

The BROWARD BARRISTER

MAY, 1977

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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 20, 1977

INVERRARY COUNTRY CLUB — 3840 INVERRARY BLVD.

COCKTAILS: 6:30 P.M. (Cash Bar)

DINNER: 7:30 P.M.

Price: \$15.00 per person

Dress: Semi-Formal

→ SPOUSES ARE INVITED ←

PROGRAM: "Magic With a Message" — Donald E. Lea
Presentation of awards
Installation of officers for Bar Association
and Young Lawyers

DANCING — Fred Zuker & Danny Leslie, Orchestra

PLEASE USE THE ENCLOSED CARD FOR RESERVATIONS, PREPAID RESERVATIONS WILL BE APPRECIATED.

BROWARD COUNTY TRIAL LAWYERS ASSOCIATION MEETING

Wednesday, June 1, 1977

5:00 p.m. Case Evaluation

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)
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Speaker: Theodore P. Sobo

Topic: "Collection of Judgments"

Please send reservation with check to:

Wilton Strickland, Esq.
707 S.E. Third Avenue
P.O. Box 14604
Fort Lauderdale, Florida 33302

PLEASE MAKE CHECK PAYABLE TO:

Broward County Trial Lawyers Association

Criminal Law Section Grand Jury Seminar

May 27, 1977

9:00 a.m. — 1:00 p.m.

Auditorium

OPERATION: UPDATE/TRANSITION

Sponsors: BCBA, BCTLA and Nova
Law School

May 18, 1977

4:30 p.m.

"Problem of Plaintiffs' in Mortgage
Foreclosures"

Michael K. Davis

"Mechanic Liens' Foreclosures"

Terrence Russell

Room 250, Broward County
Courthouse

June 15, 1977

"Defenses in Mortgage Foreclosure
Proceedings including Usury and
other Defenses"

Speakers — To Be Announced

(\$1.00 printing donation requested)

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(See enclosed notice for registration)

DUES NOTICE

☞ DUES PLEASE ☜

Your notice for Annual Dues is enclosed. This notice includes the dues notice for Section Members. You may submit one check to BCBA to cover all dues.

★ ★ ★ ★

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.

This office has had no decrease in the number of referrals made since the telephone directory was published with designated areas of practice for

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

OFFICERS

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attorneys. People seem to want the "stamp of approval" from the Bar Association.

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

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 for an application.

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NOTICE OF INVESTIGATION

As announced at the March 17th meeting of the Bar Association, an investigation is under way by a subcommittee of the Real Property section of the Real Property, Probate and Trust Law Section of the Broward Bar Association into real estate brokers and

land developers operating as title insurance agents for local title insurance companies. Any attorney who has any information relating to such activities should contact Steven Josias (563-1123) or Andy Taintor (525-0531).

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COURT OPINION

by Henry J. Prominski

The Second District in *Duncan vs. Flynn* 342 So2nd 123, had an interesting confrontation with the question of when a newborn baby had a separate and independent existence so as to give rise to an action for wrongful death.

Mrs. Duncan was taken into the delivery room where Dr. Flynn attempted delivery. The baby's head emerged but the shoulders were too wide to allow further passage. After several unsuccessful attempts to complete the birth, the Doctor noted that the heart beat had stopped in the baby and concluded that the baby could not be alive and directed that the baby's head be removed and that the remaining body be taken from Mrs. Duncan by Caesarean Section.

The Third Amended Complaint sought recovery for the baby's wrongful death. The trial court entered a Summary Judgment in favor of the Defendant and the Second District Court affirmed.

The Court in its opinion states that there are no Florida cases to the precise question as to when a live birth occurs. The Court then reviews some of the cases at common law. One case held that a whole child had to be brought into the world and that no live birth had occurred until the child had been completely expelled and had obtained a separate independent existence. The Court further cites *Bennett vs. State* 377 P. 2nd 634, a Wyoming case where the question as to whether the baby was alive was one for the

jury and the turning point came down to whether or not the child had actually breathed. In the instant case, the head of the baby did emerge and the cause of death was listed on the death certificate as "cardiovascular failure due to a consequence of strangulation". The inference is that the baby must have been breathing to strangle and since there was a death certificate then it must have been alive.

The Court however goes on to define what would be a death for recovery under Florida Wrongful Death Statutes. The definition in the Statutes declares "the death of any person". Wherefore the court reasons that even if this was a live fetus it was not a "person" and that the baby must be born alive and have independent and separate existence. There has to be evidence that the cord is cut and the infant has an independent circulation of blood.

An interesting question arises as to whether or not there was a tort over and above the wrongful death Statute and of course, whether or not there was negligence in the doctor in not diagnosing and not being aware of such a large baby, which was over 14 pounds, and prepared for a Caesarean Section in the first place.

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FAMILY SUPPORT SCHEDULE

The Family Law Section has been asked to study a Proposed Temporary Support Schedule to be used in Dissolution cases in Broward County. The schedule is submitted to all members of the Broward County Bar Association for study. Your suggestions, criticisms, additions and/or opinions are needed, and you are requested to send these to the Broward County Bar Association office by June 15, 1977.

735 N.E. 3rd Avenue
Fort Lauderdale, Florida 33304

DEPENDENTS

Weekly Take-Home Pay	ONE	TWO	THREE	FOUR	FIVE	SIX OR MORE
\$ 30.00	7.50	7.50	7.50	7.50	7.50	7.50
\$ 40.00	10.00	15.00	15.00	15.00	15.00	15.00
\$ 50.00	12.50	20.00	25.00	25.00	25.00	25.00
\$ 60.00	15.00	25.00	30.00	30.00	30.00	30.00
\$ 70.00	17.50	26.00	35.00	35.00	35.00	35.00
\$ 80.00	20.00	27.00	36.00	40.00	40.00	40.00
\$ 90.00	21.00	30.00	40.00	45.00	45.00	45.00
\$100.00	22.00	32.00	42.00	50.00	50.00	50.00
\$110.00	23.00	35.00	45.00	55.00	55.00	55.00
\$120.00	24.00	36.00	48.00	60.00	60.00	60.00
\$130.00	25.00	38.00	51.00	64.00	65.00	65.00
\$140.00	26.00	40.00	54.00	68.00	70.00	70.00
\$150.00	27.00	42.00	57.00	72.00	75.00	75.00
\$160.00	28.00	44.00	60.00	76.00	80.00	80.00
\$170.00	29.00	46.00	63.00	80.00	85.00	85.00
\$180.00	30.00	48.00	66.00	84.00	90.00	90.00
\$190.00	31.00	50.00	69.00	88.00	95.00	95.00
\$200.00	32.00	52.00	72.00	92.00	100.00	100.00
\$210.00	33.00	54.00	75.00	96.00	105.00	105.00
\$220.00	34.00	56.00	78.00	100.00	110.00	110.00
\$230.00	35.00	58.00	81.00	104.00	115.00	115.00
\$240.00	36.00	60.00	84.00	108.00	120.00	120.00
\$250.00	37.00	62.00	87.00	112.00	125.00	125.00
\$260.00	38.00	64.00	90.00	116.00	130.00	130.00
\$270.00	39.00	66.00	93.00	120.00	135.00	135.00
\$280.00	40.00	68.00	96.00	124.00	140.00	140.00
\$290.00	41.00	70.00	99.00	128.00	145.00	145.00
\$300.00	42.00	72.00	100.00	132.00	150.00	150.00
\$310.00	43.00	74.00	105.00	136.00	155.00	155.00
\$320.00	44.00	76.00	108.00	140.00	160.00	160.00
\$330.00	45.00	78.00	111.00	144.00	165.00	165.00
\$340.00	46.00	80.00	114.00	148.00	170.00	170.00
\$350.00	47.00	82.00	117.00	152.00	175.00	175.00
\$360.00	48.00	84.00	120.00	156.00	180.00	180.00
\$370.00	49.00	86.00	123.00	160.00	185.00	185.00
\$380.00	50.00	88.00	126.00	164.00	190.00	190.00
\$390.00	51.00	90.00	129.00	168.00	195.00	195.00
\$400.00	52.00	92.00	132.00	172.00	200.00	200.00

1. The above chart assumes that the custodian of dependent children is employed and not a dependent. A dependent wife should be counted as two dependent children as a guide in determining support.
2. Use lower figure take-home pay to determine support. Do not interpolate. (i.e.) Use \$50.00 for all take-home between \$30.00 and \$70.00 per week.
3. A small charge will be added to the above figures to pay expense of clerk in keeping records.
4. Additional payment may be ordered after hearing for extraordinary medical expense, education, etc.
5. Allocation of dependents for tax purposes will be made by the court in the final decree.

The Family Law Section has sixty (60) days to study the schedule and made recommendations to the Bar-Bench Court Reorganization Committee. **If the Section makes no recommendations**, the court will adopt the schedule and it will become an administrative order.

WELCOME, NEW MEMBERS

MILTON S. BLAUT, a native of New York City, N.Y., received his undergraduate degree from University of Massachusetts and his law degree from Syracuse University. He is associated with Abrams, Anton, Robbins, Resnick & Schneider, P.A., Hollywood, Florida.

BERNARD COHEN, a native of New York City, N.Y., received his undergraduate degree from University of Toledo and his law degree from University of Toledo. He is associated with Cohen and Cohen, Hallandale, Florida.

IRWIN COHEN, a native of New York City, N.Y., received his undergraduate degree from University of Toledo and his law degree from University of Toledo. He is associated with Cohen and Cohen, Hallandale, Florida.

CAROLYN ANNE DYE, a native of Hodgenville, Kentucky, received her undergraduate degree from University of Kentucky and her law degree from University of Kentucky. She is associated with English, McCaughan & O'Bryan, Fort Lauderdale.

JAMES KENNETH PEDLEY, a native of Cleveland, Ohio, received his undergraduate degree from University of Cincinnati and his law degree from Case Western Reserve. He is associated with English, McCaughan & O'Bryan, Fort Lauderdale.

RONALD J. SCHWEIGHARDT, a native of Passaic, N.J., received his undergraduate degree from Fairleigh Dickenson & William Patterson of New Jersey and his law degree from University of Miami. He is associated with Wicker, Smith, Blomqvist, Davant, McMath, Tutan & O'Hara, Fort Lauderdale.

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