



# Broward County Bar Association BARRISTER

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## November Events

- **BCBA New Member Reception**, November 9, 2011 at 5:30 pm
- **Next's 2nd Birthday Celebration**, November 10, 2011 at 5:30 pm
- **Kozyak Minority Mentoring Foundation Picnic**, November 12, 2011 at 12:00 pm
- **West Broward Section Luncheon with Judge Zeller**, November 17, 2011 at 12:00 pm
- **Legal Professionals Night with the Florida Panthers**, November 19, 2011 at 4:30 pm
- **2011 Broward County Bar Association Holiday Party**, December 8, 2011 at 5:00 pm



## Legislative Affairs Reception

BCBA President Jordana Goldstein presents plaques to members of the Broward County Legislative Delegation at the BCBA's Legislative Affairs Reception held in Fort Lauderdale on October 13th. The awards were presented by BCBA and The Florida Bar in recognition of members' support of important legislation and activities deemed critical to the practice of law, judicial independence and state court funding. From Left: Representative James Waldman, Representative Perry Thurston Jr., Senator Nan Rich, and Rep. Elaine Schwartz (background). Also receiving awards were Senator Ellyn Bogdanoff and Senator Christopher Smith.



## Diversity Seminar

Broward and Miami-Dade Judges served on a panel relating to issues of Diversity, held on October 21 in Fort Lauderdale. Supported by a Florida Bar Grant, the seminar was co-sponsored by the Broward County Bar Association, Broward County Hispanic Bar Association, Florida Muslim Bar Association and the Cuban American Bar Association. From Left: Hon. Scott Bernstein (Miami-Dade); Moderator: Vivian de las Cuevas-Diaz, President-Elect of CABA; Hon. Susan Greenhawt (Broward); Hon. Victoria Del Pino (Miami-Dade); Hon. Mily Rodriguez-Powell (Broward); Hon. Beatrice Butchko (Miami-Dade); and, Hon. Elijah Williams (Broward).



# PRESIDENT'S MESSAGE

by Jordana Goldstein

*Thanksgiving...its more than just turkey and football*

My favorite holiday...Thanksgiving. I love the smell of turkey cooking in the oven (especially one made by my mother instead of myself), stuffing, pumpkin pie, football, shopping on Black Friday (I am not sure everyone would agree on that one). I especially look forward to my family coming to my home to celebrate this holiday. The origin of Thanksgiving dates back hundreds of years, beginning with what historians believe was the first Thanksgiving dinner in 1621. I am sure you remember from history class that in 1620 the Mayflower set sail from England with 102 passengers on board, approximately 40 of them were pilgrims who called themselves the "saints" and the other 60 referred to themselves as "strangers." They left their native England to avoid religious persecution and their destination was the New World. Despite a harrowing two month trip, the group arrived at what is now known as Plymouth, Massachusetts, which is where they decided to settle. Upon their arrival, an important meeting was held between the "saints" and the "strangers" during which time they prepared and signed the Mayflower Compact, which became America's first document to mention self-government. More significantly, the Compact established just and equal laws for both groups.

As they say, the rest is history. Many of the initial settlers did not survive their first winter in the New World and only after having received assistance from the Indians were the Pilgrims ultimately able to create a sustainable environment in which to live. The following year the governor of the pilgrims, William Bradford, declared a day of thanksgiving to celebrate the bountiful harvest they experienced, and invited the Native American Indians to partake in the festivities to thank them for teaching them specific techniques on how to work the land, which was so instrumental to the pilgrims' survival. For two centuries, yearly thanksgiving celebrations continued and in 1863, President Abraham Lincoln proclaimed a national day of Thanksgiving, which is what we continue to celebrate today. While the events surrounding Plymouth Colony have become part of our American culture including the turkey and its trimmings that I am so fond of, the true significance of those events was the creation of our democratic government, the fundamental precept of which is equality. Of course as an officer of the courts, I often wonder how there will ever be true equality without equal access to the courts. Access to the courts will certainly be denied unless our courts are properly funded. With the continued downturn in the economy and the potential billion dollar budget deficit facing the Legislature next year, our judicial system will be in crisis. Recently, the courts have been granted a series of loans in order to compensate for shortfalls in their revenue stream. The main source of funding for the courts, which is filing fees, are unpredictable and fluctuate greatly, creating cash flow problems for the court system and clerk's office. Unless a plan is established that creates a stable funding source, as well as an appropriate amount of funding, access to our courts will be denied. As the 2012 legislative session approaches, I would encourage all of you to write to your respective legislators to encourage them to support the creation of a meaningful stabilization plan.

Regardless of whether the courts are properly funded, however, there will still be people in our community who will be denied access to the courts merely because of their economic status. As many of you know, Legal Aid Service of Broward County and Coast to Coast Legal Aid of South Florida are the only two nonprofit organizations in Broward County providing free civil legal services to the over

9,000 disadvantaged people in Broward County each year. Among the many legal services provided, Legal Aid and Coast to Coast help abused children in foster care, the homeless, victims of domestic violence, families losing their homes to foreclosure, and our senior citizens. It is important to note that neither program is a government run agency. Their programs are funded primarily by the Florida Bar Foundation, the County, other nonprofit agencies, grants, and personal donations. Over the last three years, Legal Aid experienced funding reductions of close to a million dollars and is expected to face even more cuts in 2012. Coast to Coast experienced a four percent reduction and also expects further cuts. Legal Aid only has 26 lawyers on staff and Coast to Coast has only 13, to assist the thousands of people who need help. If there is any chance for these members of our community to have equal access to the courts, we as lawyers must help.

There are three main ways attorneys can contribute. The easiest way is to make a financial contribution to Broward Lawyers Care. The contribution suggested by the Florida Bar for attorneys who do not want to take a case pro bono is \$350. Of course you may also make a monetary donation to either Legal Aid or Coast to Coast. The next thing we as attorneys can do is to take a case. While you may take a case in your area of expertise, you do not necessarily have to, especially because Broward Lawyers Care can arrange for a mentor. This is a particularly good opportunity for a younger lawyer to gain more experience. The third way you can help is to participate in a new program created by Legal Aid, which will officially launch in January 2012. Broward Lawyers Care will be screening clients for eligibility and will set appointments for telephone consultations with volunteer attorneys. This will enable you to provide valuable legal advice without committing to a new case. This option should be particularly attractive to busy practitioners who always want to help, but often feel they do not have the time to do so. Of course you can always sponsor any of Legal Aid's and Coast to Coast's fundraising events. Particularly at this time of year, I would also encourage each and everyone one of you to participate in Legal Aid's Holiday Adopt a Family Program. For further information about any of the above, I encourage you to contact Kathleen Thomsen, Director of Development, 954-736-2429 or [kthomsen@legalaid.org](mailto:kthomsen@legalaid.org).

This Thanksgiving make it more than just about turkey and football. Do what our forefathers did and help ensure equality for everyone. I wish you and your family a happy and healthy Thanksgiving holiday.

### Newest Member Benefits:

- **Shpoonkle.Com**—15% discount on Advertising and CLE classes and 1 month free ad
- **South Florida Business News**—50% discount on 1 month ad and Free Legal Notice
- **Magnum Inspections, Inc**—Free Roof and 4-Point Inspections, \$25 discount on home and wind mitigation inspection
- **Office Edge**—15% discount on Virtual Office Solutions

See Page 3 for more Benefits



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Information Regarding  
Member Benefits!

# BROWARD COUNTY BAR ASSOCIATION

## MEMBER BENEFITS



**BCBA Lawyer Referral Service:** Every year, 3000 cases are referred to participating attorneys through BCBA's Lawyer Referral Service. BCBA has a strong presence in internet search engines. Many clients come to us seeking help online. Our Referral Service is a very inexpensive opportunity to expand your client base and market your practice.

**Affordably Priced CLE Seminars:** BCBA Section Seminars are VERY REASONABLY PRICED! Usually presented by a panel of judges and attorneys practicing in various areas of the law, the seminars are held at the Norma B. Howard Bar Center and most include lunch for as little as \$15 - \$25. More than thirty legal seminars are planned for the coming year. Seminars that are recorded in audio and video are made available for purchase and are even more deeply discounted. Free live CLE courses are also available.

**Free CLE Seminars:** BCBA members can freely borrow SURVEY OF FLORIDA LAW, a Florida Bar produced set of CDs that provides 11 hours of continuing education. You can amass more than thirty free hours in your reporting period, since The Florida Bar updates the CDs every year. The BCBA occasionally offers free audio recordings of CLE Section Seminars to members,

**Small-Solo Practice Networking Opportunities:** Six times a year, dinners for Small Solo attorneys are scheduled at Dave & Busters in Hollywood. A companion Small/Solo Lunch program is scheduled in six different restaurant locations in alternating months. No persons other than attorneys (sole practitioners or attorneys in firms of four attorneys or fewer) are invited to speak. With more than one hundred attorneys in this network, your name will be published in a directory designed to be used as a desk reference for attorneys looking for colleagues with specific legal expertise. Several times a year, these lunches are sponsored, allowing members to attend for free.

**Members Join Active 'Sections' Relating to Substantive Areas of Law:** The foundation of the BCBA is based on twenty practice area specific SECTIONS that concentrate on providing continuing legal education and networking opportunities for BCBA members that specialize in a concentrated practice area.

**Mentorship Program:** Members are welcome to participate either as Mentors or Mentees in this exciting program designed to advance professionalism and enhance practice skills.

**Enhance Your Professional Profile:** All BCBA members are provided a free alphabetical listing on the BCBA web site in our 'Meet Our Members' section, plus BCBA provides additional listings every time you join a BCBA Practice Section or Committee. Furthermore, BCBA Members are invited to post comments and articles on the BCBA BLOG, and only members of the BCBA are free to participate in the BCBA's Linked-In Network of local attorneys. Members can also enhance their professional profile by placing an extended personal website directly linked to the BCBA website.

**FREE Annual Special Events and Activities:** There is no charge for members to attend BCBA's Annual Judicial Robing Ceremony and Annual Holiday Party. Other inexpensive activities include Bowling and Golf Outings. There is an event nearly every month to meet members of the local legal community. Look for announcements for our **Bar-At-The-Bar** social events held in local restaurants. The Young Lawyers Section of the BCBA schedules hosts a monthly lunch at the Tower Club, with guest speakers; last year's list of speakers included Chief Judge Peter Weinstein and Steve Zack, President of the ABA. BCBA members pay the discounted price to attend.

**Special Terms for BCBA Members for Access to Clerk's Online Docket:** Members of the BCBA can purchase access through BCBA to the online docket of the Broward County Clerk of Courts. Purchase any amount of units - NO MINIMUM REQUIRED - and any unused units will carry over for a full twelve-month period from date of purchase. No month-to-month renewal is required to keep unused units.

**Daily Business Review:** Discounts on annual subscription to print and electronic versions. Broward County Bar Members: PRINT and ONLINE ACCESS for the lowest price available! \$99 per year.

**Discounts at Courthouse Café:** BCBA members receive a 10% discount on any item purchased at Hugh's Tropical Café, located across from the third floor Jury Room at the Main Broward County Courthouse. Just show the cashier your BCBA Membership Card.



# A Message from Bart Ostrzenski President, Young Lawyers' Section

Our September CLE luncheon featuring Paula Black was a very informative look into branding, marketing and one-on-one coaching. I very much appreciate her time and insight. For more information on Paula Black, please visit [www.paulablack.com](http://www.paulablack.com). Thank you to everyone who attended, I hope you enjoyed the presentation.

The YLS is happy to announce that it will be co-hosting our October luncheon with the Broward County Women Lawyers' Association. The speaker is author, leadership expert and business coach, Trudy Evans, from The Raven Group, Inc. We are in the process of obtaining CLE credit for this luncheon, which will hopefully be forthcoming. The luncheon is on Thursday, October 20, 2011, at noon located at the Tower Club. For further information about the luncheon, please visit our the YLS section of the BCBA web site and look for our calendar. For more information regarding Ms. Evans, please visit [www.theravengroupinc.com](http://www.theravengroupinc.com).

Speaking of luncheons, by the time this article is published; we will have an on-line credit card payment portal via the YLS section of the BCBA web site. This will allow you or your firm to pay for any YLS event from the convenience of your desk. We are very happy to finally provide this long awaited convenience to you.

Our biggest public event of the year is happening this month. If you have not received an e-mail, flyer, and/or mailer or have not been personally approached by one of our Board members regarding the Annual YLS Charity Golf Tournament, you need to drop everything and contact Meghan Clary right now at [meghan@cmfamilylaw.com](mailto:meghan@cmfamilylaw.com) in order to talk about playing in the tournament, providing some sponsorship funds or both. There is a sign-up sheet and sponsorship sheet in this Barrister edition if you are interested in playing or sponsoring.

The Annual YLS Charity Golf Tournament will be held on Saturday, October 15, 2011 at Jacaranda Golf Club in Plantation. This year's Tournament beneficiary is the Tracey McPharlin Pro Bono Dependency Recruitment Initiative, which is associated with Florida Children's First. As a new initiative, they are in need of funds to get off the ground and continue serving unrepresented children in dependency court.

The YLS will also be hosting a Golf Tournament kick-off happy hour in support of the charity on Thursday, October 6 at Vibe Las Olas, which is located at 301 Las Olas Boulevard.

We will be providing a complimentary drink and appetizers. We will also be conducting a raffle, with a very special grand prize; an Apple I-Pad. All proceeds will benefit the Tracey McPharlin Pro Bono Dependency Recruitment Initiative. You can't win if you don't play, so I look forward to seeing you there.

One of the new initiatives this year is resurrecting the monthly breakfast with judges event at the central courthouse. In fact, we have applied for a grant from the Florida Bar in order to obtain initial seed money to advertise and plan this breakfast event. Since this is only in the initial stages of planning, look for e-mails in your in-box in the next month or two with more details. I look forward to sharing eggs and war stories from fellow barristers and the bench.

The Broward Barrister is published by the Broward County Bar Association a part of our commitment to provide membership with information relating to issues and concerns on the local level. Opinions and positions expressed in the signed materials are those of the author and may not necessarily reflect the views of this publication or the Broward County Bar Association.

1051 SE Third Avenue, Ft. Lauderdale, FL 33316  
BROWARD COUNTY BAR ASSOCIATION  
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# Seven Ways to Turn a Networking Event into New Business

By Margaret Grisdela

Here are a few tips to help you turn your calendar of networking events into a powerhouse for new business development.

## 1. Arrange the Speaker

Serving on the Program Committee gives you a perfect chance to reach out to business and community leaders within the context of a professional, non-sales environment. You will expand your network while being recognized as a go-getter.

## 2. Invite People to Join You

If you don't like to go to events alone, arrange for others to join you at the event or for a bite to eat prior to arriving. Once you get there, agree to break up so you can canvas the room separately. Share leads with your friends as appropriate.

## 3. Review the Attendee List in Advance

Larger events frequently make a pre-show attendee list available. Check over registrant names, and send an email to those you know to suggest that you connect on site. Also identify people you want to meet, and try to arrange an introduction.

## 4. Connect with Prospects at the Event

Work the room at every event you attend. Set a goal of collecting 5-10 new business cards. Talk long enough for meaningful mutual interactions, then move on to new prospects.

## 5. Schedule Follow Up Meetings

Ask for permission to contact a prospect or a potential referral source after the event. If they say yes, give them a call to schedule coffee or a lunch meeting.

## 6. Break the Ice

One of the attorneys I coach has excellent networking skills, yet finds it hard to get into the groove of a 2-3 day industry conference. One technique she's developed to

overcome this is to schedule a first day get-together for 5 to 10 people that she knows will be at an event. They might meet for a drink before the official Welcoming Reception, for example. This gives her a base of people she can stay in touch with over the course of the conference.

## 7. Find the Events Your Prospects Attend

Invest some time to find the organizations that offer you the best mix of maximum prospects with minimum competitors. Then work these groups for a long-term growth perspective.

Here are a few other tips you can use to maximize the benefits of a networking event.

- Approach people who are either alone or in groups of 3 or more. Breaking into the conversation of a twosome can be awkward.
- Help people to remember your name, and be sure to keep your name badge visible so that others can see and remember yours.
- Write notes on the back of business cards to remind yourself about the people you meet.
- Follow up by connecting through LinkedIn. This is so much better than a "nice to meet you" email, plus you can stay in touch electronically. You also get the benefit of a photo and profile to refresh your memory.

**About the Author:** Margaret Grisdela is the author of *Courting Your Clients* (now in its 2nd edition) and president of Legal Expert Connections, a national legal marketing agency. She is the social media sponsor for the BCBA and manages the blog. Contact her at 561-266-1030 or [mg@legalexpertconnections.com](mailto:mg@legalexpertconnections.com)



# RECENT DEVELOPMENTS IN THE LAW

By Nancy Little Hoffmann

## 1. Civil Procedure/Partial Final Judgment

**Investacorp, Inc. v. Evans,**  
**36 Fla. L. Weekly D2324 (Fla.**

**3rd DCA October 19, 2011).**

Where a trial court grants partial summary judgment on one count and retains jurisdiction to enter judgment on a pending interrelated count, it is error for the court to include language of finality in the partial summary judgment awarding damages. Accordingly, the Third District reversed and ordered that the trial court strike the phrase "for which let execution issue." Because the partial summary judgment would thereby be rendered an interlocutory order merely granting summary judgment, the court did not have jurisdiction to reach the merits of the appeal.

## 2. Ex-Parte Communications

**Phillips v. Centennial Bank,**  
**36 Fla. L. Weekly D2316 (Fla. 3rd DCA October 19, 2011).**

The dissenting opinion to a per curiam affirmance of a deficiency judgment in a mortgage foreclosure action contains an illuminating discussion and condemnation of the practice of ex parte communications with a trial judge. In this case, such a communication resulted in a significant increase in the amount of the judgment, with no input from the mortgagor.

## 3. Limitation of Actions/Relation Back of Amended Complaint

**Lopez-Loarca v. Cosme,**  
**36 Fla. L. Weekly D2319 (Fla. 4th DCA October 19, 2011).**

The Fourth District reversed a defense summary judgment based on a statute of limitations bar, holding that a fourth amended complaint in which the plaintiff was identified as the guardian of person and property of the injured party related back to the original complaint filed by the worker's compensation carrier, which was styled in the name of the injured party. The court found that although intervening changes in the style of the case reflected that it was a subrogation action, the fourth amended complaint contained the same general allega-

tions as the original, and thus related back to the filing of that original complaint.

## 4. Procedure/Jurisdiction Pending Appeal

**Hunter v. Hunter,**  
**36 Fla. L. Weekly D2274 (Fla. 2nd DCA October 14, 2011).**

In a post-dissolution of marriage custody dispute, the trial judge entered a final order changing custody to the mother, while the father's non-final appeal from an earlier order changing custody of the children to the mother was pending. The appellate court reversed, since the trial judge had been divested of jurisdiction by the pendency of the first appeal, which the appellate court also reversed. The court reiterated that rule 9.130(f) of the Florida Rules of Appellate Procedure divests a trial court from rendering a final order while a non-final appeal is pending.

## 5. Summary Judgment

**Coral Wood Page, Inc. v. GRE Coral Wood, LP,**  
**36 Fla. L. Weekly D2233 (Fla. 2nd DCA October 12, 2011).**

A summary judgment awarding damages to a commercial tenant's landlord was reversed because the trial court improperly shifted the burden to the non-moving party. At the summary judgment hearing, the trial court had agreed with the landlord that summary judgment was warranted because the tenants did not file any affidavits or other evidence. The Second District reversed because it was the landlord's burden to factually refute the tenant's affirmative defenses; the burden of proving the existence of genuine issues of material fact did not shift to the tenant until the landlord had met its burden of conclusively refuting the factual basis for the defenses, or establishing that they were legally insufficient.

*Nancy Little Hoffmann is a Board-Certified Appellate Lawyer practicing in the Fort Lauderdale area since 1974. She may be contacted at 954-771-0606 or by e-mail at [NLHappeals@aol.com](mailto:NLHappeals@aol.com). For more information, see [NancyLittleHoffmann.com](http://NancyLittleHoffmann.com).*

## Florida Association of Legal Support Specialists Conference



Terri Jo Dumas, Treasurer of the Miami-Dade Legal Support Association, Deborah, and, Relinda Martinez

Deborah Fitzgerald welcomed state wide officers and local members from the Florida Association of Legal Support Specialists (FALSS), for their quarterly conference, which took place in October 15, 2011 in Fort Lauderdale, this year.

The Miami-Dade Legal Support Association (MDSLA) hosted this event, which was attended by FALSS members from all over the State of Florida. Ms. Fitzgerald made quite an impact on the FALSS members, which comprise, paralegals and legal assistants, as well as legal support staff, by quoting attorneys who recognize

the importance of Legal Staff to the Attorneys who depend on highly educated, trained, and serious about their roles in the administration of the legal field.

Deborah's welcoming speech was of particular importance because it was delivered to various officers from around the state, who in turn, reported to their local chapters, and of course, mentioned the Broward County Bar Association. Deborah delivered her speech on behalf of the 2200 members of the Broward County Bar Association making us feel even more "special". Great job, Deborah!!!! and a thank you to Jordana for suggesting Deborah speak. Deborah definitely make quite an impression on FALSS and the MDSLA.

Each Chapter officer and member was provided a Brochure providing them with information about the Broward County Bar Association with an application and a list of benefits/events. Thank you Art and Jennifer for preparing these brochures.

Deborah, thank you and thank you to the Broward County Bar Association. The Broward County Bar Association donated 2 envelopes containing a crisp \$50.00 bill in each.

A BIG THANK YOU to the Broward County Bar Association for donating two \$50 bills for gambling money at the Hard Rock Casino for our Saturday night event. They were won by well-deserving members Teri Jo Dumas and Loretta Steward Whitehead.



Andrea Ellison-Honore, Vice President and Parliamentarian of the Miami-Dade Legal Support Association, Deborah and Annette Mann, President of the Miami-Dade Legal Support Association

# ***HOW TO AVOID AN IMPASSE – A PERSPECTIVE FROM EACH SIDE – PLAINTIFF, DEFENDANT AND MEDIATOR***

Most people like to set forth ten reasons for avoiding an impasse but ours goes to eleven. Keeping people participating in a mediation is the key to the success of a mediation. So long as the parties are talking, then there is a possibility of settlement. In this article we will provide each point through the perspective of counsel for the Plaintiff, Defendant and then the mediator. Sam Coffey, Esq. provides the Plaintiff lawyer's perspective, Reid Cocalis, Esq. provides the Defense lawyer's perspective and Rhonda Hollander, Esq. provides the Mediator's perspective.

The first key to success is to have the parties agree that they shall set the mediation at a mutually convenient time. Scheduling mediation too late in the day may result in the parties becoming tired, or irritated during the mediation.

Plaintiff: I personally like morning mediations. I usually coordinate meeting my client ½ hour to 1 hour before the mediation to conference with my client. The greatest concern for me is if the Defendant has a representative who is flying in from out of town, they may not be able to make a start time if we set it for 9:00 a.m. Make sure that your client is comfortable meeting early in the day and explaining to them this early in the day will allow the parties to the greatest amount of time to try resolve the case.

Defendant: The importance of starting a mediation early in the day is that it leaves more time, if necessary, to achieve a settlement. All rules have exceptions. It is important to bear in mind that a plaintiff might not be a morning person or has difficulty in the mornings due to injuries.

Mediator: It is important to try and have the parties attend a mediation in the morning rather than the afternoon. Although many mediations settle in the afternoon, if the mediation takes more than four hours, the probability of people in the mediation becoming tired, hungry or just generally irritable is much greater.

Which leads to the second key to success. Make sure you save enough time for the mediation as nothing is worse than when parties are talking and gaining progress and the mediator or one of the parties runs out of time.

Plaintiff: We generally like to set mediation on our significant cases for a minimum of 4 hours. If we are going to set a mediation starting at 9 or 10 in the morning, we often at times like to have lunch catered for the event and offer to pay for the cost of lunch for both sides. It is our experience that often times after a meal parties are more amenable to compromise.

Defendant: If you do run out of time, adjourn the mediation rather than declare an impasse. Try to reschedule the mediation as soon as possible in order to conserve momentum.

Mediator: Although a mediator may set the date for mediation without the advance agreement of all parties, any party would be permitted to request that it be rescheduled so getting everyone's agreement as to the date, time and location is essential to avoid future conflict and frustration. 1 Mediators should try to schedule mediations for approximately 10 so that the lawyers can still attend motion calendar and/or have the opportunity to meet with their clients or have sufficient travel time when necessary.

The third key to success is to have the parties provide any documentation or information pertinent to the mediation, before the mediation so that the parties can prepare:

Plaintiff: Preparation, Preparation, Preparation is the key to successful mediation. Understand that both the strengths and weaknesses of your case before you enter the mediation arena. Lawyers need to make sure that they understand both the gross and net medical bills and liens and the present case law and what would be admissible at trial. You also need to make sure that you know the law on the liabilities issues that will help you win your case as well as successfully resolve your case at mediation. Finally, discuss with your client in advance the strategy for mediation, whether or not you want to make a strong showing or not show all of your cards.

Defendant: No one likes surprises. Neither trial nor mediation should have any surprises. Often a committee sets reserves on a case rather early on in the process. Changing reserves requires justification and time. Surprises create frustration and delay in any settlement negotiations.

Mediator: It is easy to see why a party would become incapable of providing settlement numbers when the documentation necessary to process their parameters of settlement were not produced prior to mediation. Many adjusters cannot process the additional information in the time provided in a mediation. This forces the parties to consider an impasse but the mediator should take all measures available to convince the parties that there is no harm in an adjournment. 2

The fourth key to success is to confirm that any necessary documentation has been exchanged prior to mediation and any settlement offers which may result from the exchange take place prior to mediation.

Plaintiff: Most often, we issue a pre-suit demand for a reasonable settlement figure that we believe can be returned by a jury verdict with consideration for comparative negligence or in the alternative tender of all combined insurance policy limits that may inure to the benefit of the Plaintiff to establish potential entitlement to recover damages if a verdict is returned that exceeds all available combined insurance policy limit. If the insurance company and/or Defendant engages in settlement negotiations we attempt to resolve a case pre-suit and document all offers and demands in writing which is the policy of our office. Typically, we take up from our last position on settlement demand unless something dramatic is changed in the course of litigation that forces us to re-evaluate our claim. If we intend to make a higher demand than our last previous demand we try to inform counsel for the Defense as early as possible so they may be prepared.

Defendant: An unexpectedly high initial demand often causes sticker shock. If counsel is aware of the demand prior to mediation he/she can prepare their adjuster for what is coming and prevent a knee jerk reaction of walking out.

Mediator: Many times the parties in a mediation are upset as they wish that the lawyers and/or parties (if unrepresented) had conveyed the settlement offers prior to the mediation. It is in the client's best interest to see whether you can avoid a mediation all together and settle without the added expense. Many times the first time a party has been privy to any negotiations is at the mediation. If the parties are able to communicate their respective positions

The Palm Beach County, South Palm Beach County and Broward County Bar Associations present:

## *Inside the Appellate Court: A Day with the Judges of the Fourth DCA*



Thursday, November 3, 2011

9:30 a.m. - 3:30 p.m.

West Palm Beach Marriott, 1001 Okeechobee Boulevard, WPB 33401

### Program Schedule

- 9:30 am - 9:50 am **Registration / Check-In**
- 9:50 am - 10:00 am **Welcome and Introductions** - *Siobhan H. Shea, Esq., Siobhan Helene Shea Appellate Practice*
- 10:00 am - 10:50 am **Conversation with the Clerk**- *Honorable Judges Burton C. Conner and Cory J. Ciklin, Fourth District Court of Appeal, and Marilyn Beuttenmuller, Clerk of Court, Fourth District Court of Appeal*
- 10:50 am - 11:50 am **The Wonderland of Writs - How Extraordinary** - *Chief Judge Melanie G. May and Judge Robert M. Gross, Fourth District Court of Appeal*
- 11:50 am - 12:30 pm **LUNCHEON**
- 12:30 pm - 1:00 pm **Moving into the Electronic Age at the 4th DCA** - *Chief Judge Melanie G. May and Judge Martha Warner, Fourth District Court of Appeal*
- 1:00 pm - 1:10 pm **BREAK**
- 1:10 pm - 1:40 pm **Motion Practice** - *Honorable Judges Carole Y. Taylor, Dorian K. Damoorgian and Burton C. Conner, Fourth District Court of Appeal*
- 1:40 pm - 2:40 pm **Practical Ways to Win an Appeal** - *Honorable Judges Dorian K. Damoorgian, Spencer D. Levine and Jonathan D. Gerber, Fourth District Court of Appeal*
- 2:40 pm - 2:50 pm **BREAK**
- 2:50 pm - 3:30 pm **Legal Jeopardy** - *Honorable Jonathan D. Gerber, Fourth District Court of Appeal*
- 4:00 pm - 6:00 pm **Cocktail Reception** Celebrating the Upcoming **50th Anniversary** of the Fourth DCA in 2015

**RECEPTION LOCATION : Fourth District Court of Appeal  
1525 Palm Beach Lakes Boulevard, West Palm Beach, Florida**

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This course has been granted **5.5 CLER/3.0 Appellate Practice Cert. credits from the Florida Bar**. The cost of the seminar, lunch and reception is **\$125** if registered by **10/27/11**; **\$165** after that date; **Govt. attorneys & law clerks \$100.00 if registered by 10/27/11; \$125.00** after that date.

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IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT, 1525 PALM BEACH LAKES BOULEVARD,  
WEST PALM BEACH, FLORIDA 33401

**ADMINISTRATIVE ORDER No. 2011-1**

**In re: E-mailing Filings to the Fourth District Court of Appeal**

Pursuant to Supreme Court Administrative order 10-32, and effective October 1, 2011, the following rules shall apply with respect to the electronic transmission of certain filings.

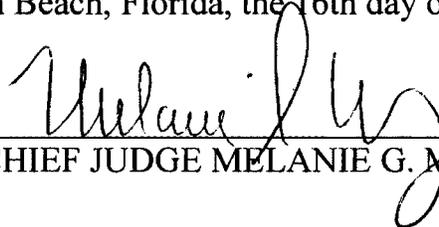
1. Any brief, petition, response to a petition, or reply, and any accompanying appendix filed by an attorney in The Fourth District Court of Appeal **shall** be in digital format as well as in paper. Non-attorneys may also email their briefs or petitions digitally in conformance with this administrative order.
2. Filing through email is **in addition** to the submission of the required paper documents. **Timeliness will continue to be determined by the receipt of the paper filing, not the emailed copy.**
3. Attorneys shall email all filings to the court at [efiling@flcourts.org](mailto:efiling@flcourts.org). The subject line of the email shall contain the case number and case name, i.e. Smith v. State, as well as the type of brief being filed, i.e. "Appellant's Initial Brief" or "Appellee's Answer Brief."
4. The email filing shall be sent on the date that the paper filing is sent to the court. **The attorney or non-attorney shall certify that the emailing has been completed in the certificate of service.**
5. Attorneys shall also provide the court with a current email address for further communications from the court. The court may use the email address to communicate orders or other documents, in addition to paper documents. By providing the email address, the attorney represents that the email address given to the court will be monitored for communications from the court.
6. Filings per email shall be limited to 13 megabytes per email. If a filing exceeds 13 megabytes, it shall be sent in more than one email.
7. Documents may be filed digitally in either Word or PDF format. Documents may be converted directly to PDF format from the filer's word processing program. Information on how to convert files into PDF format can be found on the court's website. If none of the foregoing is available, documents may be scanned into PDF format, in a searchable form, if available. However, **scanning of briefs is discouraged due to the increased digital size of the scanned document.** Court

personnel are not able to provide guidance or technical support beyond the information provided on the court's website.

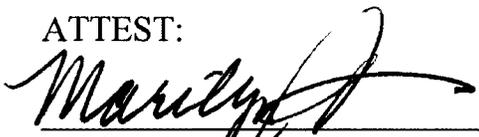
8. Each filing, whether a brief, petition, response to a petition, reply, or appendix must be filed as a separate document. Filings shall not be joined together in one Word or PDF filing, nor shall an appendix be joined with an accompanying filing. Filers must submit documents so that they are properly oriented to be read without needing to be rotated (such as on their side or upside-down).
9. No filing shall contain hyperlinks until further order of this court.
10. Filings sent through email with the court are not required to contain a signature, as provided in Florida Rule of Judicial Administration 2.515 but otherwise should be the same as the paper filing.
11. Transmittal and cover letters shall not be emailed to the court.

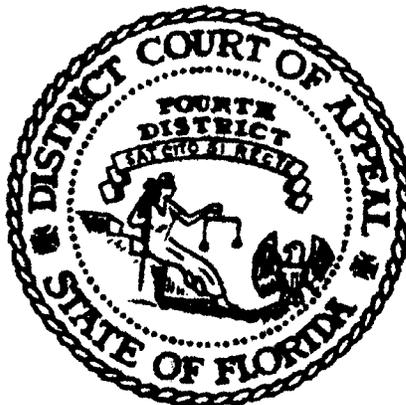
**Failure to comply with the requirement of emailing documents to the court may result in delay in the appellate proceedings until compliance. Continued failure by an attorney to comply may result in sanctions.**

DONE AND ORDERED at West Palm Beach, Florida, the 16th day of August, 2011.

  
CHIEF JUDGE MELANIE G. MAY

ATTEST:

  
Marilyn Beutenmuller, Clerk

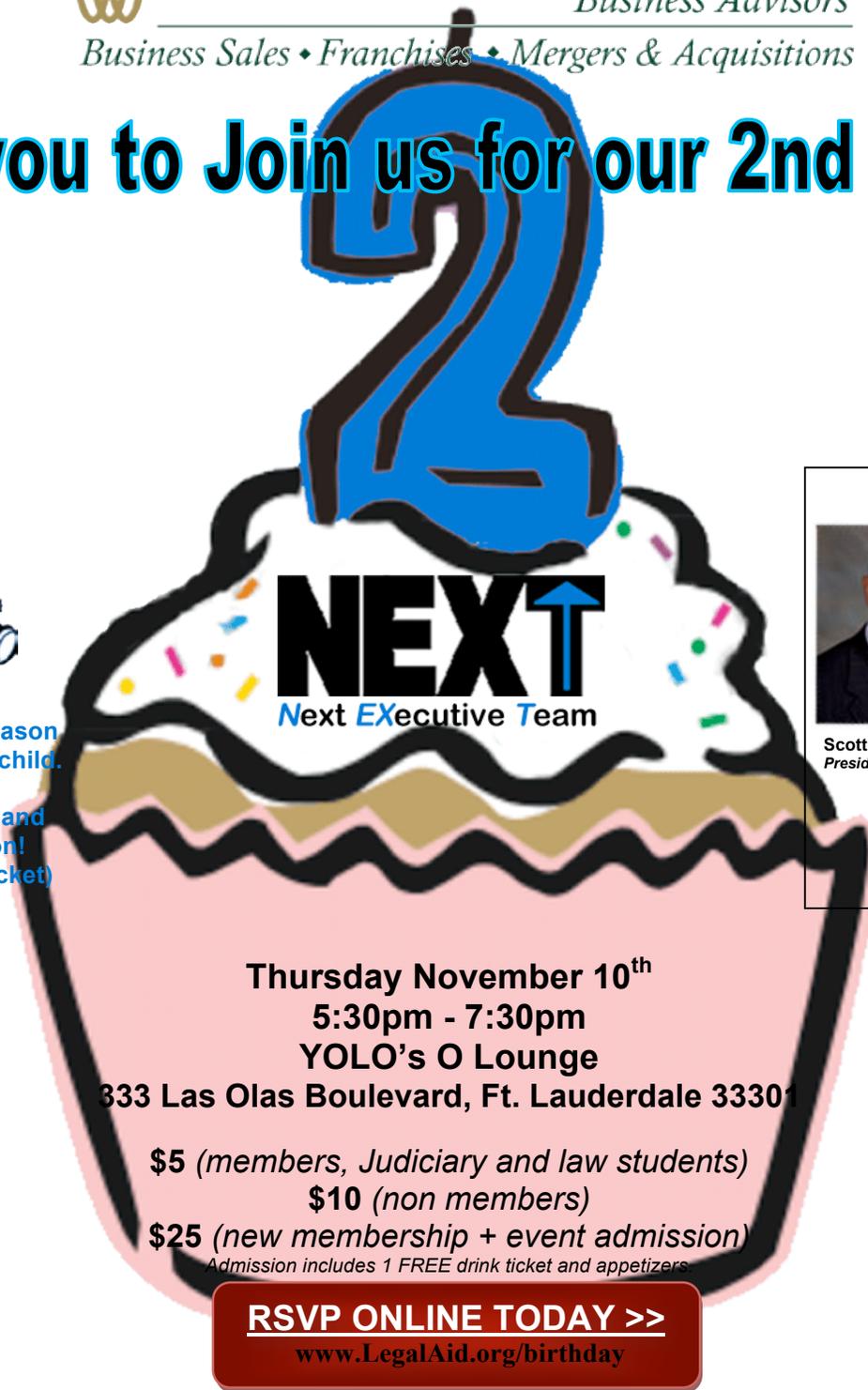


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## **Russell M. Thompson, Esq.**

Russell Thompson graduated from the University of Miami Law School, and was admitted to the Florida Bar in 1985. He is a member of the Academy of Florida Trial Lawyers, the American Bar Association, and the Broward County Bar Association. He currently has a practice with the primary focus on the area of personal injury and wrongful death committed to getting his clients the maximum recovery for negligence of others. He has shown his commitment to Broward Lawyers Care pro bono program, being an active member since the year 2003. He has donated well over 100 hours in pro bono service to clients in the areas outside of his general practice such as, divorce, custody /visitation, federal subsidized housing, and landlord tenant matters. He recently helped a client who was a victim of domestic violence with a dissolution defense .The client's spouse served her once he had secured a personal injury settlement from an accident which she helped care and provide for her spouse during that time. Mr. Thompson was able to help the client obtain the divorce and a part of her spouse's settlement award as well. He continues to display professionalism and a commitment to excellence.

### **Thank you to the following attorneys who accepted a Pro Bono case from Broward Lawyers Care September 2011**

**Douglas M. Bates**

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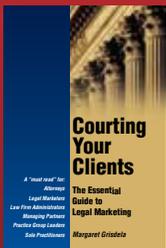
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## Board of Governors

At its October 21, 2011, meeting in Charleston, SC, The Florida Bar Board of Governors:

- Approved a communications plan to help keep Bar members informed about Bar-related legislative activities. Communications Committee Chair Greg Coleman said the plan calls for a communication from the Bar president to all members before the start of a legislative session. The letter, which will be printed in the Bar News, sent electronically to all members, and posted on the Bar's website, will explain what the Bar can and cannot do legislatively and have a general discussion of what the Bar expects to happen in the session. During the session, there will be a page on the Bar's website updated every Friday on what is happening in the session.
- Heard a report from Legislation Committee co-chair Ray Abadin that so far the Bar does not anticipate the wide ranging efforts to change the court system and the Supreme Court that occurred in the previous session. What is expected, though, is an effort to "reform" the judicial nominating process. Part of that reform could be an effort to remove the Bar from the process of appointing JNC members.
- Approved, on the recommendation of the Budget Committee, the hiring of a new disciplinary staff counsel to work on mortgage related grievance cases. Budget Committee Chair Bill Schifino said the new counsel will work on foreclose loan modification, mortgage fraud, and mortgage foreclosure related cases.
- Heard Program Evaluation Committee Chair Jay Cohen report that the committee will make a recommendation to the board at its December meeting on a non-voting board seat for a government lawyer.
- Approved the PEC recommendation to change the name of the Judicial Independence Committee to the Constitutional Judiciary Committee. Cohen said the change underscores that the judiciary is a constitutionally created branch of government.
- Recommended approval of an amendment to a form in the Juvenile Procedure Rules, out-of-cycle rule amendments for the family law rules that mirror changes made to civil procedure rules and a rule on mediations involving parties not represented by lawyers, and on changes recommended by the Traffic Court Rules Committee, Criminal Procedure Rules Committee, and Rules of Judicial Administration Committee on protecting confidential information, such as birthdays and Social Security numbers.
- Heard a report from Lawyer Referral Service Special Committee Chair Grier Wells on the committee's activities, including two public hearings. Wells said much of the problems related to private referral services appear to be related to getting PIP benefits for people injured in auto accidents.
- Heard board member Laird Lile, a member of the Florida Courts Technology Commission, report on electronic court filing activities. He noted the Supreme Court had asked for and the FCTC had provided a suggested schedule for mandatory e-filing in Florida courts. That would have mandatory filing of all civil cases no later than March 1, 2013, and mandatory filing for all criminal cases no later than September 30, 2013.



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\$55 for members, judges & their families  
\$75 for non-members  
Hockey 101, raffle entry, keynote speaker,  
parking, post-game slap-shot,  
all-inclusive beer, wine, soda, and buffet

## LEGAL PROFESSIONALS NIGHT AGENDA

4:30pm Check-In/networking  
5:15pm Hockey 101 with Randy Moller  
5:45pm Continuing Education Speaker  
featuring one of the following:  
NHL Deputy Commission Bill Daly  
Top Sports Agent Drew Rosenhaus  
6:45pm Group escorted to the Duffy's  
Sky Club for food and networking  
7:30pm Panthers vs. Pens face-off  
10:00pm Post-game slap-shot on the ice

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# CALLENDAR OF EVENTS

**A Discussion with Former Florida Supreme Court Justices**, November 1, 2011, 6:30 pm-9:00 pm, University of Miami School of Business, for more information, please register at: <http://www.whartonsouthfla.com/article.html?aid=444>.

**4th DCA Appellate Tri-Bar Conference**, November 3, 2011, "Inside the Appellate Court: A Day with the Judges of the Fourth DCA", This course has been granted 5.5 CLER; 3.0 Appellate Certification Credits from the Florida Bar, West Palm Beach Marriott, 1001 Okeechobee Blvd., West Palm Beach, reception following at 4:00pm - 6:00pm, reception at Fourth District Court of Appeal, 1525 Palm Beach Lakes Boulevard, West Palm Beach, Register For Event: <http://www.palmbeachbar.org/register.php>.

**BCBA Executive Committee Meeting**, November 3, 2011, 9:30 am-12:00 pm, BCBA Offices, 1051 SE 3rd Avenue, Fort Lauderdale, FL, 33316.

**Workers' Comp Committee Meeting**, November 3, 2011, 12:00 pm-1:30 pm, BCBA Offices, 1051 SE 3rd Avenue, Fort Lauderdale, FL, 33316.

**North Broward Bar Monthly Luncheon**, November 8, 2011, 12:00 pm-1:30 pm, Michael Connelly, Author of "Lincoln Lawyer" Q&A on Legal Fiction Writing, \$25 NBBA Members, \$30 Non-Members, RSVP by 11/1/2011, The Grill, 2101 W. Cypress Creek Road, Fort Lauderdale, FL, for more information, please contact Wilma Stevenson at [stevenson2@bellsouth.net](mailto:stevenson2@bellsouth.net).

**Business Law CLE Lunch and Learn**, November 8, 2011, 12:00 pm-1:30 pm, \$10 BCBA Members, \$20 Non-BCBA Members, Tower Club, 1 Financial Plaza, 28th Floor, Fort Lauderdale, FL, for more information, please contact Traci Lewis at (954)832-3618 or [traci@browardbar.org](mailto:traci@browardbar.org), register at <https://www.browardbar.org/event11082011businesslawseminar.php>

**Panel Presentation on Navigating Through Native American Legal Issues Luncheon**, November 9, 2011 12:00 pm, Riverside Hotel, 620 East Las Olas Boulevard, Ft. Lauderdale, FL 33301, R.S.V.P. to [rspv@bcwla.com](mailto:rspv@bcwla.com), \$35 BCWLA Members, \$40 non-members, \$30 Judiciary. Prepayment strongly suggested to reserve seats, Mail checks payable to BCWLA to Treasurer Ninowtzka Mier, Robinson & Pecaro, P.A., 5599 South University Dr., Suite 103, Davie, FL 33328

**BCBA Board of Directors Meeting**, November 8, 2011, 5:00 pm-6:30 pm, BCBA Offices, 1051 SE 3rd Avenue, Fort Lauderdale, FL, 33316.

**Inn of Court Dinner Meeting**, November 9, 2011, 5:30 pm-8:00 pm, Renaissance Hotel, 1617 SE 17th Street, Fort Lauderdale, FL, 33316, please contact Traci Lewis at [tracilewis@bellsouth.net](mailto:tracilewis@bellsouth.net).

**BCBA New Member Reception**, November 9, 2011, 5:30 pm-7:30 pm, BCBA Offices, 1051 SE 3rd Avenue, Fort Lauderdale, FL, 33316, for more information, contact Traci Lewis at (954)832-3618 or [traci@browardbar.org](mailto:traci@browardbar.org), register for event at <https://www.browardbar.org/eventnewmember-reception1192011.php>

**FBA Broward County Chapter Luncheon**, November 10, 2011, 12:00 pm-1:30 pm, Guest Speaker: Honorable Marcia G. Cooke, FBA Members \$40, Non-Members \$45, Gov't Attorneys \$25, Judiciary \$20, Riverside Hotel, for more information, contact Kimberly Gilmour at [assistgilmourlaw@aol.com](mailto:assistgilmourlaw@aol.com) or 954-584-6460.

**Next's 2nd Birthday Celebration**, November 10, 2011, 5:30 pm-7:30 pm, YOLO, 301 E. Las Olas Blvd., Fort Lauderdale, FL, for more information, contact Melisa Malone at (954)736-2426 or [mmalone@legalaid.org](mailto:mmalone@legalaid.org).

**SABA 2011 Diversity Leadership Forum**, November 11, 2011, 12:00 pm-6:00 pm, \$30 entrance, free for Law Students, University of Miami School of Law, for more information, contact Ashwin Krishnan, register for event at <http://browardbar.net/wp-content/uploads/2011/10/SABA-Diversity-Registration-and-Flyer.pdf>.

**4 Hour Minor Guardianship Class**, November 12, 2011, 9:00 am-1:00 pm, \$100, Attorneys Welcome, approved by the Florida Bar for CLE credits, BCBA Offices, 1051 SE 3rd Avenue, Fort Lauderdale, FL, 33316, for more information, contact Tish at (954)832-3617.

**Kozyak Minority Mentoring Foundation Picnic**, November 12, 2011, 12:00 pm-4:00 pm, Amelia Earhart Park, 401 East 65th Street, Hialeah, FL, 33013, for more information, contact Debra Shaw-Wilder at 305-377-0668 or [info@kmmfoundation.org](mailto:info@kmmfoundation.org).

**Bench and Bar Committee Meeting**, November 15, 2011, 12:00 pm-1:30 pm, BCBA Offices, 1051 SE 3rd Avenue, Fort Lauderdale, FL, 33316.

**Basic Tax Issues for Elder Law Attorneys Seminar**, November 15, 2011, 4:00 pm-6:00 pm, \$10 Members, \$20 Non-Members, BCBA Offices, 1051 SE 3rd Avenue, Fort Lauderdale, for more information, contact Traci Lewis at (954)832-3618 or [traci@browardbar.org](mailto:traci@browardbar.org), register for event at <https://www.browardbar.org/event11152011basictax-issuesseminar.php>.

**Membership Committee Meeting**, November 16, 2011, 12:00 pm-1:30 pm, BCBA Offices, 1051 SE 3rd Avenue, Fort Lauderdale, FL, 33316.

**YLS Board Meeting**, November 16, 2011, 5:30 pm-6:30 pm, BCBA Offices, 1051 SE 3rd Avenue, Fort Lauderdale, FL, 33316.

**Solo/Small Networking Dinner**, November 16, 2011, 6:00 pm-8:00 pm, \$35 BCBA Members, \$50 non-BCBA members, \$5 additional at the door, Dave & Busters, 3000 Oakwood Boulevard, Hollywood, FL, for more information, contact Traci Lewis at (954)832-3618 or [traci@browardbar.org](mailto:traci@browardbar.org), register for free at <https://www.browardbar.org/event11162011solosmallnetworkingdinner.php>.

**West Broward Section Luncheon with Judge Zeller**, November 17, 2011, 12:00 pm-1:30 pm, "Effective Presentation of Attorneys' Fees at a Contested Hearing", \$25 prior to 11/17/2011, \$30 at the door, Plantation Preserve Golf Course, 7050 W. Broward Boulevard, Plantation, FL, 33317, for more information, contact Traci Lewis at (954)832-3618 or [traci@browardbar.org](mailto:traci@browardbar.org), register for event at <https://www.browardbar.org/event11172011westbrowardluncheon.php>.

**YLS Luncheon w/ Judges Schiff, DeLuca, Levy & Levey-Cohen**, November 17, 2011, 12:00 pm-1:30 pm, \$20 pay at the door - cash or check, North Regional Courthouse, for more information, contact Traci Lewis at (954)832-3618 or [traci@browardbar.org](mailto:traci@browardbar.org), register for event at <https://www.browardbar.org/event11172011ylsluncheon.php>.

**B'nai B'rith Justice Unit Event**, November 17, 2011, 6:00 pm-8:00 pm, Blue Moon Fish Company, for more information, contact Richard Sachs at [sachs10@comcast.net](mailto:sachs10@comcast.net).

**8 Hour Adult Guardianship Class**, November 19, 2011, 9:00 am-5:00 pm, \$180 Attorneys Welcome, approved by the Florida Bar for CLE credits, BCBA Offices, 1051 SE 3rd Avenue, Fort Lauderdale, FL, 33316, for more information, please contact Tish at (954)832-3617.

**Legal Professionals Night with the Florida Panthers**, November 19, 2011, 4:30 pm-10:00 pm, \$55 Members & Judges & Families, \$75 Non-Members, BankAtlantic Center, for more information, contact Traci Lewis at [traci@browardbar.org](mailto:traci@browardbar.org) or (954)832-3618, register for event <https://www.browardbar.org/event11192011legalprofessionalsnightwiththepanthers.php>.

**Publicity Committee Meeting**, November 29, 2011, 12:00 pm-1:30 pm, BCBA Offices, 1051 SE 3rd Avenue, Fort Lauderdale, FL, 33316.

## December

**2011 Broward County Bar Association Holiday Party**, December 8, 2011, 5:00 pm-8:30 pm, BCBA Offices, 1051 SE 3rd Avenue, Fort Lauderdale, FL, 33316.