G}	10/05	10/05	04/05	993
H	08/05	07/05	03/05	1144
I	06/05	06/05	04/05	1126
J	11/05	07/05	05/05	1379
${f N}$	08/05	07/05	05/05	1269
O	09/05	06/05	04/05	1341

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

Pending cases as of 3/7/05

*(Asbestos 772)



NATIONAL FINANCIAL PLANNING.



Protect yourself, protect your family.

- Life Insurance Disability Insurance
- Long Term Care
- Pension Planning Annuities IRA's
- 529 Savings Programs
- · Coverdell (Education IRA) Plans

Brent K. Deviney, LUTCF

470 Columbia Drive, Suite #D-201 West Palm Beach, FL 33409 Tel: (561) 697-4800 Fax: (561) 683-1098

Securities offered solely through New England Securities Corp.



Shown above are solo practitioners attending the first networking luncheon: Debra Block, Marcy LaHart, Kenneth Schwartz, Grey Tesh, Siobhan Shea and John Phelan.

age 10



Detecting and Preventing Stockbroker Misconduct

by Adam T. Rabin and Jeffrey B. Kaplan (Part I of Two Parts)

Investors often deposit their savings into brokerage accounts assuming that their money will be safely invested and monitored by knowledgeable, welltrained stockbrokers. But what many investors do not know is that they often are exposing their money to more risk than they realize or even to stockbroker misconduct. Whether because of intentional customer abuse, poor broker training, or inadequate broker supervision, the mishandling of brokerage accounts can lead to devastating financial losses for investors. The purpose of this article is to highlight a few of the many ways in which investors can protect themselves from such losses and, when such losses already have occurred, take steps to recover them.

What Duties Does a Stockbroker Owe to His Clients?

A broker owes the following duties to his clients: (1) to recommend only "suitable" investments; (2) to put the client's interests before the broker's; (3) to disclose all important facts about recommended investments; (4) not to misrepresent or omit important facts about a recommended investment; and (5) to transact business only after receiving the client's authorization. A broker's failure to perform any of these duties can have serious financial consequences for the client.

A Broker Must Only Recommend Suitable Investments to His Client

Rule 405 of the New York Stock Exchange ("NYSE"), referred to as the "Know Your Customer" Rule, and Rule 2310 of the National Association of Securities Dealers ("NASD") require a broker to learn certain "essential facts" about a client before recommending an investment. This information includes the client's age, income, net worth, investment experience, risk tolerance,

and investment objectives (the "investor profile"). A broker has a duty to recommend only investments that are consistent with the client's investor profile. Recommendations that are inconsistent with the client's investor profile are considered unsuitable.

A Broker Must Not "Churn" His Client's Account

Churning, also known as excessive trading, occurs when a broker makes trades for the primary purpose of generating commissions. Repeated securities purchases and sales within a short period of time are a sign of churning. The commissions charged for these trades can make it difficult or nearly impossible for the client to obtain a long-term profit in his account.

A Broker Must Not Misrepresent or Omit Material Information When Recommending Investments to His Client

Brokers are required to provide accurate information about recommended investments. Federal and state laws prohibit brokers from misrepresenting or omitting material information when recommending an investment to a client. Information is "material" if a reasonable investor would consider it important in making an investment decision.

Misrepresentations and omissions frequently involve incorrect risk disclosure or the lack of risk disclosure.

A Broker Must Not Engage in Unauthorized Trading in a Client's Account

A broker generally must obtain the client's approval before executing a trade. Brokerage firms require a client to provide the broker with written trading authority to waive this requirement. This, however, does not give the broker license to do as he pleases. Even when a client gives written trading discretion to a broker, the broker is still required to make suitable investments.

How to Prevent Stockbroker Misconduct

When brokerage accounts are opened, investors are required to sign various forms. Among these are forms that will reflect the clients' investment objectives, risk tolerance, income, and net worth. These documents must be completed accurately because brokerage firms rely on them to determine if investments in the clients' accounts are consistent with clients' investor profiles. Investors should review these completed forms carefully and notify the broker and the firm in writing if any information on the forms is inaccurate.

After an investor has opened an account, he can help avoid stockbroker misconduct in his account in the following ways:

a. Monitor the Account

Investors should review their trade confirmations and monthly account statements upon receiving them. In these documents, investors should look for signs of unsuitable investments, unauthorized trading, and excessive trading. Investors should not rely on account summaries prepared by their brokers rather than the brokerage firm's actual monthly account statements. Some disingenuous or careless brokers provide account summaries that misrepresent the nature of the account holdings and the performance of the account.

b. "Happiness" Letters Do Not Mean the Investor Should Be Happy

Brokerage firms generate reports that reveal questionable account activity. When accounts appear on these reports, many firms send letters to the investor, commonly referred to in the brokerage industry as "happiness" letters. The supposed purpose of these letters is to inform the clients of questionable activity that could indicate stockbroker misconduct. But these letters often do

Continued on page 19

May 2005

-Pro Bono Corner-

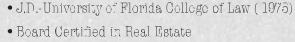
PAUL RAMPELL RECOGNIZED AS PRO BONO ATTORNEY OF THE MONTH

The 15th Circuit Pro Bono Committee is pleased to announce this month's Pro Bono Attorney of the Month, PAUL RAMPELL. Paul, a solo practitioner in Palm Beach, practices primarily in the area of trusts and estates. At the request of Legal Aid, Paul undertook representation of a three year old child in the juvenile dependency system. The child's mother was also a minor in the juvenile dependency system. The mother suffered from many problems including substance abuse and a possible eating disorder. To further complicate matters, the man originally thought to be the child's father was later determined through DNA testing not to be the father. During the time the first man was thought to be the father the child resided with his family. After another man was found to be the father, the child was moved to the maternal aunt's

home. The child thrived in this home during the time the mother was "growing up" and working on her case plan. During his involvement with the case Paul attended many hearings, visiting the child numerous times and completed a name change so that the child would have the name of the correct father. After 3 years the child was finally reunited with the mother who had been able to complete her case plan and secure employment. The family is in a residential program through a local social service agency with the support needed to make this reunification a success. Paul spent over 100 hours in his representation of this child. Due in large part to Paul's time and involvement, this case has come to a successful conclusion. For his tireless efforts on behalf of this child. Paul is recognized as this month's Pro Bono Attorney of the Month.

Sherry L. Hyman, Esquire

Arbitrator/Mediator



- Certified Circuit Mediator
- Qualified Florida Arbitrator
- Member of Florida Academy of Professional Mediators, Inc.

Available for mediations/arbitrations

Special master hearings and private judging

THE LAW OFFICE OF SHERRY L. HYMAN, PLLC 200 Admirals Cove Blvd., Suite 416 / Jupiter, Florida 33477 561-744-7231 / 561-329-2990 / Fax: 561-744-5140 slhyman@acl.com

Attorneys that closed pro bono cases in March 2005

The following attorneys closed their pro bono cases in March 2005:

JoAnn Abrams Steven N. Ainbinder Edrick E. Barnes Greg Bloshinsky Richard O. Breithart W. Chester Brewer, Jr. Lawrence E. Brownstein John N. Buso Jeremy M. Colvin Claudia H. Duffey Alvin Goldstein Maureen K. Gour Robert C. Groelle L. Diana Hileman James A. Klohn Theodore J. Leopold Michael D. Logan Valerie Masters John B.T. Murray, Jr. Robert E. O'Connell R. Stephen Ottewell Michelle I. Reichler Justus W. Reid Lyman H. Reynolds Alan B. Rosenthal M. Richard Sapir Andrew J. Severson Eugene E. Shuey Lynn Solomon W. Grey Tesh Joan B. Tucker and John R. Williams

Total number of hours: 256.10

Need CLE Credit?

The Palm Beach County Bar Association has a large library of audiotapes available if you are in need of some extra CLER credit hours.



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

Student program focuses on resolving conflicts



Recently four students from Olympic Heights High School presented two roleplaying mediation sessions before a room full of adult mediators during one of our CLE Seminars on dispute resolution.

MOVING?

Be sure to send your updated address, phone, fax and email information to the Bar at 561/687-9007.

Visit the Bar's Website www.palmbeachbar.org

CHARLES H. "CHUBBY" DAMSEL, JR.

FEDERAL & CIRCUIT COURT
CIVIL MEDIATOR/ARBITRATOR
SPECIAL MASTER
SUPREME COURT
CERTIFICATION NO.5878R

- Over 40 Years Trial Experience
- Past President: Palm Beach County Bar Association, Federal Bar Association, Florida Defense Lawyers Association
- Florida Bar Certified Civil Trial Lawyer
- Diplomate, Florida Academy of Professional Mediators

Facilities Available - No Administrative Fees

601 N. Dixie Highway, Suite B West Palm Beach, FL 33401 (561) 832-6455

Complete resume: http://members.aol.com/cdamsel

Lytal, Reiter Sponsors Party for Legal Aid

On February 19, Lytal, Reiter, Clark, Fountain & Williams sponsored a Gift Gathering Gala at the home of David and Trish Gaspari to benefit the 17th Annual Pro Bono Recognition Evening. The annual event honors outstanding pro bono attorneys and raises much needed funds to benefit Legal Aid and the Sun Sentinel's WB/39 Children's Fund.



Bob Bertisch and Juliana and Judge Peter Blanc



Nancy LaVista and Lake and Susan Lytal

STRESSED OUT? QUALITY OF LIFE ISSUES? NOT EARNING WHAT YOU'RE WORTH?



The Attorney's Advocate

Helping Attorneys to Become Peak Performance Practitioners

ELLEN BRANDT BLOCK, ESQ., CPCC CERTIFIED EXECUTIVE COACH/ATTORNEY Serving the Legal Professional Since 1993



A Global Leader in Executive Coaching 401 S. Sequoia Drive • West Palm Beach, FL 33409 (561) 687-0888 / www.jayblock.com

Welcome New Members!

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

KELLY A. BLUM - 2002; Nova Southeastern University; Associate in the law firm of Kubicki Draper, in West Palm Beach.

CHRISTINE C. GERAGHTY - 2003:

University of Florida; Associated with the Office of the Public Defender in West Palm Beach.

SCOTT W. HOFFMAN.

Massachussetts; 1999; University of Florida; Associate in the law firm of Hunt & Gross, P.A. in Boca Raton.

DOMINIC C. LOCIGNO, Boynton Beach, FL; 2003; University of Florida; Associate in the law firm of Hurley, Rogner, Miller, Cox and Waranch in Boca Raton.

DEBRA L. MELTZER, Boynton Beach, FL; 2004; Nova Southeastern University; Associate in the Law Offices of Brian T. Scher in West Palm Beach.

RICHARD J. RAY, Knoxville, TN; California Western, San Diego, CA; Sole Practitioner in West Palm Beach.



SHERRI L. RENNER,

New Jersey; 2005; Stetson; Associate in the law firm of Roberts, Reynolds, Bedard & Tuzzio, P.A. in Boca Raton. RACHEL L. RICCI, Chicago, ILL; Nova Southeastern University; 2003; Associate in the law firm of Gordon, Hargrove & James, P.A. in Fort Lauderdale.

JENNIFER THOMAS, Boynton Beach, FL; 2001; University of Miami; Associate with the law firm of Gelfand & Arpe in West Palm Beach.

ANDREA ZIGELSKY, New York City, NY; 2004; Nova Southeastern University; Associate with the Law Offices of Craig Goldenfarb, P.A. in West Palm Beach.



Register for Bar Events Online at www.palmbeachbar.org

FOR SERVICE AND PROTECTION YOU CAN'T DO BETTER THAN

FIRST



Alice Meade

Account Executive



First American Title Insurance Company

Kitty Stevens, Esq. Plant Manager Underwriting Counsel



Proudly serving First American Agents in Martin & Palm Beach Counties

3222 Commerce Place, Suite C • West Palm Beach, FL 33407 (561) 712-7808 Fax: (561) 640-0432

http://www.firstam.com

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.



Page 14 Bulletin

Bar members share the joy of reading

As part of the Lawyers for Literacy Committee's continuing effort to make a difference in education, more than 35 attorneys and judges recently spent one morning reading to pre-school and kindergarten classes throughout our area. This was the fourth year that the committee hosted the event called, "Read Across Palm Beach County." In addition, the committee donated close to 100 new hard cover books to the schools.

This event would not have been a success without the help of Jeanne Siccone, from the Palm Beach County Literacy Coalition and Cindy Spall the Lawyers for Literacy Chairperson. A special thank you also goes to all of our readers who graciously donated their time:

Chris Benvenuto
Tyrone Bongard
James Brown
Judge Cory Ciklin
Ken Cutler
Phil DiComo
Rosanne Duane
Tricia Duthiers
Carol Dutra

Ashley Foster
Ellen Goldberg
Jacqueline Grady
Bob Graham
Mark Greenberg
Mary Jill Hanson
Kim Hines
Susan Hudgens
Georgina Jimenez-Orosa

Heidi Juhl Sara Cathy Lindsey Melynda Melear Angela Miller Donall O'Carroll Robin Price Steve Rapp Tracy Segal Siobhan Helene Shea Stephanie Shelley Lisa Small Cindy Spall Kevin Stack Pamela Syx

Antionette Theodossokas
Judge Jeffrey Winikoff
Shewil Wood

Sheryl Wood



"This is a program that I look forward to every year. Going to the schools and meeting the children is a wonderful way to reinforce the importance of reading and education."

- Cory Ciklin, County Court Judge



"As you can see, I really get into this event by dressing up as one of the characters in the book I read. This year, I was a Viking princess out of the book Yo Viking"

 Sheryl Wood, General Counsel South Florida Water Management District (pictured with Sheryl is her good sport husband Scott)



Lawyers for Literacy Committee members (left to right)
Phil DiComo, Georgina Jimenez-Orosa, Cindy Spall (Chairperson),
and Lisa Small.



"I think reading to children is so important that it's something I volunteer to do every week at Roosevelt Elementary School."

- Angela Miller, Assistant State Attorney

May 2005

The North County Section recently hosted a "Spring Break Happy Hour" at the Square Grouper in Jupiter. The event was held to welcome Judge Jeffrey Colbath to the North County Courthouse.



Bill Fleck, (center) with Judge Jeffrey Colbath and his wife MaryAnn

Suzie & Adam Doner



Colleen Nelson, Andrew Pineiro & Donna Adams





Edward Downey & Manny Farach



Karen & Thomas Palmer





Judges Amy Smith & Walter Colbath





Judge Richard Wennet, Stan Klett & John Copeland



Ryon McCabe & Nellie King

Thank you to our sponsors for this event:

Gordon & Doner, P.A.; Kramer Ali Fleck Hughes Gelb & Bornstein; McHale & Slavin; and Mellon United National Bank

Professionalism

Business Transactions With a Client — ARE YOU A LAWYER OR an Entrepreneur?

By D. Culver "Skip" Smith III Member of the Palm Beach County Bar Association Professionalism Committee and Chairman of the Florida Bar Professional Ethics Committee



A lawyer "who enters into business ventures with his client does not, in the eyes of his client or the public generally, shed in chameleon fashion his professional standing and obligation." In re Carlsen, 111 A.2d 393, 396-97 (N.J. 1955). As a general rule, a lawyer is ethically prohibited from entering into a business transaction with a client, unless (1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner that can be reasonably understood by the client, (2) the client is given a reasonable opportunity to seek the advice of independent counsel in the transaction, and (3) the client consents in writing. R. Reg. Fla. Bar 4-1.8(a); cf. Florida Bar v. Pitts, 219 So. 2d 427 (Fla. 1969) (lawyer suspended for borrowing substantial sum of money from client at usurious rate and then pleading usury as defense to suit on note).

Business transactions with clients expose a lawyer not only to professional discipline but also to civil liability for breach of fiduciary duty. Breach of fiduciary duty is a form of legal malpractice separate and distinct from professional negligence. Resolution Trust Corp. v. Holland & Knight, 832 F. Supp. 1528, 1531-32 (S.D. Fla. 1993); accord Restatement (Third) of Law Governing Lawyers '49 (2000). A lawyer is a fiduciary. Gerlach v. Donnelly, 98 So. 2d 493, 498 (Fla. 1957) ("There is no relationship between individuals which involves a greater degree of trust and confidence than that of an attorney and client."); Smyrna Developers, Inc. v. Bornstein, 177 So. 2d 16, 18 (Fla. 2d DCA 1965) (same). Although a lawyer's fiduciary obligations are phrased differently from case to case, in essence they are threefold: (1) to represent the client with undivided loyalty, (2) to preserve the client's confidences, and (3) to disclose to the client any material matters bearing on the representation. These fiduciary obligations are considered the foundation of the lawyer-client relationship. See Gerlach, 98 So. 2d at 498; Smyrna Developers, 177 So. 2d at 18.

The majority of liability claims for breach of fiduciary duty invoke the duty of undivided loyalty. Business transactions with clients give rise to many of these claims. Typical cases involve a lawyer's buying estate property from an estate or estate beneficiaries, a lawyer's investing client funds in property or an enterprise in which the lawyer has an interest, a loan transaction between lawyer and client, or a lawyer's "taking a piece of the action" in forming a new business

venture. Expert testimony may be unnecessary to establish the breach. The claim is likely to have greater jury appeal than a claim for negligence or breach of contract, because the very sound of it - "breach of fiduciary duty" - is inflammatory. In addition, the *lawyer* will have the burden of showing, by clear and convincing evidence, (1) that the lawyer used no undue influence, (2) that the lawyer provided the client with all of the information and advice that the lawyer would have had a duty to provide if not interested in the transaction, and (3) that the transaction was as beneficial to the client as it would have been had the client dealt with a stranger. Gerlach, 98 So. 2d at 498; Bolles v. O'Brien, 59 So. 133, 134 (Fla. 1912). As with actions for professional negligence, an action for breach of fiduciary duty requires proof of proximate cause and injury. When the claim is for restitution rather than money damages, however, the burden of proof may be relaxed or even shifted to achieve prophylactic objectives. See LNC Invs. v. First Fid. Bank, 173 F.3d 454, 465-66 (2d Cir. 1999) (distinguishing between cases in which remedy sought is damages for compensation and those in which remedy sought is restitution to prevent unjust enrichment as measured by lawyer's "ill-gotten gain").

In most cases arising from business transactions between lawyers and clients, it is clear that the lawyer acted in the transaction as the client's attorney, thereby justifying the court's holding the lawyer to a fiduciary standard. See, e.g., K.M.A. Assocs. v. Meros, 452 So. 2d 580 (Fla. 2d DCA 1984). The same standard may apply, however, even when the transaction involves matters outside the scope of the particular lawyerclient relationship. See, e.g., Gomez v. Hawkins Concrete Constr. Co., 623 F. Supp. 194, 199-200 (N.D. Fla. 1985) (holding that the lawyer's representation of the client in unrelated litigation, combined with the fact that the subject loan transaction involved a conflict of interest between the lawyer and the client, was sufficient to establish a fiduciary relationship with regard to the loan transaction itself). The cases nationwide appear to be split on this issue, and several cases have reached the opposite conclusion. See, e.g., In re Palmieri, 385 A.2d 856, 860 (N.J. 1978) (characterizing clients as "sophisticated businessmen"). In any event, as the New Jersey Supreme Court mused fifty years ago, "Perhaps society would be better served if practicing attorneys were to remain full-time lawyers rather than become part-time business men." In re Carlsen, 111 A.2d at 397.

SMALL CLAIMS PRE-FILING INTERVENTION

by County Court Judge Peter Evans

Lawyers are problem solvers. Our court system solves conflicts. It is our role in society and one that we celebrate. Unfortunately, this role seems to be forgotten by our politicians and news media The legal system, lawyers, our courts and judges have become convenient scapegoats for the ills of society and are slandered nightly by the talking TV heads. Misinformation and untruths are disseminated through our media on a nightly basis. It is difficult but the legal system needs to set the record straight.

As usual, the lawyers of Palm Beach County are doing more than just talking, they are acting.

Quietly and without fanfare, the Alternative Dispute Resolution Committee, through the hard work of Ted Deckert, Henry Ruffolo and others, have, in partnership with the Administrative Offices of the 15th Judicial Circuit implemented a program that highlights the role of lawyer and the court system as "problem solvers" in our society.

The Small Claims Pre-Filing
Mediation program has become a reality.
The program, staffed by volunteer lawyers
and county court mediators and
administered by the Court Administrator's
office, provides a FREE alternative to
small claim litigation. Anyone can
participate in this voluntary program
without charge by providing case

Moving?

Send us your updated address, phone, fax & e-mail



Photo Answers:

- I. Greg Barnhart
- 2. Bernie Conko
- 3. Robert Furr
- J. Nobert Turr
- 4. Judge Richard Oftedal
 - 5. William Pruitt

information to Mary Ellen Feinberg at the Alternative Resolution Office, which is located in the Palm Beach County Courthouse. Mary Ellen can be reached at (561) 355-4510.

The adverse party is then contacted and invited into the process. If they agree a volunteer lawyer/ mediator is assigned and the parties can schedule mediation at their convenience. This process highlights the role of the lawyer as a "problem solver" while offering a free dispute resolution process with many advantages over traditional small claim litigation. The lawyer/mediator has not only aided the parties in resolving their problems, but has collected good will that is beyond measurement. The advantages to the parties are clear. The program is free. The program is convenient. The parties can schedule their own time rather than being forced to

attend multiple hearings when scheduled by the court. Solutions can be agreed upon that the court could not impose.

The lawyer/mediator acts not as an "advocate" but as a true "problem solver."

Law Day is here. It is our annual celebration of law, the legal system and the contributions of our profession to the American ideal of justice. It is a time to reach out to our community and brag about our profession, our courts and the important role they serve in our society. We need to let the public know of this program. Be ready to refer your clients to the program when they talk to you about a small claim case that does not merit the expense of formal legal representation or, better yet, can be avoided letting lawyers do what they do best – solve problems.

For further information feel free to call Judge Evans at 355-1500.



W. JAY HUNSTON, JR. Mediator/Attorney

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

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

- NASD Approved Mediator
- Qualified Florida Arbitrator
- Admitted to Practice in Florida, Montana, Colorado, and Ohio
- Hourly and Per Diem Rates Available upon Request

Since 1/1/01, limiting his practice to all forms of effective dispute resolution, including pre-suit and Court-ordered mediation, arbitration, conciliation, special master proceedings, and private judging.

W. Jay Hunston, Jr., P.A. P.O. Box 508, Stuart, FL 34995 (772) 223-5503; Fax: (772) 223-4092 (800) 771-7780; Fax: (866) 748-6786

Email: wjh@hunstonadr.com website: http://www.hunstonadr.com

Page 18
Bulletin

The Importance of the Jury System

(Continued from page 3)

My only disappointment was that I did not get to hear or participate in the deliberations.

I have since learned that our jury was not unique. According to recent ABA survey 3/4 of all jurors felt it was not a burden to serve. 58% felt jury duty was a privilege and most said they would freely serve again if called. For those that wonder if juries are collectively intelligent, or able to understand the issues, a poll of 594 Federal Judges was taken and 97% agreed with the jury verdicts most or all of the time.

During my many visits to our Palm Beach County main Courthouse I frequently speak with someone wearing a juror tag. Occasionally, it will be an attorney I know or someone I have met before. Sometimes they are complete strangers. When I speak to them I make a point to thank them for serving and let them know our system cannot function without their participation. Most are friendly and positive. Over the past year when introducing myself I also identify myself as the current President of the Palm Beach County Bar. Several times over the past months people have called me afterwards since they received a certificate or recognition with my signature on it. The ones that took the time to call said they were glad that they served.

Hopefully, during this year, and particularly during law week, we can all take time to appreciate and praise our jury system and the part it has played in the history of our country. We also need to support and encourage its role in our future.

Support our Advertisers.

Mention that you saw their ad in the Bulletin!

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

For over 25 years, we have concentrated on providing law firms, their partners, associates, staff, and clients with an uncommon level of attention and service. Which is why so many law firms in South Florida count on Mellon.

Whether it's business or personal banking, or wealth management, our goal is to make a measurable difference in its relationships through exceptional service, and we are constantly focused on delivering measurable results to our clients.

For more information, please call Bud Osborne, Executive Vice President, at (561) 750-0075.





Member FDIC

www.mellonunited.com

©2005 Mellon Financial Corporation

Seth Honowitz Leibowitz Realty Group

Assisting fellow members of the Palm Beach County Bar Association with all of their real estate needs including:

• Mirasol

- Mirabella
- Frenchman's Reserve
- Bent Tree

• BallenIsles

- PGA National
- Other fine communities in Northern Palm Beach County



LEIBOWITZ
REALTY GROUP, INC.

Country Club and Luxury Home
Specialist

Office (561) 627-5100

Mobile (561) 262-0726

Stockbroker Misconduct

(Continued from page 11)

not contain any language that alerts the client of any particular problem. Instead, the letters often only reference certain account activity and instruct the client to contact the branch manager with any questions. Clients receiving these letters should recognize them for what they are – warning signs that there might be broker misconduct that is worth investigating. Recipients of happiness letters should contact the branch manager. The client should inform the branch manager of their investment objectives and risk tolerance and ask if there is any account activity that is inconsistent with their investor profile. If the branch manager identifies any problems, the investor should request that changes be made to resolve the problem. Depending on the severity of the problem, the investor also should consider changing brokers or moving their account to another brokerage firm.



Bulletin Board

*** Ad Rates ***

CLASSIFIED ADVERTISING RATES: TO PLACE AN AD: 1) Please fax all ads to 561/687-9007 by the 1st of the month for the following month's publication. 2) Upon receipt you will be notified of cost. 3) Send payment by the 1st of the month.
4) Cost: 50 words or less \$30, 50-75 words \$35, up to 75 words with a box \$45. 5) Members receive 3 months free advertising/year (excluding professional announcements). Ads will only be re-run by refaxing ad to 561/687-9007. Web-site advertising is also available for a cost of \$25 for a two 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.

POSITIONS AVAILABLE:

PRIORITY STAFFING SOLUTIONS-

We provide Experienced Legal Secretaries, Paralegals & Receptionists for temporary and permanent placements. Owner, Legal Assistant with over 20 years exp. In WPB- qualified to fill your position with candidates experienced in your particular field of law. (561) 222-7717, fax (561) 746-5433 Prioritystaf@msn.com.

FREELANCE PARALEGAL

SERVICES- Lighten your work load but increase productivity and profitability. Put a freelance legal assistant to work for you! Contact Shawn L. Stoner, Certified Legal Assistant, at (561) 236-7442 or slscla@bellsouth.net.

REAL ESTATE/CORP. ATTORNEY

2-5 yrs. min. exp. w/land development/closings, large firm top 10% credentials preferred. Superb salary/benefit package/opportunities. Sophisticated practice in growing N. Palm Beach County AV firm. Great work/lifestyle balance. Fax resume to Office Manager (561) 747-4113.

ASSOCIATE ATTORNEY sought by

expanding AV rated PBG law firm w/satellite offices in BB & PSL. Min. 4 yrs. Florida exp. in real estate, estate planning, estate admin., elder law. Heavy client contact. Competitive salary, exc. Benefits & great environment. All replies confidential. Fax resume to Administrator, The Karp Law Firm, P.A., 561-625-0060 or e-mail at ayeager@karplaw.com.

PARALEGAL/LEGAL ASST.- If you

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

ASSOCIATE ATTORNEY- West Palm

Beach law firm seeks associate with 1-3 years experience in areas of bankruptcy, commercial litigation, collection and foreclosure. Must be admitted and licensed in Florida, computer literate and have strong research and writing skills. Spanish a plus. Fax resume to (561) 684-3773.

ATTORNEY with 1-3 years civil litigation experience needed for WPB Ins. Def. Firm expanding into Broward County. Dynamic firm offering excellent opportunity. Fax resume and salary requirements to 561-688-2343 or email Jwilson@rrbpa.com.

ASSISTANT COUNTY ATTORNEY II PALM BEACH COUNTY: The Office

of the County Attorney for Palm Beach County is accepting applications for the position of an Assistant County Attorney II. Membership in the Florida Bar is required. Excellent academic record is also required. Minimum of five (5) years in a law firm, corporate law department or local government agency. Civil trial experience required. Preference given to applicants with relevant local governmental law background. Salary between \$64,074.40 - \$107,138.72. Position generally filled at base. Send resume and writing sample no later than May 13, 2005 to Andrew J. McMahon, Chief Assistant County Attorney, Palm Beach County, 301 North Olive Avenue, Suite 601, West Palm Beach, Florida 33401. Or fax to: (561) 355-4234. EO/AA (DFWP).

PROFESSIONAL ANNOUNCEMENTS:

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

SCOTT SUSKAUER: Board Certified Criminal Trial Lawyer. All criminal matters in State and Federal Court including felonies, misdemeanors, DUI and traffic matters, 1601 Forum Place, Ste. 1200, WPB, FL 33401; 561-687-7866.

GREGORY TENDRICH, ESQ.: Florida

Supreme Court Certified County Court Mediator, NASD Arbitrator & Former Vice President & Asst. General Counsel to both national & regional NYSE/NASD brokerage firms, is available to mediate all securities related disputes locally or throughout the US. Mr. Tendrich's law firm also accepts referrals and is available to co-counsel, provide trial assistance and consultation in all securities related matters. Call 561-733-5113 or visit www.yourstocklawyer.com or email 10drich@bellsouth.net.



Visit the Bar's Website • www.palmbeachbar.org



Bulletin Board

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

MHanson@PalmBeachInjuryLawyer.com.

KEVAN BOYLES: Contributing Fellow – National Network of Estate Planning Attorneys. Probate; Guardianship (Minors); Special Needs and Protective Trusts; Estate Planning (Financial Retirement, Business Succession, Charitable, Medical, Disability, Legacy and Gift); Estate and Gift Tax Returns. 350 Royal Palm Way, Ste. 405, Palm Beach, FL 33480; (561) 833-2472.

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

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

THOMAS R. BAKER, III:

Establishment and maintenance of guardianships for property of minors as a result of personal injury settlements, including approval of settlements. 270 South Central Blvd., Suite 203, Jupiter, FL. 33458; (561) 744-0802.

MARINA D. PETILLO: Florida Supreme Court Certified Family

Supreme Court Certified Family Mediator is available to mediate all Divorce/Family-related matters. Over 12 years of experience. Reasonable rates. 800 Village Square Crossing, Suite 105, Palm Beach Gardens, Fl 33410-Telephone # (561) 656-2015. www.marinapetilloesq.com.

BRIAN S. FISCHER, ESQUIRE:

18 years experience in Workers
Compensation matters ANNOUNCES
HIS AVAILABILITY FOR EMPLOYER
CONSULTATION AND
REPRESENTATION REGARDING
Workers Compensation Premium, Audit
& Coverage Disputes Stop Work Orders,
Claims Handling and Oversight. 1803
Australian Avenue, West Palm Beach,
FL. 33409. Telephone (561) 683-5559.
Email: Bfischer@BSFLAW.net.

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

OFFICE SPACE:

richardhujber@yahoo.com

JUPITER OFFICE SPACE to share. Prestigious location, views of Lighthouse and ocean, conference room, reception area, parking, marble floors and full kitchen. Will share copier and facsimile machines. Available for immediate occupancy. Call 561-748-0042.

BOCA RATON OFFICE SPACE AVAILABLE- Law offices - space available for lease in prime Boca Raton location- complete amenities available-contact Chris at 561-392-5606.

OFFICE SPACE: Downtown West Palm Beach Office. One attorney office, with secretarial station, available in Criminal Defense Law Firm. The office is located in the Blackstone Building, corner of Dixie and Clematis. Contact Lucia 820-1577.

OFFICE SPACE TO SHARE- Small

Family/Juvenile Law Practice in South County offering furnished space to share third floor view. Reasonably priced. Immediate occupancy. Close to interstate and courthouses, Call 364-0670.

JUPITER OFFICE SPACE: River

Place on Indiantown Road- new professional law office- marble, granite, mahogany throughout. 2000 sq. ft.; 3 offices available w/ secretarial stations, reception area, conference room & kitchen. Possible sign space on building. Available June 2005. Call Martha 561-625-4110.

PALM BEACH GARDENS- Space available for attorney- Class A building, windowed office, secretarial area, use of conference room and copier. Call Jay Levine at 561-999-9925.

EXECUTIVE SUITES on N. Dixie Hwy. in unique bldg 4 blocks to courthouse. Full services: receptionist provided, computer ready, shared conference room, parking available. Will suit up to 3 attorneys and secretarial support. Call for rates monthly/yearly. 602-1018.

PROFESSIONAL OFFICE SPACE for

lease on Clematis Street downtown WPB available July 2005. High exposure ground floor space in Via Jardin Courtyard perfect for solo attorney or small firm. Also available two executive offices with receptionist secretarial area, conference room, and possible referrals. Contact Bill @ 561-721-0192.

HEARSAY:



John Fumero, a shareholder with the West Palm Beach law office of Lewis, Longman and Walker, has been reappointed to the Knight Foundation's

Palm Beach Community Advisory Committee. This group of community and nonprofit leaders has begun a new term overseeing investments by the John S. and James L. Knight Foundation in programs benefiting middle school youth and their families' economic well being.

Bulletin Board



Jones, Foster, Johnston & Stubbs, P.A. announces that **Brian D. Kennedy** has joined the firm as an associate in its Private Client Services Department. He

will be practicing in the areas of Estate Planning, Taxation and Corporate Law.

Jeffrey L. Klein of Boca Raton has earned his fifth membership in the prestigious Million Dollar Round Table (MDRT). The Round Table's membership represents the top life insurance and financial service professionals worldwide and is attained only by those who have demonstrated exceptional professional knowledge, expertise and client service.





Adams Coogler Watson Merkel Barry & Kellner is pleased to announce that **Donna Marie De Simone** and **Anthony Diaz** have been admitted to practice before the Bar of the United States Supreme Court.



Nason, Yeager, Gerson, White & Lioce, P.A. announces that **Amanda Parks Schlechter** has been named partner in the firm. She practices in the area of Commercial

Real Estate Law.

Steinger & Iscoe, P.A. is pleased to announce that **Robert R. Reynolds, IV**, an AV Rated, Board Certified Civil Trial Lawyer has joined the firm in the West Palm Beach office located in the Mellon United National Bank Tower, 1645 Palm Beach Lakes Blvd., 9th Floor, West Palm Beach, FL. 33401. Telephone (561) 616-5550. Fax (561) 616-5551.



Edward Ricci and Theodore Leopold, partners in the Palm Beach Gardens law firm, Ricci~Leopold, P.A. are pleased to announce that Spencer T. Kuvin has

joined the firm as an associate.

The law firm of Rutherford Mulhall, P.A. is pleased to announce that **Eric Ash**, **Esq.** has joined the firm. Mr. Ash will be in the firm's West Palm Beach office where he will continue to specialize in Civil Litigation, Ad Valorem Tax and Real Property Disputes. The firm also maintains offices in Boca Raton, Palm Beach Gardens and Fort Lauderdale.

Mimi K. McAndrews announces the formation of The Consumer Protection Law Firm, located in West Palm Beach. The firm concentrates in the area of consumer financial services law, including abusive debt collection practices, problems with credit reporting agencies, identity theft, and other areas of consumer fraud. 1700 Palm Beach Lakes Blvd., 7th Floor, West Palm Beach, FL, 33401; Phone: (561) 689-6455; mimilaw@bellsouth.net.

The law firm of Watterson Eavenson & Zappolo is pleased to announce that **Jared N. Quartell** has recently joined the firm. His practice will be focused in the areas of real estate and business transactions.

John F. Schutz, Board Certified in Marital and Family Law, is pleased to announce the formation of Schutz & Roy, L.L.P. and his association with Elisha D. Roy. The Law firm of Schutz & Roy, L.L.P. will continue to practice marital and family law exclusively. The office is located at 1210 North Olive Avenue, West Palm Beach, Florida 33401, telephone number (561) 791-8535.

MISCELLANEOUS:

REQUEST FOR PROPOSAL: The Police Officer Board of Trustees for the Town of Palm Beach Retirement System is requesting proposals for legal services from attorneys or firms familiar with Chapter 185, Florida Statutes. The Retirement System is a defined benefit pension plan for police officers employed by the Town of Palm Beach. The Board will select an attorney on the basis of the submitted written proposal, as well as an oral presentation at the discretion of the Trustees. For additional details or a complete copy of the Request for Proposal, please contact the Pension Resource Center, administrator for the Retirement System, at 561-624-3277. All responses must be submitted to the administrator on or before Wednesday, June 1.



Visit the Bar's Website www.palmbeachbar.org

- Updated Administrative
 Orders
- Registration form for all seminars & events
 - Standards of Professional Courtesy
- Members' Only Section

Confidential Copying

DocuSolutions

Complete Document Duplication and Imaging

Free Pick-Up & Delivery
Free Estimates
Free Cookies
With Every Order!

Available 24 - 7

With Two Locations
To Serve You Better!







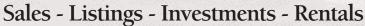
WE PROVIDE A FULL RANGE OF DOCUMENT OUTSOURCING SOLUTIONS INCLUDING, BUT NOT LIMITED TO:

Litigation Copying • Imaging
Digital Printing • OCR Scanning • Trial Exhibits
Binding • Oversize Copying • Color Copying
Onsite Duplication • Audio & Video Duplication
Document Numbering • Bankruptcy Mailouts
Document Shredding • Process Serving

Boca Raton: 561.368.3676 West Palm Beach: 561.651.7676

www.docusolutions.net

RESIDENCE SPECIALIST OF THE PALM BEACHES





Carmen Bernard
Realtor® - Consultant
(561) 714-7018
To receive a personalized property
search report via the internet,
log on to www.carmenbernard.com



MONTECITO \$200,000's to over \$500,000's

Spectacular Waterview of Clearlake, City & Ocean... Superb location within steps to City Place, Kravis Center & Convention Center. One & Two bedroom condominiums available NOW!



610 CLEMATIS \$300,000's to over \$600,000's

A new approach to upscale urban living, in the heart of the Palm Beaches. You will love the convenience of living in a self-contained, urban community with on-site dinning, shops, a gym, pool & more...



GARDEN RESIDENCES AT CITY PLACE \$355,000

Two Bedrooms /
Two Baths Condo
Split bedroom plan
with 2 master suites.
This home features
Marble floors, Granite
counter tops, Secure
covered parking & more.
Live, work and play
downtown West Palm Beach.



Jim Albertelli Attorney at Law (561) 414-7303

Albertelli Law provides legal and closing services for discriminating commercial and residential clientele.







CALENDAR May 2005

May 2 – May 6 LAW WEEK ACTIVITIES

Wednesday, May 4, 12 noon Hispanic Bar Association Meeting Judicial Dining Room Contact Miriam Acosta-Castriz 625-1122

Thursday, May 5, 12 noon Special Needs of Children Committee Chair Joe Ackerman's Office

Friday, May 6, 11:45 a.m. Law Day Luncheon Speaker: Jo-Ellan Dimitrius Marriott Hotel at City Place

Tuesday, May 10, 12 noon Young Lawyers Section Board Mtg. Bar Association Office

Tuesday, May 10, 12 noon South County Bar Association Meeting Contact Melissa Kelly (561) 482-3838

Thursday, May 12, 8:00 – 4:30 TFB Video Replay "Basic Real Estate" Seminar Bar Association Office

Register at 800-342-8060

Thursday, May 12, 5:30 – 7:00 p.m. Diversity & Gender Sensitivity Committee Reception Bar Association Office

Friday, May 13, 8:00 a.m. ADR Committee Meeting Bar Association Office

Saturday, May 14, 6:00 p.m. Legal Aid Pro Bono Recognition Evening Cohen Pavilion, Kravis Center

Tuesday, May 17, 12 noon Solo Practitioners Brown Bag Seminar Bar Association Office

Wednesday, May 18 22nd Annual Estate & Probate Seminar Palm Beach Airport Hilton

Thursday, May 19, 5:30 p.m. North County Section Ruth Chris Dinner "Jurist of the Year Award"

Thursday, May 19, 9:00 a.m. YLS Appellate Judicial Breakfast Fourth District Court of Appeal Friday, May 20, 8:00 a.m. Community Association Law Seminar Bar Association Office

Friday, May 20, 12 noon Cunningham Bar Association Mtg. Law Library Contact Lisa Quarrie 832-3300

Wednesday, May 25, 5:00 p.m. Legal Aid Society Board Meeting Bar Association Office

Thursday, May 26, 5:00 p.m. Board of Directors Meeting Bar Association Office

Monday, May 30 Court Holiday Memorial Day

Saturday, June 4 Annual Installation Banquet The Breakers Hotel, Palm Beach



PALM BEACH COUNTY BAR ASSOCIATION

1601 Belvedere Road, Suite 302 East, West Palm Beach, FL 33406

PRESORT STD
US POSTAGE
PAID
WEST PALM BCH FL
PERMIT NO. 1946

PAST PRESIDENTS...

M.D. CARMICHAEL* RICHARD P. ROBBINS* I R RAKER* HARRY A. JOHNSTON* GEORGE W. COLEMAN* H.C. FISHER*** MARSHALL B. WOOD* E. HARRIS DREW*** B.F. PATY* JOSEPH S. WHITE* HENRY P. LILIENTHAL* MANLEY P. CALDWELL* WILBUR E. COOK* W. MURRAY HAMNER* RICHARD PRESCOTT* RUSSELL MORROW* **CULVER SMITH*** RAYMOND ALLEY*

CY BYRD* WILLARD UTLEY* C.H. ERNEST* PAUL W. POTTER* WAREING T. MILLER* CHARLES B. FULTON***** I. LEO CHAPMAN* ELWYN L. MIDDLETON* H. ELMO ROBINSON* J. STOCKTON BRYAN, JR. HAROLD G. MAASS ROBERT F. CROMWELL CHARLES H. WARWICK III PHILLIP D. ANDERSON FREDERICK C. PRIOR JAMES C. DOWNEY* WILLIAM A. FOSTER ALAN F. BRACKETT* ROBERT D. TYLANDER **ROBERT McK FOSTER***

IOHN M. FARRELL H. LAURENCE COOPER, JR. IOHN R DAY IOHN I BIIRNS HARRY JOHNSTON II GAVIN LETTS* JAMES S. ROBINSON CHARLES H. DAMSEL. IR. EDWARD LEWIS RAYMOND ROYCE PETER VAN ANDEL LARRY KLEIN THEODORE BABBITT JOHN FLANIGAN SIDNEY A STUBBS, JR. JOSEPH J. REITER** JOHN B. McCRACKEN DAVID L. ROTH D. CULVER SMITH III TIMOTHY W. GASKILL

ARTHUR G. WROBLE GUY C. HILL PATRICK J. CASEY JAMES G. PRESSLY, JR. PATRICK C. MASSA STEVEN A. STINSON CARL M. MATHISON, JR. ROBERT V. ROMANI* MICHAEL P. WALSH **IULIEANN ALLISON** MICHAEL A. VISCOMI CAROL McLEAN BREWER JERALD S. BEER JOHN G. WHITE III MICHAEL T. KRANZ **EDWARD DOWNEY** SCOTT G. HAWKINS AMY L. SMITH GREGORY W. COLEMAN LISA S. SMALL

* DECEASED

* FLORIDA BAR PRESIDENT

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

**** DECEASED, FLORIDA BAR PRESIDENT

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