



Broward County Bar Association
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Broward County Bar Association BARRISTER

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BCBA Board of Directors Secretary Deborah Poore FitzGerald and Ron FitzGerald, of Conrad & Scherer, L.L.P., with Chief Judge Victor Tobin, at BCBA's Holiday Party.



Judge Marina Garcia-Wood, Judicial Representative to BCBA Board of Directors, with Michele Cummings, BCBA representative to ABA House of Delegates, at BCBA's Holiday Party, December 18.



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Please Note...
**BCBA Judicial Robing
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January 29, 2010
1:30p.m.
**Broward County
Courthouse**
Third Floor Jury Room
Reception to follow

Announcement of Open Seats for 2010 BCBA Board of Directors

Election to the Board of Directors of the Broward County Bar Association offers any member the unique opportunity to participate in helping to shape an annual agenda of professional and public education programs aimed at addressing the needs of attorneys, law firms, the Clerk's Office and the Courts, and to strive to improve the quality and administration of justice in Broward County.

Established in 1925, the BCBA is one of the largest voluntary bars in the state. The BCBA Board of Directors strives to respond to the ever-changing legal landscape with the ultimate goal of protecting rights, pursuing justice, and promoting professionalism.

Deadline for completing and submitting Nomination Petition is March 1, 2010. For further information contact Art Goldberg, (954) 764-8040x 204 or via email: artg@browardbar.org.



PRESIDENT'S MESSAGE

by Carlos M. Llorente

Each New Year brings with it new resolutions or renewed resolutions. Whichever the case, a fresh start or restart of old resolutions is beneficial. This New Year our BCBA is resolved to continue its major membership drive. The Florida Bar lists over 8,000 eligible lawyers who practice in Broward County and many of these are already members. Our Association's goal is to reach out to those who are potential members as often as possible until all realize that membership has tremendous privileges and benefits.

One benefit that came to light late last year was the realization that those who join BCBA do so because they believe in and practice the principles upon which our Association was founded. Since 1925 this Association has fostered courtesy, ethics, professionalism, and collegiality among lawyers and has educated the citizens of Broward County of their legal rights and available legal services.

Last November's news of one lawyer's lapse of ethics most definitely cast the profession in a dim light. Each year The Florida Bar and Associations, such as this one, exert extraordinary effort and expense to educate the public that lawyers possess and practice the highest ethical standards. When those standards are violated by one or a few, it sets back all well-intentioned efforts, and the reputation of all members our profession suffers. Accordingly, the BCBA now resolves to double its efforts to educate the public that last November's news was an unusual aberration.

In this member's opinion, to overcome negative perceptions held by the public, we must be able to easily communicate how proud we are to be to lawyers, what values we have sworn to uphold, and the ethical standards we've adopted as professionals. In this regard, membership in a bar association allows us demonstrate just such a unity of purpose.

Membership in the BCBA goes a long way toward communicating to the public that we, as individuals, have adopted principles and standards of professionalism. Of course, affiliation alone can never assure a lapse, but I believe that those who join benefit by reason of the positive perception in the public's mind that BCBA stands for and upholds standards of ethical practice.

This year the BCBA also resolves:

To increase the number of free CLE seminars taught by members who conduct meetings at the Norma B. Howard Bar Center. BCBA Sections are tasked to provide these seminars. We are hopeful that this will represent a cost savings to members.

To strengthen programs in the area of Diversity in the Legal Profession.

To review and strengthen our efforts to further a Voluntary Mentorship Program to assist law students and young lawyers overcome obstacles to becoming effective practitioners

To educate local attorneys about the important issues before the legislature in Tallahassee.

To continue our efforts to support Pro Bono services, primarily through Legal Aid Service of Broward County, Inc., and Coast To Coast Legal Aid Service.

To provide members with list of discounted services and benefits from area vendors, restaurants, and attractions.

I am hopeful that these programs will also encourage all attorneys in Broward to become more involved in strengthening the legal community, which I think is the very best way to improve the public's negative perception of our profession.

CALENDAR OF EVENTS

JANUARY 2010

Saturday, January 9th:

4 Hour Minor Guardianship Class. 9:00-1:00p.m. Norma B. Howard Bar Center, 1051 SE 3rd Ave, Fort Lauderdale, 33316. Cost: \$100. Attorneys welcome, approved by the Florida Bar for CLE credits. Guardian for anyone under the age of 18. To sign up please contact Tish at 954-764-8040 ext. 200.

Tuesday, January 12th:

Association of South Florida Mediators and Arbitrators Educational Luncheon. At the Tower Club in Fort Lauderdale. 12:00p.m.-2:00p.m. Speaker: Judge Alfred J. Horowitz. Topic: Family Mediation and Parenting Plans. 1.5 CME/CLE. Cost: \$35 for members; \$40 for non-members. For more information contact www.asfma.org.

Tuesday, January 12th:

BCBA Board of Directors Meeting. 5:15 p.m. Broward County Bar Association Conference room.

Wednesday, January 13th:

Broward County Bar Association Probate and Trust Section Meeting. 5:00p.m. At the Norma B. Howard Bar Center, 1051 SE 3rd Ave. Fort Lauderdale, FL 33316.

Saturday, January 16th:

8 Hour Adult Guardianship Class. 9:00-5:00p.m. Norma B. Howard Bar Center, 1051 SE 3rd Ave, Fort Lauderdale, 33316. Cost: \$180. Attorneys welcome, approved by the Florida Bar for CLE credits. Guardian for anyone over the age of 18. To sign up please contact Tish at 954-764-8040 ext. 200.

Tuesday, January 19th:

Grievance Committee 17H Meeting. 2:00p.m. Norma B. Howard Bar Center, 1051 SE 3rd Ave, Fort Lauderdale, FL 33316.

Tuesday, January 19th:

BCBA Bench and Bar Committee Lunch Meeting. Noon. Norma B. Howard Center.

Thursday, January 21st:

Young Lawyers Section Luncheon at Tower Club. Noon. Guest Speaker Chief Judge Tobin of the Seventeenth Judicial Circuit to address the State of the Circuit. \$25.00 per person. RSVP to BCBA at 954-764-8040, or Marissa Pullano, Esq. at marissa.pullano@brinkleymorgan.com.

Friday, January 22

Broward County Bar Association Judicial Robing Ceremony 1:30p.m. 3rd Floor, Jury Room of the courthouse

Saturday, February 6th:

4 Hour Minor Guardianship Class. 9:00-1:00p.m. Norma B. Howard Bar Center, 1051 SE 3rd Ave, Fort Lauderdale, 33316. Cost: \$100. Attorneys welcome, approved by the Florida Bar for CLE credits. Guardian for anyone under the age of 18. To sign up please contact Tish at 954-764-8040 ext. 200.

Thursday, February 18th:

BCBA Young Lawyers Section, TJ Reddick Bar Association, and Caribbean Bar Association will host a luncheon at noon at the Tower Club celebrating Black History Month. Please join us in learning more about African Americans' contributions to our legal community. The cost to attend the luncheon is \$25.00 per person. Please RSVP to BCBA @ 954-764-8040 or Marissa Pullano, Esq. at marissa.pullano@brinkleymorgan.com.

Friday, February 19th:

YLS Happy Hour. Location to be announced.

Saturday, February 20th:

YLS Holiday in February project. At the Fort Lauderdale Museum of Discovery and Science. Contact Sue-Ann Robinson, Esq. at snr@beferalaw.com, or Ashley Sawyer, Esq. at Ashley.sawyer@akerman.com for more information and sponsorship opportunities.

Saturday, February 27th:

8 Hour Adult Guardianship Class. 9:00-5:00p.m. Norma B. Howard Bar Center, 1051 SE 3rd Ave, Fort Lauderdale, 33316. Cost: \$180. Attorneys welcome, approved by the Florida Bar for CLE credits. Guardian for anyone over the age of 18. To sign up please contact. Tish at 954-764-8040 ext. 200.

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Remorse Recourse of Last Resort for The Glitterati Wannabe of Ill-Gotten Gain

By Art Goldberg

Question: Can the expression of remorse generate sympathy? Can the stated apology for an outrageous abuse give rise to even a bit of forgiveness? How deeply do we

weigh the "I'm sorry" when the formal plea proffered is "Not Guilty"?

What made him do it? That's the billion dollar question so difficult to comprehend. Were you not shocked, the day after Halloween, by the level of ingratitude expressed by theft of this magnitude? The philanthropic stalwart, newly unmasked - so newly renamed *The Glitterati Wannabe of Ill-Gotten Gain*, for the watches, the boats, the homes, the cars, the gifts to politicians, co-workers and charities - why did he engage (albeit allegedly) in high-level skullduggery, twisting the heads of this entire community, conning lifelong friends, co-workers, family members, colleagues? After this monstrosity, can the rise of skepticism now be restrained; can the loss of public trust fully be regained?

A Daily Business Review article on December 2nd quoted Scott Rothstein's attorney on the state of mind of his client, now constrained, stewing in Miami in federal custody: He is "very remorseful". (Note: *In Federal Court, the 'Not Guilty' plea entered at arraignment is commonly the defense strategy designed to gain time and complete discovery of known facts in the case.*)

I have no background in Social Psychology, but all that has happened has raised my curiosity about the relationship of Apology to Sympathy, of Sympathy to Forgiveness, in terms of 'Cause and Effect'. Can Apology override Outrage? How do we hammer these parameters, by that I mean, how do we construct some productive deductions?

Take a look at Tiger Woods - he might prevail over recent travails, just like Don Emus, Bill Clinton and Mel Gibson: they all did sail beyond social indiscretions.

Expressions of remorse may be par for the course for those in court charged with serious crimes. Can apology - request for leniency - result in a lesser sentence? More research might answer that question, but here are a few well known cases:

"Responsibility for what took place in the park that night belongs to me and me alone. I would do anything to take that night back. To those victims, I do apologize." *Eric Rudolph, Atlanta Olympics Bomber. He received four life sentences. (LA TIMES, 2005)*

"To those individuals who were genuinely harmed emotionally as a result of my actions, I apologize." *Brent Marsh, the Georgia Crematorium Operator, who*

failed to cremate more than 300 bodies? He was sentenced to 12 years. (LA TIMES, 2004)

"I was naive in the sense that I was overly optimistic about what I could and should accomplish as the sheik's lawyer, and I was careless." *Lynne F. Stewart, attorney for radical sheik was facing thirty years; she received 28 months. (NYT, 2006)*

What's 'Given' Gains Ground Upon Utterance of "OOPS"

What are the semantic goals of one who utters 'Oops'? It's a simple act of speech, a single word with a complicated, inferred, *given* purpose, according to Dr. Adam Ellanger¹, that is, to inspire us to lend a sympathetic ear, to ask us to forgive some awful act, or fact, by having us react in a *given*, programmed way that benefits the person who committed the transgression, who as a *given* seeks to gain, to capitalize on our willingness, our eagerness, to accept reconciliation.

What's Our 'Take' on The Given?

A party acts *rationally* if the means undertaken (words, actions) match up to the sought after end. Rothstein acted *irrationally*, because he pursued material ends (wealth, power, influence) via his ill-fated Ponzi-Scheme. By the same definition, he then acted most *rationally* - flying in, cooperating, apologizing. I suppose the prospect of life in hell will clear one's muddled thinking!

How shall we evaluate said apology? Will it strike a chord, or upon delivery, will it sit on the periphery in terms of augmenting the end-all, which is forgiveness? Sorry- no matter how sincere, it falls on deaf ears. In my opinion, jail's the place for saving grace in Rothstein's case. Hopefully victims will receive compensation, though I am hard pressed to imagine how any expression of remorse from Mr. Rothstein will serve anyone's interest other than **his own**.

One perpetrates Ponzi by "Take Now, Pay Later". Now there's an Irony for him to ponder, awaiting the start of his trial.

¹The Rhetoric of Public Apology. Adam Ellwanger, Ph.D. Dissertation, University of South Carolina Department of English., 2009.

Young Lawyers' Calendar

January 21 Young Lawyers Section Luncheon at Tower Club.
Guest Speaker Chief Judge Tobin
February 20th YLS Holiday in February project.
Fort Laud. Museum of Discovery and Science.
March 20, 2010- YLS Bowling Tournament
May 6, 2010- YLS Judicial Reception

Prometheus Breathes Life into Personalized Medicine Patents

By Allen F. Bennett

The Greeks credited the Titan Prometheus with giving life to man. It is in a way fitting that in the recent *Prometheus v. Mayo*, 581 F.3d 1336 (Fed. Cir. 2009) case, the Court of Appeals for the Federal Circuit (CAFC) reversed the trial court and, by finding a patent on a personalized medicine method valid, breathed new life into an embryonic South Florida industry.

South Florida's nascent biotechnology industry and its entrepreneurs will undoubtedly rely on patents to give them an edge in competing with the established biotechnology companies in other regions of the United States. Without patent protection, larger companies will simply copy the products, test kits, and pharmaceuticals developed by local start-ups and use their larger infrastructure to price the actual developers of new technology out of the industry.

Personalized medicine entails customizing treatment to a particular individual, taking into account his or her specific characteristics, such as genetic makeup and metabolism. Established methods of determining proper drug dosages involve clinical studies of hundreds of individuals to find an average effective dosage. Personalized medicine takes an opposite approach, recognizing that almost no one is "average" and that different people require different dosages and treatment schemes. This new approach to treatment offers the possibility of faster, more effective and less damaging treatments for a wide range of ailments. To fully develop the potential of personalized medicine, patent protection is vital to small companies breaking into this field.

Last year's decision by the Southern District of California in *Prometheus v. Mayo*

(86 U.S.P.Q. 2d 1705 (S.D. Cal 2008)) was very bad news to any start-up company interested in exploiting the commercial potential of personalized medicine. The patents owned by Prometheus Laboratories, Inc. cover a method of adjusting the dosage of 6-mercaptopurine (6-MP) when treating Crohn's and other gastrointestinal diseases. Prometheus dosage determination is accomplished by taking blood samples of a patient treated with 6-MP, measuring the concentrations of the drug's specific metabolic byproducts present, and evaluating whether the dosage should be adjusted. 6-MP is toxic, and the patented methods seek to minimize the toxicity while maximizing efficacy.

The Patent Act, 35 U.S.C. §101 et seq., provides an inventor with patent protection over "any new and useful process." The Supreme Court, commenting on this statute, has noted that while §101 should be construed broadly, "natural phenomena" are not patentable. *Diamond v. Diehr*, 450 U.S. 175, 185, 101 S. Ct. 1048, 67 L.Ed. 2d 155 (1981). The Prometheus Court held that the breaking down of a drug into metabolic byproducts by a body was merely a "natural phenomenon" and that measuring the amount of these byproducts in a blood sample was nothing more than "data gathering." As such, Prometheus methods were unworthy of patent protection. The decision suggested that any method of personalizing medical treatment was not worthy of patent protection. *Prometheus*, 86 U.S.P.Q. 2d at 1705.

On the heels of this decision came the CAFC's *In re Bilski* opinion last year. *In re Bilski*, 545 F.3d 943 (Fed. Cir. 2008). *In re Bilski* set forth a revised test to determine

A Message from the Young Lawyers' Section

By: Matthew G. Lerner, Esq.

Abraham Lincoln once said, "The best thing about the future is that it comes only one day at a time." Who would believe that by the time you are reading this that the first month of 2010 is half over? The Young Lawyers section is well prepared for the upcoming year as we have many great events planned as you can see below. Before we talk about the future, I would be remiss if I did not mention the huge success of our Annual Golf Tournament back in November. With the tremendous efforts and hard sweat of Meghan Clary and the rest of the YLS Board, we were able to raise a record amount of money of over \$21,000 for Forever Family. These funds will be put to good use in these hard economic times. We would like to thank everyone that contributed towards this fantastic successful event. We invite the entire community to the following events so please mark your calendars.

January 21, 2010 – "State of the Circuit" Luncheon with Chief Judge Victor Tobin (Tower Club)

February 19, 2010 – Happy Hour Social – Location TBD (Downtown Ft. Lauderdale)


March 20, 2010 – 8th Annual Bowl-a-Thon – Manor Lanes (5-8pm)

May 6, 2010 – Judicial Reception- Sun-Sentinel Building

Family Day Picnic – May/June (Date To Be Determined)

I hope to see everyone at these events as we look to better tomorrow one county at a time. All of us in the legal community should keep another quote in our minds as we work diligently in 2010 from Benjamin Franklin, "It takes many good deeds to build a good reputation, and only one bad one to lose it."

If anyone has any questions about how they can participate with or in the Young Lawyers Section, please feel free to contact our fearless leader President Michael Gildea at 954-525-4100 or email him at gilden@kolawyers.com. From the entire YLS Board we hope everyone has a happy, healthy and prosperous new year.



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whether a method is generally patentable. Under the new *Bilski* "machine-or-transformation" test, a method is patentable if it is tied to a particular machine or transforms a particular article. *Id.* at 953. Most commentators forecasted that an appeal by Prometheus from the trial court's decision would fail under this test. Prometheus methods did not rely on a particular machine, and there was no apparent particular article that was transformed to a different state. The possibility of patenting personalized medicine techniques, no matter how novel, seemed small.

The medical community, including personalized medicine entrepreneurs, finally received some good news this past September. The CAFC held that Prometheus patents are in fact valid and articulated its reasoning in a manner that could not be more favorable to those developing personalized medicine techniques. The CAFC announced that "methods of treatment...are always transformative" when a drug is administered to a patient. That is, medical treatments pass the "machine-or-transformation" test because a "particular article"-a patient's body-is transformed when a drug ameliorates an undesired condition. The Court went on to state that the act of purifying the metabolic byproducts from a blood sample also qualifies as a transformation of a particular article. Thus, the claimed methods pass the "machine-or-transformation" test in at least two ways.

There are some interesting lessons take-away in the *Prometheus* opinion for patent practitioners. First, in finding the claims of the patents to be directed toward methods of treatment, the Court looked to the language of the claims preambles. This is unusual because preambles are typically given little weight when evaluating

the scope of a claim. Patent drafters of future personalized medicine patents should be sure to carefully word claim preambles to comply with the Court's reasoning in this decision.

Also worth noting is the Court's comment that measuring the metabolic byproducts is a transformation because "at the end of the process, the human blood sample is no longer human blood." *Prometheus* 581 F.3d at 1347. If a therapeutic method includes measuring a chemical in blood or body tissue by spectroscopy or other means that do not require purification, there may be no transformation, possibly disqualifying it as patentable subject matter.

Third, the Court noted that the invention is "a method of treatment for particular diseases using particular drugs" (emphasis added). *Id.* at 1349. The Court's description of both the disease and drug as "particular" suggests that the Court may have ruled differently had the claims been broader. It will be interesting to see how the Court rules when eventually confronted with the question of how particular the ailment and the cure must be to qualify for patent protection.

The story is not over. Both *Bilski* and *Prometheus* have been appealed to the Supreme Court. The Supreme Court recently heard oral arguments on *Bilski*, and appears likely to accept the *Prometheus* case also. The next year will likely be very interesting for those in South Florida working to make our community a leader in the biotechnology field.

Allen F. Bennett is a registered patent attorney at Christopher & Weisberg, P.A., an intellectual property boutique. He can be reached at 954-828-1488 or abennett@cwiplaw.com

Estate planning can include provisions for organ donation

By Ken Trachy
Director of Special Projects • Life Alliance Organ Recovery Agency • University of Miami Miller School of Medicine

The continuing and critical shortage of organs and tissue is the overriding deterrent to the more widespread availability of transplantation in the U.S., resulting in a relentless rise in the national waiting list, and thousands of deaths each year. The persistent shortage presents a paradox, however, as the vast majority of adults (97%) in the U.S. express support for the concept of organ donation and a large majority (78%) report they are likely to donate their own organs and tissue when they die, according to a 2005 Gallup survey. Furthermore, nine out of 10 persons polled believe that donation engenders something positive after a death, and are likely to donate the organs and tissue of a family member, if that person had discussed or documented a decision to be an organ donor.

However, because of a lack of available and accurate information, including requirements of how to register to be a donor, and myths and misperceptions, more than 50% of individuals have failed to commit to being organ donors either by not registering with the Department of Motor Vehicles or not signing a donor card. In addition, the majority of individuals have not discussed donation with family members.

Education is essential to resolving the donor shortage. Lawyers can contribute remarkably by including organ donation in the estate planning process, and by providing encouragement and opportunities for clients to make informed decisions to designate themselves as organ and tissue donors and to clarify appropriate circumstances for use of life support systems at end-of-life.

Phenomenal advancements in transplantation, especially surgical skills and immunosuppressive drugs, have resulted in a steadily increasing number of men, women, and children with life-threatening diseases each year successfully receiving new livers, kidneys, lungs, hearts, pancreases, intestines, and multi-organ transplants. Last year almost 29,000 transplants were performed in the U.S.

These recipients routinely experience the profound transition from near-death and desperation to revitalized health and renewed hope in their lives. Their life expectancies are dramatically increased. Only recently could diabetics receive pancreas transplants and be free of insulin. Children who depended on intravenous feedings because of digestive disease are now able to receive a new intestine and live normal lives. More than 90% of kidney transplants are successful for five years or more.

An Ever-Increasing Demand

Despite being a miracle of modern medicine, transplantation is tragically unavailable to a startling number of Americans. The national list of patients waiting for vital organs—now more than 100,000—grows each year inexorably in dramatic counterpoint to the phenomenal advancements in transplant technology. In the last ten years,

there has been a more than 90% increase in the number of individuals waiting for organs, yet only a 57% increase in the number of organ donors. Instead of returning to productive lives with their families and in the workplace, many wait indefinitely, or die. Tens of thousands more individuals wait for tissue to restore sight, improve mobility and independence, and to regain health through eye, bone, and skin transplants

Eighteen people die every day while waiting for an organ; two lives are lost every week in South Florida. And every day, 132 individuals with organ failure are added to the list—one every 11 minutes.

Most organs for transplantation come from deceased individuals who experience sudden and traumatic head injury—car accidents, homicides, drowning, brain hemorrhages—and are subsequently declared brain dead by two physicians in the hospital, after all efforts to save their lives have been exhausted, which includes use of a mechanical ventilator to assist in breathing. Neither of the two physicians is allowed to be members of the organ recovery and transplant teams.

Florida's Statutes Section 382.085 provides that brain death is the irreversible cessation of all brain and brain stem functions and is death of the individual. Brain death is a legal and moral warrant for withdrawing mechanical ventilation whether or not organs are being recovered. Once death is declared and consent for donation is given, bodily functions—respiration and heartbeat—and organ viability are maintained by mechanical ventilation and medications for a brief period, making it possible to accomplish donation.

Although the large majority of organ donors have suffered brain death, donation after cardiac death (DCD) is also medically possible for terminal patients with catastrophic and irreversible brain injury. Even though brain death criteria are not met, donation is possible for those individuals on a ventilator for whom further treatment is deemed futile. For families in these circumstances, who in consultation with their physician, decide to withdraw mechanical ventilation from their loved one and let death occur naturally, donation is possible.

Eye, bone, skin tissue, and heart valves, unlike vital organs, are viable for transplantation from individuals 12 to 24 hours after cardiac death. Tissue is routinely recovered in hospitals, funeral homes, and medical examiners' offices, as well as in the recovery of organs from brain dead donors. One tissue donor can enhance the lives of more than 50 individuals.

Legal Framework

The Uniform Anatomical Gift Act, proposed in 1968 and later adopted by all 50 states, established an adult individual's right to donate organs for transplantation, as

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well as the whole body for research and educational purposes. The act created the uniform donor card, to legally document an individual's donation decision, to be signed by the donor and witnessed by two adults. In addition, an anatomical gift can be executed through a driver license, a living will, or an advance health care directive.

If an individual executes an agreement regarding an anatomical gift, the document is legally sufficient informed consent and is legally binding. The original Gift Act includes language stating that an anatomical gift made by an adult is "irrevocable and does not require the consent or concurrence of any person after the donor's death". Florida's Nick Oelrich Gift of Life Act of 2003 prohibits "modification of a donor's intent, providing that appropriate legal documentation exists". Many states have so-called First Person Consent legislation that reaffirms the intent and language of the Anatomical Gift Act, assuring that an individual's documented wish to be a donor is honored. The federal government and most states, including Florida, also have adopted legislation—called Required Request—that mandates the legal next-of-kin of every person who dies in a hospital must be offered the option of organ and tissue donation, depending on medical eligibility, and irrespective of the deceased having made a donor designation.

Life Alliance, one of the nation's 58 federally designated organ recovery agencies, is certified and regulated by the United Network for Organ Sharing, the non-profit organization that manages the national organ sharing system. Life Alliance, in close collaboration with all hospitals, is responsible for coordinating the organ recovery process throughout South Florida. Recognizing the rights of the individual to govern the disposition of his/her body, including the choice to be an organ donor, Life Alliance and other organ recovery agencies in Florida and across the country are acting on the autonomous wishes of the individual who has made a legal donor designation.

When a medically eligible patient dies in a hospital and has a donor designation, organ recovery and hospital staff inform the family of the steps necessary to carry out the loved one's wishes to be an organ donor and ask for the donor's medical and health history. Similarly, when the patient has not made a donor designation, the family is asked to authorize the steps necessary to accomplish donation, and to provide the donor's medical and health history. Irrespective of the family's donation decision, organ recovery and hospital staff respect the wishes and feelings of the families of deceased individual, and provide them with emotional and spiritual support.

Offering dying patients or their families the option of organ donation is understood to be a natural part of the dying and death process, and is essential and dignified end-of-life care once the death has occurred. For families who donate, the experience provides them with a measure of solace, an opportunity to honor their loved one, and the knowledge that they and their loved one have made an immeasurable difference in the lives of strangers who will live longer and better lives because of their generosity.

Lawyers have an important role to play

Increasing the number of organs for transplantation requires a more knowledgeable, committed, and proactive American public. It requires actions to conform to expressed attitudes about donation. It is imperative to disseminate accurate information about organ donation, to dispel the myths and misperceptions, to allay unfounded fears, and to emphasize the importance of every individual making an informed and intentional decision about donation.

It is also desirable for individuals who wish to be organ donors to include the language of the uniform donor card as a provision of living wills and advance health care directives. The document should state not only which specific treatments are not wanted at end-of-life (mechanical ventilation, CPR, etc.) but also that they want to prioritize organ donation over routine end-of-life care.

Clarifying and documenting end-of-life decisions are important to resolve the potential conflict that arises when a medically eligible donor with an organ donor designation in place also has an advance directive health care directive that states the individual does not wish to have life prolonged by the administration of life support systems. The conflict arises when there is an opportunity for donation after cardiac arrest. Once the family has made the decision for the withdrawal of life support systems from their loved one, the local organ recovery agency will approach the family for consent for donation, which requires that life support systems are maintained to assure organ viability while evaluation and other arrangements are made for the recovery of organs.

Lawyers who practice estate planning can facilitate and enhance the educational process by presenting information about organ donation to clients who considering issues related to property, end-of-life care, and death. The trust implicit in the lawyer-client relationship is likely to engender discussion, reflection, and intelligent decision-making.

Everyone has an interest in assuring timely access to transplantable organs, and in increasing their availability. To participate in donation is to demonstrate compassion and a sense of shared community. Becoming a donor by joining the Florida Statewide Organ and Tissue Donor Registry or signing a donor card and sharing the decision with family members will assist in reducing the organ shortage. The sickest of us depend on this generosity. It is a need, unpredictably, that each of us may have for our families or for ourselves.

For brochures/Florida Statewide Organ and Tissue Donor Registry forms or questions contact Ken Trachy at 305-301-3480 or ktrachy@med.miami.edu

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The Broward County Bar Association Workers' Compensation Section Presents:

WORKERS' COMPENSATION 2010
FRESH PERSPECTIVES

Friday February 26, 2010

11:30 A.M.	Registration & Check In
12:00 P.M. - 1:00 P.M.	Lunch*
1:00 P.M. - 1:50 P.M.	Exam & Cross-Exam of the IME Doctor Richard Berman, Esq. & Heath Eskalyo, Esq.
1:50 P.M. - 2:40 P.M.	The Ethics of Dealing with the Other "F" Word Diana Castrillon, Esq. & Jim Price, Esq.
2:40 P.M. - 2:50 P.M.	Break
2:50 P.M. - 3:40 P.M.	Collateral Causes of Action Wage & Hour Disputes: Dennis Card, Esq. Retaliatory & Wrongful Discharge: Doug Bates, Esq.
3:40 P.M. - 4:30 P.M.	Is An Attorney's Fee Challenge on the Horizon? Richard Sicking, Esq. George Kagan, Esq.
4:30 P.M. - 4:50 P.M.	Q&A Session with Broward JCCs Hon. Geraldine B. Hogan Hon. Daniel A. Lewis Hon. Kathryn S. Pecko Please Email Questions for Judges to: artg@browardbar.org.

* Lunch included in program cost: \$75.00 for members, \$90.00 for non-members.
Please register with BCBA by calling 954-764-8040

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Debra T. Koprowski, Esq., has been promoted to Regional Director of Advocacy for Legal Aid Service of Broward County (LAS), Coast to Coast Legal Aid of South Florida (CCLA) and Legal Aid Service of Collier County (LASCC), effective December 1, 2009, it was announced jointly by Anthony J. Karrat, Executive Director, LASBC/LASCC, and Barbara J. Prager, Esq., Executive Director, CCLA.



Louise R. Caro, Esq., Environmental Justice Project attorney, Special Projects Unit, Legal Aid Service of Broward County (LAS), has been selected a finalist in the environmental category by Daily Business Review for its 2009 "Most Effective Lawyers." The winners were selected at a Luncheon, on Friday, December 4th at the Four Seasons in Miami. Recipients were chosen for effectiveness in several categories of advocacy, including advancing the public interest through the courts.

ABOUT LEGAL AID SERVICE OF BROWARD COUNTY: 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 for more than 30 years. Last year, LAS assisted over 3,000 people at no charge. In addition to its own staff, LAS also manages the largest pro bono program in Broward County, Broward Lawyers Care.

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Course Title: Bankruptcy Law : Why, How, and When?

Course Instructor: Brenda Di Ioia, Esq.

Course Description: This course is designed to increase understanding of current bankruptcy laws and how they impact consumers. Difference between filing Chapter 7, Chapter 13 or Chapter 11 will be explained. Alternatives to bankruptcy will be covered. Relationships between creditors and debtors will be explored so that legal professionals can more accurately evaluate the needs of individual clients.

Details as follows:

Days: Wednesdays
 Course start and end dates: February 3, 2010 through March 24, 2010
 Time: 6:30 pm to 9:30 pm
 Location: Norma Howard Center of the Broward County Bar Association, 1051 Southeast Ave.,
 Fort Lauderdale Florida 33316-5010
 Tuition: \$750. Course registration will begin in mid-November.

Required Materials:

Martin A. Frey, Phyllis Hurley Frey, Sidney K Swinson, 2005, An Introduction to Bankruptcy Law, 5th Edition, West Thompson Delmar Learning.
 ISBN-10: 1418040967 or ISBN-13: 978-1418040963

Course Overview:

- History of Bankruptcy Law; The Bankruptcy Code; The Rules & The Forms; Participants in the Bankruptcy Process; Which Chapter to Choose?
- The Debtor/Client; Alternatives to Bankruptcy
- The Creditor/Client
- Alternatives to Bankruptcy
- The Chapter 7 case: Voluntary Liquidation from petition to discharge
- The Chapter 13 case: Repayment Plan from petition to discharge
- The Chapter 11 case: Voluntary Reorganization from petition to discharge
- Involuntary Bankruptcy Chapters 7 and Chapter 11

For more information contact Art Goldberg, Executive Director, Broward County Bar Association, 954-764-8040 or email: artg@browardbar.org or contact Jessica Garcia-Brown, Paralegal Studies Coordinator, Nova Southeastern University, 954-262-7948 or e-mail: jessicga@nova.edu

For more information log on to: <http://www.fcas.nova.edu/sbs/bar>

Judicial Nominating Commissions Vacancies

Judicial Nominating Commissions: There are two lawyer vacancies for each of Florida's 26 JNCs. The Florida Bar must nominate six lawyers for each Judicial Nominating Commission to the Governor for his appointment. Each appointee will serve a four-year term, commencing July 1, 2010. Applicants must be engaged in the practice of law and a resident of the territorial jurisdiction served by the commission to which the member is applying. Applicants must comply with state financial disclosure laws. Commissioners are not eligible for state judicial office for vacancies filled by the JNC on which they sit for 2 years following completion of their 4-year term.

Applications must be received by mail or fax, (850) 561-5826 no later than **5:30 p.m., Friday, Feb. 26, 2010**, in the Executive Director's office of The Florida Bar. Resumes will not be accepted in lieu of an application. Screening committees of the Board of Governors will review all JNC applications. The Executive Committee will then make recommendations to the Board of Governors.

Persons interested in applying for any of these vacancies may download the proper application form (there is a specific JNC application) from the Bar's Web site, www.floridabar.org, or should call Bar headquarters at (850) 561-5757, to obtain the application. Completed applications must be received by the Executive Director, The Florida Bar, 651 E. Jefferson St., Tallahassee, FL 32399-2300 by the Feb. 26 deadline date.



Neal Falk, of the firm Haliczzer, Pettis & Schwamm, P.A., presents sponsorship check to Art Goldberg to help underwrite upcoming Workers Comp Seminar to be held February 26. (See page 8 for more information on this seminar.)

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.

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