

The **BROWARD BARRISTER**

PUBLISHED BY THE BROWARD COUNTY BAR ASSOCIATION
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OCTOBER 1985

Volume 14

Number 10

NO GENERAL MEETING IN OCTOBER

Notice of Judicial Vacancy

To All Concerned:

You are hereby notified of the existence of two vacancies on the Circuit Court of the 17th Judicial Circuit, said vacancies to occur on January 1, 1986.

The Governor of the State of Florida has directed that nominations be made by the 17th Judicial Circuit Nominating Commission to fill these vacancies at the earliest practicable time. All qualified persons who are interested in applying to fill these vacancies may do so by obtaining the necessary application forms from the office of the Broward County Court Administrator and by returning the completed application to that office no later than 5 o'clock P.M. on October 15, 1985. In order to be considered, an applicant must have been a member of The Florida Bar for the five years preceding January 1, 1986, in good standing.

Fourth D.C.A. Opening

When Governor Graham makes the appointment to the Supreme Court, a vacancy will exist on the Fourth D.C.A., as all three names sent to the Governor are Judges on the Fourth D.C.A.

This is to alert you to the future opening. The Bench and Bar are urged to encourage qualified attorneys and judges to obtain applications and file them.

Proposed Tax Reform Workshop

On Monday, October 21, 1985, the Broward County Bar Association in conjunction with the Fort Lauderdale-Broward County Chamber of Commerce and the Broward County Chapter of F.I.C.P.A.'s will sponsor a workshop on President Reagan's proposed tax reform legislation.

The purpose of the workshop is to inform the local Bar, accountants and business community of the local impact the legislation might have if passed. Congressman E. Clay Shaw, Jr. (R-Fort Lauderdale) will address the workshop and be on hand to receive feedback from participants. In addition to Congressman Shaw, Congressman Frenzel (R-Minnesota) of the Treasury, Ways and Means Committee, is scheduled to speak during lunch as the keynote speaker.

The workshop will focus on four primary areas: Real Estate, Banking and Finance, Manufacturing, and Buying and Selling a Business.

Four members of the Broward County Bar Association have agreed to address the workshop, along with four knowledgeable C.P.A.'s. The attorney speakers are: Hugh G. Isley, Jr., Louis J. Dereuil, Nick Jovanovich and Ronald T. Martin.

You will be receiving a mailout with more information from the Chamber of Commerce.

Summary

<i>What</i>	Proposed Tax Reform Workshop
<i>When</i>	Monday, October 21, 1985
<i>Where</i>	Marriott Hotel 1881 S.E. 17th Street Fort Lauderdale, Florida
<i>Cost</i>	\$35.00 (includes lunch)
<i>Time</i>	8:00 A.M. to 1:30 P.M.

Reservations are limited to the first 220 people. Invitations will be mailed to all Broward County Bar Association members, all members of the F.I.C.P.A.'s and the general mailing list of the Chamber. This should be an important and interesting workshop. Mail in your reservations

early. For additional information, contact Kurt Volker at the Chamber of Commerce, 462-6000.

C. Glenn Leonard

"Litigation Crisis"

The medical and legal professions have been rocked with one crisis after another over the past eleven years. However, no "crisis" is more real than the one right here in Broward County that is unique to us. Lawyers and doctors who are involved in litigation are drawing battle lines concerning depositions, court testimony and fees.

The doctors allege that they are not being paid by the attorneys; they are wasting their valuable time going to unnecessary depositions, and, more importantly, attending trial which is very time consuming when depositions could be used in lieu of trial. The lawyers, on the other hand, feel that doctors are charging exorbitant fees, are requiring money to be paid in advance, and are refusing to go to court. Both sides have valid complaints and both sides have misused the system.

Litigation is a legal, not a medical, system. Doctors who are involved in injury cases must be prepared to give a deposition and attend trial. They certainly have a right not to accept litigation cases but they do not have a right to ignore a subpoena either for a deposition or to attend trial. More importantly, they do not have a right to set their fees unreasonably. The rules are clear that either a doctor or lawyer may request the court to set a professional fee and the court will do so. Courts, more often than not, set fees which are less than even the lawyers are normally willing to pay. What is the solution? Lawyers and doctors must communicate with each other prior to depositions and prior to trial to discuss and agree upon reasonable fees, locations of depositions and times for court testimony. Both sides must realize that the patient/client deserves ethical treatment

(Continued on Page 4)

Motion Calendars Suspended

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733 N.E. Third Avenue
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764-8040

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Norma B. Howard
Executive Director

<i>Judge</i>	<i>From</i>	<i>Through</i>
Robert C. Scott	September 16	October 7
J. Cail Lee	September 23	October 4
Eugene S. Garrett	September 29	October 10
W. Herbert Moriarty	September 29	October 3
Robert C. Abel, Jr.	September 30	October 4
Barbara Bridge	September 30	October 4
Patricia W. Cocalis	September 30	October 3
John G. Ferris	September 30	October 3
Gene Fischer	September 30	October 3
M. Daniel Futch	September 30	October 3
Bobby W. Gunther	September 30	October 3
Estella M. Moriarty	September 30	October 2
Mark E. Polen	September 30	October 3
H. Mark Purdy	September 30	October 4
Linda L. Vitale	September 30	October 2
Stephen R. Booher	October 7 only	
Robert C. Abel, Jr.	October 14	October 21
Barbara Bridge	October 14	November 12
Paul M. Marko	October 14	October 18
H. Mark Purdy	December 16	December 31

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Designation of Judicial Officers For Weekend First Appearance Proceedings

<i>Date</i>	<i>Judge</i>
October 5, 6	John G. Ferris
October 12, 13	Gene Fischer
October 19, 20	J. Leonard Fleet
October 26, 27	Harvey Ford
November 2, 3	Arthur J. Franza

Schedule of Circuit Court Civil Division and Criminal Division Duty Judges

The following assignments are for Circuit Court Civil Division Duty Judge:

<i>Week Commencing</i>	<i>Judge</i>
October 4	Mark E. Polen
October 11	Gene Fischer
October 18	Bobby W. Gunther
October 25	W. Herbert Moriarty
November 1	Paul M. Marko, III

The following assignments are for Circuit Court Criminal Division Duty Judge:

<i>Week Commencing</i>	<i>Judge</i>
October 4	Mark A. Speiser
October 11	Robert W. Tyson, Jr.
October 18	Stanton S. Kaplan
October 25	George A. Shahood
November 1	Russell E. Seay

Florida Designation/Plan Course Approval

The Probate and Trust Law Section Seminar held on April 26, 1985, has received the following credits:

YOU

YOUNG LAWYERS SECTION LUNCHEON MEETING
Thursday, October 17, 1985 at 12:00 Noon

RIVERSIDE HOTEL
620 East Las Olas Boulevard
Fort Lauderdale, Florida

GUEST SPEAKER: JOSEPH REITER
PRESIDENT-ELECT OF THE FLORIDA BAR

Please send card and check in the amount of \$9.00 payable to YOUNG LAWYERS SECTION to Gerald M. Morris, P.O. Drawer 4078, Fort Lauderdale, Florida 33338 for:

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(Name)

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Bench-Bar Workshop Registration Form

November 22, 1985

1:00 P.M.-5:00 P.M.—Workshop

5:00 P.M.-6:00 P.M.—Cocktail Reception

Fort Lauderdale Beach Hilton

4060 Galt Ocean Mile Fort Lauderdale, Florida

Registration Fee \$25.00

The Bench-Bar Workshop of Broward County Bar Association has been scheduled for November 22, 1985, and will be in the format of a half day program. All local attorneys, trial and appellate judges are invited to participate.

Workshop sessions have been planned for certain areas of practice as shown on this notice. Each workshop group will have a discussion leader, and written reports will be presented at the conclusion of the discussion. These reports will be given to the Courts Committee. The Committee will evaluate the recommendations and the final results will be published in the *Broward Barrister*.

If you have suggestions for topics to be discussed, please call the discussion leader, James O. "Russ" Murphy, Jr., or Norma Howard.

James O. "Russ" Murphy, Jr., is Chairman of the Workshop.

Discussion leaders are as follows:

1. *James Fox Miller* Domestic Relations
2. *Donald H. Norman* Probate & Guardianship
3. *Terrence Russell* Civil Division
4. *Harry Gulkin* Criminal Division
5. *Harry G. Carratt* Appellate Division

Bench-Bar Workshop Registration Form

Name _____ Phone _____

Address _____

Please indicate the discussion group in which you wish to participate:

_____ Domestic Relations _____ Criminal
_____ Probate & Guardianship _____ Appellate
_____ Civil

Registration Fee \$25.00

Deadline November 18, 1985

Make checks payable to **Broward County Bar Association** and mail to: Broward County Bar Association, 735 N.E. Third Avenue, Fort Lauderdale, Florida 33304.

* * * * *
*
*
* MIAMI DOLPHINS -vs- *
*
* N.Y. JETS *
*
* CHARTER BUS TRIP *
*
* * * * *

PRICE: \$33.50

DATE: SUNDAY, NOVEMBER 10, 1985
GAME TIME: 4:00 P.M.
PICK-UP TIME: 2:00 P.M.
PICK-UP POINT: CITY PARKING GARAGE
DOWNTOWN FORT LAUDERDALE
RESERVATION
DEADLINE: OCTOBER 20, 1985

The Young Lawyers Section is sponsoring a charter bus trip to the DOLPHINS/JETS game on November 10, 1985, at 4:00 P.M. Seventy block tickets on the sidelines have been reserved.

A charter bus (with facilities) will pick up game goers at 2:00 P.M. at the west side of the City Parking Garage in downtown Fort Lauderdale (at S.E. First Avenue and S.E. Second Street) and deliver them to the stadium. During the trip, fried chicken, beer and cold drinks will be served. The cost per person includes the trip, a game ticket, food and refreshments.

You are urged to reserve your tickets early since only seventy are available.

Make your checks payable to "YOUNG LAWYERS SECTION, BROWARD COUNTY BAR ASSOCIATION." Checks should be mailed with the reservation below to:

Melanie G. May
Bunnell, Denman & Woulfe, P.A.
1080 S.E. Third Avenue
Fort Lauderdale, FL 33335
(305) 761-8600

Young Lawyers Section President's Message

As many of you know, the Appellate Court Restructure Commission held hearings in Fort Lauderdale on Friday, September 20, 1985. Melanie May was designated to appear on behalf of the Young Lawyers Section and present to the Commission the following resolution which was unanimously adopted by the Executive Committee:

Resolution Supporting Creation of a Sixth District Court of Appeal in Broward County

WHEREAS, the Young Lawyers Section of the Broward County Bar Association, which is comprised of approximately 800 members of the Broward County Bar, and

WHEREAS, the Young Lawyers Section is interested in promoting the efficient administration of justice for the citizens of Broward County, and

WHEREAS, approximately 60 percent of all appellate cases now handled by the Fourth District Court of Appeal involve litigation arising in Broward County, and

WHEREAS, the Fourth District Court of Appeal is overburdened with an excessive case load,

NOW THEREFORE, BE IT RESOLVED, that the Executive Committee of the Young Lawyers Section of the Broward County Bar Association unanimously endorses the creation of a new district court of appeal to be headquartered in Broward County to serve the needs of its citizens.

If any of you have any thoughts or comments about the creation of a new Sixth District Court of Appeal in Broward County and were unable to testify at or attend any of the public hearings, you should direct your comments to Terry Russell, who is a member of the Commission, at 764-6660.

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Enclosed in this month's *Barrister* is information about the Dolphin-Jet football game on Sunday, November 10, 1985. If you plan to attend, you should fill out and return the form immediately since we have only limited space and tickets will go fast for this popular event.

The high school education project, which has in the past been highly successful under the guidance of Jerry Morris, is now in the able hands of Rob Plafsky. He and Glen Goldstein of Ruden, Barnett, McClosky, Schuster & Russell will be coordinating the project this year. If you are interested in participating or assisting them in running the program, please give Rob or Glen a call at 764-6660.

If you have an article, announcement or other information which you wish to appear in the *Barrister*, you should submit it to Terry O'Connor, our Young Lawyers Section Editor, for his review and submission to the *Barrister*. In order to allow him time to review, revise and submit the material to the *Barrister* for publication prior to the deadline of the 20th of each month, kindly submit your proposed publications to Terry on or before the 15th of the month.

Finally, on behalf of the Young Lawyers Section I want to wish Norma Howard a speedy recovery from her recent surgery. We hope that she is on her feet, fully recuperated and back to the Bar headquarters soon.

D. David Keller

Young Lawyers Section High School Education Project

The Young Lawyers Section of the Broward County Bar Association will be sponsoring a High School Education Project for the 1985-86 school year. Through this program, arrangements are made with local high schools to have attorneys speak in classes on various areas of the law or participate in mock trial programs.

If you would be available to participate, please so indicate by filling out and returning this form, designating your areas of preference. Also, if you would like to participate in a mock trial (2-3 hours—mock trial kits available), make that designation.

Those who have been involved in the program in the past have found it to be enjoyable and worthwhile. Please let me hear from you.

Robert A. Plafsky 764-6660

Name _____

Firm and Address _____

Phone Number _____

Preferred topics to discuss:

Criminal Law _____ Family Law _____

Business Law _____ Trial Practice _____

Real Estate Law _____ Appellate Practice _____

Other (Please specify) _____

Available to participate in mock trial? Yes _____ No _____

Please mail completed form to:

Robert A. Plafsky, Esquire

Ruden, Barnett, McClosky, Schuster & Russell, P.A.
Post Office Box 1900, Fort Lauderdale, Florida 33302

"Litigation Crisis"

(Continued from Page 1)

by both his doctor and lawyer. We have a duty to this patient/client and fighting between ourselves only hurts that patient/client.

The Federal Trade Commission has stopped our Broward County Medical-Legal Committee from setting reasonable fee guidelines. The committee published a book after much arduous work for the sole purpose of assisting the medical-legal community to communicate and work out these problems. Unfortunately, problems have become worse.

There are certain facts which each side must accept. First, doctors are subject to a subpoena and must appear at a deposition at any designated place at any time. A subpoena is subject only to appropriate notice and this usually means four to five days advance notice. Doctors may be subpoenaed to trial also with appropriate notice but with no regard to the doctor's time problems subject only to legitimate emergency situations. Lawyers are personally obliged to pay a reasonable fee for depositions and for court time. Without prior agreement, a judge will set the fees. Lawyers do not want "unwilling witnesses" nor do doctors wish to be deposed out of their office at inconvenient times nor dragged to trial and allowed to sit in hallways waiting to be called. Lawyers also do not want pseudo emergencies to disrupt the schedule at the last minute. Communication is the way to a solution. However, doctors charging \$500 an hour and lawyers refusing to pay a reasonable fee of \$200 an hour will not solve the problem.

It is urged that lawyers and doctors personally discuss deposition and trial fees and times if their secretaries cannot reach an understanding. More importantly, this committee can be called to assist if both sides feel that the other is

not being reasonable but the final solution depends upon an ethical and reasonable approach to the medical and legal requirements of litigation. Fortunately or unfortunately, the legal system can dictate the times and places and fees but the lawyers prefer to continue handling litigation for the convenience of the doctors based upon reasonable fees and upon prior agreements and understandings. Please promote better communications and act with the highest code of ethics consistent with both professions. It is acknowledged that an uncooperative doctor may have emergencies or problems which would greatly inconvenience the lawyers and courts. It is hoped that through a real effort at improved communications in the spirit of cooperation the system can be made to function more smoothly for all parties concerned to the benefit of everyone including the patient/client.

Michael G. Widoff
Donald Comiter, M.D.
Members of the
Medical-Legal Committee

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Arbitration Garners Good Report

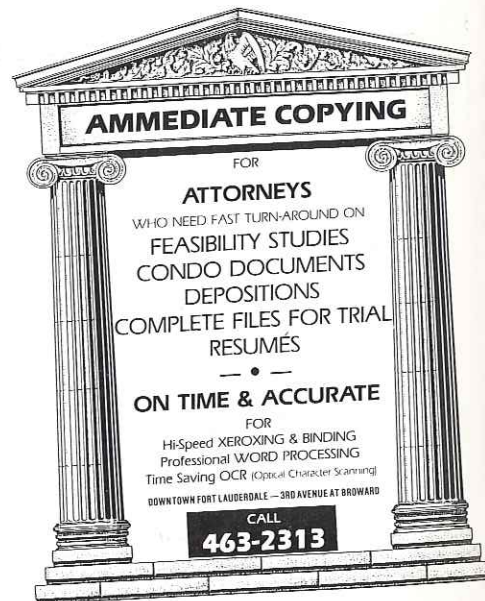
A recent study conducted by the Clerk's Office of the U.S. District Court for the Middle District of Florida revealed that the recently implemented Court Annexed Arbitration Program is performing quite well. The Middle District's arbitration program is the fourth of its kind in the federal system, and the first Federal Court sponsored arbitration program within the state.

The study concluded that 26% of the cases referred to the arbitration program were terminated within the first six months of the program as compared to a 30% termination rate for "control cases." In the future, the Court expects markedly higher termination rates for arbitration cases. This expectation is based upon a similar study conducted by the Federal Judicial Center in Washington, D.C. That study compared the termination rates for other federal court arbitration programs and concluded that substantially higher termination rates can be expected beyond the first six months of the program.

In addition to the program's early success in achieving comparable termination rates, the study also discovered that arbitration is having a profound effect upon the manner in which cases are terminated. The most striking evidence of the changing patterns was found in a 35% increase in voluntary case settlements prior to the actual arbitration hearing.

Another indicator of the success of the arbitration hearing process has been the striking similarity between "arbitration awards" and subsequent final judgments

(Continued on Page 5)



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Arbitration

(Continued from Page 4)

of the court following a trial *de novo* demand by the party not prevailing at the arbitration hearing.

Recently a case which was heard by an arbitration panel only two months after the complaint was filed was subsequently decided by summary judgment seven months after the actual hearing. In that case, the losing party at the arbitration hearing had demanded a trial *de novo*, and under the Middle District's procedures the actual award was sealed to prevent disclosure of the arbitration award. It was significant to note that the judge's final judgment was identical to the sealed arbitration award. Such similarity between trial and arbitration awards will give added credence and acceptability to the program.

According to Mrs. Carolyn Weber, the Jacksonville Division Arbitration Coordinator, there are other benefits associated with the program, including an increasing awareness and acceptance of the program by the practicing attorneys, many of whom voluntarily serve as arbitrators.

Based upon the preliminary results of the study, the Court has determined that the arbitration program has initially achieved the goals established by the Court, namely to achieve the prompt and equitable disposition of cases while retaining the high quality of justice associated with more traditional methods of dispute settlement.

**GINA M.
HARRIS, Ph.D.**

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Broward County Bar Association Criminal Law Section Seminar

Friday, October 18, 1985
8:30 A.M.-1:00 P.M.

City Commission Room
Fort Lauderdale City Hall
100 North Andrews Avenue, Fort Lauderdale, Florida

PROGRAM

8:30 A.M.-9:00 A.M. Late Registration

TOPICS

1. *Opening Remarks* *Judge Barry J. Stone*
Administrative Judge, Criminal Division, Seventeenth Judicial Circuit
2. Recommendations of the Sentencing Guidelines Commission—
Case Law Update *Leonard Holton*
Executive Director, Sentencing Guidelines Commission
3. Departures from Sentencing Guidelines *William Dimitrouleas*
Assistant State Attorney, Broward State Attorney's Office
4. Perfecting Record on Appeal—Re: Sentencing *Mark Wolensky*
Assistant State Attorney, Fifteenth Judicial Circuit
(Palm Beach State Attorney's Office)
5. Discussion

REGISTRATION FEE

Member of Broward County Bar Association	\$30.00
Member of Criminal Law Section	\$20.00
Law Students	\$20.00
Non-Members of Broward County Bar Association . . .	\$40.00

Registration Form

Please register me for the Criminal Law Section Seminar on October 18, 1985.
My check for \$_____ is enclosed.

Name _____

Address _____

Phone Number: _____

Please make checks payable to **Broward County Bar Association** and mail check and form to:

Broward County Bar Association
735 N.E. Third Avenue
Fort Lauderdale, Florida 33304

New Members

(Continued from Page 7)

CHARLES M. HARTZ, a native of Jacksonville, Florida, received his undergraduate degree from Stetson University and his law degree from Cumberland Law School. He is associated with George Hartz & Lundsden in Fort Lauderdale.

CYNTHIA L. JOHNSON, a native of Dayton, Ohio, received her undergraduate and law degrees from University of Florida. She is associated with Conrad, Scherer & James in Fort Lauderdale.

KATHLEEN MARY MOLCHAN, a native of Brooklyn, New York, received her undergraduate and law degrees from University of Florida. She is associated with Walden & Molchan in Dania.

GLORIA POMERANTZ, a native of Washington, D.C., received her undergraduate and law degrees from Nova University.

VIRGIL R. RIZZO, M.D., a native of Pittsburgh, Pennsylvania, received his undergraduate degree from University of Pittsburgh, University of Basel, Switzerland (Doctor of Medicine), and his law

degree from Nova University. He is associated with Krupnick and Campbell in Fort Lauderdale.

MARY ANNE ROBERTSON, a native of Richmond, Virginia, received her undergraduate degree from Aquinas Institute and her law degree from Nova University. She is associated with Broward County Consumer Affairs Division in Fort Lauderdale.

RHONDA L. ROGERS, a native of Toronto, Ontario, Canada, received her undergraduate degree from University of

(Continued on Page 10)



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CALENDAR OF EVENTS

Date	Group & Event	Time & Place	Reservations
10/8/85	North Broward Bar Assn. Monthly Meeting	Flaming Pit Restaurant, 1150 N. Federal Hwy., Pompano Beach, 12:00 Noon	John L. Korthals 943-2020
10/10/85	Broward County Women Lawyers Assn. Auction	Residence of Ray and Raquel Ferrero 1320 Ponce de Leon Dr., Ft. Lauderdale Cash Bar 6:30 P.M., Dinner 7:30 P.M., \$25.00	Susan Tillman, Esq. 474-9151
10/11/85	Broward Christian Lawyers Assn. Monthly Meeting	Holiday Inn, State Road 84 just west of I-95 Ft. Lauderdale, 12:00 Noon	Ronald Houchins 752-8100
10/17/85	Young Lawyers Section Luncheon Meeting	Riverside Hotel, 620 E. Las Olas Blvd. Ft. Lauderdale, 12:00 Noon	Gerald M. Morris 525-0531
10/18/85	Criminal Law Section of BCBA	Ft. Lauderdale City Hall, City Commission Room, 100 N. Andrews Ave., Ft. Lauderdale 9:00 A.M.-1:00 P.M.	BCBA 764-8040
10/21/85	Proposed Tax Reform Workshop Sponsored by BCBA, Broward County Chapter F.I.C.P.A's & Chamber of Commerce	Marriott Hotel, 1881 S.E. 17th St. Ft. Lauderdale, 8:00 A.M.-1:30 P.M. \$35.00, including lunch	Kurt Volker, Chamber of Commerce 462-6000
11/10/85	Young Lawyers Section Dolphin-Jet Football Game	Orange Bowl Stadium, Miami (See attached flyer)	Melanie G. May 761-8600
11/14/85	Broward County Women Lawyers Assn. Fashion Show & Champagne Reception with Hors d'oeuvres	Saks Fifth Avenue, Galleria, 2598 E. Sunrise Blvd., Ft. Lauderdale, 6:00 P.M., \$5.00	Karen Kugell or Susan 748-0100
11/22/85	Bench-Bar Workshop	Hilton Hotel, Ft. Lauderdale Beach 4060 Galt Ocean Dr., Ft. Lauderdale Workshop 1:00-5:00 P.M. Cocktail Reception 5:00-6:00 P.M.	BCBA 764-8040

New Members

(Continued from Page 9)

South Florida and her law degree from Nova University. She is associated with Robert C. Stone in Fort Lauderdale.

LESLIE SHARMAN, a native of New York City, New York, received her undergraduate degree from State University of New York and her law degree from Stetson University. She is associated with Goldberg, Young & Borkson in Fort Lauderdale.

VALERIE SHEA, a native of Philadelphia, Pennsylvania, received her undergraduate degree from Florida Atlantic University and her law degree from Nova University. She is associated with Conrad, Scherer & James in Fort Lauderdale.

MANNY SINGH, a native of Ranchi Bihar, India, received his undergraduate degree from Florida Atlantic University and his law degree from Nova University. He is a sole practitioner in Fort Lauderdale.

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