

The **BROWARD** **BARRISTER**

PUBLISHED BY THE BROWARD COUNTY BAR ASSOCIATION

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

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AUGUST 1985

Volume 14

Number 8

No General Meeting in August

Next Meeting September 26, 1985

Anacapri Inn and Restaurant

1901 North Federal Highway / Fort Lauderdale, Florida

6:30 P.M.

Speaker: *E. Clay Shaw*, Representative

See the September *Barrister* for details.

Additional 1980 Ad Valorem Taxes

On June 28, 1985, the Broward County Tax Collector began sending out tax bills for additional 1980 ad valorem taxes totalling approximately \$52,000,000 as a result of an Order of the Florida Supreme Court in the case of *Florida Department of Revenue vs. William Markham*. In 1980 the Florida Department of Revenue determined that William Markham, as the Property Appraiser of Broward County, had assessed the real property of Broward County, Florida, at less than fair market value and ordered a reassessment of the property on which to base the 1980 ad valorem taxation. Due to the fact that the reassessment could not be completed in time, the 1980 tax bills were based upon an interim tax roll comprised of the 1979 roll adjusted to the extent practical to reflect additions, deletions and changes of ownership, and to include new construction which would otherwise be placed on the final 1980 tax roll.

The Property Appraiser then petitioned the Circuit Court to enter an Order finding that it was in the best interests of the public to dispense with a reconciliation between the 1980 interim and final assessment rolls of Broward County, and to declare the interim roll to be the final tax roll for 1980. On June 5, 1981, the Circuit Court of Broward County, in Case No. 80-8271, entered an Order confirming as final the interim

assessment roll for the year 1980. This Order was reversed by the Fourth District Court of Appeal in 1983, and the reversal was upheld by the Supreme Court of Florida in 1985.

It appears probable that the lien for additional 1980 taxes would have attached to the property on January 1, 1980, even though it was impossible to determine the amount of the tax on any particular piece of property until approximately the middle of June 1985. The additional tax may be paid with a 4% discount until July 31, 1985. There will be no discount if paid in the month of August and penalty and advertising costs will be incurred if not paid until the month of September. Tax certificates shall be sold on the properties beginning October 2, 1985.

The billing of additional taxes has created a great deal of confusion among property owners and particularly those who have purchased property since 1980. The bills for additional taxes have been sent to the property owners of record as of 1985 and any refunds of overpayment of taxes will be sent to those who owned the property in 1980. A great number of the real property lawyers in Broward County feel that it is inequitable and possibly illegal to be taxing the present property owners for tax that should have been billed five years ago, if at all. A lawsuit has been filed on behalf of the

(Continued on Page 3)

Resolution of The Broward County Bar Association to The Broward County Commission

WHEREAS, the Florida legislature recently enacted House Bill 835, amending Florida Statute 205.033, to authorize certain counties to impose additional occupational license taxes, up to an additional one hundred percent (100%), for the purpose of creating and maintaining a symphony orchestra and a county-wide economic development strategy; and

WHEREAS, the Broward County Commission is presently considering the adoption of a county ordinance to this end; and

WHEREAS, the Executive Committee of the Broward County Bar Association, in its capacity as the elected governing body of that organization, for and on behalf of its members, unanimously believes that the arts, and particularly a symphony orchestra, should be supported and maintained by the private sector of the community rather than through taxation; and

WHEREAS, the Executive Committee of the Broward County Bar Association unanimously believes that the imposition of additional taxes for this purpose is onerous to the citizens of this county; and

WHEREAS, the Executive Committee of the Broward County Bar Association

(Continued on Page 3)

Motion Calendars Suspended

County Bar Association

Judge
Robert L. Andrews
Futch, Jr.

From
July 29
July 29
20

Through
August 19
August 12
August 9
August 23
September 3
September 3
August 30
September 30

YOUNG LAWYERS SECTION LUNCHEON MEETING
Thursday, August 22, 1985 at 12:00 Noon

Cafe De Paris
715 East Las Olas Boulevard
Fort Lauderdale, Florida

GUEST SPEAKER:
The Honorable Miette K. Burnstein
"Circuit Court Update"

Please send card and check in the amount
of \$7.50 payable to YOUNG LAWYERS SECTION
to Gerald M. Morris, P.O. Drawer 4078,
Fort Lauderdale, Florida 33338 for:

Reservation(s) for _____

(Name)

Schedule of Circuit Court Civil Division and Criminal Division Duty Judges

The following assignments are for Circuit Court Civil Division Duty Judge:

Week Commencing	Judge
August 2	Estella M. Moriarty
August 9	George W. Tedder, Jr.
August 16	M. Daniel Futch, Jr.
August 23	Robert L. Andrews
August 30	Louis Weissing

The following assignments are for Circuit Court Criminal Division Duty Judge:

Week Commencing	Judge
August 2	George A. Shahood
August 9	Russell E. Seay
August 16	Thomas M. Coker, Jr.
August 23	Leroy H. Moe
August 30	Barry J. Stone

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Young Lawyers Section President's Message

I have just returned from the Washington portion of the ABA Annual Convention, and I am in London for the remainder of the convention. It is unfortunate that more of you could not join me in Washington since the programs and social activities planned by the Young Lawyers Division of the ABA were both interesting and fun. I would encourage all of you to join the ABA, if you have not already done so, and to make an effort to participate in their activities. They are most worthwhile.

The ABA Young Lawyers Division sponsors the Affiliate Outreach Project (AOP) which is an effort by the Association to assist local affiliates such as the Broward County Young Lawyers Section with various projects. They have offered to send experienced Young Lawyers to Fort Lauderdale to assist in formulating new projects or improving past projects. We are planning an AOP "visitation" for some time after Labor Day. Please call me if you have any ideas regarding needed assistance on current projects and any ideas you may have for new projects. All of the Officers and Executive Committee members will be participating; interested members are welcome to attend.

The ABA Young Lawyers Division has also requested that we select an individual from the Broward County Young Lawyers Section to work with the ABA in connection with the Bar's celebration of the Bicentennial of the U.S. Constitution. The ABA's Commission on Public Understanding About the Law is co-sponsoring an 8-part television series about the Constitution, which will be broadcast on the Public Broadcasting Service in 1987. A 13-part radio series will also be broadcast on National Public Radio. These programs will be supplemented by a 52-week newspaper series, a series of conferences, symposia, and publications. Finally, there will be a series of community forums throughout the country giving the people in the community an opportunity to examine our constitutional heritage and to learn more about the importance and relevance of our Constitution today. Serving as a local affiliate for this project would be a good way in which to begin your ABA participation. Interested persons should give me a call at 761-8600. I will put you in touch with the people in charge of this project for the ABA Young Lawyers Division.

The date of the annual Dolphin game, which was published in the July issue of the *Barrister*, is incorrect. The date of the game is November 10, 1985, and *not* November 11. Please mark your calendars accordingly.

We are currently searching for someone to take over the reins of the high

school education project, which has been handled so ably by Jerry Morris in past years. Anyone interested in spearheading this worthwhile project should give me a call at 761-8600.

D. David Keller

Young Lawyers Section Luncheon

The August luncheon of the Young Lawyers Section of the Broward County Bar Association will be held on Thursday, August 22, 1985, at 12:00 Noon at:

Cafe de Paris
715 East Las Olas Boulevard
Fort Lauderdale, Florida

The guest speaker will be The Honorable Miette K. Burnstein and she will speak to the Section on "Circuit Court Update." Please make your reservations by mailing your check in the amount of \$7.50 payable to "Young Lawyers Section" to Gerald M. Morris, Post Office Drawer 4078, Fort Lauderdale, Florida 33338, no later than Monday, August 19, 1985.

Ad Valorem Taxes

(Continued from Page 1)

further unanimously believes that the proposed tax is particularly burdensome to the professionals of Broward County who are presently doubly taxed for individual occupational licenses as well as occupational licenses for their professional associations.

NOW, THEREFORE, it is unanimously resolved that the Executive Committee of the Broward County Bar Association, for and on behalf of the members of said Association, opposes the adoption of any county ordinance implementing the aforesaid legislation and urges the County Commissioners of Broward County to take no such action.

Duly adopted by the Executive Committee on the 10th day of July, 1985.

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Resolution

(Continued from Page 1)

taxpayers of Broward County challenging the validity of the imposition of this additional tax and requesting a refund of the additional tax to any taxpayer who has paid it.

A special committee of the Real Property Section of the Broward County Bar Association has been formed to study and make recommendations concerning the additional 1980 ad valorem taxes. The committee fully supports the lawsuit which has been filed challenging this tax on behalf of the taxpayers and is working closely with Roger Staley and John Thabes, the attorneys representing the Plaintiffs in this action. The committee met with the Board of Trustees of Attorneys' Title Services, Inc., who have agreed to help finance the present litigation on behalf of the taxpayers of Broward County. The Real Property Section of the Broward County Bar Association would also request that all lawyers interested in the real property practice consider helping finance this litigation as well.

It is the concensus of the committee that unless a temporary restraining order is entered in the lawsuit restraining the collection of the tax that property owners should pay the tax in order to avoid the lien of tax certificates being issued on their property. It is also the concensus of the committee that on property which has been conveyed since 1980 that since the tax, if legal, became a lien on the property on January 1, 1980, that by virtue of warranties contained in Warranty Deeds and Mechanic's Lien affidavits, in almost every instance the seller of the property should be ultimately responsible to reimburse the purchaser for the payment of the tax. It is recommended that in paying the tax, a notation should be made on the check that the tax is paid under protest.

The committee further recommends that the attorneys of Broward County cooperate with each other and the purchasers of real estate in attempting to locate the sellers of the affected property.

All attorneys interested in the real property practice may want to monitor the progress of the case which has been filed contesting this tax, which is in the Circuit Court of Broward County, Case No. 85-16613 CR entitled *Robert Hittel, Sr., et al., Plaintiffs, vs. Joseph Rosenhagen, as the Director of Revenue Collection, Broward County, Florida; and the Board of County Commissioners of Broward County, Florida, Defendants.*

Patrick G. Kelley, Chairman
Real Property Section

Assigned Alternate Judges for Emergency Purposes

Procedure implementing Administrative Order 1.02.1, as amended July 1, 1985, regarding Assigned Alternate Judges for Emergency Purposes, Circuit Civil Division:

1. The attorney seeking emergency relief will determine that the Judge to whom the case was assigned is absent from the courthouse and is not expected to return for the remainder of the day.

2. The attorney will then go to the Court Administrator's Office (Room 880) with the motion requesting immediate relief, the Court file, and a brief written statement setting forth the reasons for the urgency.

3. A Deputy Court Administrator will:

(a) verify the absence of the Judge to whom the case was assigned,

(b) ascertain that the attorney has prepared a written motion and a written statement of urgency, and

(c) determine that the attorney has the Court file (or applicable portions of the Court file).

4. The Deputy Court Administrator will then assign an alternate Judge on a random basis.

5. The assigned alternate Judge will entertain the Motion at her/his earliest opportunity to determine whether an emergency situation exists and when such matter will be heard.

6. If the assigned alternate Judge determines that an emergency exists she/he will schedule such hearing at her/his earliest opportunity and enter appropriate orders. If the assigned alternate Judge determines that an emergency does not exist and the matter can be handled by the Judge to whom the case is assigned, she/he will note such finding on the assignment sheet.

7. The assigned alternate Judge will then return the Court file, together with the original assignment sheet and any notations thereon, and any original orders, to the Clerk's Office for docketing. She/he will send a confirmed copy of the assignment sheet by inter-courthouse mail to the original assigned Judge.

8. The attorney will send confirmed copies of any orders to all interested counsel and/or parties, where applicable.

**Judge Miette Burnstein
Chief Judge**

Legislation and Law

The Legislative Committee of the Broward County Bar Association met to lay foundations for projected programs of 1985-86. One of the previously-stated purposes of the Committee is to "actively communicate with the Broward County Legislative Delegation and the Broward County Commission" regarding the position of the Bar on State legislation and county commission action "affecting the practices of law and the Judiciary."

Toward that purpose, the program planned by the Committee is both active and ambitious. It includes: meeting regularly with members of the Broward Legislative Delegation to exchange thoughts on suggested and pending legislation, attending Legislative Workshops conducted by the Broward Delegation, conducting the BCBA Annual Legislative Dinner. The Dinner is scheduled for mid-winter, will feature a preeminent Guest Speaker, and will honor the members of the Broward Legislative Delegation.

The Committee needs the participation of all members of the Bar in order to provide the Legislative Delegation and the County Commission with insight into Bar concerns. Thus, letters have been directed to Bar Committees, Sections and Liaisons, inviting responses immediately.

Should you be aware of problems needing attention and reform, please direct your suggestions to the Committee. Limit your proposed bill, resolution or action to a two-hundred-word summary. Deadline for consideration is September 1, 1985. Send information to the attention of Donald A. Wich, Jr., Chairman, Legislative Committee, BCBA, 733 N.E. Third Avenue, Fort Lauderdale, FL 33304.

Members of the Legislative Committee would be pleased to discuss your concerns with you. They are: Donald A. Wich, Jr., Chairman; Cathy J. Burris; Andrew DeGraffenreidt, III; Marlyne "Marzi" Kaplan; Charles M. Prince; Terrence Russell; C. Lavon Ward; William J. Zloch, Liaison.

Let us hear from you as soon as possible.

Marzi Kaplan

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LTAC reviews range from thirty to fifty typeset pages in length with a chart of features and full evaluation of operation of the software tested. Copies of the review may be ordered by writing: American Bar Association, Order Fulfillment code 219, 750 N. Lake Shore Drive, Chicago, IL 60611. The charge for each review is \$10 for members of the ABA and \$25 for nonmembers. Add \$2.00 to the total for handling. Members of the ABA may also place a standing order for all reviews and will be billed monthly. Nonmembers may place standing orders by supplying the ABA with a valid Visa or Mastercard number. Nonmembers will be automatically billed monthly. For further information on orders call 312/988-5555. For more information on LTAC and the review process call 312/988-5642.

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Conference of County Court Judges

The Conference of County Court Judges is proud to announce the election of Judge Larry Seidlin as a Vice President and Judge Steven Shutter as a Director of the Conference of County Court Judges.

Broward County Judges Seidlin and Shutter were elected by the members of the Conference of County Court Judges of Florida at the Conference's statewide meeting in Key West on June 21, 1985.

The Conference of County Court Judges was established by law to be the official representative of all of Florida's two hundred and fourteen County Court judges.

One of the purposes of the statewide Conference is to advocate changes in the law for the benefit of the public, especially in matters regarding traffic laws, misdemeanor laws and small claims court laws. The Conference is particularly proud of its efforts this year in

working with the legislature in securing the passage of Senate Bill 1183. This new law benefits good drivers by prohibiting insurance companies from raising insurance rates for minor traffic offenses and by providing for the withholding of points in many situations where a good driver has received a ticket and elects to attend defensive driving classes.

Senate Bill 1183 was originally conceived by Broward County Judge Harvey Ford. He and Broward County Judge Jack Luzzo were the principal Judges responsible for this bill's passage.

Judge William Herring (Broward County) successfully proposed and worked with the legislature this year in the passage of improved and simplified garnishment laws.

Broward's County Court Judges are prominent figures in the statewide Judiciary. Judge Ford is the immediate Past President of the Conference, Retired Judge Morton Abram was a recent President of the Conference and Judge Jack Luzzo has headed the Conference Legislative Committee for the past two years.

Florida Designation/Plan Course Approval

The Real Property Section Seminar held on December 12, 1984, has received the following credits:

General Practice	3 hours
Real Property Law	3 hours
Trial Practice-General	3 hours

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Address _____

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Phone _____ Date of Birth _____

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Welcome New Members

RICHARD M. ALTMAN, a native of Wauchula, Florida, received his undergraduate degree from Stetson University and his law degree from University of Florida. He is associated with Kruse and Livoti in Fort Lauderdale.

* * *

ROBERT P. BUDISH, a native of Irvington, New Jersey, received his undergraduate degree from Boston University and his law degree from University of Miami. He is associated with Birr, Bryant & Saier in Fort Lauderdale.

* * *

RONALD T. DUGGAN, a native of Chicago, Illinois, received his undergraduate degree from Spring Hill College and his law degree from Loyola University. He is associated with Stuart & Walker in Fort Lauderdale.

* * *

PAUL GERAD FINIZIO, a native of Philadelphia, Pennsylvania, received his undergraduate degree from University of Florida and his law degree from Nova University. He is a sole practitioner in Fort Lauderdale.

* * *

M. LYNN FUTCH, a native of St. Petersburg, Florida, received her undergraduate and law degrees from Florida State University. She is associated with Pyszka, Kessler, Massey, Weldon, Catri, Holton & Douberley in Fort Lauderdale.

* * *

MELINDA S. GENTILE, a native of Kansas City, Missouri, received her undergraduate degree from Florida International University and her law degree from Nova University. She is associated with Ruden, Barnett, McClosky, Schuster & Russell in Fort Lauderdale.

* * *

DAVID J. GERHARDT, a native of New York, New York, received his undergraduate degree from Alfred University and his law degree from University of Miami. He is associated with Joseph L. Day in Fort Lauderdale.

* * *

LISA GOLDBERG, a native of Washington, District of Columbia, received her undergraduate degree from University of Maryland and her law degree from Nova University. She is associated with Broward County Legal Aid Service in Fort Lauderdale.

* * *

CONSTANCE G. GRAYSON, a native of Lexington, Kentucky, received her undergraduate degree from Eastern Kentucky University and her law degree from University of Kentucky. She is associated with English, McCaughan & O'Bryan in Fort Lauderdale.

* * *

RONNI SUE GREEN, a native of Trenton, New Jersey, received her undergraduate degree from University of Miami and her law degree from Nova University. She is a sole practitioner in Fort Lauderdale.

* * *

FRANCES JAUQUET-MANN, a native of Ashland, Wisconsin, received her undergraduate degree from University of Wisconsin and her law degree from Hamline University. She is a Trust Representative with Sun Bank in Fort Lauderdale.

* * *

LOUISE REISCH KINGSLEY, a native of Tokyo, Japan, received her undergraduate degree from George Washington University and her law degree from Nova University. She is associated with David J. Kingsley in Plantation.

* * *

KEVIN J. O'GRADY, a native of Brooklyn, New York, received his undergraduate degree from Cornell University and his law degree from George Washington University. He is associated with Ruden, Barnett, McClosky, Schuster & Russell in Fort Lauderdale.

* * *

AUDREY ROTH PASIN, a native of New York City, New York, received her undergraduate degree from Columbia University and her law degree from Nova University. She is associated with Wendy Newman Glantz in Lauderdale.

* * *

JOHN H. PELZER, a native of Detroit, Michigan, received his undergraduate degree from Stetson University and his law degree from Tulane University. He is associated with Ruden, Barnett, McClosky, Schuster & Russell in Fort Lauderdale.

* * *

JANET R. RILEY, a native of Fort Campbell, Kentucky, received her undergraduate degree from University of Florida and her law degree from University of Miami. She is associated with Broward County Legal Aid Service in Fort Lauderdale.

* * *

GREG ROSS, a native of Brooklyn, New York, received his undergraduate degree from Brooklyn College and his law degree from Nova University. He is a sole practitioner in Fort Lauderdale.

* * *

SCOTT P. SCHLESINGER, a native of Miami, Florida, received his undergraduate degree from Brown University and his law degree from University of Florida. He is associated with Sheldon J. Schlesinger in Fort Lauderdale.

* * *

EDWIN J. STACKER, a native of Amityville, New York, received his undergraduate and law degrees from Florida State University. He is associated with Ruden, Barnett, McClosky, Schuster & Russell in Fort Lauderdale.

* * *

DARRYL J. TOMPKINS, a native of Fort Lauderdale, Florida, received his undergraduate degree from University of Florida and his law degree from Nova University. He is associated with Tompkins & Kelley in Fort Lauderdale.

* * *

LOUISE E. TUDZAROV, a native of Detroit, Michigan, received her undergraduate degree from Michigan State University and her law degree from Wayne State University. She is associated with Ruden, Barnett, McClosky, Schuster & Russell in Fort Lauderdale.

* * *

STEPHEN L. ZIMMERMAN, a native of Pompano Beach, Florida, received his undergraduate and law degrees from University of Florida. He is associated with Norman Zimmerman in Pompano Beach.

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Administrative Order No. 9.07.1

Amended July 10, 1985

WHEREAS, there are insufficient elevators to accommodate the courts' needs, and

WHEREAS such acute shortage of elevators adversely affects all functions of court proceedings, pursuant to Rule 2.050 of the Florida Rules of Judicial Administration, it is

ORDERED AND ADJUDGED that all hand trucks, dollies, or similar bulky carts which would impede the free flow of passenger traffic between 8:30 A.M. and 9:30 A.M. and between 11:45 A.M. and 12:30 P.M. be and the same are hereby prohibited in this elevator.

This order will be strictly enforced. Done and ordered at Fort Lauderdale, Broward County, Florida, this tenth day of July, 1985.

Judge Miette K. Burnstein
Chief Judge



Judge Jose Gonzalez swears in Officers of BCBA: Patrick Bailey, President, Roger Staley, President-Elect, David Bogenschutz, Secretary-Treasurer

YLS Officers sworn in by Judge Jose Gonzalez: D. David Keller, President, Glenn Leonard, President-Elect, Gerald Morris, Secretary-Treasurer



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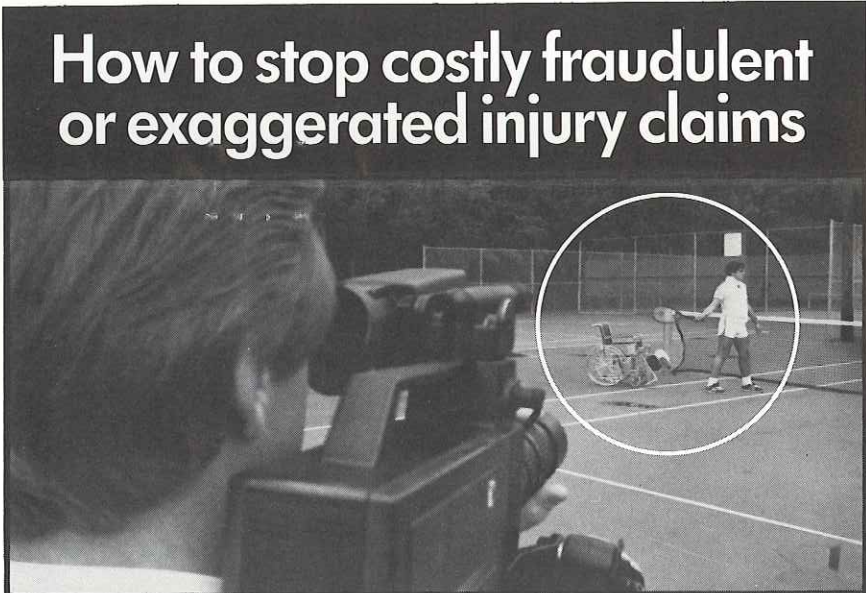
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CALENDAR OF EVENTS

Date	Group & Event	Time & Place	Reservations
8/9/85	Broward Christian Lawyers Assn. Monthly Meeting	Holiday Inn, State Road 84 just west of I-95 Ft. Lauderdale, 12:00 Noon	Ronald Houchins 752-8100
8/13/85	North Broward Bar Assn. Monthly Meeting	Flaming Pit Restaurant, 1150 N. Federal Hwy., Pompano Beach, 12:00 Noon	John L. Korthals 943-2020
8/22/85	Young Lawyers Section Luncheon Meeting	Cafe de Paris, 715 E. Las Olas Blvd. Ft. Lauderdale, 12:00 Noon	Gerald M. Morris 525-0531
9/18/85	Broward County Women Lawyers Assn.	Tower Club, 1 Financial Plaza Ft. Lauderdale, 12:00 Noon	Susan Tillman, Esq. 474-9151
9/26/85	BCBA General Meeting	Anacapri Inn and Restaurant, 1901 N. Federal Hwy., Ft. Lauderdale, 6:30 P.M.	BCBA 764-8040

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