



PALM BEACH COUNTY BAR ASSOCIATION BULLETIN

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OFFICIAL PUBLICATION OF THE PALM BEACH COUNTY BAR ASSOCIATION

APRIL

2018



DUES STATEMENTS COMING SOON!

All Members should expect to receive their Annual Membership Statements by email in early April. PBCBA membership for 2018 - 2019 begins July 1. Thank you for being a part of one of the best Bar Associations in South Florida.

MENTAL HEALTH & WELLNESS SEMINAR



Professor Scott L. Rogers
University of Miami
School of Law



Dori Foster-Morales
Florida Bar

Join us for a live program including a positive and empowering conversation about attorney wellness.

We're pleased to have two guest speakers including Board of Governors member and chair of The Florida Bar's Special Committee on Mental Health and Wellness of Florida Lawyers, Dori Foster-Morales who will talk about the Bar's efforts to destigmatize mental health and substance-abuse issues.

This luncheon is planned for Wednesday, April 18, 2018 from 11:30 a.m. to 1:45p.m. at Admiral's Cove Country Club in Jupiter.

Pre-registration is required online @ www.palmbeachbar.org

Register TODAY

(see page 25 for more information)



This year's Bench Bar Conference was held at the Palm Beach Convention Center and included 27 sessions, luncheon with keynote speaker Palm Beach County Commissioner David Kerner, Professionalism and Diversity Awards, 23 exhibitors, and a cocktail reception. This conference takes a year to plan. A special thank you to our hard working co-chairs, judges, moderators and panelists for making the day another great success

(L to R) Bench Bar Co-Chair Santo DiGangi, Bar President Sia Baker-Barnes, Sidney A. Stubbs Professionalism Award Winner Patricia Lowry, the Edward Rodgers Diversity Award Winner JulieAnn Rico and Bench Bar Co-Chair Lawonda Warren

VOLUNTEERS NEEDED TO SERVE ON COMMITTEES

This is the time of year that the president-elect Greg Huber will begin working on appointing volunteers to serve on the various Bar committees. Your involvement is essential to the success of this organization. For all members that would like to allow us to benefit from your ideas and talents please take a moment to fill out the Committee Preference Form: <https://palmbeachbar.org/committee-preference>.

JUDICIAL RECEPTION

Join the Law Week Committee for the annual Judicial Reception honoring the local judiciary and judicial assistants. The event will be held on Tuesday, April 24, 2018 at the Harriet Himmel Theater, 5:30pm R.S.V.P. at www.palmbeachbar.org

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The Bulletin

Palm Beach County
Bar Association

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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

April 12:
NCS Casino Party

April 14:
YLS 3rd Annual 5K Run

April 18:
Health & Wellness Luncheon

April 24:
Judicial Reception

May 4:
Law Day Luncheon:
Human Trafficking

May 11:
YLS GOLF TOURNAMENT

May 17:
NCS 16th Annual Jurist of the Year

June 9:
96th Annual Installation Banquet

June 23:
2018 YLS Scales of Justice
Fishing Tournament

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Law Day Luncheon

TOPIC: HUMAN TRAFFICKING

Keynote Speakers: **Justin Hoover**, Assistant State Attorney 15th Judicial Circuit talks about Human Trafficking right here in our own backyard

Shanika Ampah, Victim of Human Trafficking Shares Her Personal Story



FRIDAY, MAY 4, 2018

11:45 AM - 1:00 PM

Embassy Suites Hotel

1601 Belvedere Road

West Palm Beach

\$40.00 for PBCBA members and complimentary for Judges

Attorneys who are not PBCBA members are welcome for \$55.00.

RSVP: www.PalmBeachBar.org

There will be plenty of parking at the hotel, including top level of the garage—free!



Attend this luncheon and receive **1 CLE**; Certification Credit: 1.0 Criminal Appellate Law; 1.0 Criminal Trial Law and 1.0 and Juvenile Law

Luncheon supported by:



IBERIABANK



Did you know Florida was recently ranked number 3 in the number of reported human trafficking cases?

Shanika Ampah was just 11 years old when it happened to her. “After being sexually abused at home I was that runaway girl,” she said. Like many others, Shanika resorted to prostitution. After spending seven years being abused, she escaped at the age of 18.

Today, Shanika is a mother of eight children, nurse, advocate and survivor. She is founder and director of Guiding Light Outreach Inc., in Miami, which is the parent organization of Yeshua’s A.R.M.S. a place that brings awareness, recovery and mentors survivors of sexual abuse and sex trafficking.

Shanika joins us to tell her story of modern day slavery so this doesn’t happen to anyone else.

Justin Hoover, Esq., will also speak. Justin is a prosecutor for the 15th Circuit where he serves in the Special Victims Unit. Justin joins us to talk about the real world of commercial sex trafficking taking place right here in Palm Beach County.

Join us on Friday, May 4 from 11:30 a.m. to 1:00 p.m. at the Embassy Suites Hotel in West Palm Beach. This event is expected to sell out. Purchase your ticket online today at www.palmbeachbar.org.

PRESIDENT'S Message

What Exactly is Human Trafficking?



Rosalyn Sia Baker-Barnes
2017-18 PBCBA President

Human Trafficking. By now, we have all heard these words, but what does human trafficking really mean, and, just how often is it occurring right here in Palm Beach County? Human trafficking is often described as modern-day slavery. Florida law defines human trafficking as the use of fraud, force or coercion to exploit another person for sex, labor or domestic servitude. Visit the U.S. Department of Homeland Security's website, and you will find several true stories of victims of human trafficking-victimization that often begins with people the victim knows. One example is a 13 year-old girl, who was trafficked by the step-parent of a school classmate. He gained her trust through what she thought was a "normal" arrangement where she babysat his younger children, and slowly took advantage of her, resulting in years of drug and alcohol addiction, and years of being trafficked to men all over the country.

Those at highest risk of becoming victims of human trafficking are middle and high school students. Here in Florida, the statistics are sobering. Florida is the third-largest state in the country for human trafficking.

Many experts in the field believe students are being targeted both at school, and after school, and even during their lunch breaks.

With social media and other forms of direct communication, attempts at human trafficking can take place anywhere.

The key to preventing it, the experts say, is education. Success human trafficking operations thrive on vulnerability, and by educating our children, we can hopefully provide tools to raise awareness on how to protect themselves and avoid falling victim to these crimes.

Many local schools have formed human trafficking awareness clubs, and several local agencies including the State Attorney's Office, the FBI and the Palm Beach County Sheriff's Office have formed task forces designed to combat human trafficking. In just one year, 12 men were arrested in Palm Beach County for human trafficking offenses. Human trafficking operations are often found in local hotels and motels, and some of the signs may include payment for the room in cash or with a prepaid card, excessive foot traffic in and out of the rooms, constant monitoring of people in the rooms, significantly older men with younger women, and short stays with very few possessions, if any.

In addition to education and task forces, our members can also help to fight human trafficking, both in criminal and civil cases, and through community service. Law Day 2018 will focus on just that. Our law day luncheon will feature a renowned human trafficking prosecutor and a victim of human trafficking. Both will give our members insight about the many forms of human trafficking, and how we can combat it. A portion of the luncheon proceeds will benefit The Place of Hope, a local organization providing safe housing, support, and care for human trafficking victims and their families. We invite you to join us on May 4, 2018 for our Law Day luncheon, and learn more about human trafficking, and how we can help as lawyers to fight it.

A handwritten signature in blue ink that reads "Sia Barnes".

Sources:

The Florida Department of Children & Families
The Palm Beach Post
The U.S. Department of Homeland Security

LAW DAY LUNCHEON: A DISCUSSION ON HUMAN TRAFFICKING

Friday, May 4th
11:45am - 1:00pm

Embassy Suites Hotel



NEW MEMBERS

APRIL 2018

Adam Abecassis: Florida International University, 2017; Solo Practitioner, Boca Raton

Destiny R. Barbosa: Florida Coastal, 2017; Associate in Romano Law Group, Lake Worth.

David C Behar: University of Miami, 2012; Palm Beach County Attorney's Office, West Palm Beach.

Jessica R Butler: Florida State University, 2012; Associate in Williams, Leininger & Cosby, P.A. North Palm Beach.

Bridgette C Crespo: Nova Southeastern University, 2017; State Attorney's Office, West Palm Beach.

Tyler DiMiao: University of Mississippi, 2015; Associate in Dimond Kaplan & Rothstein, West Palm Beach

Brandon R Dinetz: Nova Southeastern University, 2016; State Attorney's Office, West Palm Beach.

Alexandra P. Dorman: Florida State University, 2017; State Attorney's Office, West Palm Beach.

Andrew Ryan Friednash: Nova Southeastern University, 2015; State Attorney's Office, West Palm Beach

Bradley M Gies: University of Florida, 2011; Solo Practitioner, Palm Beach Gardens.

Elizabeth A. Gisondi: University of Florida, 2014; Associate in Kanner & Pinaluga, P.A., Boca Raton.

Jonathan S. Glickman: University of Florida, 2012; Associate in Slusher, Yellin & Rosenblum, P.A., West Palm Beach.

Robert H Gregory: Florida State University, 2008; Associate in Williams, Leininger & Cosby, P.A. North Palm Beach.

Zachary A Hudson: University of Florida, 2014; Associate in Morgan & Morgan, West Palm Beach.

Stephen C Kennedy: St Thomas University, 2008; Northwestern Mutual West Palm Beach.

Christina Kontogiannis: Nova Southeastern University, 2002, Associate in the Law Office of Jeffrey R. Hickman, West Palm Beach.

Marjorie Levine: George Washington University, 2011; Associate in Derrevere, Stevens, Black & Cozad, Royal Palm Beach.

Cassandra Lewis, Florida Registered Paralegal Member, Lake Worth.

Joseph Meyer: Florida State University, 2017; Fifteenth Judicial Circuit, West Palm Beach.

Marianne Moran: University of Miami, 2008; Partner in Monahan and Moran, Palm Beach.

Ana P. Moretto: New England School of Law, 2016; Ward Damon Posner Pheterson & Bleaum, West Palm Beach.

Sharon L. Peck, Florida Registered Paralegal Member, West Palm Beach.

Jill M. Ross, Florida Registered Paralegal Member, West Palm Beach.

Jason L. Scarberry: Richmond University, 2003; Solo Practitioner, Lake Worth.

Caryn Siperstein Klein: Brooklyn Law School, 1998; Office of the Attorney General, West Palm Beach.

Andrew E. Thomas: Florida State University, 2003; Fifteenth Judicial Circuit, West Palm Beach.

Kevin Walsh: Florida International University, 2006; Guardian Ad Litem's Office, West Palm Beach

Welcome!

BOARD Meeting Attendance

2017-2018

	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	JANUARY	FEBRUARY
BARNES	X	X	X	X	X	X	X	X
CALLOW	X	X	X	X	X	X	X	X
DEMMERY	X	X	PHONE	X	PHONE	X	X	X
HUBER	X	X	X	X	X	X	X	X
LEWIS	X	X	X	X	PHONE	X	PHONE	X
MASON	X		X	X	PHONE		PHONE	
McELROY		X	X	X	X	X	X	X
REAGAN		X	X	X	X		X	X
SMITH, G.	X	X	X	X	PHONE	X	X	X
SMITH, S.	PHONE		X	PHONE	PHONE	X	X	X
WHITTLES	X	X	X	X	X	X	X	X
WYDA	X	X	X	X	X		X	X
XENICK		X	X	X	X		X	X

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VICTORIA A. CALEBRESE

COLLABORATIVE LAW

AN ALTERNATIVE APPROACH TO AN ADVERSARIAL PROCEEDING

This article will provide a brief overview of the Collaborative Law practice and how this process can be used as an alternative to the traditional litigation approach.

Collaborative Law is a voluntary settlement process wherein:

1. Settlement by agreement is intentionally pursued as the positive outcome of legal representation.
2. The parties actively participate in the negotiations necessary for the resolution.
3. The cooperative practice replaces adversarial techniques in litigation

It is an open and transparent process wherein the parties and all professionals work towards the common goal of resolving the parties litigation in a private, expedited, and positive approach towards resolution. Thus, the collaborative process requires a team approach. In a family law setting, the team consists of the parties, their counsel, a neutral facilitator and a neutral financial (such as an accountant). The neutral facilitator, usually a licensed mental health care professional, schedules the team meetings, creates the agendas and summaries of the meetings, addresses disputed issues before they become serious and assists in developing the Parenting Plan in family law cases. The neutral facilitator identifies the parties concerns, lowers anxieties and focuses on the present and future and not the past. The financial neutral's role is to gather the financial information, prepare spreadsheets and cash flow analysis and educate clients if they need help understanding these figures. The financial neutral facilitates the decision making process by creating various financial options to be considered by the parties.

The goal of the entire team is to advance the interests of both parties. The team focuses on the parties' individual and joint goals and interests and works cooperatively in obtaining all financial information, explores options and problem solving. This process begins when all participants sign a

Participation Agreement setting forth the ground rules and expectations, defining each party's role, explaining the expectation of confidentially, voluntary disclosure and "opting out" of the collaborative process. This process can begin prior to a case filing or after a case has been filed.

The process consists of a series of scheduled team meetings wherein all parties attend and follow an agenda. The end goal is to reach an agreement on all elements with good faith participation in this process.

Why does the Collaborative process work? The collaborative model, unlike a Court proceeding, is private, and the financial information of the parties is not made public. Also, timing of the collaborative process is controlled by the parties and not a Court docket. It is a faster process. More importantly, in a divorce setting, the relationship between the parties is maintained and the families are not torn apart.

One key element of the Collaborative Process is the "opt out" provision. In the event a party wants to withdraw from the collaborative process and proceed in the traditional adversarial process in the Court, then the parties' attorneys are terminated and the parties will need to retain new counsel in order to proceed in Court. The dismissal of the attorneys is a red herring for some lawyers. Yet, it is this provision that keeps the parties vested in the process. The attorneys in the Collaborative Law process need to make a paradigm shift from adversarial to cooperative, from past to future, from blame to impact and win/lose to win/win. Although each party's lawyer is still an advocate for their client in this process and there is attorney/client privilege, it is a difficult line to walk. In this process, lawyers are educators and problem solvers rather than litigators, pit bulls, etc. This paradigm shift for attorneys can be difficult to achieve. It takes a seasoned attorney to achieve success in this process. The Collaborative process does work when the clients want control over the outcome, are willing to jointly participate in a

resolution and want to preserve the assets for the family thus making the process less costly than a litigated matter.

Not every case is optimal for the Collaborative process. It takes the right parties and mindset.

It is a "everyone play nice in the sandbox approach" versus the "scorched earth" approach. Where parties have a great imbalance of power or if there is any type of abuse between the parties, they are not good candidates for the collaborative process.

Florida recently enacted the Collaborative Law Process Act (Fla. Statute § 61.56) which now codifies the Collaborative Practice in the Family law statute. In addition to family law, this model can be applied to other litigation such as wills & trusts, construction law, business partnership, family/closely held business disputes. In my personal experience, I have participated in three (3) cases within the last year which were all successfully resolved using the Collaborative process. This Process can and does work.

*"The Collaborative law process is a unique non-adversarial process that preserves a working relationship between parties and reduces the emotional and financial toll of litigation."*²

¹2007 International Academy of Collaborative Professionals

²Fla. Statute 61.55

Victoria Calebrese, a board certified marital & family law Attorney is the founder of the law firm of Victoria Calebrese, P.A. who focuses on the family and preserving that family. She focuses on providing a high level of service to her clients. She also combines extensive traditional litigation experience with an emphasis on settlement and mediation for effective representation.



Nailed it!

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ALEXANDER "SANDY" MYERS, ESQUIRE



Mediator/Arbitrator (Admitted to the FL Bar 1970)

- ❖ Florida Bar Board Certified Civil Trial Lawyer (1983-2007)
- ❖ Florida Certified:
 - Circuit Civil Mediator (1998-Present)
 - Family Mediator (1998-Present)
- ❖ Florida Qualified Arbitrator (1991-Present)
- ❖ FINRA Approved Arbitrator
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 - ❖ No Charge for Pleading/Review
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JON D. DERREVERE



SHIRLEY JEAN McEACHERN

LICENSURE IS A PREREQUISITE TO PURSUING CLAIMS FOR PROFESSIONAL NEGLIGENCE

In *Sunset Beach Invs., LLC v. Kimley-Horn & Assocs.*, 207 So. 3d 1012 (Fla. 4th DCA 2017), the Court confirmed that “At a minimum, in a profession where a license exists, the existence of a license is a valid barometer for determining whether a person is classified as a professional”. Id. at 1015. The Court cited *Garden v. Frier*, 602 So. 2d 1273, 1276 (Fla. 1992) for the proposition that “[A] vocation is not a profession if a state license is not required at all” and *Bixenmann v. Dickinson Land Surveyors, Inc.*, 294 Neb. 407, 882 N.W 2d 910, 914 (Neb. 2016) to confirm that “[T]he requirement of a license to practice one’s occupation, although not dispositive, ‘strongly indicates that an occupation is a profession.’ However, the requirement of a license alone does not make an occupation a profession, as the preparation and training required to procure that license are also important factors.”

Section 471.005(5) Fla. Stat. (2013), defines “Engineer” to include the terms “professional engineer” and “licensed engineer” and means a person who is licensed to engage in the practice of engineering under Chapter 471, Fla. Stat. Section 558.002(6), Fla. Stat. (2013), defines “Design Professional” to mean “a person, as defined in s. 1.01, licensed in this State as an architect, interior designer, landscape architect, engineer, surveyor or geologist”. Geologists were added to the list of “Design Professional” by virtue of a 2013 Amendment to §558.002(7), Fla. Stat..

Engineer interns are not included in the definition of “Engineer” or “Design Professional”. Section 471.005(6) Fla. Stat. (2013) provides that an “Engineer Intern” is “a person who has graduated from an engineering curriculum approved by the board and has passed the fundamentals of engineering examination as provided by rules adopted by the board.”

In *Sunset Beach*, a development company hired Kimley-Horn “to provide professional design and permitting consulting services” in regard to the development of beachfront property on Hutchinson Island, Florida. Kimley-Horn’s Project Manager (Kiefer) was an environmental scientist who was not licensed as a professional engineer. *Sunset Beach* sued Kimley-Horn and Kiefer seek-

ing damages exceeding the Limitation of Liability (“LOL”) provision contained in the parties’ contract. *Sunset Beach* claimed that Kiefer was individually liable for professional negligence based upon his status as an “Engineer Intern”.

The trial court entered a final summary judgment for Kiefer finding that he was not a licensed “Design Professional” and could not be sued as such. On appeal, *Sunset Beach* claimed that Kiefer could be held liable in his individual capacity – independent of the LOL under *Estate of Rocks v. McLaughlin Eng’g Co.*, 49 So. 3d 823 (Fla. 4th DCA 2010) because Kiefer’s service was “one requiring special education, training, experience and skill.”

In affirming the final summary judgment, the Court made clear that “we did not hold in *Rocks* that a license is unnecessary for a professional negligence claim to exist.” Id. at 1015. The court reasoned that the test proposed by *Sunset Beach* for identifying professions subject to personal liability would require courts to decide what qualifies as “special education”, what qualifies as “training” and what is acceptable “experience”. The court continued by observing that in *Garden*, “the Supreme Court explained that too much imprecision and variation is created by allowing courts to second-guess what does or does not constitute the equivalent of a college degree.” Id. at 1275. The Court in *Sunset Beach*, accordingly reasoned that “[i]f too much imprecision and variation resulted when the test hinged solely on education, it would surely exist if the test required a balancing of education, training, experience and skill.” *Sunset Beach* at 1015. The undisputed record established that Kiefer was not a licensed engineer; his status as an engineer intern was not dispositive. “Unlike licensed surveyors and licensed engineers, the Legislature does not classify an unlicensed intern as a professional. For that reason, unlike a licensed engineer who is required to renew the engineering license every two years, no requirements exist to maintain the engineer intern designation. §471.017, Fla. Stat.

An engineer intern is neither licensed nor regulated.” Id. at 1216. In Florida, licensing is the sine qua non for pursuing a claim for professional negligence.

The trial court properly found that the undisputed record evidence established that Kiefer was not a licensed engineer, was not a design professional, and could not be sued for professional negligence.

CLE Seminars Save the dates

Real Estate Practitioners

Under the Umbrella of Real Estate will be presented on Friday, May, 18 from 9:00 a.m. – 6:00 p.m. at the Fourth DCA.

Trial Lawyers

An A to Z Trial lawyer’s Guide to Preserving and Surviving Appellate Scrutiny at Every Phase of Trial, will be presented on Wednesday, May 30 from 12:00 – 5:00 p.m. at Fourth DCA.

Appellate Practitioners

Making Extraordinary Writs more than Ordinary, will be presented on Friday, June 1 from 11:30 – 1:00 p.m. at the Fourth DCA.

Community Law Practitioners

The PBCBA’s Annual Community Association Law seminar will be presented on Friday, June 8 from 8:00 a.m. – 1:00 p.m. at the Fourth DCA.

Attention Bankruptcy Trends Practitioners

Bankruptcy Trends, along with a Judicial Reception will be held on Friday, June 22 from 1:30 – 5:30 at the Fourth DCA.

For more information about this seminar, visit the Bar’s web-site or the events listings on our Facebook page.

The Appellate Practice Committee of the Palm Beach County Bar Association and the
Appellate Practice Section of The Florida Bar present



Monday, April 16, 2018

CLE & LUNCH INCLUDING A VIEW FROM THE BENCH

10:00 a.m. — 1:00 p.m. ~ Fourth District Court of Appeal

110 S. Tamarind Avenue, West Palm Beach

PANELISTS:

Robert J. Hauser, Pankauski-Hauser, PLLC*

Jane Kreusler-Walsh, Law Office of Kreusler-Walsh, Vargas & Serafin, P.A.*

Julie Littky-Rubin, Esq., Clark, Fountain, La Vista, Prather, Keen & Littky-Rubin*

Tracy T. Segal, Esq., Akerman LLP

Nichole J. Segal, Esq., Burlington & Rockenbach, P.A.*

*Board Certified in Appellate Practice

VIEW FROM THE BENCH:

The Honorable Robert M. Gross

The Honorable Melanie G. May

The Honorable Alan D. Forst

Moderator Thomas E. Warner, Esq., Carlton Fields, P.A.

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_____ I will not be able to attend the seminar, however I would like to order the audio. Please include \$10 for shipping and handling. Allow 1 week for delivery. PBC Bar Association, P.O. Box 17726, West Palm Beach, FL 33416. 561-687-2800. 4/16/18 Appellate seminar

APPELLATE Seminar & Reception

In March, the Appellate and Criminal Practice committees joined forces in presenting, “The Art of Objecting and Preserving Error for Appeal”, with Judge May, Judge Ciklin and Judge Gross speaking. The attendees learned by participating in the fun and interactive game of Kahoot. Issues addressed were ethics, jury selection, evidentiary issues that may arise during the presentation of testimony, and closing argument as they pertain to both civil and criminal trials. A reception followed the seminar. The audio of the seminar s available on the Bar’s website.



Tracy Segal, Judge Cory Ciklin and Judge Robert Gross



Daniel Schwarz, Ben Eisenberg and Jacob Noble



Luke Napadano and Judge Melanie May



Matt Ocksrider, Paul Patti, Joe Coronato and Alex Folley



Andrea McMillan and Sorraya Solages-Jones



Anesha Worthy, Jessenia Concepcion and Terry Resk

** All images can be found on the Bar Associations Facebook Page.*



JASON S. RIGOLI

Bankruptcy Courts Aren't "Courts"

It may be hard to envision that when you walk into a courtroom, appear before a judge, make motions, argues points of law, present evidence, or prosecute or defend against a complaint, you may not be before a "court," but that is exactly what the United States District Court of Delaware recently ruled.

The District Court's Holding on the Plain Language and Legislative History of 28 U.S.C. §§ 610 and 1631

In *In re IMMC Corporation*, et al., Case No. 15-1043 (GMS), 2018 WL 259941, the appellant, the liquidating trustee of IMMC Corporation, appealed the decision of the bankruptcy court denying the appellant's motion to transfer an adversary proceeding and the renew motion to transfer based on the bankruptcy court's lack of authority. *Id.* at *1. There are two pertinent statutes, which were relied upon by both courts, 28 U.S.C. § 1631 (the "Transfer Statute") and 28 U.S.C. § 610.

The Transfer Statute reads as follows:

Whenever a civil action is filed in a court as defined in section 610 of this title or an appeal, including a petition for review of administrative action, is noticed for or filed with such a court and that court finds that there is a want of jurisdiction, the court shall, if it is in the interest of justice, transfer such action or appeal to any other such court in which the action or appeal could have been brought at the time it was filed or noticed, and the action or appeal shall proceed as if it had been filed in or noticed for the court to which it is transferred on the date upon which it was actually filed in or noticed for the court from which it is transferred.

28 U.S.C. § 1631 (emphasis added). The pertinent language being italicized, "in a court as defined in section 610 of this title." Section 610 defines "courts" as

As used in this chapter the word "courts" includes the courts of appeals and district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, the United States Court of Federal Claims, and the Court of International Trade.

28 U.S.C. § 610. Adhering the "plain language" of the statutes, the District Court affirmed the bankruptcy court's conclusion that the bankruptcy court was not a "court" for purposes of transferring an action from one court to another. *IMMC Corp.*, at *4. The District Court went on to analyze the Legislative history of both sections, 610 and 1631, and reached the same conclusion.

A Bankruptcy Court as a Unit of the District Court under 28 U.S.C. § 151 Cannot be Deemed a "Court" under 28 U.S.C. § 610

The Appellant argued that as a "unit" of the District Court, the Bankruptcy Court should be "deemed" one of the "courts" under 28 U.S.C. § 610. The District Court rejected this contention, holding that the language of § 151, that the bankruptcy court "may exercise the authority under this chapter," limited the authority of the bankruptcy to only the authority granted in Part I, Chapter 6 of the Title 28. *Id.* at *5.

The District Court did not address whether the outcome would be different under 28 U.S.C. §§ 157 or 1412, because the issue had not been raised by the liquidating trustee to the Bankruptcy Court.

The Consequence of the Bankruptcy Court Not Being a "Court"

One consequence of the Bankruptcy Court not being a "court" is that a plaintiff may run up against a limitations issue, as occurred in *IMMC Corp.* The liquidating trustee was seeking to transfer the adversary proceeding from the Delaware Bankruptcy Court to District Court in Pennsylvania, however, because the Bankruptcy Court is not a "court" and never had jurisdiction, the Transfer Statute could not protect the liquidating trustee from the expiration of the limitations period. *Id.*

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

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Amy S. L. Terwilleger

2018 Recipient of the Judge Edward Rodgers Diversity Award: Julieann Rico

Every year, the Judge Edward Rodgers Diversity Award is presented to an attorney who demonstrates a consistent pattern of commitment to the recruitment, retention, and promotion of diverse individuals; an attorney who cultivates and promotes diversity initiatives that establish and foster a more inclusive work environment; and an attorney who, through visionary and insightful leadership and strategic decision-making, implements and carries out best practices that support diversity and inclusion goals. This year's winner, Ms. JulieAnn Rico, General Counsel of the Palm Beach County School Board, does all of these things . . . and more.

After her appointment as General Counsel in 2003, Ms. Rico made it her mission to create a diverse in-house law department by intentionally recruiting, retaining, and promoting diverse attorneys and staff, with an eye towards increasing diversity by race, age, religion, gender, and sexual orientation, among other categories. Although she left the School Board in 2005, she returned in 2013, with the same goal of increasing the diversity of her office – an extremely laudable goal in light of the magnificent diversity of Palm Beach County and the population that the School Board serves. Ms. Rico has consistently hired minority interns through the Palm Beach County Diversity Internship Program (including hiring a former DIP Intern as an associate attorney), as well as hiring high school students from the law magnet program at Palm Beach Lakes High School. The current make-up of Ms. Rico's office highlights the positive influence that her emphasis on diversity has had. Moreover, Ms. Rico fosters diversity by selecting diverse outside counsel to represent the School Board.

But it is not only in demographic results where Ms. Rico's influence can be seen. Ms. Rico is encouraging and developing leadership skills by leveraging the diverse experiences of her attorneys and staff. For example, Ms. Rico implemented an initiative whereby all staff were provided the opportunity to tell their leadership story and how they attained the position within the legal department that they currently occupy. This initiative encouraged staff to understand and appreciate the diverse

backgrounds of their colleagues, while gaining more sensitivity to and a better understanding of why people hold the beliefs they do. And, Ms. Rico instituted a pay equality program for the legal department.

Ms. Rico's efforts extend outside of her own office and into the School District, benefitting students as well. Ms. Rico established a revised expulsion initiative, under which every student who is recommended for expulsion is provided with a hearing and an attorney representative (with the assistance of the minority bar associations and Palm Beach County Legal Aid). This program ensures that all students, no matter their socio-economic status, gender, race, religion, ethnicity, etc., are guaranteed a fair process before being expelled.

For all of these reasons and so many more, Ms. JulieAnn Rico is this year's extremely-deserving winner of the 2018 Judge Edward Rodgers Diversity Award. In her own words, "this is a very humbling award; it speaks to the impact of many who have joined together to celebrate our differences to create a greater good. I am very honored to be among them!"

Amy S. L. Terwilleger
(Professional Liability Defense and Business Litigation Attorney at Gunster)

Trial Practice Series with the Judges

The Criminal Practice Committee held a Three Part Lunch and Learn. The fact pattern for the series was a vehicular homicide prosecution involving accident reconstruction issues of fault/liability. The audio of the series is available on the Bar's website.



Voir Dire session: (l-r) Judge James Nutt, Ilana Marcus, Judge Samantha Schosberg Feuer, Judge Glenn Kelley, Hope Baros, Christine Geraghty and Judge Laura Johnson



Direct/Cross Examination of an Expert Witness session: (l-r) Jenny Barboza, Dr. Farhad Boeshaghi, Matthew Menchel, Ilana Marcus, Hope Baros, Judge Kastrenakes and Christine Geraghty.



Closing Arguments session: (l-r) Jack Scarola, Hope Baros, Ilana Marcus, Bruce Reinhart and Judge Kastrenakes



Judge Gerard Joseph ("Joe") Curley

MEREDITH I. BIGGS

Putting others first is a character trait Judge Joe Curley learned from an early age. Judge Curley was raised in St. Petersburg, Florida by two loving parents. His father, Gerard ("Jerry") Curley, was Judge Curley's role model. Jerry Curley, a real estate developer and entrepreneur, had a passion for serving the poor through his lifelong work at the Society of St. Vincent de Paul. This passion left an imprint on Judge Curley, as did his father's legacy of faith, devotion to family, and intense work ethic.

Judge Curley's faith is at the center of his life and he is a family man to the core. Judge Curley often talks about his family and always with a smile. He and his wife have four kids, one grandchild, and two dogs. Judge Curley has always made time for his family even when time was scarce, often seen working on the sidelines of baseball games or taking phone calls while riding in the car to the zoo. When he's not with his family (or working), Judge Curley is an avid – and competitive – golfer. Judge Curley first learned golf as a sophomore in high school and joined the school's golf team. After graduating high school in 1978, Judge Curley went to Stetson University for a year until he received a golf scholarship to the University of Notre Dame, to his father's great delight. Jerry Curley had an unfulfilled life dream of going to Notre Dame and, when his son was accepted to the school, was beside himself. When Judge Curley obligingly accepted the school's invitation, he did not anticipate how his experience at Notre Dame would quickly become part of his own life dream as well. Fighting Irish paraphernalia seems to magically appear wherever Judge Curley goes.

After graduating from Notre Dame, Judge Curley bravely adventured to Oklahoma to work on an oil rig and then at a grain elevator to take, according to him, "some time off" before beginning his professional career. In Oklahoma, Judge Curley learned the joys of farm living, bartering free accommodations at a farm in exchange for farm labor on the weekends after working long hours on the job. Almost a year later, Judge Curley decided he was ready to take the next step.

After much prayer (and one-too-many episodes of Perry Mason), Judge Curley decided law school was that next step.

Judge Curley attended Stetson Law School in his home town of St. Petersburg. Guided by a deep-rooted passion for justice and a hunger for trial work, Judge Curley was set on becoming a prosecutor with the Pinellas County State Attorney's Office. But, his friend and fellow Stetson student, who also happened to be the son of the State Attorney, persuaded Judge Curley to at least interview with the law firm of Gunster, Yoakley, Criser & Stewart (its former name). This friend told Judge Curley that he would like it because there were "real trial lawyers there who were a lot like him." Without much initial interest in working there, Judge Curley agreed to the interview. After all, he and his wife were living at the time in what Judge Curley affectionately refers to as the "Roach Motel." Judge Curley was out-maneuvered when the firm side-stepped him and went straight to his wife to make him a job offer. More than thirty years later, he still may not have forgiven her for gladly accepting on his behalf.

Judge Curley quickly found his place as a trial attorney and ultimately a shareholder with Gunster, Yoakley & Stewart and worked there for thirty-two years. Judge Curley began as a general litigator and in 1992 formed the firm's employment practice group. He led the employment practice group at Gunster along with Joseph Santoro until Judge Curley departed the firm to take the bench. From 1999-2003, Judge Curley served on Gunster's governing committee and became board certified in business litigation in 1998. Judge Curley has fond memories of all the trial experience he received at Gunster over the years, even having two federal trials in the last four months with the firm. Perhaps Judge Curley's largest point of pride at the firm is the number of young attorneys he mentored during his time, which he deems a vital part of his role as a leader in the firm and in the community. One would be hard pressed to meet a Gunster attorney who has not worked with and been impacted by the knowledge and care shown them during Judge Curley's time.

Judge Curley considered becoming a judge for quite some time before he applied. Judge Curley gained interest in the work, not for the position itself, but as an opportunity to give back, do good, and serve his community. When several vacancies were announced in late 2017, Judge Curley knew that - God-willing - the time for him to take the step had come.

Judge Curley feels honored and delighted to have the privilege of serving as a judge. Judge Curley looks forward to using his judicial role to advance justice and continue his father's legacy of serving others.



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TED BABBITT

Many lawyers are not aware that upon the death of a party and the filing of a suggestion of death under Fla. R. Civ. P. 1.260(a)(1) the attorneys representing the deceased party have only 90 days to file a motion to substitute the estate of the decedent. Fla. R. Civ. P. 1.260(a)(1) states the following:

If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper parties. . . . Unless the motion for substitution is made within 90 days after the death is suggested upon the record by service of a statement of the fact of the death in the manner provided for the service of the motion, the action shall be dismissed as to the deceased party.

In *Blue and Cooper v R.J. Reynolds Tobacco Co.*, 43 Fla. L. Weekly D195 (Fla. 2nd DCA 2018), the Second District was faced with the question of whether a case could be dismissed when a formal suggestion of death under this rule was not filed but there was a reference to the death in a pleading and the substitute plaintiff was aware of the death.

In this case, the plaintiff died in 2013 and in March of 2014 a notice was filed by all of the parties notifying the Court that the case had been settled and two of the parties were being dropped as defendants. In the stipulation the following language was used

"COMES NOW, the Plaintiffs, Yvonne Blue and Deborah Cooper, as Proposed PR[s] for the Estate of Ramona Leonard, deceased. . . ."

Thus, the pleadings established the death of the plaintiff even though no formal suggestion of death was filed under the rule. A motion to substitute the decedent's estate was not filed until September, 2015, over a year after the joint notice and stipulation established the death of the plaintiff. The tobacco company defendants filed a motion to dismiss arguing that since the death had been suggested on the record even without a formal suggestion of death the motion to substitute was untimely and the plaintiff should be dismissed. The trial court denied the motion to substitute and granted the motion to dismiss with prejudice against the deceased Plaintiff.

Suggestion of Death

The Second District reversed holding that the rule contemplated a formal suggestion of death to be filed before the ninety day period begins to run. At Page D195 the Court held:

We do not construe the passing reference to Ms. Leonard's death – which was made within a document that related to a settlement with other defendants – as a suggestion of death as contemplated in rule 1.260(a)(1). Rather, we construe rule 1.260 to require the filing of a document that is intended to notify all of the litigants of a party's death. Cf. *Wilson v. Clark*, 414 So. 2d 526, 530 (Fla. 1st DCA 1982) interpreting the words "upon the record" in rule 1.260 to mean that the time period set forth in the rule is triggered "by the recording or the filing of the suggestion of death" rather than by the service of the pleading).

The above-cited rule states that unless the motion for substitution is made within ninety days after the death is suggested upon the record by service of a statement of the fact of death in the manner provided for the service of motion, the action shall be dismissed as to the deceased party.

The defendants unsuccessfully argued that the rule only requires that parties be notified of the death by any pleading and that a formal suggestion of death is not required to start the 90 day period. At D196 the Court holds:

Although the rule does not explicitly provide that a document be labeled a "Suggestion of Death," We construe the rule to, at the very least, require that the document be filed for the purpose of alerting the litigants to a party's death. Burying the fact of a party's death in a document that is filed for another purpose cannot possibly comport with the intent of the rule since the opposing party could merely bury the statement in any document within the record and then wait out the ninety-day period to execute their "gotcha" move. The purpose of the rule is to "allow more flexibility in substitution" and "[t]he [ninety-] day period was not intended to act as a bar to otherwise meritorious actions." *Kimbrell*, 343 So. 2d at 109 (quoting *Rende v. Kay*, 415 F. 2d 983, 986 (D.C. Cir. 1969),

and agreeing that the same liberal construction applied in *Rende* should be applied to rule 1.260).

The Court did not accept the argument that the plaintiff was aware of the death of the party and, that therefore, the 90 day period should begin from the first pleading filed establishing that death. At D196 the Court holds:

We are cognizant of the fact that in this case, Blue and Cooper were obviously aware of Ms. Leonard's death as they, along with Liggett and Vector, jointly filed the joint notice and stipulation of dropping defendants. But we reject the tobacco companies' argument that personal knowledge of a party's death is sufficient to trigger the ninety-day period. Instead, it is the filing of a document (i.e., a suggestion upon the record) for the purpose of alerting the litigants of the party's death that triggers the time period set forth in rule 1.260(a)(1). If the tobacco companies wanted the ninety-day period to begin running, they had the ability to file a document for that purpose. But the tobacco companies are not entitled to a dismissal based on a passing reference to a party's death in a document that was filed for a completely different purpose. Consequently, because the trial court erred by dismissing the complaint for failure to comply with rule 1.260(a)(1), we reverse and remand for proceedings in conformance with this opinion.

Lawyers must be aware of the existence of Fla. R. Civ. P. 1.260(a)(1). While the Second District held in this case that a formal suggestion of death was necessary before the 90 day period begins to run, any time a party dies and a suggestion of death is filed under the rule, the 90 day period is strict and dismissal will occur unless the decedent's estate moves to be substituted within the 90 day period.

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/Wrongful Death Committee of the Palm Beach County Bar Association presents:

BEHIND THE PI CURTAIN: AN INSIDER'S VIEW

Friday, April 27 - 8:00 a.m. to 4:00 p.m.

Fourth District Court of Appeal, 110 South Tamarind Avenue, West Palm Beach

"Starring"

8:00: **Check in / Late Registration / Breakfast**

8:20: **Welcome and Introductions:** Andrea McMillan, Esq., Law Offices of Andrea D. McMillan, P.A.

8:30: **Everything you want to know about Consumer Class Action Cases:** Barbara Perez, Esq., Aronovitz Law

9:30: **An Insurance Adjuster's Perspective:** Cindy Ruehl, GEICO and Vince Leonard (formerly of Allstate)

10:30: **Break**

10:45: **A Mediator's Perspective** – Rodney Romano, Esq., Matrix Mediation; Patti Velasquez, Esq., Matrix Mediation; Louis Williams, Esq., Matrix Mediation

11:45: **Lunch**

1:00: **Ethical Obligations Pertaining to Liens** – David Place, Esq., Vice President, Synergy Settlement Services

2:00: **The Nuts and Bolts of Negligent Security Cases** – Michael Haggard, Esq., The Haggard Law Firm; National Crime Victim Association President

3:00: **Break**

3:10: **Nursing Home Cases in a Nutshell** - Joseph Landy Esq., Lesser, Lesser Landy & Smith, PLLC, Board Certified in Civil Trial Law

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DAVID M. GARTEN

Injunction For Protection Against Exploitation

Watch out exploiters, there is a new statute in town to protect the elderly - §825.1035, F.S.! This statute creates a cause of action for an injunction for protection against the exploitation of a vulnerable adult. Sec. 825.1036, F.S. pertains to enforcement of the injunction. If approved by the Governor, these statutes will take effect on July 1, 2018.

EX PARTE TEMPORARY INJUNCTION: Pursuant to §825.1035(5), the court may grant an ex parte temporary injunction for the following relief:

- a. Restraining the respondent [exploiter] from committing any acts of exploitation against the vulnerable adult;
- b. Awarding to the vulnerable adult the temporary exclusive use and possession of the dwelling that the vulnerable adult and the respondent share, or barring the respondent from the residence of the vulnerable adult;
- c. Freezing any assets of the vulnerable adult in any depository or financial institution whether titled solely in the vulnerable adult's name, solely in the respondent's name, jointly with the respondent, in guardianship, in trust, or in a Totten trust;
- d. Freezing any line of credit of the vulnerable adult at any depository or financial institution whether listed solely in the vulnerable adult's name or jointly with the respondent;
- e. Prohibiting the respondent from having any direct or indirect contact with the vulnerable adult; or
- f. Providing any injunctions or directives to law enforcement agencies.

WHO MAY FILE? The cause of action for an injunction may be sought by:

- a. A vulnerable adult in imminent danger of being exploited;
 - b. The guardian of a vulnerable adult in imminent danger of being exploited;
 - c. A person or organization acting on behalf of the vulnerable adult with the consent of the vulnerable adult or his or her guardian;
- or

d. A person who simultaneously files a petition for determination of incapacity and appointment of an emergency temporary guardian with respect to the vulnerable adult.

FINAL HEARING: At the final hearing, the court may grant such relief as the court deems proper, including, but need not be limited to, injunctions doing any of the following:

- a. Continuing the temporary injunction in part or in whole;
- b. Restraining the respondent from committing any acts of exploitation;
- c. Awarding to the vulnerable adult the exclusive use and possession of the dwelling that the vulnerable adult and the respondent share or excluding the respondent from the residence of the vulnerable adult, if the court finds that the vulnerable adult is able to reside safely without the respondent;
- d. Ordering the respondent to participate in treatment, intervention, or counseling services to be paid for by the respondent;
- e. Directing that assets under temporary freeze by injunction be returned to the vulnerable adult, or directing that those assets remain frozen until ownership can be determined; and directing that the temporary freeze on any line of credit be lifted;
- f. Where the court has found that the respondent has engaged in exploitation of the vulnerable adult, entering a final cost judgment against the respondent and in favor of the petitioner for all costs, and entering a final cost judgment against the respondent and in favor of the clerk of the circuit court for all clerk's filing fees and service charges that were waived by operation of this section; or
- g. Ordering such other relief as the court deems necessary for the protection of a victim of exploitation, including injunctions or directives to law enforcement agencies, as provided in this section.

POLICE ASSISTANCE: "When an injunction for protection against the exploitation of a vulnerable adult is issued, if the petitioner requests that a law enforcement agency assist the vulnerable adult, the court may order that an officer from the appropriate law enforcement agency accompany the vulnerable adult and assist in the service or execution of the injunction, including returning possession of a dwelling or residence to the vulnerable adult." Refer to §825.1035(10)(a)3, F.S.

ENFORCEMENT [§825.1036]: "The court may enforce a violation of an injunction for protection against the exploitation of a vulnerable adult through a civil or criminal contempt proceeding, and the state attorney may prosecute it as a criminal violation under s.825.1036 [Emphasis added]." "If the respondent is arrested by a law enforcement officer under s.901.15(6) or for a violation of s.825.1036, the respondent must be held in custody until he or she is brought before the court, which must occur as expeditiously as possible, for the purpose of enforcing the injunction for protection against the exploitation of a vulnerable adult and for admittance to bail in accordance with chapter and the applicable rules of criminal procedure, pending a hearing." Refer to §825.1035(11), F.S.

WRONGFUL FILING: "Actual damages may be assessed in a proceeding under this section if the court finds that the petition was without substantial fact or legal support." Refer to §825.1035(12), F.S.

¹ As of 2/19/18, these statutes were still under review by the House [HB 1059 (2018)] and Senate [SB 1562 (2018)]. This article merely summarizes certain aspects of the current drafts of §§825.1035 and 825.1036, F.S. and is not meant to be a detailed summary of the final version of both statutes, which are extensive.

PROFESSIONALISM Corner

Professionalism Committee Co-Chairs



Kara Berard Rockenbach



Judge Cory Ciklin

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO. 2.105-11/16*

IN RE: FIFTEENTH CIRCUIT PROFESSIONALISM PANEL

In May of 1990, the Board of Governors of the Florida Bar approved Ideals and Goals of Professionalism, hereinafter referred to as the "Ideals." In June of 1990, the Board of Directors of the Palm Beach County Bar Association approved Standards of Professional Courtesy ("1990 Standards") to educate attorneys unfamiliar with the customary practices in Palm Beach County. The 1990 Standards were endorsed by the Judges of the Fifteenth Judicial Circuit. In 1997, the Chief Judge of the Fifteenth Judicial Circuit, through an administrative order, created a Professionalism Council to meet with and counsel attorneys whose conduct appeared to violate the Ideals and/or the 1990 Standards.

On June 11, 1998, the Chief Justice of the Florida Supreme Court issued an administrative order directing the Chief Judge of each circuit to create and maintain in continuous operation a Circuit Committee on Professionalism. The Chief Judge of the Fifteenth Judicial Circuit designated the Professionalism Committee of the Palm Beach County Bar Association as the Circuit Professionalism Committee. The Professionalism Committee of the Palm Beach County Bar Association and the President of the Palm Beach County Bar Association have worked with this Court to maintain an active professionalism committee and to assist in counseling members of the Bar who engage in conduct inconsistent with the Ideals or Standards.

In September 2007, the Board of Directors of the Palm Beach County Bar Association approved revised Standards of Professional Courtesy ("2007 Standards"). In October 2007, the judges of the Fifteenth Judicial Circuit and Palm Beach County voted and approved the 2007 Standards.

In September 2011, the Florida Supreme Court added the civility provision in the Oath of Admission to the Florida Bar. On June 6, 2013, the Supreme Court of Florida, in opinion SC13-688, adopted the Code for Resolving Professionalism Complaints and directed the Chief Judge of each circuit to create a Local Professionalism Panel to receive and resolve professionalism complaints. In June of 2013, the Fifteenth Judicial Circuit amended its Administrative Order to reconstitute the Professionalism Council as the Professionalism Panel.

On May 28, 2014, the Board of Directors of the Palm Beach County Bar Association

e-mail to the Chairperson of Palm Beach County Bar Association's Professionalism Committee.

- 2) If a non-attorney person is directly and adversely affected by conduct on the part of an attorney that is inconsistent with the *Expectations* or *2014 Standards*, that person may request that the Panel consider the matter by directing a letter or e-mail to the Chairperson of the Palm Beach County Bar Association's Professionalism Committee.
- 3) The request shall be limited to ten (10) pages inclusive of exhibits.
- 4) The Chairperson of the Palm Beach County Bar Association's Professionalism Committee shall review the request, shall notify the respondent attorney of the request, may request a response and shall determine whether the matter justifies a referral to the Panel. If a matter is referred to the Panel, the Chairperson of the Palm Beach County Bar Association's Professionalism Committee shall address a letter to the attorney involved inviting the attorney to meet with the Panel on a date and time specified.

c. Initiation by the Florida Bar's Attorney Consumer Assistance and Intake Program (ACAP)

- 1) The Professionalism Panel may accept referrals sent by ACAP.
- 2) The Chairperson of the Palm Beach County Bar Association's Professionalism Committee shall review the request, shall notify the respondent attorney of the request, may request a response and shall determine whether the matter justifies a referral to the Panel. If a matter is referred to the Panel, the Chairperson of the Palm Beach County Bar Association's Professionalism Committee shall address a letter to the attorney involved inviting the attorney to meet with the Panel on a date and time specified.

d. Any letter sent to an attorney by the Panel (paragraph a above) or the Professionalism Committee (paragraph b and c above) requesting that an attorney appear before the Panel shall identify the conduct alleged to be inconsistent with the *Expectations* or *2014 Standards* and the *Expectations* or *2014 Standards* potentially implicated and shall advise the attorney that the Panel meeting is not a disciplinary proceeding. A copy of the *Expectations* and *2014 Standards* shall be included in the correspondence.

approved revised Standards of Professional Courtesy and Civility ("2014 Standards"). These 2014 Standards were endorsed by the judges of the Fifteenth Judicial Circuit and Palm Beach County in June 2014. In January 2015, The Florida Bar Board of Governors replaced the Ideals and Goals of Professionalism with the Professionalism Expectations ("Expectations").

NOW, THEREFORE, pursuant to the authority conferred by Florida Rule of Judicial Administration 2.215, it is ORDERED as follows:

1. The Fifteenth Judicial Circuit Professionalism Council is hereby designated the local professionalism panel in accordance with SC13-688. The Panel is composed of the President of the Palm Beach County Bar Association, or his/her designee, a current or former representative of The Florida Bar Board of Governors for the Fifteenth Judicial Circuit, the Chairperson of the Palm Beach County Bar Association's Professionalism Committee and three members of the Florida Bar and/or retired Judges selected by the Chief Judge. The Chief Judge shall not be a member of the Panel but may preside over the Panel.
2. The purpose of the Panel is to meet with attorneys who have conducted themselves in a manner inconsistent with the *Expectations* or *2014 Standards* in order to discuss such conduct and counsel attorneys to avoid future conduct inconsistent with the *Expectations* or *2014 Standards*. The Panel shall have no authority to discipline any attorney or to compel any attorney to appear before the Panel. The Panel may also counsel attorneys if it determines such counseling will further the goals of the *Expectations* or *2014 Standards*. The following procedures shall generally govern the proceedings of the Panel:
 - a. Initiation by Judicial Officer or Quasi Judicial Officer:
 - 1) When any Judge, Magistrate or Traffic Hearing Officer within the Fifteenth Judicial Circuit determines that an attorney has engaged in conduct inconsistent with the *Expectations* or *2014 Standards*, the Judge, Magistrate or Traffic Hearing Officer may refer the matter to the Professionalism Panel via the Chairperson of the Palm Beach County Bar Association's Professionalism Committee.
 - 2) The Chairperson of the Palm Beach County Bar Association's Professionalism Committee, on behalf of the Panel, shall address a letter to the attorney involved inviting that attorney to meet with the Panel on a date and time specified.
 - b. Initiation by Attorney/Non-Attorney:
 - 1) If an attorney observes conduct on the part of another attorney that he or she believes is inconsistent with the *Expectations* or *2014 Standards*, that attorney may request that the Panel consider the matter by directing a letter or

e. The Panel will meet at the date and time specified in the letter. The purpose of the meeting shall be to discuss with the attorney his or her conduct and ways the attorney should act in the future to be consistent with the *Expectations* or *2014 Standards*. The Chairperson of the Palm Beach County Bar Association's Professionalism Committee may send a letter summarizing the Panel's discussions to the respondent attorney and to the Palm Beach County Bar Association for publication in the *Bulletin* with the name(s) deleted.

f. If the respondent attorney fails to appear, the Panel shall discuss the conduct inconsistent with the *Expectations* or *2014 Standards* and shall summarize the Panel's discussions by letter to the respondent attorney. The Chairperson of the Palm Beach County Bar Association's Professionalism Committee may send a letter summarizing the Panel's discussions to the Palm Beach County Bar Association for publication in the *Bulletin* with the name(s) deleted. Consistent with the provisions of paragraph 4 of this Order, the Panel may consider the Respondent's failure to appear in determining whether referral to ACAP is appropriate.

3. The *Expectations* and *2014 Standards* apply to all counsel practicing law in this circuit and their staff, *pro se* litigants appearing before the courts of this circuit, and all persons entering an appearance before the courts of this circuit.
4. Pursuant to Section 2.1 of Supreme Court Opinion SC13-688, the Palm Beach County Professionalism Panel has discretion to refer any appropriate complaints to the Florida Bar Attorney Consumer Assistance and Intake Program (ACAP).

DONE AND SIGNED, in Chambers, at West Palm Beach, Palm Beach County, Florida, this day of November, 2016.

Jeffrey Colbath, Chief Judge

*supersedes admin. order 2.105-6/14

The Estate and Probate CLE Committee of the Palm Beach County Bar Association present

TRUSTS AND ESTATES CROSS TRAINING

From Initial Client Meeting to Estate Litigation

You've been to boot camp. Now it's time to really get your trust and estate practice in shape with cross training! **ONE FAMILY, ONE FACT PATTERN, ONE WHOLE DAY.** Follow the Smiths from initial client estate planning conference through guardianship proceedings, through estate administration and finally to estate litigation.

MONDAY, APRIL 9, 2018

8:00 a.m. to 5:00 p.m.

The Marriott Hotel

1001 Okeechobee Blvd., West Palm Beach, FL

8:00 Late Registration/Check In/ Breakfast

8:25 Welcome, Opening Remarks, Introduction of the Smiths

Duane Pinnock, Esq.*, Boyes, Farina & Matwiczuk, Chair, Estate and Probate Committee;
Lawrence Miller, Esq., Gutter Chaves et al; Peter Sachs, Esq.**; Jones Foster;
Allison Sabocik, Esq., Pankauski Hauser

8:30 Mrs. Smith Goes to A Lawyer: What to Look for and How to Assist the Elderly Client

Grier Pressly, Esq., Pressly, Pressly Randolph & Pressly

10:10 Break

10:20 What Do I Do Now? Guardianship and Estate Planning

Adam Sabocik, Esq., Boyes, Farina & Matwiczuk

12:00 Lunch

1:00 RIP Mrs. Smith: Estate Administration

Jamison Evert, Esq., Gunster

2:40 Break

2:50 Death is not the End, Smith v. Smith: Estate Litigation

Jorja Williams, Esq., Beller Smith, P.L. and Jenna Rubin, Esq., Gutter Chaves

4:30 Judicial Panel with The Honorable Janis Brustares Keyser and The Honorable Jessica Ticktin

* Board Certified in Wills, Trusts and Estates. ** Board Certified in Business Litigation and Civil Trial Law

Sponsors



8.0 CLER; Certification credits: 8.0 in Elder Law; 8.0 in Wills, Trusts and Estates. Cost: Members \$255 ; Non-members \$295. Those registering after April 2 add \$10. All refund requests must be made no later than 48 hours prior to the date of the seminar. Register online at 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. 4.9.18 Estate and Probate seminar

BENCH BAR Highlights

This year's Bench Bar Conference was held at the Palm Beach Convention Center and included 27 sessions, luncheon with keynote speaker Palm Beach County Commissioner David Kerner, Professionalism and Diversity Awards, 23 exhibitors, and a cocktail reception. This conference takes a year to plan. A special thank you to our hard working co-chairs, judges, moderators and panelists for making the day another great success!



Judges Howard Coates and Kathleen Kroll



Judge Lou Delgado and Ken Ronan



U.S. District Court Judge William Matthewman and Jason Lazarus



F. Malcolm Cunningham and Charles Bennardini



Bench Bar Co-Chairs Santo DiGangi and Lawonda Warren along with Keynote Speaker David Kerner



Judge Joseph Marx, Chief Judge Krista Marx and Zachary Rothman



Michael Mopsick and Bob Bertisch



Masimba Mutamba, Stephanie Myron and Rachel Bentley



Law students giving session directions lead by Jean Marie Middleton (third from left)



Bar President Sia Baker-Barnes, Sidney A. Stubbs Professionalism Award Winner Patricia Lowry, the Edward Rodgers Diversity Award Winner JulieAnn Rico

Courthouse Renamed



Palm Beach County Courthouse
Renamed in honor of Judge Hurley

The main Courthouse in downtown West Palm Beach was recently renamed the Judge Daniel T.K. Hurley Courthouse. Judge Hurley was instrumental in building the facility. Our Bar, along with several sponsors, was honored to host a morning reception after the ceremony.



PBCBA President Sia Baker-Barnes and Lonnie Olds



(ret) Judge Matthew Stevenson and U.S. District
Court Judge Robin Rosenberg



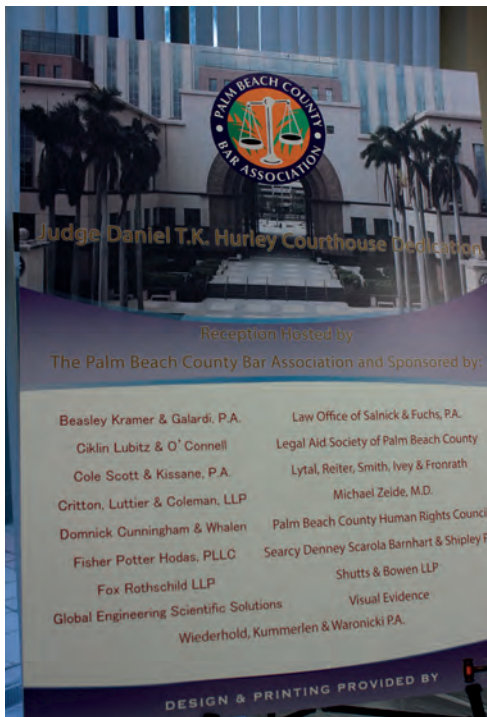
Tammy Anton and Judge Sherri Collins



Carolyn Bell and Bruce Reinhart



Fred Cunningham and Patricia Leonard



A special thank you to our reception sponsors!



(ret) Judge Nelson Bailey and Steven Brannock



Chief Judge Krista Marx and Judge Daniel T.K. Hurley

January 27, 2018, over 200 friends and supporters of the Legal Aid Society of Palm Beach County gathered at the Wellington Club/Palm Beach International Equestrian Center in Wellington to enjoy an evening of cocktails, delicious hors d'oeuvres, and a spectacular show jumping competition. The evening benefitted Legal Aid's 30th Anniversary Pro Bono Recognition Gala to be held on Saturday, May 12, 2018, at the Palm Beach County Convention Center.



**Join Us To Celebrate Our
30th Anniversary Pro Bono Evening!**
Hosted by
Anita and Jack Scarola
Jane Kreuzler-Walsh and Michael Walsh

30th Anniversary Pro Bono Legacy Awards

Greenberg Taurig
Holland and Knight
Sasser Cestero and Sasser
Alan Crane
Anne Hinds
Raymond G. Ingalsbe

30th Anniversary Special Recognition

Bill Bone
Lawrence Moncrief
Louis Silber

Lifetime Serving Justice Award

Robert Bertisch

Saturday, May 12, 2018
Palm Beach County Convention Center

- One-Of-A-Kind Auction
- Dinner
- Dancing

To Purchase Your Tickets visit our website at
www.legalaidpbc.org

Sponsorship and Underwriting Opportunities
are still available.

For more information, or to have an invitation mailed directly
to you, contact Michelle Gale at 561-721-6206 or
mgale@legalaidpbc.org



Tom & Patience Burns, Robin & Ken Bresky



Sara Alijewicz, Patricia Morales & Sarah Cortvriend

THEODORE BABBITT

After 50 plus years representing clients in complex personal injury and commercial litigation, Theodore Babbitt is available for mediation.

"I cannot settle your case for you but I can promise you I will bring to your mediation the same dedication, hard work and persistence that I have brought to representing clients throughout my career."

Please call Mary Lou Struble at Upchurch Watson White & Max at 800-264-2622 to schedule mediation.



www.uwvm-adr.com



Event Host Committee



MANNY FARACH

Florida Real Property and Business Litigation Report

United States of America v. Stein, Case No. 16-10914 (11th Cir. 2018).

The Eleventh Circuit overrules its prior precedent and holds that while an affidavit cannot be conclusory, "an affidavit which satisfies Rule 56 of the Federal Rules of Civil Procedure may create an issue of material fact and preclude summary judgment even if it is self-serving and uncorroborated."

Bank of America, N.A. v. Mirabella Owners' Association, Inc., Case No. 1D16-1079 (Fla. 1st DCA 2018).

The First District adopts the holding of *Jallali v. Knightsbridge Village Homeowners Ass'n*, 211 So. 3d 216, 217 (Fla. 4th DCA 2017), and permits an association to foreclose liens independent of the first mortgage so long as the association's covenants were recorded prior to the mortgage. Moreover, First District follows the general rule that a purchase pendent lite during a foreclosure where a lis pendens has been recorded is not entitled to intervene in the action.

Jackson v. Household Finance Corp III, Case No. 2D15-2038 (Fla. 2d DCA 2018).

A party may introduce documents into evidence using the Business Records Exception to the Hearsay Rule in three ways: (1) offering testimony of a records custodian, (2) presenting a certification or declaration that each of the elements has been satisfied, or (3) obtaining a stipulation of admissibility. A testifying records custodian need not be the person who created the business records; the witness may be any qualified person with knowledge of each of the elements so long as the witness uses the "magic words" of Florida Statute section 90.803(6); conflict with *Maslak v. Wells Fargo Bank, N.A.*, 190 So. 3d 656 (Fla. 4th DCA 2016), is certified.

Blok Builders, LLC v. Katryniok, Case No. 4D16-1811 (Fla. 4th DCA 2018).

The indemnification requirements of Florida Statute section 725.06 do not apply to projects whose scope of work is exclusively excavation.

Inlet Marina of Palm Beach, Ltd. v. Sea Diversified, Inc., Case No. 4D17-1406 (Fla. 4th DCA 2018).

The statute of limitations for actions against construction engineers begins to run from the time the defect is or should have been discovered.

PNC Bank, National Association v. MDTR, LLC, Case No. 5D16-2887 (Fla. 5th DCA 2018).

A party that purchases real property after the lis pendens but is not a party to the mortgage is not entitled to prevailing party attorney's fees under the mortgage.

Pelican Creek Homeowners, LLC v. Pulverenti, Case No. 5D16-4046 (Fla. 5th DCA 2018).

A common-law dedication of lands does not, in the absence of contrary intent, divest the dedicating party of ownership in the lands while a statutory dedication under Florida Statute section 95.361 does. Moreover, dedicated property that is abandoned on the edge of the plat is an exception to the general rule of "halfway to the street" and gives the abutting property owners title to the full width of the publicly dedicated property.

Grimes v. Lottes, Case No. 2D16-5557 (Fla. 2d DCA 2108).

Whether a sales agent's statement that there are no other procuring brokers involved in a transaction is fraudulent involves factual determinations, including whether the statement was one of opinion or fact.

DeJesus v. A.M.J.R.K. Corp., Case No. 2D17-2374 (Fla. 2d DCA 2018).

Property owned by a corporation is not entitled to homestead exemption from forced levy, even if the person residing on the property is the president and owner of the corporation.

HSBC Bank USA v. Buset, Case No. 3D16-1383 (Fla. 3d DCA 2018).

Experts, including those on "securitization" issues, may not testify on legal issues. Additionally, securing a note with a mortgage does not render the note a non-negotiable note under Article 3.

Sabido v. The Bank Of New York Mellon, Case No. 4D16-2944 (Fla. 4th DCA 2018).

Nationstar Mortgage LLC v. Glass, 219 So. 3d 896 (Fla. 4th DCA 2017), is broader than the issue of standing and holds that that a party that is not entitled to enforce a contract cannot be burdened with the obligations under the contract.

McC Campbell v. Federal National Mortgage Association, Case No. 2D16-177 (Fla. 2d DCA 2018).

A loan modification agreement is subject to the Best Evidence Rule and must be introduced into evidence to prove its contents.

Knight v. GTE Federal Credit Union, Case No. 2D16-3241 (Fla. 2d DCA 2018).

A witness that has little to no connection or knowledge of a third-party vendor cannot lay the predicate for introduction of records under the Business Records Exception to the Hearsay Rule, even if the witness uses the "magic words."

C&J Global Investments, Inc. v. JVS Contracting, Inc., Case No. 2D16-4857 (Fla. 2d DCA 2018).

A party may not intervene in a declaratory action regarding the validity of deeds unless it has an interest such that it stands to directly and immediately gain or lose an interest it might have in the property.

Le v. Tralongo, LLC, Case No. 4D17-1325 (Fla. 4th DCA 2018).

The contracting to perform and actual performance of extensive "back office" processes through technology may be sufficient to satisfy long-arm jurisdictional requirements.

Digital Realty Trust, Inc. v. Somers, Case No. 16-1276 (2018).

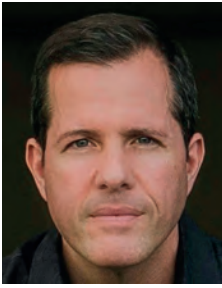
Individuals who fail to report alleged securities violation to the Securities and Exchange Commission do not fall within the Dodd-Frank Act's definition of "whistleblower" and thus are not protected by the Act's anti-retaliation provisions.

Liork, LLC v. BH 150 Second Avenue, LLC, Case No. 3D16-1881 (Fla. 3d DCA 2018).

Subscription agreements are not subject to lack of mutuality attacks because they are different from ordinary bilateral contracts where one party promises to perform a specific action directly in exchange for the other party performing another specific action. Moreover, the fact that real estate values fluctuate generally supports liquidated damages provisions.

Coconut Grove Acquisition, LLC v. S&C Venture, Case No. 3D17-434 (Fla. 3d DCA 2018).

Failure to make payments to a new servicer, even after the old servicer sent a "goodbye letter" advising the loan had been sold, is not an act of default when the new servicer fails to timely advise mortgagor where to send payments.



BRIAN MOSKOWITZ

How to Leave Work at Work

"How do I leave work at work?" I'm frequently asked this question and its countless variations: "How do I separate my work time from my personal time?" "How do I stop my brain from constantly thinking about work while I'm at home?" I could go on but you get the idea.

Most recently a participant at an event I hosted asked the question. At the start of the event I asked the participants to share their desired outcomes for the event – the one thing that if they learned it, it would make their investment of time and money both valuable and profitable. Their outcomes included how to reduce stress, achieve work/life balance, be more productive, and leave work at work.

When you dig a little deeper, you discover that you can reduce stress, achieve whole-life balance, and be more productive when you leave work at work. Stopping the Monkey Mind from constantly thinking about work while you're at home is the gateway to achieving your desired outcomes. So, how do you solve the problem and leave work at work? By emptying your head.

I'm going to share with you a system I have used over the years that has allowed me to leave work at work and be fully present when I'm at home with my family. The genesis of the system is derived from the book *Getting Things Done: The Art of Stress-Free Productivity* by David Allen.

Before creating and using this system, I would leave work for the day or weekend or even a vacation and my mind would constantly think of all the things I had to do...or even worse, forgot to do. As this endless loop continued to play in my mind, I became stressed and anxious and would spend my time while at home with my family thinking about work, checking email, and sneaking off to my home office. Sound familiar? That's when I decided to empty my head.

The science behind the system is that whenever you accept or create a task for yourself, your brain stores that task in your unconscious mind (or what David Allen

calls your Psychic RAM) as an open-loop or incomplete task. And that task will "eat away at you" because your Psychic RAM has no concept of time and wants you to work on all your tasks all the time until their complete. Your mind then constantly replays these open-loops which causes pressure to build-up resulting in stress and anxiety. Similar to releasing the pressure on a computer's RAM, you need to relieve the pressure on your Psychic Ram. And that's done by getting the tasks out of your head and written down.

Once all your incomplete tasks are out of your head and written down, your mind is free to stop working on them. Your stress and anxiety will be reduced, and you'll be more effective, efficient, and productive. Cognitive neuroscience refers to this as Distributed Cognition. Basically, you are distributing the thought process of remembering and working on the incomplete task from your mind to the inanimate object – the piece of paper or computer program.

Okay, enough of the science – let's focus on emptying our heads. Remember that email you opened this morning but didn't respond to? Or that discovery response you considered doing but haven't started? Even better, what incomplete task did you think of while reading this article? All those items are open-loops taking up space in your head causing unnecessary stress and anxiety.

The only way to close those open-loops are to complete them or get them out of your head. So the first step is capturing all your incomplete tasks in one place. This part usually takes the longest because if you're anything like me you have dozens of open-loops at any moment and you might have them on your to-do list, in your computer, on your phone, in text messages from your significant other, on random post-it notes, written on your work calendar, written on your home calendar, scribbled on scraps of paper in your car, or just floating around in your mind. Until you have captured your entire universe of incomplete tasks in one

place your mind will keep searching and searching for more.

Once you've captured all your tasks, the next step is to process them. Decide what the task is and what to do with it - if anything. If there's nothing for you to do, throw it out or file it. Don't leave it sitting around taking up space.

If there is something for you to do, can you do it in two minutes or less? If yes, do it! If no, delegate it or defer it to a later time by tracking it in a trusted system that you consistently review and update.

Once you have captured all your incomplete tasks in one place and processed them by either deleting, doing, delegating, or deferring them into a trusted system, your mind can let go and you will leave work at work.

¹Allen, David. *Getting Things Done: The Art of Stress-Free Productivity*. Penguin Books; Revised edition (March 17, 2015). Print.

²Similar to a computer's RAM (random access memory).

³Distributed Cognition is a branch of cognitive science that proposes cognition and knowledge are not confined to an individual; rather, it is distributed across objects, individuals, artefacts, and in the environment. David L., "Distributed Cognition (DCog)," in *Learning Theories*, February 25, 2007, <https://www.learning-theories.com/distributed-cognition-dcog.html>.

⁴This is a much abbreviated version of the custom system I created and use. If you're interested in a comprehensive explanation of the complete system from its original source, I highly recommend David Allen's book: *Getting Things Done: The Art of Stress-Free Productivity*.

Brian M. Moskowitz is the Founder of Attorney Revolution - a solo practitioner in Boca Raton, and a member of our Solo and Small Firm Committee. Brian can be reached at brian@attorneyrevolution.com

Mental Health & Wellness Luncheon, *plus* Round Table Discussion



*Please join us for a special luncheon to discuss the important issue of mental health and wellness that effect our entire legal profession. We're pleased to have two guest speakers including Board of Governors member and chair of The Florida Bar's Special Committee on Mental Health and Wellness of Florida Lawyers, **Dori Foster-Morales**. Ms. Foster-Morales will talk about the Bar's efforts to destigmatize mental health and substance-abuse issues. In addition, **Scott Rogers** from the University of Miami School of Law will discuss the Power of Mindful Awareness to Achieve Balance and Success. Professor Rogers is a nationally recognized leader in the area of mindfulness and law. **Plus**, participate in a round table discussion with various mental health providers.*

Wednesday, April 18, 2018

11:30 a.m. to 1:45 p.m.

Admiral's Cove Country Club, Jupiter

COST: \$40.00

CLE credit including 2.0 General / 2.0 Mental Illness

Judges are complimentary

Price increases after 4.15.18

Are you or a colleague struggling with substance abuse or mental health issues?
Attend this luncheon and find confidential help.

REGISTRATION REQUIRED ONLINE

@ www.palmbeachbar.org



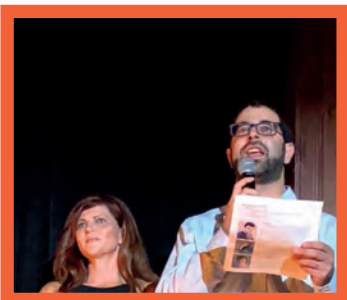
Psychological Affiliates



The Palm Beach County Bar Association sincerely thanks the following volunteer Bar Associations for jointly presenting this program including The Federal Bar Association, F. Malcolm Cunningham, Sr. Bar Association, Hispanic Bar Association, Palm Beach Association of Criminal Defense Lawyers, Palm Beach County Justice Association, FAWL and the South Palm Beach County Bar Association.

Innocence Project

West Palm Beach criminal defense attorney Nellie King and Innocence Project of Florida Executive Director Seth Miller of Tallahassee addressed more than 200 guests Feb. 2 at Stand Up for Innocence, an annual fundraiser for the Innocence Project of Florida. The event, co-hosted by the Palm Beach County Bar, featured comedians Ian Bagg, Karen Rontowski, and Tony V. No laughing matter, the Innocence Project of Florida has freed 17 men who collectively spent more than 300 years in prison for crimes they did not commit.



Event Chair Nellie King and Host Seth Miller



Steve Kern, Melody Ballantyne, Exoneree James Bain, Patricia Reagan, Palm Beach County Bar Board Member Ned Reagan



Denise Mutamba, Exoneree James Bain, and Masimba Mutamba



Edrick Barnes, Exoneree James Bain, Palm Beach County Bar President Sia Baker-Barnes, Event Chair Nellie King



Event Co-Chairs Tama Kudman, Richard Lubin, and Nellie King



John Wendel, Exoneree James Bain, Susan Werling, and Nellie King



W. Jay Hunston, Jr.

Mediator/Arbitrator

Since 2001, limiting his practice to all forms of effective dispute resolution, including mediation, arbitration, special master, and private judging services.

- J.D., Stetson Univ. College of Law
- Fla. Bar Bd. Cert. Civil Trial Lawyer, 1983-2003
- Fla. Cert. Circuit Civil, Appellate & Family Mediator
- Member, AAA Roster of Neutrals for Commercial and Construction Arbitration and Mediation
- Qualified Fla. Arbitrator
- FINRA Approved Mediator
- Statewide Per Diem Rate Available Upon Request
- Hourly Rates Available (No Charge for Travel Time Within 15th, 19th, and 17th Circuits)

P.O. Box 508, Stuart, FL 34995
(772) 223-5503; (800) 771-7780 - Office
(772) 223-4092 - Fax

Email: wjh@hunstonadr.com

Website/Online Calendar: www.hunstonadr.com

In Memory of Jack Ackerman

Unfortunately, we lost Jack on Saturday, February 25th. I have personally known Jack since 1981 when I became a young lawyer in Palm Beach County. Jack was admitted to practice in Florida on June 10 1953. His Florida Bar number was 240 and he was very proud of that number. His practices included doestic relations, personal injury and commercial litigation. His trial experience was second to none. In his later years he was an Assistant State Attorney for Palm Beach County. He was a member of the Palm Beach County Ethics Committee, Share the Florida Bar Rule Committee, and was the first recipient of the Palm Beach County Bar Associations Professionalism Award.

Lastly he was a friend and mentor to a number of young lawyers in Palm Beach County. He will always be remembered as a gentlemen, a fine lawyer and a truly good friend. My wife Suzy Cohen and I will always cherish our relationship with Jack.

-Richard S. Cohen

NORTH COUNTY Section

NCS Members Unwind at the Twisted Trunk

After a day at the office, our North County Section members recently enjoyed an early evening at the Twisted Trunk in Palm Beach Gardens. No doubt we served the BEST dinner in South Florida prepared by "Smokin' Gator BBQ". Dinner, games and networking was all FREE for our NCS members.



NCS President W Mason, Matt Okell and
PBCBA President-Elect Greg Huber



Thank you Paul and Bob Shalhoub for preparing dinner
from their "Smokin' Gator BBQ" food truck



Magistrate Tom Baker and
Cam Baker



Adam Doner, Teresa Norvell and Curtis Shenkman



Todd Stewart participated in the bean bag
competition



Chelsea Furman and Mike Kranz

North County Section to host its Second Annual

DINNER & CASINO NIGHT

Las Vegas Style: You Never Know Who You're Going To Meet!

Thursday, April 12, 2018
5:30 pm - 8:00 pm

Admirals Cove - Harbor View Room
200 Admirals Cove Blvd, Jupiter



Play Classic Casino Games including Craps, Roulette and Blackjack with a chance to win GREAT prizes!

Everyone eligible to win whether you play or not.

- NCS Members: \$45.00
- Spouses: \$60.00
- Attorneys who are not NCS Members: \$75.00
- Judges: Complimentary

Price increases after 4/9/17

Purchase tickets online @ www.palmbeachbar.org





North County Section to host

SOCIAL MEDIA e-DISCOVERY

PART II



What every attorney needs
to know about e-Discovery
with Judge Meenu Sasser and
Spencer Kuvin, Esq.

FRIDAY, APRIL 6, 2018

11:30 a.m. to 1:00 p.m.

Palm Beach Gardens Marriott

4000 RCA Blvd.

Palm Beach Gardens

*Last year's program was so successful our members requested
Part II. Join us for lunch and learn FIVE EASY STEPS
to social media readiness, plus find out how Courts
handle social media issues with a View from the Bench.
Have questions? There will be time for Q and A.*

Sponsored By:



Psychological Affiliates

Social Media e-Discovery Part II

*** Friday, April 6, 2018 ***

Lunch, Networking and Four (4) CLE credits, including 2.0 General and 2.0 Technology

RSVP ONLINE TODAY @ www.palmbeachbar.org

**REGISTER
NOW**

Reduced Price for NCS Members \$30.00, includes lunch and CLE credit from
the Florida Bar

Attorneys who are not Section members are welcome for \$50.00

Price increases by \$5.00 after 4/4/18

YOUNG LAWYERS Section

YLS Baseball

On March 2nd the YLS Section Members enjoyed a night of fun, fellowship and food as they watched the Houston Astros vs the New York Mets Spring Training Game



3rd Annual 5K Run | Walk

April 14, 2018

Bradley Park

Race Time: 7:30am

Visit: www.palmbeachbar.org

For More Information

Youth Law Day



Close to 100 students, Boy Scouts, and Girl Scouts participated in the 3rd Youth Law Day at the Downtown Courthouse on Saturday, February 10, 2018 organized by Andrew Kwan and Judge Sherri Collins of the Law Related Education Committee. Judge Samantha Schosberg-Feuer utilized an interactive activity to explain the jury system and allowed the kids to participate in a "deliberation". Other members of the Bar including Nick Johnson, Nelson Baez, Labeed Choudhry, Ana Moretto, Dane Leitner, Eddie Stephens, Assistant US Attorney Daniel Funk, Rachael Santana and Rebecca McFadyen covered topics such as the requirements to become an attorney or judge, rights and responsibilities that come with being a citizen, laws to protect consumers and sellers, and where people can go to obtain the help of a lawyer. Officer Mark Sohn brought his K9 Bako for a demonstration. The day ended with the students participating in a mock trial competition presided over by Judge Luis Delgado.

Upchurch Watson White & Max MEDIATION GROUP



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is proud to announce
**Scott
Baughan**
has joined its panel of
neutrals.



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The Business Litigation CLE Committee of the Palm Beach County Bar Association presents

Lost Profits Damages in Commercial Litigation

Wednesday, April 25, 2018, 12:30 to 5:00 p.m.

Fourth District Court of Appeal

110 S. Tamarind Ave., West Palm Beach, FL

Program Schedule

12:30: Sign-in/lunch/Introductions:

William B. Lewis, Esq., Morgan & Morgan, Business Trial Group

1:00: Florida Law Regarding Lost Profits and Damages

Joseph G. Galardi, Esq., Beasley, Kramer & Galardi

2:15: Break

2:30: Lost Profits Analysis and Effective Expert Presentation

Richard A. Pollack, CPA and Scott M. Bouchner, Berkowitz Pollack Brant

3:45: Break

4:00: Judicial Panel on Presenting Damages Analyses to Juries and Daubert/Frye Challenges:

Circuit Judge Donald W. Hafele

Circuit Judge Edward L. Artau

Federal Magistrate Judge David L. Brannon

Federal Magistrate Judge William D. Matthewman

5:00: Happy hour



Sponsors



Registration Information

4.0 CLER; 4.0 Certification Credits in Business Litigation. Cost: \$ 100 members; \$ 140 non-members. Those registering after 4/18/18 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 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.
4/25/18 Business Litigation

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

18th Annual

VIEW FROM THE BENCH:

Cocktails & Dinner & CLE

The evening features dinner and a panel of Probate and Guardianship Judges answering your questions about practicing in Palm Beach County.

With Judges Catherine Brunson, Charles Burton,
Howard Coates, Jr., Kathleen Kroll, Janis Keyser,
Karen Miller, Rosemarie Scher, Scott Suskauer, Jessica Ticktin

Thursday, April 26, 2018

6:00 pm to 8:30 pm

The Colony Hotel, 155 Hammon Avenue, Palm Beach

Have an issue or question you would like the judges to address?

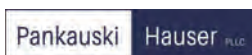
Email Heather Samuels: HSamuels@solokoff.com

MENU CHOICE. Please select one of the following:

- ☐ Brown Sugar & Horseradish Crusted Salmon, Mascarpone Mashed Potatoes, Grilled Zucchini
- ☐ Chicken Marsala, Mascarpone Mashed Potatoes, Grilled Zucchini
- ☐ Cheese Tortellini with Golden Tomato Fondue, White Truffle Essence

Evening includes dinner, CLE, complimentary drink and valet parking

Event Sponsored by:



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2.5 CLER; .5 Ethics; .5 Technology. Certification credits: 2.5 in Elder Law and 2.5 in Wills Trusts and Estates. Cost \$85.00 for PBCBA members/paralegals; \$125.00 for non-PBCBA attorney members/paralegals if registered by 4/19/18; add \$20.00 to registration fee after that date. Register online at palmbeachbar.org or mail payment to PBC Bar Association, P.O. Box 17726, W. Palm B. FL 33416. All refund requests must be made no later than 48 hours prior to the date of the event.

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

Bracing for the Storm: Preparing for a Hurricane and Aftermath



Wednesday, May 16, 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** (This topic will address the measures that should be taken by owners and contractors prior to hurricane season. For example, the types of insurance coverages that should be in place, and ensuring that sufficient labor and materials will be available in case of a state of emergency. Additionally, attention will also be given to the contractual provisions and business considerations that parties should address in anticipation of storm events.) - 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** (Once the weather forecasters conclude that an area is in the projected path of a hurricane, steps must be taken to secure job sites, and businesses. This segment will explore what those steps are, and how property owners can position themselves in case property damage occurs and insurance claims or lawsuits become necessary. This will include steps to take for owners and contractors involved in ongoing construction projects that may be affected by the hurricane.) 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 (An overview of a lawyer's guide on tips and tricks for dealing with clients and contractors in the aftermath of a natural disaster. The presentation will be separated in two subparts - 1. Advice for lawyers providing legal counsel to property owner clients; and 2. Advice for lawyers providing legal counsel to 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**

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Credit: 3.0 CLER; 3.0 Certification credits in construction law. Cost: \$ 90 members; \$ 130 non-members. Those registering after 5/9/18 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 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. 5/16/18 Construction law

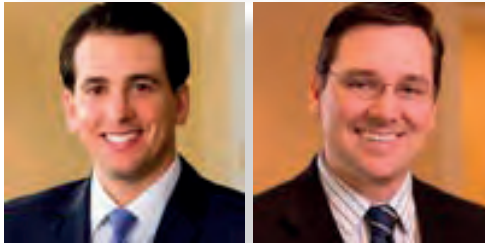
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Gunster, one of Florida's oldest and largest full-service business law firms, is pleased to announce the promotion to shareholder for six associate attorneys of the firm. Jonathan Kaskel, Gus Schmidt, Josh Goldglantz, Nick Curley, Roger Feight and Nick Dyal



Dane Leitner, an attorney at Ward Damon, has been named a partner at the West Palm Beach-based multi-disciplined law firm.



The Law Offices of Craig Goldenfarb, P.A. is pleased to announce that Carl J. Wald, Esq. has joined the litigation team. Mr. Wald brings with him more than 20 years of experience working exclusively in personal injury.



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Akerman LLP, a top 100 U.S. law firm serving clients across the Americas, today expanded its Professional Liability Practice with a team of six litigators from Ackerman Law Group, including its founder David Ackerman. They join Akerman's Litigation Practice Group



Jones Foster is pleased to announce that Genny Bernstein has joined the Firm as Senior Counsel in its Elder Law and Estate Planning departments.

Miscellaneous

ARE YOU CONSIDERING RETIREMENT IN THE NEXT 6-12 MONTHS?

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

CALENDAR OF EVENTS

APRIL 2018

Tuesday, April 3
8:00am
Second Coffee with NCS Judges

Thursday, April 5
5:30pm – 7:00pm
Paralegal Meet and Greet

Thursday, April 5
5:30pm – 7:00pm
YLS Happy Hour

Friday, April 6
8:30am – 9:30am
ADR Committee Meeting
515 N Flagler Dr, GL Room

Friday, April 6
11:30am – 1:00pm
NCS CLE Luncheon

Monday, April 9
8:00am – 5:00pm
Estate & Probate Seminar
Marriott Hotel WPB

Monday, April 9
12:00pm – 1:00pm
Construction Law Committee
Meeting
Becker & Poliakoff

Tuesday, April 10
7:45am – 8:15am
UMC Coffee
Main Courthouse

Tuesday, April 10
11:30am – 1:00pm
NCS Board Meeting

Tuesday, April 10
11:30am – 1:00pm
YLS Board Meeting
515 N Flagler Dr, Large Conference
Room

Wednesday, April 11
12:00pm – 1:00pm
Professionalism Committee Meeting
4th DCA

Thursday – Sunday April 12-15
Fl Bar YLD BOG
Ashville, NC

Thursday, April 12
12:00pm – 1:00pm
Judicial Relations Committee
Meeting
Judicial Dining Room

Thursday, April 12
5:30pm – 8:00pm
NCS Casino Party at Admirals Cove

Saturday, April 14
7:30am
YLS 5K Run | Walk
Bradley Park

Monday, April 16
10:00am – 1:00pm
Appellate Seminar
4th DCA

Tuesday, April 17
11:30am – 1:30pm
Judicial Lunch
North End Cafeteria

Tuesday, April 17
12:00pm – 1:00pm
CDI Meeting
American Lung Association

Wednesday, April 18
11:30am – 1:30pm
Health & Wellness Town Hall
Admiral's Cove

Wednesday, April 18
12:00pm – 1:00pm
PI Committee Meeting
Joe Landy's Office

Tuesday, April 24
5:30pm – 7:00pm
Judicial Reception
Harriet Theater

Wednesday, April 25
11:30am – 1:30pm
Business Lit Seminar
4th DCA

Wednesday, April 25
12:00pm – 1:00pm
Real Estate Committee Meeting
The Boulevard Gourmet Deli

Wednesday, April 25
5:00pm – 6:00pm
Bar Board Meeting

Wednesday, April 25
5:30pm – 7:00pm
Legal Aid Board Meeting
Legal Aid Office

Thursday, April 26
5:30pm – 7:00pm
YLS / PBCJA Happy Hour
The Regional

Thursday, April 26
6:00pm – 8:30pm
Elder Law Dinner
The Colony Hotel

Friday, April 27
PI Seminar
4th DCA

Friday, April 27
11:30am – 1:00pm
Circuit Civil Practice Committee
Meeting
Judicial Dining Room

Friday, April 27
4:00pm – 4:30pm
Judge Nutt Robing

Saturday, April 28
9:00am – 1:00pm
Dennis Koehler Law Week Softball
Game
Mirasol

Monday, April 30
Law Week Begins



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