



Broward County Bar Association
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Fort Lauderdale, Florida 33316

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Broward County Bar Association BARRISTER

January 2009 • WWW.BROWARDBAR.ORG • 954-764-8040 • VOLUME 40, ISSUE 1

The Broward County Bar Association Criminal Law Section Presents: Ethics Seminar January 23, 2009 - 1:00- 4:00p.m.

In the Jury room of the Broward County Courthouse

RSVP with the BCBA at (954) 764- 8040

With guest speaker Denis M. deVlaming from Clearwater, Florida
A dynamic and interactive presentation
3.5 Ethics Credits from the Florida Bar

Admission is free to all members of the Broward County Bar Association, state attorneys and public defenders. There is a \$50 admission for the remaining attendees. This fee will be waived for those attendees desiring to become a member of the Broward County Bar Association for the reduced pro rata dues of \$62.50. To become a member of the Broward County Bar Association visit our website at www.browardbar.org/application.php

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HOLD THE DATE...

Broward County Bar
Association

Judicial Robing Ceremony

Friday, February 6, 2009

17th Judicial Circuit

Of and For Broward County

1:00 p.m.

Third Floor Jury Room

Main Courthouse

BCBA's Annual Workers' Compensation Seminar February 27, 2009 Noon- 4:30p.m. Riverside Hotel

For reservations call Mike at 954-764-8040 x 202 or sign up online at www.browardbar.org
Cost: \$75 for members; \$90 for non-members

Topics and speakers:

"View From the Bench" – Broward County Judges of Compensation Claims

"Navigating Through the Workers' Compensation System"- Deputy Chief Judge of
Compensation Claims David Langham and Barry Keyfetz, Esquire

"How to effectively Secure and Defend Hourly Attorney Fees"- Cory Schnepfer, Esquire and
Neal Falk, Esquire

"Practicing with Professionalism"- Mal Steinberg, Esquire and Barbara Wagner, Esquire

"Retraining and Job Placement"- Seth Abrams, Esquire and Alan Sokol, Vocational
Rehabilitation Counselor State of Florida Bureau of Rehabilitation and Re-employment Services



PRESIDENT'S MESSAGE by Christopher M. "Chris" Neilson

Happy New Year, and welcome to 2009!!! I hope this finds you and yours well, and wish all of you a healthy, happy, and prosperous New Year. As usual, I am writing my article well in advance of January (today is December 18th) so that you will hopefully have the Barrister by the beginning of the month.

It is hard to believe that my term is already half over. Time sure flies when you are having a good time, and also when you are very busy! I have enjoyed my BCBA Presidency tremendously (it truly is a labor of love), and encourage each and every one of you to become involved in BCBA. You can and will make a difference, and that it can be very rewarding, both personally and professionally, and will help you to develop to be a better lawyer and a better person. This is our profession, and we should all give something back to it. We have a fantastic Board, as well as our sections, committees and members, and we are all extremely fortunate that so many have freely and unselfishly been giving back. We have been extremely busy at BCBA, and we have made some differences.

We hosted our annual holiday party for all of our members on Friday, December 12, at our fantastic Bar center, which was absolutely wonderful. Over 300 lawyers and judges attended. Everyone brought gifts for the Young Lawyers Holiday in January (which will actually be held in February this year) to give to foster children. The floor under the tree looked like a toy store! What a beautiful sight. I do not ever recall seeing so many toys under one tree!

Holiday music was played by a quartet of extremely talented young musicians who are members of The Florida Youth Orchestra and/or Ars Flores Orchestra. Attorneys Peter and Ellen Itzler arranged the musicians, one of which was their lovely daughter Gabriella Itzler, who played the violin. Also, Kevin Seto played violin; Alex Fox played viola; Jose Arrillaga played cello; and, our harpist was Sasha Medici.

Creative Cuisine catered the event this year, and the food was most excellent. We reconfigured the event setup this year. We had Creative use the back porch for their grills, ovens and preparation areas, which was much more convenient. We had the musicians set up on the Southwest inside corner, opening the traffic flow to the North Patio, which had a nice tent enclosure, and where we displayed our new BCBA Banner. Two bars were set up on the East and West side of the patio, which also helped the traffic flow.

The carving station was set up on the East wall near the back yard, and had plenty of delicious roast beef and turkey, and...the grilled vegetables were awesome. Everything was great, from the shrimp appetizers, to the LARGE Sushi boat, to the deserts. Thanks again to Stephens Distributing for donating a variety of Budweiser beer products, and to Art for getting the wine and soft drinks.

BCBA staff deserves kudos for their decorating the building and assisting with the event from beginning to end, as well

as serving beverages to our guests, etc. We are extremely fortunate to have such a dedicated and wonderful Executive Director and staff. Thanks to security provided by the City of Fort Lauderdale Police Department, and to the Valet provided by Secure Parking Systems.

The newly painted building looked great inside and out. We have landscaped the back yard of the Norma Howard Center, which looked magical on the parties cool, clear night with the new fenced enclosure and tiki torches we had lit out back. We had removed the old fence on the small back porch, which opened up the entire back yard and created an entirely new spacious look and feel. We had also made pathways through the hedges, and mulched the area, for access to the entire back yard. The new emergency generator is now connected, and we continue to make improvements to our BCBA property.

The Young Lawyers Holiday Luncheon on Thursday, December 11, as usual, was just great. Dillard High School Choir Director Brenda Brown again presented the Dillard Singers, who entertained us with Holiday songs and music. And, the Tower club was tastefully decorated for the Holidays, setting the tone for the season. The luncheon was delicious, and the Choir was invited to dine afterwards as guests.

On Thursday, December 18, Art and I attended the Broward County Justice Association's delightful retirement dinner for Judge Leroy H. Moe and Judge Robert Lance Andrews at the Hyatt Regency Pier Sixty Six. It was a first class event. The distinguished speakers included J. David Bogenschutz, Skip Campbell, and Willie Gary who spoke about Judge Moe, and the Honorable J. Leonard Fleet, Russell Adler, and Sheldon J. Schlesinger who spoke about Judge Andrews. Both Judge Moe and Judge Andrews addressed the 200 lawyers and Judges in attendance, and were presented awards for their service by BCJA.

BCBA and our Criminal Law Chair Jeff Harris have been busy planning an exciting 3 hour interactive ethics seminar. This event is scheduled to be held in the Jury Room of the main Courthouse on the afternoon of January 23, 2009. Make your plans and reservations to attend now, since the seminar is expected to be filled to capacity.

The robing ceremony for the 8 new judges will be held at the main Courthouse jury room on the afternoon of February 6, 2009, so plan to attend and save the date.

Speaking of the Courthouse, please remember that we are all ambassadors of BCBA, as well as Officers of the Court. All of us should, whenever possible, educate everyone we come into contact with concerning the need for a new courthouse. We should all be conditioning our friends, family, clients and the public of just how important and necessary this is. Take the opportunity to speak in your communities about this, including at meeting such as Rotary, Kiwanis, etc.

The moment we learned of the Courthouse closure, I was very pleased with our Executive Director, in that he

CALENDAR OF EVENTS

JANUARY 2009

Thursday, January 8th:

South Broward Bar Association monthly luncheon. At the Ark Restaurant in Davie. Noon. Guest Speaker, Howard Finkelstein, Public Defender. For more information, contact (954) 791-3939.

Friday, January 9th:

Bankruptcy Bar Association Brown Bag Seminar on Evidence & Trial Techniques at 12:00 - 1:30p.m. At the U.S. Bankruptcy Court 299 E. Broward Ave., Courtroom 301 in Fort Lauderdale. Free! The panel will include Judges Mark, Isicoff, Ray, and Olson, Scott Baena, and Soneet Kapila. The speakers will present entertaining skits demonstrating (1) impeachment by use of prior sworn testimony; (2) common mistakes in direct examinations and in evidentiary objections; and (3) common cross examination mistakes." RSVP to Julie Hough, jeh@kttlaw.com.

Saturday, January 10th:

4 Hour Minor Guardianship Class. 9:00a.m. to 1:00 p.m. Norma B. Howard Bar Center, 1051 SE 3rd Ave. Ft. Lauderdale, 33316. Cost: \$100.00. Guardian for anyone under the age of 18. To sign up please contact Tish at BCBA (954) 764-8040 ext. 200.

Monday, January 12th:

Grievance Committee 17G Meeting. 2:00 p.m. Broward County Bar Association's, Norma B. Howard Center, 1051 SE 3rd Ave, Ft. Lauderdale, 33316.

Tuesday, January 13th:

Association of South Florida Mediators and Arbitrators present a seminar, Jerome Tabas and David Lichter- "Addressing the mediation within the mediation: Sources of intra party conflict" location to be announced. If you have not renewed your ASFMA membership this is a good opportunity to do so at the meeting or contact our Membership Chairperson, Ms. Betty Eichelbaum at NSE801@aol.com.

Tuesday, January 13th:

Broward County Bar Association Board of Directors Meeting. 5:15. 1051 SE 3rd Ave, Fort Lauderdale.

Wednesday, January 14th:

Broward County Women Lawyers' Association "Green Law Firm" Awards Luncheon. 12:00 p.m. (11:45 registration). At the Tower Club, One Financial Plaza, Fort Lauderdale, FL 33394. \$22 BCWLA members, \$27 non-members; \$15 judiciary. RSVP to rsvp@bcwla.com by January 7, 2009.

Wednesday, January 14th:

Solo Small Law Firm Networking Dinner. 6:00p.m. Dave & Buster's, 3000 Oakwood Blvd. Hollywood, FL 33020. When reserving at least 48 hours in advance: \$35 for Broward County Bar Association members and \$40 for non-members. At door, \$5 more on a space available basis. Credit card and check payments accepted. For further information contact Mike at the Broward County Bar Association, (954) 764- 8040 x 202 or visit our website to register at www.browardbar.org.

Friday, January 16th:

Summit for Florida Bar leaders on state court funding to be held at the Hyatt Regency in Miami. From 9:00 a.m.- to noon. The basic right of Floridians to seek justice in their courts is the foundation of our society. The summit is sponsored by The Florida Bar and the Young Lawyers Division. For those unable to attend, the YLD will

provide a live webcast. Information about how to watch will be posted on The Florida Bar home page, www.floridabar.org. Please RSVP to courtsummit09@flabar.org

Tuesday, January 20th:

Grievance Committee 17H Meeting. 2:00 p.m. Broward County Bar Association's, Norma B. Howard Center, 1051 SE 3rd Ave, Ft. Lauderdale, FL 33316.

Tuesday, January 20th:

Bench and Bar Committee Meeting. Noon. Broward County Bar Association, 1051 SE 3rd Ave. Ft. Lauderdale, 33316.

Thursday, January 22nd:

Young Lawyers Section Annual State of the Circuit Luncheon and discussion with Chief Judge Tobin at the Tower Club. 12:00 p.m. Space is limited. Reservations are required. Please call Mike at the Broward County Bar Association (954) 764-8040 x 202. Cost per person is \$25.00.

Friday, January 23rd:

The Broward County Bar Association, Criminal Law Section is pleased to announce that it is hosting an Ethics Seminar. 1:00p.m.- 4:00p.m. in the Jury room of the Broward County Courthouse. 3.5 Ethics credits from the Florida Bar. Denis M. deVlaming, guest speaker. Admission is free to all BCBA members, state attorneys and public defenders.

Saturday, January 24th:

8 Hour Adult Guardianship Class. 9:00a.m. to 5:00 p.m. Norma B. Howard Bar Center, 1051 SE 3rd Ave. Ft. Lauderdale, 33316. Cost: \$180.00. Guardian for anyone over the age of 18. To sign up contact Tish at BCBA (954) 764-8040 ext. 200.

Saturday, January 24th:

The Ft. Lauderdale chapter of The American Board of Trial Advocates will install its' 2009 Executive Board at their annual judge's night Black Tie Dinner. See page 19 for list of 2009 officers.

Saturday, January, 31st:

Cuban American Bar Association Installation Gala. 6:30 p.m. Doral Golf Resort & Spa, Legends Ballroom, 4480 NW 87th Ave, Doral, FL. Contact Roland Sanchez-Medina at roland@smqglaw.com for more information.

Monday, February, 2nd:

Grievance Committee 17G Meeting. 2:00 p.m. Broward County Bar Association's, Norma B. Howard Bar Center, 1051 SE 3rd Ave, Ft. Lauderdale, 33316.

Thursday, February 5th:

South Broward Bar Association Monthly Luncheon. At the Ark Restaurant in Davie. Noon. With Guest Speaker Judge Robert A. Rosenberg. Please contact 954- 791-3939 for more information.

Friday, February 6th:

Solo/ Small Law Firm Networking Lunch. Olive Garden, 1555 N. University Drive, Coral Springs (954) 344-5226, RSVP to: Evan M. Ostfeld (954) 227-7529 and or Evan@Attorney4life.com.

Friday, February 6th:

Broward County Bar Association Judicial Robing Ceremony. 17th Judicial Circuit, Of and For Broward County. 1:00 p.m. Third Floor Jury Room, Main Courthouse. For more information contact the Bar at (954) 764- 8040.

FEBRUARY 2009

Lawyers in the LIMELIGHT

Scott J. Brook, mayor of Coral Springs, has been named Vice Chair of the National League of Cities' City Future Panel on community and Regional Development.

Florida Children's First President **Howard Talenfeld**, a staunch child advocate and partner with Colodny Fass Talenfeld Karlinsky & Abate, and Executive Director **Andrea Moore** led a successful Fundraising Event, which honored those in Palm Beach County who are making a difference in the lives of foster children.

Fisher & Phillips LLP and firm partner **Cathy Stutin** are recipients of the 2008 Broward Partnership for the Homeless, Inc. (BPHI) Special Recognition Award.

Robin J. King, an estate planning attorney and shareholder in the Ft. Lauderdale office of GrayRobinson, P.A., has been named to the American Red Cross Broward Chapter board of directors and to the Broward Health Foundation Planned Giving Committee.

Susan L. Trevarthen, a partner with the law firm of Weiss Serota Helfman Pastoriza Cole & Boniske, presented at St. Lucie County's Treasure Coast Planning Officials Training Forum on November 17.

Diana Santa Maria, who practices in Ft. Lauderdale in the field of Personal Injury Litigation, has been selected for inclusion in the 2009 publication of Best Lawyers in America. Best Lawyers is the oldest and most respected peer-review publication in the legal profession.

The following members were listed in the Daily Business Review's Most Effective Lawyers 2008:

Scott W. Rostock of Ackerman Senterfitt law firm

Brian Wolf of Smith Currie & Hancock

Erika Deutsch Rotbart of Deutsch Rotbart & Associates

Stuart H. Singer and **Damien Marshall** of Boies Schiller & Flexner

Michael C. Foster of Bilzin Sumberg Baena Price & Axelrod

Crane Johnstone of Sheldon J. Shlesinger P.A.

BARBARA K. SUNSHINE FOR THE FLORIDA BAR BOARD OF GOVERNORS



Barbara has proven her commitment and dedication to the members of the Broward County Bar Association by serving as a Director since 1997.

Barbara was President of the Broward County Bar Association from 2007-2008; she served as President-elect from 2006-2007, and was elected Secretary-Treasurer for the term 2005-2006.

"I will bring my leadership and energy to The Florida Bar if elected to Seat 5 of the Board of Governors, Seventeenth Judicial Circuit."

Ballots will be mailed on or before March 1, 2009.

immediately followed my instruction to take the lead in this matter. I requested Art to proactively notify by email every attorney in Broward County of the closure, members and non-members alike, and to continue to update everyone on the status of the closure. This service alone is worth the price of membership, i.e. not having to drive to go to the Courthouse only to find it is closed.

We want to continue to provide the best possible service and education to our members and the public. Many of you, member and non-member alike, have notified us of your appreciation of our efforts in notifying and updating you on the Courthouse closure. We hope this service was helpful to you, and we look forward to serving you in similar ways in the future. All we ask is that if you are a member, to please encourage all attorneys in Broward to join BCBA. If you are a non-member, please join us now.

We would love for every member of every firm to become BCBA members. We can accomplish even more with more members. I personally believe that every lawyer in Broward County should be a member of BCBA. BCBA membership demonstrates dedication and commitment to your profession. The very minimal dues, as well as increased numbers of members, helps us to help our profession, to encourage civility and professionalism, and to educate our members and the public.

At the Broward County Bar Association Board Workshop I held this past summer, our Board met and discussed both short and long term goals of BCBA, and the need for a new Courthouse was on the top of both lists. I have been writing and speaking about the courthouse issue long before the current flooding and closure of the courthouse for over a week (from one pipe bursting).

We have been advised that over 10,000 files were either damaged or destroyed, and that 4,000 phone lines were put out of service. The ongoing cleanup and expense involved in this is going to be considerable. And, this was just one of many pipes in many walls. It is just plain unacceptable that our members and non-members alike, the Judiciary, the employees of the Courthouse, and last but certainly not least, the public, should have to endure with this antiquated building, which is over a half-century old. We have been advised of pending mold lawsuits concerning employees of this facility. Unpredictable closures affect each and every one of us.

We all deserve better. Most everyone is going to have to go through the courthouse some point, whether as a litigant, a witness, a juror, for information, etc. Our Courthouse is the embodiment of our system of justice. It should serve everyone in the community, and should be safe, up to date, clean, efficient and dependable. We need a modern facility that has the infrastructure to handle the thousands of people that utilize our court house.

I believe that Broward County is disproportionately impacted, since we are the epicenter of South Florida, since we are smack dab in the middle, with the 8 million people who live between Saint Lucie and the Florida Keys, as well as those who travel here from our Gulf Coast, and of course not to mention our visitors vacationing here or travelling

through our Port on Cruise ships, our airport and rail system.

Our Courthouse should be a place our community is proud of, and that can be utilized in an emergency as well. Hurricane Wilma almost destroyed the current building. We need a Hurricane Resistant facility. We need a Courthouse with current technology, where data is backed up and stored off site and is readily available in the even if the building is damaged or destroyed. We cannot afford one more leak or one more Hurricane. We need a facility where people don't have to line up around the block, without shelter, in all kinds of weather to get into the building.

We need a facility where people should not have to pay \$8 and hour, and it almost always takes at least an hour and a few minutes to just get in and out of anywhere in the building, so it now costs \$16, which working people just can't afford. We need a building that can accommodate more than two metal detectors so people aren't funneled into an inadequate place to efficiently screen them while hundreds wait outside. We need elevators that work efficiently on all floors. We should all be demanding it. We all deserve better.



The Broward Barrister is published by the Broward County Bar Association a part of our commitment to provide membership with information relating to issues and concerns on the local level. Opinions and positions expressed in the signed materials are those of the author and may not necessarily reflect the views of this publication or the Broward County Bar Association.

1051 SE Third Avenue, Ft. Lauderdale, FL 33316
BROWARD COUNTY BAR ASSOCIATION
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RECENT DEVELOPMENTS IN THE LAW

by Nancy Little Hoffmann

1. Attorney's Fees/Construction Liens

Trytek v. Gale Industries, Inc.,
33 Fla. L. Weekly S945 (Fla.
December 11, 2008).

The supreme court has held that in determining attorney's fees under section 713.29 in construction lien cases, the trial court must apply the "significant issues" test in determining which party, if any, is the prevailing party. The court quashed a Fifth DCA opinion holding that the court was required to award the lienor fees if it recovered a judgment in any amount exceeding the homeowner's claims.

2. Premises Liability/Negligence

Etheredge v. Walt Disney World Co.,
33 Fla. L. Weekly D2785 (Fla. 5th DCA December 5,
2008).

The Fifth District reversed a directed verdict against a young visitor who was injured when she caught her ankle in a storm drain. She alleged not that the drain was defective or could not be seen, but that Disney was negligent in encouraging guests to cross the street where the drain was located. The appellate court held that under the negligent mode of operation theory, there was evidence that Disney could reasonably anticipate that a dangerous condition would arise as a result of the way it directed guests to cross, and that whether it was in fact negligent was a jury question.

3. Release/Parent's Authority to Execute

Kirton v. Fields,
33 Fla. L. Weekly S939 (Fla. December 11, 2008).

Answering a certified question from the Fourth District, the supreme court held that a parent does not have the authority to execute a pre-injury release on behalf of a minor child when the release involves participation in a commercial activity. This case involved the death of a 14 year old operating an ATV at a motor sports park. The court held that although parents have a fundamental right to make decisions regarding their child, they cannot waive future tort claims of a minor child or the child's estate.

4. Settlement/Fraudulent Inducement

Archbishop John Favalora v. Sidaway,
33 Fla. L. Weekly D2763 (Fla. 4th DCA December 3,
2008).

The Fourth District rejected challenges to the trial court's jurisdiction over a complaint alleging that the Archdiocese fraudulently induced the plaintiff to settle his claim by promising to implement reforms which it never planned to implement and which cannot be enforced. The Archdiocese had argued that the issues regarding its agent's authority to enter into the settlement agreement were matters of internal church law, which could not be questioned in a civil trial court. The Fourth District disagreed, holding that courts are not forbidden from examining a church's internal laws, where the inquiry is relevant to a third party's secular tort or contract claims.

5. Workers Compensation/Horizontal Immunity

Amorin v. Gordon,
33 Fla. L. Weekly D2764 (Fla. 4th DCA December 3,
2008).

Reversing a partial summary judgment in favor of the estate of a deceased worker on the issue of workers compensation immunity, the Fourth District held that the defendants were covered by the general contractor's policy. The court then rejected a constitutional challenge to the 2004 horizontal immunity statute, holding that it did not deprive claimants from access to court with no alternative, but simply increased the class of fellow employees who are immune from suit where coverage in fact exists.

Nancy Little Hoffmann is a Board-Certified Appellate Lawyer practicing in the Fort Lauderdale area since 1974. She may be contacted at 954-771-0606 or by e-mail at NLHappeals@aol.com.

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Contact: Linda Wright

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A Wedding Showcase & More!

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20 boneless wings, large pizza

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**Free six pack of Pepsi with purchase
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954-618-7000

VENDORS WELCOME:

Have a favorite restaurant

or place to shop?

We'd like to hear from you!

Email Mike: mike@browardbar.org

or Art: artg@browardbar.org

Solo Small/ Law Firm Networking Confirmed February Lunch Dates!

Friday, February 6th: Olive Garden, 1555 N. University Drive, Coral Springs (954) 344-5226, RSVP to: Evan M. Ostfeld (954) 227- 7529 and or Evan@Attorney4life.com.

Friday, February 13th: East City Grill, 1800 Tower Bell Lane, Weston, (954) 659-3339, 11:45 a.m. RSVP to: Rick Woolf (954) 252-0043 and or rwoolf@woolffinancial.com.

Tuesday, February 17th: Olive Garden, 807 S. University Drive, Plantation (954) 424-7201, RSVP to: John Rizvi (954) 452-0033 and or johnrizvi@ideaattorneys.com.

Friday, February 20th: The Ark, 6255 Stirling Road, Hollywood (954) 584-3075, RSVP to: David Silverstone (954) 367-0770 and or david@dsilverstone.com.

Tuesday, February 24th: At J. Marks Restaurant, 1490 Copans Road, Pompano Beach, (954) 782-7000, RSVP to: Jane Bolin, (954) 316- 1339 and or jane@peytonbolin.com.

Friday, February 27th: At Bimini Boat Yard, 1555 SE 17th Street, Fort Lauderdale, FL 33316 (954) 525- 7400, RSVP to: Beth Lindie (954) 764-5400 and or blindie@lawyers.com.

Broward County Bar Association's Young Lawyers Section Lunches

All YLS Luncheons are held at
the Tower Club in Fort
Lauderdale at 12:00p.m. The
cost per person is \$25.00.
Reservations are recommended
with the Bar (954) 764-8040

Chief Judge Tobin
January 22, 2009

Black History Month
February, 26, 2009

HOLD THE DATE!!

RAISING THE BAR FAMILY LAW SEMINAR Friday, March 27, 2009

**Full day Seminar with Judges
and General Magistrates**

Fort Lauderdale
Renaissance Hotel
RSVP (954) 764- 8040
Or sign up online at
www.browardbar.org

Sponsorship Opportunities Available

Nomination Petitions Now Being Accepted for Officers, Directors for 2009 BCBA Election

Nomination Petitions are now being accepted from BCBA members interested in running for one of the nine (9) seats that become available in the BCBA Board of Directors' 2009 Election
According to BCBA Bylaws, ARTICLE VIII, Nomination and Elections, Section 1 – Nominations

"There shall be no Nominating Committee. Any regular member who desires to seek election may obtain the signatures of ten (10) members on one or more Nominating Petitions. The Petitions must state the office or group for which the member seeks election. The signed Petitions must be received in the Association office no later than 5:00 p.m. on March 1st. No member may be nominated for more than one (1) position".

For a full set of the BCBA Bylaws, visit www.browardbar.org

Also, the following positions on the Executive Committee will be decided in the April, 2009 election.

President-Elect
Treasurer
Secretary

Here are the geographic areas of representation on the BCBA Board of Directors:

NORTHEAST- (1) Director shall be elected in April 2009

North of the centerline of Commercial Blvd. and East of the centerline of State Road 7 (441)

NORTHWEST- (1) Director shall be elected in April 2009

North of the centerline of Commercial Blvd. and West of the centerline of State Road 7 (441)

CENTRAL- Four (4) Directors shall be elected in April 2009

East of the centerline of State Road 7 (441), north to the centerline of Commercial Blvd. and south to the centerline of State Road 84

WEST - Two (2) Directors shall be elected in April 2009

West of the centerline of State Road 7 (441), north to the centerline of Commercial Blvd. and south to the centerline of State Road 84

SOUTHEAST- (1) Director shall be elected in April 2009

South of the centerline of State Road 84 and East of the centerline of State Road 7 (441)

2009 ELECTION CALENDAR

MARCH 1

Nomination Petitions Due in Bar Office,
no later than 5:00 p.m.

APRIL 1

Paper Ballot mailed.

APRIL 15

Ballots due back to BCBA office
no later than 5:00 p.m.
to be valid.

MAY 1

Deadline for ballots to be counted.



Madoff's Ponzi Scheme Will Effect South Florida for Years

By Eric N. Assouline, Esq.

Bernard Madoff's arrest for orchestrating the largest Ponzi scheme in history will have an extensive ripple effect on South Florida for years to come. From both sides of the fraud, individuals and entities in South Florida should expect to hear from federal investigators, attorneys, and the media, as the all the truth comes out.

From one side, you have the victims of the scandal, that lost all or part of the money that they "invested" in the Madoff Investment Securities, LLC group of hedge funds. Naturally, these individuals and entities, many of which shared "investment advice" in Madoff's stomping ground of Palm Beach County, will be looking to any avenue to recover their losses. In order to achieve this objective, in addition to relying on the SEC's enforcement action in New York, many South Florida investors will be hiring attorneys to investigate and possibly sue any professionals, such as investment brokers, attorneys, and accountants, that either knew of on-goings of Madoff's company or should have known. These targets are often the most lucrative sources of recovery because they carry insurance for this exact type of negligence. Essentially, anyone that stood by idle while this scheme took place is at risk.

On the other side of this equation are those investors that were lucky enough to exit the hedge fund with their money and a profit. These investors are characterized as "Profiteers" and are targets of recovery for the portion of the returns they received that exceed their investment. Unfortunately, these "False Profits" that were paid to Profiteers may be the subject of recovery by the court appointed receiver in order to redistribute

these funds to investors that lost the principal on their investment.

The Receiver is also likely to try to recover donations and contributions to charities and foundations. By their nature, these types transfers bolstered Madoff's standing in the community as a wealthy benefactor and only further imbued investors with confidence to invest in his hedge funds. The problem for the recipients of these transfers is that if they were made with Madoff's intent to defraud creditors (like the investors that have now lost money) and, like the False Profits, they may be recoverable by the Receiver as fraudulent transfers.

As his tapestry of lies is unwoven, the end result is unknown. But one thing is for sure, this Ponzi scheme will be on the minds of many South Floridians for years to come.

Eric N. Assouline, Esq. is a litigation partner with the business law firm of Assouline & Berlowe, P.A. in its Ft. Lauderdale office. Mr. Assouline has represented receivers including a court appointed receiver in an SEC enforcement action that brought dozens of recovery actions throughout the country to recover money for aggrieved investors of a Ponzi scheme.

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The payments have been \$177.93 scheduled for five years. The amount will likely be reduced in the next two years. Contact Marge McClain, Judicial Assistant to Judge John Hurley (954) 831-7615.

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Web Gems

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C-SPAN has created this online archive as part of their general mission, and educators and politicians will find much to search through on this site. On the top of the page, visitors can look through the most recent programs, which include broadcast audio recordings from a number of the Presidential Libraries, the Smithsonian, and the Library of Congress. Further down the page, visitors can look through the "Past Programs" area. Here they will find links to interviews with figures such as Shirley Chisholm, Lady Bird Johnson, and Arthur Schlesinger, Jr. Along the right-hand side of the page, visitors can make their way through a host of important web resources, including a collection of oral histories with former Secretaries of Defense and an interview with Harry Truman.

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 Only candidates contacted for an interview will receive a response. EOE.

Hispanic Bar Adopts Broward Families in Adopt-A-Family-For-The-Holidays Program



Judge Robert F. Diaz delivering a meal to one of the adopted families.



Holiday Elves Making a Difference From left to right: Frank Wagner of BNY Mellon, Alan Pascal, Rossy Rosario of BNY Mellon, Larry Marin, Gabi Diaz, Judge Robert F. Diaz, and Juan Carlos Arias, President of the Broward County Hispanic Bar Association.

Thanks to the generosity of our legal community, the Hispanic Bar delivered holiday meals and toys to over 100 families in Broward County. Special Thanks to Publix and the Broward County Bar Association for their support.

Board of Governors' Report

By Eugene Pettis, Esq.

At its December 12, 2008, meeting in Orlando, The Florida Bar Board of Governors:

- Approved 13 legislative positions for the 2008-10 biennium. Legislation Committee Chair Greg Coleman said all were renewals of positions the board had approved for the 2006-08 legislative sessions. The positions include maintaining the Supreme Court's authority over the court system and the legal profession, supporting adequate funding for the court system including public defenders and state attorneys, supporting the Supreme Court's certification of the need for new judges, supporting a substantial pay raise for federal judges, getting adequate funding for the Civil Legal Assistance Act, and opposing the indiscriminate shackling of juveniles in court proceedings.
- Heard a report from Coleman and Legislative Consultant Steve Metz on the Bar coordinating its efforts with the Supreme Court to get better funding for the court system in the state's current economic crisis. Metz noted that the court and others are looking at the more than \$300 million in fees and fines currently collected by court clerks and returned to the state's general revenue fund, of which less than \$14 million is earmarked for the courts. More of the effort will be detailed and worked out at the summit on state court funding January 16 at the Midyear Meeting in Miami.
- Heard a report from Investment Committee Chair Ian Comisky that while the stock market is down 35 to 45 percent, the Bar's investment portfolio is down only about 15 percent. He said the Investment Committee is continuing to monitor the funds. President-elect Jesse Diner added that the difficult economy and investments mean the Bar will be facing a tough time with its 2009-10 budget, but that he does not foresee an increase in Bar annual membership fees.
- Heard a report from President-elect Jesse Diner on the recent planning retreat. He said the Strategic Planning Committee reaffirmed the Bar's existing priorities, but that economic considerations were giving them a special urgency. The four top goals remain protecting the courts including getting adequate funding, protecting the legal profession, protect access to the courts, and improving communications with Bar members and the public. On the latter, Diner said the Bar will be exploring using technology to improve communications and efficiency.
- Passed on final reading several rules, including one which allows for the emergency placing on the inactive list an attorney who has an incapacity not related to misconduct which affects that member's ability to competently practice law. The board also gave final approval to a new Standing Board Policy which provides guidelines for exempting some recipients of public reprimands from having to appear before the board under certain circumstances with the approval of the designated reviewer after discussion with staff counsel.
- Heard a report from Board Review Committee on Professional Ethics Chair David Prather that the committee postponed action on a revision to Ethics Opinion 90-6, which addresses an attorney's duties when he or she discovers a criminal defense client is proceeding under a false name. Prather said the committee heard extensive debate on the matter at its December 11 meeting, and requested that staff draft alternatives for the BRC to consider on the revised opinion. He said the issue will come to the board at its January 30 meeting.
- Approved revisions of Supreme Court-approved residential eviction forms. The revisions reflect statutory changes and the revised forms will be filed with the Supreme Court.

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New Year Resolution: Pipeline to Profitability

By Margaret Grisdela

What is a reasonable revenue goal for an attorney's 2009 business development program? A quick search of the Internet does not yield much in the way of specific suggestions on this topic.

This Rainmaking Lady suggests starting with a simple minimum calculation of one times the attorney's annual salary, plus a 25% factor for benefits.

Payscale.com identifies average attorney salaries starting at \$57,500 in Year 1, climbing to \$114,958 in Year 20. For purposes of an example, let's make it simple and work with an attorney who is earning about \$100,000 per year. The new business development goal jumps to \$125,000 with basic benefits. An annual rainmaking goal of 1.25 times salary translates into just over \$10,000 per month in new business development. Looked at in terms of billable hours, it is 50 hours at \$200 per hour, or 25 hours at \$400 per hour.

One new \$10,000 account per month most likely means there have to be about nine other leads that did not convert to new business yet. Stated another way, it quickly becomes clear that an attorney has to maintain a continuous, focused effort on finding qualified prospects and converting them to clients.

Since business development time is so precious, it is easy to see the importance of creating and implementing an effective business development plan and sharpening one's selling skills.

Where will new leads be found? Knowing the profile of your ideal client will help. What services are worth \$10,000, particularly when transactions are slowing to a trickle? The attorney who offers an effective solution to known problems faced by those ideal clients is in the best position to make the \$10,000 sale.

As stated, the above example of 1.25 times salary is a minimum goal. Three times salary as a measure of total revenue responsibility in new and recurring business is better ... one multiple to cover the attorney's expense, one multiple to cover overhead, and a one multiple profit contributor. Is this a

reasonable business development goal? Maybe. Maybe not. The answer will vary with the firm and the attorney. It is certainly a stretch goal, rather than a slam-dunk goal.

In the case of a solo practitioner, an attorney's ability to generate new accounts consistently will determine the health and profitability of their practice in the longer run. Partners in a larger firm most likely operate under a more complex set of goals.

When one third of a firm's revenue is derived from new accounts, this translates into demonstrated competencies in the many activities that go into closing a sale. For example, a sufficient volume of qualified leads needs to be in the pipeline at any point in time. Next, the "conversion" process from "lead" to "client" must be tracked, monitored, and handled efficiently. Finally, competitive factors must be overcome, services must be priced fairly, and prospects must be convinced that their needs will be fully met in order for them to say "yes!" to becoming a client.

If your law firm does not maintain a healthy sales pipeline, it may find itself suddenly at a loss for new revenue as work in process is completed or cases settle. Don't get caught in this situation!

A well organized, strategic business development campaign that sets clear goals and rewards success can have a significant impact on the bottom line.

Below is a simple set of business development guidelines that can help you achieve your 2009 profitability goals.

Reader feedback is welcome. Revenue goals for Broward County lawyers are sure to set off a lively debate! Join in.

About the Author: Margaret Grisdela is President of the South Florida legal marketing agency Legal Expert Connections, Inc. She is the author of "Courting Your Clients," and 2008 Co-Chair of the Legal Marketing Association, South Florida City Group. Email her at mg@legalexpertconnections.com.

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The Honorable Marina Garcia Wood
Alicia Zachman



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LEGAL AID SERVICE OF BROWARD COUNTY TO CELEBRATE 35TH ANNIVERSARY AT 8TH ANNUAL FOR THE PUBLIC GOOD GALA

Over 300 guests are expected to attend Legal Aid Service of Broward County's 8th Annual FOR THE PUBLIC GOOD gala dinner to be held on May 15, 2009 at the Fort Lauderdale Grande Hotel and Yacht Club from 6 to 10 p.m. The event, which will include dinner, an awards ceremony, silent auction and entertainment, will commemorate the 35th anniversary of the firm. As in the past the event will honor several individuals in Broward who have demonstrated leadership in helping people gain access to justice. Its theme: "You've Been Served." The goal of this year's event is to raise over \$150,000, and sponsors have already committed to over \$12,000, according to Committee Co-chairs Katherine O. Birnbaum, Esq. and Juliette E. Lippman, Esq., Kirschbaum, Birnbaum, Lippman and Gregoire, PLLC. "We know that the legal community will answer our question, 'If not us, then who?'" with their sponsorship dollars, silent auction donations and ads in our commemorative journal."

Legal Aid Service of Broward County (LAS) is a 501(c)(3) not-for-profit law firm and has been providing free civil legal services to Broward County children, families and senior citizens in the low income and underserved communities for 35 years. Last year LAS assisted over 10,000 family members and over 3000 children at no charge. LAS also manages the largest pro bono program in Broward County, Broward Lawyers Care.

The Ft. Lauderdale chapter of
The American Board of Trial
Advocates will install its 2009
Executive Board at their annual
Judge's Night black tie dinner on
Saturday, Jan. 24, 2009.

The 2009 officers are:
David Keller- President
Carey Fischer- President-Elect
Deborah FitzGerald- Vice President
Diana Santa Maria- Secretary
John Richards- Treasurer
Jay Cohen- Flabota Representative
Jeff Abers- National Abota Representative
Gordon James- National Abota Representative
Howard Pomerantz- Immediate Past President

Awards will be presented as follows:
Judge David Krathen- Judge of the Year
Howard Pomerantz- Lawyer of the Year

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100-199	.040	.037	.035	.033	.031	.028	.026	.024
200-299	.037	.035	.033	.031	.028	.026	.024	.023
300-499	.035	.033	.031	.028	.026	.024	.023	.023
500-749	.033	.031	.028	.026	.024	.023	.023	.023
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The Board of Directors of the Broward County Bar Association would like to thank Roger H. Staley and Barbara K. Sunshine for their tireless efforts on behalf of the BCBA Mortgage Reduction Campaign.

We honor the members of the Past President's Council of the BCBA for making a Major Gift to the Mortgage Reduction Campaign.

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Peggy A. Quince
Chief Justice

850- 922-5624

Dear Broward County Bar Association members:

As I assume the duties and responsibilities of the Office of Chief Justice of the Florida Supreme Court and examine the landscape of the judicial system of Florida, there are tremendous opportunities, challenges, and possibilities for our great state. Some of the challenges are more daunting than others, but one area of need that can be met is providing representation to abused, abandoned, and neglected children.

There are currently over 35,000 children in Florida's dependency system, desperate to return home or searching for a home and a family to call their own. Thousands of these children have no one to advocate on their behalf. The court appoints the Guardian ad Litem Program or an attorney ad litem to represent the child in many cases, but there are not enough volunteers to represent all the children. As Attorneys, we possess the skills and abilities to protect the legal needs of children. I am asking you to put these skills and abilities to use representing a child in dependency court. If we were to embrace this challenge, for the first time in Florida, no child would go to court alone.

I am urging all members of The Bar to learn more about ways to help abused and neglected children in the court system. There are many ways to become involved. With support from the Guardian ad Litem Program, you can volunteer as a guardian ad litem, or attorney ad litem, or donate time representing a teen as a pro bono attorney with the program's Fostering Independence Project.

I am asking you or a member of your firm or organization that you designate to join me in this effort to recruit members of The Bar to represent children in dependency court. Your expertise and experience will be invaluable in establishing a recruitment effort that will be successful and sustainable.

For more information contact Kelly Razzano with the Statewide Guardian ad Litem Office at (850) 922- 7213 or e-mail Kelly.razzano@gal.fl.gov.

Thank you for your time and I look forward to working with you on this important project.

Sincerely,

Justice Peggy A. Quince

Broward County Bar Association Preferred Lender Program



The *private mortgage banking* team at Regent Bank is pleased to offer its Preferred Lender Program to **Broward County Bar Association** members. Whether you are buying a new home or refinancing your existing mortgage, we're ready to help.

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Panel Member Profile



Mitchell S. Kraft is a Certified Circuit and Family Mediator and Qualified Arbitrator with 23 years of practice as a litigator and local government attorney. He earned an undergraduate degree in Psychology from the State University of New York at Stony Brook (BA 1973) and a graduate degree in Clinical Psychology from the State University of New York College at Plattsburgh (MA 1976). After graduating from the University of Florida (JD 1984) he has practiced law in South Florida. He served as a City Attorney for many years.

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Broward County Hispanic Bar Association's 20th Anniversary Reception



Aboard the party yacht "Caprice"

You're cordially invited to attend a very special
St. Valentine's Evening Cruise along the Intercostal.

Open Bar - Hors D'oeuvres - Dancing

Boarding: 5.45 PM | Departure: 6.00 PM | Returning: 9.00 PM

February 14, 2009

Admission: \$120 p/p | Casual Attire

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Young Lawyers Holiday Lunch



The Young Lawyers Section presents Healthy Mothers, Healthy Babies Coalition of Broward County, Inc. with a check for \$7,500.00, representing monies raised at the 21st Annual YLS Golf Tournament held last November 1st.
From left to right : Melissa Santos and Kathy Dunbar from the charity, with David L. Hirschberg, Tournament Chair.



Dillard High School Choir
Director Brenda Brown
with the singers.



James Mitchell and Louis Reinstein,
both from Bunnell Woulfe & Keller, P.A.



From left to right, Art Goldberg,
Executive Director of the Broward
County Bar Association; Carol Ortman,
Court Administrator, and Judge John
Bowman.

Broward County Bar Association 2008 Holiday Party

