



Broward County Bar Association  
1051 SE Third Avenue  
Fort Lauderdale, Florida 33316

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# Broward County Bar Association BARRISTER

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## HOLD THE DATE...

**THURSDAY, JUNE 11, 2009**

### BROWARD COUNTY BAR ASSOCIATION ANNUAL MEETING AND INSTALLATION DINNER

Hyatt Regency Pier Sixty-Six Panorama Ballroom  
2301 SE 17th Street, Fort Lauderdale

**Cocktail Reception 5:30p.m. Dinner 6:30p.m.**

Menu includes choice of Beef, Chicken or Fish

Cost: \$85 for members/ \$95 for non-members

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## 2009 BCBA Bench and Bar Convention set for October 16

The 2009 Quadrennial Bench-Bar  
Conference is scheduled for Friday,  
October 16, 2009  
at the Broward County Convention  
Center in Fort Lauderdale.

Seven hours of CLE credit (including 1.0  
hour of ethics credit or more) will be  
available. If you are interested in presenting  
one of the 50 minute seminars or an entire  
track of (6) seminars, contact Morrie  
Levine, Esq., 954-925-9000. There are  
sponsorship opportunities still available,  
please contact Robin Moselle, Esq. at 954-  
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## 2009-2010 BCBA Board of Directors Officers



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## PRESIDENT'S MESSAGE by Christopher M. "Chris" Neilson

This is my last column as BCBA President. Many of you have told me that you have enjoyed my columns, albeit that while they have been a little long, you really enjoy reading them and appreciate the insight. Thank you for your comments and encouragement!

Welcome to June, the beginning of Hurricane Season. On June 11th we will host our Annual Installation Dinner in the Panorama Room at the Hyatt Pier 66 on 17th St. Carlos has promised me that "nothing will change"...however, I find it more than coincidental that on June 12th the new digital conversion program for airwaves goes into effect, so I really don't know...remember all of those commercials...(hopefully at least these will finally come to an end!). I just hope we will all have a signal!

On July 1, Carlos Llorente will officially become the first Cuban-American President of the Broward County Bar Association since its inception in 1925. This landmark event reflects not only our changing community, but more importantly the work ethic, quality, and character of Carlos. I am proud to have served with him for many years, and to know him as a dedicated member and good friend.

BCBA will be in great hands with Carlos next year, President-Elect Bruce Weihe (who has done an outstanding job as Treasurer this past year, and whom I can't thank enough for his assistance in editing my articles!), Treasurer Jordana Goldstein (who has done a fantastic job as Secretary this past year), Secretary Deborah Poore FitzGerald, your Board of Directors, staff, and our great Executive Director Art Goldberg. It has been my good fortune and pleasure to work with them over the past decade. A big thanks to all of our Judges, Section and Committee Chairs and members, to all of the Voluntary Bar Associations leaders and members, and to our many members and volunteers who have given freely and done so very much to continue to improve BCBA and help to restore the image of our profession.

We are also extremely fortunate to have a strong working group in our Young Lawyers Section, who have done much this past year under President Scott Chitoff, and similarly will be in great hands under the capable leadership of their incoming President Michael Gilden, President-Elect David Hirschberg, and Secretary-Treasurer Bart Ostrzenski. They always put on great events and give much back to our community, including both bowling and golf tournaments (which raise funds for charities), "Holiday in January", fantastic and informative lunches, including the Chief Judge's state of the Circuit address, the BCBA Bar President's update, the annual Judicial Reception, and, this year, our very own Jesse Diner, incoming President of The Florida Bar, will deliver his 2009-2010 platform at the May 21st YLS luncheon.

### 2008-2009 AGENDA AND PLATFORM:

I am very pleased to report that with the resolve and assistance of our Board, Executive Director Art Goldberg, staff, and our members, my agenda and platform for BCBA, and more, has been

accomplished over the past year. Here is a recap of just a few of the things we have accomplished:

- 1) In August, BCBA held a Board retreat to identify short and long term goals for BCBA. One of our main goals in both categories was to advocate for a new Courthouse (this was before the floods or mold lawsuits). After writing and speaking about the need for a courthouse, and appearing on television and radio, we are so very gratified that the County Task Force and County Commission agree with BCBA, and tremendous progress is underway in approving a new courthouse. Our vision was productive -- what at first seemed insurmountable has become a realistic probability.
- 2) We have solidified our Board, and every day help to restore the image of our profession.
- 3) As a native Floridian and lifelong resident of Broward County, I know the devastation hurricanes can cause, and have experienced the inconvenience of having no electricity for weeks on end. I sought the assistance of a local company to donate a generator to BCBA. We now can continue our operations, and provide a place for our members who may be without power to utilize our -- and their -- powered facility. I can't thank Personalized Power Systems (P.P.S.) enough for their very kind donation of a 25,000 watt generator! So, remember, if you are a BCBA member and lose power and need a work area to "plug in", come on down to BCBA.
- 4) Because of the addition of the generator, we enclosed and landscaped the area west of the Center, which really opened up our conference center and has proven to be a great improvement for many of our events, enhancing the look and feel of our facility.
- 5) Enhanced our alarm system.
- 6) Enhanced and improved our BCBA website, including a streaming video for the very first time, and implementation of our first online members directory (which is under development).
- 7) Implemented an online Master Calendar for utilization by ALL Voluntary Bar Associations, to avoid scheduling conflicts.
- 8) We painted, updated and modernized both buildings, including new color schemes.
- 9) We improved the lobby area under the direction of Deborah Poore FitzGerald.
- 10) Perhaps most importantly, we paid off our BCBA mortgage, due to contributions from hundreds of our members, as well as assistance and encouragement from Roger Staley and Barbara Sunshine and the BCBA Council of Past Presidents. We held a wonderful Bar-B-Que and feudal ceremonial mortgage burning ceremony led by Nova Professor Joe Grohman. Over 100 people -- judges, past BCBA presidents, board members, Florida Bar President-Elect Jesse Diner and his wife, Florida Bar Foundation President-Elect Adele Stone -- attended.

We have a beautiful, serene and tranquil facility on the south banks of the Tarpon River estuary that I have come to love and appreciate, and I truly hope our preserve, canopied oasis and fortress of solitude will endure for generations to come. I was honored to issue a Proclamation delineating the history of BCBA and declared April 25, 2009 to be BCBA "FREEDOM DAY!" Thanks again to Mark Butler and John Primeau for the

## CALENDAR OF EVENTS

### Monday, June 1:

Grievance Committee 17G Meeting. 2:00 p.m. Norma B. Howard Center, 1051 SE 3rd Ave. Ft. Lauderdale, 33316.

### Friday, June 5th:

Solo/ Small Law Firm Networking Lunch. Olive Garden, 1555 N. University Drive, Coral Springs, FL (954) 344- 5226. RSVP to: Evan M. Ostfeld (954) 227- 7529 and or Evan@Attorney4life.com.

### Sunday, June 7th:

Broward County Bar Association Young Lawyers' Section presents: 6th Annual Family Day. TY Park, 3300 N. Park Road.,

Hollywood, FL, Pavilion #5. 12:30p.m. to 3:30 p.m. For more information see page 7.

### Monday, June 8th:

FREE CLE Seminar. Topic: "Retirement Plans for Business Owners". 1 Hour CLE. 4:00 p.m. At the Broward County Bar Association, conference room, 1051 SE 3rd Ave, Fort Lauderdale, FL 33316. Please RSVP to: (561) 961-9311.

### Thursday, June 11th:

Broward County Bar Association Annual Meeting and Installation Dinner. Hyatt Regency Pier-Sixty Six, Panorama Ballroom. 2301 SE 17th Street, Fort Lauderdale. Cocktail Reception 5:30p.m.; Dinner 6:30p.m. Cost: \$85 for members; \$95 for non-members. Contact Mike for reservations at 954-764-8040 x 202.

### Friday, June 12th:

Solo/ Small Law Firm Networking Lunch. The Ark, 6255 Stirling Road, Hollywood, FL (954) 584- 3075. RSVP to: David Silverstone (954) 367-0770 and or david@dsilverstone.com.

### Saturday, June 13th:

4 Hour minor guardianship Class. 9:00 a.m. to 1:00p.m. Norma B. Howard Bar Center, 1051 SE 3rd Ave, Ft. Lauderdale, 33316. Cost: \$100.00. For a guardian for anyone under the age of 18. To sign up please call Tish at BCBA (954) 764- 8040 ext. 200. Attorneys welcome, approved by the Florida Bar for CLE credit.

### Tuesday, June 16th:

Grievance Committee 17H Meeting. 2:00 p.m. Norma B. Howard Center, 1051 SE 3rd Ave, Ft. Lauderdale, 33316.

### Tuesday, June 16th:

Solo/ Small Law Firm Networking Lunch. Olive Garden, 807 S. University Drive, Plantation, FL (954) 424-7201. RSVP to: John Rizvi (954) 452-0033 and or Johnrizvi@ideaattorney.com.

### Friday, June 19th:

Defending Foreclosures in Florida Seminar. 9:00a.m.- 5:00p.m. The Westin Fort Lauderdale, 400 Corporate Drive, Fort Lauderdale, FL. For more information see page 10.

### Friday, June 19th:

Solo/Small Law Firm Networking Lunch. East City Grill, 1800 Bell Tower Lane, Weston Town Center, Weston (954) 659-3339. RSVP to: Rick Woolf (954) 252-0043 and or rwoolf@woolfffinancial.com.

### Friday, June 26th:

Solo/ Small Law Firm Networking Lunch. At J. Marks Restaurant, 1490 Copans Road, Pompano Beach, FL (954) 782-7000. RSVP to: Jane Bolin (954) 316-1339 and or jane@peytonbolin.com.

### Saturday, June 27th:

8 Hour Adult Guardianship class. 9:00 a.m. to 5:00 p.m. Norma B. Howard bar Center, 1051 SE 3rd Ave, Ft. Lauderdale, FL 33316. Cost: \$180.00. For a guardian for anyone over the age of 18. To sign up please contact Tish at (954) 764-8040 ext. 200. Attorneys welcome, approved by the Florida Bar for CLE credit.

### Monday June 29th:

Solo/ Small Law Firm Networking Lunch. At Bimini Boat Yard, 1555 SE 17th Street, Fort Lauderdale (954) 525-7400. RSVP to: Beth Lindie (954) 764- 5400 and or blindie@lawyers.com.

### Monday, July 6th:

Grievance Committee 17G Meeting. 2:00p.m. At the Broward County Bar Association, 1051 SE 3rd Ave. Fort Lauderdale, FL 33316.

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JULY 2009

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- preparation of the title abstract and the proclamation!
- 11) We have involved our Past-Presidents Council, strengthened our membership, improved our committees and sections, have hosted more events than ever, provided countless CLEs and educational seminars to our members.
  - 12) We have a continued to have a great relationship with our judiciary -- thanks to Chief Judge Victor Tobin and all of the judges who so freely give of their time in attending our events, preparing for and participating in our CLEs, and providing their continued support.
  - 13) Circuit Judge John Bowman has done a fantastic job as our Judicial Representative; it has been a pleasure to work with Judge Bowman, who has been a regular and valuable contributor at our Board meetings.

## UPCOMING EVENTS

June 11, 2009 -- BCBA Annual Installation Dinner at Pier 66 Panorama Room.

June 19, 2009 -- BCBA will be co-hosting, with Legal Aid, an all day Foreclosure Seminar at the Westin Cypress Creek.

June 24-27, 2009 -- the Annual Meeting of The Florida Bar, where Jesse Diner will be installed as the next President of The Florida Bar!

October 16, 2009 -- as Chair of our Quadrennial Bench and Bar Convention, set for at The Broward County Convention Center, I have also been extremely busy in planning the event. Close to 1000 judges and lawyers are expected to attend. Special thanks to the chairs of the following sub-committees: Robin Moselle, Exhibitors and Sponsors; Morrie Levine, CLEs; Don Fucik, Marketing; Michael Fischler, Bench-Bar Committee, and everyone else who has worked so hard, including Jorge Hurtado who has brought in many sponsors.

## EPILOGUE

Over the past year, in writing my monthly Barrister column, chairing our monthly Executive Committee meetings, chairing our monthly Board meetings, attending Bench and Bar Committee meetings, BCBA budget meetings, Section and Committee Meetings, Young Lawyer events, voluntary bar association events, Florida Bar events, other public service functions, appointing Section and Committee Chairs, conducting Board elections and member surveys, planning events, ordering awards, addressing correspondence, and never ending emails and phone calls, I have been REALLY BUSY.

For those so interested, I have attached a timeline appendix to this Barrister of all of the many and varied events that have marked this year at BCBA.

If you have the time, please go to our website [www.browardbar.org](http://www.browardbar.org) and watch the video from County Line TV by clicking on the link on the home page. You can also read all of the past Barristers by clicking on that link on the bottom right of the page, and view our calendar for future events.

We are very happy that BCBA was recognized as the "Voluntary Bar Association of the Year" by Broward County Legal Aid at their annual "For the Public Good" gala, for the very first time, at The

Fort Lauderdale Hilton Hotel and Marina on May 15, 2009. I was honored to accept the award on behalf of our members, and am extremely proud of BCBA and all of our members who have made this possible.

And so, we come full circle. We have worked very hard on our community outreach, and have continued to restore the image of our profession.

It's hard to say goodbye. So, I will just say "see ya", since I am not really leaving, just simply fading into the background. I know that I will be seeing you, as I will remain on our Executive Board as Past-President.

My BCBA Presidency, and serving on our Board of Directors and Executive Committee leading up to it, has been an extremely gratifying, meaningful and worthwhile endeavor and experience.

Thank you all so very much for your support and assistance in allowing me the great privilege and high honor to have this wonderful opportunity. I shall always cherish and remember it.

All the best! Chris



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

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## “TIMELINE APPENDIX”

### EVENTS HOSTED, SPOKEN AT AND ATTENDED:

by Christopher M. “Chris” Neilson

**June 4, 2008:** Appeared on Beacon / County Line Television with host Frank Loconto and spoke about BCBA, adequate Court funding and the need for a new Courthouse.

**June 10, 2008:** Spoke for The North Broward Bar Association at their monthly meeting at Steak and Ale.

**June 12, 2008:** Was installed as president of the Broward County Bar Association at it’s annual Dinner Meeting at the Marriott Harbor Beach hotel.

**June 19-21, 2008:** Attended the annual meeting of The Florida Bar at the Boca Raton Resort and Spa, and at the Judicial Luncheon heard Florida Supreme Court Justice Fred Lewis and the Dean of Yale Law School Harold Koh present, and attended several events and receptions.

**June 26, 2008:** Served on American Cancer Society Jail and Bail Parole Board Committee.

**July 3, 2008:** Spoke for The South Broward Bar Association monthly meeting at the Ark Restaurant.

**July 17-19, 2008:** Attended The Florida Bar Voluntary Bar Leaders Workshop in Saddlebrook, Florida. This is a fantastic program that teaches and motivates future bar leaders, and which has been very helpful to me in my development. I encourage all future bar leaders to attend this valuable program as they move forward in their bar service.

**July 24, 2008:** Met with Legal Aid and BCBA leaders to further build upon our relationships.

**August 5, 2008:** Attended the National Night Out anti-crime event at Jefferson Park in Hollywood, less than a block from where I grew up!

**August 8, 2008:** Spoke about BCBA, adequate Court funding and need for a new Courthouse on Radio Broadcast.

**August 13, 2008:** Met with Art Goldberg and Alan Fishman to plan the Past-Presidents Counsel event.

**August 21, 2008:** Spoke for our Young Lawyers Section Luncheon at The Tower Club about BCBA and my agenda.

**September 3, 2008:** Hosted a Minority Mentoring event at BCBA.

**September 9, 2008:** Organized photos of BCBA Board.

**September 17, 2008:** Attended a presentation at the Broward County Courthouse on SCRAM, an electronic monitoring device.

**September 23, 2008:** Hosted a meeting of all BCBA Section and Committee Chairs.

**October 2, 2008:** Hosted a meeting of all Voluntary Bar Association leaders.

**October 16, 2008:** Attended a joint luncheon at the North Broward Bar Association. President Stuart House did an outstanding job this year and hosted a Forensic Psychology CLE.

**October 23, 2008:** Was honored to be a guest speaker at the Broward County Crime Commission’s Annual Prosecutor of the Year Dinner, and humbled to be presented an award thanking me for my service to the Community and the Criminal Justice System.

**October 24, 2008:** Attended an Education and the Law Seminar at St. Thomas University Law School in Miami.

**November 1, 2008:** Attended, supported, and had a booth at, the Minority Mentoring Picnic, with The Dade County Bar Association, at Amelia Earhart Park in Hialeah. This is a statewide event attended by Florida Supreme Court Chief Justice Peggy Quince and Judges, law firms and students from throughout the state.

**November 6, 2008:** Hosted a meeting of BCBA Past Presidents Counsel.

**November 7, 2008:** Attended a seminar on illegal sports gambling at St. Thomas University Law School.

**November 18, 2008:** Hosted the Fourth District Court of Appeal Luncheon at The 110 Tower.

**November 19, 2008:** Spoke for the Solo Small Firm Section at their dinner meeting at Dave and Buster’s in Hollywood.

**November 25, 2008:** Spoke for the Hollywood Kiwanis Club at Orange Brook Golf Course in Hollywood (where my father used to be a Golf Commissioner).

**December 11, 2008:** Attended the Young Lawyers Section Holiday luncheon at the Tower Club, featuring the extremely talented Dillard Singer’s, which offers the only such program in all of Broward County.

**December 11, 2008:** Attended the North Broward Bar Association annual Holiday Party.

**December 12, 2008:** Hosted our annual Holiday party at BCBA.

**January 23, 2009:** Hosted the first ever State Attorney and Public Defender joint 3.5 hour Ethics seminar, which filled the Jury Room at the court house. Thanks again to Jeff Harris for revitalizing and reenergizing our criminal law section and envisioning and helping organize this event.

**January 28, 2009:** Traveled to The Florida Supreme Court (with the leaders of Broward County Legal Aid and Coast to



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Coast Legal Aid) to recognize Russell E. Carlisle, who received The Florida Bar President's 2009 Tobias Simon Award in a wonderful ceremony. We also attended The Florida Supreme Court Historical Society Dinner at Florida State University, where United States Court of Appeals Judge Rosemary Barkett presented a fascinating historical perspective of our legal system.

**January 29, 2009:** Attended the Board of Governors Meeting at The Florida Bar in Tallahassee.

**February 6, 2009:** Hosted the Robing Ceremony for our 9 new judges, the largest in our history, including the Judicial Luncheon and Reception at the 110 Tower.

**March 5, 2009:** Attended The South Broward Bar Association Installation Dinner Meeting at Signature Grande, featuring Florida Supreme Court Chief Justice Peggy Quince. President Ken Hassett has done a great job in reestablishing and reenergizing the South area Bar.

**March 15, 2009:** Attended the Emerald Society Annual meeting at Bahia-Mar.

**March 15, 2009:** Attended the Hollywood Kiwanis fundraiser.

**March 19, 2009:** Hosted the Collecting Fees and Judgments CLE, which Robin Moselle did an outstanding job in presenting.

**March 21, 2009:** Attended the Young Lawyers Section Bowling Tournament to benefit Cystic Fibrosis.

**March 23, 2009:** Hosted a joint meeting of all Voluntary Bar Leaders and BCBA Section and Committee Chairs at BCBA.

**March 25, 2009:** Spoke at The Florida Bar Annual "Practicing with Professionalism" seminar at Pier 66.

**March 27, 2009:** Spoke at our annual "Raising the Bar" family law seminar held at the Renaissance Hotel on 17th St. Family Law Section Co-Chairs Juliette Lippman and Beverly Vessel, and Judges Renee Goldenberg, Linda Vitale, Arthur Birken, Marina Garcia Wood, Ilene O'Connor, Lisa Porter and Hope Bristol Teiman and presented an outstanding seminar.

**April 17, 2009:** Attended the Hispanic Bar final meeting of the year at The Riverside Hotel. President Juan Arias had an excellent year.

**April 25, 2009:** Hosted the BCBA feudal Mortgage Burning Ceremony Bar-B-Q, with Nova Law Professor Joseph Grohman, at BCBA.

**May 1, 2009:** Hosted our annual Law Day Luncheon at the Tower Club (again with the very capable assistance of Chair Angel Petti Rosenberg). Nova Law Professor Bruce Rogow was our featured speaker, and the event was packed to capacity. Anthony Karrat, Executive Director of Legal Aid presented an award for BCBA and our members, "In Appreciation for Many Years of Dedicated Support given to

the Legal Aid Service of Broward County and Coast to Coast Legal Aid of South Florida in order to ensure access to Justice and improve the quality of life for all people living in Broward County".

**May 4, 2009:** Met with the Clerk of Court and discussed members concerns.

**May 6-9, 2009:** Attended and participated in The Hollywood Rotary Club's 52nd Annual Auction for Youth Organizations.

**May 7, 2009:** Attended our Young Lawyers Section annual Law Week Judicial Reception at the Sun-Sentinel Building on Las Olas Boulevard.

**May 8, 2009:** Attended the Professionalism in the Law luncheon presented by Florida Supreme Court (and former Chief) Justice Barbara J. Pariente. Judge Cynthia Imperato did an outstanding job as Chair of the American Inn of Court this year, which hosted this event.

**May 11, 2009:** Attended the Jewish Federation Judicial Reception, which BCBA co-sponsored along with numerous other Voluntary Bar Associations at the Museum of Art in Fort Lauderdale. We should be very proud that Judge Peter Weinstein was President of B'nai B'rith Justice Unit 5207 this past year (which was also a co-sponsor). Our Chief Judge Victor Tobin was presented an award at this event.

**May 15, 2009:** BCBA was recognized as the "Voluntary Bar Association of the Year" by Broward County Legal Aid at their annual "For the Public Good" gala, for the very first time, at The Fort Lauderdale Grande Hotel and Marina. I was honored to accept the award on behalf of our members, and am extremely proud of BCBA and all of our members who have made this possible.

**May 21, 2009:** Attended our Young Lawyers Section meeting featuring Florida Bar President Elect Jesse Diner present his agenda for 2009-2010 at The Tower Club.

**June 11, 2009:** Will host BCBA Annual Installation Dinner at Pier 66 Panorama Room.

Again, thank you so very much! It was my pleasure.

All the best!

Christopher M. "Chris" Neilson  
Broward County Bar Association  
President 2008-2009



**Courthouse Advisory Taskforce Sends Interim Report to County Commission**  
By Scott Chitoff, President, Young Lawyers Section

I want to thank all of you for the honor and privilege of serving as the President of the Young Lawyers Section this year. I think most former YLS Presidents would agree that you do not realize how many moving parts the organization has until you step into the one role that manages the sum of the parts.

This past year we have numerous successes:

We hosted eight monthly luncheons which included speakers such as Broward County Vice-Mayor Ken Keechl; world renowned physician, researcher, and forensic expert Adam Ostrzenski; a perennial favorite Chief Judge Victor Tobin; a living legend W. George Allen; and the next President of the Florida Bar, Broward's own Jesse Diner.

We organized after hours social events in the Fall and Spring in conjunction with our Golf Tournament, Holiday in January charity event, and our Bowl-a-thon.

For the second year we raised several thousand dollars for local charity Healthy Mothers Health Babies at your annual Golf Tournament in October at Jacaranda Golf Club.

In early February we hosted 150 children from several foster care agencies at the Discovery Museum of Science and gave them a late holiday season as part of our Holiday in January program.

In March we hosted 120 bowlers at Wilton Lanes for our annual Bowl-a-thon that raised funds for the Cystic Fibrosis Foundation.

In May we hosted our annual Judicial Reception for more than 200 guests and judges at the Sun-Sentinel Building Rotunda. Thank you to the sponsors that made it possible.

Finally, the Sixth Annual Family Day was held on Sunday, June 7, 2009 at TY Park in Hollywood at Pavilion #5. Despite the economic downturn and lack of sponsorship funds, we only charged \$5 per person which included food, refreshments, cotton candy, snow cones, outdoor games, a bounce house and access to Castaway Island Water Park.

It took the time and dedication of numerous board members and the support of their respective law firms (and in one case a government agency) to plan, promote and execute these programs. I want to thank each board member for all of their work this year. Chief among those who assisted me were my President-Elect Michael Gilden and Secretary/Treasurer David Hirschberg who kept watchful eyes over the details.

As Michael Gilden takes over as President he is joined on his Executive team by David Hirschberg, President-Elect and Bart Ostrzenski, Secretary-Treasurer. I wish them and YLS well for a successful year next year and years to come.

As well, in order to make these programs feasible, it requires financial backing. This past year, we were fortunate enough to receive support from sponsors BNY Mellon, Berenfeld CPA's, Credence Corporation, and Esquire Deposition Solutions.

The president of any organization needs advice from time to time. I want to thank Jesse Diner, Christopher Neilson, BCBA President, and Art Goldberg, BCBA Executive Director for always taking my calls when I had questions or needed advice.

Since my time as associate and even now as a partner, I can always count on the support of my law firm, Brinkley, Morgan, Solomon, Tatum, Stanley and Lunny, LLP. I want to thank the staff, associates and my partners for supporting my professional endeavors.

Finally, I want to thank my wife and two sons for sacrificing of their time with me so I could serve in this role.

Again, it was truly a privilege and honor. Thank you.

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Friday, June 12th, The Ark, 6255 Stirling Road, Hollywood, (954) 584-3075, RSVP to: David Silverstone (954) 367-0770 and or david@dsilverstone.com.

Tuesday, June 16th, Olive Garden, 807 S. University Drive, Plantation (954) 424-7201, RSVP to: John Rizvi (954) 452-0033 and or johnrizvi@ideaattorneys.com.

Friday June 19th, East City Grill, 1800 Bell Tower Lane, Weston Town Center, Weston (954) 659-3339, RSVP to: Rick Woolf (954) 252-0043 and or rwoolf@woolffinancial.com.

Friday, June 26th, @ J. Marks Restaurant, 1490 Copans Road, Pompano Beach, (954)782-7000, RSVP to: Jane Bolin, (954) 316-1339 and or jane@peytonbolin.com.

Monday, June 29th, At Bimini Boat Yard, 1555 SE 17th Street, Fort Lauderdale, (954) 525-7400. RSVP to: Beth Lindie (954) 764-5400 and or blindie@lawyers.com <mailto:blindie@lawyers.com> .

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# Will Lawyers and Law Firms Have to Comply with FTC's Red Flags Rule?

*On April 30, 2009, the FTC delayed enforcement of the Red Flags Rule until August 1, 2009.*

## What is Red Flags Rule?

The Federal Trade Commission (FTC) has established a Red Flags Rule (with enforcement that was to go into effect May 1, 2009) under the Fair and Accurate Credit Transactions Act of 2003 (72 FR 63771). The Rule requires certain creditors to develop and implement written programs to identify, detect, and respond to the warning signs (i.e. "red flags") of identity theft. The ABA has only recently learned that the FTC plans to apply the Rule to lawyers and law firms. Additional time is needed to determine the impact and implications of the Rule on lawyers and law firms before the FTC begins enforcement.

**The ABA requested that the FTC postpone enforcement of the Red Flags Rule until August 1, 2009 because:**

- **The FTC gave the ABA notice of the enforcement date to apply the Rule to lawyers and law firms only one week before the Rule was to become effective.** The FTC alerted the American Medical Association over nine months ago on how the Rule might apply to health care providers. However, the ABA was notified by FTC staff of the Commission's intention to apply the Rule to lawyers and law firms only one week before the enforcement date of May 1, 2009.

- **The FTC's conclusion that lawyers should be considered "creditors" under the Rule has not yet been assessed by the ABA.** At least one U.S. Circuit Court of Appeals has ruled that lawyers are not creditors under the Equal Credit Opportunity Act. More time is needed to determine whether the

Rule and the definition of creditor should apply to lawyers; the FTC has no examples of identity theft arising from an attorney-client relationship.

- **The FTC template providing guidance to entities on how to comply with the Rule is not yet complete.** The FTC is in the process of creating a template to explain the compliance requirements for entities under the Rule and illustrating that there are lower compliance expectations for low-risk creditors. The FTC should issue the template and provide ample time for lawyers and law firms to determine their requirements before enforcing the Rule.

Link to this website to track the latest news regarding the ABA's response to the FTC's Red Flags Rule.

[www.abanet.org/poladv/nosearch/redflagrule/](http://www.abanet.org/poladv/nosearch/redflagrule/)

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## RECENT DEVELOPMENTS IN THE LAW

by Nancy Little Hoffmann



**1. Attorney's Fees/Prejudgment Interest**  
**Lorillard Tobacco Company v. French,**  
 34 Fla. L. Weekly D915 (Fla. 3rd DCA May  
 6, 2009).

Applying the rule that prejudgment interest on attorney's fees begins to accrue on the date entitlement is fixed, the Third District held that where fees were based on an offer of judgment, the date of entitlement was the date the plaintiff recovered a judgment of at least 25% greater than the offer. Accordingly, interest accrued from the 2002 amended final judgment, even though the defendant's objections to the award of fees were not ruled upon until 2007.

**2. Attorney's Fees/Section 57.105**  
**Ferdie v. Isaacson,** 34 Fla. L. Weekly D898 (Fla. 4th DCA May 6, 2009).

The Fourth District reversed an order requiring a law firm to pay 50% of the opposing party's fees under section 57.105 because the trial court failed to conduct an evidentiary hearing or make an express finding that the law firm was not acting in good faith. The opinion also reversed the assessment of costs against the law firm because such assessment is not permitted by section 57.105. The Fourth District emphasized that there must be an express finding of lack of good faith, and that permitting the law firm to file a memorandum without an evidentiary hearing was insufficient.

**3. Dissolution of Marriage/Equitable Distribution**  
**Kaaa v. Kaaa,** 34 Fla. L. Weekly D932 (Fla. 2nd DCA May 8, 2009).

Based on its own prior precedent, the Second District held that the increase in market value of a non-marital asset due to inflation or market forces does not transform that asset into marital property. However, the court certified that its decision conflicted with a First DCA decision holding that such property would become in part a marital asset.

**4. Injunctions**  
**MI Industries USA, Inc. v. Attorneys' Title Insurance Fund,**  
**Inc.,** 34 Fla. L. Weekly D905 (Fla. 4th DCA May 6, 2009).

The Fourth District certified to the supreme court as a question of great public importance the question of whether a trial court may issue an injunction to freeze assets of a defendant in an action at law, where the plaintiff has demonstrated that the defendant will transfer, dissipate or hide assets so as to render a trial judgment unenforceable and also demonstrated a clear legal right to the relief requested, a substantial likelihood of success on the merits, and that a temporary injunction would serve the public interest.

**5. Insurance/Personal Injury Protection**  
**United Automobile Insurance Co. v. Millennium Diagnostic**  
**Imaging Center, Inc.,** 34 Fla. L. Weekly D913 (Fla. 3rd  
 DCA May 6, 2009).

Answering two questions certified by the county court, the Third District held that in challenging a PIP claim on the ground that the medical treatment was not reasonable, related or necessary, an insurer may rely on a report obtained more than 30 days after the claim was submitted, and that the reviewing physician's report issued to deny PIP benefits may be based on either a physical examination of the insured by that physician or one conducted by another physician, such as an IME physician.

**6. Medical Malpractice/Discovery**  
**Lakeland Regional Medical Center v. Neely,** 34 Fla. L. Weekly  
 D931 (Fla. 2nd DCA May 8, 2009).

The Second District refused to quash a trial court order requiring production of reports of adverse medical incidents despite a hospital's claim that disclosure was protected by common law work product doctrine. The court held that the right of access granted pursuant to Amendment 7 preempted the work product doctrine as it applied to such reports, but certified the question to the supreme court.

**7. Procedure/Bifurcation**  
**Stanley v. Delta Connection Academy, Inc.** 34 Fla. L. Weekly  
 D878 (Fla. 5th DCA May 1, 2009).

The Fifth District quashed an order bifurcating liability and damages issues in a wrongful death action arising out of an airplane crash. The trial court actually ordered that the damage issue be tried first, before the liability issues, reasoning that a decision on damages would likely resolve all or some of the liability and shorten the judicial time. In quashing that order, the appellate court held that it would not permit the rights and liabilities of the parties to be determined "to the luck of the draw or roll of the dice." Following the bifurcation procedure would deprive the parties of a fair trial and prevent an appellate court from properly and adequately reviewing any claimed error.

*Nancy Little Hoffmann is a Board-Certified Appellate Lawyer practicing in the Fort Lauderdale area since 1974. She may be contacted at 954-771-0606 or by e-mail at [NLHappeals@aol.com](mailto:NLHappeals@aol.com).*



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#### **Panel Member Profile**



Charles E. Radice is a Certified Circuit Civil Mediator and Qualified Arbitrator and has been mediating since 1991. Mr. Radice received his JD from Fordham Law School (1953) and BS (pre-med) from the University of Notre Dame. He has over 45 years of combined legal and business experience, relating to real estate acquisition, development, construction and management of residential, commercial and condominium projects and corporate and real estate securities matters. Mr. Radice is available to mediate or arbitrate any commercial matter and is especially qualified in construction litigation.

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## Seven Legal Marketing Trends to Recession-Proof your Practice

By Margaret Grisdela

Here are seven proven trends in legal marketing circles that can help you to generate more revenue by staying close to your customers while also rounding up new prospects. The good news is that many of these activities are free or low cost, although some time commitment is required.

1. **Social media.** Internet-based communications have changed dramatically, with rapid development in the area of “one-to-many” messaging. Twitter, LinkedIn, Facebook, and YouTube are excellent examples of how one person can broadcast a message easily and immediately. Is this right for you? See below.

2. **Search engine marketing.** If you are not naturally on the first page of Google search results, try a “micro-site,” updated meta tags, a blog, or more frequent news announcements to gain higher placement. Combining all of these elements into one campaign will serve as an accelerator.

3. **Customer retention.** Your best option for new revenue is always your current client list. Don’t forget past clients and inactive accounts also. More frequent messaging in the form of a newsletter or client alert serves to remind clients that you are available to help them, their friends, relatives, or co-workers.

4. **Interactive events.** As traditional print media shrink with the movement of advertisers from print to online, more law firms and businesses are exploring sponsorships, seminars, CLE programs, and other events as a high-touch way to reach out to prospects using a more personalized approach.

5. **Increased networking.** If you don’t already have a written “referral network” plan in place, now is the time to start. List your referral sources in A/B/C priority, and establish a schedule for frequency of interactions through breakfasts, lunches, email, or phone calls.

6. **Alternative billing.** No, the billable hour is not dead. However, more clients are looking for fixed fee or even success-based pay formulas. Consider what might work for your firm.

7. **Lead management systems.** Chances are that you are using a contact management system for your existing clients. Now add a weekly “pipeline report” to track the status of prospects through the various stages of initial meeting, presentation, proposal, and engagement.

A critical element in today’s electronic marketing is that clients and prospects can talk back in a variety of ways. You will want to focus not only on what you say to clients, but what they say in response. Make a point to listen when a client requests a new type of service or a variation on a

past service. Perhaps others would be interested in this as well.

### What’s an Attorney to Do?

It used to be that an attorney could get by with a professionally embossed business card, a decent website, and a presentable marketing brochure. Nothing overly complicated here, making it possible for entrepreneurially-minded lawyers and law firms to manage their own marketing needs.

Now attorneys can easily be overwhelmed by the time, money and learning curve needed to maintain a competitive marketing presence. Rather than focusing on billable hours, attorneys run the risk of burning hours trying to figure out: a) how the new technology works; and b) if the application is right for them.

### Here’s the Answer

Your most important starting point in any marketing campaign is to first determine your core message. What is it your firm does best? Who does it serve? How do you truly differ from your competitors? Capture the essence of your firm in a succinct message that can be clearly communicated.

Next, establish your goals so you will know how to measure success. This is usually done in terms of numbers of new clients and/or new revenue generated over a specific period of time. For example, you may want to get ten new clients per month starting in July, with an average value of \$2,000 each.

Only after you have developed the message and your goals can you determine which technology will best meet your marketing needs. Don’t make the mistake of letting technology drive your marketing effort. The tried and true use of speaking engagements and published articles should also play a prominent role in your marketing efforts.

Law firms large and small may be forced to rely more heavily on external marketing professionals, each with a specific expertise in the technical aspects of legal marketing online and in other media. Bar associations, which tend to trail marketing technology, will most likely be challenged (both in court and in the marketplace) to keep up to date.

*ABOUT THE AUTHOR: Margaret Grisdela is the president of the legal marketing agency Legal Expert Connections, Inc. She is the author of the book “Courting Your Clients: The Essential Guide to Legal Marketing.” Contact her at mg@legalexpertconnections.com.*

## How to Overcome the “Negative Will”

By Adrian Philip Thomas

Can disinherited heirs still take inheritance by intestacy? Sometimes a testator leaves a last will that expresses his or her intent to disinherit an heir. These wills are described under the common law, and some states’ statutes, as “negative wills.” Sometimes, the law allows a relative or heir disinherited under the negative will to nevertheless share in property that the testator failed to devise to another and as to which he or she died intestate. See *In re Levy’s Estate*, 196 So.2d 225 (Fla 3d DCA 1967).

The Uniform Probate Code addresses the issue and provides that a decedent through a last will and testament may expressly exclude or limit the right of an individual or class to succeed to property of the decedent passing by intestate succession, and if that individual or a member of that class survives the decedent, the share of the decedent’s intestate estate to which that individual or class would have succeeded passes as if that individual or each member of that class had disclaimed his or her intestate share. Uniform Probate Code §2-101(b). Stated more plainly, if you really want to exclude a person and every descendant, relative and heir of that excluded person, you need to make it crystal clear in the last will and testament.

Thus, there is different treatment under the model probate code promoted by the UPC and the existing common law of many jurisdictions in the treatment of disinherited heirs, intestate distribution, and negative wills. Because of the great variance in the law’s treatment of these tricky situations, it is a good idea to follow the decisions of our sister states in order to predict how the law might progress in its treatment of this unique situation. Once such case was recently published by the Supreme Court of North Dakota in *In re Estate of Samuelson*, 757 N.W.2d 44 (N.D. 2008).

*Estate of Samuelson* involved the Last Will and Testament of Ernest Samuelson. Paragraph IV stated: “I give, devise, and bequeath all the rest, residue and remainder of my estate to my mother, Hulda Samuelson.” Paragraph V provided: “I have intentionally failed to provide for my half sister, Eleanor West.”

Ernest Samuelson died on August 12, 2005. He never married and did not have children. His mother, Hulda Samuelson, father, Harry Samuelson, and sister, Eleanor West, all predeceased him. Eleanor West’s two granddaughters, Amanda West and Robin West, survived Ernest Samuelson.

Following the commencing of probate proceedings, Amanda West and Robin West asserted that Ernest Samuelson died intestate; therefore, they were entitled

to the residue of Ernest Samuelson’s estate, through intestacy law.

The case worked its way to the state’s highest court and was presented with the issue of whether Ernest Samuelson’s clear and unambiguous intent to exclude Eleanor West, as expressed in his last will and testament, also precludes Eleanor West’s heirs from inheritance. The Supreme Court observed that in paragraph IV of his last will, Ernest Samuelson gave the residue of his estate to his mother, Hulda Samuelson. However, Hulda Samuelson predeceased him. Ernest Samuelson did not include a provision in his will governing the event in which his mother predeceased him. “We have not found, and the parties have not brought to our attention, case law discussing whether a testator who excludes an individual by will, needs to specify whether that exclusion applies to only testate distribution, or both testate and intestate distribution.”

Next, the Court observed that Ernest Samuelson excluded Eleanor West specifically by name and relationship. He did not expressly exclude Eleanor West’s heirs, either individually or by class, and the Court was unwilling to infer Ernest Samuelson intended to exclude Eleanor West’s heirs.

The Court then looked to the official comment to section 2-101 of the 1990 Uniform Probate Code, which provides an example comparable to the issue in this case. The example provides: “G died partially intestate. G is survived by brother [H], [H’s] 3 children (X, Y, and Z), and the child (V), of a deceased sister. G’s will excluded [H] from sharing in G’s intestate estate. The example explains V takes one-half of G’s intestate estate, and X, Y, and Z split one-half. The comment provides if H would not have been excluded in G’s will, he would have taken one-half of G’s intestate estate. But, since G excluded H, H’s share, which was one-half of G’s estate, passed to H’s descendants via representation, as though H disclaimed his intestate share. The court then concluded, using the same logic as the UPC’s example that since Ernest Samuelson excluded Eleanor West, the share she would have received had she not been excluded, that being the remainder of Ernest Samuelson’s estate, passes to Eleanor West’s heirs, Amanda West and Robin West. Therefore, Amanda West and Robin West qualify to take the residue of Ernest Samuelson’s estate.

This fascinating case presents a great example of the complicated issues faced by both probate lawyers and lawyers who prepare wills.



L to R: Russell Carlisle, Tony Karrat, Exec Director of Legal Aid Service of Broward County, Inc. at the BCBA Law Day Luncheon on May 1st.



From Left: Christopher M. "Chris" Neilson, BCBA President, with BCBA Board member and Law Day Luncheon Chair Angel Petti Rosenberg, and keynote speaker Bruce Rogow, Esq.



Juliette Lippman, Esq., Elizabeth G. Daugherty, Esq.



Hon. Carol-Lisa Phillips and Hon. Victor Tobin, with Krista Marti of Fort Lauderdale High School and Jessica Satinoff, Cooper City High School, who were recipients of college scholarship awards from the Shane McGee Foundation.



### NORTH BROWARD BAR ASSOCIATION LUNCHEON at NORTH SATELLITE MAY 12

L to R: Hon. Louis Schiff, Wilma Stevenson, Hon. Ed Merrigan, Andrew Daire, Ira Markowitz, Tom Oates, Hon. Jill Levy, Karen Faulkner, Hon. Steven DeLuca, Stuart House



Justice Barbara Pariente accepting a plaque from Judge Cynthia Imperato for her participation in the Annual Professionalism Award in the Law Seminar hosted by the Stephen R. Booher Inn of Court, May 8th.



BCBA President Chris Neilson accepts the Voluntary Bar Association of the Year Award on behalf of the Broward County Bar Association. The award was presented by The Legal Aid Service of Broward County, Inc. at their annual For the Public Good event held on May 15th. Also pictured is Anthony Karrat, Executive Director of Legal Aid.



Florida Bar President Elect Jesse Diner with BCBA YLS President Scott Chitoff, at the monthly YLS Luncheon on May 21.

### Young Lawyers Judicial Reception, May 7



Sue-Ann Robinson, Louis Reinstein, YLS Board members



From left, YLS Board President Elect Michael Gilden, with board members Bart Ostrzenski and Matthew Lerner



L to R: Hon. Gisele Pollack, Hon. Andrew Siegel, Hon. Gary Cowart



L to R: Chris Neilson, Hon. Dorian Damoorgian, Hon. Sharon Zeller, Hon. Victor Tobin, Hon. Peter Weinstein