

# The BROWARD BARRISTER

JANUARY, 1976

Volume 5

Number 1

PUBLISHED BY THE BROWARD COUNTY BAR ASSOCIATION  
Executive Offices, 733 Northeast Third Avenue, 305/764-8040, Fort Lauderdale, Florida 33304

## GENERAL MEETING – THURSDAY, JANUARY 15, 1976 – 12:00 Noon

### THE GOVERNORS' CLUB HOTEL

236 S.E. 1st Avenue  
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– Buffet: \$3.75 –

#### A G E N D A

CHARTER AND BY-LAWS REVISION

PROGRAM: "MAKE 'EM UNDERSTAND WHAT YOU SAY" – Jury Communication by Judge David U. Strawn, 18th Judicial Circuit and Dr. Raymond Buchanan, Professor, Florida Technological University. This program will describe a project which examines the communication which occurs between judge and jury in the process of instructing a jury.

PLEASE USE THE ENCLOSED CARD TO MAKE RESERVATIONS.

### BROWARD COUNTY TRIAL LAWYERS ASSOCIATION MEETING

WEDNESDAY, FEBRUARY 4, 1976

5:00 P.M. WORKSHOP  
6:30 P.M. Cash Bar  
7:00 P.M. Dinner – \$10.00

**THE SHERATON HOTEL**  
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Speaker: Justice Joseph H. Hatchett  
Supreme Court, Florida

RSVP before January 30, 1976

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Suite 1318  
One Financial Plaza  
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### OPERATION: UPDATE/TRANSITION

Sponsors: BCBA & BCTLA

January 21, 1976 – 4:30 p.m.

Admiralty, Maritime Torts & Trial

Speakers: Ronald A. Fitzgerald  
Richard Ralph

Room 250, Broward County Courthouse

February 18, 1976 – 4:30 p.m.

TAX IMPACT ON DISSOLUTION  
CASES

Speakers: Zayle A. Bernstein  
D. Leon Leonhardt

(\$1.00 printing donation requested)

### YOUNG LAWYERS SECTION MEETING

THURSDAY, JANUARY 22, 1976

12:00 Noon

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

Program: The New Probate Code  
by Harry Carratt

Lunch: \$3.75

Please send reservations with check to:

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

(Make checks payable to:—  
Young Lawyers Section)

### DESIGNATION

Designation of areas of practice is here. The application forms for certification by The Florida Bar were mailed

November 25, 1975. With the plan there may be many questions to be answered, and for that reason Pete Fannon, assistant Executive Director of The Florida Bar will be available to answer any

questions you may have regarding Designation. He will be available on January 14, 1976 – 3:00-5:00 p.m., Room 250, Broward County Courthouse, Fort Lauderdale, Florida.

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

**OFFICERS**

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

**"Salvation For The  
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 Revisited"**

**February 27-28 — 1976**  
**EVERGLADES HOTEL**  
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**REGISTRATION: \$40.00**

(Send check to Debbie Ginn,  
 The Florida Bar, Tallahassee, Florida)

Speakers will include Alan Laekin,  
 California; J. Harris Morgan, Texas;  
 Kline D. Strong, Utah; Bernard Sternin,  
 New York; and Sam Smith, Florida.

The Florida Bar Economics Commit-  
 tee has urged every Bar member and  
 office manager who failed to attend the  
 Tampa seminar to attend this meeting.  
 Attendance may be limited and early  
 registration is suggested.

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**PRESIDENT'S MESSAGE**

One of the things that it was determined should be done this year was to amend the by-laws of our association. Amending the by-laws was one of the many recommendations made last year by the Long Range Planning Committee appointed by Bill Leonard with Ray Ferrero, Jr. as its chairman. The general purpose for the amendments is to keep our bar association responsive to the needs and wishes of our members, particularly in the light of the tremendous increase in the number of lawyers practicing in Broward County over the past few years. The main method by which responsiveness is provided is through the new procedure for election of officers and directors of the association. The new amendments provide for nominations not only through suggestions by a nominating committee but also through a very simple petition procedure whereby any individual desiring to run for office and not suggested by the nominating committee may get his name on the ballot having his candidacy endorsed, in effect, by six members of our association in good standing. You will also find in the new by-laws a provision for increasing the number of members of the executive committee to 17. Also the new by-laws provide for establishing areas within the county for representation on the executive committee so as to assure lawyer representation from all areas of the county. The new by-laws will also provide for the establishment of sections within our association. In addition to the foregoing there are many other important provisions within the new by-laws which all of our members should carefully consider; therefore, you should review them carefully and attend the monthly meeting on January 15th so that you may vote on whether or not the proposed by-laws should be adopted. In considering the new by-laws, credit must be given to the outstanding job done by Lawrence J. Meyer, Barry J. Stone, Ronald P. Anselmo, and Maurice Rhinehardt who were the members of the committee which put together the present proposals.

Another important matter now under consideration by the executive committee is the matter of the establishment of a Fee Arbitration procedure. It is recognized that some of our members may question the necessity for fee arbitration, but unfortunately there is no way under the present procedures to arbitrate fee disputes between lawyer and client short of grievance committee action. To us, it just does not seem fair treatment for a lawyer who has spent his time and effort on behalf of a client only to have a dispute about his statement for services made the subject of a case before the grievance committee. In order to see if something may be established to rectify that problem, James J. Linus has agreed to act as chairman of a committee consisting of him, Ellen Mills Gibbs and John Hume to consider whether a fee arbitration procedure may be proposed and then presented for consideration by the general membership. The committee report will be made to the general membership probably in February. Harry Carratt is the executive committee member who is working with that committee. Should any of you have suggestions concerning the functioning of such a procedure please let us hear from you about them.

**GEORGE A. PATTERSON**  
 President



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## SMALL BOAT LAW II

February 11, 1976—March 31, 1976  
7:00 P.M. Wednesday (8 week course)

Salvor or thief? . . . What law governs rescue and the Good Samaritan? . . . What is a secret boat lien? . . . When is government liable for maritime functions? . . . How does unseaworthiness impose liability without fault?

Admiralty law as applied to pleasure craft will be covered in the topics of salvage under maritime and special state statutes; sunken treasure in Florida; personal injuries, and boat liveries, and maritime liens.

PLACE: Broward Community College, Central Campus, 3501 S.W. Davie Road, Fort Lauderdale, Florida, Building 15, Room 104.

For registration and further information, phone 581-8700, Ext. 228, Office of Community Services.

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## Unauthorized Practice Of Law

All matters relating to unauthorized practice of law are referred to the Committee on Unauthorized Practice of Law for the Seventeenth Judicial Circuit.

The following is a summary of matters referred to the Committee from July 1, 1975 to date, and the nature of the matters involved. One matter referred to the Committee has been omitted from this summation because the identity of the individual involved would be divulged.

1. Representation of a corporate party by an individual not admitted to practice . . . 2 cases.
2. Preparation of guilty plea in city

court and advice to sign the same prepared by bonding agent.

3. Use by a non-attorney of the letterhead of another attorney which referred to "and Associates" without showing that the signer of the letter was a non-lawyer.
4. Use of a letterhead by a foreign retired attorney showing himself as an attorney with a Florida address.
5. Suspended Florida attorney with sign on building showing him as attorney at law.
6. Foreign lawyer representing seller of condominium unit.
7. Preparation of legal document by a notary public not an attorney.
8. Preparation of pleadings and argument at motion hearing by non-attorney.
9. Non-attorney representing auto accident client in negotiations for settlement.
10. Non-attorney holding himself out as an attorney.
11. Non-attorney representing party in dissolution of marriage application.

Members of this committee are:

James H. Gilbert, Chairman; Robert G. Lubber, Jr., William S. Spencer, Francis D. O'Connor, Patrick N. Chidnese, Gary E. Southworth, John T. Carlon, Jr.

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## Florida Statutes—Adoption

by Henry J. Prominski

The 1973 Florida Legislature revised the adoption portion of the Florida Statutes. A new Section, Florida Statutes,

63.062 was added setting out which persons are required to consent to the adoption. This section states that unless consent is excused by the Court, consent would be required by the father of a child born out of wedlock unless the mother of the child can sign an affidavit that she does not know the identity of the father and a reasonable search would not reveal his identity or address. A new Section 63.072 then goes on to list the persons whose consent to an adoption may be waived, and it states that a parent who has deserted a child without affording means of identification or had abandoned the child may not be required to consent if the court so waives. The two sections added are not exactly clear as to whether or not a putative father needs to have notice of an adoption hearing or his consent obtained. The new sections repeal the existing case law which has consistently held that the consent of a putative father is not necessary for adoption of an illegitimate child. See *Clements vs. Banks* 159 So2nd 892.

The 1973 Florida Statutes appear to follow the rationale of the United States Supreme Court which has at least obliquely held that the father of a child born out of wedlock is entitled to due process for removing those children from his custody. The case of *Stanley vs. Illinois* 405 U.S. 645, held that the illegitimate children of two people who were living together without benefit of marriage, upon the death of the mother could not be taken from the father without affording him a hearing to assert his possibility of establishing fitness to be a proper parent. In that case the children were taken and put into the welfare home. That case is distinguishable however, since the children were with the father, and the mother and father were living together, the only difference being that they were not married. The Florida Law would appear that the father who reputed being the father, who never helped support the child, who never ac-

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knowledge being the father, who denied all obligations toward the child, still would have to be a party to an adoption, unless with proof to the Court, presumably at the same hearing or at a special hearing, facts could be established that the father did in fact abandon the child and that the hearing on abandonment presumably the putative father would have to have notice and would have the right to appear to contest the fact that he did abandon the child or was not a fit parent.

The new section could stand clarification and revision. It would appear that a parent who foresakes his obligations also foresakes his rights to custody, adoption or contesting the right of the mother or other proper persons to adopt and take the legal position of parent to the illegitimate child.

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### IN APPRECIATION

Many, many thanks to the generosity of the lawyers and their secretaries who made possible baskets of food to ten families in Broward County, who, without your contribution would have been hungry over the Holidays.

A request for donations to help the hungry was made at the December meeting, and the response was tremendous. Names of needy families were obtained from the Division of Family Services, food was purchased and then delivered by the Executive Committee of the Young Lawyers Section.

Thank you for your concern for others.

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## BARRY DUBNER

My field of Academic specialization is ocean law, which, for the purpose of this article, can be defined as the study of all laws, treaties and conventions regarding the ocean. An ocean lawyer, therefore, should be familiar with such resource and non-resource uses as, *inter alia's*, marine pollution, offshore drilling, deep-sea mining, superports and other artificial installations, fishery rights, admiralty, marine transportation, jurisdictional problems regarding navigation, international law and scientific research. The problems confronting the ocean lawyer stem mainly from the situation created by the rapid pace of technology and by the ever-growing needs of mankind. In meeting those needs, the resources of the seas and oceans are of major importance because these resources are finite. Thus, on a world-wide scale, energy, food, minerals, transport and trade, recreational activities, and the evils of pollution are all matters which are involved in the development of international law concerning the seas and the oceans. In words of the eminent explorer and scientist, Thor Heyerdahl: "To neglect the ocean is to neglect two thirds of our planet. To destroy the ocean is to kill our planet. A dead planet serves no nation."

Nova University would be an ideal place for the creation of an undergraduate and graduate law school program in ocean law because of (a) the geographical location of the university vis-a-vis the ocean and (b) the fact that Nova has an oceanographic center already established. As I visualize it, the program could be established in order to train both our students and lawyers practicing in the area to enable them to offer their skills to the various governmental bodies, oil companies, admiralty and shipping firms, the United Nations, et. al. Also, coastal zone management is an extremely important field that is just developing. In this regard,

for example, a lawyer could utilize his or her expertise in real estate law in order to comply with the regulations of the Coastal Zone Management Act.

### BIOGRAPHIC SKETCH

The writer is a graduate of Hunter College (B.A., 1965); New York Law School (J.D., 1969); University of Miami (LL.M., Ocean and Coastal Law, 1974); N.Y.U. (LL.M., International Law and J.S.D., 1975).

His legal background includes practicing with Cleary, Gottlieb, Steen & Hamilton in New York (where he was Managing Attorney) and Law Clerk to Judge Herbert N. Maletz, U.S. Customs Court. He is admitted to the New York and Florida Bars and has practiced commercial law, real estate, probate, etc., for approximately five years. He is a member of the Panel of the American Arbitration Association and, a member of the American Society of International Law; A.B.A.: New York Co. Lawyers' Association. His book regarding the law of territorial waters of mid-ocean archipelagos will be published by Martinus, of Holland, in the near future. An article that was adapted from his J.S.D. dissertation appeared in the N.Y.U. *Journal of International Law & Politics*, Spring Edition, 1975.



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