

# The BROWARD BARRISTER

PUBLISHED BY THE BROWARD COUNTY BAR ASSOCIATION

Executive Offices: 733 Northeast Third Avenue, 305/764-8040, Fort Lauderdale, Florida 33304

APRIL 1983

Volume 12

Number 4

## GENERAL MEETING

Date: Thursday, April 21, 1983

Time: 5:00 P.M.

Place: Broward County Courthouse — Room 344

Business: Proposed Budget for Broward County Bar Association  
for year beginning June 1, 1983 - May 31, 1984

A copy of the Proposed Budget is enclosed. If there are questions, please call Terry Russell at 764-6660 or Norma Howard 764-8040.

### RECEPTION FOR FORMER JUDGE HENRY LATIMER

Thursday, April 14, 1983

— 5:00 P.M. - 7:00 P.M. —

The Fort Lauderdale Marriott  
& Marina

1881 S.E. 17th St., Ft. Lauderdale, Fl.

The reception is being hosted by the law firm of Fine, Jacobson, Block, Stein, Simon & Colan, the firm which Henry Latimer joined following his resignation from the Bench in February.

R.S.V.P.—Miami telephone number:  
446-2200

### CORPORATION SECTION MEETING

April 28, 1983

— 5:30 P.M. —

TOWER CLUB

One Financial Plaza  
Fort Lauderdale, Florida

Topic: Secured Transactions

(Wine and Cheese will be served)

THE BROWARD COUNTY  
BAR ASSOCIATION

Cordially Invites You to Attend

The Robing Ceremony of  
CIRCUIT JUDGE

Robert C. Scott

Of The

Seventeenth Judicial Circuit

In and For

Broward County, Florida

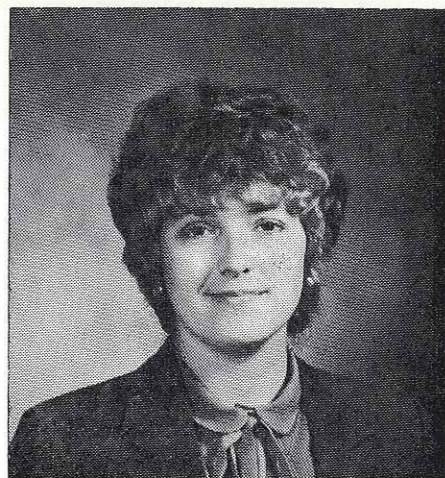
On Thursday, April 28, 1983

At 4:00 O'Clock P.M.

Jury Assembly Room

Room 520

Broward County Courthouse  
Fort Lauderdale, Florida



Linda Conahan

### Linda Conahan Receives The Florida Bar President's Pro Bono Service Award

The Florida Bar President's Pro Bono Service Award is presented to attorneys for their voluntary commitments in making free legal services available to the poor in this state.

Linda Conahan was presented this award for her dedicated efforts in establishing the "Broward Lawyers Care" program — the Broward County Bar Association's Project for involving both private attorneys and legal services lawyers in pro bono representation. She served as Chairperson of the Broward Bar's Pro Bono Coordinating Committee tasked with the responsibility for the program, and was the main driving force for its implementation last May. As a viable entity, that program has referred over 230 legal aid cases to approximately 170 volunteer lawyers.

### LAW DAY

PRAYER BREAKFAST

Friday, April 29, 1983

— 7:30 A.M. —

The Tower Club  
One Financial Plaza  
Fort Lauderdale, Florida

Price: \$6.00

The Liberty Bell Award will be presented to Gene Whidden. The purpose of the Award is to recognize community service that has strengthened the American system of freedom under law.

Reservations are necessary.  
Call Broward County Bar Association — 764-8040.

### ATTORNEYS AS EXPERT WITNESSES — FEES TAXABLE AS COSTS

*Murphy v Tallardy*, 422 So.2d 1098  
(4 D.C.A., 1982)

By: County Judge Steven G. Shutter

A recent unheralded decision of the Fourth District Court of Appeal will have an important effect on attorneys. In *Murphy v. Tallardy*, 422 So.2d 1098 (4th D.C.A., 1982) the Court held that when an attorney is called as an expert witness as to the value of the reasonable attorney's fee due the principal attorney in the case in chief, the testifying expert attorney shall be awarded an expert witness fee taxable in the nature of costs. For many years expert witnesses such as doctor, accountants, economists, engineers as well as plumbers and automobile mechanics were routinely award-

(Continued on Page 5)

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

**OFFICERS**

Hugh T. Maloney ... *President*  
 Angeline G. Weir .. *Pres.-Elect*  
 Terrence Russell ... *Sec.-Treas.*  
 Norma Howard .... *Exec. Dir.*  
 Martha Snedaker ..... *Editor*

**BROWARD COUNTY  
 LAW DAY**

**Theme: SHARING JUSTICE**

Prayer Breakfast at the Tower Club,  
 7:30 A.M., Friday, April 29, 1983

Booths in various Broward Shopping Malls; staffed by volunteer members of the Broward Bar Association.

Distribute pamphlets to Broward County Schools and present the trial of Gold E. Locks on film by ITV.

Common legal Questions and Answers to be published in the local newspapers.

Naturalization Ceremony at the United States Courthouse, performed by Judge Norman C. Roettger.

Liberty Bell Award will be presented to an outstanding Broward County leader.

Distribute Law Day bumper stickers.

Distribute pamphlets from The Florida Bar.

\*\*\*\*\*

*"Every man owes some of his time to the upbuilding of the profession to which he belongs."*

— Theodore Roosevelt



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**SPECIAL MOTION CALENDAR FOR TEMPORARY  
 PRETRIAL RELIEF IN DISSOLUTION CASES**

Effective March 25, 1983, and each Friday thereafter, the undersigned judge will hear applications for temporary pretrial relief in domestic matters from 11:00 A.M. to 12:00 noon on FRIDAYS. The following provisions apply:

1. Financial affidavits are required.
2. Cases are limited to 10 minutes.
3. Counsel shall not make appointments with judge's judicial assistant but shall notice the opposing party in accordance with applicable statutes and Rules of Procedure.
4. A copy of the Notice of Hearing, Motion and Financial Affidavit shall be in the hands of the judge's assistant (not just the clerk) four (4) working days in advance of the hearing. This requirement may be relaxed if adequate notice is given to the opposing party and if the moving party hand-carries the file to the courtroom.
5. Contempt and Post Trial matters will not be heard on this calendar and may be referred to the General Master.
6. Effective March 18, 1983, no motions for pretrial relief will be referred to the General Master.

W. HERBERT MORIARTY  
 Circuit Judge

**MOTION CALENDAR SUSPENDED**

Judge J. Cail Lee's Motion Calendar will be discontinued from April 11, 1983 through May 13, 1983 due to vacation.

**DESIGNATION OF JUDICIAL OFFICERS  
 FOR WEEKEND FIRST APPEARANCES**

April 16, 17 ..... Judge Louis Weissing  
 April 23, 24 ..... Judge Robert C. Abel, Jr.  
 April 30, May 1 ..... Judge Morton L. Abram  
 May 7, 8 ..... Judge Robert L. Andrews

**SCHOLARSHIP FUND  
 ESTABLISHED**

A scholarship fund has been established at Nova Law Center by County Court Judge Steven G. Shutter. Income from this fund will be awarded to upperclass students based upon academic performance and financial need. Contributions to this or any other scholarship fund can be sent to Dean Gail Richmond, Nova Law Center, 3100 S.W. 9th Avenue, Fort Lauderdale, Fl 33315.

**NOTICE**

The offices of the Clerk of the Circuit Court of the Seventeenth Judicial Circuit will be open for business from 8:30 A.M. until 4:30 P.M., Monday through Friday, beginning Monday, April 4, 1983.

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**Judge Linda L. Vitale**  
**JUDICIAL INSIGHTS**

*By Maria Lorts*

Waitress, cook, textile lab specialist, attorney, judge; through these many and varied occupations, Linda Leslie Vitale continued to maintain a singular purpose — to work as hard as she could to do the best job possible. More than any other asset, this strong sense of determination is responsible for her success today.

An only child, Linda Vitale was born in Reading, Pennsylvania where she remained until college. She attended college at the University of Delaware, earning a Bachelor of Science Degree with Dean's List honors in business administration and economics. Linda moved to South Florida where she was accepted at the University of Miami Law School. There she met her future husband, Louis Vitale and was married in 1968. Her energy and drive prompted her to study evenings toward an LL.M. in taxation at the Univ. of Miami Law School. After law school, she began to build a general practice on her own

and later joined forces with her husband as law partners in "Vitale and Vitale". In 1975, she left Florida to work for the Internal Revenue Service in Washington, D.C. While excited by the energy of the Capitol, she soon tired of working with dry tax formulas and yearned for greater involvement with people.

Linda left Washington D.C. and returned to Florida where she concentrated her efforts on building a general civil practice. She now looks back on those formative years as important in preparing for civil practice on the Bench. Her willingness to work hard was soon rewarded with an appointment as General Master in January, 1978. During the ensuing three years, Linda learned how rewarding a position on the Bench could be. Foreseeing stiff competition in the upcoming judicial election, she aimed at earning an available Circuit Court position. After much hard campaigning and the help of her then ex-husband (Louis Vitale and fiancé Don Ruf), she did win and took office in January, 1981.

Now married to Don Ruf, a teacher at a private school, Judge Vitale finds time restraints the most serious challenge to her personal life. She relishes the quiet time spent at home with her husband and enjoys camping and boating. However, it is no secret that behind those quiet girlish locks is a judge with a willingness to work hard and an iron-clad determination to succeed.

Looking back at the past two years on the Bench, Judge Vitale considers the pressure of making immediate decisions as the most difficult task of being a Judge. The greatest reward, on the other hand, is "working closely

with the community in solving its problems." Some hints to young lawyers practicing in front of Judge Vitale: she does not favor aggressive advocacy and considers sarcasm toward opposing counsel as a sign of discourtesy to the Bench. To do well with Judge Vitale presiding, one should be "... well prepared, courteous, and don't expect any continuances ...!"

**Broward Gets Additional IOTA Grants**

Florida Bar Foundation President Howard Rives of Clearwater announced two grants for Broward County organizations rendering legal services to the poor:

- Legal Aid Service of Broward County, Inc. . . . . \$14,000.00
- Nova Law Center Legal Aid Clinic . . . . . \$ 6,750.00

These grants are a part of the second round of IOTA grants for legal services to the poor. Thirty one agencies received grants totalling \$288,000.00 in the second round of grants.

The grants resulted from the action of the Board of Directors of the Florida Bar Foundation in Tallahassee on March 18, 1983.

The same day Rives told a joint meeting of the Foundation Board of Directors and the Florida Board of Governors that IOTA receipts now

(Continued on Page 5)

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# YOUNG LAWYERS SECTION NEWS

## PRESIDENT'S MESSAGE

This month's column will touch upon a number of items of interest to the Section.

First of all, our recent Tennis Tournament attracted a healthy turnout of hardy, young (and not so young) souls seeking the fame, glory and recognition that inevitably attaches to the winners of our coveted championship. When all the dust had settled, our two tired warriors emerged victorious. They will be honored for their heroic efforts at our April luncheon. Be there to discover the identity of these latest celebrities in the world of big time tennis.

Also appearing at our April luncheon will be Bill Scherer, a fine trial lawyer here in Broward County. Our guest speaker, Bill, will discuss the latest trends in the area of legal malpractice. He specializes in the defense of these cases, so you can be sure the talk will be useful and informative.

To answer the repeated requests for information on this year's Softball Tournament, I am pleased to announce that it will be held on Saturday, May 7, 1983, at Croissant Park in Fort Lauderdale. Players and spectators can look forward to a nice day of fun in the sun, so plan to attend. A flyer with full details will be going out shortly, but if you have any questions in the meantime, call Romney Rogers at 462-1431.

Finally, our annual Beach Party will be held on Saturday, May 14, 1983, at our usual place in Harbor Beach. This year's party will feature live music, good food and plenty to drink. In the past, this party has always been outstanding, and it is an excellent opportunity to see and meet other Section members. Again, you will receive all of the details in the near future by way of a mailout.

One final note. Elections will be held at our April luncheon. If you have any interest in local Bar activities, this Section is the place to get involved. With the schedule of activities that we have, we need all the support we can get. I look forward to seeing you there.

Robert J. McFann  
President - YLS

## SOFTBALL TOURNAMENT

The annual softball tournament featuring fading and former jocks will be held Saturday, May 7, 1983, at Crois-

sant and Hardy Parks, Fort Lauderdale.

Refreshments, including fried chicken, beer and soft drinks, will be provided. Because of the 8 team limit, managers are requested to submit the \$75.00 entry fee and rosters to Dale H. Geisler, Rogers, Morris & Ziegler, 800 East Broward Boulevard, Suite 700, Fort Lauderdale, FL 33301, as early as possible. The deadline date will be April 22, 1983.

For more info, contact Dale H. Geisler at 462-1431.

## THE YOUNG LAWYERS SECTION LUNCHEON

The April Meeting of the Young Lawyers Section of the Broward County Bar Association will be held on Thursday, April 28, 1983, at 12:00 Noon at:

### CAFE de PARIS

715 East Las Olas Boulevard  
Fort Lauderdale, Florida

Our Guest Speaker, William R. Scherer, Esq., will speak on the topic of Legal Malpractice.

PLEASE MAKE YOUR RESERVATION by mailing your check in the amount of \$7.00, payable to YOUNG LAWYERS SECTION to: Romney C. Rogers, 800 East Broward Boulevard, Suite 700, Fort Lauderdale, FL 33301, or telephone 462-1431, (ask for Elsie), no later than Tuesday, April 26, 1983.

ELECTIONS for the year 1983-1984 for the Executive Committee of Young Lawyers Section will be held at this meeting, with nominations being taken from the floor. PLEASE PLAN TO ATTEND.

## SPEAKERS AVAILABLE FOR COMMUNITY PROGRAMS

The Young Lawyers Section of the Broward County Bar Association has formed a Community Speakers Bureau composed of over eighty Broward attorneys.

Local civic and charitable groups, as well as neighborhood and condominium associations who would be interested in having an attorney speak at their meetings on a designated legal topic are urged to contact Teresa Widmer at 765-8145, or Fritz Heidgerd at 771-1850 for more information or to coordinate a meeting time with a speaker.

The legal topics available are numerous, including such areas as Business Regulation; Buying or Selling a

House or Condominium; Child Custody and Adoption; Consumer Law; Divorce; The Criminal Justice System; Local, State and Federal Taxation; Insurance; What to do in case of an Auto Accident; Wills and Probate; and Landlord/Tenant Relations. Other topics are available. If your group has a particular area of interest, let us know and we will coordinate your meeting time with an attorney knowledgeable in that area of law.

There is no fee for this service, unless your group will charge admission for the program.

## MR. MEANORS

### REMAIN UNDEFEATED

The Mr. Meanors, champions of the Young Lawyers Football League, extended their winning streak to 10 with a convincing 21-19 dubbing of an elderly but competitive senior lawyers team.

In a tremendous display of goodwill, sportsmanship, and concession to age, the Mr. Meanors allowed the Seniors to score two touchdowns before taking total control and completely dominating the final three quarters. Seniors quarterback Jim Zlock (a very "young" senior) performed brilliantly by throwing to both his receivers and Mr. Meanors defensive backs. On the otherside, second-string quarterback Archie "D.W." Ryan's game plan was flawless until the final minute to connect on a dramatic fourth-and-goal touchdown pass from Ryan to Romney Rogers. To say the sell-out crowd went beserk would be an understatement.

## LOOK OUT FOR ROAST AT Y.L.S. BEACH PARTY

The annual Young Lawyers Section Beach Party will take on a new twist this year with a good hearted "Roast" of the Officers of the Broward County Bar Association. The party is scheduled for Saturday, May 14, 1983, from 7:00 P.M. to 11:00 P.M. at Harbor Beach. There will be plenty of food and libation free to members of the Broward County Bar Association and a charge of \$5.00 per person to non-members. We also hope to have a steel band for entertainment. Additional details and map to party site will follow. Questions, suggestions or volunteers, contact Teresa Widmer, 765-4100, Linda Conahan, 462-3301 or Martha A. Snedaker, 763-8727. Please R.S.-V.P. to the Broward County Bar Office at 764-8040.

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totalled One Million Dollars. A total of 2430 lawyers in Florida and 233 in the 17th Judicial Circuit now participate in IOTA.

IOTA grants will go to an annual cycle commencing in September 1983. Foundation officials anticipate that an additional \$750,000.00 will be available for distribution to legal aid organizations at that time.

## JOINT MEDICAL LEGAL

### COMMITTEE RECONSTITUTED

The presidents of the Broward County Medical Association and the Broward County Bar Association have recreated a joint committee of members of the two associations to address issues of concern common to the two professions. Appointed from the Medical Association were Dr. Paul Flaten, Dr. Donald Comiter, Dr. Rolando Jorge, Dr. Donald Giulianti, Dr. Wylie Scott and Dr. Gary Torian; representing Broward's lawyers are O. Edgar Williams, Jr., Maurice Fixel, Donald G. Korman, Judge Henry Latimer, John S. Neely, Jr., Wilton L. Strickland and Rex Conrad.

A similar committee was active during the 1960's and 70's but was disbanded when anti-trust rulings threatened its primary activity of establishing recommended fees between the professions and mediating disputes over such charges.

The new committee still hopes to assist the medical and legal professions in such matters but will not attempt to set charges or fees. Rather, it hopes to effect conciliation of disagreements by lending its counsel and guidance, and will strive to prevent disputes from occurring by educating each profession to the problems and needs of the other and by providing a forum for the exchange of views and recommendations.

The committee, which held its organizational meeting on February 22nd, will meet monthly at the Medical Association's offices. Members of either association having matters which they wish to submit to the joint committee should contact Bill Stafford of the Medical Association or Norma Howard of the Broward County Bar.

(Continued from Page 1)

ed compensation, taxable as costs to the prevailing party, for their time and expertise in preparing for and testifying at trial. However, attorneys have been discriminated against. The law is well settled that to prove the value of reasonable attorneys fees a live expert witness attorney *must* testify at trial (absent stipulation of the parties). See *Lamar v Lamar*, 323 So.2d 43 (4th D.C.A. 1975). It has been tacitly assumed by the Bench that an attorney called as an expert witness was doing the principal attorney a "favor" and should not be compensated for an hour of two of his time. The *Murphy* decision has placed the attorney on an equal footing with all experts.

Although the decision was rendered in a Dissolution of Marriage proceeding, it applies to any matter in which the Court must make a factual determination as to the amount of reasonable attorney's fees. The decision will have several important effects.

First, the obvious benefit will be that attorneys will be compensated for their expert testimony.

Second, in many cases where attorneys acting as experts have been charging for their time and expertise now, the losing party instead of the prevailing party will pay these costs as it does with all other taxable costs.

Third, in many matters it will encourage all sides either to agree to a fair attorney's fee by stipulation or to at least agree to a determination of the amount of attorney's fee to be made by affidavit. This will free at least three attorneys for more productive matters as well as saving Judicial time.

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## WELCOME NEW MEMBERS

ACE J. BLACKBURN, JR., a native of Peoria, Illinois, received his undergraduate degree from Brown University and his law degree from University of Miami. He is associated with McCune, Hiassen, Crum, Ferris & Gardner in Ft. Lauderdale.

★ ★ ★ ★ ★

ROBERT BRODY, a native of Brooklyn, New York, received his undergraduate and law degrees from University of San Francisco. He is associated with Ruden, Barnett, McClosky, Schuster & Russell in Ft. Lauderdale.

★ ★ ★ ★ ★

RICK J. BURGESS, a native of Perth Amboy, New Jersey, received his undergraduate degree from Rollins College and his law degree from University of Miami. He is associated with McCune, Hiaasen, Crum, Ferris & Gardner in Ft. Lauderdale.

★ ★ ★ ★ ★

THOMAS EDWARD BUSER, a native of Coral Gables, FL, received his undergraduate degree from University of Florida and his law degree from South Texas College of Law. He is associated with Krupnick and Campbell in Ft. Lauderdale.

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## CALENDAR OF EVENTS

Date	Group	Event	Time & Place	Reservation
4/8/83 & 5/13/83	Broward County Christian Lawyers Assn.	Monthly Meeting	Cafe de Geneve 1519 S. Andrews Avenue Ft. Lauderdale — 12:00 Noon — \$5.75	W. Lawrence Larche 764-7777
4/12/83	North Broward Bar Assn.	Monthly Meeting	Flaming Pit Restaurant 1150 N. Federal Highway Pompano Beach — 12:00 Noon —	John Hume 771-9864
4/12/83	Broward County Criminal Defense Attorneys Assn.	Dinner Meeting with speaker — Irving Younger	Holiday Inn (formerly Sunrise Inn) Sunrise Blvd. & A1A 999 N. Atlantic Blvd. Ft. Lauderdale Cocktails: 6:30 P.M. Dinner: 7:15 P.M.	Nina Jacobsohn 764-2008 Members: \$20 Non-Members: \$25
4/20/83	Broward County Women Lawyers Assn.	Program on Voir Dire	Broward County Courthouse Room 353 Ft. Lauderdale — 6:30 P.M. — \$5.00	Teresa Widmer 765-4853, or Sharon Miller 463-3765
4/20-24/ 84	South Broward Bar Assn.	"TRAVEL AND TAXES" Seminar	Montego Bay, Jamaica	Hollywood Travel 445-8542
4/28/83	Young Lawyers Section	Luncheon Meeting	Cafe de Paris 715 E. Las Olas Blvd. Ft. Lauderdale — 12:00 Noon — \$7.00	Elsie 462-1431
4/28/83	Corporation, Banking and Business Law Section	Meeting — Topic: Secured Transaction	Tower Club One Financial Plaza Ft. Lauderdale — 5:30 P.M. — (Wine & Cheese will be served)	BCBA 764-8040

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