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ON THE COVER:

The Broward County Bar Association welcomes the newest judiciary of the 17th Circuit Court of Broward County. Pictured in the top row (left to right): Judges Barbara R. Duffy, Kathleen McCarthy, Deborah Carpenter-Toye, and Michael Davis; second row (left to right): Judges Jennifer Wigand Hilal, Kim Theresa Mollica, Betsy Benson, Michael Lynch, and Keathan B. Frink; bottom row (left to right): Judges Martin S. Fein, Florence Taylor Barner, Andrea Ruth Gundersen, and Jose Izquierdo. Learn more about our new judiciary by reading this month's section on "A Dedication to Service".

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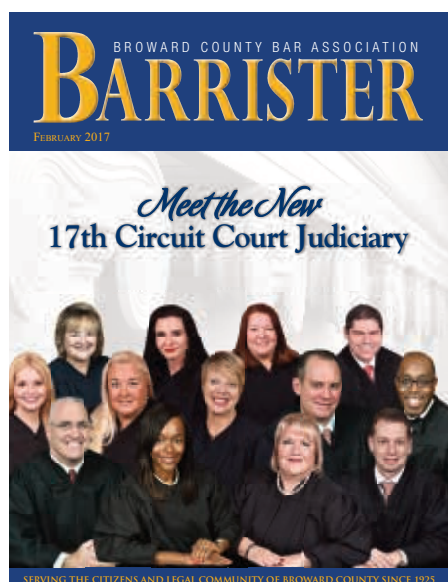
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letter from the president



Charles A. Morehead III

Greetings from your President...

The new courthouse is up and running and I had my first hearing there two weeks ago as a Guardian Ad Litem in front of Judge Marc Gold on the third floor. The probate hearing rooms are quite functional and the courtroom-like atmosphere lends dignity to the proceedings. Armed security was abundant and it seems clear that the new courthouse will be run quite differently than the old one.

The connecting hallway between the old courthouse and the new courthouse, which is a couple of hundred feet long, has been controversial. There is quite a slope and drop from the old courthouse

to the new one, approximately an 8 foot drop over 120 feet of flooring space. Some have argued that this does not meet the Americans with Disabilities Act requirements and I'm sure we will see more on this front in the near future.

The remainder of the civil circuit judges are scheduled to move in in phases concluding in early March of 2017. At that time, upon the completion of all movement, the ancient 1950's era courthouse will be knocked down. Good riddance.

The turnover of the new Clerk of Court from Mr. Howard Forman to Mrs. Brenda Forman has gone well. There seems to be no interruption in services and the new registration for access to computerized records seems to be going well. If you have not visited the Clerk of Court's web page recently, I encourage you to do so. There are several new ways of accessing your cases, as well as those filed by others that are cost-free and efficient.

My presidency of the Broward Bar is more than half complete and I am pleased to report that the bar is on target to continue its unparalleled growth in membership, as well as the provision of continuing legal education for both lawyers and members of the public alike. Our affiliation and union with other voluntary bar associations in Broward County is strong – and will become stronger. We continue to seek affiliation agreements with other voluntary bar associations; our ultimate goal is to have a very strong united voluntary bar in Broward County preserving the independence of the various affiliates and uniting with strength in the areas of operation, programming and events.

Finally, the judicial rotations which occur each January, have begun in full force. On a personal note, I look forward to working with Judge Levenson, Judge Bidwill and Judge Haimes in the civil division. The race for chief judge concludes this month and we should know who our new chief judge is by the time you read my next column. **B**

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letter from the young lawyers' president



Todd L. Baker

We did it! Our Young Lawyers Section was selected as the Florida Bar Young Lawyers Division's Affiliate of the Year. It's incredible that we won the award after winning last year. We should all be proud of this award. The YLS could not do a fraction of what we are able to do throughout the year without the help and support of the entire Broward County Bar Association.

Our BCBA staff made this possible. The entire team is incredible but Brailio, Bonnie, Debbie, Amanda, Lauren and Patricia deserve special thanks for their support of YLS in 2016. They handle our marketing, scheduling events, creating promotional items, membership and work our events. No other voluntary bar organization has this level of support.

The support we get from the Big Bar is remarkable. When we need a speaker at our Boot Camp series, which also won an award, the Big

Bar is always willing to help. Young lawyers do not want to hear from other young lawyers, they want advice from seasoned veterans who have experience that far exceeds what a young attorney can offer. A special thanks to Robin Moselle, Tom Oates, Jay Kim, Robert Vaughan, and of course, Michael Fischler, who comes to more YLS events than most YLS members. Even if you are not a young lawyer, I encourage you to come to a YLS event. I promise you will enjoy yourself; ask some of the people I mentioned if you have any doubts. Our incredibly dedicated judiciary drives attendance and participation. I spoke with leaders of organizations throughout Florida and when they heard that we average around 30 judges in attendance for our breakfasts and bigger lunches and close to 100% attendance at our annual Judicial Reception, they were blown away. We have fantastic judicial liaisons who encourage participation from their colleagues. Judge Robert Diaz has been instrumental in YLS efforts throughout the years and Judge John Bowman deserves special recognition for allowing us to be a part of National Adoption Day. To any judge reading this, if you have an initiative you would like YLS to help with, contact us and we will do what we can to assist.

Our philanthropic efforts were key to our success and we could not do any of it without our sponsors. U.S. Legal Support, Bienenfeld, Lasek & Starr (BLS), CopyScan Technologies, Alpine Jaguar and Sabadell, help us more than just financially. Jeff Ginocchi of Sabadell United Bank and Shir Keidan and Craig Novek of BLS, attend most YLS events and are always available to provide industry advice to our members. Andy Sokol and Gina St. George of CopyScan Technologies never hesitate to provide signage and other marketing materials, even on short notice. Jody Shulman of U.S. Legal Support sponsors every big event we do and last but certainly not least is Damian Polgar of Alpine Jaguar, who was a major sponsor of our golf tournament and the title sponsor of our poker tournament.

I want to personally thank my board of directors, without which, none of this is possible. The list of them is to your left. Every single one of them plays a major part in making YLS the powerhouse that it is. A successful football team does not have a roster filled with quarterbacks – everyone has a role to play and every position is important. As to my Board, every position is important and everyone excels at their role. Our 17th Circuit Florida Bar YLD Governors also showed incredible support of us. Thank you.

The biggest thanks go to our members. Without you, the judges, the Big Bar, and our sponsors would not want to be as involved as they are now. The YLS is full of dedicated members who care about their community and improving the legal profession. Please continue to attend our socials, lunches, breakfasts and bigger events. Please consider getting more involved in 2017. We will be having a town hall meeting in February to discuss upcoming event, projects and take suggestions from you, so please be on the lookout for that event – we hope to see you there! **B**



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U.S. Copyright Office Mandates a New Electronic Filing Requirement for Agent Designation by Online Service Providers

by Melissa C. Papa

Gone are the days of the Dewey Decimal System, encyclopedias the size of our heads, Carmen Sandiego on a floppy disc, the rotary and the pay phone. Today, information and communication comes, mostly, from online sources. With seemingly exponential growth of the web, online service providers are increasingly at risk of copyright infringement liability as a result of the actions of their users.

Fortunately for many service providers, safe harbor protection exists by way of section 512 of the Digital Millennium Copyright Act (DMCA). The safe harbor works to protect an online service provider from a number of actions taken by their users. For example, where a user posts content that infringes another's copyright, without the online service provider's knowledge, the provider may be protected from liability. The act sets forth a process for resolving disputes raised by a copyright holder who believes the provider's services are being used to infringe. Though there are various eligibility requirements for protection under the act, this article addresses only one.

To take advantage of the act, an online service provider must designate an agent. This agent is the contact

point for a copyright holder to report infringement discovered on the provider's services. The agent's updated and accurate contact information must be listed on the web medium and registered with the US Copyright Office.

In the past, such registration could be accomplished with a hard copy or scanned copy of the designation. This is no longer the case. Gone are the days of the hardcopy. The U.S. Copyright Office has moved in the direction of efficiency. As of Dec. 1, 2016, agent designations must be filed using the new electronic filing system. This means all previously submitted agent designations must be re-submitted electronically to be valid. This can be done on the US Copyright Office website at www.copyright.gov. It is important to take this change seriously, as service providers can lose their safe harbor protection by failing to electronically file their agent designation. The new designation must be filed by Dec, 31, 2017, or the agent designation will expire.

While this may be a bit of extra work for those who have already registered with "old fashioned" pen and paper, the change will streamline the process for newcomers. Further, the fee has been drastically reduced from \$105 to

\$6. To satisfy the requirement of the agent designation, the online service provider must keep the agent contact information updated on the web medium and with the US Copyright Office. The registration must be renewed every three years. Therefore, drop your pens, hug a tree, and electronically file your agent designation before it's too late! **B**



Melissa C. Papa is an Associate with USAPatents.com. Ms. Papa is a Registered Patent Attorney and practices transactional Intellectual Property Law as well as Litigation. She handles Patents, Trademarks and Copyrights. Ms. Papa can be reached by calling (954) 642-2308 or via email at mpapa@usapatents.com



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Todd Baker

**Candidate for the Florida Bar
Young Lawyers Division – 17th Circuit, Seat 4**

*Director of the Broward County Bar Association Young
Lawyers Section since 2012, current YLS President
Previously, BCBA Mentorship Chair,
Law School Liaison and active
Membership Committee member*

I am well-qualified to serve on the YLD and represent Broward County. As a former prosecutor, I pushed YLS to offer lower cost events to make participation more affordable for young lawyers. My commitment to service extends beyond BCBA YLS into other voluntary bar organizations and local charities.

I am also fortunate enough to have received endorsements, to date, from the following people:

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Anthony H. Quackenbush	Robert C.L. Vaughan

Voting begins on *March 1, 2017* so be on the lookout for a letter or email from the Florida Bar. I would appreciate your support so I can continue my commitment to our community. If you have any questions about my qualifications, please do not hesitate to contact me or anyone on this list.

**Todd Baker, Candidate for the Florida Bar
Young Lawyers Division - 17th Circuit, Seat 4**

A Dedication to Service

WELCOMING OUR NEWEST MEMBERS OF THE JUDICIARY

The Broward County Bar Association is proud to honor and recognize the thirteen newest judiciary members of the Broward Circuit and County Court. This year, three robing ceremonies were scheduled at the main courthouse in Fort Lauderdale where lawyers, judges, and family members gathered in celebration. We thank the new judges for their dedication and commitment to serving the good of our community. Please join us in welcoming and congratulating our new judges.

CIRCUIT COURT

The Honorable Martin S. Fein

by Michelle Karrine Suarez



Judge Martin Fein has been practicing law in Florida for over twenty years. He began as an Assistant State Attorney and then moved into private practice as a criminal defense attorney for 18 years. He has been board certified in criminal law since 2002. He also represented plaintiffs in foreclosure matters, and has been a Guardian Ad Litem in mortgage

foreclosures, association foreclosures, and quiet title actions since 2012. Judge Fein believed that if he could emulate the best attributes of the judges in Broward County, then he could be an asset to the legal community as well. His diverse background in both criminal and civil litigation makes him well equipped for the needs of Broward County.

Some advice he received along the way, which he plans to apply on the bench is to always remember that each individual case is the most important case in the courthouse to those particular parties no matter if it is a traffic infraction case, small claims case, misdemeanor or capital felony. He is a supporter of the Broward County Humane Society.

A unique fact about Judge Fein is that for 14 years he was a high school football official with the Broward Football Officials Association, and had the honor of officiating the 2011 State Championship game in Orlando between Miami central high school and Arm Wood high school. In his spare time, Judge Fein enjoys reading books on U.S. History and is currently reading "Killing the Rising Sun" by Martin Dugard and Bill O'Reilly.

The Honorable Keathan B. Frink

by Michelle Karrine Suarez

Judge Keathan Frink graduated from the Florida Levin College of Law in 2000. He is a native of Melbourne, Florida and was appointed by Governor Rick Scott to fill a judicial vacancy in the Seventeenth Judicial Circuit. Prior to his appointment, Judge Frink was a partner at Kelley Kronenberg, P.A., whose practice areas include product liability, construction defect, negligent security, wrongful death, premises liability and insurance subrogation.

Judge Frink has a passion for the law and public service and believes that serving in the judiciary is the highest honor that members of the legal profession can achieve in order to serve the public. Frink has years of litigation and trial experience in several civil practice areas. Prior to becoming a Judge, one piece of advice that he received which he feels will help

him serve on the bench is expect the unexpected. Life and the legal profession is filled with events that are unanticipated. The best way to handle those unexpected situations is to be as prepared as you can and that will allow you to handle the unexpected when it occurs.

Judge Frink is regularly involved with several charities focused on youth. He comes from humble beginnings and got his first job when he was 15 years old washing dishes in a seafood restaurant. The last book he read was "Goodnight Moon" which he reads to his daughter before bedtime.





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The Honorable Andrea Ruth Gundersen

by Gavin W. MacMillan



Before stepping on the bench, Judge Andrea Gundersen, starts her day by taking a deep breath and saying a prayer asking for patience and wisdom to make the right decisions. Several circumstances led her to a law career but the overriding factor was a desire to help others. Judge Gundersen, has over 24 years of private practice specialized in family law and has obtained an AV rating as a family law attorney. Additionally, her 17 years as a certified family mediator has helped her understand and appreciate the life altering decisions and interpersonal dynamics associated

with family law cases.

After seeing the judiciary lose many of the experienced family law judges to retirement, Judge Gundersen made the decision to run for the judgeship. As a judge, she plans on transitioning from an advocate to a member of judiciary by listening more and talking less.

Judge Gundersen takes full advantage of the South Florida climate and spends her spare time out on the water either scuba diving or kayaking. Moreover, she finds time to give back to the community. She is highly active Dania Beach Lions Clubs as a member of the board of directors.

The Honorable Jose Izquierdo

by Kimberly Gessner

Judge Izquierdo was appointed to the to the Broward County Circuit Court by Governor Rick Scott last year on May 23, 2016. Judge Izquierdo, practicing in the South Florida area for the past 15 years, specialized in immigration, personal injury, and criminal defense prior to his appointment. He spent his practicing years most recently with a partner in Izquierdo & Martin, and also solo prior to that, in the Law Offices of Jose Izquierdo. He will remain on the bench until facing voters in 2018.

Judge Izquierdo brings many qualities to the bench, stating that his patience, and high regard for the court and everyone who moves through the court system, will serve him well in his position. He also places a strong emphasis on his ability and willingness to listen to those who appear before him,

recognizing that it is important for judges to respect the fact that litigants and lawyers are all juggling life, work, and court on a daily basis.

Judge Izquierdo also feels that one of the most productive ways he can serve the bench, in addition to the respect he shows to those who appear before him, is to take the time to read and prepare as much as possible before hearings—music to any litigator's ears. "I am honored and humbled to have the opportunity to serve the residents of Broward County."



The Honorable Michael Lynch

by Kimberly Gessner



Judge Michael Lynch, 38, was recently elected to the bench, Broward Circuit Court Judge Group 24. Judge Michael Lynch is the son of recently retired Judge Thomas Lynch (serving since 1984), famously and affectionately referred to as the "surfer judge," known and revered for his knowledge and charm. His son does not seem to have fallen far from his father, having received a National Merit Scholarship to attend Florida State University, and going on to get his law degree there as well.

Judge Lynch, practicing for 13 years in the criminal defense arena, worked as a Broward assistant public defender out of law school, went on to run the career criminal unit at the Office of the Regional Conflict Counsel, and eventually spent several

years working in the criminal division of The Ticket Clinic. His background is replete with extensive trial experience which no doubt will serve him well on the bench. Judge Lynch understands that "you don't stop learning when you become a judge" and looks forward to handling a large caseload and working with the residents and lawyers of Broward County.

Judge Lynch has always wanted to become a judge, inspired by his father, with an eye towards the bench since he began practicing. He strives to be patient, fair, and willing to listen to each side, stating that "win or lose, every party should leave the courtroom knowing that their side was heard and considered."

Judge Lynch expresses his gratitude, saying "I am just extremely thankful that the residents of Broward County elected me to the bench. I know what a rare and special opportunity it is, and I will do everything that I can to make them proud and to increase their trust in the judiciary."

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COUNTY COURT

The Honorable Florence Taylor Barner

by Kerry Ann Cummings



Judge Florence Taylor Barner, 35, was recently elected to the Bench, Broward County Court Group 3. Judge Barner made history, not once, but twice. She is the first black woman to take the bench by election in Broward County. In addition, she is the first Haitian-American to be elected a judge in the state. Judge Barner has been practicing law for over 10 years. She began as an Assistant State Attorney in 2006. After over three years with the State Attorney's Office, Judge Barner went on to practice as a Commercial/ Civil Litigator.

Judge Barner is a mother of two and showing her kids that

you can accomplish anything you work hard for was one of the things that motivated her to become a judge. Judge Barner is bringing many qualities to the bench, stating that her temperament and trial experience will serve her well as she has both criminal and civil trial experience. This will allow her to be more flexible with respect to judicial assignments. Further, that it is important for a judge to also have a good temperament and to remember that the people who come before them are just that, people, who deserve to be treated with dignity and respect.

When Judge Barner is not on the bench, she enjoys watching boxing and is an amateur photographer for a local boxing magazine. She also has been giving back to the community for over 20 years by purchasing and delivering turkeys to the less fortunate.

The Honorable Betsy Benson

by Mary Beth Ricke

Judge Benson is very honored to have been elected to the bench, and brings with her 32 years of practice in the legal profession including extensive trial experience. While most her experience is in the criminal defense arena as an Assistant Public Defender, Judge Benson has also practiced civil litigation in a multitude of areas.

Judge Benson's father, also a practicing attorney for over fifty years, was her primary motivation to become a judge. Judge Benson was also motivated by her experience, as she believes that she can be of help on the bench due to her years of varied and broad legal practice and extensive courtroom experience. Judge Benson further considers mentorship very important in the legal profession. She has taught trial advocacy for many years at Nova Southeastern University's Shepard Broad College of Law and mentored hundreds of lawyers while at the Broward Public Defender's Office. Judge Benson will continue her dedication to mentorship while on the bench, and wants all attorneys to know that her door is always open

to anyone.

The three most important pieces of advice Judge Benson will heed during her judgeship include: (1) be a good listener, (2) remain humble, and (3) always remember to remain neutral.

Judge Benson is very active in the community and involved in multiple charities, including Team of Life and the Urban League. Additionally, Judge Benson enjoys kayaking and spending time with her ten-year old son.





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Andrea Ruth Gundersen
Michael Lynch
Jose Izquierdo

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Deborah Carpenter-Toye
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The Honorable Deborah Carpenter-Toye

by Michael L. Buckner



Judge Carpenter-Toye began her 33-year legal career as an Assistant Public Defender in the Richland County Public Defender's Office in Columbia, South Carolina. In 1985, Judge Carpenter-Toye returned to Broward County when she served initially as an Assistant State Attorney in the Broward County State Attorney's Office, and then as an Assistant Public Defender in the Broward County Public Defender's Office. In 1989, Judge Carpenter-Toye opened her law practice, which focused on criminal law. In 1992, she became the first, and only, woman to serve as the President of the Broward Association of Criminal Defense Attorneys.

Judge Carpenter-Toye believes several qualities will serve her well as a judge including "my experience, my temperament and my compassion." She signaled out "stay in your lane" as the key advice she will follow when serving on the

bench. Judge Carpenter-Toye is "humbled and honored to be serving as a County Court Judge."

Judge Carpenter-Toye is heavily involved with charities. She has devoted countless hours as a member of several local organizations, including the Marine Advisory Board, the Historic Preservation Board of the City of Fort Lauderdale, the Birch Park Finger Streets Homeowner's Association Board, the Junior League of Fort Lauderdale and many legal associations. Further, in her legal practice, Judge Carpenter-Toye provided pro-bono legal representation to children and families.

As hobbies, Judge Carpenter-Toye enjoys golf, cooking, sailing, traveling and reading.

The Honorable Michael Davis

by Mary Beth Ricke

Judge Davis has always been motivated by his family history to become a judge. His great-grandfather was a local judge in his small Romanian village. Tragically, as an Orthodox Jew, Nazis targeted and killed Judge Davis' great-grandfather because of his role both as a judge and as a Jewish man. Judge Davis' grandfather fortunately survived and told Judge Davis his great-grandfather's story. Judge Davis has always felt the pull towards fulfilling his great-grandfather's legacy in becoming a judge in order to uphold the rule of law and help our community.

Additionally, Judge Davis brings a variety of experience to the bench. Much of his career has been spent in the area of child advocacy law. He has worked in the Office of the Westchester County Attorney's Family Court Division, the Florida Department of Children and Families, the Florida Guardian ad Litem Program, and the Florida Attorney General's Office, Civil Division. Judge Davis was also in private practice for two years, focusing on family, criminal, and civil litigation.

In his spare time, Judge Davis is heavily involved in com-

munity organizations. These organizations include children's advocacy organizations such as HANDY and the SEED School of Miami, a college prep charter school for underprivileged children. He is also closely involved with United Way, Broward County Jewish Federation, Broward Outreach Center, Recovery Unplugged, and James Club Recovery, Inc.

Judge Davis enjoys his involvement in his community and synagogue, spending time with his wife and two children, playing the guitar, and collecting old fashioned political campaign buttons.



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The Honorable Barbara R. Duffy

by Michael L. Buckner



Judge Barbara Duffy, a native of Broward County, brings to the Circuit Court lessons she witnessed as one of five children in a household benefiting from the hard work and sacrifices of her parents, as well as learned as a student at St. Thomas Aquinas High School. Judge Duffy later graduated with a Bachelor of Science in Criminology from The Florida State

University and a Juris Doctorate from Nova Southeastern University.

Judge Duffy has been practicing law for 26 years. Judge Duffy acquired her initial, and significant, experience as a member of the State Attorney's Office. During her stint as a prosecutor, Judge Duffy tried over 50 jury trials and handled a diverse case load involving driving/boating under the influence; domestic violence; battery; assault; drug possession and trafficking; aggravated assault and battery; gun possession;

attempted first degree murder; and second degree murder. Judge Duffy subsequently worked for the Broward Police Benevolent Association. Prior to her ascension to the bench, Judge Duffy went into private practice where she concentrated on labor, employment and criminal law.

Judge Duffy was motivated to become a judge by "the desire to ensure that every person who comes before the judiciary is treated in a respectful, fair and compassionate manner." Judge Duffy believes she will bring several important qualities to the bench, including "humility, sincerity and an eagerness to learn." She plans to heed well-received advice to "ensure the integrity of the judicial process."

In her down time, Judge Duffy's hobbies include reading. St. Jude Children's Research Hospital is the beneficiary of Judge Duffy's charity.

The Honorable Jennifer Wigand Hilal

by Natalie Giachos

Prior to being appointed by Governor Rick Scott to the 17th Circuit County Court, Judge Jennifer W. Hilal was a prosecutor with the Broward County State Attorney's Office for eight years. During that time, she served as a felony trial unit supervisor and prosecuted a variety of cases from DUI manslaughter to armed kidnapping cases.

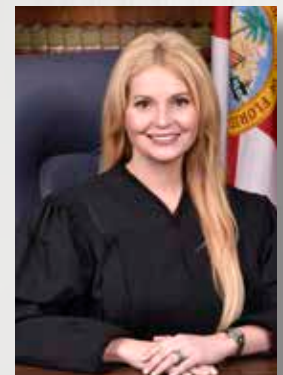
Judge Hilal's main source of motivation to become a judge was her strong desire to continue to serve the public, including helping to strengthen the reputation, as well as the community's perception, of the Broward County judiciary.

When asked about the qualities she felt would best serve her on the bench, Judge Hilal stressed that humility was one of the most important traits a judge could possess. She also reflected on the importance of being prepared and punctual, while at the same time being respectful and patient. She understands the need for compassion and is mindful that her decisions will affect the lives of all those who appear before her. This is especially relevant in County Court, as many

litigants are not represented.

Judge Hilal received her bachelor's degree from the University of Central Florida and her law degree from Nova Southeastern University.

In her spare time, Judge Hilal enjoys spending time with her family. She is married and has two small children who she enjoys taking to the park, sporting events, and other community activities.



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The Honorable Kim Theresa Mollica

by Natalie Giachos



Prior to being elected to the 17th Circuit County Court bench, Judge Kim Mollica was a practicing attorney for 26 years. She began her legal career at the Public Defender's Office and after two years went into private practice where she handled a variety of cases including, family law, domestic violence, criminal law, juvenile, civil, immigration, as well as other matters.

Judge Mollica received her bachelor's degree in Public Administration from St. John's University in Queens, New York and her law degree from St. Thomas University, School of Law in Miami, Florida.

In her spare time, Judge Mollica enjoys deep sea fishing, spending time with her dogs, and enjoys flying as she is also a private pilot.

When asked about the qualities she felt would best serve her on the bench, Judge Mollica reflected on the patience she has gained through years of practicing law and her sense of fairness. She strives to be the kind of judge that she always wanted to appear before in her own cases.

The best advice she has received about serving on the bench has been to treat everyone with respect, follow the law, be on time, and promptly render decisions.

The Honorable Kathleen McCarthy

by Natalie Giachos

Prior to being elected to the 17th Circuit County Court bench, Judge Kathleen McCarthy was a practicing attorney for sixteen years. She served as an Assistant Regional Counsel in Broward County for the Office of Criminal Conflict and Civil Regional Counsel for the past eight years where she handled social service and civil rights cases.

Judge McCarthy is a Nationally Certified Counselor and has taught thousands of social workers and other mental health professionals throughout her career.

When asked what motivated her to become a judge, Judge McCarthy says that she was inspired by her father who was a WWII Pilot and a Federal Judge as well as by her family's love and support.

Her experience in handling a wide variety of cases and her temperament are what Judge McCarthy feels will best serve her in her new role as a judge. She believes that all parties deserve to be treated with respect and courtesy.

Judge McCarthy received her Bachelor's degree in Psychology from Florida International University, Master's degree in Counseling from Barry University, and Law degree from Nova Southeastern University.

In her spare time, you can find Judge McCarthy at amusement parks, traveling, dining out with friends and family or working on her comic book collection. She is also a friend of the Alzheimer's Association and various animal rescue organizations.



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by Nancy Little Hoffman

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Weekly D158 (Fla. January 11, 2017).

Prior to trial in a first-degree murder case, the defendant moved in limine to suppress reference to the fact that he was on juvenile probation at the time of arrests and had open warrants for violation of probation. At a hearing on the motion, the judge observed that the state attorney had agreed with defendant’s position; however, the court did not explicitly rule as to whether the evidence should be excluded. At trial, when the state offered the evidence, defendant’s counsel made no contemporaneous objection, but he did raise the issue in his initial appellate brief. The Fourth District recognized that if the trial court had made a “definitive ruling” on the issue, it would not have been necessary to renew an objection in order to preserve it for appeal. But in this case the judge did not do so. The opinion noted the importance of securing a definite ruling on the record “with regard to each and every piece of evidence sought to be excluded or admitted,” or at least making an objection when the evidence is admitted – otherwise the DCA is “without the ability to consider the merits.” *Collins v. State*, 42 Fla. L. Weekly D119 (Fla. 4th DCA January 4, 2017).

In a mortgage foreclosure case, the bank repeatedly failed to comply with discovery orders, resulting in a dismissal of its action. On appeal, the bank argued that the trial court did not consider or discuss its analysis of the factors in *Kozel v. Ostendorf* before dismissing the action as a sanction. However, it failed to bring the issue to the trial court’s attention. The Fifth District affirmed the dismissal, reminding counsel of the requirement to “provide the trial court with an opportunity to rule upon an issue before seeking appellate review.” In this case, counsel should have filed a motion for rehearing or clarification “with a specific request for inclusion of the *Kozel* factor analysis in an amended order.” *Bank of New York Mellon, etc. v. Sandhill*, 42 Fla. L. Weekly D145 (Fla. 5th DCA October 28, 2016). ■



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

The Benefits of Stretching



by Gawayne Kelly

We all know the legal industry can be taxing both mentally and physically. The long hours, the demanding clients, the never-ending deadlines can result in psychological and corporal tensions that require release in one form or another. Unfortunately, for too many legal eagles, that release can take a number of unhealthy forms such as substance abuse or indulgence in fatty “comfort” foods. Luckily, there’s a simple, free answer to stress-relief that is often overlooked but incredibly beneficial to a person’s well-being: stretching.

Stretching has been found to lower stress and blood pressure while increasing coordination, flexibility and pain tolerance. So why isn’t this panacea being exploited by more of us? The short answer is: time. The good news is all the benefits of stretching can be derived with a very minimal time commitment.

Stretching need not be an intensive, time-consuming exercise. In fact, The American College of Sports Medicine recommends stretching each of the eight major muscle groups at least two times a week for only sixty seconds per exercise. So, stretching can be squeezed into a regular daily routine upon waking, before bedtime or during breaks at work. Let’s look at the most effective stretching exercise for each muscle group.

The eight major muscle groups are the shoulders, arms, chest, abdomen, back, buttocks, thighs and calves. I have briefly described the most effectual exercises for stretching

each area.

1. Major Muscle Group: Shoulders

Neck and shoulder rolls are best for stretching this area. Neck rolls consist of tilting the head to the right and slowly roll it down (chin to chest) and then reversing the exercise by tilting the head to the left (making a “U” shape). Shoulder rolls are executed by bending the right ear to the right shoulder and gently pulling the head to the right. Hold for 30 seconds before repeating on the other side.

2. Major Muscle Groups: Arms & Chest

Wall stretches are great for limbering up arms and chest. A wall stretch is performed by placing the palm, inner elbow, and shoulder of one arm against the wall. Keep the arm in contact with the wall, exhale and slowly turn your body around, to feel the stretch in your biceps and chest. You can adjust the hand position either higher or lower and repeat in order to stretch the multiple biceps and chest muscles.

3. Major Muscle Groups: Thighs and Calves

It’s back to the wall! Lean against a wall with the leg to be stretched at the back. Bend the knee keeping the heel in contact with the ground until a stretch is felt. Hold for 15 to 20 seconds and repeat three times.


4. Major Muscle Group: Abdomen

Stretch that six pack or muffin top with an oblique standing ab stretch. Stand tall with your back straight and hands above your

head. Gently lean to one side until you feel a mild to moderate stretch in the side of your torso. Hold for 5 seconds and then return to the starting position. Repeat 10 times provided the exercise is pain free. Then repeat the exercise on the opposite side.

5. Major Muscle Groups: Back and Buttocks

After a long day’s work, the two most common casualties are the back and backside. Alleviate this pressure by sitting in the butterfly position. Keep your spine straight, lead with the chest, pull your shoulders back, and fold forward toward your feet. As a bonus, this pose also opens and relaxes the inner thighs and groin. Hold for 8-10 breaths.

Clearly, stretching can be an easy and brief stress-reliever. Use these new found techniques daily. Go one step further and showcase these stretches at the Mercedes-Benz Corporate Run on April 7, 2017. Participants can either run or walk. Join the BCBA/Legal Aid Team. The registration deadline is March 8, 2017. Register today at www.browardbar.org/calendar Remember to stretch! 



Gawayne Kelly, Esq. is a Florida International University College of Law graduate. He practices in the areas of criminal and family law throughout Broward, Miami-Dade and Palm Beach counties

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Cost: \$60 BCBA Member Series (\$25 Session 1); \$100 Non-Member Series (\$35 Session 1)

9 Panthers All-Inclusive Game & CLE

Time: 5:30 p.m.
Venue: BB&T Center
Cost: \$80 BCBA Member; \$95 Non-Member

10 Medical Marijuana Legalization Summit 2017

Time: 9:00 a.m. – 5:00 p.m.
Venue: Bahia Mar Fort Lauderdale Beach
Cost: \$125 BCBA Member; \$150 Non-Member

10 2017 Judicial Robing Ceremony #3

Time: 1:00 p.m.
Venue: Broward County Courthouse - Jury Assembly Room

11 YLS: Holiday in February

Time: 9:00 a.m. – 1:15 p.m.
Venue: Museum of Discovery and Science
Cost: No Cost

15 Construction CLE: MEP Forensics

Sponsored by: Thornton Tomasetti, Inc.
Time: 12:00 p.m. – 1:30 p.m.
Venue: BCBA Conference Center
Cost: Free Construction Section Member; \$10 BCBA Member; \$25 Non-Member

16 YLS: February Diversity Luncheon

Time: 12:00 p.m. – 1:30 p.m.
Venue: Tower Club – 28th Floor
Cost: \$20 Member; \$25 Non-Member

22 Women Leaders in the Law Series – Session 1

Time: 5:30 p.m. – 7:30 p.m.
Venue: BCBA Conference Center
Cost: \$50 BCBA Member Series (\$35 Session 1); \$70 Non-Member Series (\$45 Session 1)

24 2017 Workers' Compensation Conference

Time: 11:30 a.m. – 5:00 p.m.
Venue: Bahia Mar Fort Lauderdale Beach
Cost: \$85 BCBA Member; \$100 Non-Member
Sponsorships Available!

28 Northeast Broward Section Luncheon

Topic: Apps That Can Make You More Productive
Time: 12:00 p.m. – 1:30 p.m.
Venue: ROIG Lawyers
Cost: \$15 BCBA Member; \$25 Non-Member

Upcoming Special Events

Visit our online Calendar for more information.

April 6

2017 Mercedes-Benz Corporate Run Team BCBA/Legal Aid
Time: 6:45 p.m.
Venue: Huizenga Plaza
Cost: \$40; **March 8th** deadline to register
Sponsorships Available!

April 28

2017 Raising the Bar (Family Law)
Time: 8:30 a.m. – 5:00 p.m.
Venue: Bahia Mar Fort Lauderdale Beach
Sponsorships Available!



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