

The BROWARD BARRISTER

APRIL, 1978

Volume 7

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Executive Offices: 733 Northeast Third Avenue, 305/764-6040, Fort Lauderdale, Florida 33304

SECRETARIES NIGHT

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GENERAL MEETING THURSDAY, APRIL 20, 1978

THE HILTON HOTEL
4060 Galt Ocean Drive, Fort Lauderdale, Florida

Cocktails 6:30 P.M. — Cash Bar
Dinner 7:15 P.M. — \$12.00

Business: **Reapportionment** — A. J. Thomas, Jr.

Charter & By-Law Changes

Speaker: Samuel S. Smith

Topic: "Economics in the Law Office"

The meeting is to honor the legal secretaries and give recognition to the essential role they play in helping the legal profession perform its service to the bar, bench and public. **Please take this opportunity to show your appreciation of your secretaries and bring them to the meeting.**

Mr. Smith is no stranger to the legal profession. He is an outstanding nationally known lecturer on economics in the law office. He was born in Pennsylvania, graduated from the University of Miami Law School, cum laude, and was admitted to The Florida Bar in 1961.

Mr. Smith has been an instructor at the University of Miami, President of the Miami Beach Bar Association and is a member of the Board of Governors of The Florida Bar. He is a member of the firm of Smith, Mandler, Smith & Parker.

PLEASE USE THE ENCLOSED CARD FOR RESERVATIONS.

YOUNG LAWYERS SECTION MEETING

Thursday, April 27, 1978

— 12:00 Noon —

BUBBA'S RESTAURANT
1624 E. Sunrise Blvd.
Fort Lauderdale, Florida

Lunch — \$5.00 — YLS Members
\$6.00 — Non-members

Program: To be announced

Please use the enclosed card for reservations.

OPERATION: UPDATE/TRANSITION

Wednesday, April 19, 1978

— 4:30 P.M. —

Broward County Courthouse,
Courtroom 415

Topic: Comparison of Local Rules
for Dade, Broward and
Palm Beach Counties

Speaker: Robert Ware
Nancy Hoffman

May 17, 1978

Topic:

"Wrongful Death Actions"

(\$1.00 printing donation requested)

Legal Forum

Bar Association Radio Show Wins Award

The Broward County Bar Association's "Legal Forum", a radio talk show aired on WAVS was the recipient of a Florida Bar MEDIA AWARD FOR THE YEAR 1977.

This lively talk show dealing with legal topics and lawyers has been on the air since 1975. It is currently heard at 9:05 a.m. to 10:00 a.m. each Saturday morning. The show is hosted by a Broward County lawyer and the format permits discussion of general legal questions as well as a specified weekly topic presented by an expert. Past programs have dealt with probate and trust laws, real estate laws, medical malpractice questions, and recent laws passed by the legislature.

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

OFFICERS

A. J. Thomas, Jr. _____ *President*
Paul B. Anton _____ *President-Elect*
Ronald P. Anselmo _____ *Secretary*
Maurice O. Rhinehardt _____ *Treasurer*
Norma Howard _____ *Executive Secretary*

PRESIDENT'S MESSAGE

Would you believe that a compulsory organization of lawyers, conceived as a "democratically governed and administered" quasi official body, would have 31% of its membership (6,804 of 21,982) electing a majority of its elective Board? Conversely, would you believe that an integrated Bar, its members subscribing to equality under the law, would consent that 69% of its membership (15,178 of 21,982) would be restricted to electing only 16 of its 34 member elective Board? Consider further that the Board so elected has sole and exclusive control, subject only to the Supreme Court's supervision, of its members' right to practice law in this state.

Incredible as it may sound, such is the government of The Florida Bar as presented by the unanimous vote of its Board of Governors and approved by the Supreme Court on February 9, 1978.

Is it any wonder that the Board in Oral Argument and by Brief stated it was not there to represent lawyers, but instead, to represent the Court?

I shall continue my effort to secure fair apportionment for all lawyers. Hopefully our Association and the other fine prestigious Bar Associations in Broward will again join in this campaign for an equal vote for all members irrespective of where they practice.

Fundamental fairness is all I seek, and to me that means "one man — one vote".

Now is our opportunity to structure the Board of Governors into a body truly representative of and responsive to the needs and desires of all members of The Florida Bar and not just to those of the favored few.

With your help we can and will correct this injustice initially imposed upon us by the hierarchy of The Florida Bar upon integration in 1949 and vigorously by them protected and defended ever since.

A. J. Thomas, Jr., President

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Board of Governors To Meet In Fort Lauderdale

Your Board of Governors of The Florida Bar will meet in Fort Lauderdale at the Lago Mar Hotel on Thursday, Friday and Saturday, May 11, 12 and 13, 1978.

Business meetings will start at 8:00 a.m. each morning and will run until about 6:00 p.m. each evening.

All members are invited to attend all open meetings and to watch your Board at work. Discipline meetings are confidential and are closed to the public so as to retain the confidentiality required by the Rules.

More information on the business agenda will be included with the next issue.

Bill Leonard

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Florida Bar Recommends Increase In Budget and Dues

At our regular Board meeting in Tallahassee, the Board of Governors has recommended a Bar budget of \$6,178,000.00 for 1978-79. This is an increase of about \$1,000,000.00 over the current budget,

The increases are proposed to be used primarily in the fields of Ethics and Discipline and an increase to the Clients' Security Fund.

Ethics and Discipline would increase by about \$750,000, while the Clients' Security Fund would increase by about \$150,000.

In order to carry out the increases in these areas, the Board has recommended to the Supreme Court that individual dues be increased from \$75.00 to \$125.00 annually. The proposed budget and dues increase will be presented to the Bar membership at the annual convention in June, and if approved, will be forwarded to the Supreme Court for its approval.

The Discipline fund has been increas-

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NOTICE OF BAR GROUPS MEETINGS

Date	Organization	Location	Time
April 11, 1978	North Broward Bar	Flaming Pit Pompano Beach	12:00 Noon
April 13, 1978	South Broward Bar	Emerald Hills	6:30 P.M.
April 28, 1978	Christian Lawyers Association	Valle's Steak House	12:15 P.M.
May 3, 1978	BCTLA	Sheraton Hotel	6:30 P.M.

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ed so as to speed up the process and to meet some of the recommendations of the so-called Karl Committee.

The Clients' Security Fund has been depleted primarily by claims against two (2) Broward County lawyers, with many claims still pending.

Bill Leonard
Board of Governors,
The Florida Bar

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The Young Lawyers' Section Launches "The Curbstone Lawyer"

The Young Lawyers' Section of the Broward County Bar is about to go to press with its first question-and-answer weekly newspaper column in the Fort Lauderdale News entitled "The Curbstone Lawyer". The announcement was made by John Di Chiara, one of the members of the Executive Committee assisting in initiating the series, at the meeting of the Young Lawyers' Section on January 26, 1978 at the Cafe de Paris. He announced that several questions had been prepared for initial publication and that future questions would be sent in by the public. He asked for the assistance of all members of the Broward County Bar if called upon to answer questions in their area of specialty. Other members of the committee working on the newspaper series are Frank Maloney, Christine Ashcraft and William Phillippi.

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Beware The Unreported

The new real estate contract which has been approved by a joint committee of the Broward County Bar Association and the Fort Lauderdale Board of Realtors presents an interesting problem for attorneys who close real

estate transactions when read in conjunction with FLORIDA SOUTHERN ABSTRACT & TITLE COMPANY v. BJELLOS, 346 So. 2d 635 (June 1, 1977). The Second District Court of Appeals remanded this case for a full trial in lieu of summary judgment, but at the same time it clearly established the rule that a closing agent has a legal duty which he will breach if he fails to inform the purchasers of a home that a negative termite inspection report has not been furnished when called for in the contract.

In BJELLOS, the Defendant was a title company and the Plaintiff was a home and title insurance purchaser. The property, unbeknownst to the purchaser, was infested by subterranean termites, treated, and guaranteed against further subterranean activity. At closing the Seller was given the guaranty, but a negative termite report was not supplied as provided in the contract.

Two months later a heavy infestation of drywood termites was discovered, the purchaser sued the closing agent, and the purchaser received a judgment for \$8,329.00 (subject to a full hearing as set forth above).

Since the new Broward County Deposit Receipt Contract, a copy of which was delivered to you with a previous issue of **The Barrister**, provides for numerous inspections which were not part of the printed language of the previous contract, every attorney who closes real estate transactions should study BJELLOS. It appears that it might be wise to receive a waiver from the purchaser for those inspections which the purchaser does not want and for which he will not pay.

This may lessen the effect of BJELLOS, but it will be interesting to see the course of future litigation in this area.

Paul E. Blade

Broward County Bar Fee Arbitration Committee

Broward Bar Hears Complaints

Fee complaints or misunderstandings concerning fees can be resolved without costly litigation as a result of the Broward County Bar Associations' newly created fee arbitration committee. The committee is the product of efforts by the Broward County Bar to create a forum where prompt determination of fee disputes may be had without undue expense to the client or attorney.

Arbitration proceedings may be requested by either the client or the attorney. If both agree to the arbitration proceedings a \$20.00 charge for each is assessed to defray the administrative costs of the arbitration. In such instances, an award rendered by the committee may be enforced by a court with competent jurisdiction. Applications for arbitration may be obtained through the office of the Executive Secretary at the Broward County Bar Association (305) 764-8040.

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Malpractice Insurance-Self Insurance Special Committee Report

The Special Committee on Malpractice Insurance submitted its report to the Executive Committee of The Broward County Bar Association, on March 8, 1978. The Special Committee was formed in response to alarming across-the-board increases in malpractice insurance premiums as well as the apparent failure of The Florida Bar to respond appropriately to an impending crisis in the legal malpractice insurance field.

As a result of the committee's efforts, a resolution was passed by the

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Executive Committee and directed to The Florida Bar which called for action in the following areas.


The Broward County Bar Association has requested The Florida Bar to undertake whatever efforts are necessary to eliminate statutory prohibitions against the association of attorneys for the purpose of self-insurance. These prohibitions currently exist in Florida Statute 627.356(1) which requires, as a condition precedent to the association of attorneys for self-insurance, the non-availability of legal malpractice insurance from all insurers authorized to transact business within the State of Florida.

The Committee also determined that self-insurance by attorneys would only be feasible if attorneys enjoyed legislation similar to that enjoyed by physicians and currently embodied within Florida Statute 768.52 and 768.54, which created a "Patients' Compensation Fund". The "Fund", administered by the State, provides what essentially is excess coverage (over \$100,000.00) for self-insurance groups.

The Committee has as well determined that there is a real need to educate attorneys in the risk-management area and the resolution encourages The Florida Bar to create aggressive risk-management programs and to make those programs a mandatory part of all CLE Programs approved by The Florida Bar for designation credit.

The full resolution, copies of which are available from The Broward County Bar Association, has been delivered to our delegation to The Board of Governors for consideration and appropriate action by The Florida Bar.

Terrence J. Russell
Chairman



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APPOINTMENT OF ELISORS

Under Florida Statute 48.011 it is mandated that all process except subpoenas be directed to the Sheriff in the particular county when the process is to be served.

The Sheriff is authorized by statute to appoint special Process Servers also known as Elisors. In this county the Sheriff has not had the need to do so, so that an Elisor **should not be appointed** by a Judge in the 17th Judicial Circuit except where the Sheriff's Civil Division states that they are unable or will be unable to effect service.

It has come to my attention that Elisors have been appointed without following the procedure outlined above and has resulted in complaints by citizens to the Sheriff for actions by Process Servers not under his direction.

Please comply with the established procedure by directing an attorney requesting the appointment of the Elisor to either show a return indicating the Sheriff's inability to effect service or a document agreeing to the appointment of an Elisor.

All requests must be filed with the Civil Division of the Sheriff's department.

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WELCOME, NEW MEMBERS

ELIOT E. BERKWIT, a native of New York City, received his undergraduate and law degrees from New York University. He practices law alone in Fort Lauderdale.

JOSEPH L. BERNSTEIN, a native of Miami Beach, Florida, received his undergraduate and law degrees from the University of Miami. He is associated with the law firm of Houston, Cooper & Easthope, Fort Lauderdale.

LAWRENCE J. BOHANNON, a native of Brooklyn, N.Y., received his undergraduate degree from the University of Florida and his law degree from Nova University. He is associated with Carey, Dwyer, Cole, Selwood & Bernard, P.A., Fort Lauderdale.

RANDOLPH BRACCIALARGHE, a native of New York City, received his undergraduate degree from the University of Michigan and his law degree from the University of Miami. He is an Assistant State Attorney, Broward County.

ROBERT A. BUTTERWORTH, a native of Passaic, New Jersey, received his undergraduate and law degree from the University of Florida. He is a County Court Judge, Broward County.

BARRY E. CHAPNICK, a native of Putnam, Conn., received his undergraduate degree from the University of Connecticut and his law degree from the University of Florida. He is associated with the law firm of Goldberg, Young & Goldberg, Fort Lauderdale.

LEWIS H. COHEN, a native of New York City, received his undergraduate and law degrees from New York University. He is associated with Samuel S. Forman, Hollywood.

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