



Broward County Bar Association  
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Fort Lauderdale, Florida 33316

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# Broward County Bar Association BARRISTER

October 2007

VISIT OUR WEBSITE AT [WWW.BROWARDBAR.ORG](http://WWW.BROWARDBAR.ORG)

VOLUME 36, ISSUE 10

## Raising the Bar Family Law Seminar

Friday, October 26, 2007

Annual Family Law Update  
*Presented by*  
Judges and General Magistrates of  
the Family Law Section of the 17th  
Judicial Circuit

Fort Lauderdale Renaissance  
Hotel  
17th Street Causeway

Registration 8:30 a.m.

Seminar 9:00 – 4:00 p.m.  
Breakfast/Lunch Included  
Continuing Legal Education Credits  
Applied for

RSVP (954) 764-8040

## 4th ANNUAL MINORITY MENTORING PICNIC

Saturday, October 27 at Noon  
**FREE**

Amelia Earhart Park  
at the Corporate Pavilion  
401 East 65 Street  
Hialeah, Florida

**There will be music, great food, a  
friendly volleyball tournament and  
good times.**

The Park is accessible for persons with  
disabilities.

## Judge Tobin Appoints Administrative Judges & Chairpersons

Judge Tobin was sworn in as Chief Judge of the 17th Judicial Circuit Court on September 4th, 2007. He announced his selections for Administrative Judge and Chairpersons.



Judge Dorian Damoorgian  
Circuit Civil Administrative Judge.



Judge Jack Tuter  
Circuit Unified Family Administrative Judge.



Judge Ana I. Gardiner  
Circuit Criminal Administrative Judge



Judge Mel Grossman  
Circuit Probate Administrative Judge.



Judge John A. Frusciante,  
Chairperson of the Dependency and  
Delinquency Divisions.



Judge Sharon Zeller  
is County Court Administrative Judge.



Judge Robert W. Lee  
is County Civil Chairperson,



Judge Joel T. Lazarus  
is County Criminal Chairperson.

Also:  
General Magistrate Philip Schlissel  
General Magistrate/Hearing Officer Chairperson.  
*(photo not available)*

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## PRESIDENT'S MESSAGE *by Barbara K. Sunshine*

### PROFESSIONALISM

There have been Florida Bar presidents having Professionalism as their themes. Past President Victor DeBianchi, Jr. not only embodied Professionalism but always passed out our pamphlets and spoke often on the subject. And I think Professionalism encompasses some other topics, like mentoring, Justice Teaching, and civics in the schools. The outgoing president of the Bar Association presents the Lynn Futch Award for Professionalism each year at the installation dinner. In the Courthouse hallway, I overheard an attorney yelling over the phone to an assistant. I couldn't believe the language and I was shuddering at the name calling and blame piled on the person on the other line. I thought maybe the lawyer should have done a better job of proofreading. Instead, all fault for the mistakes (and it sounded like a lot) were loudly reviewed for all to hear. Hope that's not any of you! After college I was a legal secretary for ten years before I went to law school. I took years of typing and shorthand in night school. I really loved it, but I always envied the freedom the lawyers had to leave the office. Because the job of the assistant is to be there—35 to 40 hours a week, holding the fort, taking messages, typing letters and pleadings, booking trips. I am a solo practitioner so I don't delegate much out. I'm "it." But if you are a small office or a very big one, we all should keep professionalism as our mantra every day.

### HURRICANES AND HALLOWEEN

This month is the end of the hurricane season, thank heaven, and for my mind, the best weather is coming. I do my "spring" cleaning in October. Getting ready for family and friends from up North coming to visit. We have worked hard the past few years at the Bar Association bringing our buildings as close to hurricane protected as possible. We have shutters on both buildings, 3M hurricane-proof film on all of the windows, and a new roof.

Who will you "be" for Halloween this year? I

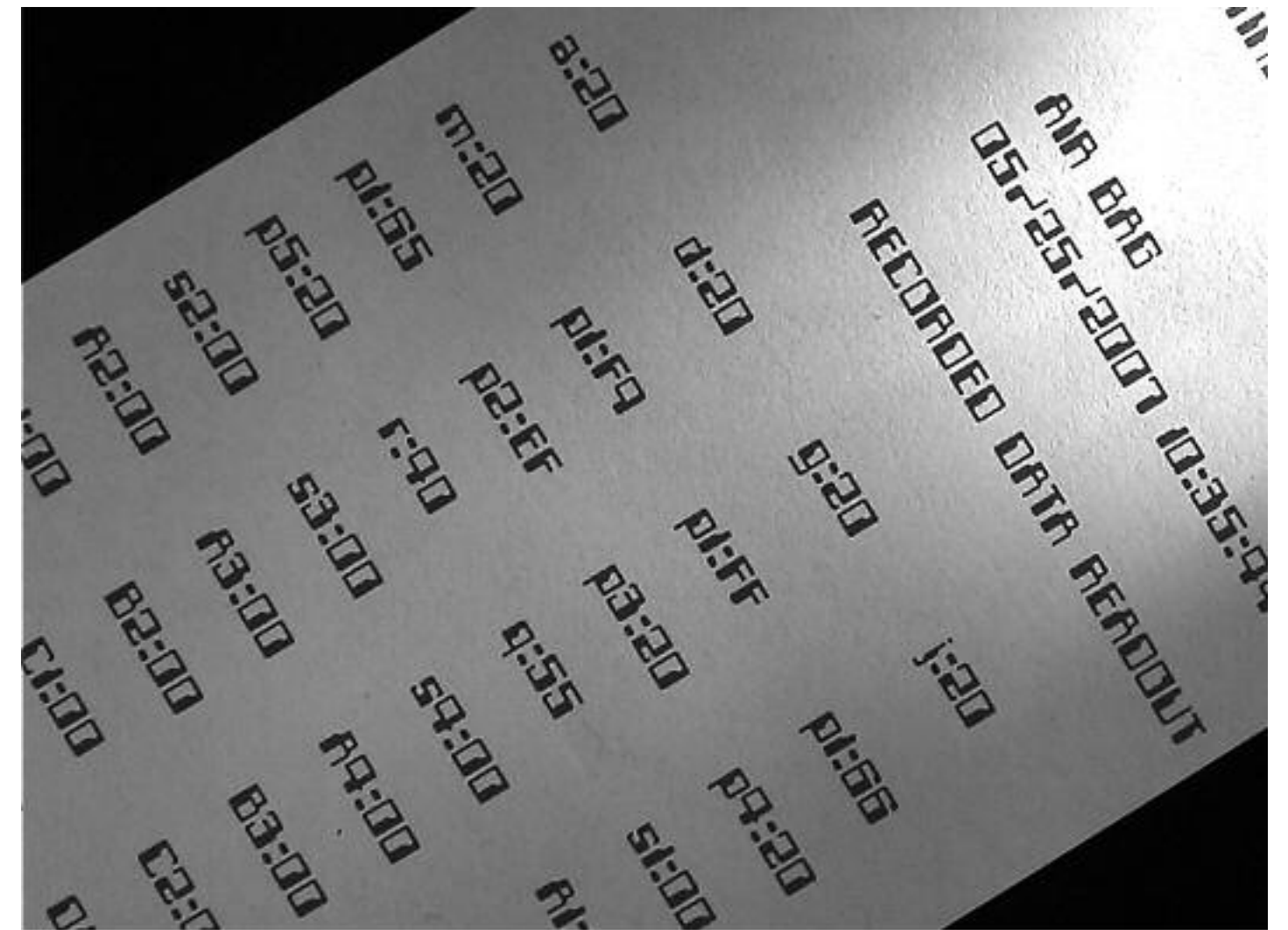
was teased at one of our Bar Association Halloween parties years ago when I came as the blue M&M. Bill and I were corpulent beach tourists another year. I like to be in costume to greet the trick-or-treaters. My dog, Funny, also has a wardrobe of outfits—biker chick, batgirl, rooster, pirate.

### CAMPAIGNING

Last year at this time I was flying to Ohio to help my brother, Rick, campaign for the U.S. Congress, 4<sup>th</sup> District. I went three times. It was tiring covering 11 counties in the mostly rural District. Over Labor Day, we marched parades, sometimes two a day. We attended county fairs, the National Coon Dog Festival (!), rallies, press conferences, live television, radio and newspaper interviews, taped commercials, breakfasts, lunches, and dinners. I watched the brainstorming at headquarters concerning stances on issues, watched and re-watched the taped television appearances, made cold calls for donations, and dug into my own pocket. I acted as chauffeur on the trips back to Lima after public appearances while Rick dozed. I learned a lot during those trips, and experienced the emotional ups and downs. Planning the election night caused dissention among the family. Where to go early in the evening and where to end up. The press was at headquarters at 10:00. They asked Rick, "What next?" He said, "Go back to work." And I did, too. (He lost.)

### CLERK/BAR COMMITTEE

I attended the first meeting of the Clerk/Bar Committee on Thursday, September 6 along with several other attorneys and many clerks. This Committee is a first-hand opportunity for members to discuss concerns between the clerks and the Bar. Some of the issues before the Committee are the computer system, e-filing, redaction of social security numbers, and the filing fees for re-opening cases. Chair Michael Romm welcomes everyone to his meetings held the first Thursday of every month in the Public Defender's Office, North Wing Third Floor of the Courthouse.



# CALENDAR OF EVENTS

## Friday, October 5

Golf Tournament Kick-off Cocktail Party. 5:30 p.m. Himmarshee Bar and Grill. Free drink ticket and appetizers. \$5 donation appreciated.

## Saturday, October 6

Golf Tournament. Young Lawyers' Section Charity Tournament to benefit Healthy Mothers/Healthy Babies Coalition of Broward County. 6:30 a.m. Check-In. 8:00 a.m.

Shotgun. Jacaranda Golf & Country Club, 9200 West Broward Boulevard, Plantation. \$100.

**David Hirschberg (954) 967-5458**

## Tuesday, October 9

North Broward Bar Association Luncheon. Noon. Steak & Ale Restaurant, 6300 North Andrews Avenue.

**Alan Fishman (954) 975-7800**

## Tuesday, October 9

Board of Directors' meeting. Board photograph. 5:00 p.m. Norma B. Howard Bar Center.

## Wednesday, October 10

Broward County Women Lawyers Association Luncheon. Noon. Tower Club.

**[priya@thejdsorce.com](mailto:priya@thejdsorce.com)**

## Thursday, October 11

Broward County Hispanic Bar Association Luncheon. Keynote speaker: Carlos J. Davila, President, Citibank Florida. Noon. Tower Club. **Email**

**[Carmen@velasquez-law.com](mailto:Carmen@velasquez-law.com)**

## Thursday, October 11

Broward County Bar Association Board of Directors, Committee Chairs, and Practice Section Chairs Luncheon. 11:45 a.m. Riverside Hotel. **(954) 764-8040**

## Tuesday, October 16

Bench/Bar Committee. Noon. Norma B. Howard Bar Center. **(954) 764-8040**

## Tuesday, October 16

Florida Grievance Committee Meeting (17H). 2:00 p.m. Norma B. Howard Bar Center.

## Wednesday, October 17

College Funding. Noon. Norma B. Howard Bar

Center. Lunch provided. **Myles German, Financial Advisor (561) 961-9334**

## Tuesday, October 23

Anti-Defamation League's Jurisprudence Award Luncheon honoring Carl Schuster and Michael J. Satz. Keynote speaker: Ron Brownstein, Washington Correspondent, *LA Times*. Noon. Renaissance Hotel on 17<sup>th</sup> Street Causeway. \$150. **Email** **[rstearn@adl.org](mailto:rstearn@adl.org)** or **(561) 988-2925**

## Wednesday, October 24

Young Lawyers' Section Board of Directors' Meeting. 5:30 p.m. Norma B. Howard Bar Center.

## Wednesday, October 24

B'nai B'rith Justice Unit. Florida Panthers v. Philadelphia Flyers hockey game. BankAtlantic Center. **Email** **[RichardSachs@JusticeUnit.Org](mailto:RichardSachs@JusticeUnit.Org)**

## Thursday, October 25

Young Lawyers' Section Luncheon. Noon. Tower Club. Guest Speaker: Karen Unger of American Document Management (ADM) will be speaking relative to the topic of electronic filing. \$25. RSVP to BCBA at **(954) 764-8040**

## Thursday, October 25

B'nai B'rith Justice Unit Brown Bag Luncheon with The Honorable Robert Rosenberg on Voir Dire and Cross Examination. Noon. Courthouse. **Email** **[RichardSachs@JusticeUnit.Org](mailto:RichardSachs@JusticeUnit.Org)**

## Friday, October 26

Raising the Bar. Family Law Section Seminar. 9:00 to 5:00 p.m. Renaissance Hotel on 17<sup>th</sup> Street Causeway. \$85. and \$100 non-members **(954) 764-8040**

## Saturday, October 27

4th Annual Minority Mentoring Picnic. Noon. Amelia Earhart Park at the Corporate Pavilion, 401 East 65 Street, Hialeah. For more information visit website at **[www.kttlaw.com](http://www.kttlaw.com)** or call John Kozyak at 305-377-0654.



## Message From Broward County Bar Association's Young Lawyers' Section President

By Chris D. Connally

September was a very exciting and busy month for the YLS and there is no slowing down as we enter the month of October! Football season is in full swing and we were very fortunate to have several events with the Miami Dolphins. The September 27<sup>th</sup> luncheon was a tremendous success and very well attended. A very special thank you to the Miami Dolphins, the "Big Dog", Joe Rose, and Nat Moore for speaking at our September 30<sup>th</sup> luncheon! Joe is a former Miami Dolphin tight end, co-host of 560 WQAM radio morning show with Jason Jackson, NBC 6 sports anchor and color radio analyst for the Dolphin games. Nat Moore is a former wide receiver with the Dolphins and employed by the Dolphins relative to player personnel. Mr. Rose and Mr. Moore spoke about their experiences with the Miami Dolphins, as well as the Dolphins' remaining games and how the Phins can get back to their winning ways! The YLS would also like to thank the Miami Dolphins for hosting Young Lawyer Day as the Dolphins battled the Oakland Raiders this past September 30<sup>th</sup>. Dolphin fans had the opportunity to enjoy great seats for a great price and attend a wonderful two hour pre-game tailgating event with plenty of drinks and food for all who attended!

Although we held off on having our September happy hour, the YLS starts off the incoming term with a smash and what will likely be our biggest happy hour of the year! October 5<sup>th</sup> is the Pre-Golf Tournament Happy Hour at Himmarshee Bar and Grill in downtown Ft. Lauderdale. There is no charge for the Golf Tournament Happy Hour; however, a \$5 donation would be greatly appreciated. Each attendee will be entitled to a free drink and free appetizers. October is a great month for the YLS and we are thrilled about the upcoming YLS 20<sup>th</sup> Annual Charity Golf Tournament. This year's beneficiary, Healthy Mothers-Healthy Babies Coalition of Broward County, is a fantastic organization that truly makes a world of difference for so many babies, parents, families and the Broward County community as a whole. Please

come out and support this worthy charity by either signing up to play in this year's Golf Tournament to be held at Jacaranda Golf & Country Club for \$100 per person and/or attend the Friday, October 5, 2007 Happy Hour. If you have not signed up to play, it is not too late. Additionally, sponsorships opportunities for the Golf Tournament are still available. Please see the flyer in this month's Barrister or contact David Hirschberg at 954-967-5458 / [dlh@mjalaw.net](mailto:dlh@mjalaw.net) for more information or any questions.

This month's luncheon is Thursday, October 25<sup>th</sup> at the Tower Club. Our speaker will be Karen Unger of American Document Management (ADM). Ms. Unger is a fascinating speaker, who is a nationally recognized expert in the field of electronic discovery. This is a hot topic and is certainly the wave of the future. We have already received confirmation that there will be 1 C.L.E. credit for this luncheon. ADM is one of our 3 annual sponsors and we are very thankful for their support. Please R.S.V.P. to the Broward County Bar Association at 954-764-8040. The cost of attendance is \$25.00 per person.

The November 15, 2007 lunch will be a very worthwhile luncheon for new attorneys and attorneys that are looking to start their own practice. It will be a panel discussion titled "The Nuts and Bolts of Starting Your Own Firm". Frank Wagner of BNY Mellon and Steve Samuels of Berenfeld, Spritzer, Schechter & Sheer will be respectively be discussing the banking and accounting aspects of starting your own firm. We are thankful to BNY Mellon and Berenfeld, et al for their annual sponsorship and look forward to their panel discussion. There will also be an attorney who has been out on his own for less than a year, an attorney with 3-4 years of solo practice and an attorney with 10 plus years of experience. This will be an interesting topic that you will not want to miss! We are applying for 1 C.L.E. credit. R.S.V.P.'s can be made to the BCBA at 04-764-8040. The cost for attendance is also \$25.00 per person.

Remember, you do not have to be young or a lawyer to attend our events! As always, should you have any questions, please do not hesitate to contact Chris D. Connally ([Connally@bktriallaw.com](mailto:Connally@bktriallaw.com)).

<b>TREASURER'S REPORT by Carlos M. Llorente</b>			
<b>Pursuant to Article VII, Section 6 of the Bylaws of the Broward County Bar Association, Inc., the following is the 2007-2008 Budget adopted by the Board at its June 12 meeting.</b>			
<b>Income Budget FY 2008</b>			
<b>DUES</b>			
Dues	\$232,000		
Associate Dues	\$1,500		
Practice Sections	\$15,000		
	<b>Subtotal</b>	<b>\$248,500</b>	
<b>Lawyer Referral Service</b>			
LRS Dues	\$15,000		
Low Cost	\$14,000		
Percentage Fees	\$35,000		
Referral Fees	\$60,000		
	<b>Subtotal</b>	<b>\$124,000</b>	
<b>DADE LAWYER REFERRAL SVC</b>			
LRS Panel Dues	\$16,000		
LRS Consult Fees	\$75,000		
LRS Percentage	\$5,000		
	<b>Subtotal</b>	<b>\$96,000</b>	
<b>PRODUCTS</b>			
Labels	\$1,300		

<b>MEMBERSHIP SERVICES</b>	<b>Subtotal</b>	<b>\$1,300</b>
<b>Unrestricted Underwriting</b>		
Holiday Party	\$20,000	
Installation	\$500	
Law Week	\$15,000	
Robing Ceremony	\$5,000	
	<b>Subtotal</b>	<b>\$10,000</b>
<b>Special Events</b>		
-Small solo dinners	\$6,000	
-04 Cruise/TFB Reception	\$8,000	
Bench and Bar Dues	\$1,000	
Tailgate Party		
	<b>Subtotal</b>	<b>\$65,500</b>
<b>CONTINUING LEGAL EDUCATION</b>		
BCBA Seminars	\$25,000	
Florida Bar Seminars	\$4,000	
Raising The Bar	\$18,000	
Guardianship Classes	\$60,000	
Clerk's Access Points	\$4,000	
	<b>Sub-Total</b>	<b>\$111,000</b>
<b>MISCELLANEOUS OTHER INCOME</b>		
Barrister Advertising	\$12,000	
Office Rental	\$7,200	

Room Rental	\$4,000
Miscellaneous	\$10,000
<b>Sub-Total</b>	<b>\$33,200</b>
<b>INCOME TOTAL</b>	<b>\$679,500</b>

#### EXPENSES

##### OFFICE UPKEEP

Electricity	\$5,000
Property Insurance	\$7,500
Interior Maintenance	\$2,500
Pest Control	\$500
Repair & Maintenance	\$5,000
Security	\$2,000
Water/garbage	\$2,000
Yard Maintenance	\$1,500
Dumpster Fee	\$500
Capital Improvements	\$7,500
<b>Subtotal</b>	<b>\$34,000</b>

##### BAR CENTER UPKEEP

Electricity	\$2,000
Property Insurance	\$7,500
Interior Maintenance	\$2,500
Pest Control	\$500
Repair & Maintenance	\$3,000
Security	\$1,000
Water/garbage	\$2,000
Yard Maintenance	\$1,500
Dumpster Fee	\$500
Capital Improvements	\$7,500
<b>Subtotal</b>	<b>\$28,000</b>

##### LAWYER REFERRAL SERVICE

Low Cost Fees	\$4,500
LRS Fees	\$1,500
LRS Advertising	\$1,000
<b>Subtotal</b>	<b>\$7,000</b>

##### DADE LRS EXPENSES

Salaries	\$65,000
Computer Software	\$4,000
Office Equipment	\$1,000
Advertising	\$15,000
Telephone	\$4,800
<b>Subtotal</b>	<b>\$89,800</b>

##### MEMBER SERVICES

YLS Dues	\$5,200
Awards/Gifts	\$4,000
Holiday Party	\$8,000
Installation Dinner	\$15,000
Judicial Poll	\$10,000

Law Week	\$4,500
Member Recruitment	\$3,000
Bench and Bar Lunch	\$1,200
Robing Ceremony	\$10,000
Special Events	\$5,000
Small Solo Dinners	\$7,500
CLE Cruise	\$10,000
Clerks Access Points	\$3,000
<b>Subtotal</b>	<b>\$86,400</b>

##### CONTINUING LEGAL ED

BCBA seminars	\$4,000
Guardianship Expenses	\$8,500
Raising the Bar	\$4,500
<b>Subtotal</b>	<b>\$17,000</b>

##### BARRISTER

Postage	
Printing	
<b>Subtotal</b>	<b>\$39,500</b>

##### PERSONNEL

Health Insurance	\$10,500
Payroll taxes	\$16,500
Retirement Plan	\$17,000
Salaries	\$200,000
Travel/Education	\$1,000
Workers Comp	\$2,500
Payroll Service	\$2,400
<b>Subtotal</b>	<b>\$249,900</b>

##### ADMINISTRATION

Computer Maint	\$3,000
D/O Insurance	\$2,200
Dues/Licenses	\$250
Equipment Leasing	\$3,000
Equipment Purchase	\$4,000
Equipment Service	\$3,000
Financial Review	\$9,000
Hospitality supplies	\$4,000
Mortgage	\$40,000
Office supplies	\$13,000
Phone/Internet	\$15,000
Postage	\$18,000
Printing	\$9,000
Service Charges	\$2,400
<b>Subtotal</b>	<b>\$125,850</b>

##### TAXES & MISC.

Federal	
State	\$2,050
Misc	
<b>Subtotal</b>	<b>\$2,050</b>

**TOTAL \$679,500**



The South Florida legal market has several opportunities for talented associates.

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# LAWYERS IN THE MARKETPLACE

## HOLLYWOOD

On Sheridan St. W. of I-95, office with sec. station, receptionist, voice mail, kitchen, etc. Contact Jeffrey Solomon, 954-967-9800.

## HOLLYWOOD

Half mile west of I-95 on Stirling Road. Beautifully decorated executive offices. Great location 10 minutes from downtown Ft. Lauderdale and downtown Hollywood. Email [nydia@menendezlawfirm.com](mailto:nydia@menendezlawfirm.com). (954) 963-7220.

## HOLLYWOOD/FT. LAUDERDALE

Emerald Lake Corporate Park, 3111 Stirling Road, Hollywood/Ft. Lauderdale. Immediate availability. Perfect for solo professional. First class lakeview office space, in suite. With or without secretarial space, beautiful conference room, parking, security, maintenance. One or two offices in suite. All amenities available including internet, Westlaw, telephone, etc. Diane (954) 962-5900

## PLANTATION

Two executive offices available. All amenities and secretarial space included. Class A offices (must see). Use of 5 conference rooms and copiers/faxes. Competitive price. Mary (954) 474-8000

## WESTON

Extraordinary Class A office sharing opportunity. Share referrals. All amenities. Prime location. Unique southern mansion interiors. Sarah (954) 349-3300

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East Las Olas Boulevard. Impressive suite for four attorneys. Two offices available with secretarial stations, conference room, receptionist, mail room, and kitchen. (954) 838-8880

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Close to Port, hospital and Courthouse. Up to 2500 square feet available mid-February 2008 in new office building. Ample parking, secured access, 9 foot ceilings, high impact glass. Email [eri@itzler.com](mailto:eri@itzler.com). (954) 764-8225

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Seven blocks from Courthouse. Spacious second floor corner office. Includes ample free parking, two secretarial stations, use of multiple conference rooms, receptionist, break rooms, high speed internet, high speed networked copier and telecopier, and Lexis legal research. \$2,000/month. (954) 764-0005.

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Up to three carrels available at \$600 per month per carrel. Perfect for solo practitioner, professional, accountant, broker, etc. Use of two conference rooms and receptionist. Email [jdclaw@bellsouth.net](mailto:jdclaw@bellsouth.net). Suzanne (954) 524-8111

## DOWNTOWN

Pleasant converted house off Southeast Third Avenue. Small law firm has two or three offices available for other attorneys. Can offer receptionist services, signage space, parking, waiting room, and lots more. (954) 364-7803

## DOWNTOWN

Seven blocks from Courthouse. Office sharing. Includes attorney and secretarial offices, use of conference room. Receptionist services available. (954) 522-5101

## CYPRESS CREEK

Share referrals. Available private office with or without secretary area. All furniture, fixtures, services, telephone, copier, fax, DSL, etc. Email [info99@pobox.com](mailto:info99@pobox.com) subject: share office space. (954) 566-1793

## CORAL SPRINGS

Beautiful private 1,800 square feet freestanding building right off the Sawgrass and Atlantic Boulevard. Built out with marble and wood. Five offices, private bath, conference room, etc. Must see! Huge referral possibilities! Darren (954) 557-4098

## DEERFIELD BEACH

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## North Broward Bar Association

All luncheons will be held 12:00p.m.

**STEAK & ALE RESTAURANT**  
6300 N. Andrews Avenue  
Fort Lauderdale

*Mark Your Calendar*

**October 9, 2007**

**Speaker to be announced**

**November 13, 2007**

**Speaker to be announced**

**For information: Call Alan Fishman**  
**954-975-7800**



## RECENT DEVELOPMENTS IN THE LAW

*By Nancy Little Hoffmann*

1. Arbitration/Garnishment  
Capital Factors, Inc. v. Alba Rent A Car, Inc.,  
\_\_\_ Fla. L. Weekly \_\_\_ (Fla. 4th DCA 4D06-4330 August 29, 2007).

In a case of first impression, the Fourth District held that even though an arbitration award was not confirmed by the trial court, it was nonetheless final and subject to garnishment as a debt due.

2. Dissolution of Marriage/Dischargeability of Debts in Bankruptcy  
Meeks v. Meeks,  
32 Fla. L. Weekly D1972 (Fla. 2nd DCA August 17, 2007).

In a final judgment of dissolution of marriage, the trial judge included language opining on the future dischargeability of certain obligations owing by the husband. On appeal, the Second District ordered those determinations stricken from the judgment, since a state court judge lacks the authority to decide the federal issue of discharge prior to the filing of any bankruptcy proceeding. However, the court observed that a state trial court is free to place language in a judgment to memorialize factual or legal rulings on questions of state law that may later assist a bankruptcy court in deciding, as a matter of federal law, the dischargeability of obligations created by the judgment.

3. Furnishing Alcoholic Beverages/Cause of Action  
Luque v. Allhouse Management, Inc.,  
32 Fla. L. Weekly D2027 (Fla. 5th DCA August 24, 2007).

In this case alleging a bar's liability for serving alcohol to the habitually addicted plaintiff, who was severely injured thereafter in an automobile accident, the trial court entered summary judgment for the defense stating that section 768.125 did not provide a cause of action. Reversing, the Fifth District discussed the history of the statute and made it clear that such a cause of action does exist. Fact issues remained as to whether intoxication caused or contributed to the accident, and the fact that the drunkard himself denied that his intoxication contributed to the accident was not determinative of his claim.

4. Procedure/Forum Non Conveniens  
Fihe v. Rexall Sundown, Inc.,  
\_\_\_ Fla. L. Weekly \_\_\_ (Fla. 4th DCA 4D06-100 August 29, 2007)

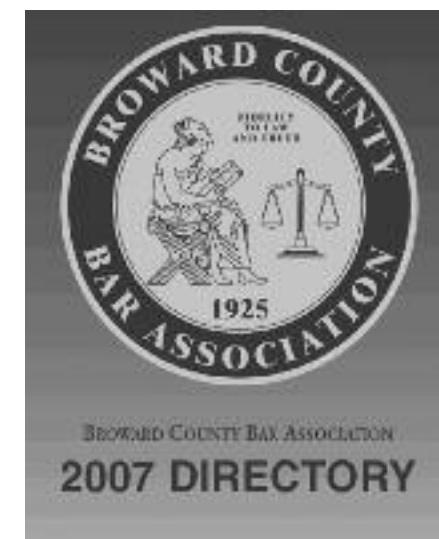
The Fourth District reversed dismissal of a lawsuit based on forum non conveniens, because the defendants' motion to

dismiss was filed outside the 60 day limitation in rule 1.061(g), Fla.R.Civ.P. The opinion made it clear that the trial court had no discretion to consider the issue, and that the limitation must be strictly enforced.

5. Procedure/Whether Case At Issue

Labor Ready Southeast, Inc. v. Australian Warehouses Condo Assn.,  
32 Fla. L. Weekly D2022 (Fla. 4th DCA August 22, 2007).

Affirming a tenant eviction, the Fourth District wrote an opinion to address the application of rule 1.440, Fla.R.Civ.P., with respect to when an action is at issue and may be set for trial. The appellate court made it clear that it rejected an argument based on a "hyper-technical violation" of the rule, because the trial court allowed the plaintiff to amend its complaint to correct technical deficiencies. The court stressed that this was not a case where the parties did not have sufficient time to prepare, nor where anyone was prejudiced by the technical amendment. Although recognizing that it had held in other cases that the rule was mandatory, the Fourth District refused to reverse in this case because there was actual notice and everyone was ready for trial.



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**CLERK OF COURT—TOP TEN RECOMMENDED BEST PRACTICES FOR ATTORNEYS**

*Compiled by Clerk/Bar Committee Chair Michael Romm*

During the months preceding the summer break, the Clerk/Bar Committee of the Broward County Bar Association met to discuss various issues affecting the office of the Clerk of Court, The Florida Bar, the Court system, and the public at large.

The Committee compiled the following top ten mistakes with recommended solutions:

1. Pleadings have incorrect case numbers and incorrect styles, or in fact, they are filed in the wrong county. This seemingly simple mistake can cause a great deal of extra work for the clerks who must research each incorrect pleading. If it takes five minutes (a conservative number) to determine the proper style and file number on a misidentified pleading, you can imagine how long it would take if you multiplied that one pleading by hundreds on a weekly basis.

2. Summonses name incorrect defendants; they do not name the defendants on the Summons at all; or, more commonly, an individual Summons has more than one party identified.

3. Notices of Trial are not properly filed. There seems to be some lack of consensus among the members of the Committee as to what the proper procedure is for filing Notices of Trial. The clerks state that they are receiving only the original and the attorney is supposed to send enough copies and self-addressed stamped envelopes for all parties so that the clerk can forward the file to the judge and the judge can send out the Trial Orders. Sometimes, attorneys send these packages directly to the judges themselves. The solution is to remember that you should check with each judge to find out whether the package goes to the judge or to the clerk. However, in either instance, make sure the Notice of Trial is sent with the appropriate number of copies and self-addressed stamped envelopes for all parties.

4. Lawyers and law firms fail to file Notices of Change of Address forms with the clerk. Although pleadings may contain the new address, the filing of an official Notice of Change of Address form is utilized by the clerk to formally change the address in the clerk's computer which will remain the official address for that lawyer until a new change of address is filed. In the event a pleading or something needs to be sent out by the clerk to you as counsel, the clerk will rely on the computer database which could have an address that is three years old, even if you have recently filed pleadings with your current address. Don't file a Notice of Change of Address form in a single case and expect the clerk to associate the change to all cases in which you are counsel. File it in every case.

5. Another mistake is when a lawyer files paperwork in a case on the same day of the hearing. The pleading does not make it into the file before the hearing and, in the case of a criminal proceeding, a Capias issues. The pleading may show it was received by the clerk on the morning of the hearing, but it doesn't get into the Court file. The Court takes action as if the pleading was not filed and then all parties have to get together and fix the mistake later causing extra work for everybody. If you want a pleading to make it into the clerk's file for a hearing, it must be filed a few days before the hearing.

6. The clerks request that any party wishing to file multiple lawsuits at one time bring them for filing in the afternoon when they are not as busy. Filing multiple lawsuits early in the morning is strongly discouraged. By filing in the afternoon, the clerks will be free to do their usual caseload in the morning allowing them sufficient time in the afternoon to tend to multiple case filings.

**7. Appeals:**

A. Attorneys are failing to pay the estimated "pre-bills" for the preparation of the record on appeal, but still expect the clerk to prepare the record.

B. Attorneys are failing to attach two copies of the Order from which an appeal is taken to the Notice of Appeal.

C. Attorneys put the wrong dates on the Designation to Court Reporter. Check your dates please!

8. Disruptions of clerk's work which is neither necessary nor justified:

A. Calling the Felony Clerk on Violations of Probation Arrest for information wanting to know why a hearing has not been set when the arrest occurred the day before.

B. When experiencing a problem, instead of asking for the division manager and giving the division manager a chance to solve the problem, attorneys go directly to upper management (Felony, Probate, and Juvenile).

C. Attorneys in Felony Court interrupt data terminal operators in the Courtroom to look up information for them instead of "being prepared."

D. Smile. Impatience and rudeness at the counter will not inspire the clerks to want to help you.

9. Probate Only:

A. Show Cause hearings are set by the Court or the General Master. These hearings can only be canceled by the Court or the General Master. Please do not contact the Guardianship audit division and expect the auditors to cancel hearings for you. They simply do not have the authority.

B. Do not combine audit fees with other fees in one check. Pay audit fees in a separate check from other fees and verify amounts.

C. Accounting Reports must be properly identified. If an Accounting Report is "Amended," then it should say "Amended." The clerk cannot write "Amended" on your report and accept it for filing. It will be returned to you.

10 If you send a request for copies of documents, please make sure to send a self-addressed stamped envelope.

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The Broward County Hispanic Bar Association Cordially Invites You To The **Hispanic Heritage Month Luncheon** Keynote Speaker **Carlos J. Davila** President, Citibank Florida Thursday, October 11 11:45 a.m., Tower Club

Please R.S.V.P. to [Carmen@velasquez-law.com](mailto:Carmen@velasquez-law.com)

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# Inside the Appellate Court: An Afternoon with the Judges of the Fourth DCA



Thursday, December 6, 2007

11:30 a.m.—5:30 p.m.

Boca Raton Marriott at Boca Center, 5150 Town Center Circle

### Program Schedule

- 11:30 am - 12:00 pm **Buffet Lunch / Registration / Check-In**
- 12:00 pm - 1:00 pm **Luncheon - Keynote Speaker: Honorable Fred A. Hazouri, Fourth District Court of Appeal - "Professionalism and the Appellate Lawyer"**
- 1:00 pm - 1:15 pm **BREAK**
- 1:15 pm - 1:45 pm **"What Persuades the Decision-Makers? The Use of Secondary Authority in Briefs from the Perspective of the Judges" - Panel Discussion moderated by Honorable Martha C. Warner, Fourth District Court of Appeal**
- 1:45 pm - 2:15 pm **County to Circuit Appeals Pursuant to Florida Rules of Appellate Procedure 9.030(c) and 9.100(f) - Honorable Elizabeth T. Maass, Fifteenth Judicial Circuit**  
**County to Circuit Appeals Pursuant to Florida Rules of Appellate Procedure 9.030(c) and 9.100(f) - Honorable Dorian Damoorgian, Seventeenth Judicial Circuit**
- 2:15 pm - 2:30 pm **BREAK**
- 2:30 pm - 3:00 pm **Standards of Review - Honorable Larry A. Klein, Fourth District Court of Appeal**
- 3:00 pm - 3:45 pm **Motions for Rehearing, Rehearing en Banc, and Certified Questions - Honorable Robert M. Gross, Fourth District Court of Appeal**
- 3:45 pm - 4:00 pm **BREAK**
- 4:00 pm - 5:00 pm **Panel Discussion with the Judges of the Fourth DCA, Moderated by Jack J. Aiello, Esq., Gunster, Youkley & Stewart**
- 5:00 pm - 5:30 pm **Cocktail Reception**

This course is expected to receive **5.0 CLER, 1.0 Ethics credits** from The Florida Bar; Appellate Certification credit has been applied for and is pending approval.

The cost of the seminar, lunch and reception is **\$130** if registered by **11/29/07**; **\$155** after that date; **No refunds after 11/30/07**

If a phone reservation is made and we do not receive payment and you do not attend, you will be charged \$25.  
Please check here if you have a disability that may require special attention or services. To ensure availability of appropriate accommodations, attach a general description of your needs. We will contact you for further coordination.

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I will not be able to attend the seminar but would like to order the CD. (cost same as listed above/please allow two weeks for delivery) (Appellate Seminar 12/6/07)

**Palm Beach County Bar Association, 1601 Belvedere Rd. #302E, West Palm Beach, FL 33406.**

### IS YOUR THREE DAY NOTICE LEGALLY SUFFICIENT?

BY: KAREN WILLIAMS NORTH

I represent landlords and tenants in residential and commercial eviction actions. In representing landlords, the most common factual scenario that I encounter is a landlord who comes into my office with a Three Day Notice that he/she has prepared and given to a tenant for non-payment of rent. The landlord then typically says "I have already given the tenant a Three Day Notice. All I need is for you to file the eviction". Almost without exception, when I review the Three Day Notice that the landlord has given to the tenant, it is flawed (i.e. "legally defective"). When I inform the landlord that I cannot file the eviction based on the flawed Three Day Notice, generally, the landlord will look at me incredulously and tell me where he got the Three Day Notice ("e.g. Office Depot, the internet, previous attorney"), so it "must be" valid. I then have to deliver the news that the tenant must be served with another Three Day Notice, which I will prepare. This is frustrating for most landlords because the process to evict the tenant becomes delayed. In Florida, the law is that a landlord cannot evict a tenant for non-payment of rent unless the landlord first give the tenant a legally sufficient Three Day Notice. A legally sufficient Three Day Notice terminates the landlord/tenant relationship. After the tenancy is terminated, then the landlord may proceed with filing the complaint to evict the tenant in court.

A Three Day Notice that is legally deficient fails to terminate the landlord/tenant relationship. Therefore, if a landlord files a Complaint for Eviction based on a legally deficient Three Day Notice, the complaint may be dismissed, with the tenant then being entitled to attorney's fees as the prevailing party. No landlord wants to pay his/her attorney to file an eviction action, lose the eviction and then end up paying the tenant's fees as well.

Well, you wonder, what is difficult about preparing a Three Day Notice for non-payment of rent? Nothing. Everything. A Three Day Notice can be legally deficient because in calculating the three day period for the tenant to pay, the landlord counted legal holidays, or week-ends. If the Three Day Notice fails to give the tenant a date by when to pay, it is may also be deemed defective. Or a Three Day Notice may be legally insufficient because the landlord does not list his address on the notice. The Three Day Notice may be legally deficient because it requests an incorrect amount for rent owed (e.g. it includes invalid late charges). Maybe the most common error landlords make in a Three Day Notice is the use of language that the tenant must "quit or vacate" without making clear that the tenant can "pay or vacate." There are times that the Three Day Notice must give the tenant more than three days to pay (e.g. if the landlord lists his address as a P.O. Box or if the landlord lists an address outside the county of the tenant's address.) If the landlord fails to do so in the Three Day Notice, the notice is defective. So, the best advice you can give a landlord if he wants to evict a tenant for non-payment of rent, is to have an attorney familiar with landlord/tenant law prepare the Three Day Notice.

Karen Williams North, Esquire is the founder of The Williams North Law Firm, P.A. and has been handling landlord-tenant cases, including appeals, for over 14 years.

### HEALTHY MOTHERS-HEALTHY BABIES COALITION OF BROWARD COUNTY

Addressing the Health Needs of Women, Babies and Families

Healthy Mothers-Healthy Babies Coalition of Broward County (HM-HB) was "born" twenty years ago when a few concerned individuals organized a community coalition to address the horrendous infant mortality rate and prenatal care crisis in Broward County. By 1990 the group's grass roots effort had grown into an official agency with 501 (c) (3) status and the group marching off to Tallahassee to increase Medicaid reimbursements for OBs and to push for the passage of the Healthy Start legislation. HM-HB's original purpose of advocacy, education and public awareness quickly evolved to a mission of reducing infant mortality and improving birth outcomes for women and infants in all walks of life through targeted programs in the Broward community aimed to fill the gaps in services for women and babies without insurance. Today the agency and its professional staff of 41 accomplish this goal by providing access to prenatal and inter-conceptual care, as well as educational programs to 4,000 individuals each year. Program goals include:

- Supporting families by reducing risk factors that place pregnant women and infants in jeopardy for poor pregnancy and birth outcomes.
- Assisting families in improving parent-child interaction and relationships in order to reduce child abuse.
- Assisting teen mothers in finishing school, learning life and parenting skills, preparing for employment and the prevention of subsequent teen pregnancies.
- Reducing mortality through an understanding of the occurrence of fetal deaths.
- Alleviating maternal depression for pregnant women and mothers in order to improve parent-child relations and prevent abusive situations.
- Reducing infant mortality by providing appropriate sleeping environments and education on SIDS, Back to Sleep and Shaken Baby Syndrome.
- Providing appropriate referrals to community providers as needed by pregnant and parenting women and teens.

HM-HB's services are available to all families in Broward County but are aimed primarily at those who are unable to afford private care. Current programs include:

- Healthy Start Care Coordination
- Healthy Families
- The Teen Collaborative
- Wellness for Women and Teens
- Infant Mortality Program
- Maternal/Child Nurturing (Maternal Depression)
- Cribs for Kids
- Read to Your Baby
- Community Outreach

HM-HB is proud of the fact that over 95% of the babies born to mothers in their programs are born healthy and that \$.94 of every \$1 received by the agency is put directly back into programs. Yet, there is so much more that needs to be accomplished ... more mothers, babies and families that need to be reached ... a long way to go before every baby has a chance to be born healthy.

Healthy Mothers-Healthy Babies is grateful to the Young Lawyers for having selected them as the beneficiary of their 20th Annual Charity Golf Tournament. It seems appropriate that we celebrate our mutual 20th anniversaries together and request that you all find it in your hearts, minds, schedules and pocketbooks to support this year's golf tournament on October 6th.

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## Lawyers in the LIMELIGHT

Fisher & Phillips LLP, a national labor and employment law firm, has announced that **Carly Cappello** has recently joined the firm's Fort Lauderdale office as an associate. She will focus her practice on employment law.

**Linda A. Conahan, James B. Davis and Robert B. Judd** from Gunster Yoakley of Fort Lauderdale have been named the 2008 *Best Lawyers in America* Publication.

**Jon Krupnick, Walter "Skip" Campbell, Kevin Malone, Joseph Slama, Kelly Hancock, Scott Liberman and Robert McKee** from Krupnick, Campbell, Malone, Buser, Slama, Hancock, Liberman & McKee have been named the 2008 *Best Lawyers in America* Publication.

**Nerlin Ontivero** has joined the law firm of Katzman & Korr in Fort Lauderdale. Her background includes representing mortgage companies, handling mortgage foreclosures and other real estate issues. She is actively involved in the Hispanic, Cuban and Broward Bar Associations.

## A Special Thank You...

At press time, these are the individuals who have made contributions this current fiscal year to our Mortgage Reduction program that was created to help BCBA pay down the mortgage on the Norma B. Howard Bar Center. Each individual received a blue and gold BCBA lapel pin.

- |   |  |  |  |
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**LEGAL EAGLE “SOARS”  
AT THE LAWYER REFERRAL SERVICE**

THE STAFF AT THE LAWYER REFERRAL SERVICE WOULD LIKE TO  
ACKNOWLEDGE ATTORNEY TREY MILLER  
AS THE ATTORNEY OF THE MONTH FOR SEPTEMBER.  
HE HAS BEEN A TREMENDOUS ASSET TO THE BCBA IN HELPING  
OUR LAWYER REFERRAL SERVICE RUN SMOOTHLY AND  
EFFICIENTLY. HE HAS GONE THE EXTRA MILE TIME AND TIME AGAIN  
IN HELPING OUR STAFF/CLIENTS AND CAN ALWAYS BE COUNTED ON  
AT A MOMENTS NOTICE.  
HE IS A TESTAMENT TO HIS PROFESSION!  
THANK YOU, TREY,  
FROM THE STAFF OF THE LAWYER REFERRAL SERVICE.

**CONGRATULATIONS  
RICHARD CHOSID, ESQUIRE**

Broward Lawyers Care Attorney of the Month for September

Mr. Chosid, a sole practitioner who practices general law in Broward County, has been a member of the Broward Lawyers Care Pro Bono Panel since 1994 assisting over 15 clients and contributing 100+ hours of his time. Your acts of kindness have given life to so many people!

**BACK BY POPULAR DEMAND**

The Broward County Bar Association's Family Law Section, Legal Aid Service of Broward County, Coast to Coast Legal Aid of South Florida and Broward Lawyers Care's annual Family Law CLE Seminar is scheduled to take place in March 2008. This seminar is free to all that accept a Pro Bono Case from Broward Lawyers Care. Suggestions for topics and speakers are welcomed [kzaffere@legalaid.org](mailto:kzaffere@legalaid.org)

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Make equal justice a reality! Join BLC today. Contact Kimberly Zaffere at [kzaffere@legalaid.org](mailto:kzaffere@legalaid.org) or 954-736-2426.

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**SATURDAY, OCTOBER 6, 2007**

Jacaranda Golf Club

9200 West Broward Boulevard, Plantation, Florida

6:30 A.M. CHECK IN \* 7:00 A.M. RANGE OPENS \* 8:00 A.M. SHOTGUN START

- \* Four Person Scramble Format on the West Course
- \* Prizes for 1st, 2nd, and 3rd Place Foursomes
- \* Awards for Longest Drive, Closest-to-Pin, and Straight Drive
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- \* Complimentary Range Balls
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- \* Awards Luncheon Following Tournament
- \* Photographs
- \* Goodie Bags and Raffles

**KICK-OFF COCKTAIL PARTY FRIDAY, OCTOBER 5, 2007 @ 5:30 P.M.**

Location: TBA

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**FOR ADDITIONAL INFORMATION CONTACT:**

David Hirschberg at 954-967-5458 or email [DLH@MJALAW.NET](mailto:DLH@MJALAW.NET)

**TO REGISTER:**

Send this entry form along with check made payable to "Young Lawyers Section" for \$100 per person to: David Hirschberg, 3107 Stirling Road, Suite 208, Fort Lauderdale, FL 33312

	PLAYER	ADDRESS	PHONE
1.	_____	_____	_____
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3.	_____	_____	_____
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