

The **BROWARD** **BARRISTER**

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— PUBLISHED BY THE BROWARD COUNTY BAR ASSOCIATION —
Executive Offices, 735 Northeast Third Avenue, 305/764-8040, Fort Lauderdale, Florida 33304

NO GENERAL MEETING IN AUGUST

District Court of Appeal Changes

The Fourth District Court of Appeal has decided to make the following changes in the heretofore established practice of the court:

1. The practice of notifying counsel by telephone or telegram of the filing of the court's opinion or decision in each case will be discontinued immediately. A copy of the court's opinion or decision will be placed in the United States mail addressed to the respective counsel of record on the day preceding the filing date of the opinion or decision.

2. The court will discontinue its practice of a general mailing of its opinions to judges and law libraries throughout the state temporarily.

These changes have been necessary as a matter of economy in both money and staff time due to a constantly increasing case load.

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Notice

Membership cards are enclosed with the Barrister for those members who have paid the 1973-74 dues. If you have not paid your dues, please do so NOW!

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Committee Assignments

A list of committee assignments has been enclosed for your information. If you are interested in serving on a committee and did not send in the pre-

ference list mailed earlier in the year, please contact the Association office — telephone 764-8040.

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Public Relations Committee

What can be done to improve the public image of the legal profession? Your suggestions are needed.

If you are willing to serve on the Public Relations Committee please contact Broward County Bar Association, 735 N.E. Third Avenue, Fort Lauderdale, Florida 33304.

☆ ☆ ☆

Welcome, New Members

WILLIAM BASSETT, JR.,

a native of Louisiana, received his undergraduate degree from Florida Atlantic University and his law degree from Texas Southern University. He is associated with the firm of Gustafson, Caldwell, and Stephens, in Fort Lauderdale, Florida.

WILLIAM F. BEGGS,

a native of New Jersey, received his undergraduate degree from Monmouth College and his law degree from Stetson University. He is a member of the firm of Beggs, Mascara & Vecchio, Fort Lauderdale, Florida.

JOSEPH I. DAVIS, JR.,

a native of Florida, received his undergraduate degree from the University of Florida and his law degree from Stetson University. He is associated with Robert W. Crawford, Fort Lauderdale, Florida.

PAUL L. DRIVER, JR.,

a native of Florida received his undergraduate degree from Florida State University and his law degree from the University of Miami. He is working in the State Attorney's Office, Fort Lauderdale, Florida.

IRVING D. GAINES,

a native of Wisconsin, received his undergraduate and law degrees from the University of Wisconsin. He practices law in Milwaukee, Wisconsin.

GENE K. GLASSER,

a native of New York, received his undergraduate and law degree from the University of Florida. He received his LL.M from New York University. He is associated with the firm of Abrams, Anton, Robbins, Resnick & Schneider, Hollywood, Florida.

MARK J. GORDON,

a native of South Carolina, received his undergraduate degree from Franklin & Marshall College and his law degree from the University of Miami. He practices alone in Hollywood, Florida.

DAVID L. KAHN,

a native of Pennsylvania, received his undergraduate and law degrees from the University of Florida. He is associated with the firm of Walsh, Dolan & Krupnick, Fort Lauderdale, Florida.

DAVID H. KRATHEN,

a native of Pennsylvania, received his undergraduate and law degree from the University of Miami. He is an assistant Public Defender.

Broward County Bar Association
735 N.E. Third Avenue
Fort Lauderdale, Florida 33304
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OFFICERS

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ERNEST L. MASCARA,

a native of New York, received his undergraduate degree from Seton Hall University and his law degree from Stetson University. He is a member of the firm of Beggs, Mascara & Vecchio.

DENNIS J. ROGERS,

a native of Louisiana, received his undergraduate and law degrees from the University of Florida. He practices alone in Fort Lauderdale, Florida.

JOSEPH A. VECCHIO, JR.,

a native of New York received his undergraduate degree from the University of Michigan, and his law degree from Stetson University. He is a member of the firm of Beggs, Mascara & Vecchio, Fort Lauderdale, Florida.

JOE H. YATES,

a native of Alabama, received his undergraduate and law degrees from the University of Alabama. He is associated with the firm of Saunders, Curtis, Ginestra & Gore, Fort Lauderdale, Fla.



ACLU Notice

The American Civil Liberties Union of Broward County invites you to join the legal panel, or its list of cooperating attorneys, organizational meeting on Thursday, September 6, 1973, at 8:00 P.M., in Room 248, Broward County Courthouse, Fort Lauderdale, Florida.

If there are any questions, please call Marlene Herzog, 983-8702.

**Ted Cabot Memorial Scholarship Fund
University of Miami**

SUMMARY REPORT

Fiscal Year Ending May 31, 1973

Total Amount Pledged	\$8,075
Paid to date:	\$4,825
Final goal	\$50,000

Contributions have been made by the following:

- Abrams, Anton, Robbins, Resnick & Schneider
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Contributions to this fund may be made to:

**TED CABOT MEMORIAL
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Broward Office
2455 E. Sunrise Boulevard, Suite 103
Fort Lauderdale, Florida 33304

**James F. Minnet, Jr. Memorial
Scholarship Fund**

Judge James F. Minnet has established a memorial scholarship fund at Broward Community College in memory of his son, James F. Minnet, Jr., a former student at B.C.C. It is hoped that the fund will yield five or six scholarships each year to graduates of Broward County high schools, with at least one of the scholarships going to a student with golfing interest. Recipients must be full-time students at B.C.C. and are expected to maintain at least a "C" average.

All checks should be made payable to the James F. Minnet, Jr. Memorial Scholarship Fund and mailed to Director of Financial Aid, 3501 S.W. Davie Road, Fort Lauderdale, Fla. 33314.

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Dissolution of Marriage

Ryan v. Ryan, Fla., 277 So.2d 266, holds that "the Chancellor must determine from the particular facts of each case whether a marriage is 'irretrievably broken,' subject, of course, to appellate review. Just as 'extreme cruelty' was held in divorce cases to cover a wide range of factual predicates for divorce, so the phrase 'irretrievably broken' embraces numerous factual bases for dissolution of marriage."



Nooe vs. Nooe decided by the Second District Court of Appeal, 277 So 2d 835 continued the assault on the No Fault Divorce Law. Although separate maintenance as a statutory provision was superceded by the No Fault Divorce Law, the court, the instant case stated separate maintenance may be awarded within the discretion of the trial court.

The facts in the Nooe case show that the husband petitioned for dissolution and the wife at the final hearing testified there was a possibility of continuing the marriage relations, that in her opinion the marriage was not irretrievably broken and that her husband visited her two or three times a week, remaining the night, and had sexual relations. The trial court denied the petition for dissolution and awarded the wife separate maintenance, custody, alimony, and child support.

The appellate court agreed that separate maintenance may be awarded even though it might be categorized by another designation. This action is in the best interests of the wife and children.

The court rejected on the issue of dissolution finding that sexual relations did not alone justify a denial of dissolution. The refusal of dissolution would amount to a legal perpetration of a relationship which has ceased to exist. The case was remanded for a dissolution of marriage. The conclusion of the appeal court appears to be correct in that the facts clearly show there was no marriage and apparently no hope for a regular continuation of the marriage relationship. The continuation, one aspect of marital relations certainly does not indicate, conclusively that the marriage is not irretrievably broken.

Right to Redeem

A second interesting case in the June 28 advance sheets was *Allstate Mortgage Corporation vs. Strasser*, 277 So 2d 843. In this case the owner of real property subsequent to a lien foreclosure after the day of sale but before 10 days within which to file objections to the sale and redeem the property redeemed. The sole question was whether trial court committed error in allowing the redemption in light of the January 1, 1972 amendment to Florida Statutes 45.031 (1) which states:

"In cases when a person has an equity of redemption, the court shall not specify a time for redemption but the person may redeem the property at any time before the sale."

The Third District Court affirmed the right of redemption based on the common law ruling and the definition of sale, which is, the transfer of property. The court held that the transfer

could not occur until after the 10-day period within which to file objections and therefore, the sale did not take place. A property owner, therefore, still has the right to redeem his foreclosed property any time during the foreclosure sale and 10 days after.

Noisy Muffler

by Henry J. Prominski

One of the new laws enacted by the 1973 legislature deals with motor vehicle exhaust systems.

Chapter 73.89, which will take effect October 1, 1973, states that an exhaust system shall be maintained at a noise level established by a regulation of the Department of Pollution Control. No person shall have a muffler with cut outs, alternation, bypass or similar device on a vehicle on the highway.

This appears to be a progressive step forward to eliminate noise pollution as well as emission pollution from our highways. It will be interesting to examine the standards when selected by the Department of Pollution Control.

Under many old municipal ordinances and the state vehicle laws, there existed prohibition against defective equipment aimed at the noisy muffler. Unfortunately, most of these statutes were highly discriminatory in that a sports automobile could legally have an extremely noisy muffler while the owner of an American made family car

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violated the law when he replaced his muffler with glass packs or similar equipment, which although far quieter than the foreign sports car did record a higher decibal level than the car's original equipment.

It is sincerely hoped that the new regulation will treat all fairly and equally and that sports vehicles and low gear vehicles will have to abide by the same noise standards as the family car.

There is no reason why motorcycles, trucks, and similar vehicles using our highways could not be required to have adequate noise suppressants before being licensed.

Family Outing A Success

Fun and frolic, socializin' and sip-pin' were the categories pursued by members and wives who attended the Family Picnic, July 22nd at the Kelly Ranch. Fixin's included Bar-B-Q chick-in', potato salad, beans, slaw, and an assortment of flowing refreshers.

To whet appetites a volleyball game of great magnitude transpired (perspired?). "Bad Bill" Leonard led all with a battery of 56 spikes which spelled early doom for the "short but gallant" opposition led by "Quick Nick" De-Tardo. In passing, however, it must be stated that in addition to "The Spiker", as history will remember him, the winners had the Judge on their side (a hard combination to beat!) who for his burning desire to play became known as "Hit it some moe"!

Many thanks to Ed Sciarretta and Pat Kelly, chairmen, for a job well done. (They took down the volleyball net).

Probate Legislation

by Henry J. Prominski

The 1973 legislative session enacted two major changes to the probate law. Chapter 73-106 amended Florida Statutes 731.35 regarding the election to take dower, -broadening dower for the surviving spouse rather than wife, and shortening the time from nine months to seven months within which to file for election. Section 733.15 of Florida Statutes was amended reducing the

number of publication notices to creditors and the time within which to file claims was reduced to four months. Sections 733.18 of Florida Statutes were also changed in the matter of presenting claims, filing objections, and payment of claims.

Chapter 73-107 entitled, "Act Relating to Dower", eliminated inchoate dower in real property and provides for equal reciprocal rights of dowry for either spouse.

Florida Statutes 731.35 again was amended as in Chapter 73-106 on the election of dower. However, subparagraph four of the earlier bill was omitted. At this point it is not clear what the intention of these two legislative acts was. The omitted subparagraph four deals with baring dower unless within three years the surviving widow gives constructive notice. It would appear that this section was intentionally deleted by the later legislative Senate Bill Chapter 73-107. 73-107 also clarified certain other articles for the surviving spouse; such as, household goods and clothing.

In Florida Statue 731.36 certain other changes in procedure involving assignment of dower were also covered. These laws will go into effect October 1, 1973. It is gratifying to see the State of Florida exceeding to the demands of Women Libbers and doing away with the preferential position long held by the women in the area of dower.

Have You Moved?

There have been many moves of offices in the past two months. If you have *not* notified the following of your correct address and telephone number PLEASE DO SO NOW.

Broward County Bar Association
The Florida Bar
American Bar Association
Clerk of The Circuit Court

Change of Address

The Broward County Bar Association office has been moved to

735 N.E. Third Avenue
Fort Lauderdale, Florida 33304

The telephone numbers are as follows:
Broward Co Bar Association 764-8040
Legal Aid 764-8110
Lawyer Referral Service 764-8310

Digest of Official Opinions

Ejectment of Undersirable Guests from Public Lodging Establishemnts — Sect. 509.141, 713.67 and 713.68, F.S.; CH. 83, F.S.

The provisions of Section 509.141, Florida Statutes, concerning the ejectment of undersirable occupants from a public lodging establishment, are available to the management of such an establishment whether its occupants are guests or tenants. The management of a public lodging establishment is authorized to determine whether a person, or group of persons, is undersirable as that term is used in the statute. May 2, 1973; 073-139.

-:O:-

Deputy Clerk of Circuit Court — Appointment, How Made, Necessity of Acceptance — Appointment of Attorney — Secs. 28.06, 454.18 and 454.23, F.S.

An attorney may be a deputy clerk of the circuit court but he is forbidden to practice law in his state while he is such deputy.

An attorney, or other person, may be appointed as deputy clerk by letter of appointment addressed to him by the clerk.

However, the addressee of such a letter must take some action which indicates his acceptance of the appointment before he actually becomes a deputy clerk. May 2, 1973; 073-140.

-:O:-

Liquors and Beverage — Licensing of Distributors controlled by Out-of-State Manufacturers or Rectifiers of Spirituous Liquors — Secs. 561.24 (2), (5), and (8), F.S.; CH. 23899, Laws of Fla., 1947; CH. 63-562, Laws of Fla., 1963; SEC. 561.24, F.S. 1941.

The provisions of Section 561.24 (2) and (4), Florida Statutes, require that the Division of Beverage not renew the license of a corporate distributor which is wholly owned by another corporation that has acquired the assets and business of a third corporation which engages in the rectifying of spirituous liquors in a state other than Florida: May 2, 1973; 073-138.

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