

The BROWARD BARRISTER

OCTOBER, 1976

Volume 5

Number 10

PUBLISHED BY THE BROWARD COUNTY BAR ASSOCIATION

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

GENERAL MEETING, THURSDAY, OCTOBER 21, 1976—12:00 NOON

→ LUNCH: \$3.75 ←

THE GOVERNORS' CLUB

236 S. E. First Avenue — Fort Lauderdale, Florida

Program: "Economics of Law Practice" by Sam Smith, Miami Beach, Florida

Business: Resolution on Request for Establishment of Motion Calendar.

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YOUNG LAWYERS SECTION MEETING

THURSDAY, OCTOBER 28, 1976

— 12:00 Noon —

THE PLAYERS CLUB

1299 East Oakland Park Blvd.
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• Lunch: \$4.00 •

Program: "The Handling of a Simple
Criminal Matter"

Speaker: Kenneth Mikos

Reservations: William Quisenberry
Suite 1500, One Financial Plaza
Fort Lauderdale, Florida 33394
Phone: 764-4646

Please make reservations by October 26, 1976.

BROWARD COUNTY TRIAL LAWYERS ASSOCIATION MEETING

WEDNESDAY, NOVEMBER 3, 1976

5:00 p.m. Case Evaluation Committee

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

(Bring your own cases and
questions)

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: Murray Sams, Esquire

Topic: "Presenting Damages to a Jury
in Closing Arguments"

RSVP Before October 31, 1976

Please send reservation with check to:

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1500 Landmark Building
One Financial Plaza
Fort Lauderdale, Florida 33394
Phone: 764-4646

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ASSOCIATION

OPERATION: UPDATE/TRANSITION

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WEDNESDAY, OCTOBER 20, 1976

4:30 P.M.

Topics: "Preserving the Record for
Appeal"

Robert Orseck, Miami, Florida

"Rules of the Appellate
Court"

Emmett J. Cominsky

Room 250, Broward County
Courthouse

NOVEMBER 17, 1976

Topics: "Commercial Trial Practice"
and

"Pitfalls in the Circuit Court"

(\$1.00 printing donation requested)

Nova University Law Center News

Article

Nova University Law Center has established a new law review to be called "DeJure". The first issue of the Journal will be in the Spring of 1977. The premier issue will include articles by Chief Justice Ben Overton and the Dean of Notre Dame Law School. Constance Kaplan, a senior at the Law Center and Editor-in-Chief of "DeJure" says that

the articles published will have practical as well as academic interest. She says "We at the Law Center have a duty to serve the legal community in Broward". The articles selected for publication will address themselves to the legal issues that effect growing areas such as Broward County.

Bar members can subscribe to "DeJure" by sending \$3.00 to:

"DeJure"

Nova University
3301 College Avenue
Fort Lauderdale, Florida 33314

The Law Review Staff needs additional equipment in order to operate efficiently and any contributions from the attorneys would be helpful and very much appreciated. Some of the items needed are typewriters, desks, chairs, dictating equipment, adding machines, and office supplies.

If you wish to make a contribution, please call Mrs. Howard, Broward County Bar Association, 764-040, for information.

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

OFFICERS

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MEMORANDUM

Effective October 1, 1976, Florida has a new Motor Vehicle Financial Responsibility Law. The limits have now been again reduced to \$10,000/\$20,000. Chapter 76-266 goes on to further define the insured's rights to recovery of special damages, discovery of facts, and limitations on rights to damages. Chapter 76-260 corrects a situation wherein Judge Lanz in Dade County found that Meter Maids did not have authority to write tickets under the newly enacted statute and there is now a class of parking enforcement specialist who can write parking violation tickets.

Mobile Home Parks have also undergone regulations by the recent Legislature. Chapter 76-278 sets out a new

series of "no-nos" for mobile home park owners. They can not re-sell utility services at other than utility regulated rates, cannot deny ingress and egress to invitees, can not restrict disposal of mobile homes. This law also goes into effect October 1, 1976.

Effective July 1, 1977, Florida will have a new Evidence Code. The Legislature in Chapter 76-237 repealed, revised and rewrote the Rules of Evidence. The revision is too extensive to discuss in the *Barrister* and I know that many attorneys were involved in the proposed revision, submitting their comments to The Florida Bar. The last report to your writer's recollection was that the bill was still tentative and that there was no definite bill to be submitted to the Legislature. Unfortunately, there apparently was and all attorneys are urged to read and be advised that there will be some changes in the presentation of evidence.

The Condominium Act has also undergone revision and change. This is found in Chapter 76-222. This act takes effect January 1, 1977 and is over 50 pages long. Again, the attorney is advised to read the original act and note the changes. They do affect the Declaration, common elements, liens and their collection. There are also all kinds of regula-

tions for disclosure and prospectus of offers.

Henry J. Prominski

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CORPORATION, BANKING AND BUSINESS LAW SECTION PLANS JANUARY SEMINAR AND BUSINESS PLANNING WORKSHOP

On January 21, 1977 the newly formed Corporation, Banking and Business Law Section of the Broward County Bar Association will sponsor a half-day seminar and workshop on the topic of business and corporate planning.

Beginning at 8:30 a.m., site to be announced at a later date, members of the Bar will meet in Fort Lauderdale to discuss the formation and maintenance of corporation, both general and sub-chapter S, as well as the initial considerations as to the form of business organization which is suitable to the client's needs.

The program will be divided into four 50-minute segments: the forms of business organizations, business planning in the formation and maintenance of a corporation, recent amendments to and problem areas of the law, followed by a workshop.

***BETTER ABSTRACTS**

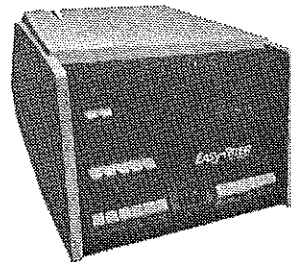
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Professional Ethics Opinions

As a service to the members of the Broward County Bar Association, the Committee on Professional Ethics, in cooperation with The Florida Bar, will publish advisory opinions on various questions arising under the Code of Professional Responsibility. Any questions involving any ethics opinions may be directed to Broward County Bar Association, or to Col. Norman Faulkner, The Florida Bar.

Philip J. Montante, Jr.
Chairman, Committee on
Professional Ethics

ADVISORY OPINION 75-2

The committee again reconsiders its decisions in Opinions 73-8 and 69-6 holding it ethically improper for a lawyer to list "by appointment only" after his name in a telephone or other approved directory. After due consideration, the committee unanimously reaffirms both prior opinions.

The new Code of Professional Responsibility does not alter or impair the validity of the reasoning in Opinion 69-6, decided under former Canon 27. Cf., Opinion 73-29. EC 2-9 exhorts the legal profession to "strict, self-imposed controls" over advertising. DR 2-102(A)(5) expressly imposes the following strict limitation on the content of an attorney's listing in the alphabetical and classified sections of a telephone directory or other approved directories for the geographical area involved:

"(T)he listings may give only the name of the lawyer or law firm, the fact he is a lawyer, addresses, and telephone numbers. The listing shall not be in distinctive form or type."

Research of ethics opinions from the ABA and the other forty-nine states in the Digest of Bar Association Ethics Opinions and supplement thereto published by the American Bar Foundation has revealed no ethics opinion reaching a contrary result. One reported opinion from Wisconsin has held it improper for a lawyer's listing in the classified section of a telephone directory to list office hours, a situation closely analogous to the instant inquiry. See Digest of Opinions No. 4779 (1970 edition). Similarly, an Oklahoma ethics opinion prohibits the use of words and phrases like "nights," "weekends call," and "when no answer call," followed by a telephone number. See Digest of Opinions No. 7177 (1972 Supp.). Likewise, this committee, under former Canon 27 and citing ABA Formal Opinion 284, has held it improper for a telephone direc-

tory to include the words "24 Hour Service." Opinion 65-77.

It should be noted that the membership of the committee has been substantially different each time this question has been considered, and with the exception of decision 69-6 (when one member dissented), the committee's decision has been unanimous. Accordingly, we trust this question is finally laid to rest. If there is sufficient interest among a substantial segment of the bar to alter the rule we have stated, it should be done by direct amendment to the Code of Professional Responsibility.

ADVISORY OPINION 75-7

We are asked if a lawyer may file a class action in which (1) he is a named plaintiff seeking to represent the class; and (2) he seeks recovery of attorney's fees for himself for representing the class.

EC 5-1 provides:

"The professional judgment of a lawyer should be exercised within the bounds of the law, solely for the benefit of his client and free of compromising influences and loyalties. Neither his personal interests, the interests of other clients, nor the desires of third persons should be permitted to dilute his loyalty to his client."

In addition, DR 2-105(A)(5) provides:

"If success in asserting rights or defenses of his client in litigation in the nature of a class action is dependent upon the joinder of others, a lawyer may accept, but shall not seek, employment from those contacted for the purpose of obtaining their joinder."

The Committee concludes that the above-quoted provisions prohibit a lawyer from filing a suit naming himself as the representative of a class and simultaneously seeking attorney's fees for representing such class.

ADVISORY OPINION 75-10

The inquiring lawyer teaches a course in mobile home owners' law at a junior college. One of the inquirer's students who lives in a mobile home rental park has recommended the inquirer's employment by the rental park's tenants association to challenge the validity of certain rental increases and the association has asked the inquirer to handle the matter.

We are asked if the inquirer may ethically undertake the representation. The Committee sees no impropriety in the

representation since, in teaching the course, the inquirer did nothing to solicit the proposed employment. No "unsolicited advice" was given to laymen to obtain counsel or litigate within the meaning of DR 2-104(a), since the subject matter of the contemplated litigation was not discussed in course which the inquirer taught.

Teaching college courses is a valuable public service and as stated in Drinker, Legal Ethics, p. 218:

"When a lawyer has the opportunity to perform a service to the community which will place him in the public eye, he need not hesitate to seek or accept it because if successful he will appear frequently in the newspapers, and will enlarge his circle of friends and acquaintances and thus attract new clients, some possibly who have theretofore employed another lawyer. Where publicity is the normal by-product of able and effective service, whether of a professional or non-professional character, this is a kind of 'advertisement' which is entirely right and proper. Clients naturally gravitate to a lawyer who has successfully represented their friends or who has obtained the confidence of the community by effective public service. What is wrong is for the lawyer to augment by artificial stimulus the publicity normally resulting from what he does, seeing to it that his successes are broadcast and magnified."

The Florida Bar Committee
on Professional Ethics

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WELCOME, NEW MEMBERS

DONALD H. BENSON, a native of DuBois, Pa., received his undergraduate degree from the University of Florida and his law degree from the University of Mississippi. He is associated with Pyszka, Kessler, Adams & Solomon in Fort Lauderdale.

ANDREW J. CONNOLLY, a native of Trenton, N.J., received his undergraduate degree from Florida Atlantic University and his law degree from South Texas College of Law. He practices alone in Fort Lauderdale.

WILLIAM C. DAVELL, a native of Dayton, Ohio, received his undergraduate degree from Wright State University and his law degree from Stetson University. He is associated with Druck, Grimmett, Norman, Weaver & Scherer in Fort Lauderdale.

HAROLD DECKINGER, a native of Jamaica, N.Y., received his undergraduate degree from Cornell University and his law degree from Cornell Law School. He is associated with House, Counsel, Home Federal Savings & Loan Association of Hollywood, Hollywood, Florida.

JOHN L. FARQUHAR, a native of Malone, N.Y., received his undergraduate degree from Saint Lawrence University and his law degree from New York University Law School. He is associated with Ruden, Barnett, McCloskey, Schustre & Schmerer in Fort Lauderdale.

MORRIS S. FINKEL, a native of Philadelphia, Pa., received his undergraduate degree from Pennsylvania State University and his law degree from Temple University School of Law. He is associated with Morton Abrams in Fort Lauderdale.

GARY A. FISHER, a native of Miami, Florida, received his undergraduate and law degree from George Washington University Law School. He is associated with Donald J. Vestal in Hollywood, Florida.

DAVID E. FRENCH, a native of the Panama Canal Zone, received his undergraduate degree from Florida State University and his law degree from Cumberland School of Law. He is associated with Wicker, Smith, Blomqvist, Davant, McMath, Tutan & O'Hara in Fort Lauderdale.

SCOTT J. FUERST, a native of Brooklyn, N.Y., received his undergraduate degree from the University of Pennsylvania and his law degree from Temple University. He is associated with Ruden, Barnett, McClosky, Schuster & Schmerer in Fort Lauderdale.

THOMAS F. GUSTAFSON, a native of Ocean City, New Jersey, received his undergraduate degree from Notre Dame University and his law degree from the University of Florida Law School. He is associated with Gerald M. Walsh and Associates in Fort Lauderdale.

STEVEN J. GUTTER, a native of New York City, received his undergraduate degree from Rensselaer Polytechnic Institute of New York and his law degree from the University of Miami. He is associated with Ruden, Barnett, McClosky, Schuster & Schmerer in Fort Lauderdale.

ALAN W. KABACK, a native of Reno, Nevada, received his undergraduate and law degree from Wayne State University. He practices alone in Coral Springs, Florida.

JEFFREY A. KERN, a native of Brooklyn, N.Y., received his undergraduate degree from the University of Oklahoma and his law degree from Memphis State University. He is associated with Stephen Bell in Plantation.

MICHAEL HENRY KRUL, a native of New York, N.Y., received his undergraduate degree from the State University of New York and his law degree from Brooklyn Law School. He is associated with Ruden, Barnett, McClosky, Schuster & Schmerer in Fort Lauderdale.

ROBERT S. McCONNAUGHEY, a native of Dayton, Ohio, received his undergraduate degree from the University of Miami, Ohio, and his law degree from the University of Cincinnati. He practices alone in Fort Lauderdale.

CHARLES B. MORTON, a native of Fort Lauderdale, Florida, received his undergraduate degree from Rollins College, and his law degree from the University of Florida. He is associated with Allen and Brown in Fort Lauderdale.

WILLIAM D. RICKER, JR., a native of Milwaukee, Wisconsin, received his undergraduate degree from the University of Wisconsin and his law degree from the University of Florida. He is associated with Fleming, O'Bryan & Fleming in Fort Lauderdale.

GEORGE P. ROBERTS, a native of St. Louis, Missouri, received his undergraduate and his law degree from the University of Tulsa. He is associated with Fleming, O'Bryan & Fleming in Fort Lauderdale.

ALLAN M. RUBIN, a native of Brooklyn, N.Y., received his undergraduate degree from the University of Miami and his law degree from Cumberland School of Law. He is associated with Glickstein, Rubin & Rubinchik in Hollywood, Florida.

HARVEY L. RUBINCHIK, a native of Elizabeth, New Jersey, received his undergraduate degree from Seton Hall and his law degree from Stetson University. He is associated with Glickstein, Rubin & Rubinchik in Hollywood, Florida.

JAMES SADOCK, JR., a native of New York, N.Y., received his undergraduate degree from the University of Miami and his law degree from the University of Tulsa. He is associated with Saunders, Curtis, Ginestra & Gore in Fort Lauderdale.

DENNIS LYNN SCHAEFER, a native of Brooklyn, N.Y., received his undergraduate degree from Syracuse University and his law degree from Oklahoma City University. He is associated with Bernard J. Levy in Fort Lauderdale.

S. B. SIMONS, a native of New York, N.Y., received her undergraduate from the University of Miami and her law degree from Stetson University College of Law. She practices alone in Fort Lauderdale.

ELLIS S. SIMRING, a native of Somerville, New Jersey, received his undergraduate degree from Long Island University and his law degree from Brooklyn Law School. He practices alone in Fort Lauderdale.

TODD L. SMITH, a native of Canton, Ohio, received his undergraduate degree from Bowling Green State University and his law degree from Ohio State University. He is associated with Michael G. Widoff in Fort Lauderdale.

DONALD A. WICH, JR., a native of Detroit, Michigan, received his undergraduate and law degree from Notre Dame. He is associated with Sullivan, Cochran, Ranaghan, Bailey & Gleason in Pompano Beach, Florida.

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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

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Highlights of Board of Governors Meeting September 16th in Tampa

The Board of Governors took the following actions at their recent meeting:

1. Approved a draft of Florida Appellate Rules, which will now be submitted to the Supreme Court, in response to their request for a revision. The Committee studying these Rules, after three years of work, produced a recommended revision which will materially simplify appellate proceedings, and will permit correction of technical errors at almost any stage in the appellate process. For example, notices of appeal may be filed in any courthouse where there is a court of comparable jurisdiction, with a copy mailed to the Clerk of the Court in which the trial or other proceeding took place. This will insure filing within the thirty day jurisdictional time limit, which is an uncertain matter if a notice of appeal is mailed to a Circuit Court in a different circuit. Generally, an error in procedure or form will be ignored by the Court, which will adjudicate the appeal on matters of substance rather than the form of an appeal. Defects in a record may be supplied by an appellant prior to the Court's ruling, which would change the existing procedure of dismissing an appeal out of hand when the record is not complete. In general, it will protect appellate lawyers from malpractice and will be a substantial improvement over the technicalities currently found in our Appellate proceedings.

2. Approved admitting legal aid lawyers into Continuing Legal Education courses, allowing legal aid offices to purchase materials at half price.

3. Approved a report of The Florida Bar's committee studying the Governor's committee's recommendation to revise Florida's criminal justice system. This involved a massive report with many ambiguities which the Bar's committee has endeavored to eliminate.

4. Heard a report from the Bar's committee studying advertising and the litigation initiated by the Justice Department against the American Bar Association to force approval of lawyer advertising. The committee recommended a "wait and see" approach before Florida takes any further action in this regard. Heard a report by the special committee for liaison with the Board of Bar Examiners relative to increasing the standard for admission to The Florida Bar. Board approved a residency requirement and further efforts to arrive at a standard for passing the examination which will insure minimum competency rather than a "curve" approach with the students within a certain point range of the highest score being permitted to pass.

5. Heard a report from Earl Hadlow, Chairman of the Designating Coordinating Committee regarding the ultimate future for Florida's Designation Plan. Chairman Hadlow suggested the introduction of a second "tier" in the system which would permit Board certification of specialties, in areas such as taxation and labor law, to be handled by peer groups with examinations and review

of an applicant's record in practice, to be permitted in addition to the present designation of areas in which an attorney will accept legal employment.

6. Approved creation of a new administrative law section to provide an organization for those members of the Bar dealing with state agencies under the administrative procedure act, and comparable legal subjects. The Board heard a report from a local government section that the creation of the administrative law section would not materially overlap with the existing structure.

7. Report of the Committee on reapportionment was deferred to the November Board of Governors meeting in Tallahassee, at which time the committee will have an opportunity to report the results of the meeting in Fort Lauderdale on September 11th, which was attended by fifteen members of the Broward County Bar.

8. Heard a report by President-elect Russell Troutman regarding the formative stages of The Florida Bar's legislative program which will be much more active in the ensuing year.

Don Norman, Board Member
17th Judicial Circuit

★ ★ ★ ★ 1776—1976 ★ ★ ★ ★

Florida No-Fault Insurance Seminar

The Florida Bar No-Fault Insurance Committee will hold a seminar in Miami on November 5, 1976, so that practitioners, both for the plaintiff and for the defense, will have an opportunity to become educated concerning this major change in existing law at a reasonable cost.

The cost of the seminar will be \$30 and will include a luncheon. Registration forms are to be mailed by The Florida Bar about October 1, 1976.

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It is suggested that all attorneys check to determine if their errors and omissions insurance is current. Recently, when applying for membership on the Lawyer Referral Service Panel several attorneys discovered that their policies had not been renewed.

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RESOLUTION

The Executive Committee recommends that the following resolution be adopted and presented to the Chief Judge. This will be presented to the membership on October 21, 1976 at the regular monthly meeting.

RESOLUTION OF BROWARD COUNTY BAR ASSOCIATION

WHEREAS, The Broward County Bar Association is desirous of promoting the efficient administration of justice and of expediting matters to be heard before the Court



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NOW THEREFORE BE IT RESOLVED that the following order be recommended for implementation by the Chief Judge and/or the Administrative Judge of the Civil Division

UNIFORM MOTION CALENDAR

In order to promote efficient administration of justice and the prompt disposition of cases within the Seventeenth Judicial Circuit, the undersigned does hereby create a Uniform Motion Calendar for the Civil Division and all civil divisions hereinafter created, effective January 1, 1977, subject to further order with the following provisions:

1. Each division shall set aside a period of 45 minutes beginning at 8:45 a.m. until 9:30 a.m., 4 days per week (Monday through Thursday, inclusive). This time period is subject to vacation schedules, possible illnesses of the presiding judge of the division or any other just cause.
2. Motions are limited to ten (10) minutes, each party to be allowed no more than five (5) minutes. This time limitation will be strictly enforced.
3. Counsel shall make appointments with the court secretary, and shall notice opposing counsel in accordance with the applicable Rules of Civil Procedure. An extra copy of the notice of hearing shall be furnished to the Judge's secretary at least four (4) days in advance of hearing.
4. Dissolution of Marriage final hearings, temporary relief and contempt matters will not be heard on the motion calendar. However, "Ex parte" matters will be heard.
5. Any party requesting affirmative relief shall bring to the hearing prepared form orders with sufficient copies and properly addressed stamped envelopes for service on counsel.
6. No hearing shall be held unless and until counsel have previously made a bona fide effort to agree on a stipulated order, or failing that, to nar-

row the issues and the moving party so certifies in his motion to be heard or the notices of hearing thereof.

7. At the hearing, the court will entertain or consider any request for a further hearing if the matter appears too complex to handle on the Uniform Motion Calendar. This order supercedes any order previously entered by any Circuit Court.

Civil Division Judge establishing motion Calendar procedure. The Clerk shall take appropriate steps to post and circulate this Order and advise all interested parties of its existence.

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Announcement of Federal Judgeship Vacancy

The appointment of Judge Peter T. Fay, Miami, to the United States Court of Appeals for the Fifth Circuit has created a vacancy on the United States District Court for the Southern District of Florida.

The Federal Judicial Nominating Commission of Florida has announced through its chairman, Earl B. Hadlow, Jacksonville, that it will receive personal information statements until November 19 from those persons interested in filling this vacancy. The commission, whose members are chosen by Senators Chiles and Stone and The Florida Bar, will select five or more nominees for the vacancy which they will recommend to Florida's two U.S. senators who will recommend one nominee for appointment by the President of the United States.

Any attorney or judge interested in seeking appointment, and any other person desiring to recommend an attorney or judge for consideration by this commission, should promptly communicate with Chairman Hadlow at P.O. Box 4099, Jacksonville, Florida, 32201, so that a personal information statement may be sent to those persons to be considered.

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