



St. Lucie County Bar Association

The Heart of the Treasure Coast

Message From The President

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The Florida Supreme Court’s initiative on professionalism is well under way. For those of us who actively practice “down south,” we know the need for civility amongst attorneys is great. Judge Meenu Sasser, PBC Circuit Judge, recently wrote, “Until recent times, members of the Bar were generally known for maintaining a high level of courtesy and respect for each other. However, Rambo Litigation, hide the ball tactics and a win at all costs mentality has become common place, and unfortunately, accepted.” *Palm Beach County Bar Bulletin*, March 2013 titled, *Civility Counts*.

The Florida Supreme Court has modified the attorney oath to include a pledge of fairness and civility to opposing parties and fellow attorneys. Obviously, the Court feels strongly that the “Rambo Litigation” tactics have gone beyond the point where we as attorneys can self-regulate our behavior, and now we must swear to uphold a high degree of

professionalism where once such behavior was the norm.

To this end, many voluntary bar associations are making a part of their bylaws amendments which mirror the Court’s initiative regarding professionalism and civility. I think the 19th Judicial Circuit and the St. Lucie County attorneys already strive and achieve these goals. Let’s continue to lead by example our brethren attorneys in other parts of this state by saying, “Civility and professionalism is how we have always done business here.”

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:

March 1, 2013 April 5, 2013

Upcoming Special Events

"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."

Spring Softball Tournament:

Saturday March 16, 2013, at 10:30 am, located at the Sandhill Crane Park in Port St. Lucie, followed by a BBQ lunch! 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!

If you would like to join the team, attend, or sponsor the event, please email ewenl@circuit19.org. See you there!

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.

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 & Donor, 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

Please join us on March 1, 2013, from 12pm to 1pm for
the Association's monthly meeting.

Our speaker is Sheila Tuma
and the topic is "Updates on Trust Accounting."



Please RSVP by February 28th at noon to groberts@treasurecoastlegal.com

Menu

Blackened and Fried Mahi Mahi
Caesar Salad and Island Rice
Iced tea, soda, and coffee
Assorted cookies

19th Circuit Bench Bar Conference

Port St. Lucie Civic Center

(Civic Center is located at City Center, SE Corner of U.S. 1 and Walton Road)

9221 SE Civic Center Place, Port St. Lucie, FL 34952

Registration Required NO WALK-INS

Friday, April 12, 2013

8:00 a.m. ~ 3:30 p.m.

Presented by:

All Bar Associations of the 19th Judicial Circuit and Florida Rural Legal Services

PROGRAM

- 8:00 - 9:00 Registration and Continental Breakfast
- Session 1 9:00 - 10:00 Professionalism and Civility (The New Oath and You)
Presented by Robert A. Cole, Esq.
Bar Sanctions for Uncivil Conduct
Presented by Sheila M. Tuma, Esq.
- Session 2 10:00 - 10:50 Effective Management of Electronic Communications
Presented by Mr. Kevin Mulligan
Attempted Management of Client Expectations
Presented by Nancy Ann M. Stuparich, Esq.
- 10:50 - 11:00 Break
- Session 3 11:00 - 12:00 Advocacy - A Judicial Perspective
A panel discussion by the judiciary on the traits of an effective advocate.
- Session 4 12:00 - 1:30 Luncheon *Guest Speaker - Florida Supreme Court Justice Hon. Barbara J. Pariente*
The Ties That Bind Us: Current Challenges to Florida's Judicial Branch
(judicial merit retention, judicial elections, and judicial funding)
- Session 5 1:30 - 2:20 Individual Break-Out Sessions
Presentation of Current Developments & Hot Topics
1. Foreclosure/Bankruptcy *Presented by W. Trent Steele, Esq.*
 2. Family *Presented by Noel A. Bobko, Esq.*
 3. Criminal *Presented by Steven Ziskinder, Esq.*
 4. E-Discovery/E-filing *Presented by Steven L. Perry, Esq.*
- Session 6 2:30 - 3:30 Judicial Comments on Current Topics
1. Civil
 2. Criminal
 3. Family
 4. Appellate

If you have any questions, please contact Carolyn Fabrizio at (772) 466-4766, ext. 7024, carolyn.fabrizio@frls.org
Minimum Anticipated CLE Credits of 6.5 Including 1.0 Ethics Credit

Imagine the impact we could make if every attorney in the state of Florida helped one pro bono client.

19th Circuit Bench Bar Conference, April 12, 2013

Port St. Lucie Civic Center
ATTORNEY/JUDGE REGISTRATION FORM

Presented by:

All Bar Associations of the 19th Circuit and Florida Rural Legal Services, Inc.

We hope you will join us for the 2013 19th Judicial Circuit Bench Bar Conference.
Space is limited and will be filled on a first come first served basis.

Private attorney registration is \$300.00. We are offering a reduced rate of \$100.00 for Government Attorneys. The **registration fee will be waived** for any attorney who agrees to accept a pro bono case from Florida Rural Legal Services (FRLS). If your registration fee is waived, please submit \$25.00 to cover the cost of lunch. Payment must be made by check payable to Florida Rural Legal Services, Inc., 510 South US Highway 1, Suite 1, Fort Pierce, 34950. **This registration form together with your check must be postmarked no later than 03/29/13. No refunds after 04/03/13.**

PLEASE RETURN THIS REGISTRATION FORM TO FRLS NO LATER THAN 3/29/13

Please Print Legibly: **Judges and Retired Judges: Complimentary**

Name: _____
Address: _____
Telephone: _____

We will be emailing all presenters' handouts to you prior to the event. We will NOT be distributing presentation outlines or materials at the event. Please bring them with you. My E-mail Address is: _____

\$300.00 Payment enclosed. I am a private attorney.

\$100.00 Payment enclosed. I am a government attorney.

\$25.00 Payment enclosed. I agree to accept a pro bono case from FRLS in the following subject area: _____.

ALL REGISTRANTS: To help us organize rooms for the individual break-out sessions 5 and 6, please designate your topic of choice for each session.

Session 5

Session 6



- 1. Foreclosure/ Bankruptcy
- 2. Family
- 3. Criminal
- 4. E-Discovery

- 1. Civil
- 2. Criminal
- 3. Family
- 4. Appellate



Imagine the impact we could make if every attorney in the state of Florida helped one pro bono client.

Preparation: *The Key to Settling Your Case at Mediation*

By Edmund J. Sikorski, Jr.

“Boy Scout motto: **BE PREPARED!** Most problems come from lack of preparation”

F. Shields McManus, Circuit Judge, View From The Bench, Oct. 13, 2011 (CLE #18742)

This article offers a list of key elements that, if addressed in advance of mediation, will enhance the likelihood of a successful outcome.

1. Select a Mediator with Subject Matter Knowledge

Depending on the nature of the case, for a mediator to come up with the right questions to facilitate resolution may well require that the mediator have significant experience in a particular field. Mediators with knowledge and experience in that area not only can provide those questions, but do so with the respect of the parties based on that experience and expertise. A key hallmark of an effective mediator is the ability to hear what is not being said in order to cut through the real motivating issues.

2. IDENTIFY and Require the Presence of the DECISION MAKER

In addition to the fact that Rule 1.720 now requires the presence of a party or party representative with full authority to settle without further consultation, if the real decision maker is not a participant, the entire process becomes meaningless and will be an exercise in futility and a waste of time and money.

3. PROVIDE ADEQUATE INFORMATION EXCHANGE

Adequate information means sufficient information to make an informed settlement decision. If one withholds information, one must answer the question whether the withheld information adds to or detracts from the legitimacy of the claim or defense during the mediation process. The mediation process is after all an opportunity to convince the other side of the legitimacy of the claim and value of the case.

4. PREPARE AN EFFECTIVE MEDIATION BRIEF

Mediation briefs can be a very effective tool in the dispute resolution process if the focus is aimed at two (2) areas:

First, focus on persuading the other side. This is another opportunity to affect the other side's thinking. Present facts and arguments that make the opposition reluctant to proceed to trial and why resolution on your terms is in their interest. Video and graphics are indispensable.

Continued on page 9

Continued from page 8

The Key to Settling Your Case at Mediation

Second, focus on information that directly addresses the considerations most applicable to settlement, as opposed to what a judge might need to understand prior to trial. What obstacles prevented prior settlement? If there is a factual dispute, identify that. If there is a legal dispute, identify that. If the participants simply have different views about the range of possible outcomes at trial, the mediator can help the parties bridge that gap by the use of “decision tree” analysis. If the problem is really an ability to pay, both sides need to address THAT problem.

5. MAKE AN OBJECTIVE CASE VALUATION AND RISK ANALYSIS

First, make a risk assessment protocol. This is an explicit list of the assumptions and calculations that underlie the value decision.

Second, make a comparison to similar cases. This is the jury verdict research.
See: www.hurt911.org for resource materials available.

Third, apply decision tree risk analysis.

This process STARTS with a damage analysis and then discounts BACKWARDS for liability, costs, present value, and trial uncertainties such as how the judge applies the law, how the facts come in, how well the experts testify, how well the other side’s lawyer tries the case, how the jury will react, etc.

6. DEVELOP A NEGOTIATING PLAN

Negotiation communications that start with a number higher (Plaintiff) or lower (Defendant) than the parties own case evaluations are inviting emotional reactive responses that shut down the process and lead to impasse for no good reason. All that will be accomplished is an argument between two sides that have traded an organized cognitive process for an emotional war of attrition.

The solution is to start with a plan beginning with “your best day in court” and **systematically** moving through your negotiating range to your walk away number.

Make a plan and stick to it. Stay in control of an otherwise reactive process calculated to be self-defeating. As in any military or sporting contest, victory is often achieved because of the self - inflicted wounds by the other side on itself.

Edmund J. Sikorski, Jr., J.D. is a Florida Supreme Court Certified Circuit Civil and Appellate Mediator residing and practicing on Florida’s Treasure Coast.

Treasure Coast Mediation Services and Focus Group Mediation, Inc.
772-678-2821

www.treasurecoastmediation.com

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
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 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

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