THE BROYARD BAIRISTER

PUBLISHED BY THE BROWARD COUNTY BAR ASSOCIATION
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MARCH 1986

Volume 15

Number 3

Law Day Luncheon

May 1, 1986

Riverside Hotel

620 East Las Olas Boulevard / Fort Lauderdale, Florida
12:00 Noon Price \$10.50/Person

The Law Day program will include presentation of the Liberty Bell Award, Young Lawyers Section Law Day Essay Contest Awards and remarks by a featured speaker to be announced.

Seating will be limited so mark your calendars and make your reservations early. Reservation cards will be in the April Barrister, but phone reservations may be made at any time to Broward County Bar Association (764-8040).

Liberty Bell Award Nominations

Members of the Broward County Bar Association are invited to submit nominations for the Liberty Bell Awards to be given on Law Day U.S.A., May 1, 1986, by submitting the names of eligible candidates to Mrs. Norma Howard at the Broward County Bar Association Executive Offices on or before April 15, 1986.

The Liberty Bell Awards are given in order to accord public recognition to laymen for outstanding community service activities which:

- 1. promote a better understanding of our form of government, and especially the Bill of Rights;
- 2. encourage greater respect for law and the courts;
- 3. stimulate a deeper sense of individual responsibility to the end that citizens recognize their duties as well as their rights;
- 4. contribute to the effective functioning of our institutions of government; and
- 5. inculcate a better understanding and appreciation of the rule of law.

Any individual who has rendered outstanding service to his or her community in any of the areas mentioned may be considered by the nominating committee. All fields of endeavor are intended for inclusion, namely: (a) education, (b)

business, (c) sciences, (d) communications, (e) labor, (f) government, (g) religion, (h) professions, and (i) youth organizations. Lawyers, judges and elected officials are not eligible.

The Liberty Bell Awards are sponsored by the Broward County Bar Association

Law Professor Seeks Legal Humor

Do you know of any humorous legal opinions, anecdotes, jokes or miscellany? Contributions used will be acknowledged in a forthcoming book. Please send to: Professor David E. Aaronson, American University Law School, 4400 Massachusetts Avenue, N.W., Washington, D.C. 20016.

2nd Annual

Basketball Game Miami Dolphins vs.

Broward County Bar Association

The Second Annual Law Day Basketball Game between the Miami Dolphins and the Broward County Bar is scheduled for April 30, 1986, at 7:30 P.M. in the Cardinal Gibbons High School Gymnasium. All Broward County Bar Association members interested in playing on the team should contact Jim Camp at 462-1431.

Tickets are \$5.00 each and will be available at the Broward County Bar office. Please call 764-8040 to place your order.

Broward County Bar Association Elections

The report of the Nominating Committee was published in the February Barrister. March 15, 1986, is the deadline for filing a petition for an office and the Executive Committee. A petition requires the signatures of six members in good standing of Broward County Bar Association.

It is anticipated that ballots will be mailed on March 21, 1986. Your vote is important. You can help in the selection of the leadership of your bar association.

Please follow the instructions on the ballot. This is very important as each year several ballots are invalidated because of failure to comply with the rules.

Lawyer Referral Service

Attorneys who handle Labor/ Employment problems are desperately needed by the Lawyer Referral Service. Anyone who would be willing to participate in the program can call Broward County Bar Association at 764-8040 for information on the program. Broward County Bar Association 733 N.E. Third Avenue Fort Lauderdale, Florida 33304 764-8040

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Motion Calendars Suspended

Judge	From	Through
John T. Luzzo	March 10	March 14
Joseph E. Price, Jr.	March 10	March 13
Joseph E. Price, Jr.	March 20 only	
Estella M. Moriarty	March 21 only (1	Domestic)
M. Daniel Futch, Jr.	March 24	March 31
Mark E. Polen	March 27 only	
George W. Tedder, Jr.	May 5	May 8

Designation of Judicial Officers For Weekend First Appearance Proceedings

Date	Judge
March 1, 2	Robert B. Carney, III
March 8, 9	. Paul M. Marko, III
March 15, 16	W. Herbert Moriarty
March 22, 23	. Estella M. Moriarty
March 29, 30	Susan Lebow

Schedule of Circuit Court Civil Division and Criminal Division Duty Judges

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

Week Commencing	Judge
March 7	J. Cail Lee
March 14	Mark E. Polen
March 21	Gene Fischer
March 28	. Frank A. Orlando
April 4	W. Herbert Moriarty

The following assignments are for Circuit Court Criminal Division Duty Judge: Week Commencing March 7 Patti Englander Henning March 14 Harry G. Hinckley, Jr. March 21 Arthur J. Franza March 28 Mark A. Speiser April 4 Robert W. Tyson, Jr.

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Broward County Bar Association Name Change

In the February Barrister a notice was given regarding a suggested change of the name of the Association. The suggestion was made because much of the general public is under the impression that Broward County Bar Association is part of the county system and the office is supported by tax funds. Many people do not realize that attorneys pay for and provide the services rendered by the Association. It is hoped that a change will help clarify this situation. Your comments and suggestions are appreciated and will be considered.

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Young Lawyers Section President's Message

Once again, congratulations are in order to the Social Committee for the outstanding job they did on the Judicial Reception. We would like to thank Melanie May, Chairman, and Christine Lee, Robert Martin, Martin Alexander, Michael Greene, Paul May, Karen Kantner, James Sawran, Robbin Newman and Robert Berube for their time and efforts in connection with this worthwhile project. We also wish to extend our sincere thanks to the judges whose participation is gratifying and insures the success of this event each year.

Plans are now underway for our annual Anatomy of a Trial Seminar, which will be held April 25 from 8:30 to 12:30 in the County Commission Chambers at the new county governmental center. We encourage all of you who have not attended in the past to do so and to let other young lawyers in the county know about this valuable educational opportunity.

For Law Day, Jerry Morris is again coordinating our high school essay contest. Winners will be recognized at the BCBA Law Day Luncheon.

Our annual elections will be held at the April meeting, which is scheduled for Thursday, April 17, 1986. Anyone interested in running for President-Elect, Secretary-Treasurer or Executive Committee positions should make sure to attend the meeting. Nominations will be accepted from the floor and all members present are eligible to vote.

D. David Keller

Young Lawyers Section Bylaw Revisions

The Executive Committee has under consideration a number of revisions to the Bylaws. A summary of the Bylaws and comments will be published next month. The adoption of the Bylaws as revised will be one of the items on the agenda at the election meeting on Thursday, April 17, 1986.

Young Lawyers Section Barrister's Night at Gold's Gym

The Young Lawyers Section will be hosting a Barrister's Night at Gold's Gym on March 27, 1986, at 7:00 P.M. The gym is located at 417 South Andrews Avenue, Fort Lauderdale. The night will include a free aerobics class instructed by Lou Anderson, Esquire. Those of you who wish to venture through the weight room will also be provided with free admission and use of the weights. Immediately following the aerobics class, refreshments will be served. If you're interested in attending, please call Melanie May at 761-8600 on or before March 15.

Young Lawyers Section Judicial Reception

February 6, 1986, was not just another ordinary Thursday. It marked another success story for the Third Annual Broward County Young Lawyers Section Judicial Reception. What made the reception such a success? It's hard to find a starting place.

The reception was held in honor of all state and federal judges serving Broward County. Fortunately, most of the judges were honored in person as the attendance level approached the invitation list. Over fifty judges were in attendance. Special recognition was given to judges with fifteen years or more of service. Broward County can proudly boast of the fine service of the following judges:

Morton L. Abrams Clyde Atkins Stephen R. Booher William J. Campbell James C. Downey David Dyer Joe Eaton Otis Farrington Peter T. Fay John G. Ferris Arthur J. Franza Charles B. Fulton M. Daniel Futch, Jr. Jose A. Gonzalez, Jr. Raymond J. Hare William Clayton Johnson Stanton S. Kaplan James Lawrence King J. Cail Lee Paul M. Marko, III John A. Miller W. Herbert Moriarty Frank A. Orlando James M. Reasbeck Russell E. Seay, Jr. George W. Tedder, Jr. Robert W. Tyson, Jr. James H. Walden Lamar Warren Sidney M. Weaver Louis Weissing

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The Harbor Beach Marriott served as the location for the gala event. A lavish spread of hors d'oeuvres was served, ranging from sauteed shrimp scampi to steak tartare.

The Broward County Young Lawyers Section sponsored and hosted the reception. "But for" the generous contributions of many local firms, it could not have been such a success. Contributors were acknowledged by billboard at the entrance to the reception.

A special "thank you" should also be extended to the committee responsible for the planning and organization. The committee included Christine Lee, Karen Kantner, D. David Keller, Bob Martin, Melanie May, Paul May, Robbin Newman, Jim Sawran, Marty Alexander, Mike Greene and Bob Berube.

If you missed this event, keep your eye on next year's calendar. For those of you who attended, we look forward to seeing you again next year.

Young Lawyers Section Anatomy of a Trial Seminar

The Young Lawyers Section of the Broward County Bar will present its Anatomy of a Trial Seminar on Friday, April 25, 1986, from 8:30 A.M. to 12:30 P.M. The seminar, which will be held at the Broward County Governmental Center, 115 South Andrews Avenue, Room 422, will feature members of the 17th Judicial Circuit and the Fourth District Court of Appeal, speaking on the various aspects of a trial. Refreshments will be served at the seminar. For more information and/or registration, please contact C. Glenn Leonard, 563-2671, or Robert C. Meacham, 463-9550.

Young Lawyers Section Law Day Essay Contest

The Young Lawyers Section is sponsoring its Annual Law Day Essay Contest. The contest is open to all tenth, eleventh and twelfth grade students at any high school in Broward County. The essays are limited to three typewritten pages on the subject of the history and meaning of Law Day as it relates to this year's theme, "Foundations of Freedom."

The essays must have a separate cover sheet identifying the name, address, telephone number, school and grade of the essayist and may be submitted to Gerald M. Morris, Post Office Drawer 4078, Fort Lauderdale, Florida 33338. The deadline for submissions is 5:00 P.M. Tuesday, April 15, 1986.

The winners will be honored at the Law Day Luncheon on May 1, 1986. First prize is \$200, second prize is \$100, third prize is \$50 and the winning essay is published in a local newspaper.

Judge Bobby Gunther Appointed to Fourth District Court of Appeal



Bobby Gunther is a judge with a sense of style! For many people the court has symbolized tall benches, somber jurists and black robes. It is refreshing to find a judge who combines a high level of professionalism without sacrificing personality.

In a community noted for snowbirds and tourists, Judge Gunther's background is indeed unusual. She comes from a family steeped in southern history and is proud to be a "fourth generation Floridian." She grew up in Melbourne, Florida, where her family still resides. An only child, she contributes her entry into the legal profession to her father who encouraged her to find a "wellpaying job." True to being a native Floridian, the judge attended the University of Florida where she received her Bachelor of Arts in 1963 and her Juris Doctorate in 1965.

After eight years of private practice with the law offices of Dick Kirsch, Esquire, Ferrero and Middlebrooks and later DiGiulian and Spellacy, Bobby Gunther was elected to the County Court bench in 1973. During that period of time, she also contributed much to the continuing education of judges by attending and teaching at judicial colleges.

In 1979 she was a faculty advisor to the general session of the National Judicial College in Reno, Nevada. In 1980 she was an instructor at the Florida College for New Judges in Gainesville, Florida. Governor Graham honored her efforts by appointing the judge to the Governor's Task Force on Criminal Justice System Reform in 1981.

Judge Gunther was appointed to the Circuit Court bench in 1981 and the Fourth District Court of Appeal in January 1986 by Governor Graham.

Proposed Change in Rules of Civil Procedure

The following is a proposed Offer of Settlement Rule which has been approved in concept by the Civil Procedure Rules Committee.

It is scheduled to be discussed again on April 4, 1986, at a meeting of the committee. It could be adopted in a redraft form at that time. Anyone who may have any comments or suggestions should write to Robert Gaines, Chairman, 7th Floor, Blount Building, Pensacola, FL 32576-2950.

Offer of Settlement Rule

- (a) Except as provided in subdivision (d), in an action seeking monetary damages, the court shall
- (1) add to the amount of compensatory damages in the award of the arbitrators, in the verdict of a jury, or in the court's decision in a nonjury trial, damages for delay at the statutory rate applicable to interest on judgments, not compounded, which shall become part of the award, verdict or decision;

- (2) compute the damages for delay from the date the plaintiff filed the initial complaint in the action or from a date one year after the accrual of the cause of action, whichever is later, up to the date of the award, verdict or decision.
- (b) The amount of damages for delay shall not be included in determining whether the amount in controversy is within the jurisdiction of the court or arbitration panel.
- (c) Except as provided in subdivision (d), damages for delay shall be added to the award, verdict or decision against all defendants found liable, no matter when joined in the action.
- (d) If a defendant at any time prior to trial makes a written offer of settlement in a specified sum with prompt cash payment to the plaintiff, and continues that offer in effect until commencement of trial, but the offer is not accepted and the plaintiff does not recover by award, verdict or decision, exclusive of damages for delay, more than 125 percent of the offer, the court or the arbitrators shall not award damages for delay for the period after the date the offer was made.
- (e) If an action is pending on the effective date of this rule, or if an action is brought after the effective date on a cause of action which accrued prior to the effective date, damages for delay shall be computed from the date plaintiff files the initial complaint or from a date one year after the accrual of the cause of action, or from a date six (6) months after the effective date of this rule, whichever date is later.
 - (f) This rule shall not apply to
- (1) any claims or actions in which damages for delay or pre-judgment interest are allowable in the absence of this rule.

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Circuit Civil Caseload Report

As of February 19, 1986

Submitted by the Court Administrator's Office

SETTING TIME

DIVISION	JURY TRIALS (5 days or less)	NON-JURY TRIALS (2 days or less)	MOTIONS (30 minutes or less) excluding motion calendar
Circuit Court Judges	months	months	weeks
Paul M. Marko III	4	3	4-5
J. Cail Lee	8	6	6
Gene Fischer	7	1	4
W. Herbert Moriarty	4	3	3
Barbara Bridge	2	2	2
Joseph E. Price, Jr.	8	3	. 3
George Shahood	4	2	3
Eugene S. Garrett	3	2	3
Mel Grossman	6	6	11
Robert C. Abel, Jr.	3	3	10
Estella M. Moriarty	5	2	4
Linda Vitale	2-3	1-2	1-2
John T. Luzzo	7	4	8
Robert L. Andrews	3	3	6
Robert C. Scott	2-3	1	8

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Legislative Committee Report

The following are abstracts of proposed legislation submitted by the members of the Broward County Bar Association, which were presented to the Legislative Delegation at a dinner on January 23, 1986.

Reorganization of County Clerk Position

It is recommended that the County Clerk position be an appointed one, such appointment being made by the Judiciary of each Judicial Circuit. Enabling legislation is necessary to accomplish this result, which shall improve the efficiency of the office and help foster a better opportunity for cooperation between the Judiciary and the Clerk, from which the public shall be better served. Further, qualifications for the position should be codified. Authority for this legislation may be found at Article V, Section 16 of the Florida Constitution and Article VIII, Section 1(d).

Factors in Determining Equitable Distribution

In dissolution of marriage actions, the judiciary would be greatly assisted, as would the Bar, if the factors to be considered by the trial court in determining how the property is divided between the husband and wife were specifically delineated by statute as "factors to be considered in determining equitable distribution."

Waiver of Sovereign Immunity, 768.28, Florida Statutes

The legislature should repeal existing law which places a cap on recoverable damages against a county, municipality, political subdivision, state agency, state and others protected by 768.28, Florida Statutes. As a minimum the Bar proposes an increase in the cap on damages, per claim, to \$250,000 and \$500,000 per each governmental agency.

Reasonable Attorney Fees in Criminal Indigent Cases

925.036, Florida Statutes, should be amended to provide that a court-appointed attorney, representing an insolvent defendant accused of a crime, shall be entitled to a reasonable fee plus costs. Present law limits the amount of attorney fees in misdemeanors to \$1,000, capital cases to \$3,500 and \$2,000 for appeals, for example. Reasonable fees should be determined by the court on a case by case basis, after considering all factors, including the Canons of Professional Responsibility.

Child's and Parents' Rights

39.401, Florida Statutes, should be amended to provide that without a court order, a law enforcement officer, or his agent, may only detain and take a child into custody for reasons delineated by statute, but only after notificiation of the child's parent, next of kin or legal guardian.

Florida Wrongful Death Act

The definition of "person" under 768.19 et seq. Florida Statutes, Florida's Wrongful Death Act, should be expanded. Florida should enact legislation similar to the law of 27 states in the United States which permits a cause of action for wrongful death to be brought on behalf of a "viable stillborn fetus." Further, the age limitation of 25 years of age contained in 768.18(2), Florida Statutes, should be eliminated; and adult children should have a cause for action for the wrongful death of a parent.

Pre-Judgment Interest

Legislation should permit the trial court to award prejudgment interest in tort litigation and permit arbitrators to award prearbitration decision interest in tort claims, such interest beginning at the date of demand.

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Statute of Limitations

95.11, Florida Statutes, should be amended to state that the statute of limitations in all actions shall not begin to run until a **minor** has reached the age of 18 or is otherwise emancipated.

Repeal of Section 697.10, Florida Statutes (1984)

It is recommended that the Florida Legislature repeal 697.10 which provides that a person or entity, preparing a mortgage deed or note, is (strictly) liable for damages for errors in the preparation of same, regardless of whether such person or entity causes the error.

Formation of Fourth DCA Bench/Bar Liaison Committee

In cooperation with the Bar Associations of Broward, Palm Beach, Martin, St. Lucie, Indian River and Okeechobee Counties, the Fourth District Court of Appeal announces the formation of the Fourth District Court of Appeal Bench/ Bar Liaison Committee. Among other functions, the committee will receive and screen complaints and suggestions from lawyers (who need not necessarily be members of the cooperating Bar Associations) concerning their problems with the operation of the Fourth District Court of Appeal. The committee will not process complaints about individual judges but only those relating to problems encountered with the procedural operation of the court. Communications will be handled on a confidential basis, and presented to the judges of the appellate court. Complaints and suggestions should be directed to:

John Beranek Flagler Center, Suite 503 501 South Flagler Drive West Palm Beach, FL 33401 (305) 659-5455

Joseph Kashi 633 South Federal Highway Fort Lauderdale, FL 33301 (305) 462-5500

Janc Kreusler-Walsh Flagler Center, Suite 503 501 South Flagler Drive West Palm Beach, FL 33401 (305) 659-5455

Richard A. Kupfer P.O. Box 3466 West Palm Beach, FL 33402 (305) 684-9000

Welcome New Members

HARRY O. BORETH, a native of Trenton, New Jersey, received his undergraduate and law degrees from University of Pennsylvania. He is a sole practitioner in Fort Lauderdale.

EDITH AUSTER BORUSHOK, a native of New York, New York, received her undergraduate degree from Queens College and her law degree from University of Miami.

REBECCA T. COVEY, a native of South Haven, Michigan, received her undergraduate degree from Western Michigan University and her law degree from Nova Law Center. She is associated with Walton, Lantaff, Schroeder & Carson in Fort Lauderdale.

ROSE-ANN CRISCIONE, a native of Brooklyn, New York, received her undergraduate degree from State University of New York and her law degree from Nova Law Center. She is associated with Krupnick, Campbell, Malone & Roselli in Fort Lauderdale.

ANDREW DECTOR, a native of Newark, New Jersey, received his undergraduate degree from Lafayette College and his law degree from University of Miami. He is associated with Goldberg, Young & Borkson in Fort Lauderdale.

EDWARD R. FINK, a native of New Haven, Connecticut, received his undergraduate degree from University of Connecticut and his law degree from Boston University. He is a sole practitioner in Fort Lauderdale.

C. RICHARD FULMER, JR., a native of Indianapolis, Indiana, received his undergraduate degree from University of Evansville and his law degree from Nova Law Center. He is associated with George, Hartz & Lundeen in Fort Lauderdale.

JEFFREY M. HERMAN, a native of Miami, Florida, received his undergraduate degree from University of Florida (Continued on Page 8)

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CALENDAR OF EVENTS

Date	Group & Event	Time & Place	Reservations
3/14/86	Christian Lawyers Assn. Monthly Meeting	Holiday Inn, State Road 84 (just west of I-95) Ft. Lauderdale, 12:00 Noon	Ronald Houchins 752-8100
3/15/86	North Broward Bar Assn. "An Evening at the Races to Benefit the NBBA Scholarship Fund"	Pompano Park Raceway, 1800 S.W. 3rd St. Pompano Beach. Cocktails 6:30 p.m., Dinner 7:30 P.M. (This event is open to all BCBA members and members of the judiciary and their guests)	Fred C. Bamman, III 782-0500
3/20/86	Young Lawyers Section Lunchcon Meeting	Anacapri Inn and Restaurant 1901 N. Federal Hwy., Ft. Lauderdale 12:00 Noon, \$9.00	Gerald M. Morris 525-0531
3/27/86	South Broward Bar Assn. Monthly Meeting	Hemmingway Restaurant, 219 N. 21st Ave. Hollywood, 6:30 P.M. Guest Speaker Joe Robbie	Marcie 920-7014
4/19/86	CLE courses offered by University of Florida College of Law: (1) "Developments in Business Law" (2) "New Techniques for Legal Negotiating"	Omni International Hotel, 1601 Biscayne Blvd., Miami, 8:30 A.M5:30 P.M. \$100 for each course payable to University of Florida. Registration deadline April 1, 1986 (Specialization designation—6 hours maximum)	W.T. Coram College of Law University of Florida Gainesville, FL 32611 or (904) 392-4973
4/22/86	Federal Bar Assn. Broward County Chapter Bench and Bar Trial Practice Seminar	Marina Bay Resort, 2175 State Road 84, Dock 6, Ft. Lauderdale	Mark the date. Forms will be mailed.

Welcome New Members

(Continued from Page 7)

and his law degree from Nova Law Center. He is associated with Saunders, Curtis, Ginestra & Gore in Fort Lauderdale.

MARTIN I. JAFFE, a native of Brooklyn, New York, received his undergraduate degree from University of Buffalo and his law degree from St. John's University. He is a sole practitioner in Fort Lauderdale.

DOUGLAS D. KONSELMAN, a native of Tampa, Florida, received his undergraduate degree from University of South Florida and his law degree from Loyola University. He is associated with McCune, Hiaasen, Crum, Ferris & Gardner in Fort Lauderdale.

ELAINE P. KRUPNICK, a native of Cleveland, Ohio, received her undergraduate degree from Barry College and her

law degree from Nova Law Center. She is associated with the State Attorney's Office in Fort Lauderadale.

LISA McNELIS, a native of Pittsburgh, Pennsylvania, received her undergraduate degree from University of Notre Dame and her law degree from Nova Law Center. She is associated with Krupnick & Campbell in Fort Lauderdale.

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