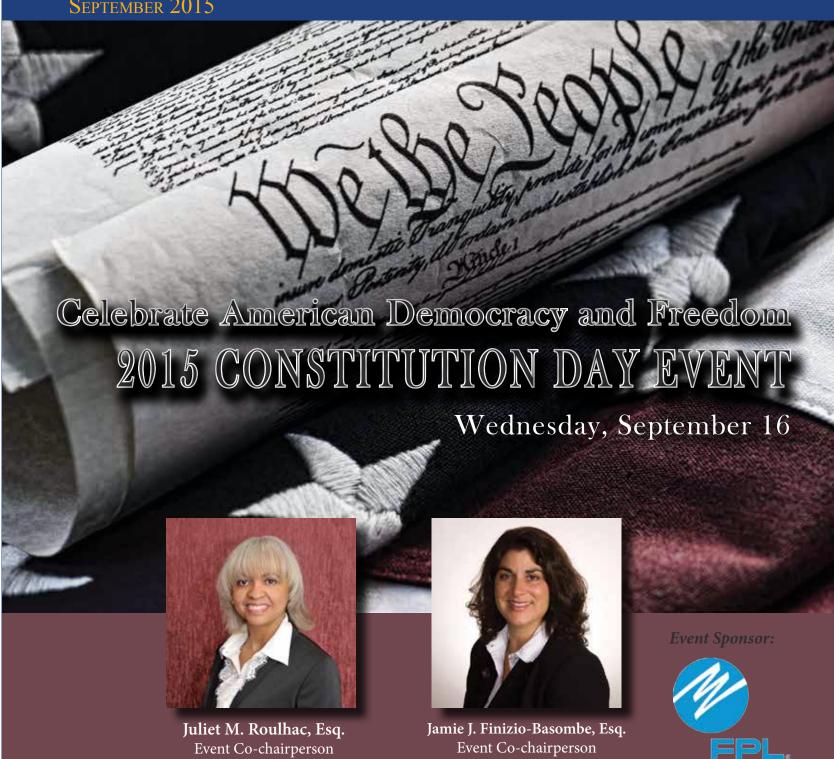
BROWARD COUNTY BAR ASSOCIATION KISIE

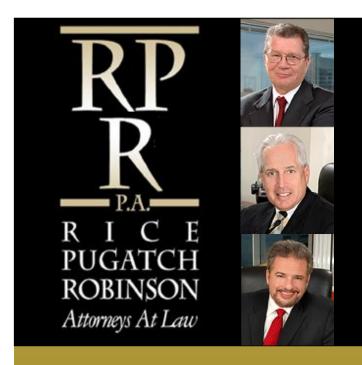
SEPTEMBER 2015



SERVING THE CITIZENS AND LEGAL COMMUNITY OF BROWARD COUNTY SINCE 1925

Florida Power & Light Co.

Law Offices of Finizio & Finizio, P.A.



Rice Pugatch Robinson, P.A. Welcomes Michael D. Karsch to its Real Estate, General **Corporate and Business Departments**

- Lender/ Creditor Rights
- Bankruptcy & Insolvency
- Commercial Foreclosure Litigation
- **Business Litigation**
- **Asset Recovery**
- Labor Relations
- **Employee Benefits**
- Civil Rights Defense
- **Employment Litigation**
- Discrimination Litigation
- **Employment Contracts**
- Arbitration, Trial, and Appellate Practice
- Real Estate

101 N.E. Third Avenue, Suite 1800, Ft. Lauderdale, FL 33301 954-462-8000 · 305-379-3121 www.rprslaw.com

Broward County BAR ASSOCIATION

Recognizes 100% Membership Club

For firms with 5 attorneys or more

Abramowitz, Pomerantz, & Morehead, P.A.

Billing, Cochran, Lyles, Mauro & Ramsey, P.A.

Brinkley Morgan

Broad & Cassel

Buchanan Ingersoll & Rooney PC

Bunnell & Woulfe, P.A.

Burr & Forman LLP

Catri, Holton, Kessler & Kessler P.A.

Chimpoulis, Hunter & Lynn, P.A.

Coast to Coast Legal Aid of South Florida

Cole, Scott, and Kissane

Colodny Fass

Cooney Trybus Kwavnick Peets, PLC

Doumar, Allsworth, Laystrom, Voigt, Wachs & Adair, LLP

Ferencik, Libanoff, Brandt, Bustamante, & Goldstein, P.A.

Fowler, White, Burnett, P.A.

Gladstone & Weissman, P.A.

Goldstein Law Group

Gray Robinson, P.A.

Haliczer, Pettis & Schwamm, P.A.

Johnson, Anselmo, Murdoch, Burke, Piper & Hochman, P.A.

Keller Landsberg PA

Kelley Uustal

Kim Vaughan Lerner LLP

Kirschbaum, Birnbaum, Lippman & Gregoire, PLLC

Lawcraft

Law Firm of Gary M. Singer, P.A.

Law Offices of Sheldon J. Schlesinger, P.A.

Legal Aid Service of Broward County

MacLean & Ema

May, Meacham & Davell, P.A.

McIntosh, Sawran & Cartaya, P.A.

Moraitis, Cofar, Karney & Moraitis

Rogers, Morris & Ziegler, LLP

Roig Lawyers

Schlesinger Law Offices, P.A.

Walton, Lantaff, Schroeder & Carson, LLP

Wicker, Smith, O'Hara, McCoy and Ford, P.A.

United We Stand... For the Accused All Courts, All Charges, All Day Long





Attorney Marquin Rinard

Death Qualified to Handle Capital Cases

30 Year Veteran Defense Attorney

MUSCA LAW \$ 302-5391

523 S. ANDREWS AVE. SUITE 1 FT LAUDERDALE, FL 33301



Staff Box

PUBLISHER

Broward County Bar Association 954.764.8040

PUBLICATIONS & PUBLICITY COMMITTEE

Edwina V. Kessler, Co-chairperson Kimberly Gessner, Co-chairperson Jared Guberman, Co-editor Chris Traina, Co-editor

EXECUTIVE EDITOR

Braulio N. Rosa braulio@browardbar.org

LAYOUT AND PRINTING

Park Row Printing

MANAGING EDITOR

Bonnie H. Ross bonnie@browardbar.org 954.832.3621

CONTRIBUTING WRITERS

Bruce A. Blitman Nancy Little Hoffman Natalie S. Kay Assad S. Mirza Christopher M. Neilson Mary Beth Ricke Adam R. Vaught

BILLING INQUIRIES

954.764.8040 Ext. 204

The Barrister is published monthly the Broward County Bar Association. All editorial, advertising and photos may be submitted for consideration through email to bonnie@browardbar.org. We reserve the right to reject any ad for any reason.

We make every effort to ensure the accuracy of the information published, but cannot be held responsible for any consequences arising from omissions or errors. Opinions expressed by our writers and advertisers are not necessarily opinions shared by the BCBA or the Barrister.

ON THE COVER:

Celebrate American democracy and freedom at the Broward County Bar Association's 2015 Constitution Day Reading and Reception event on Wednesday, September 16. See page 9 for more information.

inside this issue

Letter from the President Robin S. Moselle

Young Lawyers' Section Letter from the President Jeffrey M. Wank

BCBA Board of Directors' Response to the Reciprocity Proposal

Legal Health Corner Bruce B<mark>l</mark>itman

Judicial Campaign Rule Adam R. Vaught and Mary Beth Ricke

A Gentleman and a True **Professional**

Christopher M. Neilson

Recent Developments In The Law

Nancy Little Hoffman

Calendar of Events



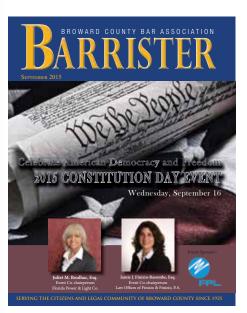












2015 - 2016 **BCBA Officers**

Robin S. Moselle - President Charles A. Morehead III - President Elect Thomas D. Oates - Treasurer Edwina V. Kessler - Secretary John G. Jordan - Past President

BOARD OF DIRECTORS

NORTHEAST

Michael I. Kean M. Ross Shulmister Jerome R. Siegel

NORTHWEST

Evan M. Ostfeld

WEST

Donald E. Fucik Gary M. Singer Russell Miller Thompson

CENTRAL

Jamie Finizio Bascombe William R. Clayton Michael A. Fischler Jose Izquierdo Michael D. Leader Alison F. Smith Robert C.L. Vaughan

SOUTHEAST

Michael A. Rajtar **Jeffrey Solomon** Laura Varela

SOUTHWEST

Kimberly A. Gilmour

JUDICIAL REPRESENTATIVE The Honorable Martin J. Bidwill

EXECUTIVE DIRECTOR

Braulio N. Rosa

Broward County Bar Association 1051 SE 3rd Avenue Fort Lauderdale, FL 33316 954.764.8040

letter from the president



Times They Are A Changing

I followed my father into the law. My dad, now retired, focused a good part of his practice in the area of collections. While I was growing up, he was the only attorney in Broward County who did this type of work. There was only one attorney in Dade County, one in Palm Beach County, and very few other attorneys in Florida practicing in this area. These attorneys did not practice beyond these lines as there was enough work keeping them busy in their respective county.

By the time I joined my father in his practice, we were covering the tricounty area, and when I moved my firm

to its current home, we were practicing throughout the state. Part of the reason for our expansion was based on technology; courtrooms and judges' chambers were now equipped to allow telephonic hearings, and it became possible to fax (and later e-mail) documents with ease. But a good portion of our expansion was attributed to necessity. Our field of law was becoming crowded with attorneys offering to do the same work at a lower fee. Clients were looking for one firm they could engage on a state-wide basis.

What happened in my little cosmos of the world is happening to attorneys on a global basis. Times are changing. Not only is the piece of the pie getting smaller, the number of people unable to afford legal representation is growing. To complicate matters, consumers can now look online for legal forms, legal advice and how-to for court appearances. Clients are looking for law firms who can represent them on a global basis, and on a low or flat fee.

The Florida Bar, under then President Eugene Pettis, formed Vision 2016 in order to address the myriad of emerging issues and to "prepare today's lawyer for tomorrow's practice." As part of its analysis, a Vision 2016 subgroup recently recommended allowing admission to out of state attorneys by motion through reciprocity. The attorney seeking admission would have to show that they are in good standing in their state and meet other qualifications, but would not have to take the Florida Bar Exam or have to show through any other means that they have a command of Florida law.

Your Broward County Bar Association Board of Directors has studied this proposal and do not feel that it is in the best interest of the public or attorneys in Florida. The Board of Directors has sent a letter to the Florida Bar expressing this opinion. A copy of the letter can be found in this issue of the Barrister on page 8. While we believe strongly that this proposal is replete with issues problematic to the practice of law in Florida, we understand that there may be BCBA members who are not in agreement with our views. We encourage you to express your position, either for or against the proposal, at VisionBarAdmissions@flabar.org. We also invite you to share your thoughts with us at https://www.browardbar.org/contact/.

BROWARD COUNTY BAR ASSOCIATION ANNUAL SPONSORS

Alpine Jaguar Broad & Cassel CopyScan • recordSHRED **Ellsley Sobol Attorneys at Law Empire Executive Offices** Fiske & Company Florida Mutual Lawyers Insurance Company Florida Power & Light Company Fowler White Burnett, P.A. Keller Landsberg PA L.R.I. • Process Services & Litigation Support LAN Infotech Morgan & Morgan MyMotionCalendar.com **Orange Legal Predig Media Recovery Unplugged Treatment Center Regal Home Health Care** The Law Offices of Robert David Malove Sabadell United Bank Upchurch, Watson, White & Max



Defending Reputations®

Professional Association

are here to help you with Risk Management, Legal Malpractice Claims and Florida Bar Grievances.

Do you have an ADR case? Alan Landsberg is a Florida Certified Circuit Civil Mediator.



D. David Keller

Best Lawyers in America - Legal Malpractice Defended more than 400 legal malpractice claims Approved counsel for many legal malpractice insurers AV rated - Martindale-Hubbell Florida Super Lawyers 2010-2014 Top Lawyer - South Florida Legal Guide Past President, ABOTA, Fort Lauderdale Federation of Defense and Corporate Counsel



Alan L. Landsberg

Best Lawyers in America -Defense — Personal Injury Litigation Certified Circuit Civil Mediator **ABOTA Member** Former Managing Attorney, Hartford Insurance Co. Florida Bar Professional Ethics Committee

Proud Annual Sponsors of the Broward County Bar Association

Keller Landsberg PA

Broward Financial Centre 500 E. Broward Boulevard, Suite 1400 Fort Lauderdale, FL 33394 P· 954 761 3550

www.kellerlandsberg.com

D. David Keller Alan L. Landsberg Wendy J. Stein Raymond L Robin Ana Laura Olman Dena B. Sacharow Emily G. Romano Maria N. Vernace, Of Counsel Charles B. Morton, Jr., Of Counsel

2015-2016 BCBA Young Lawyers' Section

OFFICERS

Jeffrey M. Wank - President Kelly M. Vogt - President Elect Todd L. Baker - Treasurer Sara M. Sandler - Secretary Liza Smoker Faw - Past President

BOARD OF DIRECTORS

Jamie D. Alman Lauren M. Alperstein Omar Giraldo Jeffrey Hegewald Renita Henry **Lindsay Massillon Brent Reitman Emily Romano** Eric S. Rosen Anthony H. Quackenbush H. Seth Rosenthal Stacy R. Weissman

JUDICIAL REPRESENTATIVES

The Honorable Robert Diaz The Honorable Stacy Ross

Florida Bar **Board of Governors** 17th Judicial Circuit

Walter G. "Skip" Campbell 954.763.8181

Lorna E. Brown-Burton 954.463.8322

> Jay Cohen 954.763.6939

Adam Glenn Rabinowitz 954.764.7060

> Diana Santa Maria 954.434.1077

Broward County Bar Association

1051 SE 3rd Avenue Fort Lauderdale, FL 33316 954,764,8040

letter from the young lawyers' president



Donald Trump has taken over the Republican presidential debate and consumed the news coverage over the past couple of months. His remarks have gained national attention. People either love him or hate him. Even his opponents have acknowledged he can no longer be ignored. It seems a majority of Americans are tuning into to politics and the Presidential debates, even though the general election is more than a year away. Why? Two words: The Donald.

Whether they admire his "straight talk" approach, agree with his positions, chuckle at his hair, or are simply amused and entertained every time Mr. Trump speaks, it is clear people are engaged. There is something to be learned from these past few months. For starters, he is changing

the way the game is played. The question becomes: will Mr. Trump continue to succeed with this approach, or is he just a summer fling?

Perhaps for the first time in the Young Lawyers' Section's President's Letter, the first two paragraphs have nothing to do with YLS or the BCBA. Maybe by changing it up, we can engage more YLS members. I am pleased to report that, within the first month of our fiscal year, more YLS members than ever before have joined our committees and are actively participating in planning and hosting our events. To date, more than 40 YLS members, in addition to the 16 members on the board of directors, are taking an active role in bettering our community and advancing our profession. I hope this trend continues. Please feel free to reach out to me directly for opportunities to get involved.

Finally, help YLS raise more money and awareness for Habitat for Humanity of Broward County, our charitable beneficiary for the YLS 28th Annual Charity Golf Tournament. The Tournament is on Saturday, Oct. 3, 2015, at Jacaranda Golf Club, and our Tee-Off Happy Hour is on Wednesday, Sept. 30, 2015, at Public House starting at 5:30 p.m. Led by Lauren Alperstein, Stacy Weissman, and H. Seth Rosenthal, along with the help of the entire YLS board of directors and several other committee members, this year's tournament promises to be bigger and better than ever. Visit our homepage at https:// www.browardbar.org/yls/ and click the links to register to play or sponsor, or contact Ms. Alperstein, the section event chair, at YLSGOLF@BSFLLP.COM.



YLS Board presenting a check for \$30,000 to last year's charitable beneficiary, ARC Broward!



OFFICERS

ROBIN S. MOSELLE **PRESIDENT**

CHARLES A. MOREHEAD III PRESIDENT ELECT

> THOMAS D. OATES TREASURER

EDWINA V. KESSLER SECRETARY

JOHN G. JORDAN PAST PRESIDENT

BRAULIO N. ROSA EXECUTIVE DIRECTOR

BOARD OF DIRECTORS

Central JAMIE FINIZIO BASCOMBE WILLIAM R. CLAYTON MICHAEL A. FISCHLER 10SF IZOUTERDO MICHAEL D. LEADER ALISON F. SMITH ROBERT C.L. VAUGHAN

> North ALAN S. FISHMAN

Northeast MICHAEL L. KEAN EVAN M. OSTFELD M. ROSS SHULMISTER JEROME R. SIEGEL

Southeast ANITA PAOLI JEFFREY SOLOMON LAURA VARELA

Southwest KIMBERLY A. GILMOUR

West DONALD E. FUCIK GARY M. SINGER RUSSELL MILLER THOMPSON

Broward County Bar Association

1051 SOUTHEAST THIRD AVENUE FORT LAUDERDALE, FLORIDA 33316-5010 TELEPHONE 954.764.8040 • FACSIMILE 954.764.8060 e-mail: info@browardbar.org website: www.browardbar.org

The Broward County Bar Association Board of Directors has reviewed the preliminary report submitted by the Vision 2016 Attorney admission subgroup at the July 24, 2015 Florida Bar Board of Governors meeting. We strongly oppose their recommendations, and want to address in particular the proposal for Admission by Motion.

The report states that "the objective of the rule is not to admit as many lawyers as possible. It is to admit qualified lawyers." 1, and that "The sole purpose of these requirements is to protect the public."². However, allowing admission of attorneys without gauging whether they are familiar with Florida's rules and procedures is contrary to that assertion. Unfettered entry into a state that requires a rigorous examination for its current members is wrong.

What is most concerning is the statement in the subgroup report that "it is clear that a majority of Florida lawyers favor a rule allowing for Admission by Motion with reciprocity."3 This conclusion was based on an electronic survey e-mailed to 3,122 members, or approximately 3%, of the members comprising The Florida Bar. By the cut-off date, 1,148 completed surveys were received, which equates to approximately 1% of the Florida Bar members.⁴ This number is certainly not representative of the Florida lawyers as a whole. With access to email addresses of all Florida Bar members, one wonders why the survey was mailed to such a small sampling, and how the recipients of the survey were determined. Our board of directors is unanimous in its opposition regarding this proposal.

While it is agreed that the practice of law as a whole has changed in light of globalization and technological advances, the solution proposed by the subcommittee to allow admission by motion will not resolve the issue. Florida is a unique state, with 12 law schools and with a total number of licensed lawyers in excess of 100,000. As a result, many Florida licensed attorneys who are unable to find employment in established law firms, often opt for opening their own solo or small-firm practices. With the competition for clients at an all-time high, reducing the qualifications for permanent entry for non-Florida licensed attorneys is certain to result in attorneys who may be ill-equipped to effectively represent their clients in Florida courts and local proceedings. The protection of the public—one of the Bar's stated objectives—will not be met by opening the door to attorneys practicing in other states who have not proven that they are sufficiently versed in Florida law and procedure so as to permanently represent their clients in this state beyond the accommodations provided under our pro hac vice admissions procedures.

For the foregoing and other reasons, we strongly oppose the Vision 2016 subgroup proposals.

PROTECTING RIGHTS • PURSUING JUSTICE • PROMOTING PROFESSIONALISM

¹Subgroup report page 10

² Subgroup report page 23

³ Subgroup report page 7

⁴ Subgroup report page 7

Constitution Day

by Assad S. Mirza and Jared Guberman

On September 16, 2015, the Broward Bar Association will observe and recognize the adoption of the U.S. Constitution. It was 228 years ago that America committed itself to the ideals of liberty, equality and justice. At that time, our founding fathers committed to one rule of law, limited the hands of government, and. The American notions of "right to be free" and "live and let live" were born.

The U.S. Constitution is the very backdrop of American ingenuity. It is the embodiment of the Western spirit, that hard work and endurance of character are the salt of life. The U.S. Constitution nurtures unimagined possibilities and balances the spirit with openness to self-criticism, all the while striving for equality and fairness. Openness of thought, questioning the "why", and tolerance are in our very nature. The spirit of the West is contagious, even to foreign born U.S. citizens. The U.S. Constitution is the colorful fabric that makes it all possible.

Celebrate American democracy and freedom with us. Join us on Wednesday, September 16, 2015 for the second annual Constitution Day Reading and Reception event at the Hyatt Regency Pier Sixty-Six, 201 SE 17th St., Fort Lauderdale, FL 33316. Check-in begins at 5:30 p.m. Included in the price of admission, attendees will have the opportunity to network with fellow attorneys, public officials and judges, receive cocktails and hors d'oeuvres, listen

to an award winning high school choir perform patriotic favorites, and, most notably, read sections from the U.S. Constitution.

For more information or to register for this event, visit www.browardbar.org/calendar. Sponsorship opportunities are still available! For more information contact Lauren Riegler at 954.832.3618 or by email at lauren@browardbar.org.



Assad S. Mirza, Esq., LLM, Member of AICPA, is a managing partner at Mirza Basulto & Robbins, LLP. The firm focuses its practice on Community Association Law. He may be reached at (954)641-9600 or via email at amirza@MBRlawyers.



Jared Guberman is a civil and commercial litigation attorney with GPG Law in Fort Lauderdale. He may be contacted at 954-533-5530 or by e-mail at jared@gpglawfirm.com.

BENCH AND BAR CONVENTION

INCREASE KNOWLEDGE • EXPAND SKILLS • ACHIEVE POTENTIAL

Crisis Communication - A View From the Bench - Total Lawyering: Family, Bankruptcy, & Real Estate Law - The Art of Persuasion Federal Procedure - Civil Procedure - Daubert Standard and Financial Experts - County Court - LGBT Goes to Court - Ethical & Cultural Issues in Mediation - Employment Law - Technology and Marketing - Attorney Fees - Collections and Consumer Law Trial Advocacy - Condos, HOAs and Bankruptcy, Family Law, Probate Court - Voir Dire - Ethics and Social Media PIP Open Forum - Cybersecurity - Re-Defining Generational and Cultural Diversity

> Join Key Note Speakers Chief Justice Jorge Labarga, Florida Bar President Ramon Abadin, Diversity Expert Chris DeSantis and Crisis Communications Expert Bruce Hennes

> > Friday, October 23, 2015 **Broward County Convention Center**

\$195 BCBA Members • \$235 Non-members

7 CLE Credits, Breakfast, Lunch, Networking Reception, 42 Exhibitors and More

For registration and sponsorship information visit www.browardbenchandbar.org • www.browardbar.org





"QUALITY IS MORE IMPORTANT THAN QUANTITY.

ONE HOME RUN IS MUCH BETTER THAN TWO DOUBLES."

Steve Jobs

Alpine Jaguar welcomes
Gary Singer and Todd Baker...
they get it.

Damian Polgar today for details

o: 954.202.8349

c: 954.609.6621

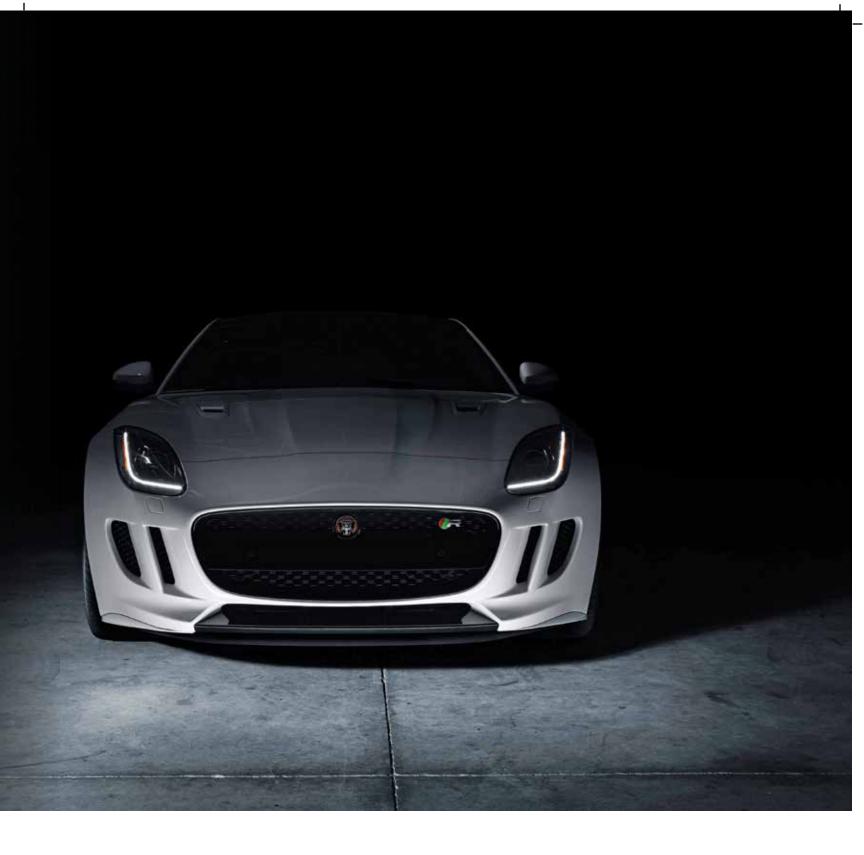
dpolgar@alpinejaguar.com











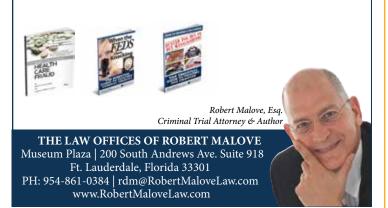


6606 North Andrews Avenue Fort Lauderdale, Florida 33309 954.598.7900 www. Alpine Jaguar.com





CRIMINAL DEFENSE DUI DEFENSE DOMESTIC VIOLENCE DEFENSE MEDICARE/HEALTHCARE FRAUD DEFENSE FEDERAL CRIMINAL DEFENSE





Shari Scalone in Gold Rock Beach, Lucayan National Park, Grand Bahama.

We want to see you in the next Barrister publication! Email a hi-res picture of yourself with a Barrister when on vacation or business trip to ads@browardbar.org.



THE HEALTH BENEFITS OF PET OWNERSHIP

by Bruce A. Blitman

Many of us have experienced the joy of cuddling and playing with our pets. They enthusiastically greet us when we return from a long, difficult day at work or from a short trip to the store. They are our friends, confidantes and protectors. When we are in their presence, we feel better. Science and research supports this. Studies show that interacting with our pets is a meaningful way to lower blood pressure, reduce stress and possibly add years to our lives.

A 2012 report on the psychosocial and psychophysiological effects of human and animal interaction, petting dogs in particular, leads to immediate and scientifically measurable results. This report, written by Andrea Beetz, Kerstin Uvnas-Moberg, Henri Julius and Kurt Kotrschal, and published by Frontiers in Psychology, correlated evidence from 69 individual studies to show that interaction with a friendly companion animal reduces stress via changes in the body's normal oxytocin, cortisol, epinephrine and norepinephrine levels. Artificial increases in hormones can lower heart rate and blood pressure, improve the immune system, increase the ability to manage pain, reduce aggression, enhance empathy and improve learning capability. Oxytocin, sometimes called the "cuddle" or "trust" hormone, promotes feelings of wellbeing and love. Cortisol, the "stress" hormone, heightens memory function and lowers sensitivity to pain. Epinephrine and norepinephrine, which are naturally present in "fight or flight" situations, improve reaction, vigilance and memory. Eileen Soler, Stress relief: Puppies in the workplace, South Florida PETS, May/June 2015, http://now.dirxion.com/South Florida Pets/library/South Florida Pets 05 01 2015.

An article "5 Ways Pets Can Improve Your Health", written by Jeanie Lerche Davis appeared in a WebMD feature discussed other research studies which document other health benefits that are derived from our interaction with pets. According to this research, our pets truly are "friends with benefits." The full article can be read at http://www.webmd.com/hypertension-highblood-pressure/features/health-benefits-of-pets

The Humane Society of Broward County has recently developed a new program, Snuggle Delivery, which brings instant stress relief to office workers while also raising money for the shelter. For a donation, the shelter will bring puppies and kittens to your office. The number of office workers determines the number of pets that will visit. Companies with up to 20 employees can cuddle five puppies or kittens; 21 to 50 employees will get a visit from eight puppies or kittens; a 51 to 100 member staff can get 10 to 12 puppies; employee groups of 101 or more can play with up to 13 puppies. Cats, which are harder to transport, must be specially requested. This is an excellent way to bring temporary stress relief and relaxation to your workers, without having the full-time responsibilities of pet ownership. For more information, please visit the shelter's website at: http://www. humanebroward.com/snuggles or call (954) 266-6824.





Bruce L. Blitman is an attorney and Florida Supreme Court Certified Circuit, Family and County Court mediator.



- ✓ Use Your VA Home Loan Benefit Up to \$1 Million Dollars.
- ✓ No PMI Insurance Quick 30 Day Closings. Call Now! Don't Delay!

THE VA HOME TEAM - Elaine Stevens Certified Military Housing Specialist Call Today for Property Information



Elaine Stevens THL (The Home Lady) **Charles Rutenberg Realty** Cell: 954-579-6951 homelady@comcast.net



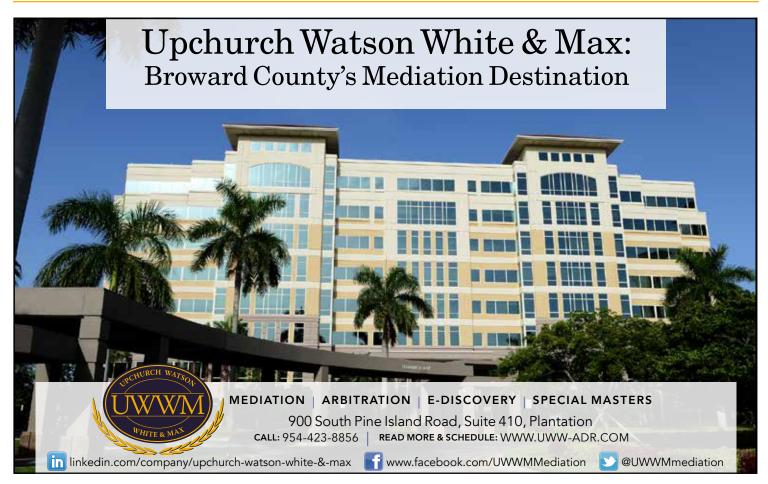
Call Today for Mortgage Information



UPREME Lvnn Whitefall Producing Branch Manager NMLS #352270 Direct: 954-607-3877 www.LynnWhitefall.SupremeLending.com Lynn.Whitefall@SupremeLending.com

(CIAL, INC, DIBIA SUPREME LENDING (MMLS ID #2129) at 14801 Quorum Dr., #300, Dallas, TX 75254, 877-359-5225. Copyright © 2015, All rights not an offer to enter into an agreement. Not all customers will qualify, Information, rates, and programs are subject to change without prior notice, All ect to credit and properly approval. Not all products are available in all states, Other restrictions and limitations may apply. Supreme Lending is not government agency. Florida Mortgage Lender Servicer License MLD999.





U.S. Supreme Court Upholds Florida's Judicial Campaign Rule

by Adam R. Vaught and Mary Beth Ricke

In 2009, Florida attorney Lanell Williams-Yulee mailed letters announcing her candidacy for county judge to numerous potential supporters. In the letter, Ms. Williams-Yulee asked for an "early contribution of \$25, \$50, \$100, \$250, or \$500, made payable to 'Lanell William-Yulee Campaign for County Judge." Judges and judicial candidates are barred by Florida's ethical rules from personally soliciting campaign contributions. Because of this violation, the Florida Supreme Court reprimanded her. Ms. Williams-Yulee took the case to the U.S. Supreme Court and argued that Florida's rule violated her First Amendment free speech rights. In a 5-4 decision, the court upheld the reprimand, finding Florida's rule does not violate the First Amendment.

Canon 7C(1) of the Florida Code of Judicial Conduct states that incumbent judges or candidate for judicial office "shall not personally solicit campaign funds, or solicit attornevs for publicly stated support." This rule is based on the ABA Model Rules. Florida is one of 30 states to have adopted a solicitation ban. The validity of these rules, however, has been in question since the Florida Supreme Court's 2002 opinion in Republican Party of Minnesota v. White. In White, the Court sustained a First Amendment challenge to Minnesota's "announce rule," which barred candidates from announcing their views on judicial issues. Since White, numerous federal circuit courts found that state solicitation bans also violate the First Amendment. State supreme courts addressing this issue, however, have all found solicitation bans do not violate the First Amendment. The U.S. Supreme Court took Williams-Yulee's case to resolve the issue.



Writing for the majority, Chief Justice John Roberts found that Florida's Canon 7C(1) is the rare case that survives strict scrutiny review. Mr. Roberts recognized that while Florida's rule prohibits speech, it only prevents candidates from saying, "please give me money." Florida's interest in preserving public confidence in the integrity of its judiciary is so compelling that this rule, narrowly tailored to prevent only a personal solicitation, does not violate the First Amendment. Justice Antonin Scalia dissented, arguing, "the First Amendment is not abridged for the benefit of the Brotherhood of the Robe." Justice Samuel Alito also dissented, finding Canon 7C(1) "about as narrowly tailored as a burlap bag."

This ruling will benefit lawyers and judges, not only in Broward County, but in all 39 states that use some form of elections to select judges. In states that do not bar personal solicitations, some judges call lawyers and ask for money. Florida will be able to continue to protect lawyers and litigants from such a potentially uncomfortable situation. Likewise, judges and judicial candidates will avoid being forced into a race to the bottom against opponents who, compelled by politi-

cal necessity, ask for contributions from people who may appear before them. With the U.S. Supreme Court upholding this solicitation ban, attorneys who seek a judgeship may have a harder time raising campaign cash than other attorneys who run for a seat in the state legislature and do not face the same prohibition.

Whether judicial elections are the best method for selecting judges is a question Williams-Yulee does not address. But Williams-Yulee will allow states that use judicial elections to implement narrowly tailored ethical rules to protect their judicial elections from becoming little different from legislative and executive elections.



Adam R. Vaught is an associate in the Chicago office of the national law firm of Hinshaw & Culbertson LLP He was lead author of the amicus brief filed by the American Bar Association in Williams-Yulee v. The Florida Bar. In 2010, he served as campaign manager for the judicial retention campaign of Illinois' chief justice. The campaign was the second-most expensive judicial retention campaign in U.S. history.



Mary Beth Ricke is an associate in the Fort Lauderdale office of the national law firm of Hinshaw & Culbertson LLP. She focuses her practice in the representation of management-side labor and employment law as well as providing clients with a wide range of legal services in commercial and business litigation.

The Second Annual Roger H. Staley Real Property Seminar

FRIDAY, SEPTEMBER 18, 2015

8:30 a.m. - 3:00 p.m.

\$75 - BCBA Members • \$100 - Nonmembers Includes Breakfast, Lunch and Reception 6 CLE (1 Ethics) Credits Applied For

AGENDA:

8:30 a.m. Registration/Breakfast

9:00 a.m. Welcome by Michelle J. Gomez, Seminar Chair

9:30 a.m. Legislative Update, Representative George R. Moraitis, Jr

9:55 a.m. Comparison of Contract Forms, Patrick G. Kelley and Stephen McWilliam

10:45 a.m. Commercial Lease Traps for the Unwary, David Weisman, Esq.

11:35 a.m. Ejectment and Unlawful Detention, Thomas D. Oates, Esq.

12:00 p.m. Lunch (Hot Lunch Provided)

12:30 p.m. Ethics in Real Property Practice, Kevin P. Tynan, Esq.

1:20 p.m. Escaping New York (Taxes, That Is!), Michael P. Stafford, Esq.

1:45 p.m. Update on Ladybird Deeds, John Hume, Esq.

2:10 p.m. CFPB and Best Practices, Deborah Boyd, Esq.

3:00 p.m. Closing Remarks

BCBA Conference Center 1051 SE 3rd Avenue • Fort Lauderdale Limited Seats Available!

For more information and registration, visit: www.browardbar.org

Broward County Bar Association & Florida Lawyers Mutual Insurance Company present

2015 LEGAL MAUPRACTICE SUMMIT

Multipractice Pitfalls Come to Life... Literally.

September 11, 2015 · 8:30 a.m. - 1:00 p.m. Broward County Bar Association • Conference Center

AGENDA:

8:30 Registration/Breakfast

9:00 - 9:50 a.m. Family Law Mediation Nightmare, the Live Version

Speakers: Katherine O. Birnbaum, Esq., Rae Chorowski, Esq., and Wendy J. Stein, Esq.

9:55 - 10:45 a.m. Technology Malpractice Traps Speakers: Charles A. Morehead III, Esq., Alan Pascal, Esq., and Kevin P. Tynan, Esq.

10:50 - 11:40 a.m. Improving Bankruptcy Practice Through Improv

Speakers: Judge John K. Olson, Jason E. Slatkin, Esq.

12:00 - 1:00 p.m. (Luncheon Program) The Bench Strikes Back: Showing Lawyers, Not Telling Them, What To Improve in the Courtroom

Speakers: Judge Mily Rodriguez Powell, Judge Sandra Perlman, Judge John D. Fry, Judge Thomas M. Lynch, IV, Judge Elijah H. Williams, Emily G. Romano, Esq., and Kelly Vogt,

> CLE: 4 Hours Including 1 Ethics Credit (applied for) **COST:** \$75 BCBA Members • \$95 non-members includes breakfast and hot lunch

Limited Space Available!

For Information and to Register events@browardbar.org • 954.832.3618





INTEGRITY **OUALIT** COMPASSION



888-499-8382

www.regalcares.com

CONCIERGE Serving Palm Beach. Martin & Broward Counties Lic# HHA299991709 Lic# HHA299992643



Ferial F. Andre, RN, CCM, CDP

KELLY D. HANCOCK, ESQ.: A GENTLEMAN AND A TRUE PROFESSIONAL

by Christopher M. Neilson

I immediately said yes, with no hesitation.

Broward County Bar Association (BCBA)
President John G. Jordan asked me to
write an article for the Barrister about
Attorney Kelly D. Hancock receiving the
prestigious BCBA Lynn Futch
Professionalism in Practice Award. The
award is named for Lynn Futch, BCBA
President 1998-1999. Lynn exemplified
Professionalism, and sadly her stellar
career and bright life were cut short much
too soon, passing away on June 25, 2000.

Kelly truly deserves the award. It is impossible to write everything about Kelly's lifetime of Professionalism in an article limited to 500 words.

I have known Kelly Hancock since the 1970s. Prior to joining Krupnick & Campbell in 1989, Kelly served as an Assistant State Attorney, eventually becoming Chief of the Homicide Division of Broward County. He prosecuted many of South Florida's most well-publicized murder trials, four of which were featured on a syndicated television program "On Trial". Kelly, who has appeared on "60 Minutes", "20/20", and "Prime Time Live", was named "Best Prosecutor in South Florida" by South Florida Magazine.

It's hard for me to believe Kelly and I first met over 40 years ago when I was a Police Officer.



He is a good example of a good example and part of the reason I became an attorney. Kelly has always been courteous and has exemplified professionalism and genuine concern for everyone he has dealt with, especially victims and the families of victims of crimes. Through the years he has kept those same qualities with everyone. Having personally co-counseled with Kelly on many cases, I have seen his consistent compassion and effectiveness with numerous clients. I really got to know Kelly well during years working on cases with him through countless days of depositions, mediations, focus group trials, and case preparation.

Kelly is an amazing lawyer, advocate, and gentleman. I consider myself extremely privileged to have met and worked with him for it is through his example I have become a better person, lawyer and friend. He has quietly helped countless

people, and truly deserves the recognition of this award.

Kelly is my friend and one of the best. Just being around him feels right. Blessed with a perfect balance of everything, Kelly has an impeccable sense of timing and always knows just what to say and when to say it – Kelly treats people right. When you are with him, he is totally engaged. He lifts people up and encourages them by way of example to be the best they can. He has a great level of humility and acceptance. Kelly is always respectful, displays a kind and even temperament, and personifies collegiality. You can always count on Kelly to do what he says and be where he is supposed to be.

Nova Law Professor and former Chief Assistant Broward County State Attorney Chuck Morton said of Kelly: "He is considered by his peers to be one of the most highly skilled and respected trial advocates in Broward County". I will take it a step further - I think Kelly is one of the best lawyers anywhere.

CONGRATULATIONS MY DEAR FRIEND!



Christopher M. "Chris"
Neilson, Hollywood
attorney, is past president
of the Broward County Bar
Association.



by Nancy Little Hoffman

["FOUR WAYS TO LOSE AN APPEAL"]

CLIENT'S REPEATED DISOBEDI-ENCE OF COURT ORDERS CAN FOR-FEIT RIGHT TO APPEAL.

The husband in a dissolution of marriage case repeatedly failed to pay court-ordered support and refused to comply with discovery orders, resulting in contempt orders and writs of bodily attachment. The Fourth District, noting that it has the discretion to dismiss his appeal on that basis as long as it gives him an opportunity to purge himself, relinquished its jurisdiction for 30 days for that purpose. If he fails to do so, his appeal will be dismissed. Whissell v. Whissell, 40 Fla. L. Weekly D1829 (Fla. 4th DCA Aug. 5, 2015).

FILING MOTION FOR REHEARING FROM NON-FINAL ORDER WILL OF-TEN RESULT IN DISMISSAL OF AP-PEAL AS UNTIMELY.

The father sought to appeal a post-dissolution of marriage order establishing custody, visitation, and time-sharing. His appeal was dismissed because his counsel filed a motion for rehearing and waited until the motion was decided before filing the notice of appeal – which was more than 30 days after the original order, was rendered. Since the order was a non-final order according to the appellate rules, the motion did not extend the time

for rendition, and the notice of appeal was too late. Lopez v. Lopez, 40 Fla. L. Weekly D1830 (Fla. 4th DCA Aug. 5, 2015).

UNLESS ERROR IS APPARENT ON THE FACE OF A JUDGMENT, FAIL-URE TO PROVIDE AN ADEQUATE RECORD CAN RESULT IN AFFIR-MANCE.

The homeowners appealed a final judgment of foreclosure on the basis that the bank lacked standing to foreclose when it filed suit. Standing was a contested issue at trial, but the appellants provided only a partial transcript because only a part of the trial was reported. The opinion noted that although the appellate rules provide that an appellant be given an opportunity to supplement the record that does not apply where the party failed to make an adequate record at the trial level. Accordingly, the DCA held that it could not presume that the judgment was unsupported by competent substantial evidence of the bank's standing, and it affirmed the foreclosure judgment. Snowden v. Wells Fargo Bank, 40 Fla. L. Weekly D1818 (Fla. 1st DCA Aug. 4, 2015).

NOT ALL NON-FINAL ORDERS IN A CASE CAN BE REVIEWED ON AP-PEAL FROM THE FINAL JUDGMENT.

An insurer appealed from a final judgment finding that its policy afforded coverage to its insureds. Its argument on appeal, however, related to a prior order allowing the insureds' bad faith claim to be joined in the litigation. The DCA recognized that the purpose of the appeal was to try to reach back to the ruling made months earlier; and that the appellate rules allow it to review "any ruling...occurring before the filing of the notice" of appeal. However, it held that an appeal calls up for review only "all necessary interlocutory steps leading to that final order." Since the rulings on the bad faith claim were not necessary steps leading to the judgment on coverage, the DCA refused to consider them. It also declined to treat the appeal as a petition for certiorari, since it was filed more than 30 days after the rulings on the bad faith issue. North American Capacity Ins. Co. v. C.H., 40 Fla. L. Weekly D1849 (Fla. 2d DCA Aug. 7, 2015). **B**



Nancy Little Hoffmann is a Board-Certified Appellate Lawyer practicing in the Fort Lauderdale area since 1974. She may be contacted at 954-771-0606 or by e-mail at NLHappeals@aol.com.

September

2 CLE: Special Needs Trusts and Affordable Care Act (ACA)

Time: 4:00 p.m. - 6:00 p.m. Venue: BCBA Conference Center Cost: \$10 BCBA Member; \$20 Non-Member

Sponsored by Florida's Voice on **Developmental Disabilities**

5 Guardianship Class - 8 Hour Adult

Time: 9:00 a.m. – 5:00 p.m. Venue: BCBA Conference Center Cost: \$180; No Walk-ins accepted

8 North Broward Section Luncheon -**Foreclosure Evictions and the New Section 83.561**

Time: 12:00 p.m. – 1:00 p.m. Venue: Ruby Tuesday, 299 SW 26 Avenue, Pompano Beach Cost: \$20 BCBA Member; \$25 Non-

Member

9 Solo Small Networking Dinner *DATE CHANGE

Time: 6:00 p.m. – 8:00 p.m.

Venue: Dave and Busters - Hollywood Cost: \$35 BCBA Member; \$50 Non-Member *\$5 Additional at the Door

11 2015 Legal Malpractice **Multipractice Pitfalls Come to Life...**

Time: 8:30 a.m. - 1:00 p.m. Venue: BCBA Conference Cost: \$75 BCBA Member; \$95 Non-

Literally.

12 Guardianship Class – 4 Hour Minor

Time: 9:00 a.m. – 1:00 p.m. Venue: BCBA Conference Center Cost: \$100; No Walk-ins accepted

16 Constitution Day Reading and Reception

Time: 5:30 p.m. – 8:30 p.m. **Venue:** Hyatt Regency Pier 66 – Pier

Cost: \$30 General Admission Sponsorships Available!

18 Roger H. Staley Memorial Real **Property Seminar**

Time: 8:30 a.m. – 3:00 p.m. Venue: BCBA Conference Center Cost: \$75 BCBA Member; \$100 Non-

Sponsored by the Broward Bar

Foundation, Inc.

calendar of events

West Broward Section Luncheon

Time: 12:00 p.m. - 1:30 p.m. Venue: Lago Mar County Club Cost: \$25 BCBA Member: \$40 Non-Member; \$10 extra for Walk-ins

30

Intellectual Properties Section CLE

Time: 12:00 p.m. - 1:30 p.m. Venue: BCBA Conference Center Cost: \$15 BCBA Member; \$25 Non-

Member

Upcoming Special Events

October 8

CLE & Reception- Cuba; What Every **Attorney Needs to Know**

Time: 5:30 p.m. – 8:30 p.m. Venue: BCBA Conference Center Cost: \$25 General Admission Sponsorships Available!

October 23

Bench and Bar Convention

Time: 8:30 a.m. - 5:00 p.m.

Venue: Broward County Convention

Cost: \$195 BCBA Member; \$225 Non-

Member

Sponsorships Available!

Register for BCBA Events www.browardbar.org • 954-832-3618



14th Annual For the Public Good **October 1. 2015**

Join Us In Celebrating

THE MAGIC OF PRO BONO GIVING

Hyatt Regency Pier Sixty-Six, Panorama Ballroom 2301 SE 17th Street, Fort Lauderdale

Purchase congratulatory ads and tickets today BrowardLegalAid.org/events

Sponsorship opportunities available dlange@legalaid.org or 954.736.2429







Honorees

Jane Curran
Russell E. Carlisle Advocacy Award

Samuel S. Goren, Esq. **Commitment to Justice Award**

Kirschbaum, Birnbaum, Lippman & Gregoire, PLLC Law Firm of the Year

Michele K. Cummings, Esq. Attorney of the Year

Young Lawyers Section of the Broward County Bar Association Spirit of Justice Award





1051 S.E. Third Avenue Fort Lauderdale, FL 33316-5010 954.764.8040 www.browardbar.org PRSRT STD U.S. POSTAGE PAID FT. LAUD. FL PERMIT # 2998

The Contingency-Fee Business Litigation Attorneys





Let's Start a Profitable Referral Relationship

We pay **referral fees** in all business litigation practice areas. Contact us today to discuss your client's case:

954.327.3040 or FTL@forthepeople.com

Practice Areas:

Contract Litigation

Construction Litigation

Employment Litigation

Intellectual Property

Partnership Disputes

Professional Liability

Real Estate Litigation

Securities Litigation

Trust & Estate Disputes