

The BROWARD BARRISTER

AUGUST, 1977

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

GENERAL MEETING THURSDAY, AUGUST 18, 1977

BAHIA MAR YACHTING CENTER

Bahia Mar, Fort Lauderdale, Florida

Cocktails — 6:15 P.M. (Cash Bar)

Dinner — 7:30 P.M. \$10.00

— Guest Speaker —

William B. Wiley, Florida Bar

Topic:

"LEGISLATIVE ACTION"

Review of 1977 & Preview of 1978

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YOUNG LAWYERS SECTION MEETING

THURSDAY, AUGUST 25, 1977

12:00 Noon

RED COACH GRILL

1200 N. Federal Highway
Fort Lauderdale, Florida

Lunch — \$5.00

Speaker: To Be Announced

OPERATION: UPDATE/TRANSITION

Sponsors: BCBA, BCTLA and Nova
Law School

August 17, 1977

— 4:30 p.m. —

"The Trial of Contract Actions Including Damages and Remedies"

Speakers: Robert E. Ferris, Jr., of
Gustafson, Caldwell & Ferris,
P.A.
Robert A. Ware of
English, McCaughan and
O'Bryan

Room 250, Broward County
Courthouse

September 21, 1977

"How to Avoid Malpractice"

Speakers: To Be Announced

(\$1.00 printing donation requested)

Fourth District Court of Appeals

The Honorable Gerald Mager, Judge of the Fourth District Court of Appeal, West Palm Beach, Florida, has submitted his resignation to the Honorable Reuben O'D. Askew, Governor of the State of Florida, to be effective August 15, 1977. The Fourth District Court of Appeal nominating commission is seeking applications from all qualifying lawyers and judges who care to submit their names to the commission for consideration. All applicants must have been a member of the Bar of Florida for the preceding ten years. Any person desiring to submit their name for consideration should contact the commission chairman, John L. Burns, 325 Third Street, West Palm Beach, Florida 33401 or call (305) 833-7596 to obtain applications which must be submitted to his office no later than 12 midnite, Monday, August 15, 1977.

Please Send Reservation with Check to:

William C. Davell
Post Office Box 14098
Fort Lauderdale, Florida 33302

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

OFFICERS

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Norma Howard _____ *Executive Secretary*

**FEDERAL BAR ASSOCIATION
BROWARD COUNTY
CHAPTER MEETING**

Thursday, August 25, 1977

PATRICIA MURPHY'S RESTAURANT
801 Seabreeze Boulevard
Fort Lauderdale, Florida

Lunch — \$6:00

Speaker:

Judge Norman C. Roettger, Jr.

The Broward County Chapter of The Federal Bar has recently received its charter.

The objectives of the Federal Bar Association are to advance the science of jurisprudence and promote the ad-

ministration of justice. Specific emphasis is given to upholding the high standards of the Federal judicial system and to encourage a cordial and friendly relationship among members of the legal profession who practice in the Federal District Court and the Federal Bankruptcy Court.

The present officers are as follows:
Raymond B. Ray, President
John Berk, Secretary
Bruce Weihe, Treasurer

The next election for officers will be held in September 1977, and they will serve for a period of one year.

The organization will provide a needed forum for the education and exchange of information concerning the areas of Federal Practice.

The luncheon is open to all members of the Broward County Bar Association and applications for membership in the Federal Bar Association will be available at the luncheon.

Please make reservations with:

John Berk
111 S.E. 6th Street
Ft. Lauderdale, Florida 33301
Telephone: 467-2602

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FAMILY LAW SEMINAR

Friday, September 9, 1977

10:00 a.m. — 1:00 p.m.

ROOM 250

BROWARD COUNTY COURTHOUSE

Fort Lauderdale, Florida

Judge Frank Orlando has arranged for a seminar to be presented on Family Law. All members of the Broward County Bar Association are invited and urged to attend. The program is:

I. NEW TRENDS IN FAMILY LAW
Dr. Jay Foldberg, Ph.D., J.D.

Professor of Law, University of Oregon

Professor of Medicine, University of Oregon

Executive Director, National Association of Conciliation Courts

II. EFFECT OF DISSOLUTION ON LITIGANTS AND CHILDREN

Dr. Stanly Cohn, M.D.

Professor of Medicine, University of Oregon

Judge Dominick J. Salfi, Eighteenth Judicial Circuit

III. CONCILIATION COURT AND ITS EFFECT ON DOMESTIC RELATIONS CASES

Judge Irwin Cantor

Presiding Judge, Domestic Relation Division,

Superior Court, Phoenix, Arizona

An application will be made to The Florida Bar for possible designation credits.

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**BROWARD COUNTY
TRIAL LAWYERS
ASSOCIATION MEETING**

Wednesday, September 7, 1977

5:00 p.m. Case Evaluation Committee

6:00 p.m. Workshop: Problem Solving
(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)

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Speaker: Harry Gaines

Topic: **Maximizing Verdicts on Soft Tissue Injuries**

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CONTINUING LEGAL EDUCATION

The seminars presented by the various sections of Broward County Bar Association this past year were well received and are due congratulations on the programs presented. Designation credit has been received from The Florida Bar as listed below:

January 21, 1977 — Corporation, Banking and Business Law Seminar

Area	Credit
Corporation & Business Law	4 hrs.
Registered General Practice	4 hrs.
Securities	2 hrs.
Taxation	2 hrs.

(Maximum total credit that one lawyer may obtain from this course is 4 hours.)

February 18, 1977 — Family Law Seminar

Appellate Practice	4 hrs.
Marital & Family Law	4 hrs.
Registered General Practice	4 hrs.
Taxation	1 hr.
Trial Practice	4 hrs.

(Maximum total credit that one lawyer may obtain from this course is 4 hours.)

March 25, 1977 — Real Property, Probate & Trust Law Seminar

Corporation & Business Law	2 hrs.
Estate Planning & Administration	4 hrs.
Real Property Law	2 hrs.
Registered General Practice	4 hrs.
Taxation	4 hrs.

(Maximum total credit that one lawyer may obtain from this course is 4 hours.)

April 22, 1977 — Trial Lawyers Seminar

Appellate Practice	5 hrs.
Personal Injury & Wrongful Death	5 hrs.
Registered General Practice	5 hrs.
Trial Practice	5 hrs.

(Maximum total credit that one lawyer may obtain from this course is 5 hours.)

The seminar on Criminal Law is being presented for approval, and notice will be given if it is approved.

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Alumni Invited To Phi Delta Phi Convention

At the July 21 meeting of the Broward County Bar Association Russ Carlisle announced the upcoming International Convention of Phi Delta Phi Legal Fraternity. All Phi Delta Phi's are welcome to attend the luncheons and black-tie dinner during August 18-20, at Bahia Mar.

Invitations were mailed out to all Fraternity members in the Broward County area, and prices for alumni are substantially reduced. Guest speakers will include Sandy D'Alemberte, Chairman of the Constitution Revision Commission and member of The Florida Bar Board of Governors.

Anyone wishing to attend may write to Nicholas R. Friedman, Suite M-123, 444 Brickell Avenue, Miami, Florida 33131.

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Highlights of the Board of Governors Meeting July 14-15, Marco Island

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

1. Adopted suggested guidelines for advertising by members of The Florida Bar. In summary, an advertisement may only appear in a newspaper or other printed publication of general circulation (excluding the telephone director) and may contain only: The lawyer's name, including the name of his law firm and the names of lawyer associates, addresses and telephone numbers; date and place of admission to the Bar of state and federal courts; office hours; and, a statement of legal fees for an initial consultation. The amount of or range of the fee to be charged for routine legal services, as those services are defined by The Florida Bar, may also be included.

These guidelines do not effect advertising presently permitted by The Florida Bar Designation Plan. An advertisement may not contain any false, misleading, deceptive or unfair statements or claims.

The foregoing guidelines will not become final until approved by the Florida Supreme Court.

2. Adopted a plan for reapportionment of the Board of Governors of The Florida Bar in accordance with a formula which will give one more representative to Broward, one more to Leon and one more to Dade Counties. Each circuit is given one seat on the Board of Governors and an additional fourteen seats are divided among the twenty circuits on the basis of population by dividing the number of lawyers practicing in Florida, as shown by the annual census, by the number of judicial circuits, and giving one seat on the Board of Governors for each number of lawyers corresponding to this integer. The integer, as calculated by the current census, is 797.45. When this is applied to Broward, an additional two seats on the Board results. This is subject to approval by the Supreme Court. If approved, the new seat would be filled in 1978, during the annual Board elections for a two-year term.

3. Adopted a Resolution supporting the candidacy of former Florida Bar President Reese Smith to the office of President-elect of The American Bar Association.

4. Approved an application of the Economics of Law Practice Committee for Section status.

5. Recommended a voluntary effort toward cooperation between federal and state disciplinary agencies rather than a mandatory federal disciplinary rule as proposed.

6. Authorized the Aerospace Law Committee to change its name to Aviation

and Space Law Committee.

7. Approved revisions to a proposed Contract for Sale and Purchase prepared by the Real Property, Probate and Trust Law Section. Approved amended Criminal Rules of Procedure.

8. Heard a report of the President and President-elect as to their efforts to secure the adoption of the Senate's version of the new Federal Judgeship Bill. A proposed House version would substantially reduce the number of Federal Judges for Florida. President Russ Troutman and President-elect Bob Floyd spent several days in Washington with our legislative delegation seeking to restore the Senate version as a conference compromise.

9. Approved a policy wherein The Florida Bar will furnish bibles for appellate judges only in the future, encouraging local bar associations to present bibles to circuit and county court judges at their investiture.

10. Approved the appointment of Steven Busey, of Jacksonville, David Kerr, of Tampa, Frank A. Howard, Jr., of Miami and Robert T. Mann, of Gainesville, to the Florida Law Revision Council.

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11. Approved a proposed pre-paid legal service plan by Fringe Facts under the name of Legal Rep, Inc. for their own employees.

12. Heard a report that the Florida Supreme Court had rendered a decision on The Florida Bar's Petition to Amend the Code of Professional Responsibility regarding contingent fees. The Court felt that the present rule was adequate to control excessive fees. The Court did approve amendments to the rule requiring contingent fee contracts to be in writing and signed by all attorneys sharing in the fee as well as the client. Equal availability and responsibility are required for multiple attorneys to share a fee in a contingent fee case.

Respectfully submitted,

Donald H. Norman, Member
17th Judicial Circuit

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NEW PRACTICE MANUALS

New Practice manuals **Florida Basic Corporation Practice** and **Florida Will and Trust Drafting** are now available from the CLE Publications Department of The Florida Bar, Tallahassee, FL 32304.

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LAWYER ADVERTISING

By Henry J. Prominski

Following up the recently reported case of Attorney's fees in Florida, *Wall vs. Bruckner, Greene and Manas, P.A.* 344 So2nd 947, the Supreme Court of the United States in *Bates and O'Steen et al vs. The State Bar of Arizona* appear to have dealt a mortal blow to the Code of Professional Conduct of the American and State Bars. In the instant case, the appellants were members of the Arizona Bar and were charged in a complaint filed by the Bar that they violated the disciplinary rule against advertising. The two lawyers advertised as a Legal Clinic that divorces, adoption and bankruptcy could be had for a very reasonable fee. The Supreme Court of the United States stated that the First Amendment, Freedom of Speech, was violated by the disciplinary rules of the State Bar, that lawyers are not above the "trade" and advertisement fees will not undermine true professionalism. They also stated that advertising will benefit the administration of justice and will serve to reduce the cost of legal services to the consumer, as long as the advertisement is not misleading. This advertisement for routine services is inherently misleading.

In the instant, case the Court sidestepped the question of quality of legal services apparently indicating that there may be a different decision if the advertisement in any way indicated the quality of services provided for the advertised fee. The Supreme Court, speaking through Justice Blackman, felt that the connection between advertising and the erosion of true professionalism of true professionalism to be severely strained. The client knows that the attorneys work for a fee and that advertising will not diminish the attorneys' reputation in the community. The Court further went on to state that as long as the advertising does not go to individual quality and content of the services and it pertains to routine cases, uncontested divorces, simple adoption, uncontested personal bankruptcy, change of name and the like, there is no inherent misleading from advertisement. Although little quarrel could be found with the Court's conclusion that advertising is not inherently misleading nor that it takes away from true professionalism, certainly an opposite conclusion can be reached that there is no such case as the routine divorce or adoption.

To serve the public the attorney should advertise his qualifications and ability and his professionalism in order to be of service to the public seeking an attorney. By relegating advertising to routine court matters, the court is making two classes of attorneys. Those who are para-legals and fill out forms and do routine work and those that have the experience and the professionalism to help someone who really has a problem.

The opinion is a logn one with many facets but there can only be one conclusion, that the court did not think through the manifestation of advertising. Several of the court's conclusions appear to be contrary to the reality of legal practice. Advertisement of routine services probably is the least desirable form of advertising for professionals. The economic effects of advertising rather than helping the potential client, can do nothing but add to the cost of legal services.

The Supreme Court in the *Goldfarb vs Virginia State Bar* 421 US 773, 1975 held that a publication of a minimum fee schedule and adherence through the State Bar Association violated the Sherman Anti-trust Act. The *Goldfarb* case dealt a mortal blow to reasonable attorney's fees for the average citizen by doing away with a guideline for the average person in need of services, what they would probably cost, and of


course stating that there is no charge for an initial interview etc. I feel that *Bates* is an inescapable conclusion as was the *Goldfarb* case in doing away with the minimum fee schedule, that this can do nothing but increase the cost of attorney's fees to the public. The further inescapable conclusion, down the road, is that the Code of Professional Conduct is valueless in light of our present Supreme Court and the State Bars would probably do well to do away with self control and relegate the professionalism of attorneys as any other service to the public, such as engineering, television repair, auto repair, etc. to the Supreme Court of the United States. In this way surely a body of law will be established through the Supreme Court for professional conduct rather than through the State Bar Association and the profession itself, and the public will really know where to lay the blame for increased cost, poor services and a general degradation of the profession.

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JUDGE NANCE HONORED

Judge L. Clayton Nance has been appointed to the Florida Judicial Administrative Commission. Others on the Commission are Chief Justice Ben F. Overton, District Judge Tyrie A. Bowyer (Tallahassee), State Attorney E. T. Whitworth (Gainesville), and Public Defender Judge C. Luckey, Jr. (Tampa).

The Commission was created in 1965 under Florida Statute 43.16. It is the central agency that administers fiscal matters (including budgets and accounting) for all expenditures on behalf of the Supreme Court, District Courts of Appeal, Circuit Courts, State Attorneys, Public Defenders and state paid Court Reporters. It acts as Liaison between these officials and other state agencies and the legislature, and it compiles and makes available statistical information on the Courts for study and for legislative matters.



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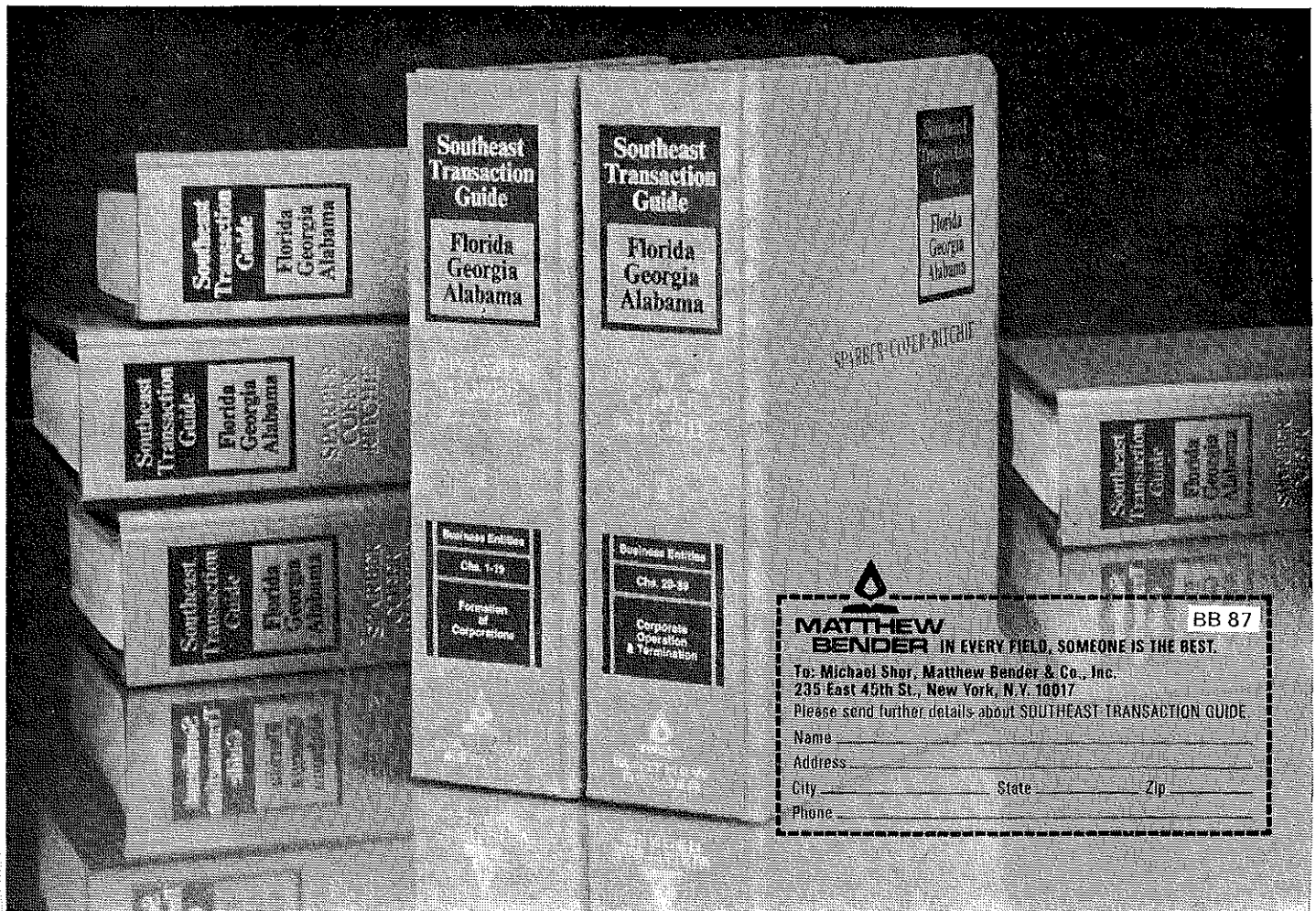
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