

the BROWARD BARRISTER

General Meeting

Thursday, November 20, 1986

Emerald Hills Country Club

4100 North Hills Drive / Hollywood, Florida

Cocktails 6:30 P.M. (Cash Bar)

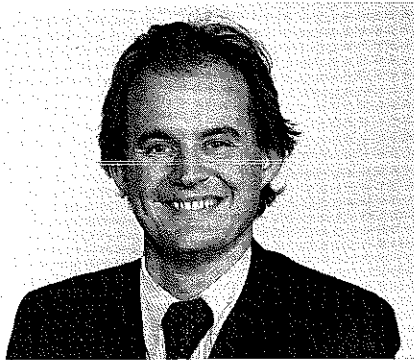
Dinner 7:30 P.M.

\$25.00 per person

Speaker: David Boies

Reservations are necessary. Please use the enclosed card to make reservations. Reservations must be made by November 17, 1986. Reservations made and not cancelled by November 17 must be paid if guarantee is not met and the Bar is charged.

David Boies



David Boies is a partner in the law firm of Cravath, Swaine & Moore in New York. He graduated Magna Cum Laude from Yale Law School in 1966. He served as Chief Counsel and Staff Director of the Senate Antitrust Sub-Committee in 1977-1978 and was Chief Counsel and Staff Director of the Senate Judicial Committee in 1978-1979.

Mr. Boies served as Counsel to CBS in the Westmoreland trial and is currently Chief Counsel for Texaco in the Pennzoil \$12 billion lawsuit.

Law Day

The 1987 Law Day U.S.A. theme is "We the People."

Law Day U.S.A. was established by United States Presidential Proclamation in 1958 and reaffirmed by a Joint Resolution of Congress in 1961. The purpose of Law Day U.S.A., celebrated annually on May 1, is to reserve a "special day of celebration by the American people in appreciation of their liberties and to provide an occasion for rededication to the ideals of equality and justice under laws."

The 1987 theme, "We the People," encourages Law Day programs and events to focus on the Bicentennial of the Constitution of the United States and on the privileges Americans enjoy because of the historical foundation of our system of law, which has liberty and justice for all as its goal.

Appointment of New General Masters

Due to one resignation and one planned maternity leave, there are two vacancies in the office of General Masters for the Circuit Court of the 17th Circuit. The court is seeking applicants for one permanent position and one temporary position.

The permanent position must be filled by December 1, 1986. The temporary position is for 90 days, beginning March 1, 1987.

The beginning salary is \$35,089 per year. The temporary position will be paid on a pro-rata basis.

Application forms are available in Room 880 of the Court Administrator's Office, Broward County Courthouse, 201 S.E. 6th Street, Fort Lauderdale, FL 33301. If you are interested in either position, send your application and resume to: Leroy H. Moe, Circuit Judge (Chairman of the General Masters Section Committee), Broward County Courthouse, Room 930A, Fort Lauderdale, FL 33301.

The cutoff date for receiving applications is Friday, November 7, at 5:00 P.M.

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 733 N.E. Third Avenue
 Fort Lauderdale, Florida 33304
 305/764-8040

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 County Bar Association

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Motion Calendars Suspended

<i>Judge</i>	<i>From</i>	<i>Through</i>
Louis Weissing	October 13	November 6
J. Cail Lee	November 3	November 13
Patricia W. Cocalis	November 10	November 13
Frank A. Orlando	November 10	November 11
Robert L. Andrews	November 11 only	
Robert L. Andrews	November 13 only	
Frank A. Orlando	November 13 only	
Frank A. Orlando	November 17	November 18
Robert L. Andrews	November 24	November 28
Barbara Bridge	November 24	November 28
John T. Luzzo	November 24	November 26
Constance R. Nutaro	November 26 only	
Harry G. Hinckley, Jr.	December 1	December 5
John T. Luzzo	December 1 only	
Robert L. Andrews	December 22	January 2
Barbara Bridge	December 29	January 2
Harry G. Hinckley, Jr.	January 29 only	

**Designation of Judicial
 Officers For Weekend First
 Appearance Proceedings**

<i>Date</i>	<i>Judge</i>
November 1, 2	J. Bart Budetti
November 8, 9	Miette K. Burnstein
November 15, 16	Patricia W. Cocalis
November 22, 23	Thomas M. Coker, Jr.
November 29, 30	Patti Englander Henning
December 6, 7	John G. Ferris

**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>
November 7	Joseph E. Price
November 14	Linda L. Vitale
November 21	Mark E. Polen
November 28	A.J. Musselman, Jr.
December 5	Eugene S. Garrett

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

<i>Week Commencing</i>	<i>Judge</i>
November 7	Leroy H. Moe
November 14	John G. Ferris
November 21	Robert B. Carney
November 28	J. Leonard Fleet
December 5	Patti Englander Henning

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BCBA Past President Appointed to Judicial Nominating Commission

Angeline G. Weir, Esquire, sole practitioner, with offices located at 4600 Sheridan Street, Suite 401, Hollywood, FL 33021, has been appointed by The Florida Bar as a member of the Seventeenth Circuit Nominating Commission for a term of four years, beginning on August 12, 1986, until July 1, 1990.

Attorney Weir fills the vacancy left by Terrence Russell.

Welcome New Members

RANDOLPH W. ADAMS, a native of North Little Rock, Arkansas, received his undergraduate degree from Southwestern University at Memphis and his law degree from Vanderbilt University. He is a sole practitioner in Fort Lauderdale.

* * *

DALE PAUL DiMAGGIO, a native of Encino, California, received his undergraduate and law degrees from the University of Florida. He is associated with Malin, Haley & McHale in Fort Lauderdale.

* * *

STEPHEN J. FINTA, a native of Easton, Pennsylvania, received his undergraduate degree from Temple University and his law degree from Stetson University. He is a sole practitioner in Fort Lauderdale.

* * *

Circuit Civil Caseload Report

As of October 17, 1986

Submitted by the Court Administrator's Office

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

STEPHEN R. GLADSTONE, a native of Boston, Massachusetts, received his undergraduate degree from the University of Miami and his law degree from Cumberland School of Law. He is a sole practitioner in Fort Lauderdale.

* * *

JOSEPH B. LAKOVITCH, a native of Waterbury, Connecticut, received his undergraduate degree from the University of Vermont and his law degree from Nova Law Center. He is associated with Nova University in Fort Lauderdale.

* * *

CINDY SHATKIN, a native of Hollywood, Florida, received her undergraduate and law degrees from the University of Florida. She is associated with Raymond V. Perosino in Fort Lauderdale.

* * *

SALOME J. ZIKAKIS, a native of Wilmington, Delaware, received her undergraduate degree from the University of Delaware and her law degree from the University of Florida. She is associated with Finley, Kumble, Wagner, Heine, Underberg, Manley & Casey in Fort Lauderdale.

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Young Lawyers Section

President's Message

It's the 20th of October, 1986, the 20th being the deadline for articles to be completed and turned in to Bar headquarters to be included in next month's *Barrister*.

By looking through the October issue, which came in today's mail, I'm reminded that my article hasn't been written. Being the humble guy that I am, I first turned to the Young Lawyers Section of the *Barrister* to see how my last article looks in print and am reminded that last month, I missed the deadline and forgot to submit an article. It seems as if each month, as I hurriedly jot down some nonsense to meet the printer's deadline, I say to myself, "Next month I'll start early, work hard and pen an article of great importance, one that will touch and impact the lives of the readers." At one time, I wanted to devote an entire article to the lack of parking around the courthouse, the terrible elevator situation at 8:45 A.M., and the unbelievable waste of time and clients' money at "motion calendar." We attorneys spend too much time waiting at the courthouse—waiting for elevators that open on the first floor full of lawyers and judges who get on the elevators on the second and third floors and have no intention of getting off on the ground floor, but are, instead, on their way up. We wait for opposing counsel to arrive for "motion calendar" for motions they set for 8:45—you're there on time and they arrive at 9:20 and announce they have to go to another judge because their secretary set three motions that morning—that's great!

As long as I'm preaching, I might as well alienate the judges, too. How many times have you and your opposing counsel been in the judge's waiting room at 8:45 to have the judge arrive at 9:05, or even 9:20, and you look around the room and count 18 attorneys waiting for that judge? Shame on you, judge.

Our judicial system is in a mess and we as attorneys and judges need to work harder to try to improve the system. Complaining about it is a start, but we need to do something about it. Judges who are consistently late should be disciplined, have their pay docked, or removed from the bench. Consistently late-arriving attorneys should likewise not be allowed to abuse the court system. Judges should discipline them or impose sanctions against them, or award opposing counsel attorneys' fees.

We attorneys should demand that our courthouse physical plant be improved; whether or not the bond issue passes (and it probably won't), we need better facilities.

Last week, I overheard a lawyer from Tallahassee say during motion calendar

that he couldn't believe the way we run our motion calendar in Broward County; he called it a "circus." He's right, and the people of Broward County deserve better.

C. Glenn Leonard

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Reception

An Awards Reception in honor of Broward Lawyers Care and its member attorneys who have distinguished themselves in providing legal services to the underprivileged will be held at the Broward Financial Center Lobby on November 14, 1986.

There will be three awards presented. 1) Juvenile Dependency Program—Julie Koenig; 2) Broward Lawyers Care—General Civil—William Kilby; and 3) the Bar Association's Low Cost Criminal Defense Program—Jay S. Spechler.

There is a unique aspect to this awards ceremony in that the business community of Broward County has donated various services to thank the legal community for their provision of free legal services to the underprivileged.

Donors for the reception are Mai-Kai, Salenger Reporting Service, Hiram Walker Spirits d/b/a Shell City Liquors, Stephens Distributing, Master School of Bartending, NCNB and Lend Leaf, Inc.

Broward Lawyers Care would also like to take this opportunity to thank the following attorneys who have recently joined the panel:

Anthony Balasso	Harold Cohen
Joseph Balocco	Jeffrey J. Connors
William Barnes	Rex H. Conrad
Evan Baron	Michael Doddo
Jeffrey Barrett	Ray Ferrero, Jr.
Daniel Bass	Noel S. Konigsberg
William Beamer	Lyle Lieberman
Thomas Bell	Gene Reibman
Bernard Berman	Alan Ruback
Richard Birnbaum	Richard Wagenheim
Brion Blackwelder	Lawrence Zietz

The panel now contains over 225 members. The program also wishes to thank all of the members who have participated this year in helping to handle the pending cases which now number over 200.

Broward Lawyers Care is a cooperative effort between the Broward County Bar Association and the Legal Aid Service of Broward County, Inc. If you would like to join the panel, please contact Deloris Gilmore at 764-2606.

Golf Tournament Results

The Annual Golf Tournament was played at Jacaranda Country Club on September 27, 1986, and over 80 attorneys and judges participated. There were plenty of refreshments available and, for those who played, a good time.

Championship Flight Results

1st Place—Score 62

R. DeRosia	B. Rotella
T. McCulloch	G. Rotella

2nd Place—Score 64

A. Woolf	C. Curtis
T. Cazal	J. Walkden

3rd Place—Score 65

T. Brown	L. Anderson
J. Anderson	J. Lynch

"A" Flight Results

1st Place—Score 63

W. Campbell	G. Roderman
R. Roselli	B. Weidt

2nd Place—Score 64

B. Zei	T. Graham
B. Bauroth	S. Leinicke

3rd Place—Score 67

K. Cooper	M. Bass
B. Cummings	R. McGraw

4th Place—Score 68

B. McFann	J. Luzzo
J. Faerber	R. Rogers

Closest to the Pin

Alan Woolf won both contests with incredibly good shots—7" from #17 and 11" from #3.

Longest Drive Winners

Hole #4	Drake Batchelder
Hole #13	Matt Morrall

Special thanks to the following law firms which agreed to sponsor the event:

Abrams, Anton, Robbins, Resnick,
Schneider and Mager, P.A.
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P.A.
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& Russell
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Sullivan, Bailey, Wich & Stockman

A Letter to the Editor

Dear Editor:

Re: Instructing a witness not to answer during depositions as published in the *Broward Barrister*, October, 1986, Volume 15, No. 10.

I enjoyed the article in the last issue of the *Barrister* from David Welch as President of the Broward County Trial Lawyers Association. That article dealt with rules that are unspoken, unwritten, never cited and rarely questioned (UUNCRQ).

Almost all of what David said was not only funny, but quite true. I thought it would be to your readers best interest to provide some additional information concerning one of the UUNCRQ rules. David made reference to "invoking the rule as one that falls under this UUNCRQ." It certainly falls within this classification as one that is rarely questioned (RQ) and never cited (NC), but does not fall within the other two criteria (UU). In fact, the rule that he is referring to is called the rule of sequestration. It is actually a rule that is invoked requiring the sequestration of witnesses. This is to be distinguished from the rules of procedure adopted by the Supreme Court and, in particular, Fla. R. Civ. P. 1.280(c)(5). Although the sequestration rule has never been crystallized in Florida as it has been under the Federal Rules of Evidence, it is a rule that has been spoken of and is written. I direct everyone's attention to *Del Monte Banana Company v. Chacon*, 466 So.2d 1167 (Fla. 3rd DCA, 1985); *Dardashti v. Singer*, 407 So.2d 1098 (Fla. 4th DCA, 1982); *Spencer v. State*, 133 So.2d 729 (Fla. 1961), cert. denied 369 U.S. 880, 82 S. Ct. 1155, 8 L.Ed. 2d 283 (1962). As the *Spencer* court stated concerning the "rule": "Ordinarily when requested by either side, the Trial Judge will exclude all prospective witnesses from the court room . . . to avoid the coloring of a witness testimony by that which he has heard from other witnesses who have preceded him on the stand."

I thought this might clear up at least one of these UUNCRQ rules.

By the way, I am forwarding a copy of this letter to David Welch and the Honorable Robert Lance Andrews for their additional summer reading material.

Very truly yours,
Jay Cohen

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Legislative Committee

The Legislative Committee is planning its Annual Meeting honoring the Legislative Delegation. It is customary to present the delegation with the Bar's "Blue Book" containing proposed legislation.

In order to provide and plan for optimum input from our membership and leadership, we ask that you send your written suggestions for proposed state legislation to Michael J. McNerney, Post Office Box 11022, Fort Lauderdale, FL 33339, or Broward County Bar Association, 735 N.E. 3rd Avenue, Fort Lauderdale, FL 33304, by December 1, 1986.

Family Law Section Seminar

The Family Law Section will present a seminar on "Representing the Professional" on December 3, 1986, from 3:00 to 6:00 P.M., in the South Meeting Room of the Riverside Hotel, 620 East Las Olas Boulevard, Fort Lauderdale, Florida. Cost is \$10.00 per person. Reservations are necessary. Please call Broward County Bar Association office at 764-8040. Wine and cheese will be served at the close of the seminar.

ABA to Present National Institute on Damages Litigation

Litigation involving substantial money damages calls for an array of sophisticated techniques if both plaintiffs and defendants are to be properly served.

In a National Institute produced by the American Bar Association's Division for Professional Education and sponsored by the Section of Litigation, outstanding trial lawyers from across the country will examine "Damages, New Settlement Techniques and Tax Consequences."

The Institute will be presented at the New York Marriott Marquis in New York City on November 20-21, and at the Hyatt on Union Square in San Francisco on December 4-5.

For a program brochure and registration information, contact the American Bar Association, Division for Professional Education, Dept. 441/442, 750 N. Lake Shore Drive, Chicago, IL 60611, or telephone 312/988-6200.



ETHICS QUESTION?

The Florida Bar's toll-free Ethics WATS line is an exclusive service for our lawyer members, connecting them directly with ethics counsel at Tallahassee Bar Headquarters for an informal advisory opinion on their proposed conduct.

Appropriate inquiries from out of state may be made by calling 1-800-874-0005 and asking for the Bar's Ethics Counsel.



**Call The Florida Bar's Toll-Free
ETHICS WATS LINE**

Seventeenth Judicial Bench-Bar Conference

Friday, November 21, 1986

Marina Bay Hotel and Resort

2175 State Road 84 Fort Lauderdale, Florida

Registration Fee \$25.00

- 1:00 P.M. Welcome—*Roger H. Staley*, President, Broward County Bar Association
Introduction of Discussion Leaders—*Linda A. Conahan* and
Robert M. Curtis, Co-Chairmen, Courts Committee
- 1:15-4:00 P.M. Breakout Sessions—Individual Meeting Rooms
- 4:30 P.M. Reporting Session
- 5:00-6:00 P.M. Cocktail Reception

Workshops

1. **Domestic Relations—*Gerald Mager*, Discussion Leader**
 - (A) Creation of a Family Law Division—Do we need it/Do we want it?
 - (B) Temporary Support Hearings—Practical problems vs. the Supreme Court guidelines
 - (C) Temporary Fee Hearings—Realistic and timely awards
 - (D) Conciliation and Mediation—How to utilize/Should we and when?
 - (E) Guardian Ad Litem Program—How it works
 - (F) A Judge's View of Equitable Distribution
 - (G) A Lawyer's View of Equitable Distribution
 - (H) The General Master's System—One year later
 - (I) The Use and Abuse of Expert Witnesses
 - (J) Statutory Update
 - (K) Case Law Update
 - (L) Pet Peeves of Judges and Lawyers

2. **Probate and Guardianship—*Alicia Zachman*, Discussion Leader**
 - (A) Length of Time from Filing to Issuance of Letters of Administration and Orders
 - (B) Pleadings Clocked In or Not
 - (C) Inventory—Filing procedures
 - (D) Waiver of Final Proceedings when Sole Beneficiary
 - (E) Personal Representative Deeds—Form of
 - (F) Late Filing of Claims—Can they be refused by clerk and returned to claimant?
 - (G) Forms Signed by Attorney or Not—Inventory, accounting
 - (H) Fees—Attorney, personal representative, guardian
 - (I) Substitution of Counsel when Attorney Fired by Clients—Procedure
 - (J) Estate Closing Procedures—Old estates
 - (K) Computerization of New Accounts
 - (L) Missing Person—Presumption of death, no probate estate—Procedure
 - (M) Public Guardianship
 - (N) Any Other Current Matters

Workshops

3. **Civil Division—*Wilton L. Strickland*, Discussion Leader**
 - (A) Proposed Solutions to the Motion Calendar Problems
 - (B) Medical-Legal Section
 - (1) Proposal for court to adopt guidelines for fees for expert testimony
O. Edgar Williams, Jr., and *Dr. Rolando Jorge*,
Co-Chairmen, Medical-Legal Committee
 - (2) Discussion of Broward County Medical-Legal Code of Conduct
 - (C) Court-Awarded Attorney's Fees—*Hugh T. Maloney*
 - (D) Judicial Polls

4. **Criminal Division—*Robert C. Stone*, Discussion Leader**
 - (A) Discussion of bail alternatives to relieve overcrowded conditions in the jail, led by a panel of Circuit Court Judges
 - (B) Discussion on plea bargaining and its effects on the courts, chaired by *Harry Gulkin*
 - (C) Discussion on the responsibilities of the State Attorney and Public Defender for docketing and scheduling of cases
 - (D) Discussion by private attorneys on the scheduling of cases

5. **Appellate Division—*Nancy Little Hoffmann*, Discussion Leader**
 - (A) Discussion of problem areas (if any) between the lawyer and the Clerk's office
 - (B) Discussion of areas in which the Bar can assist the Fourth DCA
 - (C) Mini-seminar on glitches in appellate procedure. Please submit specific problems to the Chair by November 10, 1986.
 - (D) Preview of proposed changes to the appellate rules
 - (E) Update on progress with problems discussed last year

Bench-Bar Conference 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, 1986

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

CALENDAR OF EVENTS

Date	Group & Event	Time & Place	Reservations
11/14/86	Christian Lawyers Assn. Monthly Meeting	Holiday Inn, State Road 84 (just west of I-95) Ft. Lauderdale, 12:00 Noon	Alice Allen 475-1139
11/18/86	North Broward Bar Assn. Monthly Meeting	Flaming Pit Restaurant, 1150 N. Federal Hwy. Pompano Beach, 12:00 Noon	Harry D. Dennis, Jr. 946-0360
11/18/86	Legal Aid Service of Broward County, Inc. Board of Directors Meeting	609 S.W. 1st Ave., Ft. Lauderdale 5:30 P.M.	
11/20/86	Young Lawyers Section Monthly Meeting	Cafe de Geneve, 1519 S. Andrews Ave. Ft. Lauderdale, 12:00 Noon, \$9.00	Melanie May 761-8600
11/20/86	Broward County Bar Assn. General Meeting	Emerald Hills Country Club, 4100 N. Hills Dr. Hollywood, Cocktail 6:30 P.M. Dinner 7:30 P.M., \$25.00 per person	BCBA 764-8040
11/21/86	Bench-Bar Conference	Marina Bay Hotel & Resort	See enclosed registration form
		2175 State Road 84, Ft. Lauderdale 1:00-5:00 P.M. Workshop Sessions 5:00-6:00 P.M. Cocktail Reception	
12/3/86	Family Law Section Seminar on Representing the Professional (speaker and panel include attorneys and accountant)	Riverside Hotel, 620 E. Las Olas Blvd. Ft. Lauderdale, 3:00-6:00 P.M. Wine and cheese served 6:00-7:00 P.M. \$10.00 per person	BCBA 764-8040
1/24/87	The Florida Bar Military Law Committee Assistance Symposium	Omni Hotel, Miami, 8:00 A.M.-3:40 P.M. Free registration, CLE designation credit under The Florida Bar Designation Plan	Peggy Griffin The Florida Bar Tallahassee, FL 32301 (904) 222-5286

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