

The BROWARD BARRISTER

PUBLISHED BY THE BROWARD COUNTY BAR ASSOCIATION
Executive Offices, 733 Northeast Third Avenue, 365/764-8040, Fort Lauderdale, Florida 33304

FEBRUARY, 1976

Volume 5

Number 2

GENERAL MEETING THURSDAY, FEBRUARY 19, 1976—12 NOON

THE GOVERNORS' CLUB HOTEL

236 S.E. 1st Avenue
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PROGRAM: Medical Malpractice — J. B. Spence

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BROWARD COUNTY TRIAL LAWYERS ASSOCIATION MEETING

WEDNESDAY, MARCH 3, 1976

5:00 p.m. Case Evaluation Committee
and Trial Clinic
(Bring your own cases and
questions)

6:30 p.m. Cash Bar
7:00 p.m. Dinner — \$10.00

THE SHERATON HOTEL
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Speaker: Dr. William Ryan

Topic: "How the Clinical Psychology Can Help Your Client in Court"

RSVP before February 27

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ASSOCIATION**

OPERATION: UPDATE/TRANSITION

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FEBRUARY 18, 1976—4:30 P.M.

TAX IMPACT ON DISSOLUTION
CASES

Speakers: Zayle A. Bernstein
D. Leon Leonhardt

Room 250, Broward County
Courthouse

March 17, 1976: Bankruptcy

(\$1.00 printing donation requested)

YOUNG LAWYERS SECTION MEETING

FEBRUARY 26, 1976

12:00 Noon

THE GOVERNORS' CLUB
236 S.E. First Avenue
Fort Lauderdale, Florida

Lunch: \$3.75

Program: New Corporate Code —
by Lee W. Harvath, Jr.

Please send reservations with check to:

Michael J. McNerney
2881 E. Oakland Park Boulevard
Fort Lauderdale, Florida 33306

(Make checks payable to:—
Young Lawyers Section)

Low-Cost Dissolution of Marriage

The Broward County Bar Association has been making studies of various low-cost dissolution of marriage plans for several years. Much thought has been determined that there is a need for the program. A special panel within the Law Referral Service will be formed to handle these cases. There will be no dues for the special panel members.

The program provides that applica-

tions for Low Cost Dissolution cases will be taken under the following guidelines:

1. The dissolution is uncontested.
2. There are no children.
3. No property beyond household contents, automobiles and personal effects.
4. The parties reach an agreement as to division of their property and possessions.

5. Combined income of husband and wife shall not exceed \$8,500 per year.
6. The client agrees to pay a fee of \$125 plus costs of filing, service and court reporter fees.

An Application form is included with **The Broward Barrister**. If you will volunteer to serve on this panel, please complete the application and return immediately to the Broward County Bar Association office. If you have any questions regarding this program, please call 764-8040.

Broward County Bar Association
 733 N.E. Third Avenue
 Fort Lauderdale, Florida 33304
 764-8040

OFFICERS

George A. Patterson *President*
 Ray Ferrero, Jr. *President-Elect*
 Lawrence J. Meyer *Secretary*
 Ronald P. Anselmo *Treasurer*
 Norma Howard *Executive Secretary*

Nominating Committee Report

In the By-Laws adopted by Broward County Bar Association, a procedure was approved for election of officers and executive committee members of the Association.

The Nominating Committee has met and submits the following nominations:
 Officers:

President-Elect **Lawrence J. Meyer**
 Secretary **Ronald P. Anselmo**
 Treasurer **Maurice O. Rhinehardt**

Executive Committee Members:

Group 1 (North): Patrick Bailey, John Hume, Peter Portley, Henry J. Prominski, Robert Wutt.

(CONTINUED)

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PRESIDENT'S MESSAGE

If as the saying goes, justice delayed is justice denied, then there now is a lot of denied justice in Broward County. But then again there now are a lot of genuinely concerned judges and lawyers in Broward County attempting to do something about it. While it may be felt by some people that almost everything that is being discussed this year has to do with the delays now existent in the trial arena, we submit to those who feel this way that if the people of Broward County do not have prompt access to the Courts for a decision concerning their differences then our fundamental justice system cannot function. If the Courts are going to serve only those who are able to hold out long enough to obtain a decision, then justice goes one step further toward providing a machinery to be utilized only by the privileged few. If many complain now that only the wealthy are able to retain a competent lawyer to represent them, then the unfortunate response may soon be — if our Courts do not receive needed help — that only the very wealthy have need for a lawyer because they are the only ones who have the resources to wait long enough to receive a final decision in our Courts. The medium income person who through his taxes primarily supports the Court system may in the future receive little or no benefit from the "justice" system which his resources have made possible.

A major effort has been in existence in Broward County for some time to get appropriate information to the Florida Supreme Court and to the Florida legislature to support requests for the needed additional judges in Broward County. Judge **John G. Ferris**, while he was Chief Judge, sent statistical information to Tallahassee in support of his requests and made personal trips to the legislature to present the case. Judge **John H. Moore, II**, since he has assumed the position as Chief Judge has continued to document the need by sending additional statistical material to the Chief Justice and he has made personal trips to support the request. **O. Edgar Williams**, chairman of our Circuit Courts Committee, and **Rex Conrad**, chairman of the Civil Division subcommittee, have held joint meetings of members of their committees with the Circuit Judges to discuss methods of streamlining certain of the present procedures. Among the suggestions which have been made is one that motions for temporary relief in domestic relations matters be heard basically without argument on the information submitted through affidavits of the parties. And, in this issue of the *Barrister*, there is an article by **Rex Conrad** dealing with suggestions for relieving the time of the Courts in hearing pretrial matters, which suggestions should be considered carefully by all lawyers in Broward County.

An additional recent outstanding example of lawyer response to the present problem was a trip to Tallahassee taken by eight members of the Broward County Bar, including **Robert Curtis**, **Charles Prince**, **Miette Burnstein**, **Jack Packar**, **Hugh Chappell**, **Dan Paschio**, and **George Gleason**, who altogether and at their own expense chartered a plane to Tallahassee on January 15, 1976, and after meeting in Tallahassee with **Don Norman** and **Bill Leonard**, our representatives on the Board of Governors, held a 7:30 a.m. breakfast meeting with Chief Justice **James C. Adkins** and Chief Justice Elect **Ben F. Overton**, to discuss the need for more judges here. Thereafter, on that same day, the delegation appeared before the meeting of the Board of Governors being held in Tallahassee that day and received that body's endorsement for their request for more judges. The substance of the outcome of the trip seems to be that the Supreme Court is in sympathy with the Court burden in Broward County but that ultimately the

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State legislature must be convinced that the additional judges are needed. In some way lawyers and judges in Broward County must get the message to the legislature. To help in that effort, Representative **George Williamson**, a lawyer in Broward County who as a legislator had never hesitated to support the public's need for more judges when convinced the need was genuine, has requested a meeting of the entire Broward legislative delegation for Saturday, January 31, 1976, so that interested judges and lawyers may appear and present the fact to the delegation. **George Williamson** is certainly to be commended for his willingness to provide that opportunity for us.

All that has gone on before seems to point to the fact that lawyers, judges and the people of Broward County must do everything reasonably within their means to present the full case to the legislators showing that our need for additional Circuit Judges is genuine. Each lawyer in Broward County will further the proper pursuit of justice in Broward County by endorsing this effort and by contacting friends and acquaintances in the legislature letting them know that the need for additional judges in Broward County is genuine. The legislature must be convinced that the business of the people in Broward County in our Courts cannot be fairly dealt with under the present unmanageable Circuit Court burden.

GEORGE A. PATTERSON
President

(CONTINUED)

Group 2 (South): Paul Anton, Ross Beckerman, Miette Burnstein, Merle Litman, Joseph L. Schwartz, Angeline G. Weir.

Group 3 (Central): James J. Blosser, Russell E. Carlisle, Harry G. Carratt, J. Peter Friedrich, Paul Gore, James T. Moore, Eugene B. Rimes, Carl Schuster, A. J. Thomas, Jr., O. Edgar Williams.

The By-Laws provide that there will be three (3) members from Group 1, three (3) members from Group 2, and five (5) members from Group 3. It was a difficult task to narrow the list to this number as there are MANY qualified attorneys who are eligible.

If you have not been nominated and would like to be placed on the ballot, you must submit a petition with six (6) signatures of members in good standing to the Broward County Bar Association office by March 15, 1976. You must also maintain an office in the geographical area for the indicated group. These areas are:

Group 1 Commercial Boulevard to the Palm Beach County line.

Group 2 State Road 84 to the Dade County line.

Group 3 North of State Road 84 and South of Commercial Boulevard.

There shall be no vote for the office of President, the office of President to be filled each year by the person who is elected President-Elect at the preceding year's election. Ray J. Ferrero, Jr. will become President of BCBA on June 1, 1976.

These changes have been made to encourage participation in the Association. Election will be by written ballot to be mailed to all members in April.

If there are questions, please call 764-8040.

The members of the Nominating Committee are: William F. Leonard, George A. Patterson, Ray Ferrero, Jr., E. Hugh Chappell, Daniel D. Peschio, Jr., Jack Packard, Charles Prince.

* * * * *

Highlights of January 15-17, 1976 Board of Governors Meeting, Tallahassee, Florida

The Board of Governors of The Florida Bar met for three days in Tallahassee in the Senate Chamber on January 15 through 17, 1976, while the addition to the Bar Center is under construction.

One of the highlights of the first day's meeting was an appearance of a large delegation from Broward County who came at their own expense in a chartered Lear Jet to seek the assistance of the Chief Justice of the Supreme Court in recommending additional Circuit and County Judges for Broward County. (See President's Message for details).

This delegation met with Bill Leonard and Don Norman at 7:30 on Thursday morning to confer with Chief Justice James Adkins and Chief Justice Designate Ben Overton regarding more Circuit and County Judges for Broward County. Following their conference with the Chief Justice, the delegation appeared at the Board of Governors meeting where a resolution was adopted supporting Broward County's request for additional Circuit and County Court Judges.

The Board of Governors considered a lengthy legislative agenda and approved bills favoring merit retention by Judges,

judicial salary increases, a revision of the reparations formula for no-fault insurance, an amendment to Article V which would permit the Supreme Court to appoint an agency with a lay member to consider the admission and discipline of lawyers, and six year terms for County Judges. The Board of Governors opposed legislation creating constitutional municipal courts, providing for a majority instead of a two-thirds vote of the legislature to repeal court rules, limiting attorneys fees to recoveries over \$100,000 in medical malpractice actions, providing for attorneys fees and costs for successful insurance company arbitrators, financial disclosure for all judicial officers, and prohibiting any attorney contributions to judicial candidates. The Board took no position on several bills providing for certification of judicial candidates as qualified, well qualified, or unqualified which is proposed to be done through the judicial nominating commissions. The Board postponed decision on a new code of evidence, the Florida Securities Law and regulation of multiple party trust accounts until its March meeting.

The first designation application, approximately 1,000 in number, indicate the following percentages of designations: Real Property 37%, Trial Practice 34%, Estate Planning and Administration 33%, Personal Injury and Wrongful Death 29%, Corporation and Business Law 25%, Registered General Practice 24%, Consumer Law 8% and Labor Law 8%. The Board of Governors also approved adding the category of Securities Law to areas which may be designated and approved adding Trade Regulation to the category of Anti-Trust designation. Anyone desiring to change a previously designated area for one newly created may do so without prejudice.

The Board heard the report of the 1976-77 Budget Committee that the anticipated income of the Florida Bar will grow to 3.3 million dollars for this fiscal period.

The Board of Governors approved recommending to the Supreme Court certain amendments to the Rules of Civil Procedure including the following: Rule 1.070(b) to provide that a party may have any adult appointed to serve process as a matter of right. (The individual is to be selected by the Court); and Amending Rule 1.100(a) and 1.170(g) to provide that a cross-claim may be filed by a matter of course only if included in an Answer.

The Board heard a spirited debate over a proposed Rule and statutory amend-

ment to the disqualification of judges provisions which would permit a party to have a preemptory challenge to the Judge assigned, once as a matter of right. The proposal failed but was referred to a committee for further review.

The Board voted to oppose the American Bar Association proposals to amend the Code of Professional Responsibility to permit lawyers to advertise, limited only by restrictions against fraud and misrepresentation. The Board voted to approve a report on alleviating overcrowding in the legal profession by discouraging expansions of existing law schools, by reviewing the pass requirements on the Bar examination, and disseminating knowledge regarding overcrowding to prospective law students and bar exam applicants. The Board postponed action on guidelines for legal assistants to its March meeting.

The Bar Center fund raising campaign has reached the 50% level. Your contribution is needed to make this a successful endeavor. If you have not made your pledge, please consider doing so.

Donald Norman

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February 9 A Red Letter Day At Nova Law School

by Cheryl R. Eisen*

February 9 marks the beginning of two programs you have been reading about in the *Barrister* in past months.

During that week 23 local volunteer attorneys will begin teaching one night a week in Nova Law School's Legal Research II course, instructing and critiquing office memoranda and appellate briefs written by students on problems posed by the volunteer instructors.

February 9 is also the day when Nova Law Students' Research Service will begin operation. If you missed the details about the Service in the December *Barrister* and would like information please write to: Sam Silver, Chairman, Nova Law Students' Research Service, Nova University Law School, 3301 College Avenue, Fort Lauderdale, Florida 33314 or call, beginning February 9, 587-6660, extension 327, during the following hours:

Monday, Wednesday, Friday — 9 to 12.

Tuesday, Thursday — 10 to 12.

* Professor Eisen is an Assistant Professor of Law at Nova University. She comes from the University of Florida Law School where she was Co-ordinator of the Legal Writing Program. She currently teaches Contracts and Legal Research and Writing.

Attorneys — Certified Public Accountants

The Broward County Chapter of the Florida Institute of Certified Public Accountants has scheduled a program which may be of interest to many attorneys and an invitation has been extended to the members of Broward County Bar Association.

Details are:

Date: March 8, 1976

Place: Valle's Steak House, 1605 W. Oakland Park Boulevard, Fort Lauderdale, Florida

Time: Cocktails 5:45 - 6:30 P.M.; Dinner 6:30 P.M.

Program: Relations Between Attorneys and CPAs.

The speaker will be Mr. Harris Amnowitz, the general counsel for the international accounting firm of Cooper & Lybrand. Mr. Amnowitz received his LLB from Harvard Law School and was formerly associated with the law firm of Hugnes, Hubbard and Reed. Mr. Amnowitz is also an adjunct professor at New York University Law School.

Reservations should be made by Mar. 6, 1976, and the cost of dinner is \$9.00. Cocktails are on a cash bar basis.

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LAW WEEK—1976

In recognition of Law Week, the Broward County Bar Association will offer free conferences to members of the public. It is hoped that this program will make the public more aware of the role that the legal profession plays in all facets of our lives and government.

Attorneys in the county are being asked to set aside one-half day or a full day on April 30, 1976, to participate in the program. You can designate those areas of the law in which you are willing to offer conferences. Publicity concerning the program is to be disseminated through the various media during the first three weeks of April. Members of the public will be asked to contact the Bar office in order to obtain a fifteen minute legal conference, without charge. Each applicant will be screened by the Bar Association office and those persons who already have attorneys representing them, will not be accepted. Likewise, matters relating to fee disputes with attorneys will not be accepted.

If an applicant does not have an attorney, but does have a problem which comes within the guidelines established by the Bar Association, an appointment will be arranged for April 30th with an

attorney who is participating in the program from the applicant's area of the county. The Bar Association office will then notify the attorney of the names of the persons with whom he will consult and the times of those consultations.

It is hoped that a varied cross-section of the local Bar will participate in this program by making available at least one-half day on April 30th for these consultations without charge. This type of program has been successful in other areas of the country and we know it can be successful here in Broward County.

In order to participate in the program please complete the card enclosed in this issue of *The Barrister* and return it to the Broward County Bar Association office.

Judge Arthur J. Franza
Chairman, LAWDAY, U.S.A.
Committee

★ ★ ★ ★ ★

Helping The Courts Help Us

by REX CONRAD

Last fall, under the leadership of George Patterson, President of the Broward County Bar Association, and Edgar Williams, Chairman of the General Courts Committee, a series of meetings was undertaken with the Chief Judge of our Circuit, the Administrative Judge, other members of the judiciary and representatives of the Circuit Court Civil Division Committee. It has become evident to the bar that real problems exist as a result of the courts' increasing case load, which problems are manifesting themselves in the inability of the bar to obtain hearings and jury and non-jury trial dates within a reasonable period. The exchanges at these meetings between bench and bar were extremely candid and, while a few feathers may have been ruffled, a growing consensus as to certain trouble areas has been reached.

There can be no question that problems exist and that their long-range solution must lie in obtaining more judges. Any doubts as to the snowballing case load are easily resolved by an examination of the fine analysis and presentation put together by Chief Judge John Moore for delivery to the Supreme Court in support of this circuit's request for additional judges. Unfortunately, that solution does not seem near at hand.

The purpose of these comments is to direct to the bar's attention certain measures which can be undertaken to help the bar with the existing manpower available. We must all recognize the responsibility of lawyers not only to not

aggravate existing scheduling problems but to come up with some creative measures to alleviate the problem whenever possible.

An informal (and probably not very scientific) poll among trial practitioners and members of the judiciary reveals that as high as fifty per cent of all hearings scheduled by private appointment or on a motion calendar are not held at the time originally noticed. These hearings are cancelled or postponed for reasons all too well known to us, such as conflicts, either avoidable or unavoidable, foreseen or unforeseen, or because agreement is reached by the parties rendering the hearing moot. This same poll also indicates, however, that approximately seventy-five per cent of all cancellations or postponements of hearings which occur are effected less than one week prior to the hearing time originally obtained. Obviously, a hearing cancelled on the judge's books this close to the date scheduled is most probably a hearing time lost to other lawyers seeking an appointment, because of the inability of a lawyer to give reasonable notice to other parties that shortly in advance of a "freed-up calendar time.

These considerations prompt the following recommendations to the bar:

1. Make every effort to seek agreement from your opponent to routine motions at the time they are prepared without and before obtaining a hearing time on that motion. If agreement is reached, an order can simply accompany the motion so that the file reflects accurately the progress of the proceedings.

2. Upon receipt of a motion or other application for judicial relief prepared by your opponent to which you have no objection or upon which it is apparent that agreement can be reached, do not just calendar the rehearing on your book and forget it. Call the moving lawyer as soon as it is evident that agreement can be reached and advise of this agreement so that the hearing can be promptly cancelled.

3. When notice of a hearing is received and it is obvious to the receiving lawyer that a conflict exists which will preclude his attendance, notify your opponent immediately of the conflict and request his re-scheduling so that that time can be freed-up and made available to other members of the bar.

4. Things long and hard before forcing hearings, either by the filing of motions or the resisting of same. Don't make needless discovery objections for the sake of abstract principles or out of fits of pique.

5. When a judge's secretary asks how much time a hearing will require, don't forget that if the hearing is worth scheduling there are two sides to the issue and your opponent will want to be heard too. Five-minute hearings that run on and on are an abuse of the court's time and a gross inconsideration to your fellow lawyers waiting.

6. When you know that you are going to be late in complying with some discovery request or motion, promptly advise your opponent in writing and advise him of the efforts you are making to

comply. Silence forces motions whereas courtesy and communication will often avoid the scheduling of hearings.

Certain recommendations for adoption of formal local court rules are under consideration by the bar and the Chief and Administrative Judges. These recommendations include requiring all motions and notices of hearings to be accompanied by a certificate of the moving lawyer that attempts at agreement upon the motion have been made. There is also being considered a local rule requiring each judge to provide a certain amount of time weekly for motion calendars. Obviously, we would all like to avoid as many structured "rules" and formalities as possible, but something is going to have to be done if we don't help ourselves and help the courts help us.

Lastly, it is the consensus of those lawyers providing input to these deliberations that the courts have been most indulgent to certain members of our bar most frequently abusing the court's time by violation of the principles noted above. Our Rules of Procedure provide for sanctions to be imposed by the court upon lawyers failing to comply with pre-trial rules or orders. These measures have been imposed by the judges very infrequently and most reluctantly, probably in part because of the historic closeness of our bench and bar and a natural desire on the part of the judges not to offend lawyers when that can be avoided. We are urging the courts to help the bar gain access to the courts' time by utilizing the judicial power to deal with those who abuse it.

While no one wants to sound the death knell to the close-knit, informal and altogether pleasant relationship that Broward's bench and bar have enjoyed over the years (which has been envied by all Dade County lawyers travelling to our fair Circuit) we must recognize that with

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the rapid growth of our county and the increasing litigation this growth brings, we are no exception to the problems that have faced the courts and trial practitioners of all major metropolitan areas. We must do all we can to help ourselves and to help the courts help us. All suggestions along these lines are encouraged both by the bench and members of the bar's committees working on these problems.

By Rex Conrad, Chairman
Circuit Court Civil Division
Committee

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WELCOME, NEW MEMBERS

WILLIAM JAMES BARNES, a native of Elizabeth, N.J., received his undergraduate degree from New York University and his law degree from Rutgers. He practices alone in Fort Lauderdale.

ROBERT L. BEALS, a native of Everett, Wash., received his undergraduate degree from the University of Michigan and his law degree from Ohio State College of Law. He is associated with Ruden, Barnett, McCloskey, Schuster & Schmerer in Fort Lauderdale.

CHARLES S. BUTLER, III, a native of Elizabeth, N.J., received his undergraduate degree from the University of Detroit and his law degree from the University of Miami. He is associated with Manspeaker & DeFelice in Pompano Beach.

EARLE LEE BUTLER, a native of Knoxville, Tenn., received his undergraduate degree from American University and his law degree from the University of Buffalo. He is associated with Don Lacy, Esq., Fort Lauderdale.

ABRAHAM H. CARCHMAN, a native of Newark, N.J., received his undergraduate and law degrees from New York University. He practices alone in Hallandale.

MARSHALL J. COOPER, a native of Chicago, Ill., attended Roosevelt Univer-

sity and received his law degree from DePaul University. He is self employed in Hollywood.

RICHARD S. COTLER, a native of Savannah, Ga., received his undergraduate degree and law degree from the University of Miami. He is associated with the firm of Meyer, Leben, Fixel, Cantor & Engelberg in Hollywood.

JERALD R. CURETON, a native of New Orleans, La., received his undergraduate degree from Temple University and his law degree from the College of William and Mary. He is associated with English, McCaughan and O'Bryan, Fort Lauderdale.

GARY MICHAEL FARMER, a native of Toledo, Ohio, received his undergraduate degree from Florida Atlantic University and his law degree from the University of Toledo. He is associated with the firm of Abrams, Anton, Robbins, Resnick & Schneider, in Hollywood.

ERWIN GREENBERG, a native of Brooklyn, N.Y., attended the University of Virginia, Columbia University, Long Island University, and received his law degree from Brooklyn Law School. He practices alone in Fort Lauderdale.

DONALD CAMPBELL HAIN, a native of Paterson, N.J., received his undergraduate degree from Princeton and his law degree from Columbia University. He is associated with Spear & Deuschle in Fort Lauderdale.

NEAL ROY KALIS, a native of Brookline, Mass., received his undergraduate and law degrees from the University of Florida. He is associated with Shaffner & Shaffner, P.A. Fort Lauderdale.

HARVEY G. KOPELOWITZ, a native of Brooklyn, N.Y., received his undergraduate degree from the University of Pittsburgh and his law degree from St. John's University. He is associated with Ruden, Barnett, McCloskey, Schuster & Schmerer, Fort Lauderdale.

KERRY J. NAHOOM, SR., a native of Tallahassee, Fla., received his undergraduate and law degrees from Florida State University. He is associated with the U.S. Attorney's Office, Fort Lauderdale.

RICHARD M. SACCOCIO, a native of New York, N.Y., received his undergraduate degree from Polytechnic Institute of Brooklyn and his law degree from Duquesne University. He is associated with the Public Defender's Office, Fort Lauderdale.

HAROLD D. SMITH, a native of Artemus, Pa., received his undergraduate degree from Kent State University and his law degree from Cleveland Marshall College of Law. He practices alone in Hollywood.

SUSAN LEBOW WEINBERG, a native of Akron, Ohio, received her undergraduate degree from Tulane University and her law degree from the University of Miami. She practices alone in Fort Lauderdale.



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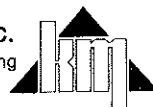
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