



PALM BEACH COUNTY BAR ASSOCIATION

BULLE^TIN

www.palmbeachbar.org

November 2012



Mark your calendar for upcoming Membership Events

November 9

(PLEASE NOTE NEW DATE):

Joint Luncheon with Forum Club with Guest Speaker Ret. U.S. Supreme Court Justice John Paul Stevens

December 6

Annual Holiday Party and Silent Auction at Frenchman's Reserve

January 7, 2013

Membership Luncheon Celebrating the History & Legacy of the Miami Dolphins and the 40th Anniversary of a perfect season

February 1

Joint Luncheon with Federal Bar Association. Guest speaker is 11th Circuit U.S. Court of Appeals Chief Judge Joel Dubina

March 1

Bench Bar Conference

April 5

Membership Luncheon with Guest Speaker Marsha Hunter – Consultant on Persuasion and Public Speaking Techniques for Lawyers

April 24

Celebrate Administrative Professional Day With a Firm Trivia Contest

April 26

Golf/CLE Program

April 30: Annual Judicial Reception

May 3

Law Day Luncheon with guest speaker Michael Glazier, Nationally Prominent Attorney Representing Universities Under NCAA Investigation for Sports Scandals

June 1

Annual Installation Banquet

Join us for our Annual Holiday Party & Silent Auction

Thursday, December 6

5:30 p.m. – 8:00 p.m.

Frenchman's Reserve, Palm Beach Gardens

Member Price \$35.00; spouses and attorneys who are not PBCBA members are welcome for \$45.00; judges are complimentary. Your registration fee includes valet parking, drinks, heavy hors d'oeuvres, unlimited shopping & networking with close to 400 guests!

RSVP online @ www.palmbeachbar.org

Kindly register no later than 5:00 p.m. on 12.3.12 to avoid a \$10.00 late fee

One hundred percent of the silent auction proceeds benefit charities sponsored by the Young Lawyers and North County Sections.

Sponsored by: First Citizens Bank; Leopold Law; Rock Legal Services & Investigations; Sabadell United Bank; U.S. Legal Support and Visual Evidence.



BEACH CLEANUP

sponsored by the North County Section & FAWL

Saturday, November 3, 2012

8:00 a.m. to 10:00 a.m.

Ocean Cay Park, 2188 Marcinski Road, Jupiter

Cleanup begins & ends at Anita Lankler Pavilion

Members please join us!

And if you have children, bring them too -- they'll receive volunteer hours for their time! (Students must check in no later than 8:00 a.m. to receive hours)

Shine Only! If weather is questionable, call 561.748.8140

RSVP: To make sure we have buckets for everyone, please RSVP no later than 10/30/12 to kclark@palmbeachbar.org. Let us know how many adults and how many children will be attending.

For additional information, go to www.friendsofjupiterbeach.org and click on beach cleanups

Inside...

President's Message	3
Committee Chair Meeting	4
Probate Corner	5
Diversity Corner	6
Capital Campaign	7
Rules of Civil Procedure.....	8

Technology Corner	9
Personal Injury Corner.....	10
Commercial Litigation Corner.....	11
New Members.....	12
Bankruptcy Corner.....	13
Professionalism	15
Family Law	17
Bulletin Board.....	19

THE
BULLETIN
PALM BEACH COUNTY
BAR ASSOCIATION

ADAM T. RABIN
President

www.palmbeachbar.org

PATIENCE A. BURNS, CAE
Executive Director

Officers

Adam T. Rabin, President
Jill G. Weiss, President-elect

Directors

Rosalyn Sia Baker-Barnes
C. Wade Bowden
Gregory P. Huber
Theodore S. Kypreos
Jessica Callow Mason
Edward "Ned" Reagan
James "Grier" Pressly III
John R. Whittles

John M. Howe, Immediate Past President
Robert Lee McElroy, IV, Young Lawyers Section
President
Kenneth N. Johnson, North County Section President
Larry Corman, Ex Officio, South Palm Beach County
Bar President

FL Bar Board of Governors Members

Gregory W. Coleman
Gary S. Lesser
David C. Prather
Michelle R. Suskauer

FL Bar Young Lawyers Division

Board of Governors Members
Miles A. McGrane IV
Adam Myron
Matthew T. Ramenda

1507 Belvedere Road
West Palm Beach, FL 33406
PHONE (561) 687-2800

FAX (561) 687-9007

EMAIL info@palmbeachbar.org.

Advertising Information:

Shoshannah Spence • sspence@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 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
1507 Belvedere Road
West Palm Beach, FL 33406



Letters to the Editor



THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
OF FLORIDA

CHAMBERS OF
LUCY CHERNOW BROWN
CIRCUIT JUDGE

September 11, 2012

COUNTY COURTHOUSE
WEST PALM BEACH, FLORIDA 33401
561/355-4866

PALM BEACH COUNTY BAR BULLETIN
ATTN: THE EDITOR
1507 BELVEDERE RD.
W. PALM BEACH, FL 33406

RE: 15TH CIRCUIT PROFESSIONALISM COUNCIL SESSION
REPORTED IN THE JULY/AUGUST 2012 BULLETIN

To The Editor:

I write to commend the 15th Judicial Circuit Professionalism Council for the Session Report published in the Bar Bulletin, based on a referral I made to the Council, pursuant to Administrative Order 2.105-9/10. I find that the Professionalism Council fulfills a real need in situations which may not be appropriate for a complaint to the Florida Bar, yet which demand attention to maintain the standards of courtesy, civility, and integrity to which we in the 15th Judicial Circuit strive, and of which our legal community is duly proud. The importance of maintaining such standards was recently highlighted by the Florida Supreme Court by its addition of the "fairness, integrity, and civility" pledge to the Oath of Admission to the Florida Bar.

The Session Report published in the Bar Bulletin, in my view, was exceptionally thorough, sensitive, effective and fair. For this, I thank the Professionalism Council and the Palm Beach County Bar Association.

Yours sincerely,

LUCY CHERNOW BROWN
Circuit Judge

LCB/mce

cc: 15th Judicial Circuit Professionalism Council
c/o D. Culver Smith

Voices heard around the country!



Members recently participated in a rewarding volunteer program where they recorded their voices on audio tape during an event at the Learning Ally in Boca Raton. Learning Ally prepares audio textbooks for students who cannot read standard print. The program helps over 300,000 students nationwide continue their education. This event was hosted by the Lawyers for Literacy Committee. To learn more go to www.learningally.org



The Judicial Retention Vote Is Here – Blast, Facebook or Tweet Before November 6!

By Adam Rabin

The Vote's in YOUR COURT

Judicial merit retention. Know the facts.

On November 6, Florida voters will be asked whether various appellate judges should be retained in judicial office. The judges up for retention that affect South Florida are Supreme Court Justices Fred Lewis, Barbara Pariente and Peggy Quince and Fourth DCA Judges Burton Conner and Carole Taylor. In the final days before the retention vote, we are calling our members to duty. The call is simple and will take you only a few minutes.

The three Supreme Court Justices have been visible throughout the state, raising awareness about merit retention and working to fend off politically motivated attack ads that will begin running shortly before the election. Likewise, the Florida Bar has done a great job of educating lawyers and the public on the importance of merit retention and why the Florida Constitution was amended in 1976 to curb political abuses that were influencing contested elections for appellate judgeships. In reality, however, few of us have done anything to inform our friends, family and clients about the need to retain good, qualified judges. Hence, here is the call to duty.

Between now and November 6, we ask that you do one thing: send a blast e-mail, Facebook message, or Twitter post to your friends, family and clients. This will be the most effective, easiest way to reach the most people in the shortest amount of time. More importantly, because it will take only a few minutes, you might just do it.

Here is a proposed message that we ask you to (in these words or your own) blast e-mail, Facebook, or Tweet to your contacts list:

*Dear Friends, Family, and Clients,
On November 6, Election Day, five appellate judges that affect South Florida will be on the ballot. The question on the ballot will be whether the judge should be retained in judicial office for another term. It is a "yes" or "no" question and there is no opponent in the judicial election.*

The judges up for retention vote are Florida Supreme Court Justices Fred Lewis, Barbara Pariente and Peggy Quince and Fourth District Court of Appeals (covering Palm Beach, Broward, Martin, Okeechobee, St. Lucie and Indian River Counties) Judges Burton Conner and Carole Taylor. The judges' bios may be viewed at <http://www.floridabar.org/TheVotesInYOURCOURT>.

The Florida Bar's recent poll of lawyers gave these five judges an

average approval rating of 90%. Only the opinions of lawyers having knowledge of the judges' abilities and demeanor were included in the poll results.

The process of "merit retention" for appellate judges in Florida is an important safeguard for preserving an impartial judiciary that is free of political influence. In fact, the Florida Constitution was amended in 1976 to curb political abuses that were affecting contested races for appellate judgeships.

Please take the time to vote on November 6, and if you believe these appellate judges are qualified to serve, vote to retain them in office.

Please take a few minutes to send this or a like message. As the general public often knows little about the qualifications of our appellate judges, you likely will have an important impact on educating and encouraging them to vote.

G. Steven Brannock

Certified Circuit-Civil Mediator

- Florida Mediator (1992 – Present)
- Florida Qualified Arbitrator (1992 – Present)
- Florida Bar Certified Real Estate Attorney (1992 – Present)
- 40 Year Palm Beach County Resident
- Flexible Mediation Scheduling
- No administrative, cancellation or travel fees

**Contact by phone at (561)369-0054
or via e-mail at steve@brannocklaw.com**

In Memoriam



A. Russell Bobo
Founding Partner, Bobo, Ciotoli,
Bocchino, White, Buigas & Russell, P.A.
1948-2012



John M. Farrell
Past PBCBA President, 1964
1926-2012

Board Meeting Attendance

	Retreat	Aug
Barnes	x	x
Bowden		x
Howe	x	x
Huber	x	x
Johnson	x	x
Kypreos	x	x
Mason	x	x
McElroy	x	x
Pressly	x	x
Rabin	x	x
Reagan	x	x
Weiss	x	x
Whittles	x	x



Have you recently moved?
 Be sure to send your updated address, phone and email info to sspence@palmbeachbar.org

Our annual Committee Chair meeting included more than 30 chairs of various committees from CLE to Community Service. Whether you're a chair or serve on one of our 32 committees, thank you for volunteering and making the Palm Beach County Bar Association one of the best in the state!



Some of our Practice Committee Chairs met after the group meeting for lunch. From left to right: Nelson Baez, Criminal Practice Chair; Jeffrey Collier, Environmental/Land Use Chair; John Whittles, Board of Directors; David Garten, Probate/Guardianship Chair; Adam Rabin, President; Seth Marmor, Elder Law Affairs Co-chair; Barry Balmuth, Circuit Civil Practice Chair; Nicole Hessen, Workers' Compensation chair.

Several CLE Committee Chairs also met after the general meeting. Pictured left to right Gregory Cohen, Real Estate CLE Chair; Benjamin Greenberg, Elder Law Affairs Committee Co-chair; John Severson, Estate/Probate CLE; Evan Frederick, Co-chair of the Golf CLE Committee. Spencer Kuvn, PI/Wrongful Death Chair; Greg Huber, Board of Director; Adam Rabin, President; and Georgia Newman, Family Law CLE Chair.



Lawyers' Reporting

Court Reporting | Video | Interpreting



The First BlackBerry App in Florida.

Our clients are feeling the love. Are you?

Now serving over 76 locations throughout the U.S.

Lawyers' Reporting

1655 Palm Beach Lakes Boulevard, Suite 405 West Palm Beach, FL 33401

Phone: (561) 242-0023 Toll Free: (800) 326-9690

Fax: (561) 659-9855 Toll Free Fax: (877) 530-3579

Email: service@lawyersreporting.com

www.lawyersreporting.com



Ward's Rights (If Any) Under An Emergency Temporary Guardianship

By: David M. Garten

As the problem of elder abuse has become increasingly prevalent in recent years, so too has the need to protect elders who suffer abuse, whether physical,

mental, or financial, at the hands of the individuals to whom they have entrusted their care and affairs. For family members who are aware of such abuse, one solution may be to commence an emergency temporary guardianship ("ETG"). Sec. 744.3031(1), F.S. reads in relevant part:

A court, prior to appointment of a guardian but after a petition for determination of incapacity has been filed pursuant to this chapter, may appoint an emergency temporary guardian for the person or property, or both, of an alleged incapacitated person. The court must specifically find that there appears to be imminent danger that the physical or mental health or safety of the person will be seriously impaired or that the person's property is in danger of being wasted, misappropriated, or lost unless immediate action is taken. The subject of the proceeding or any adult interested in the welfare of that person may apply to the court in which the proceeding is pending for the emergency appointment of a temporary guardian. The powers and duties of the emergency temporary guardian must be specifically enumerated by court order....

In addition, the court has authority to issue an injunction, restraining order or other appropriate writ to protect the physical or mental health or safety of the ward. See §744.3031(4), F.S. All of the above can occur without a finding of incapacity and without the statutory safeguards of an examining committee and an adjudicatory hearing where the burden of proof is "clear and convincing". See §744.331, F.S.

Assuming the court grants to the emergency temporary guardian the ward's right to contract, can the ward execute an irrevocable trust during the pendency of the ETG? The court in *Jasser v. Saadeh*, 2012 Fla. App. LEXIS 11670 (Fla. 4th DCA 7/18/12) answered this question in the negative. At oral argument, Brian

O'Connell, Esq. argued that the ETG is like a non-springing Durable Power of Attorney in that the ward, like the principal under a POA, retains his legal rights throughout the ETG. In support, Mr. O'Connell, citing, *Am. Red Cross v. Estate of Haynsworth*, 708 So. 2d 602 (Fla. 3rd DCA 1998), argued that a ward may retain the right to execute a Will during the pendency of a guardianship. The court disagreed. The court reasoned that "[t]o permit both a ward and the guardian to exercise the right to contract would render the protection afforded by an ETG non-existent. In such cases, the ward could continue to deal with his or her property and conceivably give it all away while a petition for incapacity is pending even though that person is incompetent but not officially adjudicated as such. The ETG would be faced with the difficult task of recovering missing property." The court, citing §736.0402(1), F.S., held that "because Saadeh had no legal right to execute the trust [his right to contract had been removed and therefore, he had no capacity to create a trust], the trust was invalid and void."

Based on the holding and reasoning in

Jasser, it would appear that the ward loses all of his delegable legal rights given to the emergency temporary guardian during the pendency of the ETG.

Status of Appeal: On August 2, 2012, the appellants filed a Motion for Rehearing and a Notice to invoke Discretionary Jurisdiction of Supreme Court.

Practice Point: The ETG hearing must be heard on short notice and the petitioner is only required to serve the alleged incapacitated person and his attorney (if known) with the petition and the notice of hearing. See Fla. Probate Rule 5.648(b). Although the court is required to appoint an attorney for the ward (See §744.3031(1), F.S.), court appointed counsel rarely has time to prepare for the hearing and/or meet with his client in advance of the hearing. As a result, it is relatively easy to sandbag the ward and have the ETG entered with little, if any, opposition. If you believe that a guardianship is being contemplated by the opposition, either advise the opposition that you represent the ward or stay in constant contact with the ward to confirm whether he was served the petition for an ETG.

probate
litigation

referral fees

pankauski

LAW FIRM

P.L.L.C.

(561)

514 - 0906

support@pankauskilawfirm.com



The Estate and Probate Law Continuing Legal Education Committee presents:

"The 30th Annual Estate and Probate Seminar—Part 1"

Wednesday, November 14, 2012 - 8:00a.m.- 1:00p.m.

**Embassy Suites (formerly The Crown Plaza Hotel)
1601 Belvedere Road, West Palm Beach, FL**



Program Schedule

- | | |
|-----------------------|---|
| 8:00a.m. - 8:25a.m. | Late Registration and Check In |
| 8:25a.m. - 8:30a.m. | Welcome & Opening Remarks - <i>John M. Severson, Esq., Florida Bar Board Certified Wills, Trusts & Estates Attorney, Burns & Severson, P.A., Committee Chair</i> |
| 8:30a.m. - 8:45a.m. | Death Certificates - <i>John M. Severson, Esq., Florida Bar Board Certified Wills, Trusts & Estates Attorney, Burns & Severson, P.A.</i> |
| 8:45a.m. - 9:15a.m. | E-Filing - <i>Clerk of the Circuit Court</i> |
| 9:15a.m. - 10:05a.m. | SubChapter J - <i>Speaker to be announced</i> |
| 10:05a.m. - 10:15a.m. | BREAK |
| 10:15a.m. - 10:35a.m. | Fees on Fees - <i>Freeman W. Barner, Jr., Esq., Freeman Barner & Associates, P.A.</i> |
| 10:35a.m. - 11:05a.m. | Notices - <i>Amy B. Beller, Esq., Beller Smith, PL</i> |
| 11:05a.m. - 11:30a.m. | Homestead / Unitrust - <i>Lesley S. Hogan, Esq., Akerman Senterfitt</i> |
| 11:30a.m. - 12:00p.m. | Advising and Defending the Well-Intentioned Trustee - <i>James G. Pressly, Jr., Esq., Pressly & Pressly, P.A., Board Certified Wills, Trusts & Estates Attorney</i> |
| 12:00p.m. - 1:00p.m. | Lunch - Judicial Presentation |

Sponsored By:



THE PRIVATE BANK

estate & trust litigation

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

The cost of seminar, which includes lunch, is **\$125** for PBCBA member attorneys/paralegals;

\$165 for non-PBCBA member attorneys/paralegals if registered by 11/7/12; add \$25 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.

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

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
------------------------	---	--	--

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) (Estate/Probate Seminar 11/14/12)
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

Diversity Corner

“Keeping Diversity on the Forefront”

*Submitted by Diversity Relations Subcommittee Co-Chairs
Laurie Stilwell Cohen and Jean Marie Middleton*

GERALD A. WILLIAMS (1950-2010): ASPIRING TO BE GREAT



Sometimes in order to move forward, you have to look backward. This month we do just that by remembering and honoring Gerald A. Williams, a former local attorney and Chief Counsel for the School District of Palm Beach County, who demonstrated excellence not just in his words but by his actions.

Mr. Williams was born October 9, 1950 in Pensacola, Florida. Having come of age in the tumultuous and racially charged 1960's, Mr. Williams learned early on that to survive and thrive, “it was not enough to want to be good; to be successful one must aspire to be great.” That expression became his personal motto and framed his view of himself and the world around him.

As the only African-American to attend the all white A.V. Clubbs Junior High School in Escambia County, Mr. Williams earned the respect of his fellow students through his hard work. After graduating from Pensacola High School, he attended the University of Tennessee, where he served as chief justice of the honor court and earned a degree in Political Science in 1972. He went on to earn his juris doctor from University of Florida in 1975, and was one of the first African-Americans to graduate from the school. Mr. Williams was admitted to the Florida Bar in October, 1975.

During his thirty-five year career, Mr. Williams served as a staff attorney for the Florida Public Employees Relations Committee and the National Labor Relations Board and in 1978, he joined the Dade County Public Schools as Assistant Special Counsel. In 1981, Mr. Williams relocated to Palm Beach County where he opened a law firm with his law school classmate J. Michael Haygood. The firm, Haygood & Williams, was later hailed as the largest all African-American law firm in Palm Beach County. In 1992, Haygood & Williams merged with an Atlanta-based firm and became known as Mack, Williams, Haygood & McLean, P.A. Mr. Williams served as the managing partner of the Florida operations for the firm, which was one of the largest African-American controlled firms in the country.



District and was later appointed Chief Counsel. Mr. Williams was recognized in 2009 as among the “Florida Legal Elite” by Florida Trend Magazine and as one of the top government attorneys in the state.

In addition to his many professional accomplishments, Mr. Williams also gave back to the community by serving on numerous boards and committees, including serving as general counsel for the Virgil Hawkins Florida Chapter of the National Bar Association, Vice President of the NAACP Greater Miami Chapter, co-founder of the Suncoast Chamber of Commerce in West Palm Beach, Executive Board Member of the Urban League of Palm Beach County, serving the Gulf Stream Council of the Boy Scouts of America and serving on the board of Good Samaritan Hospital in West Palm Beach.

Mr. Williams was recently awarded, posthumously, the Heritage of Leadership Award from the University of Florida

Mr. Williams returned again to public service in 1997 when he served as chief labor counsel for the Miami-Dade school system. In 2001, he returned to Palm Beach County to work for the School

Levin College of Law. The law school recognized, as we surely must also, that Mr. Williams lived a life devoted to pursuing greatness. Palm Beach County is fortunate to have benefited from his efforts.

As we continue our efforts to keep diversity at the forefront, and to meet the challenges of building a more diverse legal community, it helps to reflect on those, such as Mr. Williams, who through their personal character and commitment, have helped to advance that goal.

Laurie Stilwell Cohen and Jean Marie Middleton are co-chairs of the Marketing and Recruitment Subcommittee of the Committee for Diversity and Inclusion. Laurie is an attorney at Rutherford Mulhall, P.A. and practices in the areas of business and commercial litigation and foreclosures. She is a Florida Supreme Court Certified Circuit Civil Mediator. Jean Marie serves as a Staff Attorney for the Legal Aid Society of Palm Beach County, Inc, practicing in the areas of housing discrimination, landlord tenant and foreclosure defense. Jean Marie is also a Florida Supreme Court Certified Mediator.



North County Section

More than 100 North County Section members recently enjoyed cocktails and networking at Brio's in Palm Beach Gardens. Best of all this event was complimentary to all NCS Members.



Michael Motto, Carl Wald and Peter Van Keuren



Cindy Sojka, Jonathan Wald and Bill Bosso



Scott Wortman and Julianne Frank

Capital Campaign — Thank You to Those Who Have Contributed!

Personalized Bricks Purchased (As of 9/30/12)

Ackerman, Link & Sartory, P.A.
Akerman
Adams, Coogler, Watson,
Merkel, Barry & Keller, P.A.
Babbitt, Johnson, Osborne &
LeClainche, P.A.
Beer, Jerald
Bertisch, Robert & Harreen
Breton, Lynch, Eubanks &
Suarez-Murias, P.A.
Brewer, Carol McLean
Burns, John L.
Burns, Tom & Patience
Casey, Patrick
Clark, Fountain, LaVista,
Prather, Keen
& Littky-Rubin
Coleman, Greg & Monica
Colton, Roger B.
Cortvriend, Sarah
Deckert, Ted
Downey, Edward
Dunwoody White & Landon,
P.A.
F. Malcolm Cunningham, R.
Bar Assn.
Farrell, John
Fine, Edward
Fox Rothschild
FPL
Gamot, Melinda
Gerber, Jonathan & Tracy
Glickman, Garry
Glickman, Witters & Marell
Gordon & Doner, P.A.
Hispanic Bar Association
Howe, John
Hunston, Jay and Jane
Jay R. Jacknin, P.A.

Jenks, Debra & Robert
Harvey
Jones Foster Johnston
(In memory of John
McCracken)
Kenwood, Joel
Klett, Stan
Koehler, Dennis, In Memory
of Kreusler-Walsh
Complani & Vargas, P.A.
Kogan & DiSalvo
Kypreos, Theo & Jennifer
LaBovick Law Group
Law Offices of Irwin J. Block
PLLC
Law Offices of Robin Bresky
Lazarus, Jason
Legal Aid Society of Palm
Beach County
Leopold Law
Levine, Spencer & Judith
Maschler, Matthew H.
Massa, Patrick
McBane, Louis R.
McCabe Rabin
McCall, Wallace
McClosky, D'Anna & Dieterle,
LLP
McHale & Slavin
Murray & Guarl
Murrell, Donnie
Napoleone, Michael
Neal, Ginny R.
Palm Beach Spine &
Diagnostic Institute
Pateman, Mark
PBC Chapter of Paralegal
Association
Pineiro Byrd PLLC

Pressly & Pressly
Prior, Ted
Proskauer Rose LLP
Rock Legal Services &
Investigations
Royce, Catherine S.
Royce, Raymond W.
Rudolph & Associates LLP
Rutherford Mulhall, P.A.
Sabadell United Bank
Sasser, Tom & Meenu
Schutz & White LLP
Shalloway & Shalloway
Shutts & Bowen LLP
Signature Court Reporting
Small, Michael, Lisa Small &
J.D. Small
Smith, Amy
Smith, D. Culver
Smith, Scott & Molly
Sojka, Cindy
Sonneborn Rutter Cooney &
Smith, P.A.
Sorgini & Sorgini, P.A.
South Palm Beach County
Bar Association
Stewart, Todd
Stuart Manoff & Associates
Stubbs, Sidney
Suskauer, Michelle
U.S. Legal Support
Walsh, Michael P.
Weiss, Jill
Weissman, Joel & Alexandra
Wenner, Richard I.
Whittles, John
Wroble, Art & Mary Ellen
Zeile Huber



The Bar Association has moved to its first permanent home located on Belvedere Road in West Palm Beach. The building is a state-of-the-art facility for our legal community to enjoy for many years to come. You can be a part of history by naming a room or buying a brick.

We sincerely thank the following firms and members who have contributed as of 11/25/11:

Searcy Denney Scarola Barnhart & Shipley Classroom
Richman Greer, P.A. Executive Director's Office
Schuler, Halvorson, Weisser & Zoeller, P.A. Small Conference Room
Holland & Knight LLP Member Services Office
North County Section & Young Lawyers Section Communication
Director's Ofc
Lesser, Lesser, Landy & Smith Front Bench
Lytal Reiter Smith Ivey & Fronrath Reception Area
Jones, Foster, Johnston & Stubbs LRS Office
Gunster Landscape
Fisher & Bendeck Landscape
Wyland & Tadros Workroom
H. Irwin Levy Visiting Attorney's Office
In Memory of Bob & Sandy Rogers Lounge
Brian Scher & Debbie Meltzer Women's Lounge
Greenberg Traurig Admin. Asst. Workstation
Additional rooms are still available!

JAMS WELCOMES MEDIATOR/ARBITRATOR

JEFFREY GRUBMAN, ESQ.



We are extremely proud to announce that **JEFFREY GRUBMAN, ESQ.** is now available at JAMS. A veteran ADR professional, Mr. Grubman has served as a mediator in approximately 1,000 disputes in 22 states, the District of Columbia and Puerto Rico involving a wide variety of complex matters, including class actions, securities/FINRA and other high impact, multi-party cases. He works tirelessly to settle every case he mediates, employing a variety of creative settlement techniques. Mr. Grubman is also a qualified arbitrator under Florida law and has adjudicated disputes as a single arbitrator and as a member of tripartite panels. Mr. Grubman is Co-Chair of the ADR Committee of the South Palm Beach County Bar Association. Before he became a full-time neutral, he was a litigator with Manatt Phelps & Phillips and Morgan Lewis & Bockius and subsequently became a partner in two boutique South Florida law firms.

At JAMS, he will serve as a mediator, arbitrator, special master and discovery referee in disputes involving business/commercial, employment, estates/probates/trusts, insurance, intellectual property, real estate and securities matters.

Boca Raton: 561.393.9733

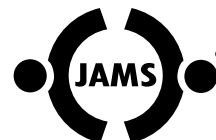
2500 N. Military Trail | Suite 200 | Boca Raton, FL 33431

Miami: 305.371.5267

600 Brickell Avenue | Suite 2600 | Miami, FL 33131

www.jamsadr.com

THE RESOLUTION EXPERTS



Rule 1.610(d): Motion to Dissolve Temporary Injunction

By Matt Triggs and Jonathan Galler

An *ex parte* temporary injunction has been entered against your client. Obviously, you did not receive notice of the motion or the hearing. But now that you know all about it, can you head into the trial court and complain that you didn't know anything about it?

The answer is no, and the Third District Court of Appeal recently reminded us why.¹ In *Harambam Congregation v. Simcha Connection, Inc.*, the plaintiff obtained an *ex parte* temporary injunction to regain control of its corporation from the defendant.² The defendant moved to dissolve the temporary injunction because the plaintiff's motion did not include a certification stating what efforts had been made to notify the defendant and the reasons why notice should not be required.

The trial court granted the motion to dissolve, but the Third District reversed on the basis of a Florida Supreme Court case, *State v. Beeler*, which held that the issue of lack of notice is not a basis for a motion to dissolve an *ex parte* temporary injunction.³

Rule 1.610(a) provides, in part, as follows:

(1) A temporary injunction may be granted without written or oral notice to the adverse party only if: (A) it appears from the specific facts shown by affidavit or verified pleading that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (B) the movant's attorney certifies in writing any efforts that have been made to give notice and the reasons why notice should not be required.

Citing the *Beeler* decision, the Third District held that a party against whom an *ex parte* temporary injunction has been issued faces a choice: the party may take an immediate appeal and argue, among other things, improper lack of notice; or the party may file a motion with the trial court to dissolve the temporary injunction pursuant to rule 1.610(d).⁴

Rule 1.610(d) provides that "[a] party against whom a temporary injunction has been granted may move to dissolve or modify it at any time. If a party moves to dissolve or modify, the motion shall be heard within 5 days after the movant applies for a hearing on the motion."

What the text of rule 1.610(d) does not reveal, however, is that when a party challenges a temporary injunction by way of a motion to dissolve, the issue of "notice becomes irrelevant because the defendant is present, and the burden would be on the plaintiff to show that the complaint and supporting affidavits are sufficient to support the injunction."⁵

In other words, "once the opposing party has received the benefit of notice and an opportunity to be heard at a hearing on the motion to dissolve, any issue regarding prior notice is moot."⁶ Because the plaintiff has the burden to support the temporary injunction, even upon the defendant's motion to dissolve, the prior lack of notice to the defendant is no longer a factor, given the new hearing. Thus, if the defendant wishes to attack the lack of notice, the defendant must take an immediate appeal from the order granting the temporary injunction

⁵*Id.* at 1115 (citing *Beeler*, 530 So. 2d at 934).

⁶*Id.* at 1115.



instead of filing a motion to dissolve the injunction.

The Third District also held that the attorney certification required by rule 1.610(a)(1)(B) is a "notice" issue rather than an independent, technical requirement of the rule. The certification requirement is intended to prevent the issuance of an *ex parte* injunction unless an immediate threat of irreparable harm exists. For that reason, an attorney's failure to provide such a certification is another "issue regarding prior notice" that is mooted by the filing of a motion to dissolve.⁷

Matt Triggs is the head of the litigation department of Proskauer Rose LLP in Boca Raton. Jonathan Galler is a senior associate in the department. Both concentrate their practices in commercial and probate litigation.

Second Annual Speed Networking

More than 40 members attended our Second Annual Speed Networking event at B.B. King's in West Palm Beach. We have received nothing but positive comments from so many new members who all had the opportunity to meet new contacts. Best of all, this event was free to all our new members as of July, 2012.



Speed Networking at its best! Members met a new contact every 3 minutes. Another PBCBA membership benefit!



Member Dan Zuniga (center) introduces new members Dane Leitner (left) to Lisa Kohring (right)



Curt Sanchez, Membership Chair with members Dina Keever-Agrama and Jonathan Mann

¹Well, to be fair, the answer is yes, you can complain about almost anything. What the Third District actually concluded is that you likely will not prevail.

²*Harambam Congregation v. Simcha Connection, Inc.*, 84 So. 3d 1113, 1114 (Fla. 3d DCA 2012).

³*State v. Beeler*, 530 So. 2d 932, 934 (Fla. 1988).

⁴*Harambam*, 84 So. 3d at 1115.

The Latest in iPad, iPhone and Social Media **HOW TO EFFECTIVELY USE TECHNOLOGY IN YOUR PRACTICE**

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

Thursday, November 8, 2012
8:30 a.m. to 1:00 p.m.
Bar Office



Program Schedule

8:30 a.m. Registration

9:00 a.m. to Noon: Presented by Spencer Kuvin, Esq. and Christopher Hopkins, Esq.

Program includes information on The latest iPad & iPhone Applications; Newest technology including the release of the iOS 6 and iPhone 5; Latest Apps; What apps to Use In Practice; Use in Trial; Social Media; What Media To Use and How to Use It; What To Use And How To Deal With Legal Issues like Privacy Restrictions, Downloading Content, Discovery, and Subpoenas.

Noon: Lunch & Networking

Sponsored by: **BIGWAVE**
FIRMS 

This course is expected to receive CLER from The Florida Bar. The cost to attend, including lunch, is just \$20.00 for PBCBA members; attorneys who are not PBCBA members are welcome for \$30.00; add \$5.00 if registered after 5:00 p.m. on 11/5/12.

**HOW TO
REGISTER**



BY CHECK
Return this
form



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

Name: _____

Telephone: _____ Email: _____

Address: _____



What Does a Child Pornography Case Tell You About Computer Evidence?

By Christopher B. Hopkins

It may surprise you that a child pornography case from Illinois may change how you handle computer evidence in your cases and how you maintain computers in your home. In *United States v. Seiver*, Seventh Circuit Judge Richard Posner held that police had sufficient probable cause to search a home computer even though the alleged crime (uploading pornographic images) had occurred seven months before. The opinion, which unfortunately reads like a “how to” manual for those who want to hide illicit computer activity, explains the massive amount of information on a PC which reveals (a) what websites were visited, (b) what images have been viewed on the computer, and (c) what files may exist even after deletion. In fact, this “hidden” information is so easy to recover that such evidence could be obtained in non-forensic discovery or a by parent interested in the internet escapades of a teenager.

In the *Seiver* case, the defendant downloaded a pornographic video which a 13-year old girl had created. Defendant Seiver extracted still images from the video, uploaded them to a file sharing website, and then sent a message via Facebook to the girl’s stepmother. The authorities traced the Internet Protocol (IP) address to Seiver’s computer, obtained a search warrant, and arrested him (to bring this closer to home, one news story reported that Seiver had allegedly contacted minors in Florida).

The *Seiver* decision distinguishes itself from other computer crime cases since Judge Posner’s decision explains that, even if the defendant had deleted the incriminating files, there was sufficient probable cause for a search warrant, months after the fact, since “modern computer technology and the usual behavior of its users” lead to lingering data long after files are deleted or websites were visited. In short, the normal use of a computer will preserve a website log, images viewed, and files even if they were viewed momentarily or even deleted.

According to Judge Posner, “...it appears that few consumers of child pornography... understand well enough how their computer’s file system works...” First, regardless of which internet browser is used (e.g., Internet Explorer, Chrome), the name of every website visited is saved in a text file called “index.dat.” This surprisingly small file exists right now on every computer you own and may report every website visited since the machine was purchased. There is, of course, an operational purpose for this log (which is generally hidden from plain view on the C: drive) but, in the forensic context, it also provides a harvestable web history. Apparently even sites visited using the “incognito” or “private browsing” functions are recorded. You can view the index.dat file on your computer using free software like Index.dat Viewer, Index.dat Analyzer, or Index.dat Scanner. Likewise, you can erase the Index.dat file using free software such as CCleaner however the file will begin anew the next time the browser opens a website. Keep in mind, however, the spoliation and ethical risks associated with deleting files (see the \$522,000 sanction for the lawyer who instructed his client to delete Facebook photos, bit.ly/QvMz7h).

Second, both Mac and Windows machines preserve images from webpages in temporary internet files (or “cache”). In short, every picture which has appeared in a computer’s browser

is saved, at least temporarily, in the cache. For operational purposes, this speeds up your browsing experience; for forensic purposes, the cache may be a trove of information about a user’s viewing habits. Do a Google search for “view temporary internet files” to determine how to inspect those files. Both Explorer and Chrome can be set to delete temporary files upon closure. CCleaner will clean out the cache.

Third, are deleted files (such as a “cleaned” internet browser cache) really erased? As Judge Posner explains, “... the file hasn’t left the computer. The trash folder is a waste-paper basket; it has no drainage pipe to the outside. [The file] is still there and normally is recoverable by computer experts until it’s overwritten...” In the *Seiver* case, as an example, the court held that seven months was not too long for there to still be probable cause that deleted evidence might still exist. Judge Posner noted that the operating system, the size of the hard drive, and how often new files are saved will accelerate the normal speed of overwriting deleted data. Moreover, “a deleted file is not overwritten all at once, it may be possible to reconstruct it from bits of data composing it (called ‘slack data’) which are still retrievable because they have not yet been overwritten even if the overwriting has begun.” To this end, consumer-level programs such as Recuva will permit a user to view deleted files; meanwhile, once again, CCleaner is the application of choice to “wipe” unused portions of the hard drive (Mac OS X has a “secure empty trash” option built in).

Judge Posner’s opinion concludes with the notion that “despite the availability of software for obliterating or concealing incriminating computer files, the use of such software is surprisingly rare.” To that end, he determined that seven months was too short to conclude that probable cause of finding a data trail had evaporated; moreover, he advised savvy law enforcement officers that the search warrant affidavit should apprise the magistrate that deleted files are recoverable. This advisement is likewise warranted for lawyers, judges, and parents.

Christopher B. Hopkins is a shareholder at Akerman Senterfitt. Send an email, without indecorous attachments, to christopher.hopkins@akerman.com.

Of all the banks in South Florida, only one has the distinction of being called “The Lawyers’ Bank.”

For over 30 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 **Sabadell United Bank**. Whether it’s business or personal banking, or private banking, our goal is to make a **measurable difference** in all relationships through exceptional service, and constant focus on delivering **measurable results** to our clients.

For more information, please call
Bud Osborne, Executive Vice President,
or Donn Londeree, Vice President at (561) 750-0075
or Vincent Cuomo, Vice President at (561) 688-9400



MEMBER
FDIC

www.sabadellunited.com

Sabadell
United Bank



©2010 Sabadell United Bank



The Elder Law Affairs Committee of the Palm Beach County Bar Association presents:

"Ethically Speaking: The 15th Annual Elder Law Seminar"

Friday, December 14, 2012 - 8:20a.m. - 2:00p.m.

Bar Association Offices, NEW Location, 1507 Belvedere Rd., WPB 33406

Program Schedule

8:00am - 8:20am	Late Registration - Check In
8:20am - 8:30am	Welcome - Opening Remarks - Benjamin H. Greenberg, Esq., Co-Chair PBCBA Elder Law Affairs Committee, Greenberg Elder Law Services, LLC, Delray Beach, FL
8:30am - 9:30am	Legal and Ethical Considerations in Preserving the Right to Health Care Self Determination - John "Jack" Scarola, Esq., Searcy, Denny, Scarola, Barnhart & Shipley, P.A., West Palm Beach, FL; Florida Bar Board Certified in Civil Trial Practice and Commercial and Business Litigation; Marnie R. Poncy, Esq., Registered Nurse, Joseph C. Kempe, PA, Jupiter, FL
9:40am - 10:20am	Testamentary Capacity and Ethically Representing Clients with Memory Disorders - Steven M. Essig, J.D., Psy.D., Director South Florida Neuropsychology, Boca Raton and Boynton Beach, FL
10:20am - 10:35am	Break
10:35am - 11:15am	Guardianship Litigation: Hot Topics and Trends - John J. Pankauski, Esq., J.D., LL.M., Pankauski Law Firm, PLLC, West Palm Beach, FL
11:15am - 12:15pm	The Affordable Care Act: The Elder Law Attorney and the New Health Care Law - Scott M. Solkoff, Esq., Solkoff Legal, PA, Florida Bar Board Certified in Elder Law, Delray Beach, FL
12:15pm - 12:30pm	LUNCH (included in registration)
12:30pm - 1:15pm	Annual Tax Law and Ethics Update - Michael A. Lampert, Esq., Michael A. Lampert, P.A., Florida Bar Board Certified Tax Attorney, West Palm Beach, FL
1:15pm - 2:00pm	Medicaid Update - Michael W. Connors, Esq., Michael W. Connors, PA, Florida Bar Board Certified Elder Law Attorney, North Palm Beach, FL

SPONSORED BY:



Estate & Trust Litigation

THE PRIVATE BANK

This course is expected to receive 6.0 CLER including 3.0 Ethics credits / Certification credits are pending from The Florida Bar.

The cost of the seminar, **including lunch**, is **\$185** for PBCBA members/paralegals, **\$225** for non-PBCBA members/paralegals, if registered by 12/7/12. **Add \$25 to registration fee after that date.**

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

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

HOW TO REGISTER



BY CHECK
Return this form



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



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

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

Please register me for the December 14, 2012 Elder Law Seminar:

Name: _____ **Telephone:** _____

Address: _____ **e-mail:** _____

___ I will not be able to attend the seminar but would like to order the CD Rom. (allow four weeks for delivery) (Elder Law 12/14/12)

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



Granting Of Remittitur

By Ted Babbitt

Fla. Stat. 768.74 was enacted by the Legislature purportedly to permit a trial court to grant a remittitur or an additur considering specified criteria. Sec. (5) lists the criteria as follows:

- (a) Whether the amount awarded is indicative of prejudice, passion, or corruption on the part of the trier of fact;
- (b) Whether it appears that the trier of fact ignored the evidence in reaching a verdict or misconceived the merits of the case relating to the amounts of damages recoverable;
- (c) Whether the trier of fact took improper elements of damages into account or arrived at the amount of damages by speculation and conjecture;
- (d) Whether the amount awarded bears a reasonable relation to the amount of damages proved and the injury suffered; and
- (e) Whether the amount awarded is supported by the evidence and is such that it could be adduced in a logical manner by reasonable persons.

None of these factors are actually new. The trial court's ability to grant a remittitur or an additur was always based on essentially the same criteria.

The Legislature added a Sec. (6) apparently to honor long-standing Florida law that a Court should not substitute its opinion on damages for that of the jury.

(6) It is the intent of the Legislature to vest the trial courts of this state with the discretionary authority to review the amounts of damages awarded by a trier of fact in light of a standard of excessiveness or inadequacy. The Legislature recognizes that the reasonable actions of a jury are a fundamental precept of American jurisprudence and that such actions should be disturbed or modified with caution and discretion. However, it is further recognized that a review by the courts in accordance with the standards set forth in this section provides an additional element of soundness and logic to our judicial system and is in the best interests of the citizens of this state.

Azoulay v. Condominium Association of La Mer Estates, Inc., 37 Fla. L. Weekly D1955 (4th DCA, Aug. 15, 2012) was a case in which the trial court determined that a remittitur was necessary.

The facts were that an 82 year old plaintiff fell in her condominium parking lot fracturing her wrist and receiving facial lacerations. The case was tried largely on liability and the only testimony regarding pain and suffering was offered by the plaintiff herself. She testified that she had surgery to her wrist and then went to physical therapy for two years. Her testimony indicated that her wrist continued to bother her and she could not do some tasks like cutting vegetables.

The jury awarded the amount of the medical expenses and \$300,000.00 in past and future pain and suffering and the trial court remitted the noneconomic damages down to \$150,000.00.

It is certainly not obvious from the facts that a remittitur was justified. An 82 year old woman who can no longer do tasks such as cutting vegetables, who had to go to physical therapy for two years, suffered a fractured wrist and other injuries who testified that the wrist continued to bother her two years later, seemed to be adequate justification for a \$300,000.00 award for pain and suffering. Nevertheless the trial judge was obviously in the best position to judge the quality of the testimony as it relates to the amount of the award.

On appeal, the Fourth District affirmed the trial court. While at first blush it would appear that an arbitrary reduction in the value of pain and suffering under these facts is difficult to understand other than as a Judge replacing the trier of facts conclusion, it is important to understand that the appellate court was required to give an enormous amount of deference to the trial court's finding. The standard by which an appellate court reviews a trial court's determination of the necessity for a remittitur is under a clear abuse of discretion.

The plaintiff relied upon Adams v. Saavedra, 65 So. 3d 1185 (Fla. 4th DCA 2011) for reversal. That case was decided by the Fourth District only a year prior to this decision. In that case, under starkly different facts, the Fourth District reversed an award of a remittitur and stated at Page 1189:

"In tort cases damages are to be measured by the jury's discretion. The court should never declare a verdict excessive merely because it is above the amount which the court itself considers the jury should have allowed." Ashcroft v. Calder Race Course, Inc., 492 So. 2d 1309, 1314 (Fla. 1986). "A jury is accorded wide latitude in determining the amount of non-economic damages." Hendry v. Zelaya, 841 So. 2d 572, 575 (Fla. 3d DCA 2003). The verdict should not be disputed "unless the record affirmatively shows the impropriety of the verdict or there is an independent determination by the trial judge that the jury was influenced by considerations outside the record." Kaine v. Gov't Emps. Ins. Co., 735 So. 2d 599, 600-01 (Fla. 3d DCA 1999).

The appellate court put weight on the fact that only the plaintiff's own testimony was offered regarding noneconomic damages. The Court did consider that these kinds of damages affect a person at age 82 considerably differently than a younger individual but the appellate court simply could not reach the conclusion that the trial court's determination to grant a remittitur was not supported by competent substantial evidence or that there was a clear abuse of discretion. Under that standard, the fact that there were less than two pages of testimony concerning injuries in the case, there was no medical testimony offered and no testimony at all other than the plaintiff herself, the Court found that there was enough to permit the remittitur to stand.

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.



Piercing of the Corporate Veil - Extends Only to the Shareholders

By Hank Jackson

The Eleventh Circuit Court of Appeals, relying on Florida substantive law, ruled last year that the piercing of the corporate veil theory could only be utilized to find a shareholder liable. *Molinos Valle Del Cibao v. Lama*, 633 F.3d 1330 (11th Cir. 2011). In that case, the plaintiff brought a claim directly against a member of the board of directors. That director controlled the purported sham corporation and owned shares of its upstream parent corporation. The Eleventh Circuit, although recognizing the state's highest court had not ruled directly on the issue, affirmed dismissal of the claim against the director. The Court stated that it predicted the Florida Supreme Court would rule that piercing of the corporate veil is inapplicable to non-shareholder directors.

In formulating its opinion, the Eleventh Circuit looked to Florida's intermediate appellate courts for the status of Florida law pertaining to disregarding the corporate entity. It described Florida's black letter law as requiring a plaintiff seeking to pierce the corporate veil to show:

- (1) the shareholder dominated and controlled the corporation to such an extent that the corporations' independent existence was in fact non-existent and the shareholders were in fact alter egos of the corporation;
- (2) the corporate form must have been used fraudulently or for an improper purpose; and
- (3) the fraudulent or improper use of the corporate form caused injury to the claimant.

Id. at 1349.

The Eleventh Circuit further explained that the theme of ownership underlies the leading Florida Supreme Court case on piercing the corporate veil. In that leading case, *Dania Jai- Alai Palace, Inc. v. Sykes*, 450 So. 2d 1114 (Fla. 1984), the Florida Supreme Court discussed and referenced several opinions that refused to find liability against non-shareholders. The point was that non-shareholders are not owners. As noted by the Eleventh Circuit, normal piercing of the corporate veil cases seek to hold the parent corporation liable and not the shareholders of the parent or the officers of the subsidiary. *Malinos Valle*, 633 F.3d at 1350.

Interestingly, in *Malinos Valle*, the Eleventh Circuit acknowledged there is one circumstance (not applicable here) where the Florida Supreme Court would probably hold a non-shareholder liable under the piercing of the corporate veil theory. That is where the defendant officer of the sham corporation is the wife of the sole shareholder. See *Walton v. Tomax Corp.* 632 So.2d 178, 191 n.2 (Fla. 5th DCA 1994). As explained by the Eleventh Circuit, "a wife's ownership is a very close analogue to the husband's ownership because the economic proceeds likely benefit the entire family unit." *Id.* The Court emphasized the distinction further by adding: "A separate corporate entity is nothing like a spouse." *Id.*

The Florida appellate courts have not cited *Malinos Valle*. But there is no reason to believe the Eleventh Circuit's prediction of how the Florida Supreme Court would rule is erroneous. The fundamental underlining theme persists - the piercing of the corporate veil liability theory applies only to shareholders. However, as with many things in life, there may be exceptions for spouses.

Author: Hank Jackson is a Board Certified Business Litigation Attorney with Shutts & Bowen LLP

Wishing you blessings of health, happiness & success on

Thanksgiving
& always!



Cathleen Scott & Associates, P.A.

EMPLOYMENT | HEALTHCARE

www.CSAPALAW.com

Jupiter Gardens 250 S. Central Blvd, Ste. 104 Jupiter, Florida 33458

Locations in West Palm Beach & Jupiter, Florida

Telephone (561)653-0008 Facsimile (561)653-0020 Toll free (877)907-2688

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.

Darren Ayoub - West Palm Beach, FL; Nova Southeastern University, 2010; Sole Practitioner, West Palm Beach.

Amy Bierer - West Palm Beach, FL; Loyola University, 1992; Sole Practitioner, North Palm Beach.

Jesse Cohen - Salem, MA; University of Miami, 2007; Sole Practitioner, Boynton Beach.

Joyce L. Dougherty - Florida Registered Paralegal Membership, Fox Rothschild, LLP, West Palm Beach.

Krista A. Downey - Coral Gables, FL; University Of Miami; Law Student Membership, Tequesta.

Jessica Fagen - Florida Coastal School of Law, 2007; Associate in Brock & Scott, PLLC, Ft. Lauderdale.

Jordan Gerber - University of Miami, 2008; Sole Practitioner, Ft. Lauderdale.

Monica Haddad - University of Florida; Law Student Membership, West Palm Beach.

Louise M. Halpen - Florida Registered Paralegal Membership, Beller Smith, P.L. Boca Raton.

Mayra Kadzinski - University of Illinois-Urbana, 2000; Sole Practitioner, Boca Raton.

Amanda Nicole Kleinrock - FL; Cornell Law School, 2011; Government Attorney with Legal Aid Society of Palm Beach County.

Evan S. Miller - West Palm Beach, FL; University of Florida, Law Student Membership; Gainesville.

Kathleen Pierrilus - Ontario, Canada; St. Thomas University, Associate in Brock & Scott, PLLC, Ft. Lauderdale.

Sarah Primrose - Bethlehem, PA; Michigan State University, Law Student Membership, West Palm Beach.

Franklin H. Sato - Sao Paulo, Brazil; St. Thomas University, 2008; Associate in Wicker, Smith, O'Hara, McCoy & Ford, P.A., West Palm Beach.

Paul Visnovske - St. Louis, MO; Barry University, 2010, Associate in the Law Offices of Drake Ozment & Associates, West Palm Beach.

Deborah E. Woodard - Florida Registered Paralegal Membership, Lawrence Duffy, P.A., Palm Beach Gardens.

Katherine Woods - Stuart, FL; University of Florida, 2011; Associate in Ross Earle & Bonan, P.A., Stuart.

WELCOME



Log On To
www.palmbeachbar.org

Discount Movie
Tickets Make
Great Gifts
for the Holidays!



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

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

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



W. Jay Hunston, Jr.
Mediator/Arbitrator

Offering New Mediation Billing Options!

Never a travel charge in the 6 Counties of the 19th, 15th and 17th Circuits.

Over 20 years mediation experience.

11 years full-time mediator/arbitrator.

NEW BILLING OPTIONS:

\$125/hr./party, up to \$400/hr. cap - 2.5 hr. min.
3 hr. block in a.m. or p.m. for \$1,000; 8 hr. block for \$3,000.
\$3,500 uniform per diem available state-wide.

- Fla. Bar Bd. Cert. Civil Trial Lawyer (1983 - 2003)
- Fla. Certified Circuit Civil Mediator (1991 - Present)
- Fla. Certified Family Mediator (1998 - Present)
- Fla. Certified Appellate Mediator (2012—Present)

P.O. Box 508, Stuart, FL 34995
(772) 223-5503; (800) 771-7780 - Office
(772) 223-4092; (866) 748-6786 - Fax
Email: wjh@hunstonadr.com
Website/Online Calendar: www.hunstonadr.com



Post-Petition Appreciation of Asset Value

By Marc P. Barmat

In 2010, the United States Supreme Court decided the case of Schwab v. Reilly, 130 S.Ct. 2652 (2010). In Schwab, the Court held that when a debtor claims an asset as exempt on their bankruptcy schedules and lists an equal dollar value for the exemption as the asset, that does not indicate an intent to wholly exempt that asset from the bankruptcy estate. In Schwab, the debtor valued an asset at \$10,718 on their Schedule B and claimed an exemption for that same dollar amount on their Schedule C. The trustee did not object to the claimed exemption. When the trustee later discovered that the asset's actual value was \$17,200 (far above the statutory exemption limit) the trustee attempted to claim that additional value for the estate. The debtor contended that no matter what the actual value of the asset was, she had indicated her intent to wholly exempt the asset from the estate by claiming an equal dollar value for the exemption as the asset. The Supreme Court rejected the debtor's arguments and held that merely listing as exempt on Schedule C the same dollar value of an asset that appears as its estimated value on Schedule B does not indicate an intent to wholly exempt that asset from the estate.

The Third Circuit Court of Appeals, in applying Schwab v. Reilly, recently held that claiming as exempt a value equal to the scheduled value of an asset, only exempts the scheduled value and not the asset itself. In re Orton, 687 F.3d 612 (3rd Cir. 2012). Further, the Orton Court held that any post-petition appreciation of an asset belongs to the bankruptcy estate. *Id.* at 619.

In Orton, the Chapter 7 debtor scheduled a one-eighth interest in vacant land that was subject to an oil and gas lease, along with a one-fourth interest in royalties from the lease. No wells had ever been drilled on the land and no royalties were due. Using the federal wildcard exemption, the debtor claimed exemptions of \$4,250 in the land interest and \$1 in the royalty interest, an amount

equal to the scheduled value of the assets. It was undisputed that the claimed values constituted the assets' fair market values.

After no party timely objected to debtor's claimed exemptions, the trustee moved to close the case but to except debtor's royalty interest from abandonment. In doing so, the trustee sought to preserve the trustee's ability to recover for the benefit of the estate any potential future royalties resulting from a productive well. Although the debtor agreed to close the case, the debtor objected to the trustee's motion to except the royalty interest from abandonment. Relying on Schwab v. Reilly, the bankruptcy court ruled in favor of the trustee, excepting the royalty interest from abandonment and holding that the trustee was entitled to pursue any future increase in the value of the royalty interest above the amount of the interest listed as exempt. The district court

adopted the bankruptcy court's reasoning and affirmed.

On appeal to the Third Circuit, the debtor argued that debtor was entitled to any future appreciation of debtor's land and royalty interest because debtor claimed the assets as wholly exempt by claiming the full fair market value of the assets on Schedule C. The Third Circuit disagreed and found debtor's actions inadequate to wholly exempt debtor's royalty interest. *Id.* at 618.

The Third Circuit then considered whether the debtor or the bankruptcy estate was entitled to receive any potential appreciation in value above the exempted dollar amount. The Court determined that the bankruptcy estate was entitled to any appreciation because the estate retained the asset, whereas the debtor retained only a scheduled monetary interest in the asset up to the dollar amount claimed as exempt. *Id.* at 619.

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

KLETT, MESCHES & JOHNSON, P. L.

2855 PGA Boulevard

Gardens Business Center

Palm Beach Gardens, FL 33410

(561) 624-8202 • F: (561) 624-8303

Stanley D. Klett, Jr., Florida Bar Certified Business Litigation

Larry M. Mesches, Member Attorney's Title Insurance Fund

and

Kenneth N. Johnson, Florida Bar Certified Business Litigation

President, North County Section, Palm Beach County Bar Association

(Also admitted in Wisconsin)

All Formerly of Rutherford Mulhall, PA

Proudly Announce The Formation of Their New Firm.

Practice Areas

Commercial and Civil Litigation

Residential and Commercial Real Estate

Probate and Estates

Criminal Law

Construction Law

Homeowner and Condominium Associations

Financial Institutions

The Bankruptcy Law CLE Committee of the Palm Beach County Bar Association
presents:



“Nuts and Bolts of Bankruptcy Practice”

Wednesday, December 5, 2012 - 8:45a.m. - 12:15p.m.

Bar Offices - **NEW LOCATION:** 1507 Belvedere Rd., WPB

Program Schedule

- 8:45am - 8:55am **Check In / Late Registration**
- 8:55am - 9:00am **Welcome - Opening Remarks** - *Brian K. McMahon, Esq.,
Brian K. McMahon, P.A., Bankruptcy CLE Committee Chair*
- 9:00am - 10:20am **Mock Client Interview and Discussion** - *Members of
Bankruptcy CLE Group. Moderated by: Brian K. McMahon, Esq.*
- 10:20am - 10:40am **BREAK**
- 10:40am - 11:30am **Ethical Considerations** - *Robert C. Furr, Esq., Furr & Cohen, P.A.*
- 11:30am - 12:15pm **Chapter 13 Issues** - *Robin R. Weiner, Esq., Chapter 13 Trustee
Plantation, FL*

.....

This course is expected to receive 3.5 CLER/ 1.0 Ethics credits from The Florida Bar.
The cost of the seminar is **\$100** for PBCBA members/paralegals, **\$140** for non-PBCBA members/
paralegals. **After 11/28/12, add \$10.00 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 avail-
ability of appropriate accommodations, attach a general description of your needs. We will contact you for fur-
ther coordination.

**HOW TO
REGISTER**



BY CHECK
Return this
form



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



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

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

Name: _____

Telephone: _____

Address: _____

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) (Bankruptcy Seminar 12/5/12) 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.

Your case has been tried, but it's not over.

Our appellate experience and expertise can help.

We are available to provide appellate representation in:

- Appeals to the Fourth District Court of Appeal • Appeals to the United States Court of Appeals
- Appeals of Bankruptcy Court decisions • Appeals of County Court decisions
- Appeals in any substantive area of civil law
- Non-final appeals and petitions for review, including injunctions and arbitration disputes.

Shareholder Robert J. Hauser is an AV-rated, Board-Certified Specialist in Appellate Practice.



BEASLEY HAUSER KRAMER & GALARDI, P.A.

561.835.0900 | BEASLEYLAW.NET

505 S. FLAGLER DRIVE, SUITE 1500 | WEST PALM BEACH, FLORIDA 33401



ARC Mediation accommodates clients throughout Florida,
from Miami-Dade through the Treasure Coast and beyond.
561-712-4717 • www.arcmediation.com

Greg Coleman Exemplifies Professionalism

By Eunice Tall Baros



If you've been a lawyer in Palm Beach County for any time you surely know the name of **Greg Coleman**. He is a past president of the Palm Beach County Bar Association and its Young Lawyers Section and a distinguished member of The Florida Bar Board of Governors.

He's the proud and humble recipient of numerous Florida Bar commendations including his second prestigious President's Award of Merit for his "thorough and thoughtful planning, innovative ideas with the use of technology and many contributions to The Florida Bar and service as co-chair of the discipline commission."

Would it come as any surprise that he is now "exploring support" for The Florida Bar presidency in 2014-15? According to Florida Bar rules, which Coleman strictly follows, he cannot say that he is "running" yet but it would be safe to say among friends that he's "almost there" and competition against him is predictably scarce.

In a starched white shirt and tie, Coleman, 49, graciously greets attorneys and judges who easily recognize him at a Clematis lunch spot where he has an affable manner and engaging laugh. Coleman is a partner in the downtown firm of Burman Critton Luttier & Coleman, specializing in complex commercial litigation, personal injury and wrongful death. He has a nice view of the Intracoastal from his large desk and a closer view on the wall in front of him of a huge mounted wahoo he caught years ago on one of his beloved fishing trips. Yes, there is a story about how he got it in the boat, so ask him to elaborate the next time you see him even if you have never met him.

Coleman began his illustrious legal career as a prosecutor in the Palm Beach County State Attorney's Office after his 1989 graduation from Stetson Law School in St. Petersburg. After a quick rise to the serious crimes division in record time, he joined the local firm of Walton Lantaff with his respected colleague, former Florida Bar President Jay White. After five years, he joined his current firm.

After school, "Coles" came back to his Jupiter hometown where he fondly remembers fishing and surfing around the old Juno Beach Pier as a middle school student. His mom and his dad -- an entrepreneur and restaurateur -- raised three children with high standards and values. It's no wonder Coleman became involved in the Supreme Court Commission for Professionalism, various Judicial Nominating Commissions and the Judicial Qualifications Commission Screening Committee. He was also a delegate to the American Bar Association from 1996-98.

"Greg Coleman is a strong believer in promoting and fostering professionalism within the Bar and has demonstrated this with his words and his actions by being a lawyer with exemplary ethical conduct, character and integrity," said Jay White. "As chair of the Client Security Fund Procedures Committee, Greg is leading The Florida Bar's revamping of the fund to insure that clients who have had money stolen or misappropriated by unprofessional and unethical lawyers are compensated on a fair and reasonable basis," he added.

Coleman has been recognized recently for starting a program

to send email and video messages to Bar members and for bolstering "Lawyers Helping Lawyers," a program to provide unemployed attorneys with advice about finding clients and beginning their own practice. He was also instrumental in setting up Facebook and Twitter for The Florida Bar to communicate with Bar members.



Coleman's response as to why he is so involved in the Bar is simple and admirable: He says he is drawn to "giving something back because it's been good to me. The driving force is professionalism," he said. "I would like to help make life better for lawyers in general and help them learn to balance work and home life."

He sees "professionalism" as the way to lead to a higher quality of practice, graciousness and less stress. He believes in treating all people "with respect -- whether it be in our professional interactions, in or out of the courtroom, or to a waiter in a restaurant or a mechanic at a gas station."

"Greg is a very talented lawyer," offered immediate past Florida Bar President Scott Hawkins who recently honored Coleman for his Bar work. "We've done battle many times (representing opposing clients) and he's a strong advocate and a gentleman. He was a superb member of the Board of Governors and I relied on him very heavily when I was president."

"Frankly, Greg is one of a handful of the most experienced members of the Board of Governors," said Scott Hawkins. "Whenever he announces, I am going to endorse him for the presidency of the Bar."

In his "off" time, Coleman enjoys being with his wife, Monica, and son Cody, 5, and relishes his time on the water or golf course.

He supports various charities, including "Be A Star Foundation" to advance research and treatment for children's cancer, the Leukemia and Lymphoma Society and The First Tee, to help underprivileged children in sports. He likes to read murder mysteries, particularly books by Douglas Preston and Lincoln Child.

Circuit Court Report CIVIL DIVISIONS • As of September 24, 2012

DIVISION	JURY TRIALS	NON-JURY TRIALS	MOTIONS	CASES PENDING
AA KELLEY	02-13	02-13	11-12	1361
AB KASTRENAKES	01-13	01-13	12-12	1464
AD FRENCH	01-13	01-13	12-12	1570
AE MCCARTHY	07-13	07-13	12-12	1730
AF KEYSER	04-13	04-13	10-12	1537
AG CROW	03-13	01-13	11-12	1758
AH BROWN	02-13	02-13	10-12	1423
AI SASSER	01-13	12-12	10-12	1089
AJ ROSENBERG	01-13	01-13	12-12	1272
AN McSORLEY	03-13	03-13	12-12	1542
AO BRUNSON	02-13	01-13	10-12	1498



BOBO, A. Russell

It is with profound sadness that the Law Firm of Bobo, Ciotoli, Bocchino, White, Buigas & Russell, P.A. announces the untimely passing of our founder and friend, Russ Bobo, who passed away Monday, September 24th, after a courageous struggle with pancreatic cancer. Mr. Bobo, one of Florida's Leading Medical Malpractice Defense Attorneys recognized by Martindale-Hubbell, founded his firm in Palm Beach County in 1986 which has expanded to include representation statewide.

He has been a member of the Palm Beach County and Florida Bar Associations since 1974, and a member of professional legal organizations including the American Board of Trial Advocates and the Association of Trial Lawyers of America. He began his law practice with Jones, Paine & Foster in West Palm Beach in 1974, and then founded the firm of McFarlain, Bobo in Tallahassee in 1978, before returning to North Palm Beach in 1986 founding and founding the firm now known as Bobo, Ciotoli, Bocchino, White, Buigas & Russell, P.A. His unprecedented record as a leading medical malpractice defense attorney earned him the overwhelming respect and admiration of his peers and the legal community throughout the State of Florida and the Nation.

Mr. Bobo is a 1970 graduate of the University of Florida and 1973 Florida State University Law School. He was a member and past president of the University of Florida Chapter of Delta Chi fraternity and an honorary member of Florida Blue Key. He was active in support of the American Cancer Society and an active member of St. Marks Episcopal Church in Palm Beach Gardens.

Russell Bobo Jr. is survived by his wife of 41 years, Timara Tomko Bobo. In addition he is survived by Kristin (Josh) Davidson and granddaughters Hailey and Ashley of Austin, Texas; Kelly (Freddy) Chesney and grandsons Trey and Kameron of Palm City, FL; and Bryan (Brianna) Bobo of Port St. Lucie, FL and his sister-in-law Andrea (Chuck) Daniels of Columbia, MD.



Fee Award Reduced After “Reasonable” Settlement Rejected by Wife

Submitted by Christopher R. Bruce

In the recent case of *Hallac v. Hallac*, 88 So. 3d 253 (Fla. 4th DCA 2012), the Fourth District Court of Appeal affirmed an order limiting a wife’s request for attorney’s fees under Florida Statute § 61.16 due to her rejection of what the court deemed to be a reasonable settlement offer.

The procedural history of *Hallac* is simple and developed rapidly. In August 2009, the wife filed for divorce in Palm Beach County after seven years of marriage. The financial affidavits filed in the case revealed the husband earned over \$500,000 a year in an investment management business while the wife had no income. Five months into the divorce litigation the husband offered his wife a settlement that included \$239,000 in assets, \$200,000 in lump sum alimony, and an additional \$20,000 towards attorney’s fees. The wife rejected the husband’s offer and the case proceeded to trial.

After hearing the evidence during the April 2010 trial, the trial court awarded the wife net assets of \$178,369 and bridge-the-gap alimony of \$8,000 per month for nine months. The wife did not appeal the final judgment.

Following the divorce trial both parties filed motions for attorney’s fees. The wife moved for attorney’s fees under the traditional §61.16 grounds of “need and ability to pay.” The husband contended that, despite his high income, he was entitled to attorney’s fees from wife as she had rejected an offer of settlement that was significantly better than anything she could have received at trial.

The trial court’s order on the attorney’s fee hearing found the wife’s rejection of the husband’s offer of settlement was unreasonable as she could not have expected to “do better” than the offer at trial. The trial court determined that, using the wife’s valuations, she could not have expected to receive more than \$141,000 in net assets at trial, whereas the husband’s last settlement offer was for \$439,000 in total assets. The trial court concluded that the wife had no reason to continue to litigate after the husband’s last settlement offer and therefore denied her request for attorney’s fees incurred after the offer and granted husband his attorney’s fees for time spent litigating after making the offer. The trial court’s attorney’s fees order amounted to a net fee award in favor of the husband.

The wife appealed the trial court’s award of attorney’s fees to husband, contending the court abused its discretion in denying her attorney’s fees incurred after the husband’s settlement offer solely on the basis of her failure to accept the offer. The husband argued the trial did not abuse its discretion because his offer was reasonable to the point of making any litigation after his offer useless.

Judge Martha Warner, writing for a unanimous panel of the Fourth District Court of Appeal, affirmed the trial court’s reduction in attorney’s fees to the wife and reversed the award of attorney’s fees to the husband. The Court reasoned that the wife’s failure to accept a favorable settlement was a basis for limiting her entitlement to attorney’s fees but reversed the fee award to husband because he failed to demonstrate the wife engaged in vexatious litigation. Judges Dorian Damoorgian and

Burton Conner concurred with Judge Warner’s opinion.

The *Hallac* court relied on *Rosen v. Rosen*, 696 So. 2d 697 (Fla. 1997) as a basis for denying the wife attorney’s fees incurred during litigation after the husband’s settlement offer. The *Hallac* court noted that under *Rosen*, “other relevant circumstances” besides the parties’ need and ability to pay attorney’s fees should be considered when determining entitlement to fees under § 61.16. Further, settlement offers are a “relevant circumstance” to be considered when setting a § 61.16 attorney’s fee under the *Rosen* parameters. The trial court did not abuse its discretion in denying wife attorney’s fees for her decision to litigate after the husband presented her with a reasonable settlement offer because the results she obtained at trial fell far short of the offer.

As to the award of fees to the husband, the *Hallac* court found the fees were not justified under § 61.16. Given the husband’s vastly superior income, the only circumstance allowing the trial court to require wife to pay his fees would be through the court’s inherent authority to assess sanctions for vexatious litigation under the inequitable conduct doctrine. The wife could not be required to pay husband’s attorney’s fees because her decision not to accept husband’s settlement offer in and of itself did not represent the type of vexatious conduct or bad faith litigation needed to trigger sanctions under the inequitable conduct doctrine.

Although the long-term impact of *Hallac* is remains to be seen, it appears the days of the wealthy spouse being required to foot the tab for unrealistic divorce court litigation is over in the Fourth District. Family law practitioners, litigants, mediators, and counselors should take note of *Hallac*, as the case makes it clear that an impecunious spouse’s entitlement to attorney’s fees under §61.16 can be limited or even eliminated when a reasonable settlement is rejected.

Christopher R. Bruce is a partner of the firm of Nugent Zborowski & Bruce. The firm’s practice is strictly limited to divorce and family law matters.

Burns Wealth Management Group

Robert Burns, CFP®, ChFC®

Senior Vice President—Wealth Management
Wealth Management Advisor

(561) 775-8113

*Helping clients make smarter, more informed
planning and investment decisions
for over 25 years.*

3507 Kyoto Gardens Drive, Suite 400, Palm Beach Gardens, FL 33410

Merrill Lynch Wealth Management makes available products and services offered by Merrill-Lynch, Pierce, Fenner & Smith Incorporated, a registered broker-dealer and member SIPC, and other subsidiaries of Bank of America Corporation.
© 2012 Bank of America Corporation. All rights reserved.

 **Merrill Lynch**
Wealth Management
Bank of America Corporation

ONLY ONE

How many lawyers can say that?



Fighting for the Injured since 1985

Rosenthal, Levy, Simon & Ryles, P.A.

ATTORNEYS AT LAW

Attorney Joy E. Greyer is the only Board Certified Social Security Disability Advocate in Palm Beach County and the Treasure Coast. Joy is one of only six social security disability advocates in Florida certified by the National Board of Legal Specialty Certification.

When choosing an attorney to represent your clients in Social Security Disability, shouldn't you **choose the only one?**

Referral fees paid in accordance with all rules governing the Florida Bar.

WEST PALM BEACH | PORT ST. LUCIE | NATIONWIDE | ROSENTHALLEVY.COM | 1-866-640-7117

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

LITIGATION ASSOCIATE: AV rated trial litigation firm seeking attorney for our NPB office. Must possess 2 to 3 yrs experience in Litigation/Trial Practice in Civil Litigation. MUST have Florida Bar license. Send resume and salary requirements to Pamela McBride: Bobo, Ciotoli et al mcbride@bobolaw.com.

EXCEPTIONAL OPPORTUNITY:

Manhattan law firm with approx 90 attorneys seeks to expand its West Palm Beach office in CityPlace Tower. We are interested in adding new partners with significant portable business. Please contact Allan Samuels asamuels@mclaughlinstern.com.

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.

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

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.

OFFICE SPACE

OFFICE SUBLEASE IN CENTURION TOWER: 1601 Forum Place, West Palm Beach. Includes office, file space and a secretarial station, and access to a high speed copier/scanner, two conference rooms, a full kitchen and internet. Call Beth (561) 659-7878.

SHARED OFFICE SUITE: Large law offices with adjacent legal assistant stations available in a spacious law office suite. Use of 2 large conference/deposition rooms; kitchen; large file-room with shelving; lobby area; file cabinets; fax/copier/high speed scanner; and undercover parking. Located in the Barristers' Building, one block off Palm Beach Lakes Blvd, with easy access to I-95. \$750 per mo. (561) 371-1431.

CITYPLACE EXECUTIVE AND

VIRTUAL OFFICES: Impress clients and colleagues with your office at The Business Center. CityPlace is the perfect place for attorneys to meet clients and conduct business. Whether you need a place to receive your mail and meet clients, or you need a full time office with reception and administrative assistance, TBC is the perfect place for you. Take a tour online www.bcatcp.com or call (561) 714-7861 for more information.

REAL ESTATE/OFFICE SHARING:

General practice law firm, located downtown Delray Beach, looking for a Litigation attorney with own practice to lease executive office including secretarial office, use of conference rooms, photocopiers, fax machines, kitchen, telephone, internet and receptionist. Litigation referrals available. Contact Patti (561) 276-2900.

HEARSAY



Sachs Sax Caplan has added two new associates, **Ronald Scott Kaniuk** and **Jason L. Naparstek** in

the firm's Boca Raton office. Kaniuk is Senior Counsel practicing in the firm's Community Association's Practice Group and Naparstek focuses his practice primarily in the area of Marital and Family law.

Charles H. "Chubby" Damsel, Jr. has been honored by the Florida Defense Lawyers Association with its FDLA 2012 Joseph P. Metzger Outstanding Achievement Award in recognition of superlative members' dedication to FDLA and its goals. Damsel is a chartered member, having served as its President in 1976-77.

Rosenthal, Levy, Simon & Ryles, P.A. shareholder **Richard Ryles** has earned the designation of Florida Crime Prevention Practitioner. This accomplishment comes after completing over 120 hours of classroom training offered through the Florida Crime Prevention Training Institute.



Cathleen Scott of Cathleen Scott & Associates was recently elected as Vice President of the Florida Chapter of National Employment Lawyers Association along with **Lindsey**

Wagner of the firm being elected as Treasurer for the 2012-13 year.



Michael A. Lampert of Law Offices of Michael A. Lampert, P.A., has been elected Chairman of the Tax Section of the Florida Bar.



Schuler, Halvorson, Weisser & Zoeller, P.A. is pleased to announce that **William D.**

Zoeller, a partner at the firm, is now a Board Certified Civil Trial Attorney. Also, the firm announces that **Michael J. Overbeck** has become a partner with the firm and is also a Board Certified Civil Trial Attorney.

Support our Advertisers.
Mention that you saw their ad in the *Bulletin*!



PALM BEACH COUNTY BAR ASSOCIATION

BULLETIN

1507 Belvedere Road, West Palm Beach, FL 33406

PRESORT STD
US POSTAGE
PAID
WEST PALM BCH FL
PERMIT NO. 66

PAST PRESIDENTS...

M.D. CARMICHAEL*	PAUL W. POTTER*	GAVIN LETTS*	ROBERT V. ROMANI*
RICHARD P. ROBBINS*	WAREING T. MILLER*	JAMES S. ROBINSON	MICHAEL P. WALSH
L.R. BAKER*	CHARLES B. FULTON*****	CHARLES H. DAMSEL, JR.	JULIEANN ALLISON
HARRY A. JOHNSTON*	J. LEO CHAPMAN*	EDWARD LEWIS	MICHAEL A. VISCOMI
GEORGE W. COLEMAN*	ELWYN L. MIDDLETON*	RAYMOND ROYCE	CAROL McLEAN BREWER
H.C. FISHER****	H. ELMO ROBINSON*	PETER VAN ANDEL	JERALD S. BEER
MARSHALL B. WOOD*	J. STOCKTON BRYAN, JR.	LARRY KLEIN	JOHN G. WHITE III**
E. HARRIS DREW***	HAROLD G. MAASS*	THEODORE BABBITT	MICHAEL T. KRANZ
B.F. PATY*	ROBERT F. CROMWELL*	JOHN FLANIGAN	EDWARD DOWNEY
JOSEPH S. WHITE*	CHARLES H. WARWICK III	SIDNEY A. STUBBS, JR.	SCOTT G. HAWKINS**
HENRY P. LILIENTHAL*	PHILLIP D. ANDERSON*	JOSEPH J. REITER**	AMY L. SMITH
MANLEY P. CALDWELL*	FREDERICK C. PRIOR	JOHN B. McCRACKEN*	GREGORY W. COLEMAN
WILBUR E. COOK*	JAMES C. DOWNEY*	DAVID L. ROTH	LISA S. SMALL
W. MURRAY HAMNER*	WILLIAM A. FOSTER	D. CULVER SMITH III	STANLEY D. KLETT, JR.
RICHARD PRESCOTT*	ALAN F. BRACKETT*	TIMOTHY W. GASKILL	THEODORE J. LEOPOLD
RUSSELL MORROW*	ROBERT D. TYLANDER*	ARTHUR G. WROBLE	MANUEL FARACH
CULVER SMITH*	ROBERT McK FOSTER*	GUY C. HILL	MEENU T. SASSER
RAYMOND ALLEY*	JOHN M. FARRELL*	PATRICK J. CASEY	RICHARD D. SCHULER
C.Y. BYRD*	H. LAURENCE COOPER, JR.*	JAMES G. PRESSLY, JR.	MICHELLE SUSKAUER
WILLARD UTLEY*	JOHN R. DAY*	PATRICK C. MASSA	MICHAEL J. NAPOLEONE
C.H. ERNEST*	JOHN L. BURNS*	STEVEN A. STINSON	JOHN M. HOWE
	HARRY JOHNSTON II	CARL M. MATHISON, JR.	

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

CALENDAR November 2012

Friday, November 2, 8:30am - 9:30am
ADR Committee Meeting
Bar Association Office

Friday, November 2, 11:30am - 1pm
Technology Committee Seminar
Bar Association Office

Saturday, November 3, 8am - 10am
NCS/FAWL Beach Clean Up

Monday, November 5, 11:30am - 1pm
**Family Law CLE
Committee Meeting**
Bar Association Office

Tuesday, November 6, Noon - 1pm
**Corporate Counsel
Committee Meeting**
Bar Association Office

Wednesday, November 7, 6pm - 8pm
**PBJA & BCJA Joint Reception
Meet & Greet**

Thursday, November 8, 11:30am - 1pm
Solo & Small Firm Lunch
Bar Association Office

Thursday, November 8, 11:45am - 1pm
SPBC FAWL Luncheon

Thursday, November 8, 6pm - 8pm
Legal Aid Event
Guy LaFerrer Italian Clothing
for Men
Boca Center, 5050 Town Center
Circle #227

Thursday, November 8,
5:30pm - 7:30pm
**Federal Bar Assn.
Cocktail Reception**
Location TBD

Friday, November 9, 11:30am - 1pm
**Joint Forum Club Luncheon with
Guest Speaker Ret. U.S. Supreme
Court Justice John Paul Stevens**
Cohen Pavilion at the Kravis Center

Saturday, November 10, Noon - 3pm
Minority Mentoring Picnic
Hallendale Beach

Monday, November 12
Court Holiday - Veteran's Day
Bar Office Closed

Tuesday, November 13,
11:45am - 1pm
**SPBC Bar Assn.
Membership Luncheon**
Boca County Club

Tuesday, November 13, Noon - 1pm
YLS Board Meeting
Bar Association Office

Wednesday, November 14, 8am - 1pm
Estate/Probate CLE Seminar
Embassy Suites, WPB

Wednesday, November 14,
11:45am - 1pm
**Judicial Relations
Committee Meeting**
Judicial Conference Room,
Main Courthouse

Wednesday, November 14,
Noon - 1:30pm
NCS Board Meeting

Wednesday, November 14,
5:30pm - 7pm
Legal Aid Brooks Bros. Event
Gardens Mall, Palm Beach Gardens

Thursday, November 15,
Noon - 1pm
**Professionalism
Committee Meeting**
Bar Association Office

Thursday, November 15,
5:30pm - 7pm
YLS Happy Hour
Location TBD

Friday, November 16, 7:30am - 10am
New Attorney Breakfast
Courthouse, WPB

Friday, November 16,
11:45am - 1pm
FAWL Luncheon
WPB Marriott

Tuesday, November 20,
11:45am - 1pm
**Unified Family Practice
Committee Meeting**
Law Library, Main Courthouse

Thursday, November 22 - 23
Thanksgiving Holiday
Bar Office Closed

Tuesday, November 27, Noon - 1pm
CDI Committee Meeting
Bar Association Office

Tuesday, November 27,
5:30pm - 6:30pm
Legal Aid Board Meeting
Bar Association Office

Wednesday, November 28,
11:30am - 1pm
Judicial Luncheon
Judicial Conference Room,
Main Courthouse

Wednesday, November 28,
5pm - 6:30pm
**PBCBA Board of Directors
Meeting**
Bar Association Office

Thursday, November 29,
Noon - 1pm
BBC Committee Meeting

Thursday, November 29, 6pm - 8pm
PBJA End of Year Reception
Café Saporì

Friday, November 30, 11am - 2pm
Legal Aid Bookfest
Barnes & Noble at City Place