



# St. Lucie County Bar Association

*The Heart of the Treasure Coast*

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## Message From The President

2013 is in full swing now. Before too long we will all be getting spring fever, if there is such a thing in Florida, and it will be time to think of baseball, grilling, and other outdoor activities.

We are planning events to supplement your spring activities such as our "softball throw-down" and a cocktail social. Stay tuned for more information.

During the upcoming months, we will be updating everyone regarding the Florida Supreme Court's initiative on professionalism. Recently the high Court approved an addition to the oath taken by newly admitted attorneys to the Bar. The additional language directly speaks to the need in the practice of law for civility and professionalism between attorneys. The Court has expressed its desire to elevate the dialogue between attorneys themselves, and between attorneys and the public (see pg. 8 for more details).

I recently spoke to a non-lawyer who was called as a witness in a deposition. He had expressed his disdain for our profession because counsel, who noticed the deposition, had taken the position he could embarrass the witness and "brow

beat" this man. The witness said to me, "And you wonder why no one likes lawyers."

I believe this is exactly what our Supreme Court is targeting under its new initiative by concentrating on alerting attorneys to act as the professionals we want to be. Yet, often when this topic comes between attorneys, the argument turns to the issue of being a zealous advocate, and not backing away simply because the situation calls for a heavier hand.

I do not believe this is what the Supreme Court had in mind when it decided to push this issue. There are times when being zealous calls for pursuit of information on behalf of a client. It is the means by which this is done that the Supreme Court is questioning. Have a great and prosperous February.

*Hugh J. Eighmie II*





## Upcoming Monthly Luncheons

Regular Bar meetings are held on the first Friday of every month from noon to 1:00pm at Cobb's Landing in downtown Fort Pierce. All attending active members receive complimentary buffet lunch. During each luncheon, a different guest speaker gives a presentation on current legal topics. CLE credit is provided.

**The dates of this year's remaining general monthly meetings are:**

February 1, 2013      March 1, 2013      April 5, 2013

## Upcoming Special Events

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*"The St. Lucie County Bar Association is comprised of dedicated attorneys who practice law in and around St. Lucie County.*

*Our members consist of some of the finest attorneys in the country.*

*Our mission is to provide the public with access to all state and federal courts on Florida's Treasure Coast, and to provide the same access to our members."*

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### **Spring Softball Tournament:**

**Saturday March 16, 2013**, at 10:30 am, located at the Sandhill Crane Park in Port St. Lucie, with BBQ lunch to follow immediately after the game! We are excited to announce that the SLCBA will compete against the Martin County Bar Association in a softball game! Please come out and show your support! We hope to begin practicing in the early spring. Please email [ewenl@circuit19.org](mailto:ewenl@circuit19.org) to join the team.

### **2013 Bench Bar Conference:**

**April 12, 2013** at the Port St. Lucie Civic Center. For more information, see page 7 or contact [haroldmelville@bellsouth.net](mailto:haroldmelville@bellsouth.net).

### **2013 Law Day Student Art and Essay Contest Reception:**

**May 1, 2013** in the Ft. Pierce Courthouse Jury room. This year's theme is: "Realizing the Dream: Equality for All" and celebrates the anniversary of the Emancipation Proclamation. Contest rules will be released in January. Thanks go out to the event co-sponsors: SLCBA; Gordon & Donoor, P.A.; and the library Board of Trustees. Please contact Art Chair Kim Cunzo for more details.

### **2013 Law Day Luncheon:**

**May 3, 2013** at 12:00pm at the Pelican Yacht Club.

## SLCBA Committee Information

### Judicial Liaison:

The Judicial Liaison Committee works to assist in building better relationships and understanding between the members of our judiciary and the members of the bar. This is important, because it is difficult for lawyers and judges to exchange thoughts and concerns if their only interaction is in the formal setting of a courtroom.

The Committee works with the staff of FRLS each year to produce the Annual Bench Bar Conference. The annual conference is an all-day event which provides both educational opportunities and an opportunity for the exchange of ideas and issues between the bench and the bar. Since this is a circuit wide event, the Committee has members from not only the SLCBA but also from all of the bar associations in the circuit. In addition to the Annual Bench Bar Conference, the Committee also periodically hosts judicial receptions and smaller informal events to assist in communications between the bench and the bar.

For more information, contact **HaroldMelville@bellsouth.net**.



Harold G. Melville, Esq.  
Melville & Sowerby, P.L.

### Pro-Bono:

The Pro Bono Committee assists Florida Rural Legal Services (FRLS) in the placement and handling of pro bono cases, and in holding special events to provide free civil legal assistance to indigents and low income individuals, in St. Lucie County.

The primary function of Committee is recruiting SLCBA members to “staff” various events, in particular “Ask-a-Lawyer” Pro Bono Clinics that are scheduled for a St. Lucie County venue approximately once each quarter. For these Clinics, FRLS pre-qualifies clients, sets appointments for consultations of ½ hour each, and provides malpractice coverage for the volunteer attorneys who provide counseling services to clients.

For more information regarding the Pro Bono committee, contact either **DHarrell@gh-law.com**, or **Carolyn.Fabrizio@frls.org**.



Carolyn Fabrizio, Esq.  
Pro Bono Coordinator  
Florida Rural Legal Services

### Young Lawyers:

The young lawyers division is designed to serve lawyers new to the profession. We assist in providing mentors within the profession and provide opportunities to serve the community. Our committee will put together events for new lawyers and come up with ways to serve the community and the profession.

For more information, contact **DApfelbaum@deanmead.com**.



Dana Apfelbaum, Esq.  
Dean, Mead, Minton & Zwemer

### Membership:

The membership committee is responsible for encouraging new members to join the SLCBA and helping to facilitate events that will accomplish that goal. Please bring a friend to a meeting or an upcoming event. Visit our website to see how you can become a member by filling out a brief application and paying your required annual membership dues which cover your monthly lunches which offer CLE's, the Holiday party, and law week activities. Please see the attached application.

Shannon Eighmie, Esq.  
Assistant Public Defender  
(photo currently unavailable)

### Special Events:

The special events committee seeks to coordinate interactive social functions for SLCBA members to attend. At these events, members have the opportunity to network with other local attorneys as well as individuals in different professional fields. This year, we have a range of exciting events planned. Please see the list of “Upcoming Special Events” on page 2 for more details.

For more information, contact **EwenL@circuit19.org**.



Lillian Ewen, Esq.  
Appellate Staff Attorney

### Newsletter:

The SLCBA Newsletter is published monthly by the St. Lucie County Bar Association as a service to its members. We strive to include articles covering current and trending legal topics, committee news, and local events. We welcome member article submissions, opinions on current topics, and letters to the editor.

For more information, contact **BrejC@circuit19.org**.



Caroleen Brej, Esq.  
Felony Staff Attorney

## Bankruptcy to the Rescue: *Obtaining Relief in the Current Real Estate Crisis*



*By Garrett S. Roberts*

**I**n the current economic climate, our world consists of plummeting real estate values and dangerously high unemployment numbers. Unfortunately, the real estate crisis continues to affect many individuals, particularly in South Florida, even years after the Wall Street collapse. These economic factors have caused many individuals to consider methods of protecting themselves from failed real estate investments. Many homeowners are concerned about how foreclosure proceedings may impact them, what potential tax consequences they may face, whether strategic defaults are the best means of handling a situation, and whether a mortgage modification would enable them to retain their primary residence. The Bankruptcy process may offer relief for many individuals facing these and other real estate related issues.

“Lien Stripping” is one unique way the bankruptcy process may allow debtors to completely eliminate secured debt on real property. For example, if the fair market value of a piece of real property is lower than the balance owed on a senior mortgage, the junior mortgage or lien can be completely removed (“stripped”) from title.

FMV of Real Estate	\$120,000.00
First Mortgage/Lien	\$140,000.00
Second Mortgage/Lien	\$30,000.00

In the above scenario, because the Fair Market Value of the property is less than the outstanding principal on the First Mortgage, debtors can argue that the Second Mortgage is completely unsecured and petition the bankruptcy court to remove said secondary lien from the property. The Second Mortgage would no longer attach to the real estate and the debtors would have no further financial obligation to pay same.

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*Continued from page 5*

### **Bankruptcy to the Rescue**

Loan “cramming” is another way the bankruptcy process allows debtors to modify or reduce secured debt on real property. Debtors can petition the Bankruptcy Court to “cram down” a loan on investment property, which is defined as any non-homestead property. Bankruptcy Courts have the authority to essentially judicially modify the mortgage by reducing the unpaid balance of the loan to the Fair Market Value of the property and lower the interest rate to 1-2% above the current prime rate.

Additionally, Bankruptcy Courts have the authority to allow individuals to cure prior defaults and catch up on past due mortgage payments, even if the lender has refused to accept payments or has initiated foreclosure proceedings in state court.

The Bankruptcy Court recognizes that many bankruptcy filings are partially or entirely real estate related and offers innovative methods to help debtors address these common issues. Recently, our local Bankruptcy Court adopted and approved a Loss Mitigation Mediation Program. Pursuant to this innovative program, the Bankruptcy Court supervises the loan modification process to ensure lenders act in good faith at all times during said process. Currently, many mortgage modification applications are being denied due to the homeowners allegedly failing to provide the required documentation.

Under the Loss Mitigation Mediation Program, all required documents are uploaded in a secured portal so the lender is unable to deny a modification application due to a Debtor’s alleged failure to provide documentation. Any such denial is subject to immediate review by the Federal Bankruptcy Court, which will consider the facts and circumstances surrounding the denial. Since lenders are required to act in “good faith” under this program, lenders may be slapped with sanctions or be held in contempt of court for wrongfully denying a modification application.

Bankruptcy provides an array of alternatives which may benefit many individuals suffering as a result of today’s real estate market. Debtors may be able to retain properties with more favorable loan terms thanks to the innovative relief provided in the Bankruptcy process.

*Garrett S. Roberts practices law in Stuart with Chapman & Plymale Law, P.A. He received his Bachelor’s Degree from The University of Florida, graduating Summa Cum Laude. He earned his Juris Doctorate from Florida Coastal School of Law with a pro bono certificate. Garrett practices Bankruptcy and Foreclosure law, with a focus on representing individuals, debtors, consumers, and borrowers. He is licensed to practice in the State of Florida, as well as the U.S. Bankruptcy Court and the U.S. District Court for the Southern District of Florida. He currently serves as the Treasurer and Secretary of the St. Lucie County Bar Association.*

Please join the SLCBA on February 1, 2013, from 12pm to 1pm for the Associations' monthly meeting.

Our speaker is Eric Finkle of My Treasure Coast Online, and the topic is "How Social Media Can Positively Impact Your Law Office."



Please RSVP by January 31<sup>st</sup> at noon to [groberts@treasurecoastleagal.com](mailto:groberts@treasurecoastleagal.com)

Menu

Chicken and spinach lasagna with béchamel sauce  
Tossed salad and rolls  
Iced tea, soda, and coffee  
Assorted cookies

## Clerk's Office Offering Benchmark Training Ahead of Data Conversion in February 2013

On **February 13, 2013**, computer systems of the Clerk's Civil, Small Claims, Probate, and Family Divisions will be converted to **Benchmark**, a new case maintenance and document imaging system. This conversion will effect all Judicial Agencies and private attorneys who use the *Banner* system for Civil, Small Claims, Probate, Family index data searches, or *EDMS* for document viewing.

The Clerk's Office will be offering **1-hour training courses** to **private attorneys** and **all judicial agencies** which will focus on searching and retrieving civil, small claims, probate, and family court documents, case data, and docketing notes.

Training sessions will be held **January 22-25** and **February 4-8**, at **11:30am, 3:00pm, and 4:30pm, each day**. Training will take place in the Clerk's Training Room located on the 5th floor of the Clerk's Main Office in downtown Fort Pierce, 201 South Indian River Drive.

If interested, register now online: <http://casesearch.stlucieclerk.com/Training/Default.aspx>

If unable to attend, please call **772.462.1098**, to make other arrangements.

## Joint Resolution of South Florida Voluntary Bar Association

On September 12, 2011, the Florida Supreme Court amended the oath of admission to the Florida Bar to include a pledge of "fairness, integrity, and civility" to the court and opponents. Recently, forty-two voluntary bar associations (VBAs) across South Florida joined together to promote this "Oath of Civility" on a regional level in an effort to facilitate a more uniform application of the standards of professional courtesy countywide.

The VBAs recognize the significance of ensuring that this message of civility is disseminated to and adopted by all attorneys. Therefore, the VBAs agreed to provide a series of articles, seminars, membership lunches, press releases, and correspondence directed to members and non-members of the South Florida VBAs' respective counties.

Notably, several Chief Judges of the South Florida Court's agreed to work with the VBAs to encourage civility among attorneys. Our own Nineteenth Judicial Circuit Chief Judge Steven Levin was among the six South Florida chief judges to sign on to the joint resolution.

The SLCBA recognizes the importance of civility and asks its members to remain cognizant of their professional obligation to act civilly in all communications with opposing counsel, the Court, and the Court's staff. View the amended oath on the Florida Supreme Court website. Additionally, for information about your local VBA, see the Florida Bar website.

## CLE Programs at the Law Library

Stop by the Rupert J. Smith Law Library to see the improvements to the print collection, including many new Matthew Bender sets. Additionally, these sets are online through the Lexis connection.

Come talk to librarian about “staff access” to WestlawNext, which includes, among other things:

- ⇒ Civil Pleadings, Motions, Memoranda Plus—Florida, All State & Federal
- ⇒ Jury Verdicts Combined
- ⇒ Public Employee Reporters—Florida
- ⇒ State and Federal Criminal Briefs, Trial Court Orders, Filings—Florida

For more information, please visit [www.rjsslawlibrary.org](http://www.rjsslawlibrary.org)

## 2013 Bench Bar Conference

The upcoming Annual Bench Bar Conference will be held on **April 12, 2013**, at the Port St. Lucie Civic Center, where it was successfully held last year. The program is currently being finalized, but will include segments on professionalism, the current requirements for e-filing, and effective law office management. There will also be the opportunity for substantial interaction between the judiciary and the members of the bar, with judicial insight concerning how to be a more effective advocate. This year we will again have break out discussions groups in specific practice areas.

The Annual Bench Bar Conference is an excellent opportunity for positive interaction between the members of the bar and our respected judiciary. This is also an opportunity to obtain substantial CLE credit either at minimal cost or simply for agreeing to take a pro bono case from Florida Rural Legal Services. As always, the staff of FRLS has been instrumental in helping organize the Annual Bench Bar Conference and supporting its presentation.

**Mark your calendars for April 12, 2013.**

More information will be forthcoming a the program is finalized.

## SLCBA Membership

To join the St. Lucie County Bar Association, you may register online or by completing and submitting the application attached at the end of this newsletter.

### Pricing:

Private Attorneys:

Over 5 year of practice: \$150

Less than 5 years of practice: \$75

Government Attorneys: \$75

Assistant State Attorneys and Public Defenders: \$30

Visit us online @ [www.SLCBA.org](http://www.SLCBA.org)  
or contact us in writing:  
**St. Lucie County Bar Association**  
**P.O. Box 3014**  
**Fort Pierce, Florida 34948**

## 2012-2013 Executive Board:

**President:** Hugh J. Eighmie II

**Vice President and Social Chair:** Lillian Ewen

**Secretary and Treasurer:** Garrett S. Roberts

**Immediate Past President:** Jennifer R. Kuczler

**Judicial Liaison Chair:** Harold G. Melville

**Pro Bono Chair:** Dan Harrell and Carolyn Fabrizio

**Young Lawyers Division Chair:** Dana Apfelbaum

**Membership Chair:** Shannon Eighmie

**Newsletter Editor Chair:** Caroleen Brej

## Newsletter Submissions

The SLCBA Newsletter is published monthly by the St. Lucie County Bar Association as a service to its members. Please feel free to submit articles, opinions, news, or other information.

In the upcoming issues, we hope to include articles covering current and trending legal topics, committee news, and coverage of local events. We are open to and appreciate all feedback!

Please contact Caroleen Brej at [brejc@circuit19.org](mailto:brejc@circuit19.org) with any submissions, announcements, or ideas for our newsletter; please put "SLCBA Newsletter" in the subject line of all emails.

**Advertising space is available for purchase.**

**DUES NOTICE FOR MEMBERSHIP IN  
THE ST. LUCIE COUNTY BAR ASSOCIATION**

NAME: \_\_\_\_\_ FIRM: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ CITY/STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_  
PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_ E-MAIL: \_\_\_\_\_  
BAR NUMBER: \_\_\_\_\_ COURTHOUSE BOX #: \_\_\_\_\_  
WEBSITE: \_\_\_\_\_ CERTIFICATIONS: \_\_\_\_\_

**AREAS OF PRACTICE: Please limit to no more than 10:**

- |  |  |  |  |
|--|--|--|--|
| <input type="checkbox"/> Administrative Law    | <input type="checkbox"/> Criminal Defense                    | <input type="checkbox"/> Intellectual Property       | <input type="checkbox"/> Probate                 |
| <input type="checkbox"/> Admiralty Law         | <input type="checkbox"/> Disability Law                      | <input type="checkbox"/> International Law           | <input type="checkbox"/> Real Estate-Commercial  |
| <input type="checkbox"/> Agriculture Law       | <input type="checkbox"/> Divorce                             | <input type="checkbox"/> Juvenile Law                | <input type="checkbox"/> Real Estate-Residential |
| <input type="checkbox"/> Animal Law            | <input type="checkbox"/> Eminent Domain                      | <input type="checkbox"/> Labor Law                   | <input type="checkbox"/> Real Estate-Litigation  |
| <input type="checkbox"/> Appellate             | <input type="checkbox"/> Employee Benefits                   | <input type="checkbox"/> Land Use                    | <input type="checkbox"/> Social Security         |
| <input type="checkbox"/> Arbitration           | <input type="checkbox"/> Employment Law                      | <input type="checkbox"/> Landlord/Tenant-Commercial  | <input type="checkbox"/> Taxation                |
| <input type="checkbox"/> Aviation              | <input type="checkbox"/> Entertainment & Sports Law          | <input type="checkbox"/> Landlord/Tenant-Residential | <input type="checkbox"/> Trusts                  |
| <input type="checkbox"/> Banking Law           | <input type="checkbox"/> Estate Planning                     | <input type="checkbox"/> Legal Malpractice           | <input type="checkbox"/> Water Law               |
| <input type="checkbox"/> Bankruptcy Commercial | <input type="checkbox"/> Family Business/Succession Planning | <input type="checkbox"/> Mediation                   | <input type="checkbox"/> Wills                   |
| <input type="checkbox"/> Bankruptcy Personal   | <input type="checkbox"/> Family Law                          | <input type="checkbox"/> Medical Malpractice         | <input type="checkbox"/> Worker's Compensation   |
| <input type="checkbox"/> Business Law          | <input type="checkbox"/> Guardianship                        | <input type="checkbox"/> Medicare/Medicaid           | <input type="checkbox"/> Wrongful Death          |
| <input type="checkbox"/> Child Support/Custody | <input type="checkbox"/> Health Law                          | <input type="checkbox"/> Patent/Trademark Law        | <input type="checkbox"/> Zoning                  |
| <input type="checkbox"/> Commercial Litigation | <input type="checkbox"/> Homeowner's Assn.                   | <input type="checkbox"/> Pension Law                 |  |
| <input type="checkbox"/> Construction Law      | <input type="checkbox"/> Immigration Law                     | <input type="checkbox"/> Personal Injury - Defense   |  |
| <input type="checkbox"/> Corporate Law         | <input type="checkbox"/> Insurance Law                       | <input type="checkbox"/> Personal Injury - Plaintiff |  |

Other (Please List): \_\_\_\_\_

BAR DUES FOR 2012-2013: \$150.00 General Members  
\$75.00 Young Lawyers Division Members  
\$75.00 Full-Time Government Attorneys  
\$30.00 Assistant State Attorneys and Assistant Public Defenders

**JUDGES ARE EXEMPT FROM BAR ASSOCIATION DUES**

YOU MAY NOW PAY BAR DUES ONLINE BY CREDIT/DEBIT CARD OR ELECTRONIC FUNDS TRANSFER (EFT)  
THROUGH THE BAR'S WEBSITE: [WWW.SLCBA.ORG](http://WWW.SLCBA.ORG)

Alternatively, you may submit payment to: St. Lucie Bar Association, P.O. Box 3014, Ft. Pierce, FL 34948