



# PALM BEACH COUNTY BAR ASSOCIATION BULLETIN

WWW.PALMBEACHBAR.ORG | OFFICIAL PUBLICATION OF THE PALM BEACH COUNTY BAR ASSOCIATION | DECEMBER 2017

## CDI & YLS Luncheon Highlights

The Committee for Diversity and Inclusion, along with our Young Lawyers Section and The Florida Bar Foundation, recently sponsored a panel discussion on diversity and acceptance. The group discussed gender sensitivity in the workplace and other issues that affect the LGBTQ community, such as practicing law in Florida, public accommodations, healthcare and the Religious Freedom Restoration Act. A special thank you to our speakers and to our members who attended the program.



Front row (L to R): Denise Mutamba (YLS Diversity Luncheon Chair), Shenika "Nik" Harris, Nancy Brodzki and Jean Marie Middleton. Back row (L to R): Trent Steele, Larry Smith (Moderator), Denise Sagerholm, Judge TK Hurley, Brandon Campbell (YLS Committee Member), and Andrea Lewis (YLS President)



U.S. District Court Judge Robin Rosenberg, (Ret) Judge Lucy Brown and Penny Birch



Lynn Whitfield, Nadine White-Boyd and Tequisha Myles



U.S. Bankruptcy Court Judge Erik Kimball & Lisa Kohring



Florida Bar President Michael Higer recently spoke to our members about the importance of work / life balance. Pictured with Mr. Higer is PBCBA President Sia Baker-Barnes.

## Nominating petitions available for Board of Directors

Members seeking to run for a position on the Board of Directors will need to obtain a nominating petition and must be a member in good standing of the Palm Beach County Bar Association. The nominating petition must be signed by no fewer than 20 members in good standing of the Association. Petitions for President-elect will be available on Friday, December 8 and are due back in the office by 5 p.m. on Tuesday, January 9. Petitions for director-at-large seats will be available on Friday, December 15 and are due back in the Bar office by 5 p.m. on Wednesday, January 17. Petitions may be obtained by calling the Bar office at 687-2800 or by sending an e-mail requesting a petition to [ctbrown@palmbeachbar.org](mailto:ctbrown@palmbeachbar.org). For any of the positions, it is the candidate's responsibility to verify ahead of time through the Bar office that the members that sign their petitions are members in good standing. Otherwise, the petition will be deemed invalid. The annual election of officers and directors for the Palm Beach County Bar will take place via online voting in April.



*Happy Holidays!*

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**Young Lawyers Division page 14**  
**Literacy Week page 20**  
**Worker's Comp page 25-26**

# The Bulletin

Palm Beach County  
Bar Association

Rosalyn Sia Baker-Barnes  
President

Carla Tharp Brown  
Executive Director

## OFFICERS:

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Robin Bresky  
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Ronald P. Ponzoli  
Adam T. Rabin

## Florida Bar Young Lawyers Division Members:

Stephanie Cagnet  
Denise Mutamba  
Santo DiGangi

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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.

# Mark Your Calendar

December 7:  
Holiday Party Kravis Center  
Cohen Pavilion

December 26-29:  
Bar Office Closed

February 11: PCBCA Carnival

March 9:  
Bench Bar Conference

## Court House "mini rotation"

At the October 18th Full Court, the Chief Judge announced a "mini-rotation" on January 16, 2018—see below. No rotation of the Magistrate assignments will take place in January.

In 2018, the Chief may announce additional assignment rotations which would occur over the July 4th weekend or at an earlier time in June (TBA)

South County  
Hon. Charles Burton to IV/FX courtroom 5

Gun Club  
Hon. Ted Booras to KK1 courtroom 2  
Hon. Dina Keever-Agrama will remain in K/KK2/  
KD

Main Courthouse  
Circuit Criminal  
Hon. Cheryl Caracuzzo (Division Z) moves to  
courtroom 10B  
Hon. Meenu Sasser to Division S, courtroom 10G  
Hon. Samantha Schosberg Feuer (Division X), to  
courtroom 11B

Circuit Civil  
Hon. Cymonie Rowe to AI, courtroom 10C  
Hon. Donald Hafele (AG), courtroom 10D  
Hon. Jaimie Goodman to AD, courtroom 10H

County Civil  
Hon. August Bonavita to RB, courtroom 4C  
Hon. Nancy Perez (RE), to courtroom 6M

County Criminal  
Hon. Caroline Shepherd to P, courtroom 4D

# SUMMARY

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**Palm Beach Bar Association Bulletin**  
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**Editor**  
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The Business Litigation CLE Committee of the Palm Beach County Bar Association  
Presents



## Mediating Business Cases: Strategies, Analysis and Advice from the Experts

Thursday, December 14, 2017, 11:30 a.m. - 1:00 p.m.

Fourth District Court of Appeal, 1525 Palm Beach Lakes Blvd., West Palm Beach, FL

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11:30 a.m. - 12:00 p.m. **Check In / Late Registration / Lunch**

*Welcome: William B. Lewis, Esq., Morgan & Morgan, Committee Chairperson*

12:00 p.m. - 1:00 p.m. **Panel Discussion** with *Circuit Judge (Retired) Kenneth D. Stern, Esq., Stern Dispute Resolution; Bruce G. Alexander, Esq., Board Certified in Construction Law; Ciklin, Lubitz & O'Connell; and Jeffrey S. Grubman, Esq., JAMS ADR*

*Moderated by Raymond E. Kramer III, Esq., Beasley Kramer & Galardi, P.A.*

### Topics:

- Selection of a Business Mediator
- Tips for Mediator's Summaries
- The Importance of the Joint Opening Session
- How to Effectively Present your Client's Case
- Technology in Mediation
- Strategies for Negotiation of Business Cases in Mediation
- Recruiting the Mediator as your Ally

Sponsors:



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Credit: 1.0 CLER, plus 1.0 Business Litigation Certification Credit. Cost: \$35 members; \$75 non-members. Those registering after 12/7/17 add \$10 late fee. All refund requests must be made no later than 48 hours prior to the date of the seminar. [Register online at www.palmbeachbar.org](http://www.palmbeachbar.org) or by mail (return this form with your check)

Name: \_\_\_\_\_ Email address: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

\_\_\_\_\_ I will not be able to attend the seminar, however I would like to order the audio. The cost is the same as listed above, however please include \$10 for shipping and handling. Allow one week for delivery. PBC Bar Association, P.O. Box 17726, W. Palm Beach, FL 33416. 561-687-2800. 12/14/17 Business Lit seminar



## PRESIDENT'S Message

"It's the most wonderful time of the year."



**Rosalyn Sia Baker-Barnes**  
2017-18 PBCBA President

Famous lyrics from one of the most famous holiday songs. When I think of the holiday season, my thoughts, my memories and my perspective are all positive. I spend my holidays surrounded by family and friends, taking the opportunity to reflect on the year, and to set goals and look forward to the future. For my children, I try my best to make it the most wonderful time of the year.

But for so many children in Palm Beach County, the holiday season is far from wonderful. The city of West Palm Beach has the largest homeless population in Palm Beach County. As recently as May of this year, 4,295 students were identified as homeless, in the Palm Beach County School District. Palm Beach County ranks #2 in the State of Florida for children living in spaces not designed for human habitation. The average age for a homeless child in Palm Beach County is age 7. Now, imagine what the holiday season is like for these children. Factors that drive these high rates of homeless children in our county include the local and national poverty rates, abuse and neglect, drug and alcohol abuse and, especially in Palm Beach County, the lack of affordable housing. We clearly have not found a way to solve these problems, but there are ways that we can help make the holiday season a little brighter in our communities.

Each year, our outstanding Young Lawyers and North Country Sections do just that, through annual Holiday Party and silent auction. Through this event, we raise money to purchase gifts and host a holiday party with gifts, music, food and fun for local disadvantaged children. If you are looking for a way to give back this holiday season, consider attending and placing the highest bid at our Holiday Party and Silent Auction.

If you can't make it, I urge you take the opportunity to give back to our community in some way this year. Here are some additional ideas:

- Adopt-A-Family for the holidays to make their season special
- Send holiday cheer cards to local hospitalized children-  
[cardsforhospitalizedkids.com](http://cardsforhospitalizedkids.com)

- Donate a Christmas Tree to [Soldiers-treesfortroops.org](http://Soldiers-treesfortroops.org)
- Donate to your favorite Charity
- Serve meals at a local shelter
- Adopt an elderly member from your place of worship for the Holidays

It's not always about how much money you give- simple acts of kindness can go a long way. Not only will you see an immediate benefit for the families and children these events and organizations serve, but there are numerous studies demonstrating that giving back provides a positive benefit to you, improving both your physical and mental health. Throughout this year, we have been focusing on health and wellness for lawyers, and giving back this holiday season is yet another way that we can improve our own personal happiness, sense of belonging in our communities and sense of purpose in this world.

Happy Holidays!

A handwritten signature in blue ink that reads "Sia Barnes" with a stylized flourish at the end.





# NEW MEMBERS

## DECEMBER 2017

Lamce M. Aker:  
University of Miami, 2014;  
Associate in Kapp Morrison, LLP,  
Boca Raton

Ricardo Ampudia:  
American University, 2010;  
Solo Practitioner,  
West Palm Beach

Carlos Harbi Arce:  
Nova Southeastern University, 2016;  
Associate in Flanagan & Maniotis, P.A.,  
West Palm Beach

Patti K. Babka:  
FL Registered Paralegal Membership,  
Palm Beach Gardens

Ashley M. Blalock:  
University of Florida, 2017;  
Associate in Rudolph & Associates,  
West Palm Beach

Matthew T. Christ:  
University of Florida, 2012;  
Associate in Domnick Cunningham & Whalen,  
West Palm Beach Gardens

Scott J. Dalton:  
Florida State University, 2016;  
Associate in Rosenthal, Levy, Simon & Ryles, P.A.,  
West Palm Beach

John D. Edwards:  
Law Student Membership,  
Delray Beach

Stephen Raymond Foley:  
Case Western Reserve University, 1988;  
Practitioner, Buffalo, NY

Douglas T. Johnson:  
Stetson University, 2012;  
Associate in Ciklin Lubitz & O'Connell,  
West Palm Beach

Brittany Jones:  
Stetson University, 2015,  
West Palm Beach

Maurissa Rhiannon Jones:  
American University, 2007;  
Office of the Public Defender, West Palm Beach

Heather Martin-Schwartz:  
Florida A&M University, 2015;  
Solo Practitioner,  
West Palm Beach

Michael J. McCormick, Jr:  
Florida International University, 2017;  
Associate in Law Office of Amy L. Cosentino, PA,  
West Palm Beach

Patrick A. McVeigh:  
Thomas M. Cooley, 2011;  
Zing Title Agency,  
Delray Beach

Daniel Naydenov:  
Vanderbilt University, 2017;  
Associate in Gunster,  
West Palm Beach

Sidey J. Salcedo:  
FL Registered Paralegal Membership,  
West Palm Beach

Robert Scavone, Jr.:  
Florida International University, 2017;  
Office of the State Attorney,  
West Palm Beach

Michele Cestari Schimmel:  
Affiliate Membership,  
Palm Beach Gardens

Brandon Smith:  
Florida International University, 2017;  
Associate in Smith, Gaskill & Shenkman,  
North Palm Beach

Gina M. Szapucki:  
Nova Southeastern University, 2017;  
Law Offices of Marie Calla Quartell, P.A.,  
Palm Beach Gardens

Sharon Langley Thomas:  
FL Registered Paralegal Membership,  
Palm Beach Gardens

## BOARD Meeting Attendance

### 2017-2018

	JULY	AUGUST	SEPTEMBER	OCTOBER
BARNES	X	X	X	X
CALLOW	X	X	X	X
DEMERY	X	X	PHONE	X
HUBER	X	X	X	X
LEWIS	X	X	X	X
MASON	X		X	X
McELROY		X	X	X
REAGAN		X	X	X
SMITH, G.	X	X	X	X
SMITH, S.	PHONE		X	PHONE
WHITTLES	X	X	X	X
WYDA	X	X	X	X
XENICK		X	X	X



JUDGE LUCY CHERNOW BROWN (RET.)

# Mediation Magic Transforming Adversity into Collaboration

Bitterly adversarial opening statements and attempts to intimidate the opposing side set the tone in too many mediations. In one case after both sides enthusiastically started down that intensely negative path, I privately queried counsel in the first caucus as to whether and how he could ever expect to negotiate an agreement with the opposing party after his fierce opening. He looked at me hopefully and replied, "I don't know. Maybe... mediation magic?"

Since that day I have been contemplating the meaning of "mediation magic." I wondered how I could use it to help the dispute participants overcome their negativity and successfully collaborate with the mediator and opposing parties to arrive at a resolution to their case.

I have found it helpful in many cases to have a confidential pre-mediation telephone conference with counsel for each side separately. This enables the mediator to become acquainted with the emotional undercurrents and personality issues in the case. These matters are not generally found in attorneys' pre-mediation briefs. However, in a frank private telephone meeting the mediator can learn valuable information about the relationships among the parties and counsel so as to develop effective strategies for working with the participants during the mediation.

Increasingly, counsel tells me they plan to waive opening statements because of bitterness between the parties. "We both know the other side's position, and if I give an opening it will just increase the stress and tension and be counter-productive." In response, I have developed and successfully used the concept of the "soft opening." I request that counsel

take the opportunity to speak briefly and directly to the opposing party in a manner designed to demonstrate respect for that person as an individual. Without detailing all the controversies in the case, counsel can formulate an effective and respectful opening statement which shows a willingness to collaborate during mediation. Because mediation is essentially an effort to end bitter controversies by collaboration and agreement, starting the process in a manner conducive to establishing positive rapport can foster settlement of even the most difficult and complex claims. Remember, if the case fails to settle at mediation, counsel can always resume their tough "master of trial" techniques in court. Of course, it is important to have a frank talk with your client about this approach before the mediation so your client understands your strategy and does not interpret it to be you giving up or "going soft" on her case. I have successfully resolved many cases in which counsel effectively used the "soft opening" approach to set a positive tone for the mediation session.

I have discovered another important aspect of "mediation magic" - the art of effectively listening to and empathizing with dispute participants. In my experience, the importance of your mediator's talent and ability in this area cannot be overstated. This has proven to be true, even in disputes involving purely business relationships. Naturally, you will have selected a mediator knowledgeable in the area of law which governs your case. Yet, you may not have analyzed the relationships among the disputants to select a mediator who is also able to effectively gain the trust of the individual participants to help guide them in a positive way toward the collaboration necessary to reach a resolution.

I have taken many courses and read numerous articles describing how to be an effective listener. All of the recommended techniques are useful, such as maintaining eye contact, avoiding distractions, etc. But in my experience, the heart of the matter is simply to make the person who is speaking feel as if s/he is truly being heard. In 24 years on the circuit bench, I learned to appreciate the real need of litigants to feel they have "had their day in court." In other words, to feel that someone in a position of authority has really listened to what they have to say and has understood and respected them.

Can mediation turn adversaries into collaborators? We have learned that "mediation magic" is real. After a good thirty years of using mediation to resolve civil disputes in Palm Beach County courts, history has clearly established that the magic works. We now recognize that collaboration can be superior to adversarial proceedings. Today we are even witnessing the growth of "collaborative law" in the challenging field of family law.

And, on the topic of collaboration and cooperation in the alternative dispute resolution setting, please do not forget the Palm Beach Bar Association ADR Committee's seminar set for February 12, 2018, *Evolving Trends in ADR: Cooperation the Key to Agreement*.

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*\*Judge Lucy Chernow Brown (Ret.) served Palm Beach County for twenty-four years as a Circuit Judge, presiding over thousands of complex cases of all types. Since her December, 2014, retirement from the bench, Judge Brown has been actively involved in alternative dispute resolution as a mediator, arbitrator and special magistrate. A Florida Supreme Court certified Civil Circuit Mediator, Judge Brown is a Neutral with JAMS, the international ADR provider. Contact: lbrown@jamsadr.com, or (561) 329-1316.*

# Palm Beach County Bar Association's Alternative Dispute Resolution Committee Presents:

## **Evolving Trends in ADR: Cooperation, the Key to Agreement**



Monday, February 12, 2018, 8:00 a.m. - 5:00 p.m.,  
Fourth District Court of Appeal, 110 S. Tamarind Ave., W. Palm Beach, FL

8:00 a.m. - 8:30 a.m. **Late Registration / Check in / Light breakfast**

8:30 a.m. - 8:40 a.m. **Welcome and Opening Remarks** - Rosine M. Plank-Brumback, Esq., International Trade Consultant, Chair, PBCBA ADR Committee

8:40 a.m. - 9:55 a.m. **Collaborative Law: How and Why It Works** - Victoria Calebrese, Esq., Victoria Calebrese, P.A., Board Certified in Marital and Family Law, Certified Family Mediator; Sherry Campbell, CFP, CDFA, President, Hutchinson Family Offices; Sheila Furr, Ph.D., Board Certified in Neuropsychology, A.B.N., Certified Family Mediator; Yueh-Mei Kim Nutter, Esq., Brinkley Morgan, Board Certified in Marital and Family Law, Certified Family Mediator, Collaborative Attorney, Co-Chair, SCBA ADR Committee

9:55 a.m. - 10:05 a.m. **Break**

10:05 a.m. - 10:55 a.m. **Reducing the Impact of Implicit Biases in ADR Proceedings** – Jean Marie Middleton, Esq., Senior Attorney, PBC School District, Certified Circuit Civil Mediator, Co-Chair, PBCBA Committee for Diversity and Inclusion; Eunice I. Baros, Esq., ARC Mediation, Certified Circuit Civil Mediator

10:55 a.m. - 11:45 a.m. **ADR Case Law and Ethics Update** - W. Jay Hunston, Jr., Esq., W. Jay Hunston, Jr., P.A., Certified Circuit Civil, Appellate and Family Mediator, Florida Supreme Court Qualified Arbitrator, AAA National Roster of Arbitrators and Mediators (Construction and Commercial)

11:45 a.m. - 12:15 p.m. **Lunch** sponsored by Matrix Mediation



12:15 p.m. - 1:05 p.m. **Building a Successful Arbitration Practice** - Donna Greenspan Solomon, Esq., Solomon Appeals, Mediation & Arbitration, Board Certified in Appellate Practice and Business Litigation, Certified Circuit Civil, Appellate and Family Mediator, AAA National Roster of Arbitrators (Commercial); The Hon. Lucy Chernow Brown, Circuit Judge (Ret.), JAMS, Certified Circuit Civil Mediator; Manuel Farach, Esq., McGinchley Stafford, PLLC, Board Certified in Real Estate Law and Business Litigation, AAA National Roster of Arbitrators; Rebecca Storrow, Ph.D., Regional Vice President, American Arbitration Association; D. Andrew Byrne, Esq., Andrew Byrne & Associates, Board Certified in Labor & Employment Law and Business Litigation, Certified Circuit Mediator, AAA National Roster of Arbitrators (Employment), National Arbitration & Mediation

1:05 p.m. - 1:55 p.m. **Professionalism** - Michael Mopsick, Esq. (Introduction), Shapiro, Blasi, Wasserman & Hermann, P.A., Certified Circuit Civil Mediator; The Hon. Cory J. Ciklin, Judge, Fourth District Court of Appeal, Co-Chair, PBCBA Professionalism Committee

1:55 p.m. - 2:45 p.m. **Technology and the Future of ADR** - Chioma Deere, Esq., Williams, Leininger & Cosby, P.A., Chair, PBCBA Technology Committee

2:45 p.m. - 2:55 p.m. **Break**

2:55 p.m. - 4:10 p.m. **Managing the Stresses of ADR, Law, and Life** - Bruce A. Blitman, Esq., (Introduction), Certified Circuit Civil, Family and County Court Mediator; Scott L. Rogers, Lecturer in Law and Director, Mindfulness and Law Program, University of Miami School of Law; Scott Weinstein, Ph.D., Clinical Director, Florida Lawyers Assistance, Inc.

4:10 p.m. - 5:00 p.m. **Reading Body Language: Actions Can Speak Louder than Words** - Deputy Sheriff Patrick Ross, PBC Sheriff's Office

5:00 p.m. **Closing** - Rosine Plank-Brumback, Esq.

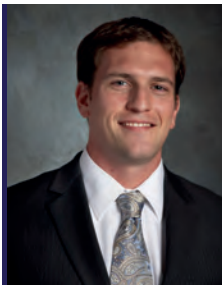
Credit: 9.0 CLER; 3.0 Ethics; 1.0 Technology. Certification credits: 9.0 Civil Trial; 9.0 Marital & Family Law. This course may be eligible for up to 9.0 CME hours. Cost: \$275 members; \$315 non-members. Those registering after 2/5/18 add \$10 late fee. All refund requests must be made no later than 48 hours prior to the date of the seminar. [Register online at www.palmbeachbar.org](http://www.palmbeachbar.org) or by mail (return this form with your check)

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Address: \_\_\_\_\_ Phone: \_\_\_\_\_

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JASON S. RIGOLI

## Do Trustees Have a Right to a Trial by Jury in Fraudulent Transfer Adversary?

In a recent opinion authored by the Honorable Judge Kimball, a trustee, retains a right to a jury trial in a fraudulent transfer action. *Bakst v. Bank Leumi, USA* (In re D.I.T., Inc.), Adv. Pro. No. 16-01214-EPK, -- B.R. --, 2017 WL 4404275 (Bankr. S.D.Fla. October 3, 2017). However, facts matter.

The defendant in *Bank Leumi* moved to strike the Trustee's jury demand in this case on three grounds:

(1) the trustee is bound by a contractual waiver of jury trial rights entered into by the debtor prior to the filing of its bankruptcy petition; (2) a trustee in bankruptcy is never entitled to a jury trial in connection with a fraudulent transfer or other avoidance action under the Bankruptcy Code; and (3) the present adversary proceeding is "integral to the claims resolution process," thus equitable in nature, and so there is no right to jury trial. Precedent does not support any of these arguments.

Id. at \*1. The court easily dispelled with the first argument, finding the trustee is not bound by the prepetition contractual waiver because the fraudulent transfers existed only because of the bankruptcy being filed and were not prepetition claims of the debtor that existed as of the filing of the bankruptcy petition. Id. An interpretation in line with holdings that the in pari delicto defense and prepetition arbitration agreements are inapplicable to a trustee's fraudulent transfer claims. Id. (citations omitted).

The court next addressed the defendant's argument that the trustee is never entitled to a jury trial in connection with an avoidance action under the Bankruptcy Code. The court disagreed with the defendant's interpretation that *Langenkamp v. Culp*, 498 U.S. 42 (1990), "effectively waived all rights to a jury trial ... simply by filing a petition." *Bank Leumi*, at \*2. Finding instead that *Langenkamp* addressed a situation where the defendant

of the trustee's avoidance action also filed a proof of claim, the avoidance action became a part of the claims process and therefore a proceeding in equity for which there is no right to a jury trial. Id. at \*2. In *Bank Leumi*, the defendant to the avoidance action had not filed a claim in the bankruptcy case and, therefore, the avoidance action did not become part of the equitable claims allowance process and the right to a jury trial, for both the trustee and defendant, existed. Id.

Furthermore, the court addressed the issue of whether avoidance actions sounded in equity or law. The court held avoidance actions sound in law giving rise to a jury trial. Id. at \*3 ("The trustee's fraudulent transfer action is an independent action at law." (citations omitted)). The defendant also argued that the language of § 548 itself sounded in equity as "the trustee seeks a determination that the alleged transfers are avoidable and a judgment avoiding the transfers." Id. The court gave this argument short shrift, because the trustee was ultimately seeking a money judgment against the defendant.

### Conclusion

A trustee may ultimately have a right to a jury trial in an avoidance action, however, it is highly dependent upon the underlying facts of the case, including, but not limited to whether the defendant filed a claim in the case. Furthermore, this area is ultimately not settled in this circuit. cf. *In re Pearlman*, 493 B.R. 878 (Bankr. M.D.Fla. 2013) (holding the trustee did not have a right to jury trial on three separate grounds: (i) the prepetition waiver to a right to a jury trial; (ii) the defendant did file a proof of claim in this case; and (iii) the trustee is never entitled to a jury trial in an avoidance action as it is fundamentally a part of the bankruptcy process and equitable in nature.).

*\* This article submitted by Jason S. Rigoli, Esq., Furr Cohen, 2255 Glades Road, Suite 337W, Boca Raton, FL 33431, jrigoli@furrcohen.com.*



SAVE THE DATE FOR THE

## BAR CARNIVAL!



DATE: SUNDAY, FEBRUARY 11

TIME: NOON TO 3:30 PM

PLACE: WYCLIFFE COUNTRY CLUB

WELLINGTON



TICKETS GO  
ON SALE  
JANUARY 1








# VIEW OF BANKRUPTCY PRACTICE:

## The interaction between bankruptcy and state court practice

*Wisdom from the bankruptcy world for paralegals, non-bankruptcy practitioners, experienced and new Bankruptcy Practitioners*

Friday, December 8, 2017, 12:00 p.m. - 6:00 p.m.  
Fourth District Court of Appeals, 1525 Palm Beach Lakes Blvd, W. Palm Beach, FL

12:00 p.m. - 12:25 p.m. **Lunch / Check In / Registration**

12:25 p.m. - 12:30 p.m. **Welcome and Opening Remarks**, Nadine V. White-Boyd, Esq.,  
Bankruptcy CLE Committee Chairperson

12:30 p.m. - 1:30 p.m. **Technology Compliance in Bankruptcy and other Courts** - Cameron  
Cradic and Sean Kilmartin

1:30 p.m. - 2:30 p.m. **Rule 9011 Warnings**

**Exceptions to Discharge – 11 USC 523(a)(4)** – Malinda Hayes, Esq.

**Exceptions to Discharge - 11 USC 523(a)(6)** - Eric Rosen, Esq.

2:30 p.m. - 2:45 p.m. **Break**

2:45 p.m. - 4:00 p.m. **Ethics and Professionalism – “Stop Dabbling in Bankruptcy:  
What Every Lawyer and Paralegal Need to Know”** - US Trustee Heidi  
Feinman, Chapter 7 Trustees Michael Bakst, Esq. and Deborah  
Menotte. Moderated by Julianne R. Frank, Esq.

4:00 p.m. - 5:00 p.m. **One on One with Hon. Judge Paul G. Hyman** - David Carter, Esq.

5:00 pm. - 6:00 p.m. **Reception**

Sponsor



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Credit: 5.0 CLER, plus 1.0 Technology. Cost: \$165 members; \$205 non-members. Those registering after 12/1/17 add \$10 late fee. All refund requests must be made no later than 48 hours prior to the date of the seminar. Register online at [www.palmbeachbar.org](http://www.palmbeachbar.org) or by mail (return this form with your check)

Name: \_\_\_\_\_ Email address: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

\_\_\_\_\_ I will not be able to attend the seminar, however I would like to order the audio. The cost is the same as listed above, however please include \$10 for shipping and handling. Allow 1 week for delivery. PBC Bar Association, P.O. Box 17726, W. Palm Beach, FL 33416. 561-687-2800. 12/8/17 Bankruptcy seminar.



## ADR Committee presents Cash Awards during Student Awareness Day



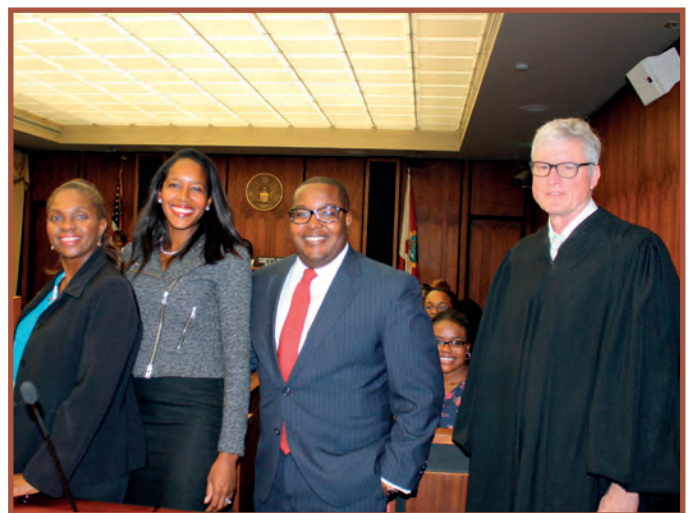
Bar President Sia Baker-Barnes (far right) and ADR Chair Rosine Plank-Brumback (far left) congratulate and award cash prizes to high school students on their winning essays on "Mediation, Civility and the Power of Understanding." The ceremony took place last month during Student Awareness Day at Park Vista High School. Also attending the event were local Holocaust survivors on the occasion of the 79th commemoration of Kristallnacht. A special thank you to Ted Deckert, Immediate Past ADR Chair, who organized the contest in conjunction with the ABA Mediation Week theme.

## NATURALIZATION CEREMONY

No doubt participating in a recent Naturalization Ceremony will be one of the highlights of Sia's presidency. On a beautiful October day, more than 48 people from 23 countries were sworn in as American citizens by U.S. Federal Judge James Hopkins. As a special addition to the ceremony, 24 students from Inlet Grove High School attended and participated in the ceremony. Judge Hopkins explained that this will be his final swearing in ceremony before his retirement in March, and that he is honored to be a part of this great American experience. Judge Hopkins shared a special film about the Independence of the Judiciary with the students. Sia welcomed our new neighbors with words of support. Students sang the National Anthem, recited the Pledge of Allegiance and Preamble to the U.S. Constitution and read letter of support and congratulations to our newest citizens. The program, part of the You've Been Served Initiative, was designed to expose students to our Court system and enhance their civics education. Before the event, the student studied and took the Naturalization exam. Special thanks the Judge Hopkins, Judge Rosenberg and the Court staff for making this a very special experience for the students.



PBCBA President Sia Baker-Barnes



Maria Morrison, Sia Baker-Barnes, Moses Baker, Jr. & Judge James Hopkins





RICHARD LORD

"What's going on in the other room?" or a similar question, is sometimes asked when things fail to proceed as smoothly as you would like in mediation. What's going on in the other room may be necessary, even if not welcomed by you. Counsel and client should resist the urge to reciprocate, be impulsive, or act impatiently.

When things aren't proceeding as planned, it may be that the other room has to work through things first in a certain way before they are able to work through things in a manner to your liking. Since people are complex and imperfect, communication, analysis and negotiation are often complex and imperfect as well. The surest way to scuttle the process is to let impatience have an outsized influence. You do not have to agree with the "whys and wherefores" of the imperfect process, but not accepting the existence of complexity can lessen the chances of a successful mediation. Mediation is a process that calls for patience, and you should prepare yourself and your client for possible frustration.

We each have personalities and are all influenced by our experiences, perceptions, and emotions. This is layered on top of the facts, law, procedure and context of the matter being mediated.

You can influence what is going on "over there". Don't be afraid to leave posturing behind sooner. Be willing to try what your mediator suggests. If progress stops, try different approaches. If all else fails, consider whether the process should be adjourned and resumed on a different day, perhaps in a different procedural context, with different decision maker(s), or more information.

To discern what is going on "over there", ask questions. You can ask counsel directly if you have rapport, and make what observations you can. Ask your mediator what he or she can share and how things can be interpreted. The totality of our experiences molds our assumptions and feelings about progress. But, remember, we may not be at liberty to tell you everything that's going on in the other room since

## Mediation: What's Going on in the Other Room?

Rule 10.360(b) of the Rules for Certified and Court-Appointed Mediators provides that "Information obtained during the caucus may not be revealed by the mediator to any other mediation participant without the consent of the disclosing party."

Remember, mediation is a process. Preparing to both advocate for and advise your client based on the law, facts, procedure, and personal and business considerations is incomplete preparation for that process. Preparing yourself and your client to deal with possible frustration and impulses makes your preparation more complete. Preparation should create an atmosphere of patience and flexibility, which in turn increases the odds of success.

When your mediation gets choppy, consider that things may be happening in the other room that are necessary. And when you are working through things in your room, the other side may just ask your mediator, "What's going on over there?"

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LISA KOHRING

## The Clash between Diversity of Opinion and Diversity of Culture in the “Marketplace of Ideas”

*“It is by the goodness of God that in our country we have those three unspeakably precious things: freedom of speech, freedom of conscience, and the prudence never to practice either of them.”*

-Mark Twain, *Following the Equator* (1897)

Universities have long been the traditional microcosm of the “marketplace of ideas,” “island[s] of intellectual inquiry and robust discourse” where higher education-goers are open to debating all forms of ideas in support of academic freedom, untamed innovation and unfettered freedom of speech and expression. *Id.* Freedom of speech and expression do, of course, enhance the educational environment, and are essential ingredients in the production of knowledge. Traditional notions of this “marketplace” however, may be on the edge of a precipice. A fundamental principle of the First Amendment is the belief that the government cannot censor speech because “of its message, its ideas, subject matter or content.” There are however, exceptions permitting restrictions upon the content of speech in a few limited areas including obscenity, incitement, and fighting words.

Several universities are currently grappling with whether to host certain public speakers who espouse controversial viewpoints if there’s a risk of imminent violence. In February, UC Berkeley canceled an event hosting conservative provocateur Milo Yiannopolous after violent protests erupted on the school’s campus. In April, UC Berkeley cancelled an event hosting Ann Coulter, a conservative social commentator, columnist and lawyer, for fear of rioting and a lack of adequate security. In August, after one protestor was killed in Charlottesville, Virginia, Penn State University rejected a request to host an event for Richard Spencer, a self-acclaimed “identitarian,” who believes in racial and ethnic superiority, citing a risk of imminent violence. Most recently, in September and October, Ohio State University, Michigan State University, and the University of Florida also rejected requests to host events for Spencer because of public safety concerns.

In October, after threatening a lawsuit against the University of Florida, Spencer was allowed to speak, but less than two hours after the speech, three men linked to white-supremacist groups were heard yelling “Hail Hitler,” “kill them,” “shoot them,” and giving the Nazi salute. The men were arrested and charged with attempted homicide after one-man fired shots at the protestors. *Id.*

Although historically, it has been the student bodies speaking out in support of First Amendment protections at universities and campus administrators seeking to suppress demonstrations, the tides appear to be changing. Students and faculty at universities across the Country are banding together in opposition to unfettered speech that demoralizes entire races and threatens the very existence of cultural diversity. These speakers and their supporters argue that the First Amendment protects their “opinions” and expressions of those opinions no matter how offensive or repugnant to the mainstream public. Protestors argue that such offensive opinions and expressions impugn cultural diversity and incite violence, and are not entitled to First Amendment protection.

Constitutional Law scholar, Erwin Chemerinsky says, according to the current state of the law, universities are running afoul of the First Amendment. United States District Judge Watkins agrees; he decided this past April, that Auburn University must allow a Richard Spencer event to go forward, and stated, “Auburn did not produce evidence that Mr. Spencer’s speech is likely to incite or produce imminent lawless action.” Nonetheless, the recent acts of violence in Charlottesville and in Florida have some universities arguing that Spensor’s speech incites lawless action and is not protected speech. Maybe these recent violent episodes could tip the scales in favor of the universities’ “imminent danger” argument, but it’s unlikely the Court will attribute the acts of protestors to the speakers their supporting without compelling evidence.

For now, the “university” remains a forum supporting all forms of debate and robust discourse. Still, Spencer and his supporters have pending lawsuits against Ohio State University and Michigan State University, which means that these courts will have an opportunity to consider the violence that erupted in Charlottesville and at the University of Florida. We will simply have to wait and see what weight, if any, the courts attribute to these senseless acts of violence.

1 *Academic Freedom, Hate Speech, and the “Idea of a University,”* Rodney A. Smolla and Arthur B. Hanson, Professor of Law, Director, Institute of William and Mary, Marshall Wythe School of Law; *Law and Contemporary Problems*, 1990.

2 *Brown v. Entm’t Merchants Ass’n*, 564 U.S. 786, 791, 131 S. Ct. 2729, 2733, 180 L. Ed. 2d 708 (2011)

3 *Id.*

4 *A European and North American white nationalist movement that strongly opposes interracial marriage and encourages protests against Jews, Muslims, and non-white Europeans.* See [https://en.wikipedia.org/wiki/Identitarian\\_movement](https://en.wikipedia.org/wiki/Identitarian_movement).

5 *Statement by President Eric J. Barron, Penn State News, August 22, 2017, found at: <http://news.psu.edu/story/478590/2017/08/22/administration/richard-spencer-not-welcome-speak-penn-state>. A reaction the university expected following the explosive events in Charlottesville, Virginia that left at least one woman dead.*

6 *Hate speech is protected free speech, even on college campuses, updated by Erwin Chemerinsky, Oct. 25, 2017, found at: <https://www.vox.com/the-big-idea/2017/10/25/16524832/campus-free-speech-first-amendment-protest>.*

7 *Richard Spencer’s Supporters sue universities for not allowing speeches, The Guardian, Oct. 23, 2017, found at: <https://www.theguardian.com/us-news/2017/oct/23/richard-spencers-supporters-sue-universities-for-not-allowing-speeches>.*

Lisa Kohring is a Senior litigator with the School Board of Palm Beach County practicing Labor and Employment law. She can be reached at Lisa.kohring@Palmbeachschools.org



# The Florida Bar Young Lawyers Division – A Workhorse of The Florida Bar

During this year's Annual Convention of The Florida Bar, we were privileged to be sworn in as members of the Board of Governors of the Young Lawyers Division of The Florida Bar (the "YLD"). Our tenure on this Board has been extremely rewarding as it has allowed us to work with bright and talented attorneys from Key West to Pensacola for the betterment of our legal community and the State of Florida.

We are often asked – what does the YLD do? Simply put, the YLD is the "work horse" of The Florida Bar, and we work hardest for you, our members, and more importantly, our constituents. We do this by advocating for, educating, and serving Florida young lawyers.

The YLD is an important engine of The Florida Bar that, among other things, produces top-notch programming, provides support for attorneys beginning their careers, and stimulates involvement and interest in the over 26,000 members of The Florida Bar below the age of 36 or who have been practicing for five years or less. While it is impossible to mention all of the initiatives of the YLD in the limited space provided, a few of the programs are highlighted below.

One of the primary roles of the YLD is to assist its members in the transition from law school to law practice. Historically, this responsibility has included administering the Practicing with Professionalism seminars that are required for all first-year attorneys, as well as the Basic Skills CLE courses that must be completed within the first three years of practice. Through our efforts, these courses are now offered online as a convenience to you, eliminating the mandatory in-person attendance requirement.

The YLD has also focused its efforts on providing resources to help new attorneys operate in today's challenging legal marketplace. For instance, the YLD recently launched a comprehensive website providing information on how to start a Florida law firm – [www.startmyfloridalawfirm.com](http://www.startmyfloridalawfirm.com). There, you will find all of the basics you need to launch your own firm, including tips on how to incorporate your new firm for free! The YLD is also continuing to compile and

build a library of videos and webinars that provides instruction and advice on how to accomplish various legal tasks. The YLD library of "How To" videos and "Mentoring with the Masters" is quickly becoming one of the most robust collections in the nation.

This year, the YLD is continuing its support of Florida's young lawyers by creating a website designed to provide virtual education and mentorship to every young lawyer in Florida. The website will aggregate all of the YLD's existing educational resources in one searchable place, while adding thousands of short 3-minute videos answering common questions young lawyers have regarding professional development, ethics, The Florida Bar, and substantive legal matters, to create a virtual hallway of instant mentoring advice.

The YLD is also in the forefront of effectuating change in our profession. Some of the most important work that we do is to advocate for young lawyers. The YLD's diversity efforts earned attention from across the country as its Pipeline Initiative Diversity Symposium - which seeks to motivate, encourage, and help high school, college, and law students enter our profession - received a national award from the American Bar Association.

Just recently, the YLD impressed upon the The Florida Bar Board of Governors the importance of the proposed Parental Leave Continuance Rule for all young lawyers. With our assistance, that groundbreaking rule was passed by the Board of Governors with unanimous support. Additionally, the results of a poll conducted by the YLD's Women in the Profession committee - which revealed that 43 percent of female lawyer respondents had experienced gender bias - garnered national attention and fueled a YLD effort to support and recognize the achievements of women in the profession. This effort continues today and will continue to lead to positive changes for women in the legal field.

The YLD also remains on the cutting edge of technology, the rapid growth of which necessitates the need for lawyers to stay up to date. The Florida Bar looks to the YLD to stay in front of the changing technology

affecting our profession to assist all attorneys to keep abreast of changes. We have proven to be up to the challenge and remain dedicated to this cause.

That is only a small fraction of the work that we do for you. We encourage all YLD members to reach out to us, your Circuit representatives, and/or visit our website at [Flayld.org](http://Flayld.org) for more information on the YLD and for opportunities to get involved. The YLD truly is a great organization doing hard work for the good of The Florida Bar.

*Stephanie Cagnet Myron, Denise Mutamba, and Santo DiGangi are elected members of the Florida Bar Young Lawyers Division Board of Governors for the 15th Judicial Circuit. Stephanie is the founder of Cagnet Myron Law, P.A., a victim's rights law firm in Palm Beach County. Denise is an attorney with the Legal Aid Society of Palm Beach County where she works on the Fair Housing Project. Santo is an attorney at Critton, Luttier & Coleman, LLP where he practices commercial litigation and personal injury. To learn more about the Florida Bar YLD, please visit <https://flayld.org>.*



**SANTO DIGANGI**



**DENISE MUTAMBA**



**STEPHANIE CAGNET MYRON**



LAUREN JOHNSON

## CAN A MEMBER OF AN LLC BE EXPELLED?

### Introduction

The short answer is “Yes.” But there are certain circumstances, under Florida’s Revised Limited Liability Company Act (the “Revised Act”), that must apply before expulsion may occur.

As of January 1, 2015, LLCs in the State of Florida are subject to the Revised Act, set forth in Chapter 605, Florida Statutes. The Revised Act is a “default statute,” meaning that its rights and duties generally apply to all Florida LLCs – not just those created after the effective date.

LLC operating agreements often do not provide a procedure for the members of an LLC to expel an unruly member that is materially harming the LLC. For this reason, among the changes to LLC law under the revised Act, there are new avenues to expel a member in limited circumstances.

### Discussion

Expulsion of a member may occur in three different ways, as set forth below:

1. Certain conditions in the LLC operating agreement trigger expulsion. Expulsion under the operating agreement is fairly simple. If the operating agreement provides circumstances under which an LLC member may be expelled, and those circumstances occur, the member is dissociated from the LLC. See ‘ 605.0602(4), Fla. Stat.

2. Other members of the LLC unanimously consent to the member’s expulsion, provided certain conditions are met

If the operating agreement does not provide a method for a member’s expulsion, the remaining members of the LLC can unanimously vote to expel the member. However, expulsion by unanimous consent is only available to the members if: (1) it is unlawful to carry on the LLC’s activities with that person as a member; (2) the member’s entire transferable interest in

the LLC has been transferred, unless it was a transfer for security purposes or pursuant to a charging order; or (3) the member is an entity that has been dissolved. See § 605.0602(5), Fla. Stat.

Although Florida appellate courts have yet to address this second avenue for expulsion, the Fourth District Court of Appeal decided a case in 2015 that may have come out differently if the claims had accrued after the Revised Act became effective. In *Froonjian v. Ultimate Combatant, LLC*, 169 So. 3d 151 (Fla. 4th DCA 2015), the Fourth District held that the majority members of an LLC had the authority to expel a minority member from the LLC where the LLC did not have an operating agreement in place. Because the LLC had no operating agreement, the Fourth District found that the decision of a majority-in-interest of the members was controlling (under the former Florida LLC Act). *Id.* at 155. However, if the minority member’s expulsion had occurred in 2015 or later, the court may have reached a different conclusion.

3. The member is expelled by judicial order because of wrongful conduct. A judge can order a member’s expulsion from the LLC upon application by the LLC or a member in a direct action. Expulsion by judicial order is proper when the member has: (1) engaged in wrongful conduct that adversely and materially affects the LLC’s activities and affairs; (2) willfully or persistently committed a material breach of the LLC’s operating agreement or breached the fiduciary duties of loyalty or care; or (3) engaged in conduct relating to the LLC’s activities and affairs making it not reasonably practicable to allow the member to continue as a member. See § 605.0602(6), Fla. Stat.

### Application

All this is great to know, but what does it really mean for LLCs attempting to expel a member? Notably, the use of the word “dissociation” and “expulsion” in the Revised Act can be somewhat misleading

because a dissociated member still has certain rights and obligations. After a member is expelled, the remaining members of the LLC cannot simply redistribute the expelled member’s interests to themselves.

“Dissociation” and “expulsion” are not defined in the Revised Act, but there is a section on “Effect of Dissociation.” When a member is dissociated, he or she no longer has a right to participate in the management or the conduct of the LLC’s activities and affairs. And while a dissociated member further will also no longer have any fiduciary obligations to the LLC, it does not relieve a member of liability to the LLC or to the other members for any debt, obligation, or other liability incurred by the member before dissociation.

The dissociated member also will continue to hold any transferable interest it has in the LLC as a “transferee” only, meaning the dissociated member retains the right to receive distributions from an LLC, but only at the time it would have otherwise received them. This may present a problem for LLCs if, for example, a dissociated member continues to receive economic benefits from the LLC while also competing with the LLC.

### Conclusion

The Revised Act provides new ways for members of an LLC to expel a member under limited circumstances. However, because these expulsion provisions in the Revised Act only trigger when the operating agreement does not address the issue, LLCs should be proactive in drafting operating agreements with clear procedures for member expulsion, inclusive of buyout provisions or other remedies to avoid the “transferee” continuing to receive economic benefits after expulsion from the LLC.

*\*Lauren Johnson (ljohnson@mccaberabin.com) is an associate at McCabe Rabin, P.A. practicing business and securities litigation.*



TED BABBITT

## SPOILIATION

When crucial evidence is lost or destroyed, sanctions may be appropriate. There is a three part test that a Court must use in determining whether to impose sanctions. First, the evidence must have existed at one time. Second, the spoliator has to have a duty to preserve the evidence and third, the evidence must be proven to be crucial to the opposing party being able to prove its prima facie case or defense. *Golden Yachts, Inc. v Hall*, 920 So. 2d 771, 781 (Fla. 4th DCA 2006).

The degree of sanctions to be imposed in a spoliation case was the subject of a decision in *Landry v Charlotte Motor Cars, LLC*, 42 Fla. L. Weekly D1963 (Fla. 2nd DCA, Sept. 6, 2017). That case involved the purchase of a truck from a dealership that resulted in odometer roll back issues when the car was attempted to be traded in six months later. A few months after purchase the car was repossessed and a year after suit was filed, the dealership's attorneys sent a preservation letter and requested the inspection of the vehicle. Since the vehicle has been repossessed, the plaintiff wasn't able to produce it.

The dealership asked for sanctions and the Court granted the motion, dismissing the plaintiff's case. In its order, the trial court found that the plaintiff no longer had possession of the vehicle, that she had not willfully destroyed it, that she had a duty to preserve it, and that the dealership couldn't defend itself without inspecting the vehicle.

The plaintiff filed a timely motion for rehearing alleging that the vehicle still existed and was for sale at a car lot in Sanford, Florida. The trial court denied the motion and the appeal resulted.

The appellate court questioned whether the vehicle had even been spoliated. Spoliation is defined as "the destruction, or significant and meaningful alteration of evidence." *Vega v. CSCS Int'l, N.V.*, 795 So. 2d 164, 167 n.2 (Fla. 3d DCA 2001). Here plaintiff alleged facts which would have allowed the dealership to find the vehicle and the appellate court held that repossession of the

vehicle did not prove that it was destroyed or altered. In addition, the appellate court found that the plaintiff was not required to and probably couldn't prevent a third party from rightfully repossessing the vehicle and that the dealership knew the vehicle's identification number and could have located it and examined it with little effort.

The appellate court found that dismissing the lawsuit was not appropriate under the circumstances of this case. At 1965, it held

When there is a basis for imposing spoliation sanctions, "the appropriate sanction varies according to [(1)] the willfulness or badfaith, if any, of the party who lost the evidence, [(2)] the extent of the prejudice suffered by the other party, and [(3)] what is required to cure the prejudice." *Fleury v. Biomet, Inc.*, 865 So. 2d 537, 539 (Fla. 2d DCA 2003) (first citing *Harrell v. Mayberry*, 754 So. 2d 742, 745 (Fla. 2d DCA 2000); then citing *Sponco Mfg., Inc. v. Alcover*, 656 So. 2d 629, 630 (Fla. 3d DCA 1995)). Generally speaking, in the absence of willfulness or bad faith, dismissal – the harshest of all sanctions – is appropriate only when the movant presents evidence (e.g., expert testimony) demonstrating that its case is fatally prejudiced by its inability to examine the spoliated evidence. See *Fleury*, 865 So. 2d at 539 ("Dismissal ... [is] reserved for cases in which one party's loss of evidence renders the opposing party completely unable to proceed with its case or defense.")

The appellate court relied upon the decision of the Fourth District in *Golden Yachts, supra*. "The Courts prefer to utilize adverse evidentiary inferences and adverse presumptions during trial to address the lack of evidence." *Golden Yachts, supra*, at 780.

The only evidence before the trial court was the affidavit of the defendant's expert

as to the need of the vehicle in order to properly defend the case. Plaintiff asked for the opportunity to depose that expert and it was denied by the trial court. The appellate court found this to be improper. At 1965, the Court held

If the trial court's decision to dismiss the case is to be based on the defense expert's opinion regarding prejudice, then Ms. Landry "should have the opportunity to test those opinions in discovery." See *Reed*, 975 So. 2d at 1205. As the Fifth District explained in *Reed*, "[t]he court cannot correctly evaluate the [movant's] claim of prejudice until this has been done. Depending on the state of the record once essential discovery has been done and the record has been developed, the trial court may or may not correctly arrive at the same conclusion."

When evidence is spoliated, the trial court must determine how that occurred and what the consequences are to the opposing party. Dismissal of a lawsuit is the last choice to remedy spoliation and is reserved only for those cases where it is impossible for the opposing party to present their case.

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





The Personal Injury and Wrongful Death Committee of the  
Palm Beach County Bar Association Presents

# MEDICAL SCHOOL FOR LAWYERS

Thursday, February 1, 2018  
8:00 a.m. - 4:00 p.m.  
The Marriot Hotel  
1001 Okeechobee Boulevard  
West Palm Beach

## PROGRAM SCHEDULE

- 
- 8:00 a.m. **Check In / Late Registration / Breakfast**
- 8:20 a.m. **Welcome and Introductions** - Brian P. Sullivan, Esq.,  
Sullivan Law, P.A., Chair, Personal Injury/Wrongful Death Committee
- 8:30 a.m. **Spine Injuries**—Andrew Lenard, M.D., Orthopaedic Care Specialists
- 9:30 a.m. **Life Care Plans** - Ronald Snyder, M.D, Physiatrist, Palm Beach Sports Medicine
- 10:30 a.m. **Break**
- 10:45 a.m. **Traumatic Brain Injuries: Diagnosis and Imaging** - Andrew Walker, M.D., Neuroradiologist,  
Beaches Open MRI, LLC
- 11:45 a.m. **Lunch**
- 12:45 p.m. **Upper Extremities** - Matthew Steibel, M.D., Palm Beach Sports Medicine
- 1:45 p.m. **Pain Management** - Jane Bistline, M.D., Interventional Pain Services
- 2:45 p.m. **Break**
- 3:00 p.m. **Medicine for Lawyers** - Robert T. Bergin, Esq.,  
Robert T. Bergin, Jr., P.A., Board Certified Civil Trial Lawyer

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\_\_\_\_ I will not be able to attend the seminar, however I would like to order the audio. The cost is the same as listed above, however please include \$10.00 for shipping and handling. Allow one week for delivery. PBC Bar Association, P.O. Box 17726, West Palm Beach, FL 33416. 561-687-2800. 2.1.18 PI seminar

### Legal Aid Receives Substantial CY PRES Award from Stern Mortgage Foreclosure Class Action Case

On October 19, 2017, the Legal Aid Society of Palm Beach County received \$205,723.93 as a cy pres award in the class action litigation of Banner v. Wells Fargo Bank N.A. and the Law Offices of David J. Stern. The award was presented to Bob Bertisch, Executive Director of Legal Aid, by class counsel Louis Silber, Kirk Friedland, Philip Burlington, and Nicole Segal at an award ceremony held at the offices of Legal Aid in West Palm Beach. The keynote speaker at the presentation was Florida Supreme Court Justice Barbara J. Pariente.



### 17th Annual Cup of Justice Golf Classic Benefits Legal Aid's Education Advocacy Project



The Legal Aid Society of Palm Beach County's 17th Annual Cup of Justice Golf Classic raised over \$40,000 to support its Educational Advocacy Project. The Project's mission is to ensure positive educational outcomes for disabled children attending Palm Beach County's public schools. Attorney Robert Shalhoub chaired the Columbus Day event at Bear Lakes Country Club. The presenting sponsor of the event was IBERIABANK.



D. CULVER "SKIP" SMITH III

"We have a problem with Michael." Alan was speaking at a meeting of the Executive Committee of Wynken, Blynken & Nod, Attorneys at Law. "An angry client just called me threatening to sue us or report us to the bar because Michael is taking too long to get her work done, is not returning her phone calls or responding to her e-mails, and twice lately has cancelled appointments."

"What do you believe is the problem?" asked Marla.

"I don't know," replied Alan, "but this is not the first time. He comes in late, is shaky and irritable, isolates in his office, and bolts at five p.m. sharp. He has missed two hearings in the last month. His production has been below par all year. A couple of times I spoke to him in his office and thought I smelled alcohol."

"He is a brilliant lawyer and has done excellent work in the past," noted Marla. "Do you think he has a drinking problem?"

"I don't know, and I really don't care," said Alan. "The bottom line is that we cannot afford to continue to tolerate this behavior. We need to tell him that his better future lies elsewhere."

"That seems a little heartless," protested Marla.

"Maybe," replied Alan, "but Wynken, Blynken & Nod is a law firm, not a rehab facility."

A study released in 2016 as a joint project of the ABA and the Hazelden Betty Ford Foundation, based on surveys completed by 12,825 licensed, employed American lawyers, showed that 20.6% screened positive for hazardous, harmful, and potentially alcohol-dependent drinking. This is twice what is believed to be the prevalence among American adults. A cold statistic like 20.6% might surprise or impress few of us, but think of it in terms of one in five. And this does not include other forms of drug abuse or the many other performance-impairing addictions that exist.

All too often we look the other way. We need to ask ourselves why. We know

## The Pink Elephant in the Office

logically that avoiding the issue puts the firm and its clients at risk. The subject is uncomfortable, especially if the lawyer has a book of business and is otherwise well-regarded. Michael is unlikely to admit his problem or ask for help until he hits bottom. Even if he knows he has a problem, he may deny it or promise to do better—a promise he cannot keep. He will be concerned about stigma, about loss of stature or respect, about loss of job.

Alan is right to address the issue, but his solution is not a solution. There are broader ramifications—not just the obvious for Michael and his family (if he still has one), but also for the firm's clients and for the firm's reputational and financial well-being. Ignoring the issue exposes the clients Michael serves to substandard if not damage-causing work. If Michael does not get help, his impaired functioning inevitably will lead to bar grievances and malpractice claims. Most bar grievances arise from lack of client communication, and alcohol or substance abuse underlies a

high percentage of them. According to the Legal Profession Assistance Conference, studies estimate that in approximately 60% of discipline prosecutions and malpractice claims, alcohol abuse is at work. Sending Michael on his way, however, does not solve the firm's problem. The unsuspecting clients who follow him will later try to hold the firm accountable for any losses for its failure to inform them of Michael's impairment. Either way, the firm is at risk for not addressing the problem head on.

A law firm invites trouble if it waits for others to intervene. The firm already has invested in this lawyer. It has an opportunity to salvage a valuable relationship. But how? Simply telling the lawyer to shape up or hit the road rarely works. Likewise, intervening without professional help is ill-advised. We are lawyers—we practice law. Just as a firm hires accountants to do its accounting, it should enlist the help of a mental-health professional who is certified in addictions and interventions.

*(Article continues on Page 22)*

### MCCABE RABIN, P.A. ATTORNEYS AT LAW



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## LITERACY Week



### Lawyers for Literacy Committee collects Bears and Books for National Adoption Day

Georgina Jimenez-Orosa and Melynda Melear are two of our many wonderful volunteers who collected books and bears for our Lawyers for Literacy Committee's annual Bear and Book drive to benefit National Adoption Day. Every child and every sibling who participated in National Adoption Day last month received a new stuffed animal and a new book. Older children received a Target gift certificate. Thank you for making a difference!



Literacy Day in the Ann Norton Sculpture Gardens

Sheryl Wood reads to children in the Ann Norton Sculpture Gardens about Supreme Court Justice Sotomayor.

A number of Lawyers for Literacy Committee members recently participated in the 10th annual Literacy Day at the Ann Norton Sculpture Gardens. Lawyers for Literacy Chair Brad Avakian says our members had a great time reading to local 2nd graders, answering questions about the law, and enjoying some fresh air with our colleagues. Each of the students received a pocket Constitution to take home, thanks to the Florida Bar. A special thank you to our Lawyers for Literacy Chair Brad Avakian, along several committee members including Andrew Kwan, Sheryl Wood, Kelly Schulz, Mary Grecz, Jennifer Soberal and Melynda Melear



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**MANNY FARACH**

## Florida Real Property and Business Litigation Report

**Savannah College of Art and Design, Inc. v. Sportswear, Inc.**, No. 15-13830 (11th Cir. 2017). The protections of federally registered service marks carry over to goods under Eleventh Circuit precedent; *Crystal Entertainment & Filmworks, Inc. v. Jurado*, 643 F.3d 1313, 1315-16 (11th Cir. 2011), is distinguished as it deals with common-law trademarks and not federally registered marks.

**Wells Fargo Delaware Trust Company, N.A. v. Petrov**, Case No. 2D16-1536 (Fla. 2d DCA 2017).

Servicing agents may verify foreclosure complaints and testify at trials on behalf of a foreclosing plaintiff, and a servicer doing so does not constitute prosecuting a case on behalf of the plaintiff lender.

**Beach Club Towers Homeowners Association, Inc. v. Jones**, Case No. 1D15-5886 (Fla. 1st DCA 2017).

Condominium owners whose condominium is based on lease that is not automatically renewable are not equitable owners of the land underlying the condominium, and thus are not subject to ad valorem taxation on the land underlying the lease.

**Gunning v. Equestleader.Com, Inc.**, Case No. 2D16-2214 (Fla. 2d DCA 2017).

A contract vendor has no claim for civil trespass to real property as the contract vendee becomes the equitable owner of the real property upon execution of the contract.

**Golisting.com, Inc. v. Papera**, Case No. 4D16-378 (Fla. 4th DCA 2017).

A settlement proposal to each of two joint defendants is enforceable and not ambiguous even if the proposal states that it will refund a proportionate amount if both parties accept the proposal.

**Joyce v. Federated National Insurance Company**, Case No. SC16-103 (Fla. 2017).

Contingency multipliers are not just for "rare" and "exceptional" cases.

**Bayview Loan Servicing, LLC v. Kay**, Case No. 1D16-4043 (Fla. 1st DCA 2017).

A witness from one business may lay the predicate for admission of another business's business records so long as the witness has sufficient personal knowledge.

**Silver Beach Towers Property Owners Association, Inc. v. Silver Beach Investments of Destin, L.C.**, Case No. 1D16-4555 (Fla. 1st DCA 2017).

Off-site intangible personal property in which a condominium unit owner has no ownership rights is not "appurtenant" to a condominium unit, even if the declaration of condominium states they are appurtenant to the unit.

**Lana v. Assimakopoulos-Panuthos**, Case No. 2D15-4205 (Fla. 2d DCA 2017).

An award under Florida Statute section 57.105(1) may only include fees and may not include costs, including expert witness fees.

**Arko Plumbing Corp. v. Rudd**, Case No. 3D16-1689 (Fla. 3d DCA 2017).

Florida's Litigation Privilege does not extend so far as to protect defendants from accessing, without consent, plaintiff's password-protected vehicle tracking system.

**Miami-Dade County v. Lansdowne Mortgage, LLC**, Case No. 3D16-1046 (Fla. 3d DCA 2017).

Tax liens for improperly claiming homestead tax exemptions are retroactive and will take priority over previously recorded liens notwithstanding Florida Statute section 196.161(3)'s statement that "any purchaser for value of the subject property shall take free and clear of such lien [for improperly claiming homestead]."

**Mid-Continent Casualty Company v. R.W. Jones Construction, Inc.**, Case No. 5D16-2836 (Fla. 5th DCA 2017).

Agreeing to not contest another creditor's right to claim attorney's fees is not an agreement to the reasonableness of those fees.

**HagertySmith, LLC v. Gerlander**, Case No. 5D16-3655 (Fla. 5th DCA 2017).

The littoral rights of owners of lakefront property include the right to an unobstructed view of the lake.

**Edwards v. Thomas**, Case No. SC15-1893 (Fla. 2017).

Art. X, § 25(a) of the Florida Constitution (records relating to adverse medical incidents) abrogates the common-law attorney-client and work product privileges.

**Flo & Eddie, Inc. v. Sirius XM Radio, Inc.**, Case No. SC16-1161 (Fla. 2017).

Florida common law does not recognize an exclusive right of public performance in pre-1972 sound recordings.

**Pettis v. Merritt**, Case No. 1D17-506 (Fla. 1st DCA 2017).

Florida Statute section 95.231(2) bars defenses or claims against the claimant to real property, i.e., it does not operate to bar the claimant in its claims to real property.

**Herendeen v. Mandelbaum**, Case No. 2D15-4300 (Fla. 2d DCA 2017).

A discharge in bankruptcy does not extinguish a debt, and bankruptcy trustee may continue to prosecute a state law claim even after discharge of the bankrupt debtor.

**Buckingham v. Bank of America, N.A.**, Case No. 2D15-5424 (Fla. 2d DCA 2017).

A Power of Attorney must specifically reference the loan in question in order to create standing for a lender to prosecute a foreclosure.

**Villas of Windmill Point II Property Owners' Association, Inc. v. Nationstar Mortgage, LLC**, Case No. 4D16-2128 (Fla. 4th DCA 2017).

An assignee lender who is jointly and severally liable for association assessments with the foreclosing lender under Florida Statute section 720.3085(2)(b) is entitled to the benefits of the "safe harbor" provisions of Florida Statute section Florida Statute section 720.3085(2)(c).

**The Allegro at Boynton Beach, L.L.C. v. Pearson**, Case No. 4D16-4299 (Fla. 4th DCA 2017).

The decision by a plaintiff to pursue both a specific performance claim and a damages claim based on the same facts does not operate as an election of remedies because the two remedies are consistent with each other. Additionally, an owner that enters into a contract converts a pre-existing right of first refusal into an irrevocable option to purchase that is not affected by the termination of the underlying contract.

## The Pink Elephant in the Office (con't.)

The firm might offer to underwrite or share the cost of treatment to the extent not covered by insurance—an investment that promises a far greater return. The firm should assure the troubled colleague that he will retain his position with the firm if he follows through—but only if he follows through. His colleagues can assure him that his admitting his problem and seeking help will be seen as admirable, courageous, and responsible. Addiction is a disease, not a moral failure or lack of discipline. It is a disease that can go into complete remission with proper course of treatment. The options are varied and many.

In the end, everyone wins. The firm will have the satisfaction of knowing that it has protected its clients, has protected itself, and has done what it can to save a career, save a family, and save a life. That is the ethical, practical, and humanitarian thing to do. That is a hallmark of professionals.

### ALEXANDER “SANDY” MYERS, ESQUIRE



*Mediator/Arbitrator (Admitted to the FL Bar 1970)*

- ❖ Florida Bar Board Certified Civil Trial Lawyer (1983-2007)
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# NORTH COUNTY Section

## North County Section Hosts - “Thankful Tuesday”

It's always nice seeing members for a networking mixer, but even nicer getting together for a cause. Last month, our North County Section enjoyed a cocktail reception at the Yard House in Palm Beach Gardens. Although the event was FREE to attend, our generous members donated nearly \$1,000.00 for charity.



Rick Chaves,  
NCS Secretary Misty Chaves,  
NCS Director Rebecca Brock and  
Magistrate Sarah Willis



Greg Cohen and Jon Wald



NCS Director Nick Johnson and  
Judge Rosemarie Scher



Kristin Vivo and Barry Balmuth

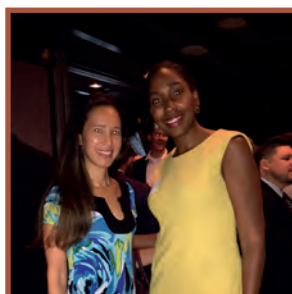
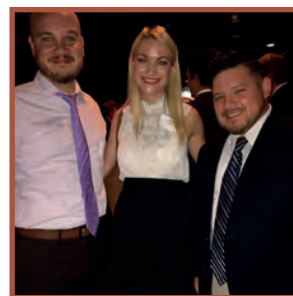


R.T. White, Andrew Pineiro  
and  
Stan Klett

# YOUNG LAWYERS Section

## YLS Happy Hour - Morton's Steak House

The Young Lawyers Section sponsored a Judicial Reception on October 19 at Morton's Steakhouse. A special thanks to the members of the Judiciary who attended this special event.



*Photographs taken at Morton's Steakhouse, this is an intimate environment and as such, the lighting is dark.*



## The Workers Compensation Annual CLE seminar

The Workers Compensation Annual CLE seminar was held in West Palm Beach. The three workers compensation judges who were appointed to the bench this past year were presented with gavels. In addition, the annual Kennie Edwards award was given to Marissa Hoffman. Kennie Edwards was killed on September 19, 1996 when an injured worker armed with a shotgun and a handgun burst into a workers' compensation defense firm in West Palm Beach, Florida. Kennie was 38 years old and left behind his pregnant wife and five year old son. The injured worker then shot and killed himself. Following this horrific event the workers' compensation community established the Kennie Edwards Award which is presented annually to the Workers' Compensation attorney who best exemplifies those professional qualities admired in Kennie- honesty, integrity, cordiality, good humor, high ethical standards and advocacy tempered by a sense of humility. Congratulation Marissa!



The three newly installed Workers' Compensation Judges receiving gavels. Judge Gregory Johnsen, Judge Carol Stephenson and Judge Thomas A. Hedler



Panelists Judge Stephenson, Andy Borah, Michele Leissle, Lloyd Basso and Marc Golden



David Rigell, Marissa Hoffman (2017 Kennie Edwards Award Recipient) and Michael Celeste



This year's Kennie Edwards award recipient, Marissa Hoffman, surrounded by previous recipients of the award Jason Goldstone, Allison Schefer, Michelle Leissle, Ret. Judge Timothy Basquill, Nicole Hessen, David Rigell, Michael Celeste, Lyle Platt and Jeffrey Friedman.



Judge Johnsen, Donna Wolfe, David Rigell and Judge Hedler



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Aaron Bass, (Puja from Moral and Lopez),  
Judd Koenig



Lyle Platt Judge Hedler and Marc Golden



Panelists Ken Ehrlich, Judge Gregory Johnsen,  
Jerry McKim, Hillarey McCall and Lloyd Basso



Nicole Hessen, Judge Johnsen, Judge Stephenson  
and Judge Hedler



Panelists Judge Owens, Christine Tomasello, Judge  
Hedler, Judge Johnsen and Judge Stephenson



Panelists Judge Hedler, Aaron Bass, Lou Pfeffer,  
Brian Vassallo and David Rigell.



Ken Schwartz, Nicole Hessen and Judge Timothy  
Basquill (ret.)



Andy Borah and Paul Luger



Suzanna Scarborough and Nicole Roero, Kelly  
Schaet and Paolo Longo



Alicia Kobasky and Mark D'Amore



Marc Golden, Kurt Wyland and Aaron Bass



Lyle Platt, Ken Ehrlich and Bruce Burk



# E~DISCOVERY: PRACTICAL, PAPERLESS AND BEYOND

**Friday, January 19**

11:30 am - 1:00 pm

American Lung Association

2701 N. Australian Avenue West Palm  
Beach

Presented by the Solo and Small Firm Committee

**E-Discovery** and the protection of privileged electronic documents are at the forefront of law firms' best practices. Join the Solo and Small Firm Practice Committee for this one hour seminar And luncheon that guides us through basic principles of gauging appropriate disclosure while protecting clients' interests.

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The Appellate Practice Committee of the Palm Beach County Bar Association Presents:

# How to Market an Appellate Practice:



## Valuable Tips for Growing Your Business

**MONDAY, JANUARY 22, 2018**

11:30 A.M. - 1:00 P.M. (includes lunch)

American Lung Association

2701 Australian Avenue

West Palm Beach, FL

Welcome & Introductions - Samuel Walker, Esq., *CPLS, P.A.*  
Moderated by Nichole J. Segal, Esq., *Burlington & Rockenbach, P.A.*;  
*Board Certified in Appellate Law*; and Tania Williams, Esq.,  
*The Williams Firm, P.A.*

### PANEL:

Dineen Wayslik, Esq., *DPW Legal; Board Certified in Appellate and Intellectual Property Law*

Craig Goldbenfarb, Esq. *Law Offices of Craig Goldenfarb, P.A.*

Soraya Solages-Jones, Esq. *Lytal, Reiter, Smith, Ivey & Fronrath*

This seminar includes a panel discussion with three dynamic attorneys with diverse backgrounds and experiences. Learn marketing tips and tools related to both professional and practice development. While we will be addressing some issues specific to appellate practitioners, this seminar will be a wonderful opportunity for attorneys of all practice areas to learn how to develop and market yourselves professionally.

### REGISTRATION:

Expected credit: 1.0 CLER. Cost: \$35.00 members; \$75.00 non-members

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The Appellate Practice Committee of the Palm Beach County Bar Association Presents



# Inaugural Outstanding Appellate Advocacy Seminar

Friday, February 2, 2018, 11:30 a.m. - 1:00 p.m. (lunch included)  
Fourth District Court of Appeal, 110 S. Tamarind Ave., West Palm Beach, FL

**Welcome and Announcements:** Samuel A. Walker, Esq., CPLS, P.A., Chairperson, Appellate Practice Committee

## Speakers:

Judge (Ret.) W. Matthew Stevenson  
Judge (Ret.) Barry J. Stone  
Judge (Ret.) Gary M. Farmer

## Agenda:

- Tips to Successful Brief Writing
- Things not to do in your Reply
- Keys to Oral Argument
- How to Write an Outstanding Initial Brief
- How to Write an Outstanding Answer Brief
- How to Write an Outstanding Reply Brief
- How to Present an Outstanding Oral Argument as the Appellant
- How to Present an Outstanding Oral Argument as the Appellee

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Credit: 1.0 CLER, plus 1.0 Certification credit in appellate practice. Cost: \$35 members; \$75 non-members. Those registering after 1/26/18 add \$10 late fee. All refund requests must be made no later than 48 hours prior to the date of the seminar. Register online at [www.palmbeachbar.org](http://www.palmbeachbar.org) or by mail (return this form with your check)

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The Paralegal Committee of the Palm Beach County Bar Association  
Presents

## **Ethics, Professionalism and Technology**

Friday, February 9, 2018, 8:00 a.m. - 12:00 p.m.

Fourth District Court of Appeal, 110 Tamarind Ave., W. Palm Beach



8:00 a.m. - 8:30 a.m. **Late Registration / Check in / Light Breakfast**

8:30 a.m. - 9:20 a.m. **E-Discovery and Ethics: Discovery of Social Media and Ethical Limitations for Paralegals and Attorneys. Social Media Investigation of Jurors and Ethical Limitations** - Judge Meenu Sasser

9:20 a.m. - 10:10 a.m. **Discovery Project Management – How to handle ESI Like a Rockstar** - Chioma Deere, Esq., Williams, Leiningering & Cosby, P.A.

10:10 a.m. - 10:20 a.m. **Break**

10:20 a.m. - 11:10 a.m. **Professionalism Expectations** -  
Kara Berard Rockenbach, Esq., Methe & Rockenbach, P.A.

11:10 a.m. - 12:00 p.m. **Ten Ingredients for an Effective Mediation (confidentiality, safety and security, negotiating tactics and strategies, mediation case law, preparing clients and counsel for the mediation process)** -  
Lawrence Gordon, FRP, Phoenix Mediation, LLC; Bruce Blitman, Esq.,  
Law Office of Bruce Blitman, Certified Circuit Civil, Family and County Court Mediator

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Silver level sponsor



Credit: 4.0 CLER; 3.0 Ethics; 1.0 Technology. Cost: \$ 120 members; \$ 160 non-members. Those registering after 2/2/18 add \$10 late fee. All refund requests must be made no later than 48 hours prior to the date of the seminar. Register online at [www.palmbeachbar.org](http://www.palmbeachbar.org) or by mail (return this form with your check)

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2/9/18 Paralegal

The Construction Law CLE Committee of the Palm Beach County Bar Association  
Presents

## Bracing for the Storm: Preparing for a Hurricane and Aftermath



Tuesday, February 20, 2018, 8:30 a.m. - 12:00 p.m.

Fourth District Court of Appeal, 110 S. Tamarind Avenue, W. Palm Beach, FL

This seminar will focus on planning, risk allocation, and the practical/legal issues presented before, during and after hurricane events from both the owner and contractor perspectives.

8:30 a.m. - 9:00 a.m. **Late registration / Check In**

9:00 a.m. - 9:05 a.m. **Welcome and Opening Remarks** - William J Cea\*, Esq.,  
Florida Certified Circuit Civil Mediator; Becker & Poliakoff, P.A.;  
Chair, Construction Law Committee

9:05 a.m. - 9:55 a.m. **Before the Cone "May Day": What's Necessary Before Hurricane  
Season** - Mike Heitman\* Esq., Owen, Gleaton Egan, Jones &  
Sweeney, LLP

9:55 a.m. - 10:45a.m. **You're in the Cone - Securing Business and Job Sites** -  
Mark J. Stempler, Esq.\*, Becker & Poliakoff, P.A.

10:45 a.m. - 10:50a.m. **Break**

10:50 a.m. - 11:40 a.m. **The Aftermath – Protecting Owners and Construction Industry  
Professionals** Daniel E. Levin\*, Esq., Cole, Scott & Kissane, P.A and  
John A. Chiocca\*, Esq., Cole, Scott & Kissane, P.A

11:40 a.m. - 12:00 p.m. **Question/Answer Session & Closing Remarks**

\*All Board Certified in Construction Law

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Expected credit: 3.0 CLER Cost: \$ 90 members; \$ 130 non-members. Those registering after 2/13/18 add \$10 late fee. All refund requests must be made no later than 48 hours prior to the date of the seminar. [Register online at www.palmbeachbar.org](http://www.palmbeachbar.org) or by mail (return this form with your check)

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**GREGORY TENDRICH, Esq.:** "AV Preeminent" rated, FINRA Arbitrator and Mediator, Certified County Court Mediator and former Series 7 licensed VP & Asst. General Counsel to national and regional stock brokerage firms. All securities & investment related matters involving the recovery of losses due to stock broker fraud, misrepresentation, churning and unsuitable recommendations, in addition to representation of advisors in SEC, FINRA, regulatory enforcement, contract and employment matters. (561) 417-8777 or visit [www.yourstocklawyer.com](http://www.yourstocklawyer.com)

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## Hearsay



**C**ohen Milstein's Nicholas C. Johnson presented on the topic of "Tips on Developing a Road Map for Deposing the Defendant and Defendant Employees" at Wednesday, October 4, 2017, Medical Malpractice Seminar at the Florida Justice Association's (FJA) 2017 Masters of Justice Convention.



**J**ones, Foster, Johnston & Stubbs, P.A. announces that firm Shareholder Robert W. Wilkins has been appointed as Co-Chair of the Data Breach and Internet subcommittee American Bar Association's Section of Litigation.



**R**aymond E. Kramer III, of Palm Beach, a partner at the West Palm Beach law firm of Beasley Kramer & Galardi, P.A., was recently appointed the President of the Florida Lawyers Network



**J**ones, Foster, Johnston & Stubbs, P.A. announces that shareholder attorney Margaret L. Cooper has celebrated her 30-year anniversary as a Martindale-Hubbell 'AV Preeminent' rated attorney and has been included in Martindale-Hubbell's 'AV Judicial Edition



**G**len J. Torcivia of Torcivia, Donlon, Goddeau & Ansay, P.A., presented the Florida Code of Ethics for Public Officers at the Palm Beach County League of Cities Annual Ethics Training Seminar, which was held at Palm Beach State College



**C**iklin Lubitz & O'Connell is pleased to announce one of its partners, Elisha D. Roy, has been elected Secretary of the Florida Chapter of American Academy of Matrimonial Lawyers (AAML).

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561 227 2060

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## Miscellaneous

**MARCHMAN ACT:** Attorney well experienced in Marchman Act cases including litigating many cases under this law; understands treatment and addiction recovery; available for referral or consult. Frequent lecturer and author on the Marchman Act. Joe Considine; Telephone: 561-655-8081; Joe@Joeconsidinelaw.com

## Office Space

**E**xecutive office with desk and assistant station available for rent in a Class A office building located in Golden Bear Plaza in Palm Beach Gardens, off of US1. Renovated office space includes telephone, printer/scanner/copier, wifi, internet, kitchen, conference room, reception services, notary, ample parking and an on-site gym. For more information and to schedule an appointment, please e-mail Denyce@csclawgroup.com



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



# CALENDAR OF EVENTS

## DECEMBER 2017

FRIDAY, DECEMBER 1,  
8:30AM – 9:30AM  
ADR COMMITTEE MEETING  
GL

TUESDAY, DECEMBER 5,  
7:45AM – 8:30AM  
NCS "UMC COFFEE"  
NORTH COUNTY COURTHOUSE

TUESDAY, DECEMBER 5,  
12:00PM – 1:00PM  
BENCH BAR MEETING  
AMERICAN LUNG ASSOCIATION

TUESDAY, DECEMBER 5,  
12:15PM – 1:30PM  
PRO BONO CIRCUIT MEETING  
JUDICIAL DINING ROOM

TUESDAY, DECEMBER 5,  
6:30PM – 7:30PM  
SMALL CLAIMS PROGRAM  
LANTANA ROAD LIBRARY

WEDNESDAY – SUNDAY,  
DECEMBER 6 – 10  
FL BOG MEETING AMELIA ISLAND

WEDNESDAY, DECEMBER 6,  
12:00PM – 1:00PM  
JUDICIAL RELATIONS COMMITTEE  
MEETINGS

WEDNESDAY, DECEMBER 6,  
5:30PM – 6:30PM  
SPBCBA BOARD MEETING  
SACHS SAX CAPLAN

THURSDAY, DECEMBER 7,  
5:30PM – 8:00PM  
HOLIDAY PARTY  
THE KRAVIS CENTER (COHEN PAVILION)

FRIDAY, DECEMBER 8,  
12:00PM – 6:00PM  
BANKRUPTCY SEMINAR  
4TH DCA

MONDAY, DECEMBER 11,  
6:30PM – 7:30PM  
LANDLORD TENANT PROGRAM  
GLADES ROAD BRANCH LIBRARY

TUESDAY, DECEMBER 12,  
7:45AM – 8:30AM  
UMC COFFEE  
NEC

TUESDAY, DECEMBER 12,  
12:00PM – 1:00PM  
PARALEGAL COMMITTEE  
515 N FLAGLER DRIVE

TUESDAY, DECEMBER 12,  
12:00PM – 12:30PM  
YLS BOARD MEETING  
515 N FLAGLER DRIVE

WEDNESDAY, DECEMBER 13,  
12:00PM – 1:00PM  
PROFESSIONALISM COMMITTEE  
MEETING  
4TH DCA

WEDNESDAY, DECEMBER 13,  
5:00PM – 6:00PM  
BAR BOARD MEETING

WEDNESDAY, DECEMBER 13,  
6:00PM – 9:00PM  
FMCBA AND HISPANIC BAR JOINT  
HOLIDAY PARTY  
123 DATURA WEST PALM BEACH

THURSDAY, DECEMBER 14,  
11:30AM – 1:00PM  
BUSINESS LITIGATION  
4TH DCA

THURSDAY, DECEMBER 14,  
12:00PM – 1:00PM  
CONSTRUCTION LAW COMMITTEE  
MEETING  
BECKER & POLIAKOFF

THURSDAY, DECEMBER 14,  
5:30PM – 7:00PM  
FOSTER KID HOLIDAY PARTY  
MARRIOTT

FRIDAY, DECEMBER 15,  
11:45AM – 1:00PM  
FEDERAL BAR ASSOCIATION  
LUNCHEON  
KRAVIS CENTER

MONDAY, DECEMBER 18,  
8:30AM – 9:30AM  
GUARDIANSHIP EDUCATION  
COMMITTEE  
515 N FLAGLER DRIVE

TUESDAY, DECEMBER 19,  
2:00PM – 12:30PM  
CDI MEETING  
AMERICAN LUNG ASSOCIATION

WEDNESDAY, DECEMBER 27, 1  
2:00PM – 1:00PM  
REAL ESTATE COMMITTEE MEETING  
515 N FLAGLER DRIVE

MONDAY – FRIDAY, DECEMBER 25-29  
BAR ASSOCIATION OFFICE CLOSED



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## PALM BEACH COUNTY BAR ASSOCIATION BULLETIN

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SCOTT@LINKROCKLAW.COM  
KARA@LINKROCKLAW.COM

*Season's  
Greetings*



Happy Holidays from the Bar Staff:  
Front row L to R: Kathy Clark,  
Dee Maeyens, Lynne Poirier and Eva Gray  
Back row L to R: Jen Iacobucci, Carla  
Tharp-Brown, Nicole Nelson and  
Mikki Johnson