



# PALM BEACH COUNTY BAR ASSOCIATION

# BULLETIN

www.palmbeachbar.org

September 2009



## Mark your calendar for upcoming Membership Meetings

**Texas Hold 'Em Tournament**  
**PLEASE NOTE DATE CHANGE:**  
September 16, 5:30 – 7:30 p.m.  
Palm Beach Kennel Club

**Diversity Luncheon and Summit**  
September 24, 11:45 – 5:00  
Guest Speaker: FL Supreme Court  
Justice Peggy Quince  
Marriott West Palm Beach

**Tri-County Appellate Law Seminar**  
December 4, 11:30 – 5:30 p.m.  
Boca Raton Marriott

**Annual Holiday Party & Silent Auction**  
December 10, 5:30 – 7:00 p.m.  
Frenchman's Reserve,  
Palm Beach Gardens

**Inaugural Variety Show**  
January 9, 2010  
PBCC Eissey Theatre  
**PLEASE NOTE DATE CHANGE!**

**Bench Bar Conference**  
February 19, 2010  
Palm Beach County Convention Center

**Joint Luncheon with South County Bar  
Association**  
March 16, 11:45 – 1:00 p.m.  
Guest Speaker: FL Bar President Jesse  
Diner and FL Bar Foundation  
President Adele Stone  
Boca Raton Marriott

**Law Day Luncheon**  
May 7, 11:45 – 1:00 p.m.

**Annual Installation Banquet**  
June 12, 7:00 p.m.  
The Breakers Hotel, Palm Beach

## PBCBA's Inaugural Diversity Summit on September 24, 2009



We are pleased to announce that the PBCBA will be hosting its inaugural *Diversity Summit* on September 24, 2009. FL Supreme Court Chief Justice Peggy Quince will be the keynote speaker for what promises to be a spectacular event. A membership luncheon will be hosted from 11:45 a.m. until 1:00 p.m. From 1 p.m. to 4:00 p.m., there will be panel and roundtable discussions comprised of representatives from the bench, bar, and possibly business community. A reception with Chief Justice Quince for summit attendees will follow.

The objective of the Summit is to celebrate progress, exchange practical ideas, and inform each other on how we can increase our legal community's diversity with productive initiatives. Be sure to register today online at the Bar's website [palmbeachbar.org](http://palmbeachbar.org).

## Bar Wins National Award

The National Association of Bar Executives, an affiliate organization of the American Bar Association, recently awarded its 2009 LexisNexis Community and Educational Outreach Awards during their annual meeting in Chicago. The award program honors bar associations and bar foundations that are committed to public service. The Palm Beach County Bar Association was one of five bar associations from around the country honored and was selected for our *And Justice For All* project which placed educational displays and exhibits in the courtroom of the 1916 Courthouse. Pictured at right is Executive Director Patience Burns along with Dianne Callahan, Director, Associations Marketing for LexisNexis.



## Second Annual Texas Hold 'Em Tournament September 16

We hope that you will join us for our Second Annual Texas Hold 'Em tournament and happy hour on **September 16** from **5:30 - 8:00 p.m.** This year's location has been changed to be held at the Palm Beach Kennel Club. For those who want to play in the tournament, we now have more tables available. If you don't want to play, come on out and watch, enjoy drinks and hors d'oeuvres with friends and have a great time.



## Inside...

President's Message .....	3
Laptop and Learn .....	5
Ten Tips .....	6
Support Pre-law .....	7
Personal Injury Corner .....	8
Bankruptcy .....	9
Young Lawyers Section .....	10

Probate Corner .....	11
New Members .....	12
Rainmaking .....	13
Lawyer Blogs .....	15
Board of Governors Report .....	16
Patent Marking .....	17
Legal Aid Society .....	19
Bulletin Board .....	22

THE  
**BULLETIN**

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The mission of the Palm Beach County Bar Association is to serve its members, foster professionalism and enhance the public's understanding and awareness of the legal system.

**LETTERS TO THE EDITOR**

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

Bar Association or the Bar Bulletin.

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

Send letters to:  
EDITOR Bar Bulletin  
Palm Beach County Bar Association  
1601 Belvedere Road, #302E  
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The investiture ceremonies for newly appointed County Court Judge August Bonavita were held on July 10. Judge Bonavita is pictured here taking the oath of office from Chief Judge Peter Blanc along with his wife Laura and his daughter Julia Rose.

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## President's Message



### A Little Help from Your Friends

By Michelle R. Suskauer, President

This is a tough time to practice law. Our economic "downturn" has brought us all down, really down. We are all reading about law firms that have cut salaries and eliminated bonuses. You may know someone who has been a victim of "downsizing". Maybe your practice area has dried up? You could be an associate worried about your billable hours, more than usual, and be willing to take a reduced rate just to be able to bill *something*. Some lawyers are trying to re-educate themselves or becoming generalists, taking whatever case comes in the door. Many firms are having problems collecting fees or facing fee disputes for the first time. You are not alone. The Palm Beach County Bar Association is here to support our legal

community and has organized resources to help you through this difficult time. We have created a page on our website dedicated to economic recovery resources with links to the American Bar Association, The Florida Bar and other sites to assist you, to motivate you and to redirect your efforts...

[palmbeachbar.org/economy.php](http://palmbeachbar.org/economy.php)

One of the main sources of assistance and information comes from the American Bar Association. They have been responsive to the situation and have assembled a wealth of information available to attorneys. Click on "*Job Search/Networking*" and you find many articles including "*You're History, Now What?*" or "*Does Looking Old Hurt the Job Search?*" How about articles on *Professional Development* like "*Facing a Layoff?*" or "*The Young Lawyers Financial Survival Guide*". *Career*

*Transitioning* articles like "*Lawyer for Hire, Freelance Contractors Change the Marketplace*" or "*Managing Your Career in Turbulent Times*". Who couldn't use help with *Stress Management*?

The Florida Bar offers LOMAS, Law Office Management Assistance Service. This is a great resource if you are starting up your own practice. Information is available on every imaginable topic from calendaring to professional liability insurance, from disaster management to marketing. And the best part is... it is free!

It is a tough time to practice law. We truly are in an economic "downturn". But things are looking up from down here. You'll get by with a little help from your friends.

Be sure to follow me on the Bar's Twitter account  
[twitter.com/PBCBarPrez](https://twitter.com/PBCBarPrez)



## Legal Aid Society of Palm Beach County's 9th Annual Cup of Justice Golf Classic Presented by CityPlace Office Tower Lakes Course, Bear Lakes Country Club Monday, October 12, 2009 Columbus Day Benefiting the Educational Advocacy Project

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# WORKERS' COMPENSATION IN FLORIDA IS NOT A PRETTY PICTURE



For injured workers in Florida the outlook gets bleaker every day. Once again the Florida Legislature seems to have forgotten or ignored the plight of injured workers. Rosenthal, Levy & Simon will never ignore these workers.

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Nationwide

## Technology Committee Presents "Laptop and Learn" Series

We hope you will join us as the Technology Committee hosts a series of noon-time seminars that will assist you in your practice. Members are encouraged to bring their laptops as the seminars are designed to be interactive. Each seminar



will be from 11:30 – 1:00 p.m. and will be held in the offices of the PBCBA. Cost for the series will be \$120 or \$30 per session for PBCBA members which includes lunch and one hour CLE (credits pending). Register online at [www.palmbeachbar.org](http://www.palmbeachbar.org)

### **Tweet, Meet and Eat: September 25**

This 90-minute session will provide attorneys with an understanding of social networking internet sites and how to use them in their legal practice for investigation/discovery, deposition preparation, jury selection, legal education, and marketing. During the presentation, attendees will be instructed on how to sign up for an account on Facebook and Twitter; learn how social media works through hands-on examples; receive training to understand "friends list" and privacy settings; discuss ethical implications of "friending" parties, witnesses, and those involved in the legal process; and learn the difference between a Google search and a Facebook/Twitter search. *Presented by Christopher Hopkins*

### **Power Point for Dummies: October 23**

This hands on seminar will go over the use of Power Point and Keynote in a law practice. The primary focus will be on cost effective mediation and trial presentations to present your case that you prepare and what to avoid. We will also go over the use of videos and graphics and how to integrate them into your presentation. We will have several sample presentations that you can take home to

get started. *Presented by Rodney Romano and Walter "Casey" Jones, IV.*

### **Cutting Edge Discovery or Things you may not know: November 20**

This 90-minute session will teach the beginning to intermediate level litigator how the expansion of information technology has created new opportunities for discovery, as well as creating pitfalls for the unwary. This session will discuss the electronic finger-prints that our clients and their opponents leave in almost every aspect of daily life and in the conduct of their business. The presentation will include finding and using the new information that is becoming available; and will include a discussion of strategies for obtaining information that opponents have tried to hide or destroy. *Presented by: Earl K. Mallory, Esq. and Tom Ianuzzi, CPP, CISSP, CFE, CCE, Information Security Consultants, Inc.*

### **30 sites in 30 minutes: December 11**

This presentation will show you places on the Internet where you can find cheap or free services and software that

rivals anything you can buy at your local office supply or big box store. We will cover email, word processing, presentation software, pdf creation and editing, operating systems and other useful utilities and websites. Within the first five minutes, you will find out how to save enough money to cover the cost of the seminar. *Presented by Marc Dobin*

### **Blogging for Lawyers: Internet Marketing for Non-Geeks: January 22**

This 90-minute session will teach the nominal-to-moderately tech savvy lawyer the ins and outs to creating a legal blog on the Internet. This hands on-session will discuss the technical requirements and preferred software; discussion of how blogging suits the fast developing legal world more effectively than journal-writing; advice from a four person panel of three blogging lawyers and one website developer; discussion of ethics, advertising, copyright/ownership issues; and strategies for enhancing reputation and developing marketing opportunities on the Internet. *Presented by Christopher Hopkins*

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- 1. It's a long road without a turn in it. Put another way, what goes around, comes around.** This is the best reason for civility. Everyone needs a little extra consideration from opposing counsel occasionally. If it doesn't prejudice your case or client, do it.
- 2. Don't be so concerned with winning the battle that you lose the war. In other words, sometimes lawyers can't see the forest for the trees.** Just because the other side wants something doesn't mean your automatic response should be to oppose it. Sometimes, it can be a win-win situation, especially for settlement purposes. This is especially true in civil discovery disputes.
- 3. Civil practitioners treat each other in a criminal manner, and criminal practitioners treat each other in a civil manner.** The criminal bar is small, and the lawyers know they will deal with one another many times. This familiarity leads to courtesy and civility. Civil practitioners may deal with opposing counsel only one time in their careers. Be civil anyway; your reputation depends on it.
- 4. Never mistake reasonableness for weakness.** The really good lawyers can be as tough as nails on the issues and zealous in their advocacy and yet always remain civil and courteous. Strive to be one.
- 5. When laws are not enforced, it creates contempt for the law. When rules are not enforced, it has the same effect.** The rules of civil procedure and local court rules are not advisory. They need to be followed. They give order and predictability to the system, and they should be enforced by the courts.
- 6. Waste not, want not.** Lack of civility and the behavior that follows almost always result in wasted resources of time and money—the lawyer's time, and the client's money, and both time and money for the courts. Lawyers responsible for such waste should pay for it—personally!

- 7. Know the difference between an adversary and an enemy.** The lawyer on the other side is not your enemy. The clients may be "enemies," but the opposing counsel should not be. Opposing counsel may even be your friend, or, if treated with civility and professionalism during the conduct of the case, may well become one.
  - 8. If you don't write it or say it, you don't have to explain it.** There is power in the written word. "Poison pen" e-mails and letters feel good to write but rarely should be sent. Outrageous language and accusations in briefs and memorandums are the functional equivalent of shouting in court. Don't dignify such boorish behavior by responding to them.
  - 9. Always forgive your enemies, but never forget their names.** Don't make the case personal between you and opposing counsel. Never make the mistake of getting opposing counsel's "attention" through shoddy behavior or cheap shots. Your opponents will work nights and weekends to beat you. They are not in this business because they lack ego.
  - 10. The Golden Rule, with a twist.** We all know the Golden Rule. "Do unto others..." I propose a new Golden Rule of Civility. "Be courteous to everyone, even to those who are rude. Not because they are ladies or gentlemen, but because you are one." It's not about an eye for an eye and a tooth for a tooth. It's not even about you. It is about doing what is best for your client.
- In conclusion, civility is the mark of a real professional—and a true lawyer. The issue is not about quid pro quo. It is about having self-respect, respect for others, and the self-confidence to not respond in kind, and in the process, continuing to build your own character, credibility, and reputation.

*The Honorable Paul M. Warner is a U.S. Magistrate Judge in the District of Utah. He presented these tips at a litigation seminar in November 2008 and granted the PBCBA permission to reprint this article.*



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## Support the Center for Pre-law at Palm Beach Lakes High School

### *An Easy Yet Rewarding Way to Give Back*

There is a new non-profit organization, Supporters of the Pre-Law Magnet, Inc., with a board of directors comprised predominately of Palm Beach County lawyers, which is helping to build the future of the Palm Beach County legal community through education of deserving high school students. It's specific objective is to further the efforts of the Center for Pre-Law at Palm Beach Lakes High School, a local Title I high school with a graduation rate of less than 50% and comprised of approximately 95% African-American and Hispanic populations with 61% on free or reduced lunch. The Center is the first and only law magnet program in Florida.

In addition to a standard high school core curriculum, Pre-Law Magnet students are required to complete law and leadership courses while working in partnership with local colleges to provide pathways for law-related careers. In this program, young adults determine through hands-on application if their future lies within the field of law, whether as an attorney, paralegal, police officer, elected official or other position. This hands-on application includes mock trial competitions, exercises that develop critical thinking, problem solving, and leadership skills, and local internships.

During the last academic year, the Supporters of the Pre-Law Magnet arranged classroom visits by Public Defender Carey Haughwout of the 15th Judicial Circuit and Judge Jonathan D. Gerber, now of the 4th District Court of Appeal but formerly of the 15th Judicial Circuit; David Markarian, Esq., FPL Energy - Litigation; Major James Stormes, Strategic Operations, Palm Beach Sheriff's Office; Grey Tesh, Esq.; John Howe, Esq.; Ethel Isaacs Williams, Esq.; David Prather, Esq.; Jeana White; and Leonard Berger, Esq., Palm Beach County Attorney's Office.

#### ***Put Your Trial Skills to the Test and Participate in the Center's Mock Trial Program***

In addition to the lecture series, the Supporters as well as attorneys from the law firm of Carlton Fields, P.A., law clerks from the 4th DCA, and Edwin Ferguson, Esq., assisted with the Florida High School Mock Trial Competition, an

academic competition in which a team of 8 students simulate the roles of both attorneys and witnesses in a fictional trial. Students have approximately five months to prepare for their roles, for which coaches are needed. This year, the Center's team won the competition in the 15th Judicial Circuit and took two awards in the State Competition — Best Attorney and Best Witness. The Center needs more volunteers to assist in this important component of the Center's curriculum.

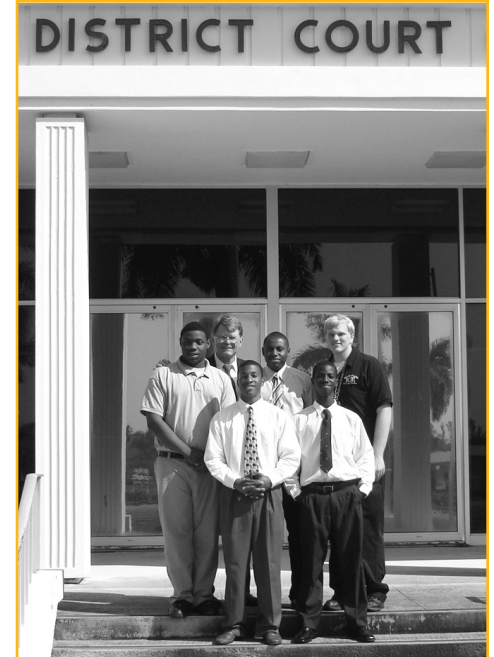
#### ***Help us Promote Diversity***

The group also seeks to promote diversity in the South Florida legal community by continuing and expanding its summer internship program, "Lighting a Path," which is designed to provide high school students with an opportunity to spend at least five days and as long as two weeks during the summer working side-by-side with attorneys in various branches of the legal profession, attending hearings, trials, depositions, mediations, meetings, and other observation opportunities with the intent of educating and encouraging the student to explore the various dimensions of a legal career. The students are exposed to different career paths in hopes that this experience will cement their interest in law and, more importantly, guide them towards careers they may not have thought were possible. A number of the students recently completed internships throughout the legal community this summer— Gunster Yoakley, Greenberg Traurig, Carlton Fields, and even in governmental agencies, such as the Public Defender's Office. Please consider hosting a student during the Winter break.

#### ***How About a Legal Field Trip?***

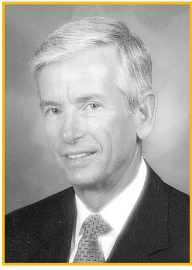
The Supporters also need assistance organizing field trips and mentoring/shadowing opportunities. For example, this past year, Tom Warner, Esq. of Carlton Fields arranged for the students to observe an Oral Argument at the Fourth District Court of Appeals and engage in a question/answer session with members of the Court. Two months later, Judge W. Matthew Stevenson of the Fourth DCA worked with members of the Supporters organization to arrange for

the Court to hold an Oral Argument session at the school—another first for Florida. After the attorneys completed their arguments, Judges Stevenson, Fred A. Hazouri, and Spencer D. Levine answered the students' questions about the proceedings. These were phenomenal experiences that had tremendous impact. More opportunities are needed for the coming school year.



#### ***We Need Your Help***

In addition to mock trial support, a speakers program, field trips, and internships, the Supporters plan to host various activities and seminars promoting diversity in the legal community and emphasizing the importance of advanced literacy and leadership in academic and vocational pursuits. The goal is to give the Pre-Law students the confidence to pursue a prosperous future within a diverse field that has boundless opportunities. We are committed to our goal of making our legal profession a viable option for local students — especially those that were not born into economic good fortune. Volunteering with these bright students does not have to involve substantial commitment, it is worthwhile, and it is fun. ***Please join us.*** For information regarding the Center for Pre-Law, please contact Kara K. Baxter at [baxterk@gtlaw.com](mailto:baxterk@gtlaw.com) or 561-650-7987. Additionally, please visit [www.prelawmagnet.org](http://www.prelawmagnet.org).



### Doctors Still Fighting Disclosure

by Ted Babbitt

Doctors and lawyers engaged in a death struggle over constitutional amendments a few years ago and the public resoundingly approved restrictions on attorney's fees in malpractice cases that would have been the death knell for just about any case. However, lawyers, apparently more clever than their physician counterparts, got around the doctor's attempts at insulating themselves from medical malpractice lawsuits by simply having clients waive their constitutional rights to the ultra restrictive fee schedule set out in the constitutional amendment.

Ironically, lawyers fostered and got the public to resoundingly approve Amendment 7 which took away virtually every privilege previously existing with respect to peer review of physicians and hospitals. Doctors and hospitals have used every tool known to them to resist handing over the previously secret records of their self-discipline and over and over again Courts have upheld Amendment 7 and compelled production of adverse medical incident reports.

In Columbia Hospital Corp. of South Broward v. Fain, 34 Fla. L. Weekly D1223 (Fla. 4th DCA, June 17, 2009), the result was no different. There, the trial court overruled virtually every objection to the production of medical incident reports in the possession of the Defendant hospital and the hospital sought a writ of certiorari quashing the trial court's order. The hospital raised issues of relevance, burdensomeness, and claimed the requests were overbroad. The appellate court rejected each of those arguments citing the Supreme Court opinion of Florida Hospital Waterman, Inc. v. Buster, 984 So. 2d 478 (Fla. 2008) wherein the Supreme Court found unconstitutional a Florida Statute which the doctors had managed to pass placing

strict limits on what could or could not be compelled under Amendment 7. The District Court found that the Florida Hospital Waterman case, *supra*, together with the Amendment itself makes a request under Amendment 7 different than any other discovery request in that no request under it can be denied on the grounds that it is overbroad, irrelevant or burdensome.

The Court also held that the hospital cannot pick and chose the type of record that it must produce. At 1225 the Court held:

Columbia also argues that language in section 381.028(7)(b)1 limits the types of records that it may be required to produce and provides the sole method through which the hospital must identify records of adverse medical incidents. Columbia's argument that pursuant to this statute it must provide only certain reports ('Code 15' reports under section 395.0197) is expressly contrary to the amendment. The amendment provides that it is '*not limited to*' incidents that already must be reported under law. Art. X sec. 25(c)(3), Fla. Const. (emphasis supplied). As the Florida Supreme Court held in *Buster*, the legislature may not limit the scope of discoverability of adverse incident reports in a manner inconsistent with the amendment. Columbia's argument calls for an unconstitutional application of the statute.

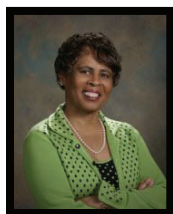
As a fall back position, the hospital took the position that Amendment 7 was Federally preempted by the passage of the Health Care Quality Improvement Act of 1986, the design of which was to foster effective peer review. The hospital argued that by allowing production of peer review, it was rendered ineffective. At 1225, the Court held:

Columbia's argument boils down to the claim that peer review cannot be 'effective' if the discovery protections previously afforded by Florida's statutes are abrogated by Amendment 7. In *Buster*, the Florida Supreme Court made clear that the limited discovery protections previously afforded by Florida's statutes were effectively abolished by the passage of Amendment 7 as far as adverse medical incidents are concerned. 984. So. 2d at 488-89).

Lastly, the hospital argued that Amendment 7 was unconstitutional because it impaired the contracts it had with doctors which specifically called for confidentiality. The Fourth District quickly disposed of that argument also on the basis of *Buster*, *supra*, which had rejected the same argument because doctors do not have a vested statutory right to keep peer review materials secret.

The adage that "sunshine is the best medicine" may well apply to the public's right to know when a doctor has been disciplined or a hospital has an unusual amount of medical malpractice. Courts continue to hold that Amendment 7 means exactly what it says and virtually no argument has been successful to prevent disclosure of medical peer review, incident reports, or any other documents which disclose previous negligent conduct within a hospital.

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.



## Florida Supreme Court Chief Justice Peggy A. Quince to be Keynote speaker

Lunch with Justice Peggy Quince followed by the  
Diversity Summit & Cocktail Reception

**Thursday, September 24, 2009**

**11:45 a.m. to 5:00 p.m.**

Lunch: 11:45 to 1:15 - Summit: 1:30 to 4:00 - Cocktails: 4:00 to 5:00

### **The Marriott West Palm Beach**

*Presented by:* The Palm Beach County Bar Association  
with the support from

F. Malcolm Cunningham, Sr. Bar Association; Hispanic Bar Association; South Palm Beach County Bar Association; Palm Beach County Justice Association; The Florida Association for Women Lawyers -Palm Beach & South Palm Beach County Chapters

**What is The Diversity Summit?** The Diversity Summit will be an open forum for law firm representatives, government agencies, members of the bench and the business community to discuss new programs to increase the diversity of our local legal community. Focus will be placed on new diversity initiatives and opportunities for firms and agencies to attract and retain diverse legal talent.

Some of the panelists to date include Florida Supreme Court Justices Peggy Quince; Barbara Pariente; Jorge Labarga; and Harry Lee Anstead (Ret.).

Law firm and business representatives who have an influential role in their organization's recruiting and hiring processes (for both inside and outside counsel) are strongly encouraged to attend and actively participate.

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## Exemption of Non Head of Family Wages

By Marc P. Barmat

It is well known that under Florida's wage exemption statute<sup>1</sup>, wages for the head of a family are exempt. What is less well known is the extent to which non head of family wages are also exempt. Prior to 1993, when Florida's wage exemption statute was amended to its current version, the statute was a single paragraph which contained no protection from garnishment or attachment for the earnings of anyone other than a head of family. Although the current version of Florida's wage exemption statute is commonly referred to as the "head of family" exemption, it, in fact, extends to individuals who are not the head of a family.

A plain reading of the Florida wage exemption statute reveals that varying amounts of earnings of an individual are exempt from attachment or garnishment under three distinct circumstances. The first circumstance is a head of family with weekly disposable earnings of less than or equal to \$500.00; the second circumstance is a head of a family with weekly disposable earnings greater than \$500.00; and the third circumstance is for a non head of a family.

In a recent opinion, Chief Bankruptcy Judge Paul G. Hyman, Jr. analyzed Florida's wage exemption statute and its application to non head of family wages. See, In re Weinshank, 406 B.R. 413 (Bankr. S.D. Fla. 2009). Prior to the Weinshank decision, there appears to have been no case law determining whether the exemption provided for in § 222.11(2)(c) and (3) was available to a debtor who is not a head of family. Id. at 416.

In Weinshank, the issue before the Court was whether the Debtor, a single man who did not provide support for anyone other than himself, could exempt wages in his checking account as of the petition date pursuant to Florida Statutes § 222.11(2)(c) and (3). The Trustee argued that the § 222.11(3) exemption was not available to the Debtor because he was not a head of family. Judge Hyman disagreed with the Trustee and found the wage exemptions statute to be unambiguous and that nothing in the statute limited its application to situations involving only a "head of family." Accordingly, Judge Hyman held that the wage exemptions statute exempts from attachment or garnishment, earnings of a person other than a head of family up to the limits established under 15 U.S.C. § 1673<sup>2</sup>. Id. at 417.

A common pre-bankruptcy practice is to advise head of family clients to open up a separate head of family wage account. Based upon the unambiguous language of Florida's wage exemption statute, this practice should be extended to non head of family clients so they too can take advantage of the exemption.

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

### <sup>1</sup> Exemption of wages from garnishment

(1) As used in this section, the term:

- (a) "Earnings" includes compensation paid or payable, in money of a sum certain, for personal services or labor whether denominated as wages, salary, commission, or bonus.
- (b) "Disposable earnings" means that part of the earnings of any head of family remaining after the deduction from those earnings of any amounts required by law to be withheld.
- (c) "Head of family" includes any natural person who is providing more than one-half of the support for a child or other dependent.
- (2) (a) All of the disposable earnings of a head of family whose disposable earnings are less than or equal to \$500 a week are exempt from attachment or garnishment.
- (b) Disposable earnings of a head of a family, which are greater than \$500 a week, may not be attached or garnished unless such person has agreed otherwise in writing. In no event shall the amount attached or garnished exceed the amount allowed under the Consumer Credit Protection Act, 15 U.S.C. § 1673.
- (c) Disposable earnings of a person other than a head of family may not be attached or garnished in excess of the amount allowed under the Consumer Credit Protection Act, 15 U.S.C. § 1673.
- (3) Earnings that are exempt under subsection (2) and are credited or deposited in any financial institution are exempt from attachment or garnishment for 6 months after the earnings are received by the financial institution if the funds can be traced and properly identified as earnings. Commingling of earnings with other funds does not by itself defeat the ability of a head of family to trace earnings.

Fla. Stat. § 222.11 (2009).

<sup>2</sup> 15 U.S.C. § 1673 Restriction on garnishment

(a) Maximum allowable garnishment

- ... the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed
- (1) 25 per centum of his disposable earnings for that week, or
- (2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage prescribed by section 206(a)(1) of Title 29 in effect at the time the earnings are payable, whichever is less...



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## The Illusory Homestead Exemption: Now You See It, Now You Don't!

By David M. Garten, Esq.

Fla. Const. Art. X, § 4, subsections (a) and (b) read in relevant part:

### § 4. Homestead; exemptions

(a) There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by a natural person:

(1) a homestead ...

\* \* \* \*

(b) These exemptions shall inure to the surviving spouse or heirs of the owner.

The term "heirs" encompasses the class of persons categorized in Florida's intestacy statute [§732.103, Fla. Stat.] which includes the surviving spouse, lineal descendants, the decedent's mother or father or both, the decedent's brothers and sisters, and the descendants of the brothers and sisters. *See Snyder v. Davis*, 699 So. 2d 999 (Fla. 1997).

Homestead property is not an asset of the decedent's estate and therefore, is protected from forced sale to pay the estate administration expenses. *See* §733.608(1), Fla. Stat. *See also McKean v. Warburton*, 919 So. 2d 341 (Fla. 2005) *citing Clifton v. Clifton*, 553 So. 2d 192, 194 n.3 (Fla. 5th DCA 1989) (Homestead property, whether devised or not, passes outside of the probate estate. Personal representatives have no jurisdiction over nor title to homestead,

and it is not an asset of the estate.)

The constitutional homestead protection is disregarded when: (a) the testator devises the homestead to someone other than an heir [*Refer* to Fla. Const. Art. X, §4], or (b) the testator/settlor specifically or implicitly directs that the homestead property be sold and the proceeds made a part of the general probate/trust estate [*See McKean v. Warburton*, 919 So. 2d 341 (Fla. 2005); *Engelke v. Estate of Engelke*, 921 So. 2d 693 (Fla. 4th DCA 2006); *McEnderfer v. Keefe*, 921 So.2d 597 (Fla. 2006); and *Cutler v. Cutler*, 994 So. 2d 341 (Fla. 3rd DCA 2008)(Settlor directed that her debts be satisfied from the homestead property held in trust should the funds in her estate be insufficient to satisfy those debts.)].

## Circuit Court Report

CIVIL DIVISIONS • June 2009

DIVISION	JURY TRIALS	NON-JURY TRIALS	MOTIONS	CASES PENDING
A KELLY	09/09	09/09	09/09	1578
B HAFELE	12/09	12/09	10/09	1614
D FRENCH	09/09	09/09	09/09	1596
E MCCARTHY	03/10	03/10	10/09	1902
F LEWIS	08/09	08/09	10/09	1718
G CROW	01/10	10/09	09/09	1589
H FINE	01/10	01/10	08/09	1682
I GARRISON	11/09	09/09	07/09	1033
J ROSENBERG	12/09	12/09	09/09	1538
N COX	11/09	11/09	09/09	1949
O BARKDULL	01/10	01/10	09/09	1719

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

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**ANDREW S. BULLOCK** – Connecticut; Nova Southeastern University, 2008; Associate in Topin & Egner, P.L., Deerfield Beach

**SHAVARNE B. DAHLQUIST** – New York; Barry University School of Law, 2006; Associate in Thaler & Thaler, P.A., West Palm Beach

**JEFFREY W. DUNCAN** – Kansas; New England School of Law, 2004; Sole Practitioner, Florida Power & Light, Juno Beach



**STEVEN GRAHAM** – New York City; Florida State University College of Law, 2003; Partner, Steven Graham, P.A., Boca Raton

**WILLIAM E. GRANTMYRE, JR.** – North Carolina; University of Miami School of Law, 2008; Sole Practitioner, Boca Raton

**ANDREW C. GUST** – Connecticut; Hofstra University, 1995; Associated with Akerman Senterfitt, West Palm Beach

**THOMAS A. INSKEEP** – Illinois; Florida, 2006; Office of the Public Defender, West Palm Beach

**RACHEL KELMAN** – Shendell & Pollock, Boca Raton

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**WILLIAM B. LEWIS** – New York; University of Florida, 2009; Associate in Berman DeValerio, Palm Beach Gardens

**ROBERT A. MELCHIORRE** – Ohio; University of Akron, 2009; Associated with the Palm Beach County State Attorney's Office, West Palm Beach

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**ELIZABETH S. MURPHY** – Florida; Cornell Law School, 1990; Sole Practitioner, Elizabeth S. Murphy, P.A., Palm Beach

**LAURA J. NOBLE** – New York; New England School of Law, 2007; Sole Practitioner, The Noble Law Group, P.A., Boca Raton

**KENNETH R. NOBLE** – Virginia; University of Florida, 2004; Partner, Noble Law Firm, Boca Raton

**TANYA M. REED** – Oklahoma; University of Miami, 2006; Associate in Gunster, West Palm Beach

**MITCHELL D. SCHEPPS** – New York, 1993; Partner in Gunster, West Palm Beach

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### Managing Client Perceptions Equals Good Client Development

By Mark Powers & Shawn McNalis

Back when the airline industry was making money, they routinely reinvested in maintaining the look of their planes. The seats, carpet and wall covering in every plane were consistently replaced and kept looking good. Why were they so particular about the look of their airplanes? It was good business.

When passengers see stained carpets or frayed fabric on the seat in front of them they immediately begin to question how well the airline maintains the engine. The thought of a poorly maintained engine produces anxiety. If a smooth, pleasant and safe experience is what the airlines were after for their passengers, the perception that the plane is in shoddy repair does not help.

That customers leap to such far-reaching conclusions is not limited to the airline industry. In the absence of any real information about a service or product, consumers will look to the quality of whatever surface features they see. We do this with politicians, too – the less we know about their abilities, the more we vote based on their physical appearance. A worthy candidate suffers if they don't look good.

#### ***What does all this have to do with the legal profession?***

Managing client perceptions is just as important for lawyers. Potential clients are nervous and feel at a distinct disadvantage when seeking legal services. They generally have a problem and want someone they trust to help them. As they sit in the reception area, their eyes wander as they unconsciously form that all-important first impression.

During this initial survey, if the reception area is full of mismatched furniture and a disinterested receptionist sits behind the desk, what kind of an impression do they form about the attorney who works there? Is a worn décor or lack

of hospitality a true indication of the firm's professionalism or concern for clients? No, but it might as well be.

Contrast that experience with one in which a potential client walks into an office, is impressed by the décor and feels warmly welcomed by the staff. Their first impression is a positive one and confers all manner of wonderful attributes on the firm – whether they deserve them or not. Here the power of perception is made to work for you, not against you.

All of this is to say: manage the perceptions of your clients. They are drinking in the look, the feel and the sound of your firm at all times. Your signage, how hard you are to find, what the parking is like, whether or not your website and letterhead match, the sound of the receptionist's voice when she answers the phone – all must be welcoming and consistently professional in look and feel. According to B. Joseph Pine and James Gilmore, authors of several best-selling business books, we are in the *Experience Economy*. Today's sophisticated consumers seek an elevated experience when they buy goods or services. Starbucks can charge four bucks for their coffee because they deliver it in a more hip environment than the diner on the corner. Dentists have learned to quell the anxiety of their patients by installing massage chairs, earphones and television monitors that run movies, cartoons, whatever the patient wants. Theaters feature superior sound systems and seats that vibrate to the music. Design and technology are being employed at every turn to enhance the customer experience.

Many Atticus graduates have taken this idea to heart and have worked hard to create a better experience for their clients. One firm that specializes in divorce and is set in the deep south, where hospitality is sometimes elevated to an art form, has music piped into the parking lot so clients are surrounded by soothing sounds from the start. Inside, the office is comfortably furnished with upholstered chairs and harmonious colors. This attorney knows his clients are in pain and surrounds them in a relaxing, calm environment. They don't offer the clients something to drink, they provide the client with a menu and offer them a choice. And his efforts are more than skin-deep. On his staff are

individuals who are expert at hand-holding anxious clients. Think this is too much? This is one of the top divorce firms in the state. They must be doing something right.

A PI firm we know has taken a page from retailers and others who use scents for the psychological cues they invoke. Microwave chocolate-chip cookies are made periodically through the day. The comforting, reminds-you-of-home smell of these cookies wafts through the firm and clients clamor to have them. It takes the edge off whatever tragic circumstances they are there to discuss.

What state of mind are your clients in when they come to your office? Rarely are clients in a law office because they want to be. They are usually dealing with a crisis of some kind, or attempting to forestall one in the future. How much better could you make the clients feel just by changing a few elements in your office? What kind of initial impression do you want your firm to make? Do you want to be seen as trustworthy, professional, dependable, stable, reassuring? Then ask yourself if the look and feel of your office sends that message.

If you can't tell what kind of impression you make, use the "mystery shopper" technique: ask someone your staff doesn't know, but you trust, to call your office, make an appointment and come sit in the waiting room. When you bring them back to your office, they can tell you how they were greeted on the phone, whether or not they were put on hold, how easy it was to find the office and what it's like to sit in your reception area. If asked, many of your spouses can tell you the same thing.

You can also take the test below to help you identify problem areas.

#### **Client Reception**

- All clients are greeted warmly and offered a beverage upon coming into our reception area.
- When meeting a client, the attorney comes to the reception area and escorts them to the conference room or office.
- New clients are given a tour of the office and introduced to key people on their first visit.
- The client is introduced to the Designated Hitter upon the first meeting.
- The clients are given some kind of token gift with the firm's name on it.

***Continued on page 14***

## Rainmaking

Continued from page 13

### Facility or Office

- The overall office decor sends the right message to the client in terms of credibility, permanence, and trustworthiness.
- The reception area chairs are in good condition and comfortable for sitting.
- There is adequate and easily accessed parking for clients.

- Any offices that the client sees are neat and orderly.
- The office decor is matched to the type of client that frequents the firm.

### Materials and Signage

- New clients receive maps or written directions in advance of their first visit.
- Firm signage is clear and not difficult to follow
- New clients are given a "Welcome" package of information to familiarize them with the firm.

- Firm letterhead or logo is well-designed and consistent on all materials.
- The Firm website has a look and feel similar to the rest of the firm materials, without being a duplication of the firm brochure.

### Telephone System

- Clients are greeted warmly by a real human being when they call.
- The voice mail system is adequate to the clients' needs and always presents the option to speak to a real person.
- Attorneys never take a call when meeting with a client unless it is an emergency.
- All staff monitor their voice mail frequently.
- Telephone calls are returned the same day, or within several hours

Mark Powers is the President of Atticus, Inc., and Shawn McNalis, co-authored "The Making of a Rainmaker: An Ethical Approach to Marketing for Solo and Small Firm Practitioners" and is a featured marketing writer for Lawyers, USA. Mark founded Rainmakers™, a simple process for attorneys at all levels to stay focused on marketing, creating fresh ideas, and on-going accountability to marketing. To learn more about Atticus or Rainmakers™, please visit the Atticus website at [www.atticusonline.com](http://www.atticusonline.com) or contact the Atticus office at 352-383-0490.



The Florida Bar recently hosted a Diversity Symposium during their annual meeting in Orlando. Two of the 6 panelists were from Palm Beach County: Tasha Dickinson, President of Statewide FAWL and Tanique Lee, chair of the PBCBA's Minority Student Internship Program.

## Buy Your Movie Tickets Thru The Bar And Save!



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West Palm Beach

By *Diana L. Martin*  
and *Christopher B. Hopkins*

Both the public and the legal profession have embraced web blogs as a form of informative expression. A movement is afoot for lawyers to host both “standard” websites and more informative blogs. Many blogging lawyers are quick to confirm their business value; naysayers scoff that blogging is a waste of time with no business purpose. Our article will explain lawyer blogging, provide advice from Florida lawyer bloggers, and guide you to Palm Beach lawyer blogs.

### Website versus Blog?

Back in 2002, the American Bar Association concluded that more than 85% of law firms have a website. That is impressive because lawyers are typically late adopters of technology. A more recent report from a Thomson-West subsidiary suggested that visitors to law firm sites read lawyer biographies and practically nothing else. Articles posted on a firm site were often ignored. See <http://bit.ly/ISthC>

Enter the blog, which is typically a free-standing website (e.g. [BoatingLaw.com](http://BoatingLaw.com)) under a different URL address than the law firm ([FirmName.com](http://FirmName.com)). On the blog, “posts” provide a few paragraphs of text discussing a new case, legal development or news. On the blog, it is customary for the law firm name to take a back seat to the actual content. While informative, the blog post is written in a lighter, more accessible tone, often with some humor or personality. Depending upon the blogger, it can be a “straight” report or offer a perspective, but it should be concisely delivered because it will likely be read on-the-go via laptop or smart phone.

A general review of the “blogosphere” demonstrates better blog posts are lively, direct, informative, and (at least seemingly) unbiased. Moreover, a good blog is thoughtfully updated on a regular basis – usually twice a week on specific days – so readers know when to expect new content. In sum, while a firm website is an electronic billboard that requires only general maintenance, a blog is a garden that demands constant tending.

### How a Blog is Created and Updated

Step one is to decide what issue to address in the blog. If the scope of a blog is too broad, you may lose focus, but if

the scope is too narrow, you may lose interest, material, and readership. In 2006, [FloridaArbitrationLaw.com](http://FloridaArbitrationLaw.com) was founded because arbitration-related opinions and developments were coming out faster than law journal articles could be written. Arbitration revealed itself to be a healthy niche, as fresh material was available each week to be processed into “bite size” blog posts. A good blogger will pick an appropriate area of the law with an eye towards the question, “Can I write about this twice a week for more than a year?”

Step two is to find a catchy domain name and register it, which typically costs about \$10 per year. Companies such as [GoDaddy.com](http://GoDaddy.com) can assist. Next, you need a web hosting company, such as 1 & 1, which will host your site and, preferably, give you the software to create a crisp, readable blog. Other free options, such as Blogger, Word Press, and Posterous can also assist and reduce start-up costs. Alternatively, find a tech savvy professional, paralegal or student to set it all up for little to no cost. Bottom line: a blog can easily cost less than one hundred dollars per year.

And, before you write your first post, read the “Blogger’s Legal Guide” at <http://bit.ly/wW1Uh> for a list of dos and don’ts.

### Blogging: Pros and Cons

If developments in your area of the law are whizzing past you faster than you can update your (rarely used) personal file cabinet, a blog is an excellent way to keep an online, searchable file of materials that you deem important to your practice area. Yes, it is out there for others to see. But you will have better knowledge and access to the information when you need it (especially if you need access to it on the road or in the court). Moreover, other lawyers relying upon your site for information can increase your reputation and demonstrate your expertise in a particular area of law.

Tone and attitude are also important. While fired up behind the keyboard, you may succumb to denouncing insurance companies or the government – and it may be well-received by your immediate audience – but careful phrasing and a balanced approach may allow your perspective to become more refined over the years without risking “blogger’s remorse.” Remember, nothing on the



Internet is likely to disappear.

The number one complaint from bloggers is the demand to find the time to develop quality content on a regular basis. Reading cases and writing three to four paragraphs twice a week is harder than it seems. You need to be willing to develop good writing skills, enjoy it, and be patient as you gain readers and receive feedback on your blog.

Bloggers in a larger firm should be mindful of how fellow associates and partners view this new undertaking. Surprisingly, some bloggers report outright hostility and misunderstanding out of fear that the individual blogger is somehow trying to “break out” on their own. While there are firms that have both a standard website and a blog embedded in the same site, this practice eliminates the possibility of having a catchy domain name as well as a standard firm site. Also, a blog on a law firm site may be disregarded as a biased advertisement for the firm. Alternatively, some firms may want the blog-commentary safely hosted at an arm’s length distance on a wholly separate domain. Moreover, that perceived independence fits better with the blogging atmosphere.

The risk of blogging is that you may find yourself reading cases, magazines, and journals for the sole purpose of trying to vacuum up potential content for your site. Some bloggers fear being accused of having too much time on their hands or that readers will think the blogger is simply self-aggrandizing.

So why blog? A blog will give you credibility and expertise in your area. It also places your analysis on public display that is only a Google search away from your next client. More succinctly, let us borrow a quote from our friends at [Drug and Device Law](http://DrugandDeviceLaw.com) blog: “Blog for pleasure; blog to stay abreast of your field of law; blog to influence the public debate; blog to raise both your firm’s and your personal profile in your legal niche.”

*Continued on page 16*

At its July 17 meeting in Naples, The Florida Bar Board of Governors:

- Approved the “judicial candidate voluntary self-disclosure statement” as proposed by the Judicial Administration and Evaluation Committee and slightly modified by the Program Evaluation Committee. The statement will be given to all trial court candidates in future elections and their answers posted on the Bar’s website. The approval included providing copies of the self-disclosure statement to candidates in Creole and Spanish, but it will be up to candidates to provide translations of their answers.
- Approved, on the recommendation of the Member Benefits Committee, an agreement with Affiniscap Merchant Solutions, which provides credit card services for law firms. Affiniscap, when attorneys accept credit card payments for retainers, will automatically deposit the retainer in the attorney’s trust account but take the expenses related to the transaction from the law office operating account, as required by Bar rules. Under the agreement, Affiniscap, which has similar arrangements with 40 other state and local bars, will offer discounted rates for Bar members.
- Endorsed, on the recommendation of the Legislation Committee, the ABA position opposing the Federal Trade Commission’s efforts to include lawyers and law firms in its Red Flag regulations requiring extra efforts by creditors to protect debtors from identity theft. The ABA argues that existing ethical rules protect client information and that providing legal services to clients does not make lawyers creditors.
- Heard a report from Florida Bar Foundation President Adele

Stone that Foundation IOTA revenues have been declining, from \$44 million three years ago, \$24 million two years ago, and \$11 million last year to an anticipated \$5.7 million in the coming year. The Foundation is pushing to increase lawyer pro bono efforts and also to get more private donations, she said.

- Received on first reading proposed rule amendments that would impose additional requirements on lawyers who are suspended and have not been reinstated for a period of three years or longer. The proposed rule amendments will come back to the board for final reading at its September meeting. Among the proposed new requirements, lawyers would have to show that they have taken 10 hours of CLE for each year or part of a year during which they are ineligible to practice, show familiarity with the law, and if they waited more than 5 years to seek reinstatement retake the MPRE and Florida portions of the bar exam.
- Heard President Jesse Diner announce what he sees as the major issues confronting the Bar this year. Those include: Working to implement electronic filing for the courts; continuing to advocate for adequate funding for the courts; defending SB 2108 which passed this year and put the funding of court-related functions of elected clerks of the court under legislative overview; pushing to address the legal needs of children, especially carrying out recommendations from the Commission on the Legal Needs of Children; and helping lawyers address the current difficult economic conditions.

*Should you have any questions, please contact one of the Circuit’s four representatives: Greg Coleman, Scott Hawkins, Lisa Small, David Prather or Florida Bar President Jay White.*

## Lawyer Blogs

*Continued from page 15*

### Blogs As Marketing

Many law bloggers will sheepishly admit that they get no more business from their blogs than they do from going to expensive conferences or speaking engagements. Yet many of us continue to “market” that way. Locally, Palm Beach bloggers report generating up to ten files a year from blogs while turning down other business along the way. For these authors, blogging has led to being quoted in the Wall Street Journal, Daily Business Review, and the Palm Beach Post. It has also led to a flurry of emails from lawyers asking questions, seeking guidance in the blogger’s area of legal expertise. Regardless, be patient, treat blogging as a creative professional outlet, and let the marketing success develop on its own.

### Legal Blogs to Consider

**Starting Places:** a West Palm Beach lawyer hosts Florida Lawyers Blog Watch

(flbwatch.com) with links to nearly 100 Florida lawyer blogs.

ABAJournal.com/blawgs and blogs.WSJ.com/law categorize legal blogs according to subject and region.

**Commentary:** AbstractAppeal.com, hosted by a St. Petersburg lawyer, provides a daily overview of new cases; more locally, FloridaLawCommentary.com, JAAblog.jaablaw.com, SDFLA.blogspot.com, and SouthFloridaLawyers.blogspot.com also provide South Florida legal news.

**Criminal Law:** Several Bar members host criminal law sites including CriminalDefenseBlog.blogspot.com, FloridaDUILawyerBlog.com, JusticeFlorida.com, and PalmBeachCriminal.blogspot.com.

**Civil Litigation:** A great refresher before trial is to review Jury Selection Blog (juryblog.com). Other Bar members host litigation sites such as FloridaWorkersCompensationLawyer.com, Florida-Personal-Injury-Lawyer-Blog.com,

InjuryLaw.Labovick.com, and SouthFloridaPersonalInjuryBlog.com.

**Miscellaneous:** other helpful blogs include blog.PappasTax.com (tax), RubinOnTax.blogspot.com (tax), FloridaAssetProtection.blogs.com, FLProbateLitigation.com, SoFloridaEstatePlanning.com, and TimothyPowersOneill.wordpress.com (land use).

A review of these Florida law blogs may well inspire you to create your own.

*Christopher B. Hopkins is a shareholder at Butzel Long, P.C. (Palm Beach) and Diana L. Martin is an associate at Leopold-Kuvin (Palm Beach Gardens). Hopkins@butzel.com and Dmartin@leopoldkuvin.com.*

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# Patent Marking

## The New Litigation Frontier

*If you are advising your clients to label their products with patent numbers in order to meet statutory requirements under United States Patent Laws, are you confident that the patent has not expired or become abandoned? Are you aware if your clients are marking their products with an expired patent number or fictitious patent number, improper counseling may subject them to litigation, hefty fines, or forced settlements to avoid litigation from plaintiffs seeking quick payouts.*

Patentees selling products covered by a United States patent or patent application are advised to mark their products using appropriate language in order to meet statutory requirements of notice if they choose to obtain damages for infringement. While patentees understand the benefits of patent marking, they may be unaware that false marking or marking with expired patent numbers could expose them to liability.

**False Marking:** A person can be subject to suit under Section 292 if that person, with the intent to counterfeit or deceive the public and without a patentee's consent, marks their own product with the patentee's patent number.<sup>1</sup> Additionally, with intent to deceive the public, a patentee who marks his/her own product, including marketing materials, brochures, advertisements, or websites with either "patent" or "patent pending" (or similar language), when the product is not patented or covered under a pending application may be held liable under Section 292 as well. It is important to note that in addition to proving that a patentee marked a product which was not covered by a patent, a Plaintiff bringing suit under the statute must establish intent to deceive the public.<sup>2</sup> In *Clontech*, the Court stated that "Intent to deceive is a state of mind arising when a party acts with sufficient knowledge that what it is saying is not so and consequently that the recipient of its saying will be misled into thinking that the statement is true." To establish knowledge of falsity, the Plaintiff must show, by a preponderance of evidence, that the Defendant did not have a reasonable belief that the products were covered by a patent and therefore correctly marked; mere assertions that a party did not intend to deceive is not sufficient.<sup>3</sup>

A recent District Court case heard in the Eastern District of Virginia<sup>4</sup> highlights some of the pitfalls faced by patentees and the importance of complying with the statute. The case

revolves around a false marking claim brought by a non-competitor Plaintiff against the Solo Corporation. The Plaintiff alleged that Solo Corporation 1) marked some of its products with expired patent numbers, and 2) marked products with "This product may be covered by one or more U.S. or foreign pending or issued patents" when those products were not covered by a patent or subject to a pending application. Solo Corporation petitioned the Court for a Motion to Dismiss based on a lack of standing by the Plaintiff. The Court dismissed the motion, explaining that the Plaintiff had standing as a *Qui Tam* Relator (a private person authorized to bring a suit on behalf of the government for which the person shares in the financial recovery). The case remains before the Court as a ruling on Solo Corporation's intent to deceive has not been issued.<sup>5</sup>

Even if the Court determines Solo Corporation lacked the necessary intent to deceive the public, the case highlights several important issues involved in false marking allegations. It is important to understand that patentees may find themselves in situations in which they mark their product under a good faith belief that the product was covered by the patent when in fact it was not. For instance, manufacturers sometimes add additional elements to a product that might not be covered by the patent. During prosecution or post-issue changes, the original claims may be modified resulting in commercial embodiments not covered by the amendments. Similar to the allegations against Solo Corporation, patentees may find themselves marking products covered by expired patents. Any of these fact patterns would allow a Plaintiff to initiate a claim against a patentee in Federal Court. In defending these situations, patentees can not simply assert that it did not intend to deceive the public and relieve itself from

liability. While litigation might ultimately prove no intent to deceive, defending a false marking allegation is costly and depletes valuable resources.

**Damages:** Section 292 clearly states that "any person may sue for the penalty." Solo Corporation argued that statutory construction should limit litigation under Section 292 to competitors only. The Court was not persuaded and found standing for a non-competitor plaintiff. While the Court hinted that this could be changed by an act of Congress, the current ruling allows numerous potential plaintiffs to bring such cause of action in Federal Courts across the country. If a patentee is found to have falsely marked its products, the statute provides a penalty of "not more than \$500 for every such offense." The statute is ambiguous as to calculating damages. What is unclear is the definition of "offense."<sup>6</sup> Literal meaning of "offense" could provide penalties of up to \$500 for each product falsely marked. However, "offense" could be defined as a dollar amount, up to the maximum allowed, levied as a single fine. Clear guidance as to how such fines should be calculated is unavailable at this time as there are too few court cases which have addressed this issue and the approaches taken by courts are varied. While some Courts may be reluctant to levy a fine by calculating a dollar amount multiplied by each product falsely marked as too heavy-handed, they have not interpreted the statute to preclude such calculations.

### Avoiding False Patenting

**Allegations:** What does all this mean for those marking their patents? It is clear that patentees should not wait for Congressional or Appellate intervention. The potential for payment of large penalties may result in forced settlements to avoid litigation from plaintiffs seeking quick payouts. There are steps that a patentee can take to avoid finding themselves in a false marking litigation. It is prudent to have a patent marking system

*Continued on page 20*



## IN NEED OF CLER CREDIT? WE CAN HELP!

rev. 8.18.09

The Palm Beach County Bar Association (PBCBA) offers CLE hours from the sale of audiotapes recorded at previously held live seminars of the Association. We also have copies of audiotapes of live seminars from the Orange Co. Bar Assoc. (OCBA), Clearwater Bar Assoc.(CBA), Hillsborough Co. Bar Assoc.(HCBA), and the Dade Co. Bar Assoc.(DCBA). Members and non-members alike can benefit from this simple way of acquiring CLE and Ethics hours. To order, place an "x" next to the tapes you would like to order, complete this form and return to the Palm Beach County Bar Association, 1601 Belvedere Road, Suite 302E, West Palm Beach, FL 33406 or **fax to 561/687-9007**. **PLEASE WATCH EXPIRATION DATES**, we attempt to remove expired CD's but due to the distribution of this list occasionally courses will appear even though they have expired.

✓	Sponsor	Course Title	Credit Gen'l	Ethics Hours	PBCBA Member	Non Member	Expires
	PBCBA	<b>CD</b> - Trial Superstars: Trying the Catastrophic Injury Case+++ 5.5 Civil Trial Cert. Credits	7.0		\$175	\$215	9/7/2009
	PBCBA	<b>DVD</b> - Trial Superstars: Trying the Catastrophic Injury Case +++ 5.5 Civil Trial Cert. Credits	7.0		\$175	\$215	9/7/2009
	CBA	Est Planning & Public Benefits(CD)+++1.0 Elder Law/1.0 Wills Cert	1.0		\$20	\$60	9/20/09
	DCBA	Dealing with Difficult Op (CD)	1.0		\$20	\$60	9/27/09
	HCBA	Nuts & Bolts of Post Conviction Relief(CD)+++2.0 Crim Trial Cert.	2.0		\$45	\$85	10/16/09
	CBA	Time for New Look Credito (CD) +++ 1.0 Elder/1.0 Wills, Trusts, Est Cert.	1.0		\$20	\$60	10/17/09
	PBCBA	"E-Discovery" (NCS) (CD)	2.0	0.5	\$45	\$95	10/18/09
	CBA	Disaster Preparedness and Recovery for Lawyers & Law Offices (CD)	1.0	.5	\$30	\$75	10/22/09
	HCBA	A Potpourri of Land Use & Environmental Issues(CD)	4.5		\$110	\$150	10/24/09
	PBCBA	Art of Leadership (CD)	4.0	1.0	\$90	\$130	10/25/09
	PBCBA	25 <sup>th</sup> Annual Estate/Probate Seminar (CD) +++ 2.0 Civil/ 5.5 Wills, Trusts & Estates / .5 Real Est Cert.	7.5	1.5	\$165	\$205	11/14/09
	OCBA	<b>DVD</b> Criminal Law Seminar+++3.5 Criminal Appellate Cert/ 3.5 Criminal Trial Cert.	4.5	1.5	\$110	\$150	11/29/09
	DCBA	Update from the Bench (CD)++1.5 Civil Trial Cert.	2.0		\$40	\$80	12/4/09
	PBCBA	19 <sup>th</sup> Annual Community Assn. Law Seminar(CD)+++3.5 R/E Cert.	3.5	3.5	\$105	\$145	12/06/09
	DCBA	Appropriate Investments (CD)+++1.0 Elder Law/1.0 Wills, Trusts Est	1.0		\$20	\$60	12/10/09
	PBCBA	Food For Thought :Digesting Current Market Conditions (CD)+++2.5 R/E Cert.	3.5	3.5	\$105	\$145	12/13/09
	PBCBA	Corp/Partnership Divorce(CD)+++4.0 Bus Lit,4.0 Labor Employ Cert.	5.0		\$115	\$155	12/27/09
	OCBA	Florida Bar Discipline System(CD)	1.0	1.0	\$35	\$75	1/01/10
	CBA	Internet Marketing(CD)	2.5		\$60	\$100	2/14/10
	OCBA	Fair Labor Standards Act(CD)+++1.0 Labor Employ Cert.	1.0		\$25	\$65	2/27/10
	HCBA	Judicial Brown Bag - Practicing Law Ethically (CD)	2.0	1.0	\$60	\$100	3/02/10
	DCBA	Mort. Meltdown & Implications(CD)+++ 1.0 R/E Cert.	1.0		\$25	\$65	3/11/10
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	CBA	Art of the Short Sale(CD)+++ 1.0 Wills, Trusts Estates	1.0		\$25	\$65	3/18/10
	CBA	Making Crime Pay(CD) +++1.0 Crim Trial/1.0 Civil Trial	1.0		\$25	\$65	3/18/10
	DCBA	Bankruptcy: Everything You Always Wanted To Know....(CD)	4.5	.5	\$120	\$160	3/19/10
	OCBA	Contempt in Family Law Cases(CD)	1.0		\$25	\$65	3/19/10
	DCBA	Bench and Bar Meeting(CD)+++ 1.5 Work Comp Cert.	2.0		\$50	\$90	3/23/10
	HCBA	Essentials of PI Litigation(CD)	8.0		\$200	\$240	4/02/10
	DCBA	Basics of Foreclosure (CD)	2.0		\$50	\$90	4/03/10
	<b>HCBA</b>	<b>Parenting Plans/Time Sharing(CD) +++10.0 Marital/Fam Law</b>	<b>13.0</b>		<b>\$180</b>	<b>\$230</b>	<b>4/10/10</b>
	CBA	5 Must Have Marketing Habits (CD)	2.5		\$60	\$100	4/15/10
	CBA	Prudent Practitioner(CD)+++ 1.0 Wills, Trusts, Estates	1.0	1.0	\$40	\$80	4/16/10
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	CBA	2008 Bench & Bar Conference(CD) +++3.0 Crim Trial; Wills, Trusts; Civil Trial; Marital Fam Law Cert. Credits	4.0	1.0	\$115	\$155	5/07/10
	DCBA	17 <sup>th</sup> Annual Nuts & Bolts of Divorce (CD)	3.5		\$85	\$125	5/19/10
	CBA	Long Term Care Services(CD) +++1.0 Elder Law	1.0		\$25	\$65	5/19/10
	HCBA	Practicing in the 11 <sup>th</sup> Circuit Court of Appeals(CD)	2.5		\$60	\$100	6/03/10
	DCBA	Primer on Low Income Taxp "Debt & The Taxpayer" (CD)	3.0		\$75	\$115	6/05/10
	PBCBA	11 <sup>th</sup> Annual Elder Law Update (CD) +++4.0 Civil/4.0 Elder Law/4.0 Wills, Trusts/1.0 Tax Cert. Credits	5.5	1.0	\$145	\$185	6/12/10
	OCBA	What is Collaborative Law?(CD)	1.0		\$25	\$65	7/16/10
	DCBA	Plan for Citizens Facing Foreclosure(CD) +++8.0 R/E	8.0	2.0	\$225	\$265	7/23/10
	PBCBA	Winter 09 Real Estate (CD)+++3.0 R/E Cert. Credits	4.0	4.0	\$160	\$200	7/23/10

	PBCBA	ABC's of FL Construction Law (CD)+++5.5 Constr Law Cert.	7.5		\$185	\$225	8/06/10
	PBCBA	Mediation & Arbitration in 2009 (CD)	8.0	3.0	\$185	\$225	8/09/10
	PBCBA	Environmental Permitting & Land Planning (CD) ** 1.5CM credit	1.5	**1.5CM	\$35	\$75	8/10/10
	CBA	2009 Probate Update (CD) +++4.0 Elder Law; 4.0 Wills, Trusts	5.0		\$225	\$265	8/19/10
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	PBCBA	Trial Superstars "Planes, Trains, Trucks & Boats"(CD)+++2.0 Aviation; 2.0 Admiralty; 7.0 Civil Trial Cert. credits	9.0		\$200	\$240	9/27/10
	DCBA	Oceans of Motion Practice (CD) ++1.0 Appellate Prac.; 1.5 Crim Appellate Cert. credits	2.0	1.0	\$65	\$105	9/31/10
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	DCBA	Mort Crisis Over, Almost(CD)+++1.0 R/E Cert. credits	1.0		\$25	\$65	10/07/10
	HCBA	Nuts & Bolts of Post Conviction Relief(CD)+++2.0 Crim Trial Cert.	2.0		\$50	\$90	10/16/09
	DCBA	Bankruptcy Prev of Mortgage(CD)+++2.0 R/E Cert credits	2.0		\$50	\$90	10/21/10
	PBCBA	Technology & Ethics Seminar(CD) (Solo Seminar)	3.5	2.5	\$100	\$140	10/21/10
	DCBA	Landlord Tenant Issues Seminar(CD)+++2.0 R/E Cert. credits	2.0		\$50	\$90	11/01/10
	PBCBA	Leadership for Lawyers(CD)	4.0		\$75	\$115	11/08/10
	PBCBA	26 <sup>th</sup> Estate&Probate Seminar(CD)+++1.0Crim;.50Marital;Tax;R/E - 6.5Wills Cert. credits	9.5	.5	\$225	\$265	11/13/10
	PBCBA	Extreme Makeover-City Addition(CD) (Env/Land)**1.75CM credit	2.0	**1.75CM	\$35	\$75	11/21/10
	PBCBA	20 <sup>th</sup> Ann'l Community Assn. Law(CD)+++1.0Constr / 1.0R/E Cert.	3.5	3.5	\$125	\$165	12/05/10
	DCBA	Lost Profit in FL Courts(CD)	2.0		\$50	\$90	12/11/10
	PBCBA	We Will Survive R/E Spring Sem.(CD)+++5.0 R/E Cert.	5.0	4.5	\$155	\$195	12/12/10

+++Indicates Certification credits available; \*\*CM credits. Please contact the Palm Beach County Bar Association for more detailed information.  
Please call Eva Gray at (561) 687-2800 with any questions or for additional information.

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## Foundation for Indigent Guardianship Awards Legal Aid's Public Guardianship Project \$15,000.00

The Foundation for Indigent Guardianship disbursed a second award contribution to the Legal Aid Society of Palm Beach County's Public Guardianship Project. The project received a check for \$15,000.00 to support its activities, which include providing a full range of guardianship and legal services to indigent, adjudicated incapacitated individuals who are without family or friends to care for or assist them. The Foundation for Indigent Guardianship is a direct support organization for the Florida Department of Elder Affairs – Statewide Public Guardianship Office in Tallahassee. The Foundation is established under Florida law for the sole purpose of securing funding for the State of Florida's Public Guardianship Program. The Foundation is the trustee of the Florida Public Guardianship Pooled Special Needs Trust. The unique benefit of this trust is that the retained monies are provided back into the local communities to care for low-income wards served by Florida's public guardians. The Foundation had previously awarded Legal Aid Society a contribution of \$64,782.35 in 2008.



(L-R) Michelle Spangenberg, Criminal Court Operations Manager; Chief Judge Peter D. Blanc; Bob Bertisch, Legal Aid's Executive Director and Nicole Saunders, Director of Justice Services

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### W. JAY HUNSTON, JR. Mediator/Arbitrator

- 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)
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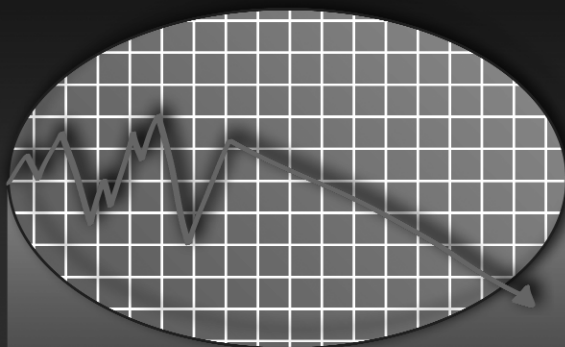
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## Patent Marking

*Continued from page 17*

in place. This system would be able to track, analyze and monitor new or existing products that are/will be covered by a patent. Part of the analysis should include a determination of whether the marked commercial embodiment sold is actually covered by the issued claims.

Improvements on products should be reviewed for patent compliance as well. If the patentee is unsure as to whether or not the product as marked is covered by the patent, it may be practical to seek the opinion of patent counsel. The system should also provide tracking of the patentee's portfolio for post-issue modifications or litigation which results in claim coverage modifications. Products marked with patent numbers associated with expired patents need to be identified and monitored so that markings on future products are avoided. Systems should be in place to identify soon to expire patents to prevent continued marking on products as soon as the patent term ends. The use of the phrase "This product may be covered by one or more U.S. or foreign pending or issued patents" should be used cautiously and carefully monitored to ensure that the product which contains such marking is actually covered by a patent or pending application.

While it may be impossible to eliminate false marking allegations, taking the necessary steps to ensure compliance with the statute will reduce the risk and avoid penalties should you be dragged into court.

*By David J. Zelner, Registered Patent Attorney, dzelner@mspatents.com*

<sup>1</sup> 35 U.S.C. § 292(a).

<sup>2</sup> *Clontech Laboratories, Inc. v. Invitrogen Corporation*, 406 F.3d, 1347 (Fed Cir. 2005).

<sup>3</sup> *Id.* at 1352-1353.

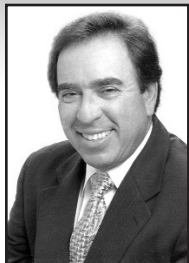
<sup>4</sup> See *Pequignot vs. Solo Cup Company*, 540 F.Supp 2d 64 (E.D. Va., 2008).

<sup>5</sup> See *Pequignot vs. Solo Cup Company*, 2009 U.S. Dist. LEXIS 26020 (E.D. Va., Mar. 27, 2009).

<sup>6</sup> See *The Forest Group v. Bon Tool*, 2008 U.S. Dist. LEXIS 57134 (S.D. Texas, July 29, 2008).

## ALEXANDER "SANDY" MYERS, ESQUIRE

### *Mediator/Arbitrator*



- J.D. Stetson University College of Law (1970)
- Florida Bar Board Certified Civil Trial Lawyer (1983-2007)
- Florida Bar Board Certified Emeritus Specialist Civil Trial Lawyer (2007-Present)
- Florida Certified:
  - Circuit Civil Mediator (1998-Present)
  - Family Mediator (1998-Present)
- Florida Qualified Arbitrator (1991-Present)
- NASD/FINRA Approved Arbitrator
- Practice Limited to Attorney Represented Cases Only
  - No Travel Charges Within Palm Beach County
  - No Charges for Pleading/File Review
  - \$250.00 per hour
- Collaborative Divorce

*Since 12/31/2005 Practice limited to Pre-Suit and Court Ordered Mediation, Arbitration, and Special Master Appointment*

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**Office (561) 689-8335 • Fax (561) 689-8337  
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Miami, Florida 33131  
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## **Orlando**

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813.229.8900

## **West Palm Beach**

CityPlace Tower  
525 Okeechobee Boulevard, Suite 1100  
West Palm Beach, Florida 33401  
561.835.8500

## **Amsterdam**

Europaboulevard 59  
1083 AD Amsterdam, Netherlands  
011.3120.661.0969

We are pleased to announce that Hank Jackson and Raymond W. Royce have joined the firm as a partners in the firm's West Palm Beach Office.



HANK JACKSON



RAY ROYCE

Mr. Jackson is a trial attorney, concentrating his practice in the area of business litigation. Mr. Royce practices in the areas of real estate and land use.



LARRY LATAIF

Lawrence P. Lataif has also joined the office as Senior Immigration Counsel. Mr. Lataif practices federal immigration law exclusively.

Shutts & Bowen's West Palm Beach Office represents businesses and individuals in matters relating to real estate, land use, immigration, complex landlord/tenant issues, litigation, taxation, trusts and estates, corporate, land use, environmental and health care issues.

## Bulletin Board

### \*\*\* Ad Rates \*\*\*

**CLASSIFIED ADVERTISING RATES:**  
TO PLACE AN AD: 1) Please fax all ads to 561/687-9007 by the 25th of the month. 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 \$75. 5) Members receive one free classified ad per year (excluding professional announcements). Web-site advertising is also available for a cost of \$50 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:

**ESTABLISHED PALM BEACH COUNTY LAW FIRM** is looking to open a Probate, Estate and Guardianship Section. Looking for a lawyer with a minimum of 8 years experience plus the ability to establish a practice. If you have such a practice or want to lead one, contact Philip Valente, Jr. at (561) 615-6200 or by email at pvalente@svdlaw.net.

**EXPERIENCED:** Commercial litigation paralegal needed for AV rated, established lawyer. Salary dependent upon experience. EOE. Please respond to Bulletin Box 320, Palm Beach County Bar Association, 160 Belvedere Rd. #302 E, West Palm Beach, FL 33406.

**LITIGATION ASSOCIATE:** AV rated trial litigation firm seeking attorney for our NPB office. Must possess 0 to 3 yrs experience in Litigation/Trial Practice in Criminal or Civil matters. MUST have Florida Bar license. Send resume and salary requirements to Pamela McBride; Bobo Ciotoli, et al mcbride@bobolaw.com or fax to (561) 630-5921.

**BUSINESS/RE ATTORNEY:** 40 yrs. Experience. Yale/Penn Law. FL/NY licensed. Seeking contract work, flex hours or part-time. No benefits required. Palm Beach/Martin County. Call (561) 762-4009 or email magrean@aol.com.

### PROFESSIONAL ANNOUNCEMENTS:

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

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

**GREGORY TENDRICH, Esq.:** FINRA Arbitrator, Certified County Court Mediator & Former Series 7 licensed VP & Asst. General Counsel to Wachovia Securities and other local NYSE/FINRA brokerage firms, is accepting referrals and is available to co-counsel, provide trial/arbitration consultation or assistance in stock loss and investment related disputes, including prudent-investor, suitability, churning and misrepresentation claims in addition to SEC, FINRA, NYSE and other regulatory enforcement matters. Please call (561) 417-8777 or visit www.yourstocklawyer.com.

**GREY TESH:** "Criminal Law is not black & white, it's Grey." Board certified criminal trial specialist. President, Palm Beach Association of Criminal Defense Lawyers. Federal and State cases. www.aacriminaldefense.com (561) 686-6886.

**SCOTT B. SMITH:** "AV" rated trial attorney representing injured victims of tractor-trailer/commercial motor vehicle accidents. Member of AAJ Interstate Trucking Litigation Group and Association of Interstate Trucking Lawyers of America. Extensive experience in handling truck accident cases and with Federal Motor Carrier Safety Regulations. Admitted to Florida Bar and all U.S. District Courts within Florida. Smith, Ivey & Fronrath, P.L., 11360 N. Jog Rd. #103, Palm Beach Gardens 33418 (561) 622-0622 www.injuryattorneysforjustice.com

**MARK R. HANSON:** All admiralty and maritime matters, including personal injury actions, boating accidents, cruise line injuries and insurance claims. 4304 Main Street, Jupiter, FL 33458 (561) 833-7828 Mhanson@PalmBeachInjuryLawyer.com .

**CHRISTOPHER HOPKINS:** "AV" rated appellate attorney available for contingency and hourly rate appeals for plaintiff or defendant civil cases. Hopkins@butzel.com

### OFFICE SPACE:

**WEST PALM BEACH:** Multiple law offices with secretarial areas available in prestigious lakefront office building. Includes use of conference room, telephone system, DSL service, copier/scanner, kitchen facilities and garage parking available. Call (561) 659-6457.

**NORTHLAKE BLVD:** Professional office space in Flagler Bank's new North Palm Beach office building. 5,000 square feet ready for tenant build out. Competitive rental rate and build out allowance. Please call Margaret Parkinson at (561) 432-2122.

**LAW OFFICE SPACE AND CASE REFERRAL AVAILABLE:** Centrepark Corporate Park off Australian Ave. Law library, conference room, kitchen, copy machine, parking. Excellent location, close to airport, downtown West Palm Beach and courthouse. Call (561) 471-4900.

**NORTH PALM:** 2000 S.F., Five (5) picture window offices, reception area, kitchen, large work areas for paralegal work stations, ground floor, convenient parking, monument sign on US Hwy. 1 across from Golden Bear Plaza. Move in ready for 5 attorneys and staff. Call (561) 622-2700 or email Shenkman@LawPalmBeach.com.

**WEST PALM BEACH:** Multiple or single attorney offices with secretarial cubicles available in the Barristers Building. Includes use of conference rooms, copier/scanner, kitchen facilities and parking. Call Lauri at (561) 688-9899.

## Bulletin Board

**FOR RENT:** Executive office/secretarial space (furnished/unfurnished) in nicely appointed owner-occupied suite at 1615 Forum Place, Barristers Building. Two parking spaces, use of conference room and kitchen. Located 5 minutes east of I-95 and 10 minutes from downtown WPB. \$1,000 a month. Contact AnnaMarie: (561) 686-8010.

**BOYNTON BEACH:** Three attorney offices available (rent together or separately) with secretary spaces in new law firm building on Boynton Bch. Blvd. just W. of Congress. Use of conference rooms, receptionist, office eqpt., Internet, etc. Call (561) 375-9500 ext. 110.

**OFFICES STARTING AT \$499:** Executive office space located in the heart of beautiful Palm Beach Gardens near US1 and I95. Class "A" building with suites starting at 110 square feet. T-2 Internet access, luxurious conference and board rooms. Call (561) 656-2000 for more information on current specials.

**DOWNTOWN WPB:** Space for 1 attorney and secretary. Use of conference room, library, phone system, DSL line, copier, etc. Furnished or unfurnished. Please call (561) 683-4000.

**FREE RENT for ONE MONTH-** Downtown WPB: 5 blocks from PBC Courthouse; sophisticated, loft-style offices, approx. 1050 sq. ft., 3 offices, very private with separate entrance, hardwood floors, high ceilings, lots of natural light and storage. Other tenants are attorneys so referrals possible. Call (561) 789-8818 or email susanmaynor@bellsouth.net.

**PROFESSIONAL OFFICE SPACE** for lease on first floor in Downtown West Palm Beach. Room for two professionals and staff. Walk to Courthouse, off street parking. Move-in-ready. Many built-in features. Flexible lease terms. Call Steven at (561) 659-7009.

**EXECUTIVE SUITES/OFFICE SPACE-** WPB, Forum Area, east of I-95, single offices available with or without secretarial area. Office set up with conference rooms, library, parking, full kitchen and reception area. Available immediately, no lease required. For more information call (561) 389-3468.

### HEARSAY

**Deborah B. Beard**, a partner at the law firm of Fox, Wackeen, Dungey, Beard, Sobel, Bush and McCluskey has been certified by the Supreme Court of Florida as a Family Mediator.

**Gregory T. Zele** and **Gregory P. Huber**, formerly with Lytal Reiter, have established Zele Huber Trial Attorneys, P.A. The firm exclusively represents injured people and their families throughout FL in the areas of personal injury, wrongful death, vehicular accidents and product liability. 4600 Military Trail #212, Jupiter. (561) 630-9700. [www.myinjuryjustice.com](http://www.myinjuryjustice.com).

Rutherford Mulhall, P.A. is pleased to announce that **Julia Luyster** has joined the Boca Raton office. Practice areas include litigation and appellate law.

Adorno & Yoss is pleased to announce that **Mark R. Osherow** has joined the firm as a partner in their Ft. Lauderdale office.

**Tasha K. Dickinson** was installed as the State President of the Florida Association of Women Lawyers "FAWL" at the Florida Bar's Annual Conference.

**Andrew R. Comiter** has become an associate of Comiter, Singer, Baseman & Braun, LLP.

**Alexander "Sandy" Myers** has been appointed as chairperson of the West Palm Beach Library Foundation.

The law firm of Burman, Critton, Luttier & Coleman is pleased to announce their newest associate, **David A. Yarema**. Mr. Yarema will focus his practice on personal injury and products liability.

### MISCELLANEOUS

Have you calculated the loss of billable hours due to depression, anxiety and residual effects of the current economy? Avoid water cooler or Starbucks advice; instead, opt for Confidential, Competent Counseling. **Pamela Garber, LMHC** (561) 602-0132, [Pamelagarber@bellsouth.net](mailto:Pamelagarber@bellsouth.net). Sanctuary Center, 4800 N. Federal Hwy., Tower D, Suite 100, Boca Raton, FL 33431.

**Miami Heat Season Tickets:** Great seats, selling quarter (10 games, \$3280) or half (20 games, \$6560). 4 seats, section 101, 12th row up from floor. Call (561) 375-9500, ext. 110.

**The Palm Beach County Chapter of the Florida Association for Women Lawyers (FAWL)** is currently accepting applications for membership for 2009-2010. Our chapter has many events and opportunities planned for the upcoming year, including our annual Judicial Reception, monthly luncheons, networking receptions, both community service and working mothers' outings, pro bono projects and mentoring. If you are interested in becoming a member, please go to our chapter's website at [www.pbfcawl.org](http://www.pbfcawl.org) for more information and for an application. Alternatively, you can contact Kim Daniel at [fawl@comcast.net](mailto:fawl@comcast.net) for an application.

### Planned Giving



A planned gift to the American Cancer Society combines your desire to give to charity with your overall financial, tax and estate planning goals.

Contact: Bryon Earl  
Dir. of Estate Planning  
561.650.0117  
[bryon.earl@cancer.org](mailto:bryon.earl@cancer.org)





## PALM BEACH COUNTY BAR ASSOCIATION

# BULLETIN

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

## CALENDAR

### September 2009

Wednesday, September 2,  
Noon – 1pm  
**Judicial Relations  
Committee Meeting**  
Judicial Dining Room

Monday, September 7  
**Labor Day – Court Holiday**  
Bar Office Closed

Tuesday, September 8,  
Noon – 1:00pm  
**YLS Board Meeting**  
Bar Association Office

Wednesday, September 9,  
Noon – 1:00pm  
**North County Section  
Board Meeting**

Wednesday, September 9 – 11  
**The Florida Bar Meeting of  
Sections & Committees**  
Tampa Airport Marriott

Monday, September 14,  
Noon – 1:00pm  
**Bench Bar Conference Meeting**  
Bar Association Office

Tuesday, September 15, 8:30am  
**Adult Literacy Day**  
Adult Education Center,  
West Palm Beach

Tuesday, September 15,  
Noon – 1:00pm  
**Professionalism  
Committee Meeting**  
Bar Association Office

Wednesday, September 16,  
11:30am – 1:00pm  
**Solo & Small Firm  
Practitioner's Luncheon**  
Bar Association Office

Wednesday, September 16,  
5:30pm – 7:30pm  
**Texas Hold 'Em Tournament**  
Palm Beach Kennel Club

Thursday, September 17, 5:30pm  
**Great Grown Up Spelling Bee**

Thursday, September 17  
**SPBC FAWL New Member  
Reception**  
Northern Trust

Friday, September 18,  
8:00am – 9:00am  
**PBCBA New Member Breakfast**  
Bar Association Office

Tuesday, September 22,  
11:45am – 1:30pm  
**Family Law Luncheon Seminar**  
Main Courthouse,  
North end of the cafeteria

Tuesday, September 22,  
5:00pm – 7:00pm  
**Legal Aid Board Meeting**  
Bar Association Office

Wednesday, September 23,  
5:00pm – 7:00pm  
**PBCBA Board of Directors  
Meeting**  
Bar Association Office

Thursday, September 24  
**TFB Videotaped Seminar  
"Basic Criminal Law"**  
Bar Association Office

Thursday, September 24,  
11:45am – 5:00pm  
**Luncheon & Diversity Summit**  
Marriott, West Palm Beach

Thursday, September 24, –  
6:00pm – 8:00pm  
**Palm Beach Justice  
Association Dinner**  
Bear Lakes Country Club

Thursday, September 24,  
6:30pm – 8:00pm  
**Small Claims & Mediation Clinic**  
Jupiter Branch Library

Friday, September 25,  
8:30am – 9:30am  
**ADR Committee Meeting**  
Bar Association Office

Friday, September 25,  
11:30am – 1:00pm  
**Technology Seminar  
"Tweet Eat & Meet"**  
Bar Association Office

Saturday, September 26  
**Lawyers Have Heart 5K Run**  
Meyer Amphitheatre,  
Downtown WPB

Monday, September 28  
**Yom Kippur – Court Holiday**  
Bar Office Closed

Tuesday, September 29,  
5:30pm – 7:00pm  
**Western County Event**  
Player's Club