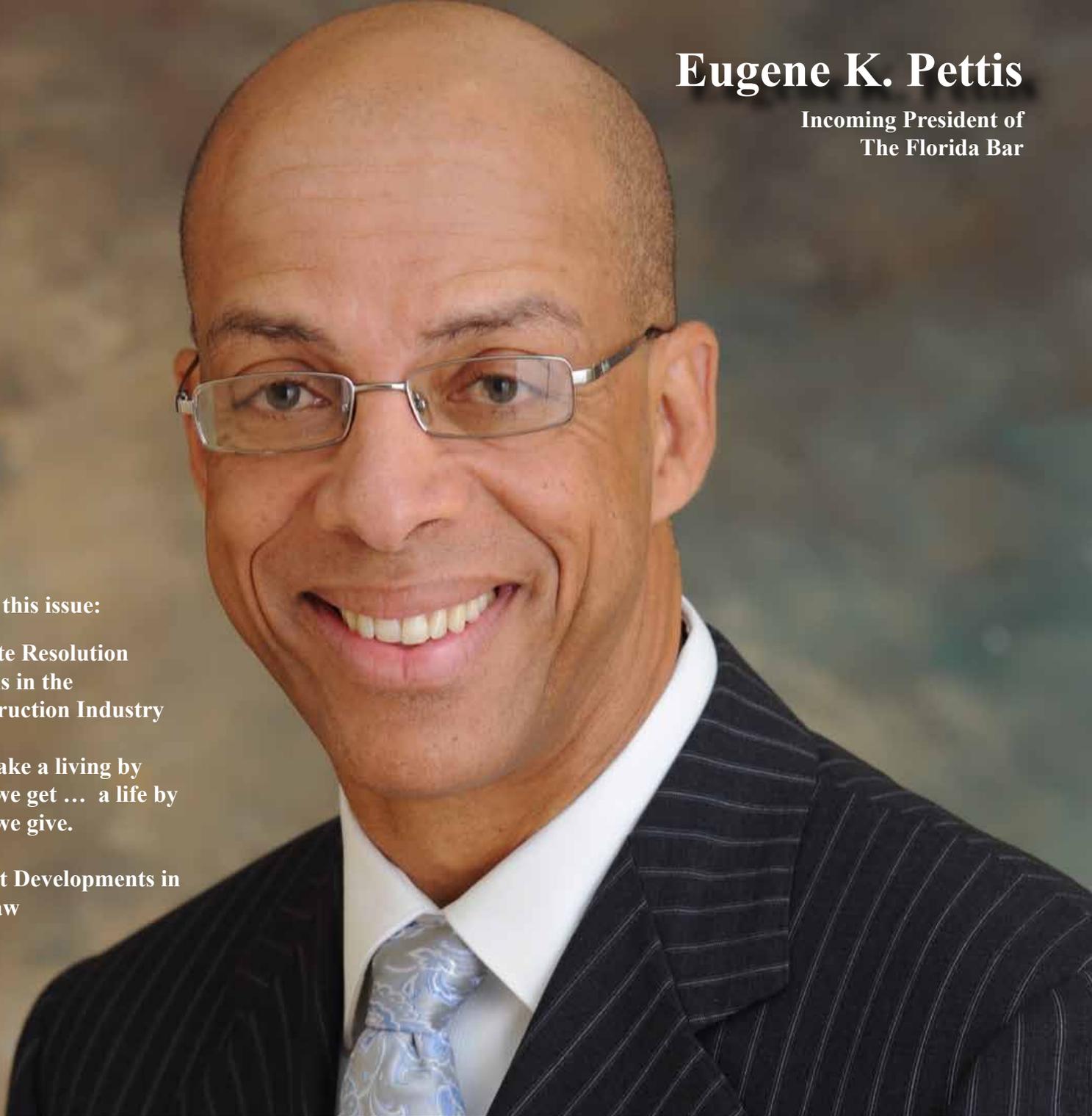


# BROWARD COUNTY BAR ASSOCIATION BARRISTER

JULY 2013

A professional headshot of Eugene K. Pettis, a bald man with glasses, wearing a dark pinstriped suit jacket, a white shirt, and a light blue patterned tie. He is smiling and looking directly at the camera.

**Eugene K. Pettis**

Incoming President of  
The Florida Bar

Also in this issue:

- Dispute Resolution Boards in the Construction Industry
- We make a living by what we get ... a life by what we give.
- Recent Developments in the Law

SERVING THE CITIZENS AND LEGAL COMMUNITY OF BROWARD COUNTY SINCE 1925

## DEBTOR & CREDITOR RIGHTS

- Corporate Financial Restructuring
- Bankruptcy and Insolvency
- Commercial Loan Restructuring and Foreclosure Litigation

Rice Pugatch Robinson & Schiller, P.A.

### Experience. Creativity. Results.

Rice Pugatch Robinson & Schiller, P.A. provides its clients with a sophisticated commercial legal practice by offering practical litigation and transactional solutions to the complicated legal problems encountered in today's marketplace. The firm offers its clients representation in matters of creditor rights, bankruptcy, insolvency, business reorganizations, commercial litigation, real estate, commercial transactions, as well as trusts, estates and guardianships.

[www.rprslaw.com](http://www.rprslaw.com)

101 N.E. Third Avenue, Suite 1800, Ft. Lauderdale, FL 33301  
954-462-8000 ● 305-379-3121

"The hiring of a lawyer is an important decision that should not be based solely upon advertisement. Before you decide, ask us to send you free written information about our qualifications and experience."

## BROWARD COUNTY BAR ASSOCIATION

*Recognizes 100% Membership Club*

\*\*For firms with 6 attorneys or more\*\*

Gray Robinson, P.A.  
Colodny, Fass, Talenfeld, Karlinsky, Abate & Webb  
Brinkley Morgan  
Wicker, Smith, O'Hara, McCoy and Ford, P.A.  
Billing, Cochran, Lyles, Mauro & Ramsey, P.A.  
Fowler White Boggs, P.A.  
Fowler, White, Burnett, P.A.  
McIntosh, Sawran & Cartaya, P.A.  
Chimpoulis, Hunter & Lynn, P.A.  
Cole, Scott, and Kissane  
Johnson, Anselmo, Murdoch, Burke, Piper & Hochman, P.A.  
Goldstein Law Group  
Panza, Maurer, & Maynard, P.A.  
Walton, Lantaff, Schroeder & Carson, LLP  
Doumar, Allsworth, Laystrom, Voigt, Wachs, Adair, & Bosack, LLP  
Ferencik, Libanoff, Brandt, Bustamante, & Goldstein, P.A.  
Haliczer, Pettis & Schwamm, P.A.  
Keller Landsberg  
Rogers, Morris & Ziegler, LLP  
Green, Murphy & Murphy, P.A.  
Bunnell & Woulfe, P.A.  
Law Offices of Sheldon J. Schlesinger, P.A.  
Cooney Trybus Kwavnick Peets, PLC  
Phillips Cantor Shalek & Rubin, P.A.  
Kelley Uustal  
MacLean & Ema  
Gladstone & Weissman, P.A.  
Berman, Kean & Riguera, P.A.  
Kirschbaum, Birnbaum, Lippman & Gregoire, PLLC  
Catri, Holton, Kessler & Kessler P.A.  
Moody, Jones, Ingino & Morehead, P.A.  
Broad & Cassel  
Fazio, DiSalvo, Cannon, Abers, Podrecca, Fazio & Carroll

# **CRIMINAL DEFENSE, DUI, TRAFFIC All Federal And State Courts 150+ YEARS COMBINED EXPERIENCE**



**Attorney  
John Musca**

Selected Super Lawyers® 2012  
Mutual Referrals?  
Email: [john@muscalaw.com](mailto:john@muscalaw.com)



**A+**

**Rated A+  
by The Better  
Business Bureau**

# **MUSCA LAW**

# **954 302-5391**

**521 S. ANDREWS AVE. SUITE 11  
FT LAUDERDALE, FL 33301**

**Staff Box**

**PUBLISHER**

Broward County Bar Association  
954.764.8040

**PUBLICATIONS & PUBLICITY  
COMMITTEE**

Edwina V. Kessler, Chairperson

**BOARD OF DIRECTORS LIAISON**

Laura Varela

**EXECUTIVE EDITOR**

Braulio Rosa  
braulio@browardbar.org

**LAYOUT AND PRINTING**

Park Row Printing

**MEDIA MANAGER**

Bonnie Ross  
bonnie@browardbar.org  
954.817.7032

**CONTRIBUTING WRITERS**

Kimberly Gessner  
Nancy Little Hoffman  
Alan Pascal  
Eugene K. Pettis

**BILLING INQUIRIES**

954.764.8040 Ext. 201

The Barrister is published monthly by the Broward County Bar Association. All editorial, advertising and photos may be submitted for consideration through email to: [braulio@browardbar.org](mailto:braulio@browardbar.org)

We make every effort to ensure the accuracy of the information published, but cannot be held responsible for any consequences arising from omissions or errors. Opinions expressed by our writers and advertisers are not necessarily opinions shared by the BCBA or the Barrister.

**ON THE COVER:**

Eugene K. Pettis, Incoming President of The Florida Bar

**5 Letter from the President**  
*Alan S. Fishman*

**7 Young Lawyers' Section  
Letter from the President**  
*Marissa J. Pullano*

**9 New President of The  
Florida Bar**

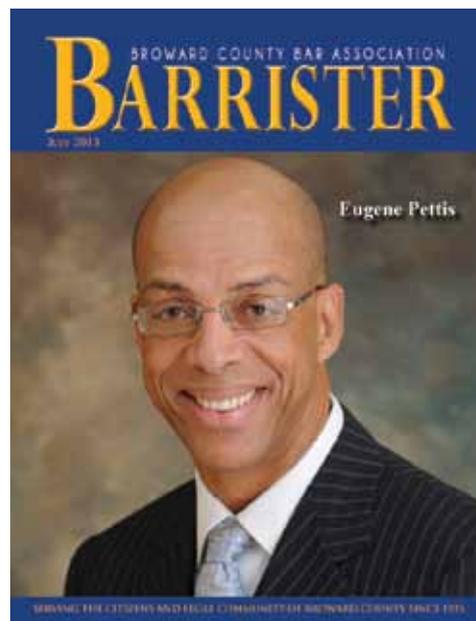
**11 Dispute Resolution Boards**  
*Kimberly Gessner*

**13 We Make a Living By What  
We Get...**  
*Alan Pascal*

**14 Social Scene**

**17 Developments in the Law**  
*Nancy Little Hoffman*

**20 Calendar of Events**



For information on upcoming events, please check out:  
[www.browardbar.org/calendar/](http://www.browardbar.org/calendar/)

**2013 - 2014  
BCBA Officers**

- Alan S. Fishman - President
- John G. Jordan - President Elect
- Robin S. Moselle - Treasurer
- Charles A. Morehead, III - Secretary
- Deborah FitzGerald - Past President
- Braulio Rosa - Acting Executive Director

**BOARD OF DIRECTORS**

**NORTHEAST**

- Michael Kean
- Thomas Oates
- Jerome R. Siegel

**NORTHWEST**

- Gary Landau

**WEST**

- Donald E. Fucik
- Gary M. Singer
- Russell M. Thompson

**CENTRAL**

- Michael A. Fischler
- Jeffrey Harris
- Jose Izquierdo
- Edwina V. Kessler
- Jay Kim
- Michael Leader
- Steve Lubell

**SOUTHWEST**

- Kenneth P. Hasssett

**SOUTHEAST**

- Anita Paoli
- Jeffrey Solomon
- Laura Varela

**JUDICIAL REPRESENTATIVE**

- The Honorable Jeffrey R. Levenson

**ACTING EXECUTIVE DIRECTOR**

- Braulio Rosa

**Broward County Bar Association**

1051 SE 3rd Avenue  
Fort Lauderdale, FL 33316  
954.764.8040



*Alan S. Fishman*

It is with a great deal of pride that I start my year as President of your Bar Association. The pride is not for myself, but for the privilege of participating in what our profession and the BCBA have become. Every one of you should also be proud of being lawyers in Broward County Florida in 2013.

One source of pride is the installation of our own Eugene Pettis as president of the Florida Bar. Those of you who attended the Law Day luncheon in May were spellbound by George Allen's speech. It is hard to imagine the difficulties he suffered because of the color of his skin just

fifty years ago and the courage it took for him to succeed. We should all be proud now in 2013 that the attorneys of our state have elected Gene to be our President not because of his race but because he is the best possible leader we could have.

Our Bar has become an organization that serves many significant roles. As I attended Florida Bar and ABA conferences this past year, I realized how cutting edge the BCBA is in many ways. Our numerous practice sections are providing meaningful CLE seminars to our members at a very reasonable cost. Our Bench Bar Convention which will be held at the Convention Center on October 18 provides an extraordinary opportunity for our entire legal community to come together to learn, get CLE credits, and get to know the judges with whom we work. Our annual Raising the Bar Family Law seminar, our Law Day luncheon, our 4th DCA Broward Day, our Legislative Reception and other events are models for the other bar associations around the state.

In addition to continuing to improve our already outstanding Lawyer Referral Service, this year we will be working more closely than ever with Legal Aid. When they get difficult and time consuming cases, we will be reaching out to you to help within your areas of expertise.

For those of us who practice in courts around the state, we take special pride in the extraordinary caliber of Broward's judiciary. Our Bench Bar Committee's monthly meetings are also a model for cooperation between our judges and our lawyers who practice with them. This year, particularly with the new challenges of e-filing, we will make a smooth working relationship with the Clerk of Courts' Office a priority.

Every one of you to whom I reached out agreed enthusiastically to chair sections and committees this coming year. The caliber of leadership in the BCBA is extraordinary, especially so with those who will serve with me on your Executive Board this year. Deborah FitzGerald, John Jordan, Robin Moselle, and Charles Morehead are bright, dedicated, and innovative and will continue to improve our Bar this year and in the years to come. **B**

FOR  
MODERN  
TIMES,  
A CLASSIC  
BANK.™

formoderntimes.com

Sabadell<sup>SM</sup> 

Frank Wagner  
(954) 768-5972

Bruce Hecker  
(954) 768-5971

COMMERCIAL BANKING | INTERNATIONAL BANKING | PRIVATE BANKING | WEALTH MANAGEMENT

Sabadell<sup>SM</sup> is a service mark of Banco de Sabadell, S.A. used by Sabadell United Bank, N.A., a subsidiary of Banco de Sabadell, S.A., and by Banco Sabadell, Miami Branch, a Florida International branch of Banco de Sabadell, S.A. Sabadell United Bank, N.A., is a member FDIC and an Equal Housing Lender. Deposits at Banco Sabadell, Miami Branch are not FDIC-insured. Advisory services include advice on non-deposit investment products which are NOT FDIC-INSURED - MAY LOSE VALUE - NOT BANK GUARANTEED. © 2012 Banco de Sabadell, S.A. All rights reserved.



**Clean, affordable, and made in America.**

We're powering Florida with American-made natural gas.



CHANGING THE CURRENT... FPL.

## 2013 - 2014 BCBA Young Lawyers' Section

### OFFICERS

Marissa Pullano - President  
Liza Smoker - President Elect  
Tobi Lebowitz - Treasurer  
Jeffrey M. Wank - Secretary  
Meghan Clary - Past President

### BOARD OF DIRECTORS

Jamie D. Alman  
Lauren M. Alperstein  
Todd L. Baker  
Patrick V. Douglas  
Eric S. Rosen  
Sara M. Sandler  
Jonathan H. Stief  
Lindsay M. Timari  
Anthony H. Quackenbush  
Cherie Smith Valbrun  
Kelly M. Vogt  
Stacy R. Weissman

### JUDICIAL REPRESENTATIVES

The Honorable Stacy Ross  
The Honorable Cynthia Imperato

## Florida Bar Board of Governors 17th Judicial Circuit

Walter G. "Skip" Campbell  
954.763.8181

Adele Stone  
954.925.5501

Lorna E. Brown-Burton  
954.463.8322

Jay Cohen  
954.763.6939

Broward County Bar Association  
1051 SE 3rd Avenue  
Fort Lauderdale, FL 33316  
954.764.8040

## letter from the young lawyers' president

### Marissa J. Pullano, President

Serving on the Young Lawyers Section (YLS) Board of Directors for the last five years has been such a rewarding and fulfilling experience. Each year, our board has progressed in various ways under the guidance of some wonderful Past Presidents. Our outgoing President, Meghan Clary, has certainly left me with tremendous shoes to fill, as this last year was an incredible success for YLS. Meghan has been such a crucial part of YLS' success during her seven years of service to the board. I cannot begin to thank Meghan for the strength of her leadership over the last several years and for all of the patience and guidance she has shown me through my transition and the various leadership positions on the board. Meghan, on behalf of the YLS board, we thank you for dedication and service and wish you well. We hope you will continue to remain a supporter of YLS and our mission. Thank you, Meghan.

On June 20th, I, along with twelve dedicated hard-working directors and four phenomenal leaders on the Executive Board, Liza Smoker Faw (President-Elect), Tobi Lebowitz (Treasurer) and Jeff Wank (Secretary) were installed by Chief Judge Weinstein. The collective board is committed to making this another successful year for YLS. I am thrilled at the opportunity to work with my Board of Directors and am looking forward to this year's annual events.

Since our July Barrister printed prior to the installation of our Board, our calendar for the year 2013 -2014 has not yet been determined. However, I implore you to stay tuned for our late-summer and early-fall events. We will be hosting our annual happy hour with Emerge Broward and Ghost Light Society in August. This event usually takes place at the Broward Center for the Performing Arts but this year due to some construction we are in the process of securing a new venue. The event will be free to members of YLS, Emerge Broward and Ghost Light Society.

We will also kick off our first monthly luncheon with a judicial panel discussing the topic "Common Mistakes by Lawyers" which will be held at the Tower Club. Please stay tuned for the date and details about our judicial panel members.

If anyone has any questions about joining YLS or to learn more information about YLS and our events, please feel free to call me at 954-522-2200 or email me at [marissa.pullano@brinkleymorgan.com](mailto:marissa.pullano@brinkleymorgan.com). After July 1, 2013, you will also find a calendar of our events on the Broward County Bar Association web site at [www.browardbar.org/yls](http://www.browardbar.org/yls).

It is an honor to serve the community and our profession this upcoming year as the YLS President. I look forward to seeing you at our programs and events this year. **B**



# MOMBACH BOYLE

MOMBACH, BOYLE, HARDIN & SIMMONS, P.A.

ESTABLISHED IN 1985

The shareholders of Mombach, Boyle and Hardin, P.A. and the partners of Murray and Simmons, LLP are pleased to announce that they have joined forces effective as of April 1, 2013.

Conrad J. Boyle, Michael P. Hamaway, David C. Hardin, Geoffrey S. Mombach, Gary S. Singer and Mark R. Wysocki have teamed up with David G. Murray and Stephen J. Simmons to carry on their tradition of providing preeminent legal services to the business community. The principals of the firm have an average of over 25 years experience serving the legal needs of their clients. The firm will be known as Mombach, Boyle, Hardin & Simmons, P.A. David Murray will be of counsel to the firm. James B. Abril has joined the firm as an associate attorney with current associates Jason A. Smith and Joshua L. Zipper.

We take great pride in our long-standing relationships with our clients and look forward to continuing and expanding the high level of expertise and service provided over the past 30 years.

BROWARD FINANCIAL CENTRE, SUITE 1950  
500 EAST BROWARD BOULEVARD  
FORT LAUDERDALE, FLORIDA 33394-3004

TELEPHONE (954) 467-2200 FACSIMILE (954) 467-2210  
[www.mbhlawyer.com](http://www.mbhlawyer.com)

## GT GreenbergTraurig

1750 ATTORNEYS | 36 LOCATIONS WORLDWIDE\*

Greenberg Traurig thanks the **Broward County Bar Association** and its leadership for their service and support.

Congratulations to President-Elect **Alan Fishman** and the incoming board of directors and officers.

GREENBERG TRAURIG, P.A. | ATTORNEYS AT LAW | [WWW.GTLAW.COM](http://WWW.GTLAW.COM)

ALBANY | AMSTERDAM | ATLANTA | AUSTIN | BOCA RATON | BOSTON | CHICAGO  
DALLAS | DELAWARE | DENVER | FORT LAUDERDALE | HOUSTON | LAS VEGAS | LONDON  
LOS ANGELES | MEXICO CITY | MIAMI | NEW JERSEY | NEW YORK | ORANGE COUNTY  
ORLANDO | PHILADELPHIA | PHOENIX | SACRAMENTO | SAN FRANCISCO | SEQUOIA  
SHANGHAI | SILICON VALLEY | TALLAHASSEE | TAMPA | TEL AVIV\* | TYSONS CORNER  
WARSAW | WASHINGTON, D.C. | WEST PALM BEACH | WHITE PLAINS

Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. ©2013 Greenberg Traurig, LLP. Attorneys at Law. All rights reserved. Contact: Glenn E. Goldstein in Fort Lauderdale at 954.765.0500. \*These numbers are subject to fluctuation. \*Operates as Greenberg Traurig Maher LLP. \*\*Operates as Greenberg Traurig, S.C. \*\*\*Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. \*\*\*\*Operates as a branch of Greenberg Traurig, P.A., Florida, USA. -Greenberg Traurig's Warsaw office is operated by Greenberg Traurig Grzesiak sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. 21568

## Wintter & Associates, P.A.

is proud to announce

## Nina Zuckerman Chepp

has become a Partner of the Firm



[www.wintterlaw.com](http://www.wintterlaw.com)

954-920-7014

**Probate, Trust, Estate & Guardianship**

**Litigation and Administration**

**and Estate Planning**

**Hollywood, Florida**



CATRI  
HOLTON  
KESSLER &  
KESSLER, P.A.  
ATTORNEYS AT LAW

CONGRATULATIONS TO  
EDWINA V. KESSLER

RECIPIENT OF THE COMMITTEE CHAIR  
OF THE YEAR AWARD AND BEST  
WISHES TO THE BOARD OF  
DIRECTORS

Wesley L. Catri  
Raymond O. Holton  
Paula C. Kessler  
Andrea L. Kessler  
Edwina V. Kessler  
Wesley E. Catri

Litigation ~ Mediation ~ Arbitration

(954) 463-8593

[www.chkklaw.com](http://www.chkklaw.com)

# New President of The Florida Bar

By Eugene K. Pettis

As I become the first African-American President of The Florida Bar, it is important that we focus on what this occasion should mean. If we get too drunk on celebration and do not seize this moment to make meaningful advancement of our profession and its moral obligation to our members and communities, then this moment will be but a footnote in history.

Folks often ask, "What would you consider a successful year as President of The Florida Bar?" While there are a number of initiatives that we will be unfolding over the next year, I think the greatest accomplishment will be if we can refocus and reconnect our members to a common cause - of assuring that our legal profession, which has shined bright over history, remains a pathway of justice and equality in our society.

To accomplish that goal, we must realize greater engagement of our members. While each of us can think of an excuse why we can't give more of ourselves, it helps to pause and get a real assessment of what we are doing. I saw a recent Miami Herald article written by Dan Le Batard, and he stated, "We are in such a big hurry these days, staring into our phones as we walk past strangers, texting while driving, so connected to a bombardment of instant stimuli that it is easy to miss even the biggest and most obvious things whizzing right by us." That is such a sad but true statement of our lives.

I think it is important that we look beyond ourselves and our self-interests and look to see how we can better the world around us. Many times people say, "Oh, I can't make a difference" or have the attitude that someone else will do it. But "What you do matters." There is "power in one!" Some of the greatest accomplishments were started with the act of one person. I was always inspired by a quote of Helen Keller, "I am only one, but still I am one. I cannot do everything, but still I can do something, and because I cannot do everything, I will not refuse to do something that I can do." That is a clear reminder of the power of one person making a difference, one voice speaking truth to justice, and one hand reaching out and lifting someone to higher ground.

Let there be no doubt that the legal profession is going through evolutionary changes. These changes are being driven by external and internal forces. How we deliver our services is being impacted by economic realities and technology advancements. How we communicate with our clients, with the courts, and with each other as lawyers is changing.

So we must find a way to balance our goals of being successful practitioners, while at the same time living a purpose-filled life.

During my presidency, I will lead several initiatives which



Eugene K. Pettis

I hope will lead us toward our goals. I have recently completed over 500 appointments to the Standing Committees of The Bar. I am proud that we were able to accomplish great diversity and inclusion of gender, race, geographic and practice areas.

I am also appointing a commission to study the future practice of law. This commission will study four areas over the next three years, including legal education, technology, Bar admissions and delivery of pro bono legal services. Each of these areas will be studied by individual sub-groups of lawyers from the practice, academia, the judiciary and lay people in ancillary areas that impact our profession. We hope this commission will identify a road map of how we can shape the future of law and not allow outside forces to totally reshape our profession.

Lastly, the Bar will be rolling out its inaugural class of the Wm. Reese Smith Leadership Academy. We have 59 Fellows of the Academy who will undertake a one year curriculum of training of leadership skills and networking that is designed to make them knowledgeable lawyers and ambassadors of our profession.

It is hoped that through these and other initiatives, we will fulfill our responsibilities as lawyers and uphold the legacy of the legal profession and be the difference makers this world needs. **B**

# CONGRATULATIONS



Walton Lantaff Schroeder & Carson LLP is proud of our own **Deborah Poore FitzGerald**, outgoing President of the Broward County Bar Association. Deborah, thank you for all of your hard work and dedication to the legal community and to the Firm. Congratulations on an incredibly successful term as President—we could not be prouder.

— Your WLSC Family

Offices statewide  
to serve you  
better



## WALTON LANTAFF SCHROEDER & CARSON LLP

Attorneys at Law Since 1934 • [www.WaltonLantaff.com](http://www.WaltonLantaff.com)

## When you think Florida, think Broad and Cassel.

Broad and Cassel's Fort Lauderdale office is a proud and long-time supporter of the **Broward County Bar Association** and its members. Our lawyers work closely with their fellow Bar members in such areas as health law, appellate, white collar criminal and civil fraud defense, commercial real estate, intellectual property and commercial and complex litigation.



[www.broadandcassel.com](http://www.broadandcassel.com)

For more information, please contact:  
**Gabriel Imperato, Managing Partner**

One Financial Plaza, 100 S.E. 3rd Avenue, Suite 2700, Fort Lauderdale, FL 33394  
954.764.7060 | [gimperato@broadandcassel.com](mailto:gimperato@broadandcassel.com)

BOCA RATON ■ DESTIN ■ FT. LAUDERDALE ■ MIAMI ■ ORLANDO  
TALLAHASSEE ■ TAMPA ■ WEST PALM BEACH

## Bench & Bar Convention

October 18, 2013

Broward County Convention Center • Fort Lauderdale

### HOLD THE DATE!

Over 750 participants expected • A day filled with CLE Seminars • Legal Vendors • Breakfast, Lunch, & Cocktail Reception

#### Keynote Speaker

*Florida Supreme Court Justice Barbara J. Pariente*

#### Keynote Breakfast Speaker

*The Honorable Renee Goldenberg of the 17th Judicial Circuit will present "Top Ten Societal Shifts that Affect Legal Ethics and Professionalism."*

For information about sponsorship or an exhibition table at the Broward County Bar Association's 2013 Bench & Bar Convention, contact at your earliest convenience:

*Robin Moselle, Convention Co-Chairperson*  
(954) 315-0923

*Charles Morehead III, Convention Co-Chairperson*  
(954) 473-6605

*Braulio Rosa, Acting Executive Director*  
(954) 832-3620

[www.browardbenchandbar.org](http://www.browardbenchandbar.org)

# DISPUTE RESOLUTION BOARDS: understanding their form, function, and benefits

by Kimberly Gessner

There is a growing trend in the Construction Industry leaning towards “preventative law” in the shape of what is referred to as Dispute Resolution Boards (“DRB”), resulting in saving time, project costs, and legal fees both during and after construction. DRBs represent a ‘job-site’ dispute adjudication process, typically comprised of three independent and impartial persons selected in advance by the contracting parties. The purpose of the DRB is, when a dispute arises during the construction process that the owner, contractor or subcontractor cannot settle on their own, the DRB will take in all of the facts on each side of the dispute and produce a written recommendation for resolution. The concept was born in the late 1990’s out of the nonprofit Dispute Review Board Foundation, located in Seattle, and has reported great success across the country.

In a nutshell, the DRB and its procedures are organized before construction begins. The contractor selects one member and the owner selects another, with each left to approve the other’s choice. The third member is selected jointly. From the inception of the project, the DRB receives copies of the contract documents, makes a project inspection tour, meets periodically at the site, and is kept informed of project developments. The DRB, in essence, becomes part of the project administration and thereby can influence the performance of the contracting performance in a ‘real-time’ setting, allowing for the settlement of disputes contemporaneous with the project. This not only saves enormous amounts of money and time, but frees up

resources and personnel that would otherwise be impacted to focus on a dispute. Additionally, because the DRB members are selected from the inception of the project, they become part of the project team and therefore viewed differently because of their “hands on” approach which gains the trust and respect of the disputing parties more readily and easily than would a third party or stranger to the project.

While the decision of the boards are non-binding, studies have shown excellent results in minimizing construction delays and disputes through use of DRBs. A growing number of state departments of transportation, including Florida, are using DRBs. One of the most notable successes of a DRB use happened in the last few weeks, and relates to the construction of the \$1 billion Port of Miami tunnel constructed to connect Port of Miami to I-395. Through the DRB, a rapid \$58.5 million settlement was reached by the panel regarding extra work. Specifically, as the company commended the digging of the tunnel, changed conditions were revealed and required grouting of the limestone as the digging continued, and at a significant cost. Through the DRB’s recommendation, the company was able to negotiate the financial resolution directly with the Florida Department of Transportation while continuing to progress with the construction.

In North America, DRBs have been employed in over 1,200 projects, aggregating some \$90 billion in construction cost. Roughly 1,500 DRB recommendations have been issued, and, of these, all but a handful have been adopted by the

parties, thereby avoiding costly and time consuming arbitration/litigation.

Because the concept is new, many initial concerns relate to the cost associated with adding a DRB to a construction contract. DRB costs range from 0.05% of final construction contract cost, for relatively dispute-free projects, to a maximum of 0.25% for difficult projects with disputes. Considering only projects that refer disputes to the DRB or that had difficult problems, the costs ranges from 0.04% to 0.26% with an average of 0.15% of final construction contract cost, including an average of four dispute recommendations. Thus, the cost is insignificant in light of the potential savings DRBs present.

In sum, the biggest hurdle to the implementation of DRBs into construction contracts is the relative newness of the concept, and lack of information regarding the value of the DRB. Understanding is the key to making the process work. By introducing the concept in the early stages of planning a large project, the implementation could provide immeasurable value to all members of the development team. **B**



*Kimberly Gessner practices general commercial litigation and is Board Certified in Construction Law. She has been practicing in Fort Lauderdale since 2004 and is a member of the firm of Fowler White Boggs P.A. She may be contacted at 954-335 1590 or via email at [kimberly.gessner@fowlerwhite.com](mailto:kimberly.gessner@fowlerwhite.com)*



***Congratulations  
to our Associate,  
Marissa J. Pullano***

***On being installed as the President  
of the Young Lawyers' Section of the  
Broward County Bar Association***

**BRINKLEY MORGAN**

200 East Las Olas Blvd.  
19th Floor  
Fort Lauderdale, FL 33301  
(954)522-2200

1800 N.W. Corporate Blvd.  
Suite 302  
Boca Raton, FL 33431  
(561)241-3113

[www.brinkleymorgan.com](http://www.brinkleymorgan.com)

# THE BROWARD COUNTY BAR ASSOCIATION

*thanks its Annual Sponsors*



The Arias Law Group

Bob Coury

Boss Certified Realtime Reporting

Broad & Cassel Attorneys at Law

Connections for Business

Crowe Paradis

Ellsley Sobol Attorneys at Law

Fiske and Company

Florida Power and Light

Lexis Nexis

Pankauski Law Firm PLLC

Sabadell Bank

Swamp City Productions

**Save The Date!**

***You've  
Been  
Served!***

For The  
**Public  
Good**

***12th Annual***

Friday, September 27, 2013  
Hilton Fort Lauderdale Marina  
6:00 - 10:00 pm

*Russell E. Carlisle Advocacy Award*

The Honorable Arthur England  
Former Chief Justice of the Florida Supreme Court

*Commitment to Justice Award*

Lisa Goldberg, Esq.  
Family Law Unit Supervisor, Coast to Coast Legal Aid of South Florida\*

*Attorney of the Year*

David Bazerman, Esq.  
Director, Tracey McPharlin Pro Bono Dependency Initiative

*Law Firm of the Year*

GrayRobinson, P.A.

*Family Law Award*

Jorge E. Hurtado, Esq.  
Law Office of Jorge E. Hurtado, P.A.

*Children's Advocacy Award*

Carlton Fields

*Volunteer of the Year*

Lisa Callahan, Esq.

For sponsorship opportunities, please contact  
[development@legalaid.org](mailto:development@legalaid.org) or 954-736-2429



# “We make a living by what we get, but we make a life by what we give.”

Sir Winston Churchill



By Alan Pascal

When I agreed to Chair the 17th Judicial Circuit Pro Bono Committee, I thought that Broward County would be among the leading judicial circuits for pro bono service. To my surprise, I learned from last year's annual pro bono report that almost 1/3 of our fellow attorneys in Broward County had not made a financial contribution for pro bono services or did not provide any pro bono hours last year. I asked myself, how is it possible that one third of our fellow lawyers had done absolutely nothing for pro bono services last year? “No way”, I thought. “Not possible!” This official report places Broward County as ranking second to last in the State for the number of active attorneys within a judicial circuit not providing pro bono hours or making any financial contributions for pro bono services at all. I know the 17th Judicial Circuit can do better in the future. The time for action is now.

These findings troubled me because I know of many fellow legal professionals and colleagues who are generously giving back to our community and indigent citizens in need. Then a light bulb went off in my head: Broward County lawyers must be underreporting their pro bono hours or need to be provided with better information on the many pro bono options

that exist within county.

Now more than ever, Broward Lawyers Care, Legal Aid of Broward County, and Coast to Coast Legal Aid of South Florida need your support. A financial contribution or a commitment to provide pro bono work on a case, or both, is vital for our ongoing success in Broward County. Today, right now, I am pleased to report to you that a variety of pro bono opportunities exist for all Broward attorneys to lend a helping hand: opportunities tailor made to fit into our busy lives as practicing lawyers.

I can tell you from my personal experiences, as a frequent participant with the Legal Aid Hotline, that by volunteering a little of your time, you can make a tremendous difference in the lives of indigent clients facing financial hardships and difficulties. In the time that it takes you to watch a movie, you have the opportunity to assist multiple indigent clients as a volunteer for the Legal Aid Hotline. Without your legal assistance, Legal Aid clients may face an illegal eviction, an unnecessary foreclosure, or the loss of a much needed security deposit during a time of great financial need. In the eyes of those you have helped, you have now become their hero. In my 20 years of practicing law, I have found my pro bono

clients to be the most grateful and appreciative. My personal experiences with pro bono makes me realize the true power and importance of lawyers in our society.

Please remember as you pay your bar dues to the Florida Bar this year, to report your pro bono hours to the Bar. Critical funding for our indigent citizens of Broward County depends on it. This year, I urge you to take time and review any and all cases in which you provided pro bono over that past year. Please report the total number of pro bono hours to the Florida Bar. Every hour counts! No one will ever question your “good faith” estimation of your pro bono hours. However, underreporting pro bono hours can negatively impact our funding for indigent client services within Broward County. Again, take pride and personal satisfaction in fully reporting your pro bono hours. Every hour counts! I thank you for your assistance. **B**



*Mr. Pascal is the Current Chair of the 17th Judicial Circuit Pro Bono Committee. As a 20 year practitioner, Mr. Pascal is Senior Bar Counsel with The Florida Bar, Past President of the Broward County Hispanic Bar Association and frequent lecturer and presenter on the topics of Ethics and Professionalism.*

## Legal Aid Service of Broward County Hosts Third Annual Bridge to Justice Breakfast Fundraiser



Academy Award Winning Producer  
Jon Landau & Adele Stone, Esq.,  
Fowler White Boggs PA.

The Executive Council of Legal Aid Service of Broward County (LAS) and Coast to Coast Legal Aid of South Florida (CCLA) hosted its third annual Bridge to Justice Breakfast, presented by Goya Foods, on Friday June 7th. Over 200 people attended the event, featuring Academy Award and two-time Golden Globe winning producer Jon Landau. Mr. Landau, who recently joined the south Florida community, spoke about the importance of becoming involved in our communities and the difference each person can make. He drew examples from some of his film productions, Avatar and Titanic. Landau said that his goal with films he produces is not just to entertain, but also to inspire his audience.

Adele I. Stone, shareholder of Fowler White Boggs, was the event's master of ceremonies. Jesse H. Diner, past president of The Florida Bar, and Eugene Pettis, president-elect of The Florida Bar, made closing remarks for the program. The event was sponsored by Goya Foods, Daily Business Review, CNA, United Automobile Insurance (UAIC), US Legal Support, Broward Health, Kirschbaum, Birnbaum, Lippman & Gregoire, PLLC, and Bogenschutz, Dutko & Kross, P.A. The in-kind sponsors were

CopyScan and Michael Murphy Photography. A big thank you goes out to the table captains: Andy Cagnetta, Jesse Diner, Jennifer Gaul, Jill Ginsberg, Jackie Howe, Steve Jaffe, Jay Kim, Russell Lazega, Morrie Levine, Tom Loffredo, Greg Medalie, Jean Mignolet, Robin Moselle, Andre Park, Arlene Ravalo-Jao, Mark Schwartz, Don Silver, Judith Stern, Adele Stone, Howard Talenfeld, Frank Wagner, and their guests.



1

1: "Diversity, Domestic Violence and Ethics and the Mediation Process" CLE Event in June 2013 at the BCBA Conference Center. Left to Right: Speaker Stanley Zamor, ADR Section Co-chair Meah Tell, and Speaker Sal Gardino.



2

2: Bar at the Bar Event at the Blue Martini- Fort Lauderdale sponsored by Sabadell Bank. Left to Right: Edwina V. Kessler, BCBA Board Member, Bonnie H. Ross, BCBA Media Manager, Frank Wagner, VP, Sabadell United Bank, and Anita Paoli, BCBA Board Member



3

3: Left to Right: Carey Fischer and Arianne Levin

**Boss**  
**CERTIFIED REALTIME REPORTING, INC**

**BROWARD**  
**(954) 467-6867**

**DADE**  
**(305) 446-4022**

 **www.BossReporting.com**



**Coral Springs Office Space**  
**First Month Rent FREE**  
 University Drive across from "The Walk". Two professionally decorated window offices (11x14 and 10x14) with available workstations. Shared reception area, kitchen and conference room. Will rent individually. Starting at \$850/month.

**Contact Mark Abzug, Esq.**  
 (954) 753-1003 • [mabzug@coralspringslaw.com](mailto:mabzug@coralspringslaw.com)

www.ExquisiteCatering.com

*Exquisite Catering*  
 By Robert

Exquisite Catering offers a wide variety of catering services to meet all your event needs. No event is too big or too small.



**SERVING MIAMI-DADE & BROWARD COUNTIES**  
**305-622-FOOD (3663)**  
*Exquisite Events Every Time!*



**Bonnie Ross**  
**BCBA Media Manager**  
**[bonnie@browardbar.org](mailto:bonnie@browardbar.org) • (954) 817-7032**



**Immigration Lawyer**  
**Seeks Subtenants in**  
**Weston**

Two Offices Available  
 8 X 14 Feet Each  
 Electricity and Internet included. \$650/Month.

**Contact Vanessa**  
 954.659.8526 or Email [diverson@infionline.net](mailto:diverson@infionline.net)

Congratulations to our Kelley/Uustal Attorney  
on being honored by the

TRIAL LAWYERS SECTION  
OF THE FLORIDA BAR

as

*Legislator of the Year  
for 2013*

*for the Florida House of Representatives*

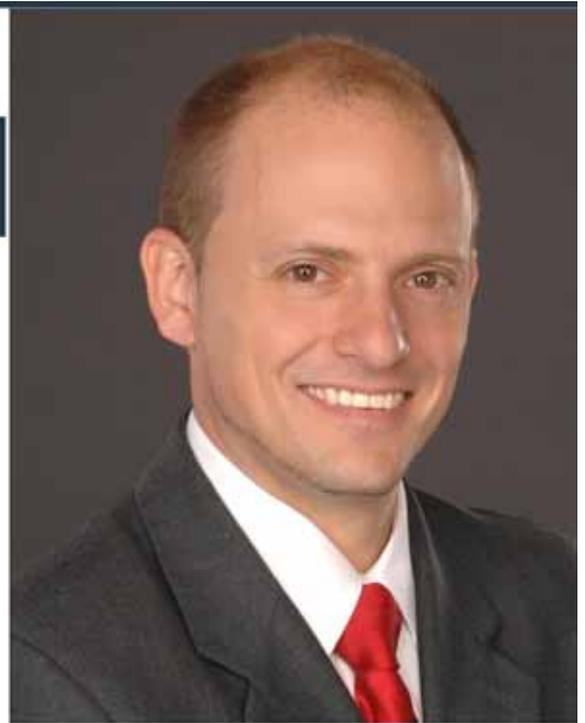
justiceforall.com

**Kelley Uustal**

TRIAL ATTORNEYS

Fort Lauderdale | West Palm Beach | Florida Keys | 954.522.6601 | 888.522.6601

Catastrophic Injury | Wrongful Death | Defective Products | Medical Malpractice | Consumer Fraud



**José Javier Rodríguez**

**FOWLER**   
Attorneys at Law  
EST 1943 **WHITE BOGGS**



We are pleased to announce that Dwayne L. Dickerson, a shareholder in the firm's Government, Environment and Real Estate Practice Group, has been appointed by the Supreme Court of Florida to serve on the Standing Committee on Unlicensed Practice of Law. Mr. Dickerson's appointment became effective on May 3, 2013 and is for a term of three years.

Mr. Dickerson represents developers, property owners and local governments seeking development entitlements and environmental permit approvals for their real estate projects. Additionally, he routinely negotiates with town, city and county officials; counsels clients regarding environmental and land use development issues; prepares development applications for submittal to local governmental bodies; presents development projects at town, city and county commission meetings and various board meetings; drafts agreements and performs due diligence research related to clients' potential land acquisitions. He received his B.A. from the University of Florida and his J.D. from the University of Florida Levin College of Law.

**Dwayne L. Dickerson, Shareholder**  
(954) 703-3942

dwayne.dickerson@fowlerwhite.com

[www.fowlerwhite.com](http://www.fowlerwhite.com)

Tampa | Fort Myers | Tallahassee | Jacksonville | Fort Lauderdale



*By Nancy Little Hoffman*

**Supreme Court Allows Amendment of Personal Injury Action to Allege Wrongful Death Claim Upon Death of Plaintiff**

In two separate cases, the Supreme Court held that upon the death of a party plaintiff in a personal injury action, the personal representative of the decedent's estate may be added to the pending action as a party and, thereafter, may file an amended pleading that alleges new or amended claims and causes of action. The court emphasized that it is permissible for a personal representative to pursue both a claim for survival damages and an alternative wrongful death claim where the cause of the decedent's death may be disputed by the parties. *Capone v. Philip Morris USA Inc.*, and *Ruble v. Rinker Materials Corp.*, 38 Fla. L. Weekly S\_\_ (Fla. June 13, 2013).

**Re-reading Miranda Warnings Without Correcting Misinformation About Right to Counsel Held Insufficient to Uphold Murder Conviction**

The Fourth District granted a new trial to a defendant who had been given the wrong information about his right to consult with a lawyer. Although the police officer re-read the Miranda warnings before a second interview, he did not cor-

rect the earlier misinformation. Thus the State did not overcome the defect from the first interview, and the self-incriminating statement in the second interview would be excluded at the retrial. *Murdock v. State*, 38 Fla. L. Weekly D1294 (Fla. 4th DCA June 12, 2013).

**Trial Court Erred in Dismissing Case for Lack of Prosecution Solely Because Plaintiff Failed to Attend Case Management Conference**

After neither party attended a scheduled case management conference, the trial court dismissed it for lack of prosecution. Reversing, the Fourth District held that dismissal was unauthorized because: (1) Rule 1.420(e) allows dismissal only where there has been no record activity for ten months and a sixty-day notice is given to the parties, and (2) Rule 1.200(c) allows dismissal for failure to attend a conference only where the party's conduct is willful and contumacious, and the court made no such findings. *Petersen & Hawthorne, P.A. v. EMI Enterprises, Inc.*, 38 Fla. L. Weekly D1293 (Fla. 4th DCA June 12, 2013).

**Engle Findings Supported Conspiracy Verdict But Not Striking of Statute of Re-**

**pose Defense in Tobacco Case**

In an *Engle* progeny case, the Fourth District rejected defendants' challenge to a conspiracy verdict based on preclusive effect of *Engle* findings. It reversed, however, because the trial court erred in striking the statute of repose defense since that is an individualized defense that can only be adjudicated based on particular circumstances of each plaintiff. The trial court also erred in denying a remittitur as to consortium damages. *Philip Morris USA Inc. v. Putney*, 38 Fla. L. Weekly D1299 (Fla. 4th DCA June 12, 2013).<sup>B</sup>



*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. For more information, see NancyLittleHoffmann.com.*

probate litigation

state-wide  
contingency fees



( 8 5 5 )

**W I L L - 1 2 3**

*www.pankauskilawfirm.com*

(561) 514 - 0906

the hiring of a lawyer is an important decision that should not be based solely upon advertisements. before you decide, ask us to send you free written information about our qualifications and experience. west palm beach.

# Congratulations to Incoming President Alan Fishman & Board of Directors



HDG EXECUTIVE SUITES is a fully renovated office building with modern and elegant design, strategically located at Hollywood Boulevard with easy access to I-95. We provide fully serviced, furnished Executive Suites, Virtual office packages and business solutions.

## EXECUTIVE SUITES

Tastefully decorated offices with modern european furniture, ample work space and state of the art communication infrastructure.

## CONFERENCE ROOMS

Two spacious, fully equipped conference rooms with cutting edge technology and elegant design.

## VIRTUAL OFFICES

For those who need a professional business address, mail collection and forwarding, receptionist service, meeting room and communication capabilities, but do not presently require a physical office space. A virtual office is a cost effective, flexible and convenient solution for professionals and out of country businessmen.

All the aforementioned options include Bilingual receptionist service, to greet and redirect calls, receive and distribute incoming mail and packages, complementary high quality coffee and many other services. Come and share with us the ultimate working experience with a technological driven environment, where the natural light enters the building through is multiple windows and the work of arts displayed on the common area walls will help you take your business to the next level.

## SPECIAL PROMOTIONS!

### EXECUTIVE SUITES

Pay 11-month rent and enjoy 12-month office space.

TENANT REFERRAL: Any existing HDG Executive Suites Tenant (physical or virtual) that refers a potential member to sign a 12-month lease agreement for Executive Suites office space, will receive a one time credit towards it next payment in the amount of USD 250.

### VIRTUAL OFFICE

Pay 10-month rent and enjoy 12-month of outstanding service.

TENANT REFERRAL: Any existing HDG Executive Suites Tenant (physical or virtual) that refers a potential member to sign a 12-month lease agreement for HDG Virtual office membership, will receive a one time credit towards it next payment in the amount of USD 50.

Visit [hdgexecutivesuites.com](http://hdgexecutivesuites.com)  
2719 Hollywood Blvd Hollywood, FL 33020, USA

P: 1-954-874-3670 | F: 1-954-744-8496  
Email: [info@hdgexecutivesuites.com](mailto:info@hdgexecutivesuites.com)



## July

## calendar of events

**6 9:00 am – 5:00 pm**

**Eight Hour Adult Guardianship Class**

Attorneys welcome, approved by the Florida Bar for CLE credits; Fee \$180.00.

**Venue:** BCBA Offices

**Address:** 1051 SE 3rd Avenue, Fort Lauderdale

**Contact:** Tish Guiffreda (954)832-3617 or tish@browardbar.org to register for this event.

**25 12:00 pm – 1:30 pm**

**West Broward Section CLE Luncheon**

**Description:** \$25, \$30 at the door.

**Venue:** Plantation Preserve Golf Course

**Address:** 7050 W. Broward Boulevard, Plantation

**Contact:** Traci Lewis (954) 832-3618 or traci@browardbar.org

**13 9:00 am – 1:00 pm**

**Four Hour Minor Guardianship Class**

**Description:** Attorneys welcome, approved by the Florida Bar for CLE credits; Fee \$100.00.

**Venue:** BCBA Conference Center

**Address:** 1051 SE 3rd Avenue, Fort Lauderdale

**Contact:** Tish Guiffreda (954)832-3617 or tish@browardbar.org to register for this event

**17 6:00 pm – 8:00 pm**

**Solo/Small Networking Dinner**

**Description:** \$35 BCBA Members, \$50 Non-Members, \$5 additional for walk-ins

**Venue:** Dave & Buster's

**Address:** 3000 Oakwood Blvd., Hollywood

**Contact:** Traci Lewis (954) 832-3618 or traci@browardbar.org

**23 12:00 pm – 1:30 pm**

**"Probate Law: A View from the Bench" CLE Luncheon**

**Description:** Speakers: Judges Greene, Speiser and Grossman; Includes Lunch and CLE; \$15 BCBA Members, \$25 Non-Members

**Venue:** BCBA Conference Center

**Address:** 1051 SE 3rd Avenue, Fort Lauderdale

**Contact:** Traci Lewis (954)832-3618 or traci@browardbar.org

