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ON THE COVER

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letter from the president



Charles A. Morehead III

Greetings from your President.

Legal Aid's funding is under attack in Washington. The current proposed budget terminates all Legal Services Corporation funding. This is the mothership for all Legal Aid services in the country. The Broward County Bar Association was instrumental in founding Legal Aid in Broward some 45 years ago. The Florida Bar has adopted a resolution opposing the defunding. I immediately pulled together our Executive Committee and we issued a strong statement in support of Legal Aid. We also drafted a resolution by the entire Board of Directors, which can be seen on our website at: <https://www.browardbar.org/12381-2/>

We will not allow our friends, supporters and partners at Legal Aid to stand alone. So into the breach we go.

The courthouse move is now complete. By the time you read this all the judges in the old courthouse who intend to move will have done so. The criminal judges will, for the most part, stay put in the northern wing of the 1989 courthouse. The center wing which held the civil divisions for many, many years will be demolished. There will only be two entrances to the new courthouse. The first will be the main entrance underneath the seventeenth story tower off of Sixth Street. The other entrance will be on the third floor coming from the parking garage on the east side of the old building.

On April 5, I will be before the Florida Supreme Court arguing the Lawyer Referral Service rule change issues which I have commented on previously. There is a live video feed if you wish to follow along on the Supreme Court's website.

The Board of Directors of the Broward County Bar Association has authorized up to \$5,000.00 to be spent researching and identifying the highest and best use that our current property can be used for. This is just another way of saying we're looking to build a new building on our own property about three stories tall with parking underneath it. At least that is our initial thought. We have a good planner engaged and are taking the initial steps to find out if this is doable.

Elections are upon us for seats on the Board of Directors. Please research the candidates and vote. It's a disgrace when we have so many lawyers in this county and only ten to twelve percent of them vote in any given election.

Next month, I will report to you on the Lawyer Referral Service oral argument and also update you on the progress of our building research. **B**

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letter from the young lawyers' president



Todd L. Baker

March Madness, indeed! Whether your bracket was busted after the first round or you foresaw the Gamecocks pick off those Blue Devils, one thing is for sure – March Madness has a way of bringing us all together. This year, the Young Lawyers Section kicked off March Madness with our Second Annual YLS-Quire Poker Tournament. If you were there, you know it was a blast and that we were able to raise a lot of money for some great local charities. We had almost 175 people in attendance and we'll be announcing the charitable proceeds when we've finalized the accounting. A huge thank you to everyone who participated and a special thank you to our amazing sponsors. Congratulations to our Poker Tournament winners. And, while it was a bitter battle to the very end, congratulations to our Blackjack Tournament winners. We hope to have an even bigger turn out next year and raise even more money for charities here in Broward County.

But the madness doesn't end in March for YLS. We have some great events and volunteer opportunities coming up that we would love to see you at. On Saturday, April 8, from 10 am-12 pm, YLS will be hosting an Easter Event at Broward Children's Center. We will be visiting the children at the Center, reading to them, and spending time with the children participating in various activities. Broward Children's Center and its affiliates specialize in helping infants, children, and young adults with special care needs, providing a home to some of the most technologically-dependent children in the country. A special thank you to YLS Outreach Committee member, Alejandra Mendoza, for putting this wonderful event together. If you are interested in volunteering, please register through the browardbar.org registration link.

On May 17, from 6-8 pm, YLS will be hosting its annual Judicial Reception at Broward Center for the Performing Arts. The Judicial Reception is an excellent opportunity to meet and mingle with Broward County and Fourth DCA judiciary and also provides excellent sponsorship opportunities. For more information, to register, or to inquire about sponsorships available, please visit the browardbar.org registration page for this event.

Finally, the last two sessions of the YLS Boot Camp Series are taking place on Tuesday, April 18 and Tuesday, June 6. The April 18th session, Signature Motions: From Filing to Oral Argument, features the Honorable William Haury, Florida Bar President Elect Michael Higer, and attorneys J. Scott Raft, Eric T. Schwartzreich, and Jeffrey Wank. The June 6th session, Court Room Chronicles: The Life and Times of a Litigator, is a four-track session featuring Assistant State Attorney Tom Coleman speaking about criminal law; Juliet Rhoulhac of Florida Power and Light speaking about corporate law; Ava-Gaye Hue speaking about family law; and Eugene Pettis, Alan Nash, and Daniel Casey speaking about civil law. Please visit the browardbar.org registration link for more information about these sessions and to register.

YLS looks forward to continuing to provide you with excellent volunteer opportunities, networking opportunities, and educational programming. **B**

Trial: Jurors and the Age of Technology



by Eric Rosen

Distraction in the Age of Technology

Laptop computers, tablets, smart phones, applications, and the internet are modern day necessities. These amazing devices have fundamentally changed the way our society operates. Information is everywhere and immediately available. The benefits are infinite. However, technology has developed at a tremendous rate drastically impacting the way we work, study, conduct our lives, and receive information. With this background, lawyers must be aware of the effects the age of technology has on jurors, who remain the heart of our system of justice.

I am guilty of falling victim to “technology distraction.” I re-

ceive dozens of emails and text messages every day. Each email, text message, and push notification can be distractions to work being performed. I have spent considerable time working on implementing systems in my practice to minimize technology distraction. As these distractions are reduced, my ability to focus and work efficiently have increased dramatically. The question becomes: how has the age of technology effected our jurors?

The Modern Jury and Incorporating Technology

The people that make up our juries are exposed to the same technological advances as the rest of us. Do not make the mistake of believing technology has only effected our youth. I have clients in

their late eighties who communicate effortlessly through email and Facebook. Even the President of the United States, now seventy years old, is an avid Twitter user. People today communicate and receive information in bite-sized, rapid, and concise methods. Jurors, like myself and others, are victims to the same technological distractions we all face in our personal and professional lives.

The jury trial, however, presents a unique situation where jurors are removed from the everyday technological distractions. Jurors are forced into a world with no cell phones, emails, news applications, push notifications, etc. The jurors are asked to pay attention for hours at a time to testimony, evidence, and argument (with some short breaks). Consider how the

jurors must feel being disconnected from their normal technology filled world. Jury trials present an exceptional time where you as the trial lawyer have the jurors technology free, undivided attention.

By acknowledging that jurors are removed from the everyday, non-stop influx of text messages, emails, push notifications, and so on, you have an opportunity to present a case to a distraction free group of people. You have the ability to make the experience enjoyable for the jury and create a lasting impression of our modern civil and criminal justice system.

The next question is: do you want the jurors thinking about what email or text message awaits or do you want your jurors invested in your trial?

Tools of Technology

In my trials, I have been fortunate to watch jurors actively listen to testimony and pay careful attention to documents being presented and exhibits admitted into evidence. Why? Because I recognize that technology in the courtroom is critical. Outside the courtroom, everyone receives information today through mediums such as television, internet, text messages, FaceTime, Skype, Instagram, Snapchat, and the list goes on. Lawyers must be prepared to provide the jury with information

in a similar fashion.

Many lawyers, including myself, still use poster board demonstrative exhibits along with many other traditional tools of the courtroom. Do not get me wrong, these are great ways to effectively communicate to a jury. However, with modern technology (and a modern jury) consider taking your trial presentations to the next level. For instance, try using a digital image of the demonstrative exhibit with a projector and screen. Include software that enables you to zoom in/out and otherwise manipulate the exhibit in real time.

In a recent product liability case, my team incorporated the following technology: testimony via Skype, PowerPoint presentations, digitized video of advertising and historical news reports, digital demonstrative exhibits, video depositions (fact witnesses and corporate representatives), and animations; all of which were integrated throughout the trial during opening statement, examinations, and closing argument. The jurors' attention was impeccable and the multi-million dollar verdict on behalf of my client spoke loudly of the technologically advanced presentation.

Without the use of their cellular phones and other smart devices, you have the jurors' undivided attention. Make their jury service

experience memorable with a concise and clear presentation in the language the jurors speak fluently: technology. ■



Eric Rosen is a partner with Kelley Uustal PLC in Fort Lauderdale. Eric has obtained over \$44 million dollars in jury verdicts as lead trial counsel for his clients. Eric represents plaintiffs in catastrophic personal injury and wrongful death cases. Eric can be contacted at esr@kulaw.com

GOING FOURTH

Supreme Court Requires Grandparents' Visitation Ordered By Another State

by Alan Bryce Grossman

[Author's note: This column ordinarily attempts to explore recent opinions of the Fourth District Court of Appeal that might be of interest to a wider audience beyond those directly affected by such decisions. This installment, instead, will explain a recent Florida Supreme Court decision that directly reverses a long-standing holding of the Fourth District.]

Nathan N., married to Ruth, and the father of their two young children, is gunned down in Colorado in 2011. About a year prior, their marriage ended in divorce with a stipulated Parenting Plan. After Nathan's funeral, Ruth moved with the children to live with Ruth's family in Orlando. Some time the following year, a Colorado court issued a final judgment that granted Jonathan's parents visitation with the children under Colorado law. Ruth did not appeal that judgment. The grandparents, Jennifer and William, now want to pursue their visitation rights in Florida by modifying the stipulated Parenting Plan that Ruth domesticated in Orange County. Ruth opposes the grandparents' visitation of the children, arguing primarily that it violates her childrearing autonomy as guaranteed by Florida's constitutional right to be "let alone and free from governmental intrusion into [her] personal private life." (Art. I, § 23.)

Is the court in Orange County obligated to recognize the grandparents visitation

rights granted by the Colorado judgment under the U.S. Constitution's Full Faith and Credit Clause? In Florida, there are no visitation rights for grandparents with the children of a deceased child, as exists in Colorado. A Florida domestic case like this one brought by similar grandparents would likely be prohibited by Florida's constitution. If such a case was brought in a county under the jurisdiction of the Fourth District Court of Appeal, the grandparents would be denied any visitation rights. That is, until the Florida Supreme Court decided otherwise by its decision in *Ledoux-Nottingham v. Downs* (No. SC15-1037, February 16, 2017).

The Supreme Court held that Jennifer and William's visitation rights as granted in a final judgment by a Colorado court was entitled to the full protection of the U.S. Constitution's Full Faith and Credit Clause (Art. IV, §1). The Court affirmed the Fifth District's holding, and in so doing reversed the long standing decision of the Fourth District, from 1999, in *M.S. v. D.C.*, 763 So.2d 1051 (Fla. 4th DCA 1999). By its decision in *Downs*, the Supreme Court expressly reversed *M.S.* and held that Florida is required by the Full Faith and Credit Clause to enforce the Colorado judgment even though such judgment would be prohibited under the Florida Constitution.

The Fourth District's opinion in *M.S.*

briefly discussed the full faith and credit issue based on similar facts, but held that the principles of comity, which would normally entitle respect to the Connecticut judgment in that case, did not override Florida's paramount public policy based on the Constitutional privacy right. Despite the fact that a similar judgment by a Florida court would be prohibited, the *Downs* court disapproved of the Fourth District's application of comity principles by concluding that the Full Faith and Credit Clause overrides Florida's constitutionally stated public policy right to privacy. **B**



Alan Bryce Grossman is a sole practitioner in Cooper City, practicing in South Florida, and around the state, and elsewhere, for 26 years. His areas of practice include litigation and appeals in commercial, property, and probate matters. He is a graduate of the University of Florida and the University of Baltimore School of Law. He can be reached at alan@abgrossman.com or by calling 954-364-6294.

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MEET SOME OF OUR MEMBERS ...SOMETHING FOR ALL!



"I moved to Florida almost four years ago and knew two people in Broward County. The Broward Bar Association was one of the first organizations I joined, which was the best business decision I could have made as a solo practitioner. I regularly attended the Solo Small Firm Section lunches and Dinners. Through the Section, I met great attorneys; young and "old". To this day a couple of the first people I met are an integral part of my referral network. I was able to build relationships not only for referrals but for real world knowledge and friendships. Finally, the staff at the BCBA is great and really is there to help you succeed."

- Martyn S. Elberg, Circle of Life Legal Services, P.A.

"The Broward County Bar Association is comprised of a wonderful team of professionals who care about the work they do and the community they serve. In addition to a great team, the Bar offers valuable continuing legal education and networking programs throughout the year. As the chair of the Women Leaders in the Law series, I have had an opportunity to work with the most successful women attorneys and judges in Broward County, which would not be possible without the forum offered by the Bar. The Broward County Bar Association is truly an asset to our community."

- Julie Hough, JM Family Enterprises, Inc.



"My experience with the Broward County Bar Association has been wonderful. Staff members are always courteous and go above and beyond to assist their members. Being a member of the bar has been a tremendous help to me in growing my practice. The Lawyer Referral Service has referred me wonderful clients who have become referral sources for more business. BCBA also provides me with opportunities to meet, network and work with other members of the legal community through their numerous CLEs, seminars and events. They are a great asset to our legal profession."

- Kemie King, King Lindsey, P.A.

"The Broward Bar provides many ways to work with and get to know other lawyers within the community. The Bar brings together lawyers from many different backgrounds and is a great place to meet people. The Bar also provides many professional and social opportunities to discuss issues facing the legal community, things we can do to better serve our clients and paths to improve the perception of our profession. There is tremendous value to being an active member and the more you participate, the more rewarding your experience will be."

- Brian H. Koch, Greenberg Traurig, P.A.



"The Young Lawyers Section of the Broward County Bar Association has helped me immensely over the past three years. In the beginning of my legal career, it helped me to acclimate from being a law student, that never had a full-time job, to a practicing attorney. It has created a community of like-minded individuals for me where I can go to for advice, or for extracurricular activities such as a "sweatworking" session, or even a casual after-hours get-together after a long work day. It has also provided me with some great opportunities to give back to the Fort Lauderdale community through local charities and to participate in other organizations both locally and nationally."

- Courtney Oakes, Burr & Forman, LLP

RENEW TODAY • WWW.BROWARDBAR.ORG • MEMBERSHIP VALID THRU JUNE 30, 2018

SOMETHING FOR EVERYONE!!! That's the mantra at the Broward County Bar Association. The Board of Directors, staff, Practice Sections, and Committees work very hard to create an environment that facilitates education, networking, and fun. ***Interested in doing something different—something that we may not do now?*** Then let us know. The beauty of the BCBA is that you, as a member, can make a difference. Our members are the impetus routinely for us to develop new programs, events, Committees and Practice Sections. The BCBA is an ever-evolving organization responding to the needs and wants of our members and the legal community. You can be a leader and make a difference!

Not long ago, probably about five years past, the BCBA was hosting a lunch for new prosecutors. During that lunch, a young attorney asked me if he could have a poker tournament if he joined. I responded in the affirmative. That young man joined the BCBA and engaged the Bar via our Young Lawyers Section. He rose through the ranks and today is the President of the YLS. Not only that, Todd Baker has been the steward of two successful poker tournaments, hosted by YLS, that have benefited charities.

Similarly, three years ago, the BCBA had no programing that facilitated a focused effort on providing leadership education for women lawyers. The concept started via a conversation with BCBA member Judge Renee Goldenberg. It was then refined over a breakfast, pancakes for me, meeting with BCBA member, and then BCWLA President, Julie Hough. Three years later, our program has provided many women a variety of educational and networking opportunities and continues to thrive today.

These are just a couple examples of many member driven programs. I invite you to ENGAGE and to be active as a BCBA member. We value and appreciate your membership, and remember, the BCBA offers something for everyone!

With much appreciation,

Braulio



Raising the Bar

by Shari E. Scalone

The 2017 Raising the Bar Seminar is taking place on Friday, April 28th at Bahia Mar Fort Lauderdale. This immersive family law seminar offers 7.5 CLE credits and 2 ethics credits and begins at 8:30 a.m. until 5:00 p.m. The all-day event includes self-parking, breakfast, lunch, and snack. For a cost of \$125 for BCBA members (\$150 non-members), attendees receive a detailed overview of common lawyer mistakes, evidence pitfalls, children's issues, and equitable distribution. Furthermore, the seminar will also address domestic violence issues, a legislative update, a General Magistrate "surprise," and

a view from the bench to discuss pet peeves.

For new and seasoned family law practitioners, the Raising the Bar Seminar is a treasure trove of information. This year's speakers offer a wealth of knowledge and will explain pertinent and practical material. I highly recommend this seminar for those practicing not only in Broward, but also in the tri-county area. The ability to interact with key figures in the judiciary as well as our Broward colleagues is a meaningful asset to any practice. For those interested, make sure to register soon

on the BCBA website and join your fellow peers at the 2017 Raising the Bar!

B



Shari E. Scalone is an Assistant Attorney General at the Office of the Attorney General, Child Support Enforcement Bureau.



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Friday, April 28, 2017
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Tackling the Electronic Medical Record Obstacle Course

by Deborah Ward

Implementation of electronic medical records (EMR) has presented new barriers for both healthcare and legal professionals alike. The national movement toward full transition to EMRs impacts the efficiency and cost of case development. Additionally, reviewing these extensive records can be a daunting task for many attorneys. A lack of proficiency navigating the obstacles of EMRs can lead to litigators overlooking details that win cases along with wasting time and money.

Although the implementation of EMRs has become mainstream, each EMR system is unique. Systems can create different reports, resulting in even more data for review. Evaluating EMRs, which often consist of hundreds if not thousands of pages, for medically related cases can be very time consuming. Not to mention there is still a large volume of hybrid records used in clinical practice. Many healthcare providers still use both paper and electronic documents, either for their convenience or the inevitable event of electronic program crash requiring the temporary use of paper back up. Understanding how providers manage their records is crucial to ensure complete discovery.

EMR has also affected the process of documenting medical events. Previously, providers used dictation systems or written notes to document each patient encounter. However, as EMRs are now living documents, providers can copy and paste portions of other notes, tests, lab results, vital signs, and any other

available data in the EMR. This creates lengthy notes that often contain repetitive data throughout the medical record. As a result, it can be difficult to determine the original author or what is factual and contemporaneous with the event. The “copy and paste” method often leaves telltale signs, such as misplaced punctuation or extra spacing.

In addition, data is sometimes entered in the EMR by a provider on behalf of a colleague. Completion by someone who did not perform the event complicates documentation. Unlike paper records, correcting errors in data may include deletion from the record or documented elsewhere in the web of data. If not specified by providers, late entries may be recorded by the system at the time of entry as opposed to the actual time of the event.

EMRs also present attorneys with issues relating to protection and security of personal health information.. The “Final Rule” added to the Health Insurance Portability and Accountability Act (HIPAA) in 2013 requires many legal professionals, as well as their teams including subcontractors and vendors, to abide by HIPAA regulations.

There are some benefits to EMRs and recent legislation regarding PHI. Use of electronic text has alleviated the challenge of deciphering healthcare provider’s notoriously illegible handwriting.. Also, understanding technology that can be used for EMR review allows for individualized organization of discovery. With the “Final Rule” addition, patients

have the right to their PHI upon their request and can authorize in writing to have their records sent directly to another person, including their attorney.

As EMRs become more prominent components of litigation, attorneys and their legal teams must understand how to address challenges of the EMR. Someone with expertise in EMRs and navigating their challenges can determine the details and breaches in documentation and patient care standards; therefore, improving efficiency and quality of case development. **B**



Deborah Ward, MSN, ARNP is a board-certified nurse practitioner working as a legal nurse consultant. Her nursing expertise and legal nurse consultant services assist attorneys with full case development of a wide range of medical related cases. Deborah can be contacted at deborah@drwardconsulting.com or (954) 290-7311



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KEYNOTE SPEAKER
Mayanne Downs



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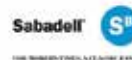
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Fitness under \$50

by Michelle Karinne Suarez

Often times, one of the excuses I hear for why someone cannot get back in shape or find the time to exercise is “I just don’t have time to make it to the gym.” Well, guess what ladies and gentlemen, you can own just enough fitness equipment for under \$50.00 to turn a small corner in your home into a gym and get a decent workout. Here is what you will need to buy: (1) a yoga mat (\$15.00); (2) an inflatable fitness ball (\$10.00); and (3) two different strength level resistance exercise bands (medium and difficult) (\$10.00 each). After personally visiting Walmart, Target, Amazon and Marshalls, I can verify that all of the above items can be purchased at or below the aforementioned prices.

With the above fitness equipment, you can perform all sorts of body weight exercises. You will be able to use the resistance bands in place of weights, use the fitness ball for stability, as a bench from which to perform your resistance training with the bands, and use the yoga mat to keep the ball in place and for yoga itself. You only need about 5 feet by 8 feet of space and you should be all set.

To learn how to use your new fitness equipment, you can simply google “how to exercise using exercise bands” and “how to exercise using a fitness ball.” A plethora of videos will pop up showing you how to make the most of your new versatile and affordable home gym. The same applies for



learning simple yoga techniques. With this combination of fitness equipment, you can easily convert any living space into a home gym, and adequately perform strength building exercises, core strengthening exercises, and work on your flexibility and balance. The above fitness equipment is a great compliment to any home gym and you can even travel with the exercise bands as they take up very little space and are easy to pack. Some of them even come with a small carrying case or bag for convenient storage.

In summary, there is no reason, excuse or budgetary constraint the three types of equipment cannot satisfy. For under \$50.00 you can have a home gym, start learning how to exercise properly, and exert some of that built up stress us lawyers love to stock up on. Once again, you now have another

approach to making physical fitness a part of your life. What are you waiting for? Start now!

Stay healthy my friends. **B**



Michelle Karinne Suarez is a Partner at Odroniec Suarez, P.A. in Fort Lauderdale (www.OSBizLaw.com); a full service business and start-up law firm. She is a former fitness competitor and personal trainer and an avid fitness enthusiast.

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