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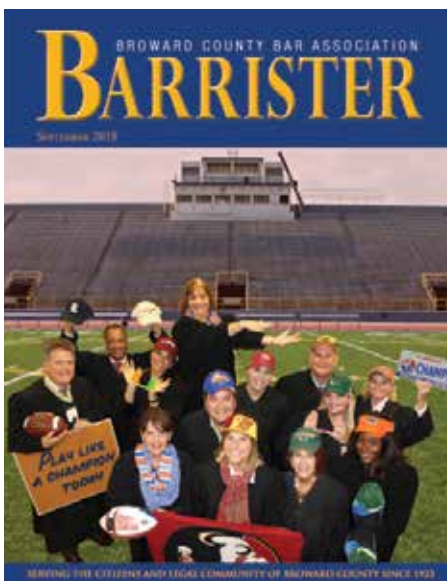
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letter from the president



Edwina V. Kessler

The BCBA held its first strategic planning for the future retreat the first weekend of August. For the last few years, the Board of Directors has been discussing that we need to plan for the future. I had never participated in a planning session and quickly learned from the breakout groups that this type of planning session was overdue. It was an interesting and educational experience. The breakout groups have come up with many suggestions wherein we need to determine if and how the ideas can be implemented. Thank you to Executive Director Braulio Rosa for all you did to help formulating the questions as well as moderating the session, as well as to Events and CLE Manager Lauren Riegler for organizing with the venue and making sure the event ran smoothly. And lastly, to all the participants who took a weekend out of their busy schedules to attend.

On August 10, 2018, Executive Director Braulio Rosa and I presented Judge Edward H. Merrigan, Jr. with an American flag on behalf of the BCBA upon his promotion to Brigadier General in the United States Army Reserves. The military traditions elicit patriotism, and I feel honored to have presented a flag to Judge Merrigan. Thank you again for your service to the people of Broward County and to our Country.




Edwina Kessler & Braulio Rosa presented this American Flag to The Honorable Edward H. Merrigan, Jr. to commemorate the special occasion.

This month, the Roger H. Staley Real Property Seminar will take place on Friday September 21 at the BCBA. The event is co-sponsored by the Broward Bar Foundation, Inc. Cybercrime issues within real estate, legislature updates, and a technology CLE, as well as other topics will be discussed.

On October 27, several Voluntary Bar Associations will be co-sponsoring the South Florida Legal Mentoring Picnic at CB Smith Park in Pembroke Pines. If you and/or your firm is interested in a mentoring a law student and/or sponsoring the event, please register at the Browardbar.org. This is the first time this type of event will be held in Broward County, and we will be inviting all South Florida.

As the youngest of three girls, I was the daughter who my Father would take to sporting events. For as long as I can remember, I have attended the Miami Dolphin games. As a child, I loved the excitement of the game and it was a great bonding experience with my father. Because of that, I have always been a big football fan. My enjoyment of the game continued on through High school (St. Thomas Aquinas) and College (University of Florida) As I write this, the NFL exhibition games are about to begin and with that is a hope that the Dolphins will have winning or at least better season than last year. This is also true for my Gators who have struggled the last few years. I would like to thank all the judges who participated in our "show your college colors/spirit" cover this month. May whomever you are rooting for have a safe and successful season whatever sport you root for. Go Dolphins and Gators!

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letter from the young lawyers' president



Brent M. Reitman

As Floridians, the progression of seasons leaves much to the imagination. For our abundance of tropical scenery and sunshine that we all enjoy does not lend itself to the beautiful colors and changes of scenery that come in with the Fall. In Florida, the Fall is associated with a series of drab and bleak events such as “going back to school” or “returning to work”. Its predecessor, the Summer, on the other hand, is associated only with “fun” and “warmth”.

As things return to normal after the Summer and children return to school, we are left with warm and meaningful memories of the times that we were able to spend with our families and loved ones. Whether these memories come in the way of relaxation, time off from work, travel, adventure or some other means – the Summers are times for families to strengthen their bonds and grow.

Although the Summer has drawn to a close the amount of enjoyment that families share during that magical season are sure to keep smiles on faces as the time passes and temperatures begin to drop (or not drop, apparently). For those of you reading this that have the ability to reflect on your summer and smile in this manner should be thankful because you are blessed.

Unfortunately, there are a large amount of children who are unable to experience the cherished memories of the Summer that we may all take for granted. According to the National Mental Health Association, nearly 8,000,000 people have suffered through the death of an immediate family member last year. According to the U.S. Social Security Administration, 1,900,000 people under the age of 18 have lost one or both parents.

Many children who have lost parents, siblings, or their primary caregivers often feel alienated from others as they understandably stricken with grief or are simply unable to relate the experiences of others because of experienced tragedy. Profound tragedies like the loss of a loved one have a tremendous effect on the development of a child in ways that cannot even be put into words.

Thankfully, we have Experience Camps.

Experience Camps is an amazing organization that allows children who have lost a parent, sibling, or caregiver, to spend a Summer in camp with other children who are coping with similar challenges and providing these children with a traditional Summer camp experience. Experience Camps provides an environment where children can shed the bonds of isolation and build the memories of a fantastic Summer that will last a lifetime. Creating an environment of camaraderie coupled with the care of professional bereavement staff, Experience Camps instills hope and happiness in those who have been touched by tragedy.

After hearing of this wonderful organization and having the opportunity to attend their “Derby Days” event, the Young Lawyers Section was proud to name Experience Camps as our featured charitable beneficiary for our Annual Golf Tournament. It was an easy choice after learning about the wonderful service that Experience Camps provides.

We hope that you will join the Young Lawyer’s Section on Saturday, November 10, 2018 at Jacaranda Golf Club for our 31st Annual Charity Golf Tournament. You can learn more about this event and register at www.browardbar.org/yls/young-lawyers-golf-tournament/.

We could not be any more proud to raise donations for such an admirable cause, and hope you will join us in benefitting Experience Camps and their wonderful mission! See you on the course. **B**



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To Have and To Hold: Your Bar License

by Dena B. Sacharow

Each year, thousands of complaints are filed against lawyers with the Florida Bar.¹ In the 2016 to 2017 fiscal year, 4,479 Bar files were opened, of which 533 became cases and 316 disciplinary orders were entered.² Over the last five years, more than 1,600 lawyers have been disciplined – from disbarment to suspensions to reprimands.³ How do you prevent your Bar License from becoming a disciplinary statistic? Simple – don't violate the Rules Regulating the Florida Bar.

• Create, Maintain and Oversee Your Trust Account.

The most severe sanctions imposed by the Florida Bar relate to trust accounts: failure to create, maintain and monthly reconcile them, commingling lawyer funds, providing non-lawyers access (which often results in misappropriation of client funds), and purposeful misappropriation of client funds.

The easiest way to prevent discipline is to comply with Rules 5-1.1 and 5-1.2 of the Rules Regulating Trust Accounts. Open an Interest on Trust Accounts (IOTA), reconcile it monthly and keep records of all funds deposited and disbursed. Proper reconciliation will ensure that your funds, such as fees paid, are promptly disbursed from the IOTA to your operating account, preventing commingling of funds. If you receive an insufficient funds notice from your bank, promptly investigate. If you need assistance in learning trust accounting compliance, consider attending workshops and CLEs on the issue.

Seemingly innocent lawyers can be sanctioned for failing to supervise and oversee trust accounts where paralegals, firm administrators or employees misappropriate funds. Be sure to limit signatory authority on and access to trust funds. If you provide others in your firm with IOTA authorization, supervise them and, at a minimum, review every monthly bank statement.

Finally, a lawyer should never use client funds in his/her trust account to pay firm overhead costs or personal expenditures. Disbarment is the appropriate discipline for purposeful misappropriation of trust funds.

• Communicate, Communicate, Commu-

nicate!

According to the Florida Bar, “[c]ertain areas of the law tend to generate more complaints against lawyers. For example, family and criminal cases can be very emotional and often result in many complaints.”⁴ While you may be busy with deadlines, an overabundance of work, or personal issues, many clients, particularly personal injury, family law, property damage and criminal clients, rely on you to be attentive to their needs. Thousands of complaints are filed by clients who feel their lawyer fails to communicate with them. Be proactive. Short and simple communication, even if there are no new updates, can often quell client concerns and avoid complaints.

• Conflicts of Interest

Every firm should have a procedure for performing a conflict check. Rules 4-1.7 through 4-1.11 address conflicts of interest in various capacities, including current and former clients, imputation issues, government employment situations, and conflict waivers. If you determine you have a conflict, you should decide whether you can still ethically represent the client under the Rules. If the answer is yes, inform the client of the conflict and obtain informed written consent. A client may be more likely to file a Bar complaint if they find out after the fact or through other sources rather than upfront from you.

• Respond to the Florida Bar!

Many lawyers are disciplined merely because they fail to respond to the Florida Bar regarding complaints filed against them. If the Florida Bar advises you that a complaint was filed against you, you have the right, and you should, respond to the allegations. Respond on your own behalf or retain a lawyer to assist you in the grievance process.

• Lack of Candor to Clients and the Tribunal

Honesty is an essential part of a lawyer's relationship with his/her client, the tribunal, and opposing counsel. Each year, bar complaints are filed because the lawyer advises

the client of false information – i.e., a claim or case settled when it didn't, the strengths of the case outweigh its weakness when they don't, you won a hearing which you lost, or you filed documents timely when you didn't. Lying to clients can not only subject you to disciplinary sanctions but can expose you and your law firm to legal malpractice actions.

A lawyer also has an obligation to be truthful to the tribunal. Partial truths do not constitute the truth. If you are aware of case law directly contradicting your position and you fail to disclose it to the Court, the Court can impose sanctions and report you to the Florida Bar, prompting a Bar Complaint and investigation. Zealously advocating on behalf of a client should never cross the line to untruthful representations.

• Reciprocal Discipline

If you are licensed to practice law in a state other than Florida, make sure you comply with rules regulating that state's Bar, and report any discipline in another state to the Florida Bar to avoid reciprocal discipline.

While these tips may be self-apparent, the Florida Bar often receives complaints that lawyers fail to comply with the basic tenants of practicing law. Minor changes to your practice and ongoing communications with your client can prevent complaints and disciplinary actions. **B**

¹ Florida Bar Discipline Statistics, <https://www.floridabar.org/wp-content/uploads/2017/04/16-17-Statistics-for-Web.pdf> (last visited 7/26/2018).

² Id.

³ Id.

⁴ The 10 Most Important Things to Know about Lawyer Regulation by the Florida Bar, <https://www.floridabar.org/public/acap/acap001/> (last visited 7/26/2016).



Dena B. Sacharow is a partner at Keller Landsberg PA, where she defends lawyers and law firms in malpractice claims, represents lawyers in grievance matters before the Florida Bar, and defends personal injury, property damage and bad faith claims.

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Short-Term Rentals, Long-Term Problems

by Priscilla S. Zaldivar & Stephen R. Gross

It's almost snowbird season and soon South Florida will be flooded with baby boomers and families trying to escape the cold. In 2017, Florida welcomed approximately 116.5 million tourists. Although restaurants and attractions look forward to the business boost, where will they all sleep?

Third-party property rental services have become quite popular in recent years; promising the ordinary owner a quick income spike or a long term business opportunity. However, these weekend rentals can be a nightmare, not only for hotels competing for the business, but for condominium associations and unit owners wanting peaceful community living.

Short-term tenants are usually unfamiliar with or unbothered to learn the association's rules and regulations. Many even come into a building unvetted; with a history of criminal convictions or sex offender registrations. According to Airbnb, a minimal background check can be performed on potential guests if sufficient information is provided. This would not take into account any unregistered guests or visitors and is not a prerequisite for engaging in short-term renting.

In order to control the chaos and ensure the security of the property, associations must look to their governing documents; usually relying on pre-approval and minimum term leasing restrictions. However, many governing documents lack leasing provisions altogether. Typically, if a desired provision is not found in an association's governing documents, the first step would be to propose an amendment to the membership.

In 2010, the Florida legislature passed section 718.110(13), Florida Statutes, which specifically provides as follows:

(13) An amendment prohibiting unit owners from renting their units or altering the duration of the rental term or specifying or limiting the number of times unit owners are entitled to rent their units during a

specified period applies only to unit owners who consent to the amendment and unit owners who acquire title to their units after the effective date of that amendment.

The ability of a condominium association to pass amendments to strengthen or add leasing restrictions was severely undercut. Now, condominium associations can only enforce amendments regarding leasing restrictions against those owners who approve of the amendment. As can be imagined, owners engaging in short-term rentals are not eager to consent to additional association restrictions. Those owners who do not approve can continue short-term leasing their units until they are sold. The statute is a significant impediment to an association's efforts to combat the weekend warriors.

Even more concerning, those condominiums lucky enough to have strong leasing provisions in their governing documents have little power in terms of enforcement. For violations of leasing provisions, associations are permitted to fine unit owners \$100/day for a maximum of 10 days. Section 718.303(3), Florida Statutes, grants the association fining authority and specifically states as follows:

(3) The association may levy reasonable fines for the failure of the owner of the unit or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. A fine may not become a lien against a unit. A fine may be levied by the board on the basis of each day of a continuing violation, with a single notice and opportunity for hearing before a committee as provided in paragraph (b). How-

ever, the fine may not exceed \$100 per violation, or \$1,000 in the aggregate.

Although boards typically turn to their fining authority for addressing leasing violations, failure to pay association fines is not a lienable offense. As a result, many owners simply ignore the fines and any existing leasing restrictions until the time comes to sell their units.

For some clients, purchasing a condominium marks a significant change of lifestyle or retirement rite of passage. The last thing on the client's mind are spring-breakers in their pool every weekend.

Given the increase in "rentals by owner" in popular tourist destinations such as South Florida, counsel for current and potential condominium owners should determine the strength of a condominium's leasing restrictions and advise their client's accordingly. Further, it is up to the legislature to step up and help condominium owners protect their security, property values and peace of mind. **B**



Priscilla Zaldivar is a member of Fowler White Burnett, P.A.'s Insurance Practice Group. Priscilla focuses her practice on civil litigation, appeals, evictions, representing condominium and home owners associations, contractual disputes, and foreclosures.



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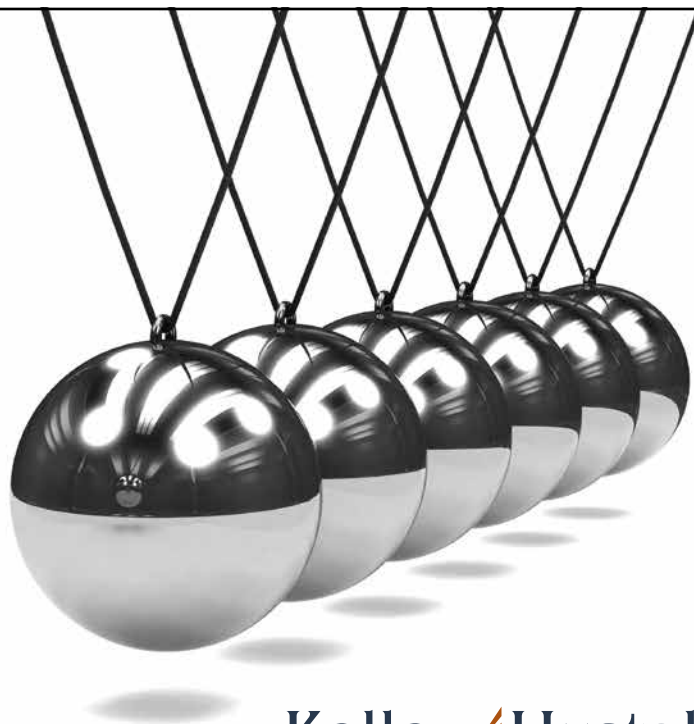
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Currently Taking All Bets On the Future of Florida's Sports Betting

by Kristine DeSoiza and Jesse Drawas

This past May, the U.S. Supreme Court struck down a federal prohibition on sports betting. The Professional and Amateur Sports Protection Act (PASPA), a federal law enacted in 1992, prohibited states from legalizing sports betting. In *Murphy v. National Collegiate Athletic Association*, the court concluded the law violated the 10th Amendment of the U.S. Constitution.

Although the Court's ruling marked a large defeat for the NCAA, NHL, and NFL, the NCAA has kept its head held high in the face of defeat by not only announcing its support of the Supreme Court's decision in *Murphy*, specifically, by announcing that it will support a federal model on legalized sports gambling, but also using this opportunity to lift its ban on holding championship events in states that allowed legalized sports betting.

Paul M. Aloise, Jr., Esq., a team member of the 2013 BCS National Champion Florida State Seminoles, believes the recent decision in *Murphy* will have a huge ripple effect on the age-old question of whether college athletes should be paid.

In the last decade, the conversations and arguments about collegiate athletes being paid has reached an all-time high due to the ever-increasing salary of head coaches. For example, Jimbo Fisher recently decided to take

his talents to Texas A&M and signed the highest paid contract to date for a head coach. Coaches are not the only ones who could be profiting off of college athletes, Aloise says.

"The fact that everyday fans may profit off of the NCAA's college athletes means that these players need to have rights to their own likeness so that they too can go out and get endorsements and book appearances. This would allow college athletes to seek compensation for their services from companies as big as Nike, all the way down to your local Mom and Pop's store."

On the other hand, for those who wonder if the NCAA plans to establish an "integrity fee," which would allow sports leagues to receive revenue from betting, think again. One of the NCAA's main concerns is that, with such a system, college athletes' unpaid status may encourage corruption.

Another of the NCAA's primary concerns is ensuring the integrity of the games. To that end, Donald Remy, the NCAA's chief legal officer, recently announced that the NCAA will create a team of experts to evaluate the impact of sports betting on NCAA members and determine how betting can best be monitored.

In any event, what is a sure bet is that *Murphy* has only opened the doors for lawmakers. Because Florida's compact

with the Seminole Tribe is currently in limbo, sports betting could benefit negotiations. Also, *Murphy*, in effect, increases the pressure on Florida's legislature to update Florida's gaming laws, which have not been touched in over a decade.

Complicating any prediction is a proposal before voters on the November ballot. The Voter Control of Gambling Amendment would require a voter referendum before any additional gambling in Florida is allowed. Therefore, your bet is as good as mine as to what the future holds. **B**



Kristine DeSoiza is an attorney with Fowler White Burnett, P.A., in Fort Lauderdale, Florida, where she focuses her practice on insurance coverage disputes, construction defect claims, professional liability claims, commercial general liability, and commercial litigation. Kristine is also a member of the Young Lawyers' Section of the BCBA and she works with the Florida Bar's Florida Law Related Education Association, Inc., and co-authors the Florida High School Mock Trial and Moot Court case problems.



Jesse Daniel Drawas is a shareholder in the firm's Insurance Practice Group. A trial attorney, Mr. Drawas is highly skilled in civil litigation, including insurance claims, automobile accidents, premises liability, products liability, construction litigation, professional liability and property damage claims.



Bankruptcy Deadlines Frequently Asked Questions

by Chad P. Pugatch

The Bankruptcy Code sets forth deadlines that are commonly confronted by non-bankruptcy practitioners, and, if overlooked, can have a negative impact on a client's outcome. The deadlines presented herein are in the context of practice in the Southern District of Florida and can vary based upon local rules and custom in other locations.

What is the deadline for a creditor to file a Proof of Claim?

In a voluntary chapter 7 case or chapter 13 case, a proof of claim is timely filed if it is filed not later than 70 daysⁱ after the order for relief under that chapter or the date of the order of conversion to a case under chapter 12 or 13. Fed. R. Bankr. P. 3002(c). In an involuntary chapter 7 case, the deadline to file a proof of claim is extended to 90 days after the order for relief is entered. *Id.*

In a bankruptcy proceeding, the U.S. Trustee (in chapter 11) or trustee (in chapter 7 or 13) conducts a meeting of the creditors, referred to as the "341 Meeting," where the trustee and the creditors may question the debtor under oath about the debtor's financial affairs. Important deadlines are commonly contained in the notice

setting the 341 Meeting. However, in a "no asset" chapter 7 case there is often no bar date set because there will be no distribution. If assets are anticipated, a court order will set a deadline for filing claims.

In a Chapter 11 case, any creditor whose claim is not listed on the debtor's schedules or is listed on the schedules as disputed, contingent, or unliquidated must file a proof of claim for purposes of voting and distribution. Fed. R. Bankr. P. 3003(c) (2).ⁱⁱ There is no rule of bankruptcy procedure that sets a deadline for filing a claim in Chapter 11 cases. Pursuant to Rule 3003-1(A) of the Local Rules for the Southern District of Florida, the claims bar date is set forth in a notice and is 90 days following the first scheduled date of the 341 meeting. Otherwise it would be set by court order.

Can a Claim be allowed if filed after the deadline has passed?

In chapter 11, maybe. In *Pioneer Inv. Servs. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380 (1993), the United States Supreme Court held that the time to file a proof of claim may be enlarged under Fed. R. Bankr. P. 9006(b)(1), if the tardiness

was a result of excusable neglect. The following factors determine the existence of excusable neglect: (1) the danger of prejudice to the non-moving party, (2) the length of delay and its potential impact on judicial proceedings, (3) the reason for delay, including whether it was within reasonable control of the movant, and (4) whether the movant acted in good faith. *Id.* at 395.

An important caveat is that "excusable neglect" governs late claim filings in chapter 11 cases, but most courts hold that it does not apply in chapter 7 or 13 cases. *Id.* at 389. In a chapter 7 case, there may still be distribution to late filed claims when timely claims have been paid in full. 11 U.S.C. § 726(a)(3).

After a Proof of Claim has been filed, can it be amended?

A timely filed proof of claim may be amended. "A proof of claim may be freely amended where the purpose of the amendment is to cure a defect in the original claim, to describe the claim with greater particularity, or to plead a new theory of recovery upon facts set forth in the original claim." In *re Northeastern International Airways, Inc.*, 99 B.R. 487, 489 (Bankr.

S.D. Fla. 1989).

What are the deadlines for objecting to discharge or exemptions?

The 341 Meeting notice, in addition to setting a claims bar date, determines the deadline for the filing of section 523 or 727 complaints, as well as the deadline for filing an objection to claimed exemptions.

An objection to exemptions claimed by the debtor is a contested matter and must be filed within 30 days after the conclusion of the 341 meeting of the creditors or within 30 days after any amendment or supplemental schedules are filed, whichever is later. Fed. R. Bankr. P. 4003(b)(1). A contested matter, governed by Fed. R. Bankr. P. 9014, involves a request for relief (i.e. motion practice) in the main bankruptcy proceeding.

However, objections to discharge (§727), and to determine the dischargeability of a debt (§523) are “adversary proceedings”, i.e. a formal civil lawsuit that is commenced by complaint filed in the bankruptcy case and governed by Part VII of the Rules of Bankruptcy Procedure.

In a chapter 7 case, a complaint objecting to discharge shall be filed no later than 60 days after the first date set for the meeting of creditors under §341(a). In a chapter 11 case, the complaint shall be filed no later than the first date set for the hearing on confirmation.

Unless amended by Court order, a complaint to determine the dischargeability of a debt under §523(c) shall be prior to 60 days after the first date set for the 341 Meeting. Fed. R. Bankr. P. 4007(c).ⁱⁱⁱ

It is important to note that while

these deadlines may be extended by court order the failure to timely move for and be granted an extension is a bar to relief!^{iv}

What is the deadline for a party to file a Notice of Appeal?

This deadline is a pitfall for the unwary and must be given special attention because it diverges from the customary federal and Florida civil procedures. In a bankruptcy proceeding, a notice of appeal must be filed within 14 days after the judgment, order, or decree being appealed. Fed. R. Bankr. P. 8002(a)(1).

What are the basic deadlines related to Assumption and Rejection of Leases and Executory Contracts?

In a chapter 7 case, the trustee must assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor within 60 days after the order for relief. If the trustee does not assume or reject the contract or lease, it is deemed rejected. 11 U.S.C. § 365(d)(1).

In a chapter 11 or 13 case, the trustee^v may assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor at any time before the confirmation of a plan. 11 U.S.C. § 365(d)(2).

Under all chapters, the trustee must assume or reject an unexpired lease of nonresidential real property under which the debtor is the lessee before 120 days from the date of the order for relief, or the date of the entry of an order confirming a plan. 11 U.S.C. § 365(d)(4)(A). However, the court may extend this period by 90 days upon the motion of the trustee or lessor for cause. 11 U.S.C. § 365(d)(4)

(B)(i).

Conclusion

As incoming BCBA Bankruptcy Section Chairperson, I hope that this provides a helpful guide to the non-bankruptcy practitioner. It is certainly not comprehensive or a substitute for a full understanding of the rules so when in doubt check it out!

ⁱ Prior to a 2017 rule amendment, the time for filing a claim in a voluntary chapter 7 case or a chapter 13 case was 90 days after the 341 Meeting.

ⁱⁱ Conversely, if the creditor is scheduled for an amount that the creditor concedes and is not scheduled as contingent, unliquidated, or disputed, it is not necessary in a chapter 11 case to file a proof of claim.

^{iv} This applies to complaints under § 523(a)(2), (4) or (6) of the Code.

^v Deadlines within the adversary proceeding are governed by the summons, the scheduling, as well as part VII of the Federal Rules of Bankruptcy Procedure.

The term trustee includes a debtor in possession in a chapter 11 case.



Chad Pugatch is a partner at Rice Pugatch Robinson Storfer & Cohen, PLLC and is the current chairperson of the BCBA Bankruptcy Law Section. He focuses his practice on bankruptcy and insolvency law as well as commercial litigation. Contact Chad at cpugatch@rprrslaw.com.

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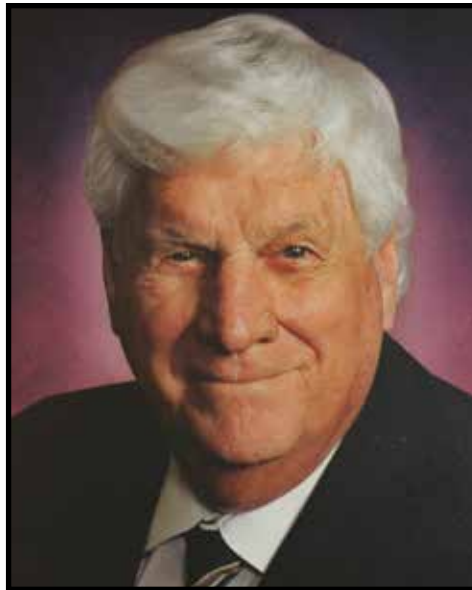
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The Life of Roger Staley

by Jeni Meunier

Roger Staley left quite a mark on Broward County. As a matter of fact, he left a whole building. This month, as the Broward County Bar Association will hold the Annual Roger H. Staley Real Property Seminar at the Norma B. Howard Bar Center, on Friday, September 21st, we look back at the remarkable life and career of Roger Staley.

Roger Hynds Staley was born in Woodmont, Connecticut on July 23, 1926. At 16, Roger joined the United States Navy and served on a destroyer in the Pacific theatre of World War Two. Post service, Roger attended Elon College in North Carolina before returning home to Connecticut and marrying his wife, Beverly, in 1948. Together they moved to Fort Lauderdale in 1951, and soon after he graduated from University of Miami Law School in 1956. Immediately following his education, Roger went to work for the firm Saunders, Curtis, Ginestra & Gore, and remained there for one month shy of 54 years. He had an early love for the local Junto club, and attended meetings there weekly since 1959. Throughout his career, Roger involved himself in many organizations throughout the county, including a year as BCBA president in 1986-1987. He served on a great many boards, including being president of Attorney's Title Services, being a member of the Florida Bar Grievance Committee, president of Attorney's Real Estate Council of Broward County, the Navy League, and even the Broward County Council of Girl Scouts. In addition to all of that, he was listed as a top lawyer in Best Lawyers in America, and Florida Monthly Magazine, only one of a few attorneys in the real property field to be recognized. Roger believing not only in serving a profession he loved, but also his community. Roger represented Habitat for Humanity, served on the board of Fort



Lauderdale Civic Ballet Company, and Bennett Elementary School.

Alongside his professional achievements, Roger was very proud of his family. He always made time for Beverly and his four daughters. His co-workers and friends would hear endless stories of his kids and grandchildren, all told with passion and an easily evident pride he could not contain.

Roger was one of those larger-than-life people, the kind who leave an indelible impression as much from a brief interaction as from a long, shared career. Always courteous, upbeat, and friendly, Roger was quick to answer questions and provide guidance to young attorneys just planting their roots in their careers. As co-workers would mature in their respective fields of expertise, Roger was there to nurture and mentor them, always giving back to the profession he loved. Many attorneys in South Florida attribute their love and zeal for their job to a seminar they attended in which Roger spoke. Roger would use the words "dirt law," referring to Real Estate Law, with an eloquence that was contagious. Many

attorneys around Fort Lauderdale who practice real property law use those words today, most not knowing the etymology.

As one colleague put it, "He was a good human being, the kind you couldn't say 'no' to." If Roger asked him to do something, "I felt honored to do it". Roger taught professionalism by practicing it. He treated people how they wanted to be treated and appreciated a person who kept to their word. He was equally generous with his time as with his knowledge, and both young attorneys and seasoned professionals would always inquire for his legal opinion.

One of his loves for serving his profession and community was fundraising. In doing so, Roger participated in obtaining the land where BCBA is currently located, and he was especially proud of his work contributing to the acquisition and financing of the Norma B. Howard Bar Center. This month seminar attendees, whether they knew Roger or not, can look around the room and see his contributions. There are attorneys in there that are better for having known Roger. And for those that never did, just need to look around. **B**



Jeni Meunier is a Director at Trustpoint.One. Trustpoint.One provides end-to-end eDiscovery capabilities, in forensic consulting, processing, hosting, review/staffing, production and court reporting and translation services. Jeni can be contacted at Jeni.Meunier@Trustpoint.One

2018 ROGER H. STALEY REAL PROPERTY SEMINAR



What is the tie between this Seminar, the Broward Bar Foundation,
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*It is your desire to learn and the passion Mr. Staley had
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Friday, September 21, 2018 | 8:30 a.m. - 3:00 p.m.

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Saturday, November 10, 2018

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VALUE OF BROWARD COUNTY BAR ASSOCIATION FOR PARALEGALS

by Lisa Ferreri

When an organization like the Broward County Bar Association (“BCBA”) offers the opportunity for paralegals to become members, it gives paralegals the opportunity to meet and communicate with the legal community: judicial assistants, judges, attorneys and other paralegals. Such access creates positive relationships, and in effect, allows paralegals to become key team players in their firms. Joining the BCBA also indicates that a paralegal has a genuine interest in the law, ethics and education, and enables a paralegal to better empathize with and service clients.

In analyzing the value of being a paralegal member of the BCBA, there are specific factors that one should consider. Most importantly, membership benefits those who have a desire to learn and wish to develop excellent organizational and communication skills, build self-confidence and expand their knowledge. In addition, membership effectively allows paralegals to create constructive relationships with clients, co-workers, the judiciary and lawyers. Because paralegals have a variety of backgrounds, experience, education, duties and responsibilities across all practice areas, membership also gives them the opportunity to refer cases outside of their specialty.

The BCBA is one of the best resources for networking, getting employment

leads and staying up to date on issues and trends in the paralegal profession. The BCBA supports paralegals by establishing standards for their education and offering reduced-priced educational CLE seminars regarding changes in Administrative and Local Rules. In addition, many BCBA sections/divisions and publications exist and are accessible to members. These can help advance a paralegal’s professional growth and assist them in making informed and responsive decisions. Attorneys are often busy in court, at depositions, trials, etc. In my experience, being an informed paralegal and learning about new rules, procedures or changes before attorneys did made me an asset to my team and helped me develop an active relationship with the attorneys and other paralegals I work with.

The BCBA also offers opportunities for those who are passionate about community service projects and giving back to our community. As a member, one can voluntarily participate and support charity functions and projects that enables them to assist those in need and understand what the people in our community are experiencing. This helps BCBA members meet individuals outside of the legal field and develop relationships that are potentially beneficial

for their firms.

BCBA members enjoy other benefits as well, such as discounts at printing companies, retail stores, food stores and car dealerships, and discounts for law office management, marketing, technology and litigation practice services.

Being a paralegal member of this organization promotes the respect paralegals have earned, and fosters commitment, motivation, inspiration and self-confidence. Membership adds value to the business, increases accessibility and efficiency, and enriches our environment through diversity and teamwork.

“There is no greater challenge than to have someone relying upon you; no greater satisfaction than to vindicate his/her expectation.”

– Kingman Brewster 



Lisa Ferreri is a Florida Bar Registered Paralegal with more than three decades in the legal industry and currently works at The Berman Law Group in Boca Raton. Her contact email is LFerreri@TheBermanLawGroup.com.

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Friday, October 26, 2018

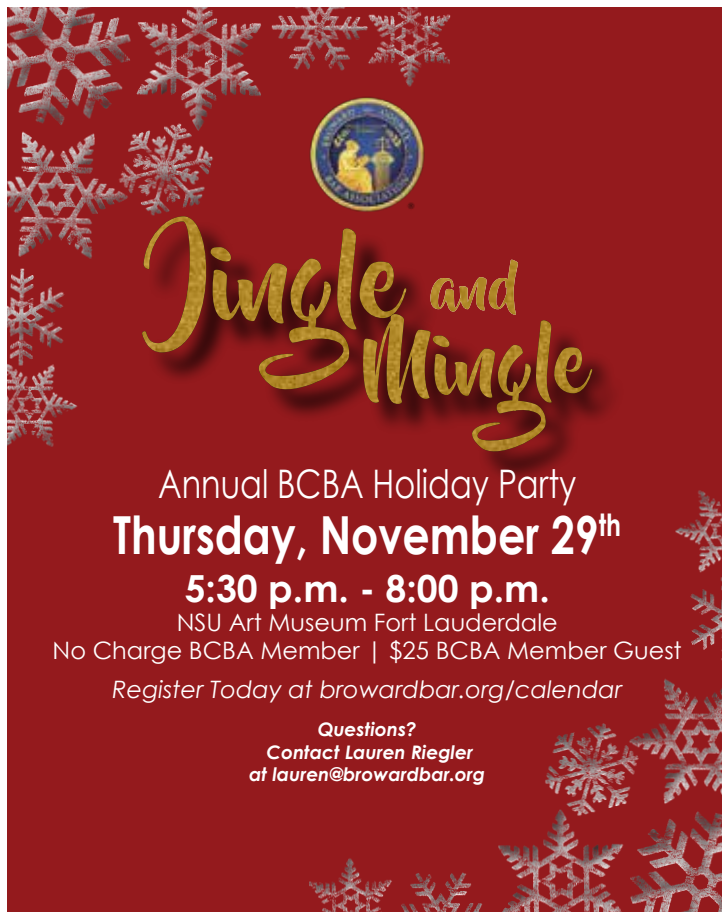
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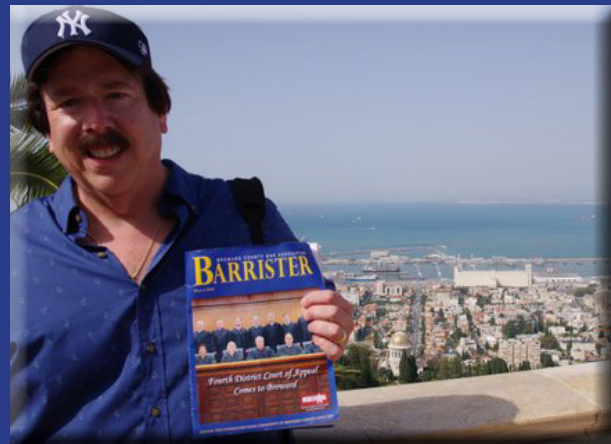


Jingle and Mingle

Annual BCBA Holiday Party
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vacation or business trip to ads@browardbar.org.



Case Law Update

by Debra P. Klauber

Florida Supreme Court takes action to protect its policy-making authority.

The Florida Supreme Court amended the Rules of Judicial Administration in an effort to protect its ability to establish state budget and compensation priorities for the judicial branch. The changes to the rule prohibit any judge, committee, commission, task force, or other similar group, or any conference of judges, from making recommendations about budgeting priorities (including compensation and benefits) to the legislative or executive branches where such recommendations have not been approved by the Florida Supreme Court. *In Re: Amendments to Florida Rule of Judicial Administration 2.205*, SC18-992, 43 Fla. L. Weekly S289 (Fla. July 6, 2018).

Florida Supreme Court approves allowing military spouses, who are licensed in another jurisdiction, to practice in Florida.

Due to the “unique mobility requirements of military families,” the Florida Supreme Court adopted amendments to the Rules Regulating the Florida Bar and the Rules Related to Admissions to the Bar to allow a lawyer, who is the spouse of a full-time active duty member of the United States armed forces, to engage in the practice of law in Florida while the spouse is stationed within this jurisdiction (for up to 5 years). The lawyer must, among other things, be licensed to practice law in another jurisdiction, be a member in good standing, reside in Florida, apply to the Florida Board of Bar Examiners, take a basic skills


course, and complete continuing legal education requirements in Florida. *In re Amendments to Rules Regulating The Florida Bar and Rules of Supreme Court Relating to Admissions to the Bar – Military Spouse Rules*, SC18-158, 43 Fla. L. Weekly S312 (Fla. July 19, 2018).

Appellate court finds that questions of fact preclude summary judgment in favor of firearms manufacturer.

The Third District Court of Appeal reversed a summary judgment in favor of a firearms manufacturer on the basis that it was immune from suit under the federal Protection of Lawful Commerce in Arms Act. The Act insulates gun manufacturers from civil liability for “harm caused by those who criminally or unlawfully use firearm products . . . that function as designed and intended.” The appellate court found that there were questions of fact about whether the purchaser of the pistol, and subject of the litigation, acquired or maintained possession of the firearm in violation of any statute. *Martinez v. Taurus Int’l Mfg., Inc.*, 3D17-2279, 43 Fla. L. Weekly D1645 (July 25, 2018).

Fifth District joins the conflict on the debate about how a motion for attorneys’ fees under section 57.105 (and, similarly, proposals for settlement) must be served.

Section 57.105 provides a statutory mechanism for the recovery of attorneys’ fees when claims or defenses fall below the proper statutory threshold. Procedurally, the party seeking such fees

must serve, but not file, the motion and allow a 21-day safe harbor to allow the opposing party to avoid the sanction. The Fifth District agreed with the Third and Fourth Districts in concluding that a section 57.105 motion must be served in strict compliance with Florida Rule of Judicial Administration 2.516. The court also certified conflict with several Second District decisions which found that the rules of service were not applicable to a 57.105 motion or a proposal for settlement. This issue is presently before the Florida Supreme Court. *Goersch v. City of Satellite Beach*, 5D17-386, 43 Fla. L. Weekly D1629 (Fla. 5th DCA July 20, 2018). *See also, Wheaton v. Wheaton*, 217 So. 3d 125 (Fla. 3d DCA), review granted, No. SC17-716 (Fla. Oct. 24, 2017). 



Debra P. Klauber, Esq., a partner with Haliczzer Pettis & Schwamm, oversees the firm’s trial support and appellate practice and provides guidance to litigators throughout Florida. Debbie can be reached at 954-523-9922 or dklauber@hpslegal.com.



Work-Life Balance

by Scott Brook

A common struggle in our lives is the achievement of balance. How do we balance our home lives with our work lives? How do we take care of ourselves enough to take care of others? I cannot promise all of the answers; however, I will share some suggestions that have worked for me over the years. Hopefully, this article will educate or remind you about something that can help you feel more balanced in your life.

Balance requires intention. You must set your mind to have balance in your life. Where do you feel out of balance now? Exercise? That's common. Not enough time for yourself? Very common. Maybe just too much stress at work? In order to achieve greater balance, identify what is out of whack and then work on it. Daily. If not daily, then how about four or five times a week? Let's work on a typical stressor for lawyers. There is just too much stress. Whether it's work-related or home-related or both. Here are some ideas that may help you alleviate your stress and increase your level of satisfaction with your life:

1. Gratitude – Begin and/or end your day with at least five things in your life or day that you are grateful for. This will help you feel some peace.
2. Parameters – Establish boundaries that you adhere to. Only look at emails between 9 and 10 a.m. and then again between 4 and 5 p.m. daily. Be selective about which clients have access to you by cell phone. Do NOT bring work home with you (Yes, this one takes practice!).

3. Just Say NO. Be direct. Be kind. Say no with a smile. But, say it clearly. We cannot say maybe when a client asks us to do something we are not in alignment with or take an unviable position. If you have a commitment to watch your child's play, simply say no to your best client's request or demand more time. You will feel much more freedom the better you get at saying "no."
4. Exercise. Commit to it. Make it routine. Get a partner or buddy to be accountable to.
5. Meditate, yoga, write in a journal or some other routine that allows you to accept the quiet around you without that nagging critical voice in your head gnawing at you.
6. Focus on your commitments and not your complaints. Focus on solutions and not problems. Recently, my youngest daughter realized she could not find her passport on a Thursday for a Friday flight out of the country. While my lovely wife was a little freaked, I explored options. I focused on possible solutions and learned that it was possible to get a passport on the same day. My daughter got her passport photos at 11:45 p.m. on Thursday evening and we set out to Miami by 6:10 a.m. on Friday with our fingers crossed. We were polite to everyone we came across. At 8:30 a.m., we left the office after completing the application and waited to see if the passport could take only three hours to complete and not the four that was most likely. She would ultimately miss her flight. One security guard tried keeping us from returning to the

passport office at 11:30 a.m. because there was no way her passport would be ready by then. My daughter's flight was at 1:10 p.m. out of Ft. Lauderdale. We persisted and gained entry, found yet another kind representative, and somehow, we were running out of the office at 11:48 a.m. with my daughter's passport in hand. My daughter made her flight with about a minute to spare.

7. Be agile. Prepare for unknown obstacles and give yourself the flexibility to move through or around them.

Balance requires intention, practice, and the right mindset. We are all out of balance often. You have accomplished great things in your life despite obstacles. Balance is achievable. Just make a new commitment, set your sights, and you will achieve the balance you seek. **B**



Mr. Brook is a Partner in the law firm of Brodzki, Jacobs and Brook, P.L. His primary practice area is Family Law. He and his wife, Brenda, have five children and three grandchildren. Mr. Brook is a Founder of the Premier Networking Alliance and Project Leadership. He has given numerous lectures on a variety of topics, including stress reduction, balance and conflict resolution. Mr. Brook is the Former Mayor of Coral Springs and serves on the Boards of The Friendship Initiative and Empower The People.

6 Family Mediation Training

Hosted by: Florida Mediation Training Center

Training Dates: September 6, 7, 8, 15 & 16

Time: 8:30 a.m. – 5:45 p.m.

Cost: \$875

6 CLE: Protecting yourself & your clients - Commercial Office Leasing

Sponsored by: CBRE

Time: 12:00 p.m. – 1:30 p.m.

Venue: BCBA Conference Center

Cost: \$15 BCBA Member; \$25 Non-member

8 Guardianship Class - 8 hr Adult

Time: 9:00 a.m. – 5:00 p.m.

Venue: BCBA Conference Center

Cost: \$180

12 Hispanic Lawyers Committee: Broward Mental Health Summit

Time: 8:00 a.m. – 5:00 p.m.

Venue: Charles F. Dodge City Center

13 YLS Luncheon - R-E-S-P-E-C-T: Earning (and Keeping) It.

Time: 12:30 p.m. – 1:30 p.m.

Venue: BCBA Conference Center

Cost: \$20 BCBA Member; \$25 Non-Member

13 Professionalism CLE: Smoking Hot Legal Ethics Topics

Time: 5:30 p.m. – 7:30 p.m.

Venue: BCBA Conference Center

Cost: \$15 BCBA Member; \$25 Non-member

15 Guardianship Class-4 hr Minor

Time: 9:00 a.m. – 1:00 p.m.

Venue: BCBA Conference Center

Cost: \$100

20 CLE: Marchman Act

Sponsored by: Florida House Experience

Time: 12:00 p.m. – 1:30 p.m.

Venue: BCBA Conference Center

Cost: \$15 BCBA Member; \$25 Non-member

20 Hispanic Lawyers Committee Kick-off Happy Hour

Time: 5:30 p.m. – 7:30 p.m.

Venue: SuViche Las Olas

21 Roger H. Staley Real Property Seminar

6 General, 1 Ethics, & 1 Technology CLE Credits

Time: 8:30 a.m. – 3:00 p.m.

Venue: BCBA Conference Center

Cost: \$95 BCBA Member; \$125 Non-Member

21 Investiture of The Honorable Phoebe R. Francois

Time: 1:30 p.m.

Venue: Broward County Courthouse

25 CLE: The Evolution of Self-Driving Vehicles

Time: 12:00 p.m. – 1:30 p.m.

Venue: Kelley/Uustal

Cost: \$15 BCBA Member; \$25 Non-member

25 After 5 - Eat. Drink. Connect.

Sponsored by Williams Hilal Wigand Grande, PLLC

Time: 5:30 p.m. – 7:30 p.m.

Venue: Anthony's Runway 84

Cost: \$5 BCBA Member; \$15 Non-member

26 Solo/Small Networking Dinner

Time: 6:00 p.m. – 8:00 pm

Venue: Dave & Buster's Hollywood

Cost: \$40 BCBA Member; \$55 Non-member *\$5 additional after 09/19/2018

27 CLE: Probate Bench, Clerk and Bar Roundtable

Time: 2:00 p.m. – 3:30 p.m.

Venue: BCBA Conference Center

Cost: \$15 BCBA Member; \$25 Non-member

28 YLS Breakfast with the Broward County Judiciary

Time: 7:45 a.m. – 8:45 a.m.

Venue: Broward County Courthouse Law Library

Cost: \$10 YLS Member; \$15 Non-Member

Save the Date!

Visit our online Calendar for more information.

Salsa Nights!

Date: Friday, October 5th

Time: 5:30 p.m. – 8:30 p.m.

Venue: BCBA Conference Center

Cost: \$25 General Admission

2018 Nuts and Bolts Family Law Seminar

Date: Friday, October 26th

Time: 8:30 a.m. – 5:00 p.m.

Venue: BCBA Conference Center

Cost: \$75 BCBA Member; \$100 Non-Member

31st Annual YLS Charity Golf Tournament

Benefiting Experience Camps

Sponsorships Available!

Date: Saturday, November 10th

Time: 8:00 a.m.

Venue: Jacaranda Golf Club

Cost: \$150 Single Player; \$500 Foursome

2018 BCBA Annual Holiday Party

Date: Thursday, November 29th

Time: 5:30 p.m. – 8:00 p.m.

Venue: NSU Art Museum Fort Lauderdale

Cost: No Charge BCBA Member; \$25 Member Guest

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