

# The BROWARD BARRISTER

MAY, 1976

Volume 5

Number 5

PUBLISHED BY THE BROWARD COUNTY BAR ASSOCIATION

Executive Offices, 733 Northeast Third Avenue, 305/764-8040, Fort Lauderdale, Florida 33304

## ANNUAL MEETING B.C.B.A. and YOUNG LAWYERS DINNER - DANCE

FRIDAY, MAY 21, 1976

INVERRARY COUNTRY CLUB — 3840 INVERRARY BLVD.

COCKTAILS: 6:30 p.m. (Cash Bar)

DINNER: 7:30 p.m.

Price: \$12.50 per person

Dress: Semi-Formal

→ SPOUSES ARE INVITED ←

PROGRAM: Presentation of Liberty Bell Awards  
Presentation of Appreciation Awards

Installation of Officers for Bar Association and Young Lawyers

DANCING — Fred Zuker & Danny Leslie, Orchestra

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### DUES—PLEASE

YOUR NOTICE FOR ANNUAL DUES IS ENCLOSED. THIS NOTICE INCLUDES THE DUES NOTICE FOR MEMBERS OF THE YOUNG LAWYERS SECTION ALSO. YOU MAY SUBMIT ONE CHECK TO BROWARD COUNTY BAR ASSOCIATION AND THE AMOUNT FOR THE YOUNG LAWYERS WILL BE TRANSFERRED TO THE TREASURER OF YLS.

★★ 1776 ★ 1976 ★★

### Lawyer Referral Service

Dues notices and renewal membership applications have been mailed to all current Lawyer Referral Panel Members. If you ARE NOT a member of the panel, you are encouraged and urged to participate in this needed program.

Lawyer Referral is a public service program first. Many people fear and distrust lawyers and/or are afraid that fees will be excessive. Others are unable to recognize legal problems when they are encountered. Many people do not know a lawyer and have no idea how to choose one. Lawyer Referral helps arrest these fears by guaranteeing an initial consultation fee, helping people recognize their problem and selecting a competent lawyer.

### BROWARD COUNTY TRIAL LAWYERS ASSOCIATION MEETING

WEDNESDAY, MAY 5, 1976

5:00 p.m. Case Evaluation Committee

6:00 p.m. Workshop: Problem Solving Clinic.

6:30 p.m. Cash Bar

7:00 p.m. Dinner — \$10.00

THE SHERATON HOTEL  
303 N. Atlantic Blvd. (A1A)  
Fort Lauderdale, Fla.

Speaker: Honorable Benjamin Landis

Topic: "Trial Court Etiquette"

RSVP before May 31

Please send reservation with check to:

Mr. Dale Sanders,  
Suite 1500, One Financial Plaza  
Fort Lauderdale, Florida 33394  
Phone: 764-4646

PLEASE MAKE CHECKS PAYABLE TO:  
BROWARD COUNTY TRIAL LAWYERS  
ASSOCIATION

This office has had no decrease in the number of referral made since the telephone directory was published with designated areas of practice for attorneys. People seem to want the "stamp of approval" from the Bar Association.

### OPERATION: UPDATE/TRANSITION

Sponsors: BCBA, BCTLA and Nova  
Law School

May 19, 1976 — 4:30 p.m.

### EMINENT DOMAIN

Speakers: Thomas E. Byrd  
Ronald B. Sladon

Room 250, Broward County  
Courthouse

June 16, 1976 — To be announced

(\$1.00 printing donation requested)

If you are not a member and wish to participate in this worthwhile program, please call

Broward County Bar Association  
Phone: 764-8040  
for an application.

Broward County Bar Association  
 733 N.E. Third Avenue  
 Fort Lauderdale, Florida 33304  
 764-8040

**OFFICERS**

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 Ray Ferrero, Jr. \_\_\_\_\_ *President-Elect*  
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**PRESIDENT'S MESSAGE**

Now that the state legislative session has gotten underway, consideration is being given in earnest to proposals submitted to the legislature for passage. Our bar association has a legislative liaison committee functioning this year so that there will be a bar association sponsored group with some information concerning pending matters before the legislature. **Jim Scott**, the chairman of the committee, has done an excellent job serving as the first chairman. At his own expense he has travelled to Tallahassee and has obtained copies of certain pending bills and also legislative summaries of others. It is clear from Jim's report that members of our association must be more involved in goings on in the legislature, and in the positions the members of the Broward County legislative delegation are taking. Much proposed legislation, as you know, is ostensibly aimed at reducing the potential attorney's fee award in certain types of actions; but if one reviews that legislation one finds therein a basic thread running through all of it which would allow property rights of the people of Florida to be taken from them without the people being afforded due process of law. By reducing or limiting attorneys' compensation the proponents of the legislation realize that the participation of attorneys in various types of matters will necessarily be reduced (whether in eminent domain proceedings or medical malpractice actions) thereby making it much easier for those proponents (or those who sponsor or back them) to abuse the rights of the people.

Certainly one of the results of our national bicentennial reflections is the realization that this nation is only as strong as the individual rights of its citizens and those persons willing and financially able to undertake their defense. The medical care rendered to our citizens and the overall technology which has been developed in this nation are second to none in the world and a tremendous amount of the credit must be given to those lawyers, compensated through the contingent fee system, who have forced the practice of proper medical treatment and the development and utilization of proper technology. Persons knowledgeable in the area well recognize that our present tort system provides one of the most effective methods for enforcing proper standards for the protection of the people of this country.

Members of our legislative delegation are receiving strong pressures concerning special interest legislation which potentially could drastically change our tort compensation system. If the legislation does not pass this year, its proponents will continue to press for it every year. We simply must continue to strive to have our voices heard in Tallahassee, so that the legislators will have a perspective on behalf of the people of Florida and not just the special interests. One of the important lessons of this year is that our bar association's legislative committee is potentially one of the most important committees we have; and in the future its members will be busy year round gathering information to disseminate to our members and attempting to communicate with the members of our legislative delegation. It is hoped that we will eventually establish through our own legislative committee an open avenue of communication to each member of our legislative delegation. If you represent a present legislator then volunteer to become a member of the bar association's legislative committee so that you may help solve the communications gap between the bar association and the legislative delegation. If you have an interest in the area of legislation then contact the bar association office and let them know of your willingness to serve on the committee.



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In this, my last president's message, I wish to thank Norma Howard, the entire bar office staff, the members of the executive committee, the committee chairmen and all the many others who have unselfishly given of their time and energies to further our profession through bar association work. I have felt it to be a great privilege to serve as your president and I hope that you have been satisfied with the work done by the bar association this year.

George A. Patterson  
President

## REPORT OF LEGISLATION COMMITTEE

By James A. Scott, Chairman

The Legislation Committee met with the President of the Association and reviewed legislation pending in Tallahassee which affects the public interest and the legal profession. The Chairman reported on a group of House and Senate bills which are being processed through the legislature during this session.

Some of the bills which the committee felt were contrary to the public interest include the following:

A. Bills relating to condemnation attorney's fees; (1) Senate Bill 20, which amends F.S. 73.091 to require that the defendant's attorneys fees be based only on the amount by which the award exceeds 110% of the last good faith offer submitted by the petitioner.

(2) Senate Bill 108, providing that the award of attorney's fees in condemnation be based upon the amount which the award exceeds the last good faith offer, however not to exceed 40% of the difference, and providing that total attorney's fees for trial and appeal shall not exceed 50% of the difference between the last offer and the award. (3) House Bill 70 (Committee substitute) limiting attorney's fees in condemnation proceedings to \$7,500 except that when the award is higher than the initial offer prior to filing suit, the attorney's fees shall not exceed \$10,000 or 40% of the difference between the offer and the award, and also limiting the total fee for trial and appeal to \$10,000 or 50% of the difference between the offer and the award, whichever is higher.

B. Court actions arising out of automobile accidents: (1) House Bill 2849 amending F.S. 627.737 limiting the right to sue to cases where the medical expenses exceed \$2,500, rather than \$1,000.

(2) House Bill 2636 providing for separation of damage awards in to special verdicts for future medical ex-

penses and loss of earnings and permitting payment of such future expenses over the period of years for life expectancy.

(3) Senate Bill 525 and 587 and 598 all relating to the no-fault insurance law and providing for the raising of threshold, the including of collateral sources, the itemization of damages and permitting periodic payments by defendants of future damages and petition to reduce future damages in the event of significant improvement in the injured party's condition.

NOTE: A Committee Substitute for various of these bills has been passed by the Senate and sent to the House. This bill provides for the elimination of joint and several liability and a combination of various other features limiting the rights of the citizens to sue for automobile accident injuries.

C. Medical Malpractice, limits on recovery and attorney's fees:

(1) Senate Bill 383 limiting contingent fees on settlements or verdicts over \$100,000 to 15% of such excess amount, up to \$100,000. (Similar to House Bill 2395)

(2) House Bill 2353 permitting an award of attorney's fees to the defendant doctor against the plaintiff in the event the court finds that the action was filed frivolously.

(3) Senate Bill 586 requiring a claimant who rejects a medical liability mediation panel to pay the doctor's court costs, including attorney's fees, in the event the court sustains the finding of the panel, also requiring claimant to post bond or deposit the estimated amount of such costs.

D. Workmen's Compensation:

(1) Senate Bill 0451 limiting award of attorney's fees to 10% of the amount of the award of compensation.

In addition to the above, Senate Bill 459 proposes to create a legal profession study commission to report to the legislature by March 1, 1979.

The merit retention for Judges (Senate

Joint Resolution 81) and House Bill 1441 creating a court of administrative appeals are also of interest to the legal profession.

Senate Bill 783 sponsored by Senator Jon Thomas, seeks to regulate the title insurance industry (excluding attorneys, banks and savings and loan associations and real estate brokers) to require bonding and deposits of fees and licensing for escrow agents and minimum net worth requirements, and requiring all non-attorney escrow agents closing real estate transactions to issue a disclosure form informing the parties that they are unable to render legal advice and that they represent only the interest of the title insurance company, and advising the parties to contact an attorney for legal advice.

The Legislation Committee is deeply concerned about the lack of presentation of the opinions and points of view of the attorneys to the legislators. It is obvious that many of the bills pending in the Legislature are contrary to the public interest of injured parties, and would severely hamper a lawyer's ability to properly represent his clients.

The Committee urges all members and all attorneys to take a more active interest in the legislative process, including the election of officials who will represent all points of view.

Copies of Bills are available upon request from the Clerk of the House, Room 246, or Clerk of the Senate, Room 28, The Capital, Tallahassee, Florida 32304.

Our profession is under serious attack from several directions, most of which is unjustified. The Committee suggests that the attorneys form a separate committee (separate from the Bar Association) for the purpose of collecting contributions to fund the proper presentation of our profession's point of view on legislation. In addition, the Committee urges all members who are acquainted with or represent legislators from Broward County to speak with them regarding proposed legislation, which affects our profession and the public interest.

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### DISTRICT COURT OF APPEAL — FOURTH DISTRICT "CLERK'S COMMENTS AND SUGGESTIONS"

Because of the great proliferation of appeals in the Fourth District Court of Appeal in the last couple of years, together with the recent influx of new lawyers into the Fourth District's ten county area, and the corresponding increase in the number of appellate prac-

tioners, it appears that circulation of the "Clerk's Comments and Suggestions" could be of benefit to both the members of the Bar and to the Bench.

A copy of "Comments" will be prepared for distribution to members of the Bar Association in the very near future. It is hoped that this will be helpful to you.

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### THE NEW DYNAMICS OF ACHIEVEMENT: RELEASING HUMAN POTENTIAL

The Fort Lauderdale Chamber of Commerce is sponsoring a seminar by James W. Newman on June 9 and 10, 1976, at the Governors' Club Hotel, Fort Lauderdale, Florida. Newman's psychological focus is on healthy behavior — on the psychology of success and ways of helping people gain those habits of mind that lead to high achievement.

The fee for attending this club varies according to the number of people within a group. The price for one person is \$75. The total price for five people is \$300. The cost depends on the size of the group. For more information regarding this program contact Mr. Graham Reilly, 462-6000.

Many of you may remember that this is the program that was presented at The Florida Bar Convention last year at Boca Raton.

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### Welcome, New Members

ALVIN BLITTNER, a native of Brooklyn, New York, received his undergraduate degree from Brooklyn College and his law degree from Brooklyn Law School. He practices alone in Fort Lauderdale.

RICARDO J. CATA, a native of Havana, Cuba, received his undergraduate degree from C.W. Post College and his law degree from St. John's University School of Law. He is associated with Fleming, O'Bryan & Fleming in Fort Lauderdale.

HAROLD R. COHEN, a native of Boston, Mass., received his undergraduate degree from the University of Miami and his law degree from Suffolk University Law School. He is associated with Joseph Zallen in Fort Lauderdale.

BERNARD A. JACKNOVY, a native of Providence, Rhode Island, received his undergraduate degree from Suffolk University Law School and his law degree from Boston University Law School. He is associated with Edmund C. Sclarretta in Fort Lauderdale.

MELANIE COLEMAN JACOBSON, a native of Miami Beach, Fla., received her undergraduate and law degree from the University of Miami. She is associated with Wolff, Gora & Panza in Fort Lauderdale.

GEOFFREY S. MOMBACH, a native of New York City, received his undergraduate degree from Miami University of Ohio and his law degree from the University of Miami. He is associated with Spear & Deuschle in Fort Lauderdale.

HENRIFER MORALES-MACEDO, a native of Lima, Peru, received his undergraduate degree from the University of Maryland and his law degree from the University of Baltimore. He is a research aide at the Courthouse.

JOSEPH A. MURPHY, III, a native of Trenton, New Jersey received his undergraduate degree from the University of Pennsylvania and his law degree from Villanova University. He is associated with Saunders, Curtis, Ginestra & Gore in Fort Lauderdale.

CHARLES M. PASCO, a native of New York City, N.Y., received his undergraduate and law degree from the University of Miami. He is associated with Meyer, Leben, Fixel, Cantor and Engelberg, Hollywood, Florida.

ALBERT PEACOCK, a native of Washington, D.C., received his undergraduate and masters degrees from George Washington University and his law degree from Temple University. He practices alone in Fort Lauderdale.

WILLIAM C. PHILLIPPI, a native of Piqua, Ohio received his undergraduate and law degrees from Case Western Reserve University. He is associated with English, McCaughan & O'Bryan in Fort Lauderdale.

JEROME SCHECHTER, a native of Miami, Fla., received his undergraduate and law degrees from the University of Florida. He is associated with Wallack, Schechter & Augen in Fort Lauderdale.

RICHARD RUSSELL SEPPALA, a native of Quincy, Mass., received his undergraduate degree from the College of William & Mary and his law degree from Case Western Reserve. He is associated with the Law Offices of DeLford P. Richey in Deerfield Beach.

ROBERT L. SPECTOR, a native of Canton, Ohio received his undergraduate degree from Ohio State University and his law degree from the University of Miami. He is associated with Carey, Dwyer, Austin, Cole & Selwood in Fort Lauderdale.

J. RICHARD STANTON, a native of Chicago, Ill., received his undergraduate and law degrees from DePaul University. He is associated with Sheldon Golding in Fort Lauderdale.

BERNARD STERNBERG, a native of New York, received his undergraduate degree from City College of New York and his law degree from Brooklyn Law School. He is also a CPA and has offices in Sunrise, Florida.

MONTY JAY TILLES, a native of Hollywood, Fla., received his undergraduate degree from the University of Pennsylvania and his law degree from Temple University School of Law. He practices alone in Hollywood, Florida.

DAVID ELLIS TODD, a native of Springfield, Ohio received his undergraduate degree from Florida State University and his law degree from the University of Florida. He is associated with Osborne & Hankins in Pompano Beach.

RICHARD WAGENHEIM, a native of Detroit, Michigan, received his undergraduate degree from Michigan State University and his law degree from Detroit College of Law. He is associated with Sheldon Golding in Fort Lauderdale.

THOMAS S. WHITE, a native of Pittsburgh, Pa., received his undergraduate and law degree from the University of Pittsburgh. He is associated with Frank P. Tyson, Jr., in Fort Lauderdale.

### Have You Moved?

There have been many moves of offices in the past two months. If you have *not* notified the following of your correct address and telephone number PLEASE DO SO NOW.

Broward County Bar Association  
The Florida Bar  
American Bar Association  
Clerk of The Circuit Court

## Highlights of the Board of Governors Meeting March 11-13 at Sea Island, Georgia

The Board of Governors considered the reapportionment of the Board and received the report of a special committee which recommended no change in the present structure. A motion was made to add two more representatives from Dade County, one from Broward County and one from Leon County, increasing the total membership to 35. This proposed change failed but a subsequent motion to refer the matter to an additional committee to hold hearings on the subject and render a report back to the Board of Governors passed.

Executive Director Marshall Cassedy reported on the results of the Bar Caravan. The local Bar representatives indicated that they felt the Bar was too distant from local attorneys and there was not enough young lawyer involvement in local Bar activities. There were also substantial complaints about the cost of yellow page advertising in relation to the designation plan.

President-elect Ed Atkins, as Chairman of the Travel Committee, reported a low cost flight sponsored by the Florida Bar from Nassau to Luxemburg in August. Further details will be forthcoming.

A potential increase for Florida malpractice insurance was reported. The reinsurance carrier has cancelled and

there may be an additional premium for this extra coverage forthcoming.

President Lamar Matthews reported on the successful convention of the young lawyers. 525 people registered and an active program was enjoyed. A profit of between \$5,000-8,000 will be generated by the registration fees and the section will not need additional funds. Young Lawyers Section representation has now been expanded to include law students and By-Laws will soon be amended in this respect. The Young Lawyers were commended upon their successful newsletter which presented an in depth study for candidates for President-elect of the Florida Bar. As you know, Russell Troutman has been elected to this position.

A recommendation was passed to suggest a minimum residence requirement up to one year for taking the Florida Bar examination. Further study has been recommended for a grading procedure which permits a pass ratio in the high 90th percentile which is not comparable to other jurisdictions offering the same or equivalent Bar examinations.

Local Bar associations can get Law Week materials by requesting the same from the Florida Bar. There are 16 TV spots available to dramatize court cases and legal proceedings for local TV stations.

The Board heard a report from Chief Justice Ben Overton who said that 52 new judges have been recommended, 26 Circuit Judges and 26 County Judges. Broward County will receive 3 new Circuit Judges and 6 new County judges

under his recommendation. The Chief Justice has also renewed the recommendation of two additional Judges for the Fourth District Court of Appeal.

The budget for the forthcoming fiscal year 1976-77 of \$3.9 million was approved and authorized to be published. This represents a substantial income from designation and designation related activities.

The Board declined to accept or act upon the American Bar Association's recommendation that lawyer advertising as to the cost of initial legal conferences or other services be permitted by an amendment to the Code of Professional Responsibility. The Board decided to await the outcome of further federal litigation before undertaking a consideration of this subject. The Florida Bar's designation plan enables the public to ascertain areas of law practice which was the other American Bar Association recommendation.

New changes in the grievance procedures have been suggested and approved in principle by the disciplinary procedure committee. The Board of Governors deferred action thereon until further input could be received from local Bar Associations by the mid-May meeting. The proposed changes in concept are as follows:

1. Abolish the present "two trial" by the grievance committee and referee and substituting a less formal procedure for developing a finding of probable cause, followed by an adversary trial before a three man hearing panel. The chairman of the hearing panel could hear the case without the presence of two other members but the vote of all three would be required on findings and recommendations.

2. A Board committee would undertake review of grievance matters pres-

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ently taken by the full Board or by the Executive Committee of the Board between regular Board meetings.

A re-naming of the grievance proceeding as a "qualification proceeding" similar to the Judicial Qualification Commission and substituting "Orders of Disqualification" for "Orders of Suspension" or disbarment to emphasize that the purpose is protection of the public and not punishing attorneys. The present grievance procedure calls for a finding of probable cause by a grievance committee and a trial by a referee appointed by the Supreme Court. A substantial revision of the Grievance procedure suggested by the Burton Young committee in 1975 has just been adopted by the Supreme Court. In essence, this would permit a grievance committee to meet with a quorum of three to expedite probable cause determination and otherwise streamline our grievance machinery to speed up this process which now takes up to two years for the conclusion of a disciplinary case. The Board has already approved in principle a

budget which would increase the amount allocated for grievance matters to permit the hiring of more full time staff counsel to expedite grievance trials, all of which would serve to eliminate the present criticism of unseemly delay in disposition of grievance cases. None of the proposals have anything to do with an additional waiver of confidentiality.

**The foregoing is a substantial change in the present grievance procedure. Please take note and advise your Board members, Bill Leonard or Don Norman, of your feelings in this regard.**

Don Norman, Board member  
17th Judicial Circuit

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### NOTICE

We are seeking the following information for the Bi-Centennial Issue of the **Broward Barrister**.

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The name of the case with the greatest number of Defendants

If you think any case which you have handled, or any of your past associates or partners have handled, might be one of the above, please call Mr. Prominski at 942-6500 or Broward County Bar Association at 764-8040. The information may

also be mailed to Mr. Prominski at —

P.O. Box 1925  
Pompano Beach, Florida 33061

or

Broward County Bar Association  
735 N.E. Third Avenue  
Fort Lauderdale, Florida 33304.

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### FOURTH DISTRICT COURT OF APPEALS NOMINATING COMMISSION — NOTICE

By the requirements of Section 440.45 (2), Florida Statutes Annotated, judicial nominating commissions are required to review the conduct of all judges of industrial claims within six months prior to the expiration of their terms of judicial office. Governor Askew has advised the Fourth District Court of Appeals Nominating Commission that Judge Arthur Seppi, and Judge Phillip A. Pacyna of Fort Lauderdale, Florida, have terms which will expire within the statutory period.

Pursuant to this duty, the Fourth District Court of Appeals Nominating Commission is soliciting comments on the conduct of said judges. All persons wishing to offer comments to the Commission in support of or in opposition to the re-appointment of the above judges should contact Harry G. Carratt, 605 Kenann Building, Ft. Lauderdale, Florida 33306, as soon as possible and prior to June 1st, 1976.

**All communications presented to the Commission shall remain confidential.**

Harry G. Carratt  
Vice-Chairman  
Fourth District Court of Appeals  
Nominating Commission

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