

The BROWARD BARRISTER

FEBRUARY, 1978

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

GENERAL MEETING THURSDAY, FEBRUARY 16, 1978

THE HILTON HOTEL

4060 Galt Ocean Drive — Fort Lauderdale, Florida

Cocktails 6:30 P.M. — Cash Bar

Dinner 7:15 P.M. — \$10.00

Program: **State and Federal Court Relations**

Speaker: **The Honorable William H. Hoeveler**

Judge, United States District Court For The Southern District of Florida

Judge Hoeveler was appointed Federal Judge on April 26, 1977. Prior to his appointment to the Federal Bench, he was a member of the law firm of Knight, Peters, Hoeveler, Pickle Niemoeller & Flynn in Miami, Florida, since 1951.

Judge Hoeveler has written many articles for publication for the American Bar Association — "Liability of Insurance Agents, Architects & Engineers", "Lawyers Liability", and "Liability of Architects, Engineers & Contractors". Judge Hoeveler has lectured for The Florida Bar Continuing Legal Education Seminars and before various professional groups including architects, engineers and insurance agents regarding professional liability.

The March 1978 General Membership Meeting has been rescheduled to be held April 6, 1978, at Pier 66. Griffin Bell, United States Attorney General, will be the guest speaker.

Real Property, Probate And Trust Law Section Seminar

THURSDAY, FEBRUARY 23, 1978

— 9:00 a.m.-1:00 p.m. —

AUDITORIUM

Landmark Bank Building
One Financial Plaza
Fort Lauderdale, Florida

See enclosed registration form for additional information and prices.

The Family Law Section Seminar scheduled for February 23, 1978, was postponed. Please watch for a notice in the *Barrister* for the rescheduling of the Seminar.

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YOUNG LAWYERS SECTION MEETING

Thursday, February 23, 1978

— 12:00 Noon —

Hacienda Del Rio Restaurant
2525 North Federal Highway
Fort Lauderdale, Florida

Lunch: \$5.00 Members
\$6.00 Non-Members

Topic: Appellate Practice

Speaker: Gary Esler

Please send reservation with check to:

William Davell
Post Office Box 14098
Fort Lauderdale, Florida 33302

"YOUNG LAWYERS PROPOSE TO AMEND BY-LAWS"

The Executive Committee of the Young Lawyers' Section of the Broward County Bar Association has recommended that the By-Laws of the Young Lawyers Section be amended. A vote on the proposed amendments will take place at the next regularly scheduled meeting of the Young Lawyers' Section, February 23, 1978.

Generally, the proposed amendments are for housekeeping purposes, although two specific amendments are proposed to provide for the mandatory payment of dues as a predicate to membership, and to clarify the voting procedures to be followed for election to membership on the Executive Committee.

Any questions concerning the proposed amendments may be directed to Michael J. Mc Nerney, president of the Section, or Bruce A. Weihe, chairman of the By-Laws Revision Committee.

OPERATION: UPDATE/TRANSITION

Wednesday, February 15, 1978

— 4:30 P.M. —

"Use of and Examination of Expert Witnesses"

Speakers: John E. Donahoe (Defense)
Charles Prince (Plaintiff)

Landmark Bank Building
Auditorium — 6th Floor
One Financial Plaza
Fort Lauderdale, Florida

This program has been approved by The Florida Bar for the following CLE Designation Credits.

Appellate Practice	2 hours
Criminal Law	2 hours
Marital and Family Law	2 hours
Personal Injury and Wrongful Death	2 hours
Registered General Practice	2 hours
Trial Practice	2 hours
Workmen's Compensation	2 hours

The maximum total credit that one lawyer may obtain from this course is 2 hours.

(Please Note Change of Location

March 15, 1978

"New Appellate Rules"

(Continued)

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

OFFICERS

A. J. Thomas, Jr. _____ *President*
Paul B. Anton _____ *President-Elect*
Ronald P. Anselmo _____ *Secretary*
Maurice O. Rhinehardt _____ *Treasurer*
Norma Howard _____ *Executive Secretary*

(Continued from Page 1)

Speakers: Harry G. Carratt
Frank E. Maloney, Jr.

(\$1.00 printing donations requested)

All "Operation: Update/Transition" programs for 1977 and the Corporation, Banking and Business Law Section Seminar held December 1, 1977, have been approved by The Florida Bar for Designation Credits. A list of the credits is included for your information. PLEASE RETAIN FOR YOUR FILE.

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PRESIDENT'S MESSAGE

Our Association's three-year effort to reapportion the Board of Governors on a one lawyer—one vote basis continues. Last November the Board petitioned the


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Florida Supreme Court to grant an additional seat to Broward, Dade and Leon Counties, these being the more vocal advocates of apportionment based upon lawyer population. In addition, the Board proposed that the President-Elect of the Young Lawyers Section be given a vote. This proposal would permit 39% of the resident members to elect a majority of the Board. The Board's plan has a range in lawyers represented by one Board member from a low of 85 to a high of 732, 508 being the average number of lawyers represented by one Board member. Broward would have only 84% of its entitlement with each of three Board members representing 607 lawyers.

At the direction of our Executive Committee, I opposed the Board's plan by Brief and in Oral Argument before the Supreme Court on January 4, 1978. I submitted a plan for apportioning the Board and for creating a Representative Assembly, as done in Michigan, each based upon one lawyer—one vote. Members may obtain copies of the Pleadings and Briefs from the Association office at reproduction cost. The Court as of this date has not ruled.

Significantly, Dade County joined our Association in opposing the Board's petition. Our two counties contain 40% of the resident membership of The Florida Bar.

The Board's plan was supported by Briefs filed by the Government Bar Association (Tallahassee), the Tallahassee Bar Association and the Young Lawyers Section, joined in by the presidents of the Broward and Dade Coun-

ty YLS as to the two Board seats and votes granted their State President and President-Elect.

In rebuttal argument, the Board Representative stated that the Board of Governors was not, strictly speaking, a "representative body" for lawyers, and therefore, "one-man—one vote" was not mandated.

The Florida Bar in its reply Brief stated that the foregoing assertion "appears to have troubled opposing counsel and perhaps some members of the Court. It is, therefore, important to clarify the intent of such statement. Although each member of the Board of Governors is elected by lawyers in his or her circuit and thereby should bear and does feel a personal responsibility to them (as well as to the members of The Florida Bar as a whole), the Integration Rule of The Florida Bar defines no such duty."

A. J. THOMAS, JR.
President

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BROWARD COUNTY TRIAL LAWYERS ASSOCIATION

Wednesday, March 1, 1978
THE SHERATON HOTEL
303 N. Atlantic Blvd.
Fort Lauderdale, Florida

"Tort Update 1978 and the New Supreme Court Decision on Attorneys Fees"

Speaker: Robert Orseck, Esquire

For reservations please contact:—
J. Jay Simons — 467-8800

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Mail to _____

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Price for 1 schedule and 1 copy is \$3.00 Number of additional sets desired at \$1.00 each.

**Broward County Chapter
Federal Bar Association
Meeting**

Friday, February 10, 1978

— 12:00 Noon —

B U B B A ' S
1624 East Sunrise Boulevard
Fort Lauderdale, Florida

▶ Lunch — \$6.00 ◀

Speaker: Lawrence Lilly, Assistant
Regional Counsel, IRS

Topic: Criminal Tax Evasion

For reservations please contact:—
Patrick A. Barry — 462-3301

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**International Finance, Tax
& Marketing**

Thursday, February 23, 1978

The Omni International Hotel
Miami, Florida

For further information contact:—
Nova University Law Center
Director, Continuing Education
3301 College Avenue
Fort Lauderdale, Florida 33314

**Nominating Committee
Report For Officers And
Executive Committee
Members**

The By-Laws governing the Broward
County Bar Association provide for the
election of officers and executive com-
mittee members.

The Nominating Committee has met
and submits the following nominations:

Officers

Pres.-Elect Maurice O. Rhinehardt
Secretary Harry G. Carratt
Treasurer Russell E. Carlisle

Executive Committee

Group 1 (North)
Patrick L. Bailey
Barry Billington
John Hume
Peter A. Portley
Barry Stone

Group 2 (South)
Ross Beckerman
William S. Spencer
James H. Walden
Jeffrey Wasserman
Angeline G. Weir

Group 3 (Central)
Drake Batchelder
Thomas E. Byrd
E. Hugh Chappell, Jr.
Hugh T. Maloney
Charles M. Prince
Edmund Sciarretta
Thomas R. Tatum
O. Edgar Williams, Jr.

The By-Laws provide that there will
be three (3) members from Groups One
and Two and five members from Group
Three. The work of this committee is
difficult as there are MANY qualified
attorneys who are eligible.

If you have not been nominated and
would like to be placed on the elective
ballot, you must submit a petition with
six (6) signatures of members in good
standing to the Broward County Bar As-
sociation office by March 15, 1978. You
must also maintain an office in the geo-
graphical area for the indicated group.
These areas are:

Group 1: Commercial Boulevard to the
Palm Beach County line.

Group 2: State Road 84 to the Dade
County line.

Group 3: North of State Road 84 and
South of Commercial Boulevard.


There shall be no vote for the office
of the President; the office of Presi-
dent to be filled each year by the per-
son who is elected President-Elect at
the preceding year's election. PAUL B.
ANTON will become president of BC-
BA on June 1, 1978.

Elections will be by written ballot to
be mailed in April.

Members of the Nominating Commit-
tee are Paul B. Anton; Ray Ferrero,
Jr.; Michael J. McNerney; Thomas W.
Johnston; A. J. Thomas, Jr.; James H.
Walden; and Frank Walker.

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BANKRUPTCY SEMINAR

The Southeastern Bankruptcy Law Institute, Inc., will present its annual bankruptcy seminar at the Hyatt Regency Hotel in Atlanta, Georgia, from March 1-4, 1978.

Registration forms may be obtained from Southeastern Bankruptcy Law Institute, Inc., Suite 3320, 101 Marietta Tower, Atlanta, Georgia 30303.

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NOTICE

Donald H. Norman has announced that he will not seek re-election to the Board of Governors of The Florida Bar for another term. He has served the Seventeenth Judicial Circuit extremely well and his service and dedication are appreciated.

Any member of the Florida Bar who is interested in this position must file a Petition with The Florida Bar by February 15, 1978. Information can be obtained from The Florida Bar, Tallahassee, Florida.

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NOTICE

Keeping the correct addresses of attorneys is perhaps one of the most difficult tasks performed in the BCBA office. It is impossible for this office to send your mail to the proper address if you fail to advise us of a move. In an effort to update our records a card has been enclosed for you to complete and return immediately. Your cooperation will be appreciated.

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COMMITTEE ASSIGNMENTS

The appointment of committees for BCBA is no easy task and takes much thought and time. A preference list is included with the mail-out. Please com-

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H. C. Satchell—President

L. E. Mitchell—Senior V.P. & T. O.

plete and return by February 20, 1978. This information is essential if your wishes are to be considered. Thank you for your help.

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Temporary Alimony & Temporary Attorney's Fees

Financial Statement
PER CURIAM.

(1, 2) Upon consideration of the briefs and record on appeal we are of the opinion that the order of October 24, 1975 increasing the amount of temporary alimony and providing attorney's fees and costs should be vacated and set aside. The nature and conduct of the proceedings below were such as to prevent a full and complete consideration of all evidence relevant to the issues under consideration. Moreover, the application for temporary alimony, including temporary attorney's fees, was not accompanied by the financial statement required by Rule 1.611, Fla. R. Civ. P., nor supported by competent substantial evidence. *Provus v. Provus*, 44 So.2d 656 (Fla. 1950); *Baruch v. Giblin*, 122 Fla. 59, 164 So.831 (1936). *Wilson v. Wilson*, Fla. App., 351 So.2d 1029.

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LAWYER REFERRAL SERVICE

The Lawyer Referral Service needs panel members in the following areas:

Deerfield Beach Pompano Beach
Coral Springs

Panel members are also needed who practice law in the following designated fields:

Immigration Social Security
Malpractice Veterans Problems

If you are not a member of the LBS Panel and practice in any of the needed areas, you are urged to become a mem-

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463-1432

*official legal newspaper for the
Seventeenth Judicial Circuit*

ber of the Panel. For information please call 764-8040.

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Deposit-Receipt Contracts

Arrangements have been made to make the Deposit-Receipt Contracts available to BCBA members through the Bar Association office. Copies are being ordered and will be available shortly. You may place orders immediately. The price will be \$0.05 per copy, and must be ordered in minimum lots of 100. Prices are subject to change if printing costs change. No orders will be filled unless checks or cash accompany the order. There will be no credit extended.

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LAW WEEK

As plans progress for the observance of Law Day, U.S.A. (extended to become Law Week) help is needed from the members of Bar. Legal Clinics are planned for four nights and members are needed to participate in the program. If you can help in any way, please call the Bar office at 764-8040.

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COURT DECISIONS

by HENRY J. PROMINSKY

The Fourth District Court of Appeals has apparently followed some bad California law in *Brown vs. State* 349 So.2d 1196. The Appellate Court in affirming the Circuit Court for Orange County held admissible a tape recorded conversation made by an arrestee in the rear seat of a police car without his knowledge.

The Fourth District rationalizing from New York and California decisions, which hold that a prisoner in jail has no reasonable expectations of privacy, to now include persons arrested. It would appear that rather serious Constitutional rights are affected in this decision and that the reasoning and rationale should go beyond the State of California for its pronouncements. The U.S. Supreme Court has spoken on this general matter in numerous cases that could be analyzed to the present factual situation. It would appear without researching the issue that a person arrested without having yet been convicted has available to him the constitutional rights of a citizen far different than the convict and jailed felon. There may be justification for electronic surveillance of jailed prisoners. However, it just does not seem reasonable that a person arrested but not yet convicted or even formally charged can lose this protection against unconstitutional electronic eavesdropping.