

# 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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NOVEMBER 1985

Volume 14

Number 11

## General Meeting

November 26, 1985

Anacapri Inn and Restaurant

1901 North Federal Highway / Fort Lauderdale, Florida

*Cocktails 6:30 P.M.—Cash Bar*

*Dinner 7:30 P.M.*

*Price \$16.00*

*Program: Honoring attorneys who have been members of the Bar  
for thirty-five years or more*

Melvin L. Green  
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**Reservations are necessary.** Please return the enclosed reservation card by November 21, 1985. Reservations made and not cancelled by November 21, 1985, must be paid if guarantee is not met and the Bar is charged for dinners.

## BENCH-BAR WORKSHOP

November 22, 1985

*Workshop 1:00 P.M.-5:00 P.M.*

*Cocktail Reception 5:00 P.M.-6:00 P.M.*

Fort Lauderdale Beach Hilton, 4060 Galt Ocean Drive, Fort Lauderdale, Florida

(Details were in October *Barrister*)

*Registration Fee—\$25.00*

**Call 764-8040**

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

**OFFICERS**

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Roger H. Staley . . . *President-Elect*  
J. David Bogenschutz  
*Secretary-Treasurer*  
Norma B. Howard  
*Executive Director*

**Motion Calendars Suspended**

<i>Judge</i>	<i>From</i>	<i>Through</i>
Barbara Bridge	October 14	November 12
Linda L. Vitale	November 4	November 6
Gene Fischer	November 18	November 21
H. Mark Purdy	December 16	December 31
Estella M. Moriarty	December 23	January 2
Estella M. Moriarty	November 1 (Domestic)	
Estella M. Moriarty	November 22 (Domestic)	
Estella M. Moriarty	December 27 (Domestic)	

**Schedule of Circuit Court  
Civil Division and Criminal  
Division Duty Judges**

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

<i>Week Commencing</i>	<i>Judge</i>
November 1 . . . . .	Paul M. Marko, III
November 8 . . . . .	Patricia W. Cocalis
November 15 . . . . .	Robert C. Scott
November 22 . . . . .	Barbara Bridge
November 29 . . . . .	H. Mark Purdy

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

<i>Week Commencing</i>	<i>Judge</i>
November 1 . . . . .	Russell E. Seay
November 8 . . . . .	Thomas M. Coker, Jr.
November 15 . . . . .	Leroy H. Moe
November 22 . . . . .	Barry J. Stone
November 29 . . . . .	J. Leonard Fleet

**Federal Court Complaints?**

Complaints concerning matters in Federal Court, including specific problems concerning the operation of the Court, may be made to the following Broward County Members of the Southern District Bench Bar Liaison Committee. The Committee will investigate these complaints and, if appropriate, direct the Court's attention to the problem. The anonymity of the complaining lawyer (or client) is assured.

J. David Bogenschutz 764-2500  
Linda A. Conahan 462-3300  
G. Ware Cornell, Jr. 462-2000

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**Designation of Judicial  
Officers For Weekend First**

YOUNG LAWYERS SECTION LUNCHEON MEETING  
Thursday, December 12, 1985 at 12:00 Noon  
Note: No November Meeting  
CAFE DE GENEVE

Please make \_\_\_\_\_ (No.)  
reservations for the General  
Meeting of the Broward County  
Bar Association on Tuesday,  
November 26, 1985, at the  
Anacapri Inn, 1901 N. Federal  
Highway, Fort Lauderdale, Fl

Cocktails: 6:30 PM (Cash Bar)  
Dinner: 7:30 PM  
Price: \$16.00

Reservations are necessary.  
The deadline for reservations is  
November 21, 1985.

\_\_\_\_\_  
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## Young Lawyers Section President's Message

For those of you who were unable to attend our October luncheon, we were privileged to have Florida Bar President-Elect Joe Reiter address us on many of the pressing issues facing lawyers today. In particular, Reiter discussed the movement in the Florida Legislature to eliminate the sales tax exemption from legal fees. If this proposal is enacted, it will mean that we will have to charge and collect from our client an additional five percent sales tax on all fees. For many reasons, this would create unusual problems for lawyers. For instance, it creates a constitutional issue in the area of fees charged by criminal lawyers. It is not too early to notify your elected state representative in Tallahassee of our strong opposition to this legislation. The Florida Bar will be lobbying vigorously against this proposal, but individual input from members of the local Bar is also essential if we are to defeat this legislation.

Because of the holidays, we will have a combined November-December luncheon meeting, which will be held on Thursday, December 12th, at Cafe de Geneve. Reservation cards are enclosed with this issue of the *Barrister*.

Melanie May's social committee is now gearing up for our Third Annual Judicial Reception. This has been one of the Broward County Young Lawyers Section's most successful events which we have all come to look forward to each year. The social committee is now in the process of soliciting contributions from legal firms to support this event, and we encourage all of you to participate in underwriting this tribute to our local judges. The reception has been scheduled for Thursday, February 6th, at the Harbor Beach Marriott. I know under Melanie's direction it will continue to be the social event of the year.

D. David Keller

## Florida Bar Sets Record in Prosecuting Errant Attorneys

TALLAHASSEE, September 13— There has been a crackdown on unethical lawyers over the past year led by the Supreme Court of Florida and The Florida Bar in response to a record number of consumer complaints. The Florida Bar set a new record during the year ending June 30 by successfully prosecuting 354 errant attorneys who violated their ethical responsibilities, according to a Bar spokesperson who made the statistics available today in Tallahassee. The number of attorneys disciplined by the Supreme Court reflects a 9% increase over the previous year in response to a similar increase in the number of complaints.

The Florida Bar legal division director John Berry said disciplinary actions taken by the Supreme Court of Florida at the urging of The Florida Bar between July 1, 1984, and June 30, 1985, included some 119 serious disciplines, an increase of 27% over the previous year. The serious disciplines included 17 disbarments, 51 suspensions, 32 public reprimands and 19 resignations. In addition, errant attorneys were given 56 private reprimands. Another 167 attorneys were admonished, even though no probable cause was established that they technically violated their ethical responsibilities as contained in the Code of Professional Responsibility.

According to Patrick Emmanuel of Pensacola, President of The Florida Bar, the Bar wants to "weed out unethical attorneys for the good of the profession and the greater good of the legal consumer." He also states that the Bar is also engaging in "preventative maintenance" by requiring attorneys to take courses in legal ethics as part of the newly imposed continuing education requirement for Florida Bar members.

## New ABA President Outlines Policy Priorities

Increasing the involvement of women and minorities in the American Bar Association; improving the delivery of legal services, especially to middle-income and elderly persons; planning to be sure American liberties are not sacrificed if terrorism is exported to this country and vigorously battling international terrorism; and improving relations between American lawyers and bar groups in Central and South America are four issues on which new association President William W. Falsgraf of Cleveland, Ohio, will focus during his one-year term that started in late July.

"There is a perception among women and minority lawyers that the American Bar Association is run by white males, middle-aged and older, that it's not relevant to them," Falsgraf said in a news conference at the 1985 ABA Annual Meeting in Washington, D.C., shortly before beginning his term. "It's not true, but that's their perception, and we've got to deal with it." Falsgraf noted that more than a third of his new appointments to ABA committees and other entities are either women or minorities. Falsgraf also plans to participate with the ABA Section of Individual Rights and Responsibilities in meetings throughout the country with women's and minorities' legal groups, to demonstrate that the ABA is "not only interested in but needs their participation and support."

Falsgraf is a partner in the Cleveland firm of Baker & Hostetler, where he practices primarily in environmental law. He received his law degree from Case Western Reserve University in Cleveland after receiving his bachelor's degree from Amherst College in Amherst, Mass. Falsgraf and his wife, Janet, have three children.

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## Reforming Florida's Wrongful Death Act

When the Florida Wrongful Death Act became law in 1972, it was the intent of our legislature that losses resulting from wrongful death be shifted from the survivors of the decedent to the wrongdoer. This was deemed to be the public policy of the state. Unfortunately, because of certain limitations in the Act, there are situations in which its stated purpose is not being fully realized.

The Wrongful Death Act, as currently structured, permits recovery for mental pain and suffering only to a surviving spouse, minor children of a decedent, and to each parent of a deceased minor child. By definition, minor children includes only those children under 25 years of age. This distinction between minor children and adult children leads to an especially harsh result in two instances. First, it leads to a disagreeable result in those cases where the decedent is over the age of 25 and, although unmarried, is survived by his or her parents. Secondly, the outcome is equally annoying where the decedent is a divorced or widowed parent survived only by adult children. In both of these situations, the mental pain and suffering accompanying the decedent's death goes uncompensated. Quite often, in fact, little more than the funeral expense is recoverable from the wrongdoer. This artificial bar to recovery, which is based solely upon a child's age at the time of the wrongful act, is inconsistent with the intent of the Wrongful Death Act.

Few would dispute that there is a more tragic loss than the untimely death of a loved one—particularly when either a child loses a parent or a parent loses a child. The severe emotional distress that follows such a loss is compounded when the death results from the wrongful act of another. For the most part, this mental pain and suffering is not lessened because

the child decedent or child survivor is 25 years of age or older. Love and affection between a parent and child certainly does not stop when the child attains age 25. It borders on the absurd to even think in these terms. Moreover, there are no reasonable bases to support the arbitrary line drawing that presently exists in the Wrongful Death Act.

It can hardly be argued that permitting recovery for mental pain and suffering under the circumstances outlined above will open the floodgates to increased litigation. Parents and adult children can already recover certain other damages, if applicable, such as lost support, resulting from wrongful death. The class of potential litigants, therefore, would not be expanded by permitting recovery for mental anguish as well. Distant relatives and friends would still be precluded from pursuing damage claims.

Likewise, there is no greater danger of fraud or collusion in a wrongful death case than in any other type of case in which recovery for pain and suffering is sought. Simply put, the extent of mental pain and suffering should be left to the discretion of a jury. In this regard, the jury is entitled to hear all evidence concerning the affection, or lack thereof, which the parent and child had for each other. Submitting such a death case to the jury is more consistent with the intent of the Wrongful Death Act than a flat out denial of recovery.

In conclusion, it is time that the Florida Wrongful Death Act be reformed to eliminate its harsh results and inherent inconsistencies. Only in this way can the public policy of the state finally be realized and the losses resulting from wrongful death truly shifted from the survivors of the decedent to the wrongdoer.

**Charles M. Prince**

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## Welcome New Members

**LAWRENCE F. BEYER**, a native of Detroit, Michigan, received his undergraduate degree from Wayne State University and his law degree from George Washington University. He is associated with Hodgson, Andrews, Woods & Goodyear in Fort Lauderdale.

**HARVEY A. BURGER**, a native of New York City, New York, received his undergraduate degree from University of Miami and his law degree from Stetson University. He is associated with T.C. Miller & Co. in Fort Lauderdale.

**JOSEPH LOUIS CARUNCHO**, a native of Havana, Cuba, received his undergraduate degree from Florida International University and his law degree from Nova University. He is associated with Calvo, Bofshever, Marinelli & Perry in Fort Lauderdale.

**CARMEN COELLO**, a native of Havana, Cuba, received her undergraduate degree from University of Miami and her law degree from Nova University. She is associated with Glazer & Glazer in Hallandale.

**WENDY HOPE COHEN**, a native of Brooklyn, New York, received her undergraduate degree from Wellesley College and her law degree from Columbia University. She is associated with Holland & Knight in Fort Lauderdale.

**ALAN B. COHN**, a native of Miami, Florida, received his undergraduate and law degrees from University of Florida. He is associated with Abrams, Anton, Robbins, Resnick, Schneider & Mager in Hollywood.

**DOUGLAS P. COOPER**, a native of Rochester, Minnesota, received his undergraduate degree from Trinity College and his law degree from Nova University. He is Co-Counsel to J. Cox Cummings & Lockwood in Naples, Florida.

**KIMBERLY ANNE GILMOUR**, a native of Batavia, New York, received her undergraduate degree from College of New Rochelle and her law degree from Nova University. She is associated with Tripp, Scott, Conklin & Smith in Fort Lauderdale.

**RALPH MICHAEL HURSEY**, a native of Urbana, Illinois, received his undergraduate degree from University of Illinois and his law degree from Ohio State University. He is a sole practitioner in Fort Lauderdale.

**MIMI SALL-PRITCHARD**, a native of Binghamton, New York, received her undergraduate degree from Kent State University and her law degree from University of Miami. She is Clerk for U.S. District Judge Jose A. Gonzalez, Jr., in Fort Lauderdale.

**DIANA SANTA MARIA**, a native of Havana, Cuba, received her undergraduate and law degrees from University of Miami. She is associated with Sheldon J. Schlesinger in Fort Lauderdale.

## Legal Aid Service Board of Directors Position

Qualified applicants are needed to serve on the Board of Directors of Legal Aid Service of Broward County, Inc. Anyone interested in being considered, and having a desire to serve, should send a resume stating his/her qualifications for the position. Send resumes by December 1, 1985, to:

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## Circuit Civil Caseload Report As Of October 14, 1985

Submitted by the Court Administrator's Office

DIVISION	SETTING TIME		MOTIONS (30 minutes or less) excluding motion calendar
	JURY TRIALS (5 days or less)	NON-JURY TRIALS (2 days or less)	
	months	months	weeks
Circuit Court Judges			
James M. Reasbeck	8	2	8
Paul M. Marko III	4	2	3
J. Cail Lee	8	8	15
Gene Fischer	6	3	8
W. Herbert Moriarty	4	1	5
Joseph E. Price, Jr.	8	2	3
George Shahood	4	2	2
Eugene S. Garrett	2	1	3
Mel Grossman	6	5	9
Robert C. Abel, Jr.	3-4	3	10
Estella M. Moriarty	3	3	7
Linda Vitale	4	2	1
Bobby W. Gunther	3	2	8
H. Mark Purdy	6	4	4
Robert L. Andrews	5	5	15
Robert C. Scott	3	1	2-3

## Twenty-Six Apply for Two Openings on Broward Circuit Court

The Judicial Nominating Commission will screen applicants for the Circuit Court positions and send from four to ten finalists to Governor Bob Graham who will fill the two judgeships.

Applications have been received from the following:

### County Judges

Arthur M. Birken  
Harvey Ford  
Brian F. Kay  
John T. Luzzo  
Constance R. Nutaro  
Larry Seidlin  
Steven Shutter  
Zebedee Wright

### Others

Robert Carney, III  
Barry E. Goldstein  
Joel T. Lazarus  
Penn D. Farrington  
Robert A. Rosenberg  
Craig S. Dyer  
George A. Brescher  
Alexander "Sandy" Cocalis  
Robert J. O'Toole  
Leonard L. Stafford  
Ronald Dion  
Carole Yvonne Taylor  
Gregory Esposito  
Leonard Feiner  
Kenneth W. Shapiro  
Linda Raspolich Pratt  
Gary Kollin  
Martha Ann Snedaker

If the nominations have not been made upon receipt of the *Barrister*, anyone wishing to make comments or recommendations should send them to Terrence Russell, Post Office Box 1900, Fort Lauderdale, Florida 33302.

## Positions Available

The Fourth District Court of Appeal in West Palm Beach, Florida, is accepting applications for two senior staff attorney positions. Starting salary is \$25,657 per annum. Minimum requirements include three years of legal experience, one year of which must have been spent in an appellate clerkship. These prerequisites may be waived in exceptional circumstances.

The prime qualifications for the position include a proven aptitude for legal research and writing coupled with a willingness to make a full commitment to the judicial process.

The deadline for receipt of applications is Friday, November 29, 1985. Applicants should send a resume, a writing sample (which cannot be returned) and the names, addresses and telephone numbers of two work-related references to: Senior Staff Attorney Search Committee Fourth District Court of Appeal Post Office Box A West Palm Beach, Florida 33402-3315

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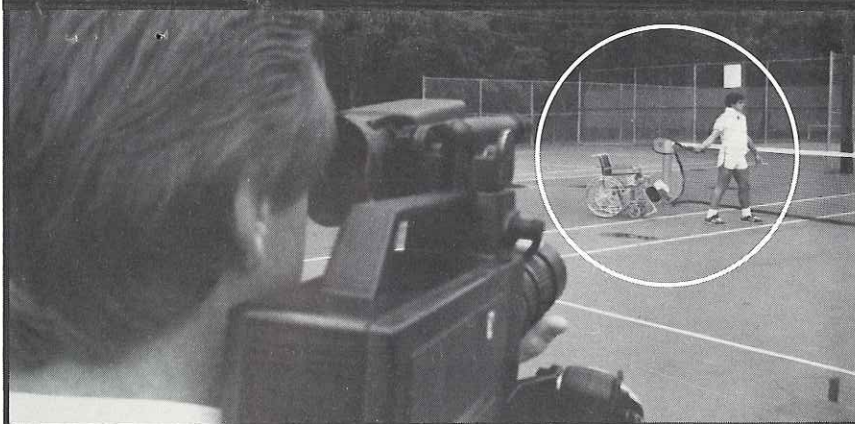
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# CALENDAR OF EVENTS

Date	Group & Event	Time & Place	Reservations
11/12/85	North Broward Bar Assn. Monthly Meeting	Flaming Pit Restaurant, 1150 N. Federal Hwy., Pompano Beach, 12:00 Noon	John L. Korthals 943-2020
11/14/85	Broward County Women Lawyers Assn. Fashion Show & Champagne Reception with Hors d'oeuvres	Saks Fifth Avenue, Galleria 2598 E. Sunrise Blvd., Ft. Lauderdale 6:00 P.M., \$5.00	Karen Kugell or Susan 748-0100
11/14/85	Dinner Meeting Co-Sponsored by Florida Certified Public Accountants, B.C. Chapter CPA's, B.C. Bankers Assn. & Commercial Lenders Assn. of Broward Bankers & National Accountants Assns.	Harbor Beach Marriott 3030 Holiday Drive, Ft. Lauderdale	
11/20/85	South Broward Bar Assn. Monthly Meeting	Hemmingway Restaurant, 219 N. 21st Ave., Hollywood, 6:30 P.M.	Marci (Michele Cummings' office 920-7014)
11/21/85	B'Nai B'Rith Justice Unit Meeting	Anacapi Inn, 1901 N. Federal Hwy. Ft. Lauderdale, Cocktails 6:30 P.M. Dinner 7:30 P.M., \$16.00	Marilyn Liroff P.O. Box 14663, Ft. Lauderdale, 33302
11/22/85	Bench-Bar Workshop	Hilton Hotel, Ft. Lauderdale Beach 4060 Galt Ocean Dr., Ft. Lauderdale Workshop 4:00-5:00 P.M., Cocktail Reception 5:00-6:00 P.M., \$25.00	BCBA 764-8040
11/26/85	Legal Aid Service of Broward County, Inc. Board of Directors Meeting	609 S.W. 1st Ave., Ft. Lauderdale 5:00 P.M.	
11/26/85	BCBA General Meeting	Anacapi Inn, 1901 N. Federal Hwy. Ft. Lauderdale, Cocktails 6:30 P.M. Dinner 7:30 P.M., \$16.00	BCBA 764-8040
12/6/85	Cocktail Party Sponsored by California Federal	California Federal, Paragon Building corner of Commercial Blvd. & U.S. 1 Ft. Lauderdale, 6:00 P.M.	BCBA 764-8040
12/12/85	Young Lawyers Section Luncheon Meeting	Cafe de Geneve, 1519 S. Andrews Ave. Ft. Lauderdale, 12:00 Noon, \$9.00	Gerald M. Morris 525-0531

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