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Broward County Bar Association BARRISTER

February 2008

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VOLUME 37, ISSUE 2

Friday, February 15

Noon – 5:00 p.m.

**Broward County Bar
Association Workers'
Compensation Seminar**

Norma B. Howard Bar Center

Lunch provided.

RSVP to Art Goldberg at

(954) 764-8040

\$75 for members/ \$90 others

See page 8 for details

Nominating Committee Proposes Slate

See pages 13-18 for Election Calendar and Candidate Statements



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17th Judicial Circuit Introducing Business Court

17th Judicial Circuit Chief Judge Victor Tobin is pleased to announce the introduction of Broward County's new Complex Litigation Unit within the existing Civil Division. This new innovative unit will be responsible for resolving complex tort and business cases. Judge Robert A. Rosenberg will serve as the Business Court Judge.

Broward County's new Business Court will be one of just a few specialty courts in Florida devoted entirely to complex business litigation. The Business Court will hear cases that are typically more complicated and require a higher degree of case management, and it will provide a streamlined process for resolving corporate and commercial disputes, reducing the time and costs involved in lengthy litigation.

For litigants, Broward County's Business Court will deliver a higher level of predictability. This court is specialized, and accordingly, the Judge has increased expertise on issues that arise repeatedly in business litigation. As a result, litigants and their attorneys will be better able to assess how principles

of law will be applied to their cases, reducing the time and costs of litigation.

For the community, the new Business Court will save tax dollars by reducing judicial workloads and court expenses, and enable the Judge to proactively manage each case, resulting in cases moving through the process more efficiently and effectively. The Business Court will help to make Broward County a more attractive and appealing place to do business in Florida by lessening expenses and removing some of the legal uncertainties of complex litigation, thus opening the doors to a more diverse business community.

Chief Judge Victor Tobin signed the Administrative Order that established Broward County's new Complex Litigation Unit, including the Business Court, Order 2008-1-Civ, on Monday, January 7, 2008. This order is available to the public on the 17th Judicial Circuit's website, www.17th.flcourts.org.

**Read transcript of Judge Tobin's
Presentation: "State of the Circuit"**

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PRESIDENT'S MESSAGE *by Barbara K. Sunshine*

WHAT'S HAPPENING AT THE BAR?

We are well on our way towards planning the next six months. The Past Presidents are meeting for the second time this month at the Bar Center. The Bench and Bar Committee is scheduling a public television program in March. The Building Committee has set a Mortgage Burning Party in early April. The Law Day Luncheon is confirmed for Monday, May 5 at the Tower Club with the keynote speaker, The Florida Bar President Francisco Angones. The Law Week Committee has other activities in store and we will again partner with the Jewish Federal and other voluntary bar associations in an event on Monday, May 12 at 5:30. The Judicial Evaluation will be mailed in late April or early May.

The Clerk and Bar Committee is meeting regularly on the first Thursday of the month. The Bylaws Committee will present amendments at the annual Installation dinner in June. Several persons will receive awards from the Professionalism Committee at the dinner.

The Finance Committee is watching our Certificates of Deposit, Money Market and Operating Accounts, and is working hard with the accountant to finish tax returns. Lawyer Referral Service continues to be one of our best member benefits. The Publications Committee is making calls to Practice Section Chairs for more substantive articles for "The Barrister," and tries to meet the deadlines. The Social/Sports/Goodwill Committee is planning another charitable drive in May.

Plans are being developed by the Membership Committee for more member benefits and discounts from area businesses. There is a Membership Luncheon set in the West area for Friday, February 22 at Noon at the Jacaranda Country Club. Our Plantation judges are the featured speakers.

HOBBIES

I have played golf and I used to play tennis. Both badly, I might add. But I do like to go to the gym fairly regularly. Gardening and digging in the dirt is right up there as a weekend favorite. I'm not particularly fond of weeding, trimming, bundling, or mulching, but I do it. And I have gotten back to reading with a vengeance. My

dad was a real scholar—his idea of pleasure was reading a book in Latin or Greek or Spanish with a dictionary on his lap. He also read a lot of biographies, poetry, and philosophy. I am full on into fiction. I must have read 50 books last year, and will probably do more this year. I decided to read mysteries by female authors with a female protagonist. I read the novels in the order they are written. I started out with the Stephanie Plum series by Janet Evanovich. Then on to V.I. Warshawski by Sara Paretsky. I followed those with the Joanna Brady books by J.A. Jance. I'm now reading the Kinsey Millhone novels by Sue Grafton. They are easy and fast to read, particularly if I can't sleep and need something to keep my mind off whatever.

NEW CARS AND KITTENS

When Samantha got off the plane in December, we had lunch and went straight to the Humane Society to pick out a kitten. Sonny Sunshine has been loads of fun helping me get over the loss of my dog, Funshine.

My conservative Midwest background does not allow me to be too frivolous, but I treated myself to a new car in October. I kept the last two cars each ten years. So I felt entitled. Loving the new car smell and everything that works.

BIRTHDAYS

My friend, Donna, always says—DON'T SURPRISE ME. But I love surprises. I'm not planning to surprise Bill on his 50th this month. Last year was his parents' 50th Anniversary. We had tons of family come in showing up at various times unexpectedly.

Valentine's Day falls between Bill's and my birthday, so we kind of celebrate for a week.

Congratulations Board member, Angel Petti Rosenberg, on the birth of her son, Alec Jaden Rosenberg (6 pounds 8 ounces and 20 inches long), on December 12

FEBRUARY 2008

CALENDAR OF EVENTS

Friday, February 1

Florida Bar CLE "Basic Family Law" held at the Renaissance Hotel PLEASE CALL THE FLA. BAR TO REGISTER.

Saturday, February 2

Young Lawyers' Section Holiday in January Party Museum of Discovery & Science (MODS) in Fort Lauderdale. To benefit Broward County foster care children. Contact: Chris D. Connally at CDConnally@hotmail.com.

Tuesday, February 5

University of Miami Paralegal Program held at the Broward Bar Association 1051 SE 3rd Avenue, Fort Lauderdale, FL The program runs from February through May. 305-284-4000

Tuesday, February 5

Broward County Justice Association Dinner & Program 5:30-7:30PM "Common Pitfalls at Trial – Protecting the Record for Review" (CLE Credit pending - 1 hour) Cost \$50.00 Members \$60.00 Non-Members, Please RSVP to BCTLA, 954-522-1662 or bctla@att.net

Thursday, February 7

BCBA Clerk and Bar Committee, Noon, Courthouse

Friday, February 8

Florida CLE "Environmental & Land Use Considerations in RP Transactions" held at the Broward County Bar Association 1051 SE 3rd Avenue, Fort Lauderdale. PLEASE CALL THE FLORIDA BAR TO REGISTER.

Friday, February 8

T.J. Reddick Bar Association Lunch Meeting is being held at the African-American Research Library, 2650 Sistrunk Boulevard, Fort Lauderdale, 33311 at Noon. This is a free event. Please RSVP by email to vadams@ghj.com.

Saturday, February 9

Association of South Florida Mediators and Arbitrators "Annual Spring Seminar" at the Tower Club 100 SE 3rd Avenue, Fort Lauderdale. 8:30a.m.-5:00p.m. Topic: "The Dispute Resolution Toolbox": Enhance Your Skills in ADR" Cost to attend: \$110.00 members, \$125.00- non-members, \$90.00 students To RSVP: call Jane Goldberg (954) 764-8040 Ext. 202 or email WWW.ASFMA.ORG Credits: 8 CMEs(includes 2 Ethics, 2 Domestic Violence, 1 Diversity. CLE's have been applied for.

Saturday, February 9

The 2008 Haitian Lawyers Association Scholarship and Awards Gala will be held on February 9, 2008 at the Westin Diplomat Hotel. The theme for this year's Gala is Journey to "La Perle Des Antilles. A Celebration a Haiti's Past, Present and Future." For more information or

sponsorship opportunities please contact HLA President, Jeff P. H. Cazeau, (305) 854-0800 or jcazeau@wsh-law.com.

Tuesday, February 12

BCBA Board of Directors Meeting, 5:15 p.m. Norma B. Howard Center

Tuesday, February 12

North Broward Bar Association. Lunch Meeting. Steak and Ale Restaurant 6300 N. Andrews Ave, Fort Lauderdale. Speaker-Judge Victor Tobin For information: Call Alan Fishman (954) 975-7800

Thursday, February 14

Broward County Hispanic Bar Association's luncheon at the Tower Club, 11:45 a.m. Speaker - Sheriff Al Lamberti. Please RSVP to Carmen@velasquez-law.com. Cost: \$25.00.

Friday, February 15

Broward County Bar Association Workers' Compensation Seminar 12:00 p.m. – 5:00 p.m. Broward Bar Association 1051 SE Third Ave, Fort Lauderdale. Cost to attend: \$75.00 members \$90.00 non-members Please call the BCBA sign up for this event. (954) 764-8040.

Tuesday, February 19

BCBA Bench and Bar Committee. Noon. Norma B. Howard Bar Center. Please call the BCBA to attend.

Wednesday, February 20

Free Retirement Planning Seminar, with Myles German. 4:00 p.m. Norma B. Howard Bar Center. (954) 764-8040

Friday, February 22

BCBA Membership Luncheon-West Area Speakers: Judges from West Satellite Courthouse Jacaranda Country Club. Cost to attend: \$25.00 RSVP to BCBA at (954) 764-8040

Friday, February 22

Broward County Hispanic Bar Association's Wine Tasting Event to benefit BCHBA's Scholarship Fund. Friends and co-workers welcome. Complimentary Riedel wine glass and deli appetizers. 6:00 p.m to 8:00 p.m., Crown Wine & Spirits, 1030 NE 15th Ave., Fort Lauderdale. \$30.00 pp. RSVP to apascal@flabar.org

See page 22 for Solo Small/Law Firm Networking Group February Lunch Schedule



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A Special Thank You...

At press time, these are the individuals who have made contributions this current fiscal year to our Mortgage Reduction program that was created to help BCBA pay down the mortgage on the Norma B. Howard Bar Center. Each individual received a blue and gold BCBA lapel pin.

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Message From Broward County Bar Association's Young Lawyers' Section President by Chris D. Connally

It's time to welcome in the New Year and what better way to do that than the YLS' annual State of the Circuit luncheon with Broward County's Chief Judge Victor Tobin. Attendees at the January 24th luncheon were treated to a fascinating topic that affect all Broward County attorneys and Judges. On behalf of the YLS and co-hosts, Broward County Women Lawyers' Association, TJ Reddick Bar Association, Broward County Hispanic Bar Association, B'Nai B'Rith Bar Association, Haitian Bar Association, the Asian Pacific American Bar Association, and everyone else who participated in making this luncheon a true success, a very special thank you to Chief Judge Victor Tobin! The lunch was well-attended and we apologize to those who were unable to attend due to the limited seating available at the Tower Club.

The YLS is putting on its annual Holiday in January event at the Museum of Discovery & Science (MODS) in Fort Lauderdale on February 2nd to extend the holiday season and bring holiday cheer to nearly 100 Broward County foster care children that may not have had a memorable holiday season. The children will be treated to a day of fun at the MODS, where tables will be filled with a countless number of toys and each child will receive a gift on his or her wish list of up to \$20. Each child will also receive a backpack to use for school and in order to bring all of the toys back to their foster home. Lunch and punch will be served and each child and his or her caretaker will have access to the museum for the rest of the day!

This program is funded strictly through donations from people in the Broward County area. All financial donations are tax deductible if checks are made payable to Florida Attorneys' Charitable Trust. We welcome your financial donations and a special thank you to all those who donated

toys at the Broward County Bar Association Holiday Party on December 14th! **The YLS is also hosting its first Martini Happy Hour on Friday, February 1st at Timpano's on Las Olas Boulevard in Ft. Lauderdale. The cost will be \$10 per person and all proceeds will go toward Holiday in January. This will include 2 speciality martinis, hors d'oeuvres and private room in the piano bar.** The YLS and the foster care children attendees thank you for your continued support!

February is Black History Month and the YLS is fortunate enough to have another fantastic speaker at our February 28th, 2008 luncheon, which will be co-hosted by the TJ Reddick Bar Association. The YLS is thrilled to have Broward's Chief Assistant State Attorney Chuck Morton as our guest speaker! The cost for attendance is \$25.00 per person and R.S.V.P.'s can be made to the BCBA at 954-764-8040. Please make sure to R.S.V.P. to ensure a spot at a luncheon you surely do not want to miss.

In March we have some exciting events to look out for. This year's Bowl-A-Thon will be on Saturday, March 8th from 5:30 to 8pm at Wilton Manor Lanes and is to benefit a most worthy cause...a fight to cure cystic fibrosis. All proceeds will go to the Cystic Fibrosis Foundation and we encourage people to not only come out and have a great time, but to truly help make a difference in the lives of so many people that are affected by this horrible disease. Please also keep an eye out for the Softball Tournament, which has moved from the end of February to the end of March. We will be sending out email blasts soon with more information relative to both events.

Remember, you do not have to be young or a lawyer to attend our events! As always, should you have any questions, please do not hesitate to contact Chris D. Connally at CDConnally@hotmail.com.

Homestead In Bankruptcy

by Jeffrey Solomon, Bankruptcy Section Chair

The Debtor and his wife purchased property in Seaside, Florida in 1995. (This is a real case.) They resided in Tallahassee until June 30, 2005. They moved to their Seaside property, designated it as their homestead, and then filed a Chapter 7 petition on November 3, 2006. The Seaside property had \$2,000,000 in equity. The debtor claimed that the homestead was fully exempt. Was the debtor able to retain the homestead as fully exempt under the new bankruptcy law?

The holding in In re Reinhard, 377 BR 315 (Bankr N. D. FL Oct. 16, 2007) and a review of the changes to the homestead exemption in bankruptcy will be discussed below, but first a few observations. The Bankruptcy Abuse Prevention and Consumer Protection Act was effective October 17, 2005.

BAPCPA was designed to prevent so-called abuse by consumers and to make it more difficult to file Chapter 7 bankruptcy. Despite this goal, the law did nothing to root out the causes of individuals struggling to pay their bills. Debt problems have especially increased in Florida for homeowners with increasing property taxes and insurance as well as adjustable rate mortgage payments to sub-prime lenders. Moreover, numerous individuals used their equity in their homes to buy investment properties which are now being foreclosed. Increasing numbers of people have no alternative but to file a chapter 7 bankruptcy. Other individuals may need to file a Chapter 13 to save their homes. (Interestingly, homeowners under certain conditions in Chapter 13 can eliminate the secured claim of their

Continued on page 11



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Amended Florida Lawyer Advertising Rules Take Effect February 1st

by Margaret Grisdela

On December 20, 2007, the Supreme Court of Florida ruled on the Bar's Motion for Reconsideration on the attorney advertising rules (Case No. SC05-2194). The court denied the Motion, but modified its order.

The amendments to subchapter 4-7 of the Rules regulating The Florida Bar become effective on February 1, 2008 and apply to all lawyers who practice law in Florida, including out-of-state attorneys who advertise for business in the state.

While most of the proposed amendments are approved, several significant areas are denied or remain unresolved. These include the following:

Radio and television advertisements must now be filed in final format with the Bar's headquarters in Tallahassee at least 15 days prior to first use. The Florida Bar has 15 days to respond to an ad, and lack of a response shall be deemed approval. The proposal to allow submission concurrent with first use was denied. (See, Rule 4-7.7(1)(a) and Rule 4-7.7(b)(2)(B)).

The court re-inserted the filing exemption for lawyer-to-lawyer communications in Rule 4-7.8(d).

The Bar proposed several amendments to rule 4-7.1 (General). The requested exemption for communications with family members was adopted.

The Bar's proposal to relax disclosure requirements for non-celebrity, non-lawyer spokespersons was denied (see Rule 4-7.5). The use of celebrity spokespersons remains a forbidden form of advertising.

Existing website and e-mail guidelines under rule 4-7.6 remain unchanged pending completion of a report by the Special Committee on Website Advertising.

Board certified attorneys can now describe themselves as an "expert in (area of certification)" in addition to use of the terms "certified," "board certified," or "specialist" (see Rule 4-7.2 (c) (6)). This drew a strong dissent from Chief Justice R. Fred Lewis, who described use of the term expert as "advertising pandering."

Advertisements other than radio or TV required to be filed for review may be filed in advance of or concurrently with the first date of dissemination (see 4-7.7 (a) (2)). Upon request, The Florida Bar will provide an advisory opinion within 15 days of receipt for pieces filed at least 15 days prior to first release.

Unchanged guidelines include the use of print testimonials, references to past successes, and comparisons that can not be factually documented. A list of clients may be published with associated client permission. The hiring disclaimer is no longer required. Written communications and matching envelopes must still be marked with "Advertisement" in red ink and a legible font size.

The Florida Bar's opinion is now binding in a grievance

proceeding, making the lawyer immune from grievance liability after the voluntary filing of a non-exempt advertisement (assuming no issues of misrepresentation).

There are many other changes to the Rules not covered here due to space constraints. The complete 59 page Revised Opinion (No. SC05-2194) with all amendments is available on the Florida Supreme Court's website at the following link:
<http://www.floridasupremecourt.org/decisions/opinions.shtml>.

Attorneys and legal marketers will want to read these Rule revisions carefully for application and compliance requirements within their individual firm.

Note: The author gratefully acknowledges the assistance of The Florida Bar's Office of Ethics Counsel for their assistance in interpreting certain provisions of the Court's recent ruling.

ABOUT THE AUTHOR: Margaret Grisdela is the President of Legal Expert Connections, Inc. and the author of the legal marketing book entitled *Courting Your Clients: The Essential Guide to Legal Marketing*. She is a 2008 Co-Chair of the Legal Marketing Association, South Florida City Group. You can reach her at mg@legalexpertconnections.com.

The Broward Barrister is published by the Broward County Bar Association as a part of our commitment to provide membership with information relating to issues and concerns on the local level. Opinions and positions expressed in the signed materials are those of the author and may not necessarily reflect the views of this publication or the Broward County Bar Association.

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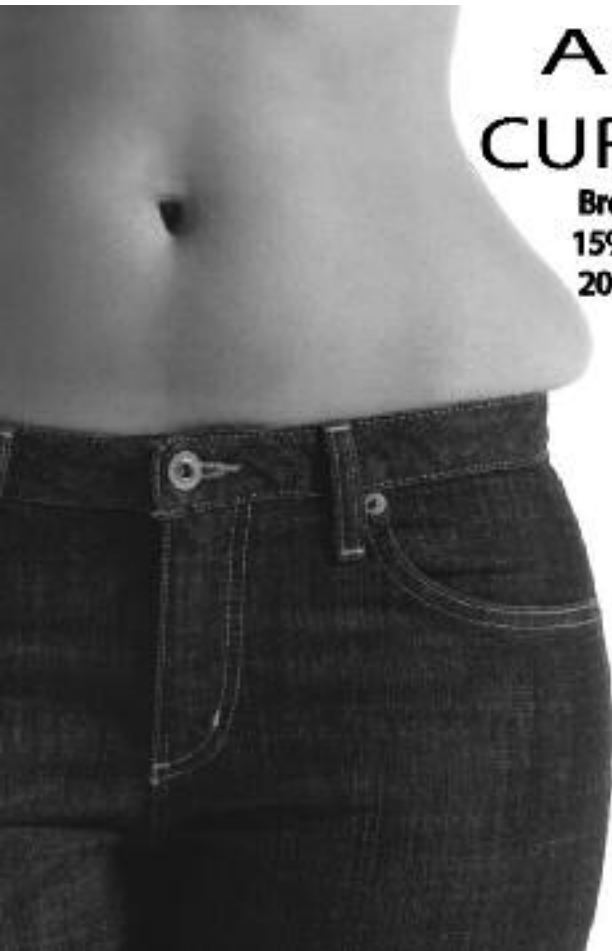
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While we are sorry to see Matt leave our firm after 10 years, we congratulate him on this achievement and look forward to continuing our firm's longstanding relationship with UHS.

All of us at Bunnell Woulfe wish Matt, his wife Tammy and their two young sons well, and we look forward to hearing of Matt's continued success in this new phase of his career.

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Dissolved Corporations Lose Federal Standing Requirements

by Nick Lewis, Esq. and Joe Englander, Esq.

Christopher & Weisberg, P.A.

Failure to file an annual report can have serious implications for a Florida corporation. A Florida corporation is required to file an annual report with the Department of State. § 607.1622(1), F.S. The report is ministerial; it includes administrative particulars such as the address of its principal office, and the names and addresses of its current directors and principal officers. Id. The requirement to file the report is absolute, and failure to file causes the corporation to be automatically administratively dissolved. The Florida Statutes provide for reinstatement upon the filing of the delinquent annual report. However, the dissolution may have disastrous repercussions as the corporation can lose valuable rights for failing to file the report. The danger is especially true for companies which hold intellectual property, such as patents, trademarks or copyrights, since the Federal Circuit has recently barred recovery of patent rights for a temporarily dissolved corporation.

The Florida Business Corporation Act ("FBCA") requiring the annual report states "any corporation failing to file an annual report...shall not be permitted to maintain or defend any action in any court of this state until such report is filed." § 607.1622(8), F.S. However, subsection 8 cannot be read in a vacuum. Although a corporation apparently loses its capacity to sue for failing to file an annual report, "a corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs." § 607.1421(3), F.S. (emphasis added). In addition, the FBCA provides that dissolution of a corporation does not "prevent commencement of a proceeding by or against the corporation in its corporate name." § 607.1405(2)(e), F.S. However, the FBCA has a reinstatement provision at § 607.1422:

(1)(a) A corporation administratively dissolved under s. 607.1421 may apply to the Department of State for reinstatement at any time after the effective date of dissolution ...

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred.

Thus, Florida courts have held that §§ 607.1421(3) and 607.1405(2)(e) allow a dissolved corporation to regain capacity to sue only as necessary to wind up its business and affairs. However, once reinstated, Florida courts have been lenient in allowing Florida corporations to litigate issues, including lawsuits based upon facts occurring prior to reinstatement. See Triple T., Inc. v. Jaghory, 612 So.2d 642, 643 (4th DCA 1993) (reversing summary judgment on grounds that a contract executed by a dissolved corporation is a nullity) and cases cited therein.

The Federal Circuit, however, uses a federal court standard that does not account for Florida state laws or jurisprudence. In Paradise Creations, Inc. v. U V Sales, Inc., 315 F.3d 1304 (Fed. Cir. 2003), the Federal Circuit followed the rule that whether a party has standing to assert the jurisdiction of a federal court is a question of federal law, and "standing is to be determined as of the

commencement of suit." Id. at 1308, quoting Lujan v. Defenders of Wildlife, 504 U.S. 555, 570 n.5 (1992) (plurality opinion). The Paradise Creations court addressed the issue of whether a suit for patent infringement must be dismissed for lack of Article III standing because the plaintiff Florida corporation claimed its patent rights under a contract executed when it was administratively dissolved. The Plaintiff then filed a patent infringement suit during the same period of dissolution, prior to reinstatement.

U V Sales argued that since Paradise Creations did not have enforceable patent rights during the period of dissolution, Paradise Creations did not hold rights to the patent at the time the suit was filed. Paradise Creations did not challenge the assertion, and the Federal Circuit deemed it admitted.

Actually, Paradise Creations depended upon its reinstatement after filing the infringement action as curing any defects in standing. Paradise Creations relied upon the relation-back provision of § 607.1422(3), F.S., and, ostensibly, upon Florida state court jurisprudence in interpretation of that provision.

However, the Federal Circuit did not allow the relation-back provision to provide standing when it was not with the Plaintiff at the time of filing. The Federal Circuit instead ruled that the capacity of a corporation to sue or be sued in Federal court is determined by the law under which it was organized according to Rule 17(b), F.R.C.P., and § 607.1421(3), F.S., grants such capacity only so far as necessary to wind up its affairs. The court decided that since the appellant had no enforceable rights in the patent at the time of filing, which appellant did not challenge, then there was no cognizable injury as required by Article III, and such defect cannot be retroactively cured after the inception of the lawsuit. As such, a plaintiff cannot rely on the Florida corporate revival statute to retroactively claim enforceable patent rights on the day the complaint was filed in order to assert standing.

The Federal Circuit acted in direct contrast to the typical actions of a Florida state court, where, "in general, corporations lacking the ability to bring suit, due to a temporary impediment, have been given leave to remove the impediment," Allied Roofing Industries, Inc. v. Denilo Venegas, et al., 862 So.2d 6 (3rd DCA Fla. 2003). Florida state jurisprudence holds that a reinstated corporation may bring suit on a cause of action "either existing at the time of dissolution or thereafter." Allied Roofing, 862 So.2d at 6 n.1, citing Levine v. Levine, 734 So.2d 1191, 1197 (2d DCA Fla. 1999).

In Paradise Creations, the court declined to address whether a plaintiff could pursue damages for infringement occurring during the dissolution period. The court also declined to address whether an agreement entered into during a period of dissolution is voidable by the other party, or simply automatically void. It is apparent that in Florida state court these issues would not arise, since the courts afford greater deference to the relation-back provision in the Florida Statutes. However, it is clear from Paradise Creations that failure to file annual reports will hinder a corporation's enforceable rights, especially those stemming solely from Federal law, such as the Patent Act, the Copyright Act, and the Federal Trademark Act. General Counsel or outside counsel handling corporate filings for companies that deal with Intellectual Property issues must be aware of the potential repercussions for failing to file an annual report.

The Broward County Bar Association Workers' Compensation Section

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Stayin' Alive In Workers' Comp. Today

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12:00 P.M. – Lunch*

1:00 P.M. – 1:45 P.M. – Current Trends From the Judges' Perspective.

Hon. Geraldine B. Hogan; Hon. Daniel A. Lewis; Hon. Kathryn S. Pecko

1:45 P.M. – 2:45 P.M. – Effectively Navigating Through Today's

Workers' Comp System

Warren Brown, Esq.; Howard Scheiner, Esq.

Victor Marrero – Director of Risk Management – BSO

2:45 P.M. – 3:00 P.M. – Break

3:00 P.M. – 3:45 P.M. – Litigating Claims Under Today's PTD Law

Ray Malca, Esq.

Susan Lazarus –Vocational Rehab. Counselor/Consultant

3:45 P.M. – 4:15 P.M. – Recent Decisions From the DCA & Supreme

Court/Attorney Fees Update

Barbara Wagner, Esq.; Cheryl Wilke, Esq.

*** Lunch included in program cost: \$75.00 for members, \$90.00 for non-members.**

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Fort Lauderdale, FL: **Linda Conahan**, a shareholder with Gunster Yoakley, has been named by Governor Charlie Crist to be on the Florida Commission on Ethics for a two-year term.



Brinkley, Morgan, Solomon, Tatum, Stanley, Lunny & Crosby, LLP is pleased to announce that associate Scott P. Chitoff has become a Partner of the firm.

Scott P. Chitoff received his Bachelor of Science degree in Legal Studies in 1993, his Master of Science in Dispute Resolution in 1995 and his Juris Doctor degree in 2000, all from Nova Southeastern University.

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“Giving Things Away On the Internet Can Get You In Hot Water”

by Alan Weisberg, Esq. • Christopher & Weisberg, P.A.

The internet provides a means to communicate with millions of people on a daily basis, and as such, provides a prime venue for marketing campaigns. Such campaigns often include a “give-away” or “free item” incentive for an individual to provide personal information and/or purchase other goods or services through the internet, i.e., “Sign up now and receive a free Apple® Ipod®,” or “Register today and get a complimentary Sony® Vaio® laptop!” These third-party products are often purchased by the entity offering the campaign, but casual use of protected trademarks and copyrighted materials, while seemingly harmless, can wind up costing you.

Trademark use is governed by both state and federal law, namely Title XXXIII, Chapter 495, and 15 U.S.C. §1051 et seq., respectively. A trademark is a word, phrase, symbol, or design used in commerce to identify and distinguish goods from one seller or manufacturer from another. In particular, trademarks identify the source of the goods being offered. A trademark holder may lose certain trademark rights if the trademark is not enforced, and enforceability of a trademark against a potentially infringing party hinges on confusion as to sponsorship, ownership, affiliation, etc. Thus, in marketing campaigns, the issue arises: Is use of a third-party mark even permissible?

The answer is yes. A third-party trademark can be used if it is descriptive of the origin of the products used in the promotion. *Bihari v. Gross*, 119 F.Supp.2d 309 (S.D.N.Y. 2000). In addition, “fair use” allows advertisers to use another’s mark to describe their own product so long as the term is used in good faith other than as a mark to describe their own goods or services. 15 U.S.C. §1115(b)(4). Courts have held that traditional fair use may be found so long as the use is not confusing to consumers about the source of the advertiser’s product, and the representations are truthful (*Neutrik Ag v. Switchcraft, Inc.*, 2001 U.S. Dist. LEXIS 3180 (S.D.N.Y. 2001)). In addition, “nominative” fair use has been allowed where use of another’s mark does not imply sponsorship or endorsement because the mark is only used to describe the item rather than to identify its source, i.e., the product or service is not readily identifiable without the trademark. *Playboy Ent. Inc., v. Terri Welles et al.*, 279 F.3d 796 (9th Cir. 2001). Whether or not a particular use involves a likelihood of confusion involves analysis of several primary factors, including: 1) similarity of the marks; 2) degree of relatedness of products/services; 3) strength of asserted mark; 4) marketing channels of the two marks; 5) degree of care used by consumers; 6) intent behind selection of junior marks; 7) evidence of actual confusion; and 8) likelihood of expansion.

In an internet “give-away” scenario, trademark infringement essentially boils down to evidence of actual confusion as to sponsorship of the campaign, and even further to “initial interest confusion.” Initial interest confusion arises when a consumer is misled into believing the mark owner is affiliated with or sponsors the campaign using the mark even if lack of such affiliation is made clear at some future point. *Caterpillar Inc. v. Telescan Tech., L.L.C.*, 2002 U.S. Dist. LEXIS 3477 (C.D. Ill. 2002). In other words, a disclaimer may not free you of liability.

So how do you protect yourself or your client? Primarily, disclaimer language should make it clear that (1) there is no affiliation or sponsorship between the campaign sponsor and the third party mark owner, and (2) ownership of the mark resides with

the third-party mark owner. The disclaimer should be placed as early as possible in web pages comprising the marketing campaign.

Secondly, do not use the mark as part of the domain name. Use of a third-party mark in a domain name creates initial interest consumer confusion. *Paccar Inc. v. Telescan Tech., L.L.C.*, 319 F.3d 243 (6th Cir. 2003)(partially overruled on other grounds). Furthermore, a disclaimer won’t cure the infringement because the damage is done once the consumer is lured to the web site. *Caterpillar Inc.* In addition, don’t use the mark in meta-tags or as “invisible text” (text embedded on the web page in same color as the background), both of which are commonly used to increase the possibility of a “hit” when using search engines. Use of a third-party mark in a meta-tag creates initial interest consumer confusion. *Brookfield Com., Inc. v. West Coast Entertainment Corp.*, 174 F.3d 1036 (9th Cir. 1999).

Thirdly, don’t alter the appearance of the third-party mark. Use the mark exactly as used and/or registered by the third-party mark holder. An alteration can be a misuse if the alteration has the potential to lessen the selling power of a distinctive mark. *Deere & Co. v. MTD Prods., Inc.*, 41 F.3d 39 (2nd Cir. 1994). Moreover, the appearance of the mark should not be overshadowed. Overshadowing use with respect to the size of other text and graphics on a page can be a basis for likelihood of confusion. *Mattel Inc. v. Robarb’s, Inc.*, 139 F.Supp2d 487 (S.D.N.Y. 2001).

In addition to the measures above, fulfill the promotions with the actual advertised / selected products. Under the “First Sale Doctrine,” the trademark can be used to re-sell the product as long as use is in a manner that is not likely to cause confusion. *Bernina of America, Inc. v. Fashion Fabrics Int’l, Inc.*, 2001 U.S. Dist LEXIS 1211 (N.D. Ill. 2001). To further reduce the likelihood of confusion, use unrelated third-party marks together on the same web page. Use of competitors’ marks, e.g., “Nike” and “Adidas,” together on a web page may lessen the ability to assert the existence of consumer confusion, as a consumer is not likely to believe competitive entities are co-sponsoring a campaign. Also, the use of the third-party mark should be incidental to the campaign, as less use of the mark lessens the likelihood of a complaint.

Copyright issues also may arise in use of product images, use of manufacturer advertising or marketing materials, as well as embedded links to download content from a manufacturer’s web site. Copyright is governed by federal law as set forth in 17 U.S.C. §101 et seq. Essentially, copyright laws protect the expression of an idea fixed in a tangible medium, including such items as photos, advertisement art work, jingles, web sites, and computer programs. Shorter phrases, i.e., “Let’s get ready to rumble,” are generally classified as trademarks and are not protectable under copyright laws. A copyright owner has the exclusive right to create derivative works, reproduce the original work, broadcast / display the work, distribute the work, perform the work, and perform audio works by digital audio transmission. Images of a third-party product should not be used on a web site unless the campaign provider owns or has the right to use the image, for example, through a license from the copyright holder, by having an employee take a picture of an actual product, or by having an agency or contractor take an image of the item. Marketing materials, text, advertisements, instructions, etc. are all subject to copyright protection and also should not be used without permission from the manufacturer.

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CONGRATULATIONS RUSSELL E. CARLISLE, ESQ.

Russell E. Carlisle, Esq. has been selected as the recipient of The Florida Bar President’s Pro Bono Service Award for 2008 from the Seventeenth Judicial Circuit. Mr. Carlisle will be honored by The Florida Bar and the Justices of the Supreme Court at a ceremony held on January 31st, 2008 at the Supreme Court Building in Tallahassee. Way to go Russell! You are truly deserving of this most prestigious award.

CONGRATULATIONS! PAUL E. GIFFORD, ESQ. BROWARD LAWYERS CARE (BLC) ATTORNEY OF THE MONTH

Paul E. Gifford, Esq. is a sole -practitioner assisting Legal Aid clients in family matters. He has been a member of BLC’s panel since 1994 and has volunteered 300+ hours. Thank you for your willingness to assist and never turning the neediest away. You are our hero!

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Fort Lauderdale

Bimini Boat Yard
1555 SE 17th Street
Tuesday, February 26
at 12:00 PM

RSVP by phoning Beth Lindie, Esq.
(954) 764-5400

Plantation

Olive Garden
807 S. University Drive
(Fountains Plaza)
Wednesday, February 20
at 12:00 PM

RSVP by phoning John Rizvi, Esq.
(954) 452-0033

Lighthouse Point

Fifth Avenue Grill
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Thursday, February 28
at 12:00

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Continued from page 4

second mortgages.)

Meanwhile, debtors and their attorneys must struggle with the vague requirements of the new “means test” to determine the amount that debtors must pay to unsecured creditors. There are already hundreds of cases, often conflicting, on means test issues.

The key point to be made here is that the overwhelming majority of individuals who need bankruptcy relief qualify for chapter 7 just as under the old law and do not have to make any payments to unsecured creditors. (For more information on either the means test or restructuring secured debt in Chapter 13, see articles at www.solomonlawoffice.com.)

Another goal of BAPCPA was to restrict the “mansion loophole” of the unlimited homestead exemption, particularly in Florida. No longer can debtors move to Florida, invest all of their funds in a Florida homestead, and promptly file bankruptcy.

Under both prior and current law, venue is proper in Florida if the debtor resided here for at least 91 days. Under prior law, the new Florida resident could use Florida exemptions. Under the new law, a debtor may not use Florida exemptions in bankruptcy unless the debtor was domiciled in Florida for more than 730 days.

Between 730 and 1215 days, the Florida homestead exemption is limited to \$125,000.00. (As of April 1, 2007, the amount increased to \$136,875.00.) Only if the period is greater than 1215 days may the debtor receive the benefit of the unlimited Florida homestead exemption.

BAPCPA expressly permits a rollover of the proceeds from the sale of a prior residence, and the act has been interpreted to apply to multiple rollovers. In re Charles H. Wayrynen, 332 BR 479 (Bankr. S.D. FL 2005).

If a husband and wife file a joint bankruptcy during the 730-1215 day period, are they each entitled to the \$125,000 exemption thereby doubling the total exemption? Yes, according to In re Rasmussen, 349 BR 747 (Bankr. M.D. FL 2006), In re Chouinard, 358 BR 814 (Bankr. M.D. FL 2006), and In Re Limperis, 2007 Bankr. Lexis 1888 (Bankr. S. D. FL 2007).

BAPCPA did not change the protection of property owned as tenancy by the entireties. In re Buonopane, 349 BR 346 (Bankr. M.D. FL 2007). In re Wagstaff, 2006 Bankr. Lexis 716 (Bankr S.D. FL 2006), In re Robedee, 2007 Bankr. Lexis 1889 (Bankr. S.D. FL 2007). Additionally, one court concluded that even though the debtor had not resided in Florida for two years, the debtor was entitled to claim that the residence was exempt as tenancy by the entireties. In re Schwarz, III, 362 BR 532 (Bankr. S.D. FL 2007).

We have been discussing the limited homestead exemption between 730-1215 days and the unlimited homestead protection if greater than 1215 days, but what do the number of days represent? The center of the issues pertaining to the new law as to homestead is Section 522(p)(1), which provides:

“...a debtor may not exempt any amount of interest that was acquired by the debtor during the 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate \$125,000 in value...”

This section does not require that the property must have been the debtor's homestead for more than 1215 days. The issue is the construction of the phrase “an interest that was acquired by the debtor during the 1215 day period.”

Several cases have addressed the issue in the context of appreciation. What if property appreciated in value more than \$125,000.00 during the previous 1215 days? Is appreciation an interest that is acquired? Courts have held that because an increase in value is not “acquired”, the increased value is exempt In re Sainlar, 344 BR 649 (Bankr. M.D. FL 2006)(title is acquired, not equity). See the detailed analysis of the statute in In re Rasmussen, 349 BR 747 (Bankr. M.D. FL 2006). Also see In re Chouinard, 358 BR 814 (Bankr. M.D. FL 2006).

Back to the issue presented in Reinhard. The \$2,000,000 net value of the new homestead was the equity for property that was owned more than 1215 days but was only homestead for one year. In re Greene, 346 BR 835 (Bankr. D. Nev. 2006), with similar facts, held that the homestead status was a separate interest in real property acquired within 1215 days, so the exemption was limited to \$125,000.00. In re Rogers, 354 BR 792 (D. N.D. Tex. 2006), rejected Greene. Following Rasmussen, an “interest” in property refers to a legal or equitable interest that can be quantified with a monetary figure, so homestead is not an interest that is acquired. As a result, property owned more than 1215 days is fully exempt as homestead even though it did not become homestead until within the 1215 day period.

What about the new ten year fraudulent transfer provision? 11 USC Sec. 522(O) provides that the homestead exemption shall be reduced “to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10 year period...with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt...” For cases applying this statute, see In re Lacounte, 342 BR 809 (Bankr. D. Mont. 2005), In re Sissom, 2007 Bankr Lexis 1683 (Bankr. S. D. TX May 11, 2007), and In Re Agnew, 355 BR 276 (Bankr. D. Kan. 2006).

In re Lyons, 355 BR 387 (Bankr. D. Mass. 2006), relying in part on Rasmussen, held that it was not a fraudulent transfer to file a declaration of homestead within 1215 days even though the property was owned for more than 1215 days.

Reinhard held that despite the restrictions in the new bankruptcy law, the debtor was entitled to exempt the entire \$2,000,000 in equity in his residence even though it had been homestead property for only one year. Surprised?

Worker's Compensation - OJCC Overview

by Deputy Chief Judge David Langham

Workers' compensation litigation in Ft. Lauderdale has undergone various changes in recent years. The office location changed, with resulting improvements in the facilities for mediation and trial. Administrative Judge Judith Brechner retired, and Judge Lewis became responsible for office administration. Judge Rodriguez-Powell was appointed to the Circuit bench, and was replaced by Judge Pecko, formerly a Miami Judge. Judge Hogan was appointed in 2006 to replace Judge Brechner.

The Office of the Judges of Compensation Claims (OJCC) is part of the executive branch, but is often erroneously referred to as a “court.” The OJCC operates eighteen offices in which thirtytwo Judges manage the entire volume of workers’ compensation litigation in Florida. They are assisted in this responsibility by mediators, clerks, and secretaries. This effort is further supported by the Division of Administrative Hearing, or “DOAH,” in Tallahassee. The DOAH became involved in the OJCC when the Florida Department of Labor was abolished in 2001. At that time, the OJCC was transferred to the DOAH, which now provides extensive expertise and support to the OJCC operations in many ways. Two of the most important aspects of DOAH support have been the DOAH expertise in administrative and facilities management and the Management Information Services. It has required significant effort to integrate the OJCC operations into the DOAH organization. In the midst of that transition, the OJCC began a long overdue transition to exploiting developing computer technology and the internet. The DOAH had long been a leader in State of Florida information management. Soon after the OJCC transfer, the DOAH leadership recognized the immense potential that the internet and better technology held for improved public service in the workers’ compensation litigation system. Leadership, coupled with vision, dedication and sound fiscal management have resulted in the OJCC making a technological quantum leap in the last six years, to the undeniable benefit of the litigants, the attorneys that represent them, and the State.

Florida workers' compensation seems to be always changing. The Florida Legislature has amended the Florida workers' compensation law repeatedly in the last twenty years. Significant alterations were made in 1989, 1990, 1991, 1994, 2001, and 2003. These statutory amendments have made the practice of workers' compensation law challenging to attorneys, and have likely been difficult for injured workers and employers to follow at times.

The administrative processes have probably been as

difficult for attorneys and their clients. In 1973 the Florida Supreme Court adopted workers' compensation rules of procedure, similar to the other procedural rules they have adopted and maintain for practice in Florida's courts. In 1993 the Legislature directed the OJCC to undertake this responsibility and to publish procedural rules. Despite this mandate, the OJCC then elected instead to publish a supplemental set of uniform "procedures" designed to explain or augment the Supreme Court rules. These were called the Uniform Practices and Procedures, and were published but never formally adopted pursuant to Chapter 120. In 2003 the DOAH published procedural rules pursuant to the Legislature's 1993 mandate, intended to replace rather than supplement the Supreme Court rules. This decision was challenged in the courts, with the Florida Supreme Court concluding that the DOAH rules were appropriate, and retracting the previously published Supreme Court procedural rules.

Certainly, attorneys have struggled with these changes in substantive and procedural laws and processes. In the midst of it all, they have been further called upon to understand and embrace the benefits that technology and modern electronic information management techniques have brought to the system. Practitioners have learned to glean system and case information from the internet, and to use the internet for their filing needs also. We find that despite these many challenges, the vast majority of workers' compensation attorneys are persevering. The advent of computer hardware and software improvements allows the OJCC to more precisely track the changing trends in litigation volume and processing. These information management improvements have made it possible for the OJCC to track both the volume of petitions filed and new cases filed. We are also able to monitor the lifespan of petitions, from filing through their closure by voluntary dismissal, judicial dismissal, or adjudication. In short, the OJCC can now determine where the work volume is, where performance issues exist, and track trends in both work volume and work performance.

An integral part of the OJCC is the Ft. Lauderdale District office. This operation services the residents of Broward County. Three judges manage the Ft. Lauderdale OJCC operations, Judge Dan Lewis, Judge Kathryn Pecko, and Judge Geraldine Hogan. This district has seen a significant decrease in filings since 2003. In 2003, 18,627 petitions were filed in Ft. Lauderdale District, compared to 10,676 (-43%) in 2007. Statewide, petition filings decreased 45% during the same period. During the same period, “new case”

Continued Page 19

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2008 Election Calendar

2008 Candidates by Geographical Area
Term of Office: July 01, 2008 – June 30, 2010

Ballots Will be Mailed- APRIL 1
Ballots to be Returned - APRIL 15
Results Released- MAY 15

Northeast - Two available seats to be filled in the 2008 Election.
Southeast - Two available seats to be filled in the 2008 Election.
West - One available seat to be filled in the 2008 Election.
Central – Three available seats to be filled in the 2008 Election.

Slate Still Open to Members

Any regular member who is not nominated by the Nominating Committee, and who desires to seek election, may obtain the signatures of ten (10) members on one or more Nominating Petitions. The Petitions must state the office or group for which the member seeks election. The signed Petitions must be received in the Association office no later than 5:00 p.m. on March 1st.

2008 BCBA Slate of Officers



Office for President

Christopher M. “Chris” Neilson

Law Firm: Law Office of Christopher Mark Neilson, P.A.

Area of Law: General Civil Litigation, Juvenile and Criminal Law, and Personal

Injury

Law School: Nova Southeastern

Admitted to The Florida Bar: 1987

Joined BCBA: 1987

My goals as 2008 President will be a logical progression of my BCBA service. As Chair of the 2009 Bench and Bar Conference, I will continue to plan, create, and encourage an inclusive Conference, inviting the Judiciary and all attorneys and Voluntary Bar Associations, BCBA Sections and Committees, and others, to fully and equally participate. I will continue to serve our members, and be part of BCBA’s “Seamless Transition” process. I will continue to advance and improve our Association, its members, the legal and judicial community, and to educate the community at large.

I am truly honored for the confidence placed in me and the opportunity to serve. I will continue the strong work ethic I have demonstrated to our great association over the past several years. I greatly appreciate your support. Thank you very much.

Chair BCBA Bench and Bar Conference for 2009.

Elected to BCBA President-Elect 2007-2008.

Elected to BCBA Secretary/Treasurer 2006-2007.

Elected to BCBA Board of Directors, 2004-2006; also, 2002-2004.



President- Elect

Carlos M. Llorente

Law Firm: Pedisich & Llorente

Areas of Practice: Civil Litigation

Admitted to The Florida Bar: 1985

Joined BCBA: 1988

It has been my privilege to serve on the Board in past years and as the Association’s Treasurer/Secretary this year. I humbly ask for your support to continue

working on the many initiatives and member benefits the Association has established. More importantly I want to assure that members have an Association of professionals that regardless of where they practice, what they practice or how many years they have been in practice, feel that they are valued and belong to one of Broward County’s greatest institutions with a rich and established history.

Personal Background Information: UM undergraduate; UF Law , Married to Maria, 3 children; past Chair of Legal Aid Society of Broward County and Chair of Coast to Coast Legal Aid Society; member of The Florida Bar’s Unlicensed Practice of Law committee (17B); member of The Florida Bar’s Professional Ethics Committee; founding member of the Broward County Hispanic Bar Association in 1989, Treasurer in 1992; Attorney Section member of the Broward County Guardian Ad Litem Program (5 years); member of Broward Lawyers Care; Commissioner, Judicial Nominating Commission, 17th Judicial Circuit (1992 - 1996 term); member of Judicial Nominating Procedure Committee of The Florida Bar from 1993-2005; Chair-Legal Aid/Low Cost Committee of the BCBA.



Secretary-Treasurer
Bruce Weihe
Law Firm: Seiler, Sauter, Zaden Rimes & Weihe
Area of Practice: Commercial Litigation - Trial Practice

Law School: University of Florida
Year Admitted to the Florida Bar: 1971
Joined BCBA: 1974
For years I have enjoyed serving the Bar and the legal profession, both locally and on a statewide level. My involvement began as an associate with the firm of Ferrero, Middlebrooks and Houston years ago, a firm that was blessed with a spirit of sharing and Bar involvement, eventually resulting in Ray Ferrero’s service as president of The Florida Bar. Unfortunately, that spirit of involvement, from attorneys in large firms to sole practitioners, appears to be waning, and a goal of mine over the next several years would be to reestablish the sense of camaraderie and involvement that needs to be embraced by our profession, and work to eliminate the “edge” that seems to pervade the practice all too often these days.

My service with the Bar includes lecturing over the

years in a number of CLE programs, working three years ago as co-chair of the Title V initiative to secure court funding, actively working to help preserve the Law Library, and actually starting the Young Lawyers’ Softball Festival quite a few years ago. Most recently, I have served on The Florida Bar ethics committee, and I currently serve on the Florida Bar’s standing committee on Professionalism. I look forward to serving as your Secretary -Treasurer.

NORTHEAST Two available seats to be filled in the 2008 Election.



Alan Fishman
Law Firm: Fishman & Gentile, P.A.
Area of Practice: Family, Criminal, Juvenile
Year Admitted to The Florida Bar: 1977
Joined BCBA: 2000

I am very honored to be nominated for a second term on the Board of Directors of the Broward County Bar Association. I welcome the opportunity to continue to give solo practitioners and small law firms a voice in our legal community. I have always practiced in small firms and I know that our needs and interests are different than those who work in the large organizations. As a resident of Coral Springs for 29 years and having had the privilege to serve as the President of the North Broward Bar Association for the past two years, I have had regular business and social interaction with the attorneys in the North part of the county. I would like to put to work for your benefit the experience I have gained in that capacity as well as what I have learned as a Board member for the past two years.



Patrick B. Giunta
Firm: Giunta & House, P.A.
Area of Practice: Real Estate, Construction Law, Litigation, and Personal Injury
Law School: University of Miami
Year Admitted to The Florida Bar: 1987
Year Joining BCBA: 1987

It was an honor to be elected as one of the three directors from Northeast Broward for the 2006-2008



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Continued from 12
filings have decreased from 6,151 to 3,699 (-40%) in Ft. Lauderdale District. New case filings decreased 36% statewide during the same period. Thus, Ft. Lauderdale District is experiencing slightly less than average decrease in petition filings, but slightly above average decreases in “new case” filings.
Judge Lewis is the administrative Judge in Ft. Lauderdale, and manages the overall operations. He is assisted by mediator Michael Smith, Deputy Clerk April Holsman, Executive Secretary Barbara Kaufman, and Administrative Secretary Sandra Hanselman. In 2007, Judge Lewis entered 56 trial orders, which is well above the 43 order average of all the Judges. Despite this high trial volume, Judge Lewis’ cases averaged 386 days between petition filing and trial, and he entered his final orders in an average of 13 days. This evidences significant effort and dedication, and is well within the statutorily prescribed 30 day period for order entry. On average, he entered settlement motion orders within 6 days of filing, which was below the statewide average of 8 days. Judge Pecko has been in Ft. Lauderdale District since 2006, following Judge Rodriguez-Powell’s appointment to the Circuit Bench. She is assisted by mediator Lynn Koepfel, Deputy Clerk Elvira Barnes, and Executive Secretary Vladyna Pierre. Judge Pecko’s division in Ft.

Lauderdale had the highest volume of both petitions and “new cases” in 2007 as it had also in 2003. Judge Pecko closed 9,776 petitions in 2007, which required significant effort. Judge Hogan is new to Ft. Lauderdale, following appointment by Governor Bush in December 2006. She is assisted by mediator Maria Brea, Deputy Clerk Ophelia Dixon, Executive Secretary Sophia Heath, and Administrative Secretary Taneshia Barbary-Snell. Judge Hogan closed 14,177 petitions in 2007, addressing long overdue docket management issues. Judge Hogan’s petition volume and “new case” volume are also significant.
The operations of Ft. Lauderdale District are further detailed in the 2007 OJCC Annual Report, available on the OJCC website under the “reports” tab, www.fljcc.org. The OJCC continues to look to the horizon and plan for the future of Florida workers’ compensation litigation. However, we also remain focused also on the here and now. We are working hard to provide Florida with timely performance and accurate statistical analysis of the litigation process. As we bring our collective efforts to bear, we recognize the contributions of diligent and effective Judges. Florida is fortunate to have the diligent leadership of Judge Lewis in Ft. Lauderdale.

CENTRAL



Mark J. Skipper
Law firm: Mark J. Skipper, P.A.
Area of Practice: Criminal, Civil
Admitted to the Florida Bar: 1977
Joined BCBA: 1981

I would consider it a privilege to serve the 8,000 lawyers and judges of Broward County. Having practiced for 32 years, I now have the time to make the necessary commitment to service.

My past involvement in Bar activities consisted of service on the Florida Bar Corrections Committee, Florida Lawyers Assistance Mentor Programs, Broward Lawyers Care and Florida Bar Fee Dispute Arbitration Committee.

My background is diversified. In my 30 years as a sole practitioner, I have handled Criminal and Civil Cases in both State and Federal Courts, including the 4th DCA and the Florida Supreme Court. I am admitted to practice before the U.S. Supreme Court, U.S. Court of Appeals, U.S.District Court, Florida Supreme Court, U.S. Tax Court, U.S. Court of Customs and Patent Appeals, Court of International Trade, U.S. Court of Claims and the U.S. Court of Military Appeals. I also served two years as an Assistant State Attorney.

I would appreciate your support.



Paul Finizio
Law Firm: Finizio & Finizio, P.A
Area of Practice: Personal Injury, Wrongful Death
Admitted to The Florida Bar: 1984
Joined BCBA: 1998

I look forward to bringing outside the box approaches from the various walks of life.
It is my firm belief that all of us have many untold talents, experiences and skills to tap from and add them to all of the already existing knowledge and talent base of our organization.

I hope that from my state to state and country to country travel and experience in Courtrooms, Law firms, International Bar Associations, Dale Carnegie, Toastmasters , MBA studies and business experiences, the BCBA will find some value from my participation.



Greg Haile
Law Firm: Berger Singerman, P.A.
Area of Practice: Dispute Resolution
Admitted to The Florida Bar: 2002
Joined BCBA: 2004

My name is Greg Haile and I am a member of the Dispute Resolution Team at Berger Singerman, P.A., where I practice complex commercial litigation. I received my B.S. in Justice Studies, magna cum laude, from Arizona State University in 1999.

I went on to receive my J.D. from Columbia University School of Law in 2002 where I was a Harlan Fiske Stone Scholar . While at Columbia, I served as the Editor-in-Chief of the National Black Law Journal and as an Articles Editor for the Journal of Gender and Law. I also served as a part-time clerk for William H. Pauley, III, Southern District of New York.

In 2003 and 2004, I was an adjunct professor of business law at Miami Dade College. In 2004, I was elected to (and continue to serve on) the board of the T.J. Reddick Bar Association and the board of the Broward County Bar Young Lawyer’s Section.

In 2007, I was elected president of the T.J. Reddick Bar Association, was appointed by the Florida Bar Board of Governors to the Seventeenth Circuit’s Grievance Committee, became a member of Leadership Broward’s Class 26, and was listed in Gold Coast Magazine as a prominent South Floridian.

I am passionate about contributing to the legal community as well as the community-at-large. I would cherish the opportunity to continue to share that passion as a member of the Board of the Broward County Bar Association. As such, I want and would greatly appreciate your vote.

NORTHEAST

Broward County Bar Association Board of Directors.
I have served two terms in the North Broward Bar Association having started as a board member, and serving in each officers’ position for over 8 years of service. I also chaired the Florida Bar Grievance Committee 17E, and chaired a UPL Committee for our circuit. I will continue to bring the leadership skills and enthusiasm to continue my service to the profession.

I have worked with the BCBA Board, chaired and co-chaired various committees and have enjoyed the experience. I would welcome the opportunity to continue my service through the year 2010. In two years, a lot has been accomplished and we are planning for the future of the Bar Association. I believe that consistency and experience will enable the Association to best serve its members.



Richard A. Sachs
Firm: Berman, Kean & Riguera, P.A.
Area of Practice: Litigation, Commercial, Real Property
Admitted to The Florida Bar: 1994
Joined BCBA: 1994

I am an AV rated attorney practicing in Broward since 1994, and have been a Broward resident for 33 years. I joined the BCBA the year I graduated from Nova Law and immediately became active. I have served on several BCBA committees, including: Professional Responsibility; Judicial Evaluation; Medical Society Liaison; Mentorship; and the Client Complaint Panel. At the State level, this year I completed 6 years of service on the Florida Bar Journal Editorial Board and my term as Chair of a Florida Bar Grievance Committee. I currently serve as a V.P. for the B’nai B’rith Justice Unit.
I have a history of service to our profession. The BCBA’s Officers and Board are doing an excellent job, and I hope to contribute my time and energy to assist them in continuing to provide you with a better and more valuable local bar. I would appreciate your trust and vote!
Rich

SOUTHEAST Two available seats to be filled in the 2008 Election.



Edward F. Holodak
Law Firm: Edward F. Holodak, P.A.
Area of Practice: Commercial and Civil Litigation, Association Law and Personal Injury
Admitted to The Florida Bar: 1995
Joined BCBA: 1995

I have been a sole practitioner in Hollywood since 1999 with my areas of practice being Commercial and Civil Litigation, Association Law and Personal Injury. I have been a member of the Broward County Bar Association since being sworn in as an attorney and have served on the Board for the past two terms. In addition to my law degree from the University of Florida, I have a Masters in International Business from Nova Southeastern University. I am married with two small children and am active in various community and sporting organizations. I served the members of the Association as a member of the Board of Directors 2005-2007.



Michael Lukasievich
Law Firm: Michael Lukasievich, P.A.
Areas of Practice: Real Estate
Admitted to The Florida Bar: 1987
Joined BCBA: 2006

It is with enthusiasm that I look forward to your support and to working with the Board of Directors of this outstanding organization. I have been a Broward County sole practitioner for 21 years. I am a Board Certified Real Estate attorney, a FINRA Arbitrator, and Special Magistrate for the Broward County Value Adjustment Board. I have served the county as an Administrative Traffic Hearing Officer for the last 11 years. I have the unique perspective of insight from both sides of the judicial process. I am committed to representing the views of local attorneys regarding court and practice concerns. I want to assist in the continued progression of BCBA principles of promoting ethics and professionalism in our chosen career. I would like to see BCBA expand its programs to educate the public about their legal rights and our local court system.

SOUTHEAST



Morrie I. Levine
Law Firm: Law Office of Morrie I. Levine
Area of Practice: Business Sales and Acquisitions
Admitted to The Florida Bar: 1983
Joined BCBA: 1994 (previously practiced in Dade County)

It would be my honor and privilege to serve again on the 2008-2010 Board of Directors of the Broward County Bar Association. I currently am a Director and seek re-election. I am currently the Chairman of the Parking Committee and Co-Chairman of the Publications Committee. I also currently am an officer of the Justice Unit of B’nai B’rith and the Historian for the Stephen R. Booher American Inns of Court. I just completed my term as the Chairman of the Florida Bar Grievance Committee 17B. If re-elected, I look forward to using the knowledge I gained with my current experience as a Director to continue the recent growth of the Broward County Bar Association. I also expect to continue the history of representatives from the “South” who get involved.



Richard L. DeNapoli
Firm: Law Offices of Richard L. DeNapoli, P.A.
Area of Practice: Probate, Real Estate
Admitted to The Florida Bar: 2002
Joined BCBA: 2004

It would be my sincere honor to be able to serve on the 2008-2010 Board of Directors of the Broward County Bar Association. I am a solo practitioner in Hollywood who works primarily in probate and real estate law, and was recently appointed by the governor to the Florida Real Estate Commission. For the past several years, I have been actively involved in the Bar Association, including serving as Chair of the Real Estate Section this past year and Vice-Chair before that. If elected, I look forward to working together with the other directors on the Board of the Broward County Bar Association to make this upcoming year the best yet.

WEST : One available seat to be filled in the 2008 Election.



Robin Sobo Moselle
Law Firm: Jacobson, Sobo & Moselle
Area of Practice: Commercial Litigation and Collection Law
Admitted to The Florida Bar: 1991
Joined BCBA: 1991

It has been an honor and privilege to be affiliated with the Broward County Bar Association. My association with the BCBA began upon my admission to the Florida Bar in 1991. Since that time I have maintained an active role with the BCBA serving as president of the Young Lawyers Section in 1998 and as a member of the Bench & Bar Committee for the past five years. I am currently the event Sponsorship and Exhibitor Chair for the 2009 Bench & Bar Convention and serve on the Public Relations and Governmental Affairs subcommittees. As a member of the BCBA board, my goal would be to serve and enhance the Broward County legal community and strengthen our relationship with other groups and organizations. I am able to do this through my involvement with other organizations, some of which include Legal Aid Service of Broward County, Inc.,(board member), The Florida Education Fishing Foundation, Inc. (founding member and Secretary), the Broward Coalition, Inc. (2nd vice president), the B’nai B’rith Justice Unit #5207 (board member) and City Theatre (board member).

CENTRAL: Three available seats to be filled in the 2008 Election.



James A. Cobb, Jr.
Florida Attorney General Office Of Statewide Prosecution
Area of Practice: Criminal Law
Admitted to The Florida Bar: 1989
Joined BCBA: 1996

I am an A-V rated, Board Certified (Criminal Law) prosecuting attorney of eighteen (18) years experience. I am Co-Chair of the Broward Bar Professionalism committee, Chairman of the Peer Review Council and member of the Stephen Booher American Inn of Court.

I am deeply committed to the task of improving the level of professionalism among all the legal practitioners in Broward County. I would encourage the Broward Bar to teach and promote professionalism at every opportunity.

I am firmly convinced that organizations like the Broward Bar can significantly raise the level of professional practice in our County to the benefit of all attorneys, the judiciary, and clients.



Raymond G. Ferrero III
Law Firm: Raymond G. Ferrero III, P.A.
Area of Practice: Health, Labor and Employment
Admitted to The Florida Bar: 1995
Joined BCBA: 1998

It has been my great pleasure to reside and practice law in Broward County over the past fourteen years. From 1994 to 1998, I worked as a felony trial attorney for the Broward County Public Defender’s Office. Since my departure in 1998, I have practiced health, employment and labor law. I am also a founding Partner of Legal Intervention Solutions, LLC, and work with individuals and their families, who become involved with the courts due to severe substance abuse and mental health related conditions. Outside of my legal career, I lecture to medical and doctorate students on Substance Abuse and Behavioral Medicine, and sit on the Board of Governors for both the United Way of Broward County Commission on Substance Abuse, and Legal Aid Services of Broward County. I am honored to have been nominated to serve the Broward County Bar Association.



Todd R. McPharlin
Law Firm: Kelley Uustal PLC
Area of Practice: Civil trial practice involving wrongful death, personal injury and products liability
Criminology
Admitted to The Florida Bar: 1997
Joined BCBA: 1999

I have served one year as a member of the BCBA Board of Directors, having been appointed to fill a one year vacancy created when Carlos Llorente won election as Secretary-Treasurer last year.

My ties to Broward County go back to 1970, growing up in Plantation and attending St. Thomas Aquinas H.S. After graduating from Nova Southeastern University Law School, I began my legal career at the Broward County Public Defender’s Office as an Assistant Public Defender. After leaving the Public Defender’s Office, I have since spent my career representing individuals in personal injury, wrongful death and products liability cases, in both state and federal court.

After spending nearly my whole life and my entire legal career here in Broward County, I’m now raising my own family here. I believe the law and the legal community can make a real difference in people’s lives - and it all starts locally. The Broward County Bar Association can do great things for our community. The organization can provide information, education, assistance, and direction to our citizens, and help protect people’s rights. We also serve as a resource for this County’s lawyers. I am an officer and board member of the Broward County Trial Lawyers’ Association.

If elected I will work to strengthen the Broward County Bar Association, increase its membership through my extensive ties to the trial bar, represent the diverse interests of the lawyers in Broward County and provide access to the resources and information that this organization has to offer.



Edwina V. Kessler
Law Firm: Catri, Holton, Kessler, Kessler, P.A.
Area of Practice: Civil Litigation Defense
Admitted to The Florida Bar: 1994
Joined BCBA: 1994

I have been a member of the BCBA since I began practicing law in 1994. During those years I was a Board Member of the Young Lawyers’ Section and the President from 2002 to 2003. After I completed my tenure with the Young Lawyers, I was elected to the BCBA Board of Directors, serving 2003-2005 and 2005-2007 and have continued to serve as an active member of the Building Committee. I have enjoyed the many benefits we receive as a member of the BCBA and would work to expand those benefits. I am committed to the BCBA and would be privileged to serve on the Board again.