

**Jenn C. Lussier**

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**From:** Darren K. Jackson  
**Sent:** Friday, April 16, 2010 10:32 AM  
**To:** 'Charles P. Gufford'  
**Subject:** RE:

Will do...FYI see [www.jud3.flcourts.org](http://www.jud3.flcourts.org) to see the recent Admin Order regarding Foreclosure Mediation for the Third Circuit. Is your office still in Orlando? DJ

**Jenn C. Lussier**

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**From:** Charles P. Gufford <cgufford@dstern.com>  
**Sent:** Friday, April 16, 2010 10:31 AM  
**To:** Darren K. Jackson  
**Subject:** RE:

Correct. David Stern is one of the largest foreclosure firms in Florida. Please let me know if you have any issues with our foreclosures and I will make sure the problem is rectified.

Charles Gufford  
Associate Attorney  
Litigation Department  
Law Offices of David J. Stern, P.A.  
900 South Pine Island Rd., Ste 400  
Plantation, FL 33324

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-----Original Message-----

**From:** Darren K. Jackson [mailto:jackson.darren@jud3.flcourts.org]  
**Sent:** Friday, April 16, 2010 10:27 AM  
**To:** Charles P. Gufford  
**Subject:**

Correct me if I am wrong but the name David Stern sounds familiar. Are you doing mainly foreclosures? DJ

**Jenn C. Lussier**

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**Jenn C. Lussier**

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**From:** Lisa L. Butler  
**Sent:** Tuesday, April 13, 2010 2:57 PM  
**To:** Darren K. Jackson  
**Subject:** RE: Residential Foreclosure Mediation Order

Hi Judge. We emailed copies to the clerks also. Sondra said that Judge Fina was going to meet with the clerks but she is not sure when. She said you may want to mention it to him.

Thanks. :)

Lisa Butler  
Administrative Assistant III  
Administrative Office of the Courts  
Third Judicial Circuit of Florida  
105 North Ohio Avenue  
Live Oak, Florida 32064  
Office: (386)362-1017  
Fax: (386)362-2658  
-----Original Message-----

From: Darren K. Jackson  
Sent: Tuesday, April 13, 2010 1:38 PM  
To: Lisa L. Butler  
Subject: RE: Residential Foreclosure Mediation Order

Good afternoon.....regarding the Mediation Order that you sent out....am I responsible for briefing the Clerk or has Judge Fina and Sondra taken care of that? DJ



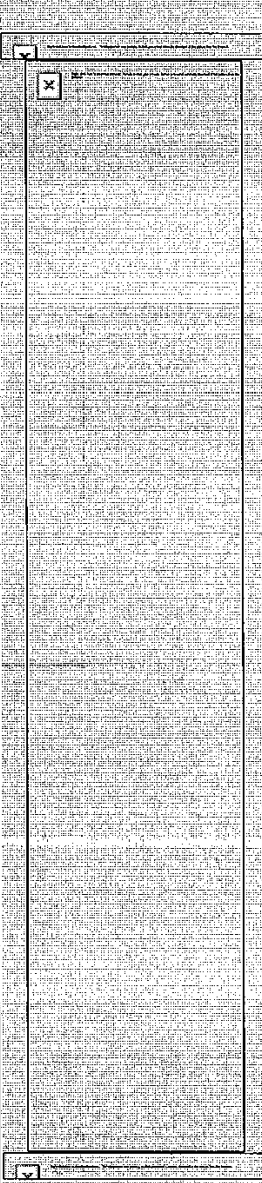

**Jenn C. Lussier**

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**Sent:** Tuesday, April 13, 2010 1:38 PM  
**To:** Lisa L. Butler  
**Subject:** RE: Residential Foreclosure Mediation Order

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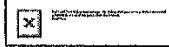
**From:** Daily Business Review <DBR\_Editor@alm.com>  
**Sent:** Tuesday, April 13, 2010 12:08 PM  
**To:** Darren K. Jackson  
**Subject:** Litigation Alert

<p><b>Subscribe to the Review</b></p> <p><a href="#">Subscribe to the print &amp; Web editions</a></p> <p>Free 30-day Web Trial</p> 	<p><b>April 13, 2010</b></p> <p><input type="checkbox"/> <b>Legal News And Information You Can't Get Anywhere Else</b></p> <hr/> <p><b><u>Benlate Case</u></b></p> <p><b>Defense attorney can be deposed, 4th DCA rules</b></p> <p><b>By:</b> Jordana Mishory</p> <p>Attorneys for Ecuadorean shrimp farmers suing DuPont for crop damage claim the chemical maker tried to influence potential jury pools in the pair of multimillion-dollar cases.</p> 	
<p><b>Today's Headlines</b></p> <p><a href="#">Attorneys want to freeze assets of Rothstein adviser</a></p> <p><a href="#">Plaintiffs seek to revive Holland &amp; Knight Ponzi suit</a></p> <p><a href="#">Fisher Island not immune to foreclosures</a></p> <p><a href="#">The Rodent: The spouse must balance the lawyer's inherently unbalanced life</a></p> <p>DailyBusinessReview.com</p>	<p><b>Sponsor Spotlight</b></p> <p><b><u>Secure the Proof</u></b></p> <p>The world of e-discovery is about to change. No longer will you have to disrupt your client's life with the intrusion of teams of technicians bringing in large cases of equipment to collect the data.</p> 	
	<p><b><u>Appellate</u></b></p> <p><b>Boxing promoter Don King must return \$1 million from failed fronton deal</b></p> <p><b>By:</b> Polyana da Costa</p> <p>Unless King decides to appeal the split</p>	

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decision to the Florida Supreme Court, it puts an end to a six-year fight involving one of the largest developable parcels east of Interstate 95 in Palm Beach County.

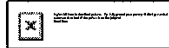


**Road Rage Case**

**Special prosecutor likely to handle Miami attorney's court case**

**By:** Jose Pagliery

The felony case against Michael Diaz Jr., a prominent Miami attorney accused of beating up a couple, will likely be handled by a special prosecutor to avoid an appearance of a conflict of interest.



**Foreclosures**

**Miami-Dade court to fast-track process**

**By:** Jose Pagliery

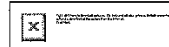
Foreclosure court is set to launch in Miami-Dade — the latest effort to streamline its 80,000 pending cases and speed up a process that can take up to two years.



**Sponsor Spotlight : Contract Attorneys: Not Just for Document Review**

**By:**

Law firms and corporate legal departments' use of contract attorneys is on the rise locally and nationwide. Jonathon Broder discusses the uses and advantages.



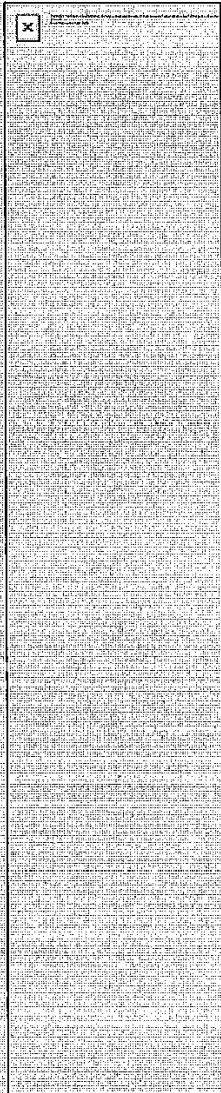
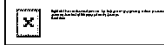
**Employment Law**

**Battle between Becker & Poliakoff and former associate ends**

**By:** Julie Kay

Becker & Poliakoff has settled a back pay claim by a former associate, who claimed a \$2,000 loss under a temporary 12 percent

salary deferral program.

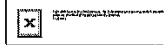


**Superfund**

**Exxon Mobil sues government for \$45 million**

**By:** Jordan Weissmann

Oil giant ExxonMobil is seeking more than \$45 million from the federal government to cover the cost of a toxic waste cleanup.



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**Jenn C. Lussier**

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**From:** Kevin C Lunsford <klunsford@suwanneemediation.org>  
**Sent:** Saturday, April 10, 2010 11:03 AM  
**To:** Kevin Lunsford  
**Subject:** Attorney's Needed for Foreclosure Mediation Program  
**Attachments:** Admin\_Order\_2010-003.pdf

Greetings members of the Third Circuit Bar Association.

The Third Circuit's new Administrative Order on mortgage foreclosure mediation (AO2010-003 which goes into effect April 15, 2010) requires that the Program Manager assist homeowners that desire legal representation in finding attorneys that will represent them for little or no cost. The AO provides that an attorney can make a "limited appearance" for the purpose of the mediation conference only. If you are interested in providing low cost or pro bono representation to homeowners, please email me so I can add your name to a list that will be made available to homeowners upon request.

A copy of the new AO is attached. It is also available on the Court's web site [http://www.jud3.flcourts.org/admin\\_orders/Admin\\_Order\\_2010-003.pdf](http://www.jud3.flcourts.org/admin_orders/Admin_Order_2010-003.pdf) and on our web site [www.suwanneemediation.org](http://www.suwanneemediation.org).

If you have any questions about the new AO, please do not hesitate to call or email me.

Kevin Lunsford  
Suwannee Valley Foreclosure Mediation  
P.O. Box 6126  
Live Oak, FL 32064  
386.269.4992 office  
386.362.7673 fax

**Jenn C. Lussier**

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**From:** Sondra M. Lanier  
**Sent:** Friday, April 09, 2010 5:10 PM  
**To:** Candice T. Herring; Darren K. Jackson; David W. Fina; Debbie J. Saunders; Debra P. Sadler; Diane B. Hiers; Donna D. Moore; Donna K. Jones; E. Vernon Douglas; Frederick L. Koberlein; Greg Parker; H. Wetzel Blair; Heather J. Norris; James R. Bean; Jean Pittman; Joyce Cameron; Julian E. Collins; Leandra G. Johnson; Linda H. Morgan; Marcie A. Kemp; Melanie A. Vaughn; Millicent A. Schneider; Pam K. Ring; Paul S. Bryan; Sonny Scaff; Tom Coleman; William R. Slaughter  
**Cc:** Lisa L. Butler  
**Subject:** Today's Meeting

Good afternoon. Following is a summary of the items discussed at today's Judges' Meeting.

- The House Budget includes a 3% salary reduction for everyone. If enacted, the Chief Justice may choose to instead impose layoffs, reclassifications, terminations, or salary reductions or adjustments in order to keep the Branch within its appropriation. The Senate Budget does not include any cuts to salary or benefits. However, JA's would be required to pay \$5 per month for individual health insurance coverage or \$18 per month for family coverage. JA's hired after April 30, 2010 would pay \$25 for individual or \$90 for family coverage. The differences between the House and Senate budgets will be worked out in conference.
- Bills affecting state employees' retirement will not be passed this year, but actuarial analyses will be conducted over the summer, and the issues will be revisited during next year's session. (The 2011 session will last for 6 months because of redistricting.)
- A bill requiring employee contributions of .25% for all classes of membership in the Florida Retirement System, including DROP participants, has passed and will go to the Governor. (The employee contribution would be \$355.45 annually for Circuit Judges and \$335.70 for County Judges)
- Another bill would affect Senior Judges by not allowing them to receive payment for work as a Senior Judge AND their retirement check for 12 months after their retirement date.
- The Residential Foreclosure Mediation order has been signed and is available on our website at [http://www.jud3.flcourts.org/admin\\_orders/Admin\\_Order\\_2010-003.pdf](http://www.jud3.flcourts.org/admin_orders/Admin_Order_2010-003.pdf).
- The User Support Analyst and Digital Court Reporter position announcements have closed, and interviews will be conducted soon.
- Crystal Ecker has begun work as a law clerk, and Jackie Jo Brinson will begin interning soon (and officially start work with us in August).
- The announcement for our 3<sup>rd</sup> law clerk position has closed, and we have approximately 30 applicants. Interviews will begin at 9:00 on May 14, and we will have a brief Judges' Meeting following those interviews. Please let us know if you plan to participate in the interviews so that we can plan accordingly. Also, please let us know if you would like the application packets for those to be interviewed in advance of the meeting.
- The judicial training scheduled for June will not be held because we were unable to secure presenters. This was due to the restrictions placed on the funding, coupled with the fact that so many presenters are already committed to and preparing for AJS and summer conferences. Some of our judges are interested in training on Baker and Marchman Act cases, and we will attempt to secure a trainer to provide a workshop on those topics in conjunction with a future Judges' Meeting.
- The Clerks of Court have indicated an interest in having an after hours event with the Judges, and Judge Fina has offered to host an event at his river house in June. Additional details will be forthcoming.

We look forward to seeing you at the May interviews/meeting.

*Sondra Lanier*

Trial Court Administrator  
Third Judicial Circuit  
(386)758-2163 Lake City  
(386)362-1017 Live Oak  
(386)362-2658 Fax

**Jenn C. Lussier**

---

**From:** Sondra M. Lanier  
**Sent:** Friday, April 09, 2010 4:39 PM  
**To:** Darren K. Jackson  
**Subject:** Sales on Foreclosures

Judge Jackson,

There were only 5 judges at the meeting, but they agreed that they will extend the sale date to 90 days if everyone agrees.

*Sondra Lanier*  
Trial Court Administrator  
Third Judicial Circuit  
(386)758-2163 Lake City  
(386)362-1017 Live Oak  
(386)362-2658 Fax

**Jenn C. Lussier**

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**From:** Lisa L. Butler  
**Sent:** Friday, April 09, 2010 3:53 PM  
**To:** Darren K. Jackson; David W. Fina; E. Vernon Douglas; Frederick L. Koberlein; Greg S. Parker; H. Wetzel Blair; James R. Bean; Julian E. Collins; Leandra G. Johnson; Paul S. Bryan; Sonny Scaff; Tom Coleman; William R. Slaughter; Candice T. Herring; Cathy M. Hall; Debbie J. Saunders; Debra P. Sadler; Diane B. Hiers; Donna K. Jones; Donna Moore; Jean Pittman; Joyce Cameron; Linda H. Morgan; Liz B. Sullivan; Marcie A. Kemp; Melanie Vaughn; Millicent A. Schneider; Pam K. Ring  
**Subject:** Residential Foreclosure Mediation Order  
**Attachments:** image.pdf; image.txt

Good afternoon. Please find attached Administrative Order 2010-003. Below is the link that will take you directly to the order which is posted on our website.

[http://www.jud3.flcourts.org/ao\\_mediation.htm](http://www.jud3.flcourts.org/ao_mediation.htm)

Lisa Butler  
Administrative Assistant III  
Administrative Office of the Courts  
Third Judicial Circuit of Florida  
105 North Ohio Avenue  
Live Oak, Florida 32064  
Office: (386)362-1017  
Fax: (386)362-2658

IN THE THIRD JUDICIAL CIRCUIT OF FLORIDA

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER NUMBER 2010 – 003

**ADMINISTRATIVE ORDER FOR CASE MANAGEMENT OF  
RESIDENTIAL FORECLOSURE CASES AND MANDATORY REFERRAL  
OF MORTGAGE FORECLOSURE CASES INVOLVING HOMESTEAD  
RESIDENCES TO MEDIATION**

Whereas, pursuant to Article V, section 2(d) of the Florida Constitution, and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and power to do everything necessary to promote the prompt and efficient administration of justice, and rule 2.215(b)(3), Florida Rules of Judicial Administration, mandates the chief judge to “develop an administrative plan for the efficient and proper administration of all courts within the circuit;” and

Whereas, rule 2.545 of the Rules of Judicial Administration requires that the trial courts “...take charge of all cases at an early stage in the litigation and...control the progress of the case thereafter until the case is determined...”, which includes “...identifying cases subject to alternative dispute resolution processes;” and

Whereas, Chapter 44, Florida Statutes, and Rules 1.700-1.750, Florida Rules of Civil Procedure, provide a framework for court-ordered mediation of civil actions, except those matters expressly excluded by Rule 1.710(b), which does not exclude residential mortgage foreclosure actions; and

Whereas, residential mortgage foreclosure case filings have increased substantially in the Third Judicial Circuit, and state and county budget constraints have limited the ability of the courts in the Third Judicial Circuit to manage these cases in a timely manner; and

Whereas, high residential mortgage foreclosure rates are damaging the economies of the counties in the Third Judicial Circuit; and

Whereas, the Supreme Court of Florida has determined that mandatory mediation of homestead residential mortgage foreclosure actions prior to the matter being set for final hearing will facilitate the laudable goals of communication, facilitation, problem-solving between the parties with the emphasis on self-determination, the parties’ needs and interests, procedural flexibility, full disclosure, fairness, and confidentiality. Referring these cases to mediation will also facilitate and provide a more efficient use of limited judicial and clerk resources in a court system that is already overburdened; and

Whereas, Suwannee Valley Foreclosure Mediation, Inc. is an independent, nonpartisan, nonprofit organization that has demonstrable ability to assist the courts with managing the large number of residential mortgage foreclosure actions that recently have been filed in the Third

Judicial Circuit.

**NOW, THEREFORE, IT IS ORDERED:**

**Definitions**

As used in this Administrative Order, the following terms mean:

“Borrower” means an individual named as a party in the foreclosure action who is a primary obligor on the promissory note which is secured by the mortgage being foreclosed.

“Borrower’s Financial Disclosure for Mediation” means those documents described in Exhibit 5 attached as page A-29 to the Supreme Court of Florida’s Administrative Order No. AOSC09-54 on Residential Mortgage Foreclosure Cases, entered on December 28, 2009 (hereinafter Order No. AOSC09-54). This Order is available online on the Florida Supreme Court’s website at [www.floridasupremecourt.org](http://www.floridasupremecourt.org).

“Communication equipment” means a conference telephone or other electronic device that permits all those appearing or participating to hear and speak to each other, provided that all conversation of the participants is audible to all persons present.

“Foreclosure counselor” means a counselor trained in advising persons of options available when facing a mortgage foreclosure, who has no criminal history of committing a felony or a crime of dishonesty, and who is certified by the United States Department of Housing and Urban Development (HUD) or National Foreclosure Mitigation Counseling Program (NFMC) as an agency experienced in mortgage delinquency and default resolution counseling.

“Form A” means the certifications required herein in the format of Exhibit 1 which can be found on the Program Manager’s website at [www.suwanneemediation.org](http://www.suwanneemediation.org).

“Homestead residence” means a residential property for which a homestead real estate tax exemption was granted according to the certified rolls of the last assessment by the county property appraiser prior to the filing of the suit to foreclose the mortgage.

“Plaintiff” means the individual or entity filing to obtain a mortgage foreclosure on residential property.

“Plaintiff’s Disclosure for Mediation” means those documents requested by the borrower pursuant to paragraph 7 below.

“Plaintiff’s representative” means the person who will appear at mediation who has full authority to settle without further consultation and resolve the foreclosure suit.

“The Program Manager” means Suwannee Valley Foreclosure Mediation, Inc., qualified in accordance with parameters attached as Exhibit 13 attached as page A-68 to Order No. AOSC09-54. Also referred to as the “Mediation Manager.”

"RMFM Program" (Residential Mortgage Foreclosure Mediation Program) means the mediation program managed by Suwannee Valley Foreclosure Mediation, Inc. to implement and carry out the intent of this Administrative Order.

#### Scope

1. *Residential Mortgage Foreclosures (Origination Subject to TILA).* This Administrative Order shall apply to all residential mortgage foreclosure actions filed in the Third Judicial Circuit in which the origination of the note and mortgage sued upon was subject to the provisions of the Federal Truth in Lending Act, Regulation Z. However, compliance with this Administrative Order varies depending on whether the property secured by the mortgage is a homestead residence.

Upon the effective date of this Administrative Order, all newly filed mortgage foreclosure actions filed against a homestead residence shall be referred to the RMFM Program unless the plaintiff and borrower agree in writing otherwise or unless pre-suit mediation was conducted in accordance with paragraph 23. The parties to the foreclosure action shall comply with the conditions and requirements imposed by this Administrative Order. In actions to foreclose a mortgage on a homestead residence, the plaintiff and borrower shall attend at least one mediation session, unless the plaintiff and borrower agree in writing not to participate in the RMFM Program or the Program Manager files a notice of borrower nonparticipation.

Upon the effective date of this Administrative Order, all newly filed residential mortgage foreclosure actions involving property that is not a homestead residence shall comply with the requirements of filing a Form A, as required by paragraph 5 below and the requirements of paragraph 18 below (plaintiff's certification as to settlement authority).

At the discretion of the presiding judge, compliance with this Administrative Order may also be required for homestead residential mortgage foreclosure actions filed prior to the effective date of this Administrative Order, to residences which are not homestead residences, and any other residential foreclosure action the presiding judge deems appropriate. A party requesting that the case be sent to mediation with the RMFM Program at the discretion of the presiding judge shall make the request in format of Exhibit 3 attached as page A-25 to Order No. AOSC09-54.

2. *Referral to Mediation.* This Administrative Order constitutes a formal referral to mediation pursuant to the Florida Rules of Civil Procedure in actions involving a mortgage foreclosure of a homestead residence. The plaintiff and borrower are deemed to have stipulated to mediation by a mediator assigned by the Program Manager unless pursuant to Rule 1.720(f), Florida Rules of Civil Procedure, the plaintiff and borrower file a written stipulation choosing not to participate in the RMFM Program. Referral to the RMFM Program is for administration and management of the mediation process and assignment of a Florida Supreme Court certified circuit civil mediator who has been trained in mediating residential mortgage foreclosure actions and who has agreed to be on the panel of available certified circuit civil mediators. Mediators used in the RMFM Program shall be trained in accordance with the standards stated in Exhibit 12, attached as page A-59 to Order No. AOSC09-54. Mediation through the RMFM Program shall be conducted in accordance with Florida Rules of Civil Procedure and Florida Rules for



Certified and Court-Appointed Mediators. Such mediators are deemed assigned by the Court and entitled to all privileges and immunities available to mediators under the law.

**3. Compliance Prior to Judgment.** The parties must comply with this Administrative Order and the mediation process must be completed before the plaintiff applies for default judgment, a summary judgment hearing, or a final hearing in an action to foreclose a mortgage on a homestead residence unless a notice of nonparticipation is filed by the Program Manager.

**4. Delivery of Notice of RMFM Program with Summons.** After the effective date of this Administrative Order, in all actions to foreclose a mortgage on residential property the clerk of court shall attach to the summons to be served on each defendant a notice regarding managed mediation for homestead residences in the format of Exhibit 2, attached as page A-23 to Order No. AOSC09-54.

### Procedure

#### **5. Responsibilities of Plaintiff's Counsel; Form A**

When suit is filed, counsel for the plaintiff must file a completed Form A with the clerk of court. If the property is a homestead residence, all certifications in Form A must be filled out completely. Within one (1) business day after Form A is filed with the clerk of court, counsel for plaintiff shall also electronically transmit a copy of Form A to Suwannee Valley Foreclosure Mediation, Inc. at the email address provided on the website ([www.suwanneemediation.org](http://www.suwanneemediation.org)) along with the case number of the action and contact information for all of the parties. The contact information must include at a minimum the last known mailing address and phone number for each party.

In Form A, plaintiff's counsel must affirmatively certify whether the origination of the note and mortgage sued upon was subject to the provisions of the Federal Truth in Lending Act, Regulation Z. In Form A, plaintiff's counsel must also affirmatively certify whether the property is a homestead residence. Plaintiff's counsel is not permitted to respond to the certification with "unknown," "unsure," "not applicable," or similar nonresponsive statements.

If the property is a homestead residence and if the case is not exempted from participation in the RMFM Program because of pre-suit mediation conducted in accordance with paragraph 23 below, plaintiff's counsel shall further certify in Form A the identity of the plaintiff's representative who will appear at mediation. Plaintiff's counsel may designate more than one plaintiff's representative. At least one of the plaintiff's representatives designated in Form A must attend any mediation session scheduled pursuant to this Administrative Order. Form A may be amended to change the designated plaintiff's representative, and the amended Form A must be filed with the court no later than five days prior to the mediation session. All amended Forms A must be electronically transmitted to the Program Manager via a secure dedicated e-mail address or on the web-enabled information platform described in paragraph 8 no later than one (1) business day after being filed with the clerk of court.

**6. Responsibilities of Borrower.** Upon the Program Manager receiving a copy of Form A, the Program Manager shall begin efforts to contact the borrower to explain the RMFM Program

to the borrower and the requirements that the borrower must comply with to obtain a mediation. The Program Manager shall also ascertain whether the borrower wants to participate in the RMFM Program.

The borrower must do the following prior to mediation being scheduled: meet with an approved mortgage foreclosure counselor, and provide to the Program Manager the information required by the Borrower's Financial Disclosure for Mediation. The Borrower's Financial Disclosure for Mediation will depend on what option the borrower wants to pursue in trying to settle the action.

It shall be the responsibility of the Program Manager to transmit the Borrower's Financial Disclosure for Mediation via a secure dedicated e-mail address or to upload same to the web-enabled information platform described in paragraph 8; however, the Program Manager is not responsible or liable for the accuracy of the borrower's financial information.

**7. Plaintiff's Disclosure for Mediation.** Within the time limit stated below, prior to attending mediation the borrower may request any of the following information and documents from the plaintiff:

Documentary evidence the plaintiff is the owner and holder in due course of the note and mortgage sued upon.

A history showing the application of all payments by the borrower during the life of the loan.

A statement of the plaintiff's position on the present net value of the mortgage loan.

The most current appraisal of the property available to the plaintiff.

The borrower must deliver a written request for such information to Suwannee Valley Foreclosure Mediation, Inc. (the Program Manager) in the format of Exhibit 6 attached as page A-43 to Order No. AOSC09-54 no later than 25 days prior to the mediation session. The Program Manager shall promptly electronically transmit the request for information to plaintiff's counsel.

Plaintiff's counsel is responsible for ensuring that the Plaintiff's Disclosure for Mediation is electronically transmitted via a secure dedicated e-mail address or to the web-enabled information platform described in paragraph 8 below no later than five (5) business days before the mediation session. The Program Manager shall immediately deliver a copy of Plaintiff's Disclosure for Mediation to the borrower.

**8. Information to Be Provided on Web-Enabled Information Platform or secure email.** All information to be provided to Suwannee Valley Foreclosure Mediation, Inc. to advance the mediation process, such as Form A, Borrower's Financial Disclosure for Mediation, Plaintiff's Disclosure for Mediation, as well as the case number of the action and contact information for the parties, shall be submitted via the secure dedicated e-mail address listed on the website or the

web-enabled information platform with XML data elements if provided

**9. Nonparticipation by Borrower.** If the borrower does not want to participate in the RMFM Program, or if the borrower fails or refuses to cooperate with the Program Manager, or if the Program Manager is unable to contact the borrower, the Program Manager shall file a notice of nonparticipation in the format of Exhibit 4 attached as page A-27 to Order No. AOSC09-54. The notice of nonparticipation shall be filed no later than 120 days after the initial copy of Form A is filed with the court. A copy of the notice of nonparticipation shall be served on the parties by the Program Manager.

**10. Referral to Foreclosure Counseling.** The Program Manager shall be responsible for referring the borrower to a foreclosure counselor prior to scheduling mediation. Selection from a list of foreclosure counselors certified by the United States Department of Housing and Urban Development shall be by rotation or by such other procedures as may be adopted by administrative order of the chief judge in the circuit in which the action is pending. The borrower's failure to participate in foreclosure counseling shall be cause for terminating the case from the RMFM Program.

**11. Referrals for Legal Representation.** In actions referred to the RMFM Program, the Program Manager shall advise any borrower who is not represented by an attorney that the borrower has a right to consult with an attorney at any time during the mediation process and the right to bring an attorney to the mediation session. The Program Manager shall also advise the borrower that the borrower may apply for a volunteer pro bono attorney in programs run by lawyer referral, legal services, and legal aid programs as may exist within the circuit. If the borrower applies to one of those agencies and is coupled with a legal services attorney or a volunteer pro bono attorney, the attorney shall file a notice of appearance with the clerk of the court and provide a copy to the attorney for the plaintiff and the Program Manager. The appearance may be limited to representation only to assist the borrower with mediation but, if a borrower secures the services of an attorney, counsel of record must attend the mediation.

**12. Scheduling Mediation.** The plaintiff's representative, plaintiff's counsel, and the borrower are all required to comply with the time limitations imposed by this Administrative Order and attend a mediation session as scheduled by the Program Manager. No earlier than 60 days and no later than 120 days after suit is filed, the Program Manager shall schedule a mediation session. The mediation session shall be scheduled for a date and time convenient to the plaintiff's representative, the borrower, and counsel for the plaintiff and the borrower, using a mediator from the panel of Florida Supreme Court certified circuit civil mediators who have been specially trained to mediate residential mortgage foreclosure disputes. The Program Manager shall make a reasonable effort to schedule the Mediation sessions at a suitable location(s) within the county where the action was filed including the utilization of courthouse space when available. Mediation shall be completed within the time requirements established by Rule 1.710(a), Florida Rules of Civil Procedure.

Mediation shall not be scheduled until the borrower has had an opportunity to meet with an approved foreclosure counselor. Mediation shall not be scheduled earlier than 30 days after the Borrower's Financial Disclosure for Mediation has been transmitted to the plaintiff via a secure

dedicated e-mail address or uploaded to the web-enabled information platform described in paragraph 8 except by mutual consent of the parties.

Once the date, time, and place of the mediation session have been scheduled by the Program Manager, the Program Manager shall promptly file with the clerk of court and serve on all parties a notice of the mediation session.

**13. Attendance at Mediation.** The following persons are required to be physically present at the mediation session: a plaintiff's representative designated in the most recently filed Form A; plaintiff's counsel; the borrower; and the borrower's counsel of record, if any. However, the plaintiff's representative may appear at mediation through the use of communication equipment, if plaintiff files and serves at least five (5) days prior to the mediation a notice in the format of Exhibit 7 attached as page A-45 to Order No. AOSC09-54 advising that the plaintiff's representative will be attending through the use of communication equipment and designating the person who has full authority to sign any settlement agreement reached. Plaintiff's counsel may be designated as the person with full authority to sign the settlement agreement. If the plaintiff exercises the right to appear by telephone, the plaintiff shall be responsible for initiating the telephone call and any communication charges incurred.

At the time that the mediation is scheduled to physically commence, the assigned Mediator or representative of the Program Manager shall enter the mediation room prior to the commencement of the mediation conference and, prior to any discussion of the case in the presence of the mediator, take a written roll. That written roll will consist of a determination of the presence of the borrower; the borrower's counsel of record, if any; the plaintiff's lawyer; and the plaintiff's representative with full authority to settle. If the Mediator or representative of the Program Manager determines that anyone is not present, that party shall be reported as a non-appearance on the written roll. If the Mediator or representative of the Program Manager determines that the plaintiff's representative present does not have full authority to settle, it shall be reported that the plaintiff's representative did not appear on the written roll as a representative with full settlement authority as required by this Administrative Order. The written roll and communication of authority to the Mediator or representative of the Program Manager is not a mediation communication.

The authorization by this Administrative Order for the plaintiff's representative to appear through the use of communication equipment is pursuant to Rule 1.720(b), Florida Rules of Civil Procedure (court order may alter physical appearance requirement), and in recognition of the emergency situation created by the massive number of residential foreclosure cases being filed in this circuit and the impracticality of requiring physical attendance of a plaintiff's representative at every mediation. Additional reasons for authorizing appearance through the use of communication equipment for mortgage foreclosure mediation include a number of protective factors that do not exist in other civil cases, namely the administration of the program by a program manager, pre-mediation counseling for the borrower, and required disclosure of information prior to mediation. The implementation of this Administrative Order shall not create any expectation that appearance through the use of communication equipment will be authorized in other civil cases.

If the plaintiff's representative attends mediation through the use of communication equipment, the person authorized by the plaintiff to sign a settlement agreement must be physically present at mediation. If the plaintiff's representative attends mediation through the use of communication equipment, the plaintiff's representative must remain on the communication equipment at all times during the entire mediation session. If the plaintiff's representative attends through the use of communication equipment, and if the mediation results in an impasse, within five (5) days after the mediation session, the plaintiff's representative shall file in the court file a certification in the format of Exhibit 8 attached as page A-47 to Order No. AOSC09-54 as to whether the plaintiff's representative attended mediation. If the mediation results in an impasse after the appearance of the plaintiff's representative through the use of communication equipment, the failure to timely file the certification regarding attendance through the use of communication equipment shall be grounds to impose sanctions against the plaintiff, including requiring the physical appearance of the plaintiff's representative at a second mediation, taxation of the costs of a second mediation to the plaintiff, or dismissal of the action.

Junior lienholders may appear at mediation by a representative with full settlement authority. If a junior lienholder is a governmental entity comprised of an elected body, such junior lienholder may appear at mediation by a representative who has authority to recommend settlement to the governing body. Counsel for any junior lienholder may also attend the mediation.

The participants physically attending mediation may consult on the telephone during the mediation with other persons as long as such consultation does not violate the provisions of sections 44.401-406, Florida Statutes.

**14. Failure to Appear at Mediation.** If either the plaintiff's representative designated in the most recently filed Form A or the borrower fails to appear at a properly noticed mediation and the mediation does not occur, or when a mediation results in an impasse, the report of the mediator shall notify the presiding judge regarding who appeared at mediation without making further comment as to the reasons for an impasse. If the borrower fails to appear, or if the mediation results in an impasse with all required parties present, and if the borrower has been lawfully served with a copy of the complaint, and if the time for filing a responsive pleading has passed, the matter may proceed to a final hearing, summary judgment, or default final judgment in accordance with the rules of civil procedure without any further requirement to attend mediation. If plaintiff's counsel or the plaintiff's representative fails to appear, the court may dismiss the action without prejudice, order plaintiff's counsel or the plaintiff's representative's to appear at mediation, or impose such other sanctions as the court deems appropriate including, but not limited to, attorney's fees and costs if the borrower is represented by an attorney. If the borrower or borrower's counsel of record fails to appear, the court may impose such other sanctions as the court deems appropriate, including, but not limited to, attorney's fees and costs.

**15. Written Settlement Agreement; Mediation Report.** If a partial or final agreement is reached, it shall be reduced to writing and signed by the parties and their counsel, if any. Pursuant to rule 1.730(b), Florida Rules of Civil Procedure, if a partial or full settlement agreement is reached, the mediator shall report the existence of the signed or transcribed agreement to the court without comment within 10 days after completion of the mediation. If the parties do not reach an agreement as to any matter as a result of mediation, the mediator shall

report the lack of an agreement to the court without comment or recommendation. In the case of an impasse, the report shall advise the court who attended the mediation, and a copy of Form A or any amended Form A shall be attached to the report for the court to determine if at least one of the plaintiff's representative named in Form A appeared for mediation. The mediator's report to the court shall be in the format of Exhibit 9 attached as page A-49 to Order No. AOSC09-54.

**16. Mediation Communications.** All mediation communications occurring as a result of this Administrative Order, including information provided to the Program Manager that is not filed with the court, shall be confidential and inadmissible in any subsequent legal proceeding pursuant to Chapter 44, Florida Statutes, the Florida Rules of Civil Procedure, and the Florida Rules for Certified and Court-Appointed Mediators, unless otherwise provided for by law.

**17. Failure to Comply with Administrative Order.** In all residential foreclosure actions, if a notice for trial, motion for default final judgment, or motion for summary judgment is filed with the clerk of court, no action will be taken by the court to set a final hearing or enter a summary or default final judgment until the requirements of this Administrative Order have been met. In cases involving a homestead residence, the presiding judge shall require that copies of either 1) the most recently filed Form A and the report of the mediator, or 2) the most recently filed Form A and the notice of borrower's nonparticipation be sent to the presiding judge by the plaintiff or plaintiff's counsel prior to setting a final hearing or delivered with the packet requesting a summary or default final judgment.

The failure of a party to fully comply with the provisions of this Administrative Order may result in the imposition of any sanctions available to the court, including dismissal of the cause of action without further notice.

**18. Mediation Not Required If Residence Is Not Homestead.** If the plaintiff certifies in Form A that the property is NOT a homestead residence when suit is filed, plaintiff's counsel must file and serve with the complaint a certification identifying the agent of plaintiff who has full authority to settle the case without further consultation. The certification shall be in the form of Exhibit 10 attached as page A-51 to Order No. AOSC09-54.

If the plaintiff certifies in Form A that the property is NOT a homestead residence, the matter may proceed to a final hearing, summary judgment, or default final judgment in accordance with the rules of civil procedure without any further requirement to attend mediation, unless otherwise ordered by the presiding judge.

#### **RMFM Program Fees**

**19. RMFM Program Fees.** The fee structure for the RMFM Program is based on the assumption that a successful mediation can be accomplished with one mediation session. Accordingly, pursuant to Rule 1.720(g), Florida Rules of Civil Procedure, the reasonable program fees for the managed mediation, including foreclosure counseling, the mediator's fee, and administration of the managed mediation program, is determined by the court to be a total of \$750.00 payable directly to Suwannee Valley Foreclosure Mediation, Inc. The check shall

contain the venue of the court, the case number and name of the primary borrower and be sent by regular U.S. Mail to Suwannee Valley Foreclosure Mediation, Inc., P.O. Box 6126, Live Oak, FL 32064. Payments shall be made as follows:

- 1) \$400.00 paid by plaintiff at the time suit is filed for administrative fees of the RMFM Program, including outreach to the borrower and foreclosure counseling fees; and
- 2) \$350.00 paid by plaintiff within 10 days after notice of the mediation conference is filed for the mediation fee component of the RMFM Program fees

If more than one mediation session is needed, the total program fee stated above will also cover a second mediation session. However, if an additional mediation session is needed after the second session, the plaintiff shall be responsible for the payment of the program fees for such additional mediation sessions, unless the parties agree otherwise. The program fees for the third and each subsequent mediation session shall be \$350.00 per session.

If the case is not resolved through the mediation process, the presiding judge may tax the program fees as a cost or apply it as a set off in the final judgment of foreclosure.

If the borrower cannot be located, chooses not to participate in the RMFM Program, or if the borrower does not make any contact with the foreclosure counselor, the plaintiff shall be entitled to a refund of the portion of the Program fees attributable to foreclosure counseling. If mediation is scheduled and the borrower announces an intention not to participate further in the RMFM Program prior to the mediation session, or if the case settles and the Program Manager has notice of the settlement at least five (5) days prior to the mediation session, the plaintiff shall be entitled to a refund of the Program fees allocated for the mediation session (\$350.00). If notice of settlement is not received by the Program Manager at least five (5) days prior to the scheduled mediation session, the plaintiff shall not be entitled to any refund of mediation fees.

The total fees include the mediator's fees and costs; the cost for the borrower to attend a foreclosure counseling session with an approved mortgage foreclosure counselor; and the cost to the Program Manager for administration of the managed mediation program which includes but is not limited to providing neutral meeting and caucus space, scheduling, telephone lines and instruments, infrastructure to support a web-enabled information platform, a secure dedicated email address or other secure system for information transmittal, website hosting and maintenance, postage, administrative, secretarial, management and other related expenses incurred in managing the foreclosure mediation program.

#### Program Manager to Monitor Compliance and Satisfaction

*20. Monitoring Compliance Concerning Certain Provisions of This Administrative Order, Satisfaction with RMFM Program, and Program Operation.* As is reasonably possible, the Program Manager shall use available data for monitoring whether Form A has been filed in all residential foreclosure actions that commence after the effective date of this Administrative Order and whether the RMFM Program fees have been paid if the residence is a homestead

residence. The Program Manager shall send compliance reports to the chief judge or the chief judge's designee in the format and with the frequency required by the chief judge.

The Program Manager may assist with enforcing compliance with this Administrative Order upon filing a written motion pursuant to Rule 1.100(b), Florida Rules of Civil Procedure, stating with particularity the grounds therefore and the relief or order sought. Example orders are attached as Exhibit 11, page A-53 to Order No. AOSC09-54.

The Program Manager shall also provide the chief judge with periodic reports as to whether plaintiffs and borrowers are satisfied with the RMFM Program.

The Program Manager shall also provide the chief judge with reports with statistical information about the status of cases in the RMFM Program and RMFM Program finances in the format and with the frequency required by the chief judge.

**21. Designation of Plaintiff Liaisons with RMFM Program.** Any plaintiff who has filed five (5) or more foreclosure actions in the Third Judicial Circuit while this Administrative Order is in effect shall appoint two RMFM Program liaisons, one of whom shall be a lawyer and the other a representative of the entity servicing the plaintiff's mortgages, if any, and, if none, a representative of the plaintiff. Plaintiff's counsel shall provide written notice of the name, phone number (including extension), email, and mailing address of both liaisons to the chief judge, or the chief judge's designee, and the Program Manager within 30 days after the effective date of this Administrative Order, and on the first Monday of each February thereafter while this Administrative Order is in effect.

The liaisons shall be informed of the requirements of this Administrative Order and shall be capable of answering questions concerning the administrative status of pending cases and the party's internal procedures relating to the processing of foreclosure cases, and be readily accessible to discuss administrative and logistical issues affecting the progress of the plaintiff's cases through the RMFM Program. Plaintiff's counsel shall promptly inform the chief judge and Program Manager of any changes in designation of the liaisons and the contact information of the liaisons. The liaisons shall act as the court's point of contact in the event the plaintiff fails to comply with this Administrative Order on multiple occasions and there is a need to communicate with the plaintiff concerning administrative matters of mutual interest.

#### List of Participating Mediators and Rotation of Mediators

**22. List of Participating Mediators and Rotation of Mediators** The Program Manager shall post on the website the list of Florida Supreme Court certified mediators it will use to implement the RMFM Program and will state in writing the criteria, subject to approval by the chief judge, the program will use in selecting mediators. The Program Manager shall also state in writing the procedure, subject to the approval by the chief judge, the program will use to rotate the appointment of mediators. The RMFM Program shall encourage the use of mediators who have been trained to mediate mortgage foreclosure cases, reflecting the diversity of the community in which it operates. Assignment of mediators shall be on a rotation basis that fairly spreads work throughout the pool of mediators working on the RMFM Program, unless the



parties mutually agree on a specific mediator or the case requires a particular skill on the part of the mediator or the mediator has a conflict of interest.

**Pre-Suit Mediation Encouraged**

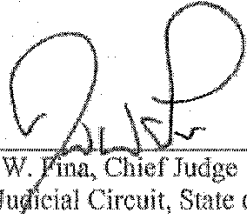
23. *Pre-Suit Mediation.* Mortgage lenders, whether private individuals, commercial institutions, or mortgage servicing companies, are encouraged to use any form of alternative dispute resolution, including mediation, before filing a mortgage foreclosure lawsuit with the clerk of the court. Lenders are encouraged to contact Suwannee Valley Foreclosure Mediation, Inc. ([www.suwanneemediation.org](http://www.suwanneemediation.org)) to arrange for entry into a pre-suit mediation process with their borrowers *prior* to filing foreclosure actions in the Third Judicial Circuit to reduce the costs to the parties for maintaining the litigation and to reduce to the greatest extent possible the stress on the limited resources of the courts caused by the large numbers of such actions being filed across the state and, in particular, in the Third Judicial Circuit.

If the parties participated in pre-suit mediation using the RMFM Program or participated in any other pre-suit mediation program having procedures substantially complying with the requirements of this Administrative Order, including provisions authorizing the exchange of information, foreclosure counseling, and requiring use of Florida Supreme Court certified circuit civil mediators specially trained to mediate residential mortgage foreclosure actions, the plaintiff shall so certify in Form A, in which case the plaintiff and borrower shall not be required to participate in mediation again unless ordered to do so by the presiding judge. A borrower may file a motion contesting whether pre-suit mediation occurred in substantial compliance with the RMFM Program.

Nothing in this paragraph precludes the presiding judge from sending the case to mediation after suit is filed, even if pre-suit mediation resulted in an impasse or there was a breach of the pre-suit mediation agreement.

This Administrative Order shall be recorded by the clerk of the court in each county of the Third Judicial Circuit, takes effect on April 15, 2010, and will remain in full force and effect unless and until otherwise ordered.

ORDERED on April 15, 2010.

  
\_\_\_\_\_  
David W. Fina, Chief Judge  
Third Judicial Circuit, State of Florida

Third Circuit Judges  
Third Circuit Clerks of Court  
John Lake (for web posting)  
Suwannee Valley Foreclosure Mediation, Inc.

**Jenn C. Lussier**

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**From:** Sondra M. Lanier  
**Sent:** Thursday, April 08, 2010 10:40 AM  
**To:** Sonny Scaff; Candice T. Herring; Darren K. Jackson; David W. Fina; Debbie J. Saunders; Debra P. Sadler; Diane B. Hiers; Donna D. Moore; Donna K. Jones; E. Vernon Douglas; Frederick L. Koberlein; Greg S. Parker; H. Wetzel Blair; Heather J. Norris; James R. Bean; Jean Pittman; Joyce Cameron; Julian E. Collins; Leandra G. Johnson; Linda H. Morgan; Marcie A. Kemp; Melanie A. Vaughn; Millicent A. Schneider; Pam K. Ring; Paul S. Bryan; Tom Coleman; William R. Slaughter  
**Subject:** RE: Tomorrow's Judges' Meeting

There will also be a discussion of Foreclosure Mediation tomorrow.

*Sondra Lanier*

Trial Court Administrator  
Third Judicial Circuit  
(386)758-2163 Lake City  
(386)362-1017 Live Oak  
(386)362-2658 Fax

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**From:** Sonny Scaff  
**Sent:** Thursday, April 08, 2010 10:38 AM  
**To:** Sondra M. Lanier; Candice T. Herring; Darren K. Jackson; David W. Fina; Debbie J. Saunders; Debra P. Sadler; Diane B. Hiers; Donna D. Moore; Donna K. Jones; E. Vernon Douglas; Frederick L. Koberlein; Greg S. Parker; H. Wetzel Blair; Heather J. Norris; James R. Bean; Jean Pittman; Joyce Cameron; Julian E. Collins; Leandra G. Johnson; Linda H. Morgan; Marcie A. Kemp; Melanie A. Vaughn; Millicent A. Schneider; Pam K. Ring; Paul S. Bryan; Tom Coleman; William R. Slaughter  
**Subject:** RE: Tomorrow's Judges' Meeting

I have 86 Traffic and MM Cases in the morning.  
Will not make meeting.  
Sonny

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**From:** Sondra M. Lanier  
**Sent:** Thursday, April 08, 2010 9:42 AM  
**To:** Candice T. Herring; Darren K. Jackson; David W. Fina; Debbie J. Saunders; Debra P. Sadler; Diane B. Hiers; Donna D. Moore; Donna K. Jones; E. Vernon Douglas; Frederick L. Koberlein; Greg Parker; H. Wetzel Blair; Heather J. Norris; James R. Bean; Jean Pittman; Joyce Cameron; Julian E. Collins; Leandra G. Johnson; Linda H. Morgan; Marcie A. Kemp; Melanie A. Vaughn; Millicent A. Schneider; Pam K. Ring; Paul S. Bryan; Sonny Scaff; Tom Coleman; William R. Slaughter  
**Subject:** Tomorrow's Judges' Meeting

Good morning.

The items on the agenda for tomorrow's meeting are Legislative Update (Funding, Pay and Benefits, and Senior Judges). I will e-mail an agenda to you when the server is operating again. John and Jacob have been working diligently on the server problems and expect to have things up and running this morning.

The meeting will be held in the Suwannee County Courthouse at 10:30 a.m. tomorrow.

*Sondra Lanier*

Trial Court Administrator  
Third Judicial Circuit  
(386)758-2163 Lake City  
(386)362-1017 Live Oak  
(386)362-2658 Fax

Jenn C. Lussier

**From:** The Florida Bar <careercenter@flabar.org>  
**Sent:** Tuesday, April 06, 2010 6:02 PM  
**To:** Darren K. Jackson  
**Subject:** Job Flash: 26 new legal jobs

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Tampa statewide creditor's rights / foreclosure firm seeking focused human resources generalist for growing HR department. F/T 8-5pm. Will be responsible for multiple aspects of HR for a small business under direction of HR manager. Must have at least 1 year human resources generalist experience. Prefer experience in legal field, but not required. This position deals with confidential information and complete

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**Associate Attorney Forizs & Dogali, P.A. - Tampa, FL**

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**CDD Lateral Associate Hopping Green & Sams - Tallahassee, FL**

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**Trial Attorney Associates & Bruce L. Scheiner P. A. - Fort Myers, FL**

The successful candidate must have experience conducting a minimum of 5 jury trials. Personal injury experience helpful. Insurance industry defense experience preferred [more info...](#)

**Associate Attorney Cordell and Cordell - Central Florida, FL**

Cordell & Cordell, P.C. is currently seeking two experienced attorneys to practice in its Orlando and Tampa, FL offices. We are looking for one attorney at each office. The candidate must be licensed to practice law in the state of FL; a minimum of 2-3 years of litigation experience and demonstrate strong interpersonal skills. Ideal candidate would have a dynamic personality to handle initial client consultations and increase client retention for the office. Family law experience is preferred. [more info...](#)

**PI Attorney Steinger, Iscoe & Greene - West Palm Beach, FL**

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**Assistant IT Manager Siegfried, Rivera, Lerner, De La Torre & Sobel - Coral Gables, FL**

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**Litigation Associate Groelle & Salmon PA - Vero Beach, FL**

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**Bankruptcy Paralegal Supervisor** **The Law Office of Daniel C. Consuegra - Tampa, FL**  
Tampa statewide creditor's rights/foreclosure firm seeking front-line paralegal supervisor for bankruptcy practice. Working supervisor responsible for a team of 10 including training and case processing. Requires 1 year of bankruptcy and supervisory experience, creditor representation preferred. Requires paralegal skills in drafting motions, orders, etc. Requires great communication skills, ability to lead attention to detail and ability to meet deadlines. Send resume to [hr@consuegralaw.com](mailto:hr@consuegralaw.com). [more info...](#)

**Litigation Attorney** **Conroy, Simerg, Ganon, Krevans, Abel, Et Al - Jacksonville, FL**  
Jacksonville insurance defense firm seeks associate with 3-7 years liability experience. [more info...](#)

**Insurance Defense Attorney** **Bell & Melamed, LLC - Fort Lauderdale, FL**  
Fort Lauderdale Insurance Defense Firm seeks experienced Litigation Attorney with a minimum of 5 years of experience. Qualified candidate should have knowledge of complex litigation cases from inception through completion. Insurance Defense/Construction Defect and trial experience a plus. Must have stable work history, strong academic credentials and be Florida Bar admitted. [more info...](#)

**Senior Litigation Associate** **Baker & McKenzie LLP - Miami, FL**  
The Miami office of Baker & McKenzie seeks a Litigation Associate having 4-7 years experience. The ideal candidate will have superior academic credentials and excellent analytical and writing skills. A critical qualification is demonstrated experience in handling and managing litigation matters in both state and federal court. Proficiency in Spanish a plus. [more info...](#)

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**Litigation Associate** **Groelle & Salmon PA - Tampa, FL**  
Statewide AV rated defense firm seeking motivated attorneys with 3 to 5 years of experience in property loss claims and liability defense to join our growing Tampa office. Litigation experience is necessary. Send resume in confidence to [dsalmon@gspalaw.com](mailto:dsalmon@gspalaw.com). [more info...](#)

**Attorney** **Dalan, Katz & Siegel, PL - Clearwater, FL**  
Attorney with at least 2 years of experience in Construction Litigation. [more info...](#)

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Jenn C. Lussier

**From:** Daily Business Review <dbr\_Editor@alm.com>  
**Sent:** Tuesday, April 06, 2010 12:11 PM  
**To:** Darren K. Jackson  
**Subject:** Litigation Alert

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April 6, 2010

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**By:** Jordana Mishory

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**Judge Ana Gardiner to stand trial on ethics violations**

**By:** Jordana Mishory

The Broward circuit judge will go to trial for



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ethics violations in September after the head of the Judicial Qualifications Commission denied her motion to dismiss.

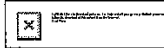


**Ethics**

**Coral Gables firm in hot water again**

**By:** Jose Pagliery

For the second time in two weeks, the 3rd District Court of Appeal has taken a Ganguzza & Associates to task for unethical conduct by its lawyers.

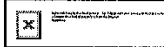


**Justice Watch**

**Harshest sentences still being handed to blacks**

**By:** John Pacenti

With federal legislation to close the 100 to 1 gap for sentences for crack and cocaine crimes, the talk of fairness in prison sentencing is once again up for debate.



**Sponsor Spotlight:**  
**How to Become a Target for the IRS**

**By:** Sponsor Spotlight

The chances of getting audited are probably higher than ever this year. Like everyone else, the IRS is looking for revenue. Dennis Fitzpatrick looks at factors that may increase your chances of being a target.



**Malpractice**

**\$100 million malpractice claim proceeds against Greenberg Traurig**

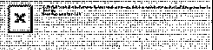
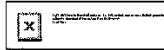
**By:** New York Law Journal

A federal judge largely denied a motion to dismiss a \$100 million malpractice case against Greenberg Traurig stemming from its patent work for an electronics manufacturing

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Large vertical sidebar area with a textured background and a small icon with an 'x' in a box at the top.

client.

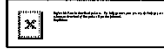


### **Toyota Litigation**

#### **Attorneys argue over venue as cases expand**

**By:** Amanda Bronstad

The U.S. Judicial Panel on Multidistrict Litigation heard arguments as more than a dozen lawsuits with new types of claims have been filed against Toyota.

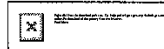


### **Supreme Court**

#### **Case could shut door on private prosecutions**

**By:** Jordan Weissman

Robertson v. U.S. ex rel. Watson challenges the way restraining orders are enforced in the District of Columbia.



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**To:** Darren K. Jackson  
**Subject:** The Florida Bar - Online CLE Program Update, April



**Online CLE Seminars**

**Downloadable Audio Seminars (Podcasts)**

**Featured Items Quick Links**

**Survey of Florida Law 2010**

**Representing Main Street: A Consumer Law Primer**

**Protecting Consumers from Housing Havoc**

**The Changing World of Estate Planning**

**Basic Skills Course Requirement**

**Rules Change**

Online CLE seminars and downloadable audio programs from The Florida Bar offer you flexibility and convenience. All programs are created for Bar Members by the Bar and allow you to:

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**Featured Items**

**Survey of Florida Law 2010**

12.5 Total CLE Units, 4.0 of which may be applied toward Ethics, 1.0 of which may be applied toward Criminal Trial, 1.0 of which may be applied toward Elder Law, 2.0 of which may be applied toward Wills, Trusts, & Estates, 2.0 of which may be applied toward Appellate Practice, 2.5 of which may be applied toward Real Estate, 1.0 of which may be applied toward Criminal Appellate, 1.0 of which may be applied toward Intellectual Property, 1.5 of which may be applied toward Marital & Family Law, 2.5 of which may be applied toward Business Litigation.

**Topics included:**

- Ethics of Real Estate Practice
- Truth-in-Lending and the Financial Crisis- A Discussion of the Latest TILE Amendment
- The View of Advocacy from the Bench: Civility, Professionalism & Competency

- First District Court of Appeals
- Ethics for Public Officials and Employees
- The Professionalism and Ethics of Practicing in Federal Court
- Hot Topics in Criminal Law
- May the Force Be with You: Authority and Obligations of the Trustee
- Housing Issues In Bankruptcy
- Electronic Discovery: How to Preserve It; How to Ask for It; and How to get It Into Evidence
- Practical Guide: Financial Affidavits and Child Support
- Guidelines without an Accountant
- Preserving the Record
- Ethical Considerations of the Attorney-Consultant Partnership
- Recent Developments in Charitable Planning
- Security Interests in Intellectual Property

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### **Representing Main Street: A Consumer Law Primer**

7.0 Total CLE Units, 5.5 of which may be applied toward Business Litigation, 5.5 of which may be applied toward Civil Trial (No Ethics).

**Topics included:**

- Credit Reports and Credit Scores
- Overview of the Fair Credit Reporting Act: How to Spot a Good Case
- Making Lemonade Out of Lemons – Auto Fraud and the Lemon Law
- Do You Have What It Takes to File a Consumer Class Action Suit?
- The Fair Debt Collection Practices Act and How to Use It to Protect Your Clients
- Stop the Insanity: How to Defend a Foreclosure

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### **Protecting Consumers from Housing Havoc**

4.0 Total CLE Units, 3.0 of which may be applied toward Real Estate (No Ethics)

**Topics included:**

- Foreclosure Defense
- Mortgage Fraud
- Renegotiating Mortgages
- Housing Issues in Bankruptcy

**User Feedback:**

*"This was a fabulous program that is very timely. Though it is not my specific area of practice, it gives me a general background to lead my clients to the right places to get information. The number of questions that I am getting from estate planning and elder law clients is increasing geometrically over time. You may want to suggest this to all lawyers in Florida as it is so necessary to send your clients in the right direction."* (Sebastian, FL)

*"Excellent. Very timely and useful material."* (Hialeah, FL)

*"Extremely informative and educational"* (Naples, FL)

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**The Changing World of Estate Planning**

7.0 Total CLE Units, 7.0 of which may be applied toward Elder Law, 7.0 of which may be applied toward Tax, 7.0 of which may be applied toward Wills, Trusts, & Estates (No Ethics)

**Topics Include:**

- Defined Value Formula Gifts: Do They Work and How!
- Take Caution at the Settlement Table: The IRS Maw Want a Piece of the Pie
- Estate Planning in Turbulent Times
- The New Frontier – IRA to Roth Conversion, Recharacterizations and Reconversions
- Decanting – An In-Depth View of the Latest Techniques
- Recent Developments in Charitable Planning
- Risk Management for the Life Insurance Trust “Accommodation Trustee”
- Hot Topics – The Future of the Estate Tax and Recent Judicial Rulings

**User Feedback:**

*"The quality of all presentations were excellent. The ability to pause and replay portions of the presentations enabled me to go deeper into points which I was not clear on first viewing, resulting in greater*

*comprehension and understanding of the materials. Setting my own periods of recess and refreshment enabled me to absorb the contents of one presentation and to think about its meaning before going to the next presentation." (Juno Beach, FL)*

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### **Basic Skills Requirement Courses - Rules Change**

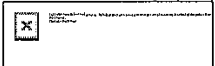
Effective March 6, 2010, new lawyers or members that have not yet completed their three Basic CLE course component of the Basic Skills Course Requirement (BSCR), Rule 6-12, Rules Regulating The Florida Bar, will be able to fulfill this requirement either by attending a live Basic CLE presentation or participating in the 24/7 online CLE version of the Basic program and obtaining a certificate of completion. This online CLE option will replace the previously offered video replays. Live webcasts/virtual seminars, audio-CD and video-DVD programs will **not** satisfy this requirement. You can register for upcoming live seminars or participate in the 24/7 On-line CLE at your convenience and any time, 24 hours a day, by accessing [The Florida Bar CLE website](#).

The in-person attendance requirement for Practicing with Professionalism has not changed.

The expanded delivery method option for satisfying the BSCR only affects those attorneys who have not yet completed the BSCR. To verify your compliance and reporting dates, please check our website at [www.floridabar.org/cler](http://www.floridabar.org/cler).

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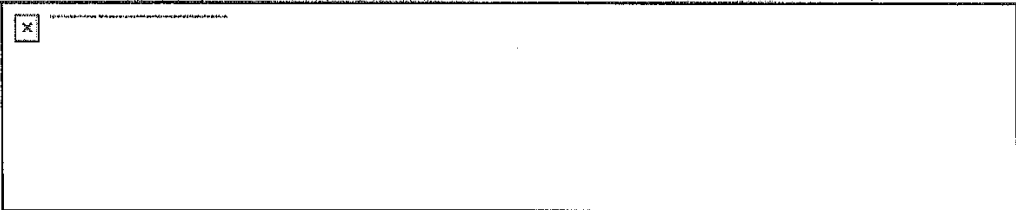
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**Jenn C. Lussier**

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## The Florida Bar CLE e-Newsletter

April 2010

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Your source for information about upcoming [CLE Seminars](#) and new editions of CLE Publications. Reporting date coming soon? [Look for CLE Seminar](#) programs in your area.

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For maximum flexibility in obtaining your CLE credits, see our listing of upcoming live webcasts, tele-seminars, tele-web seminars, online on-demand courses, as well as CLEtoGo (downloadable audio) seminars [here](#).

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### April 2010 CLE Seminars

[Traditional Labor Law: Recent Developments in the Private and Public Sector and Legislative Initiatives](#) | [Criminal Law Update 2010](#) | [Advanced Labor Topics 2010](#) | [State & Federal Government & Administrative Practice Certification Review Course 2010](#) | [Wills, Trusts and Estates Certification Review and Advance Practice Update 2010](#) | [Advanced Construction Law & Certification Review Course 2010](#) | [3rd Annual Construction Law Institute](#) | [Advanced Real Estate Law and Certification Review Course 2010](#) | [Basic Tax Practice 2010](#) | [Current Issues in Condominium and Community Association Law: What All Practitioners Need to Know](#) | [IRS: We Got What It Takes to Take What You Got](#) | [Practicing with Professionalism \(Spring 2010\)](#)

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### **Traditional Labor Law: Recent Developments in the Private and Public Sector and Legislative Initiatives**

Course Classification: Intermediate Level

Webinar Presentation: Wednesday, April 7, 2010 - 11:30 a.m. to 1:30 p.m. EST

The two-hour webinar (audio by phone with slides via Internet) will address recent developments at the NLRB and recent NLRB decisions; recent



developments at PERC and recent PERC decisions; and EFCA, RESPECT Act and other proposed legislation. As a webinar attendee you will listen to the program over the telephone and follow the materials on-line. Registrants will receive webinar connection instructions 2 days prior to the scheduled course date via e-mail. If you do not have an e-mail address, contact Order Entry Department at 850-561-5831, 2 days prior to the event for the instructions.

[Click here for more information.](#)

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### **Criminal Law Update 2010**

Course Classification: Intermediate Level

Live & Webcast Presentation: April 16, 2010 - Hilton Miami Downtown, Miami, FL

This seminar is intended to apprise the criminal justice practitioner of significant developments in law and procedure over the past year, as well as engage the bench and bar in our on-going dialogue to foster a rational and humane criminal justice system. Substantive areas to be covered include DUI, immigration, appeals, juveniles, and sexual predator and offender crimes, along with recent state and federal case law, legislation, and ethics opinions impacting criminal law practice. Our "spotlight" issue this year is Gideon and our shared legal, ethical, and moral obligations to fulfill its promise of the effective assistance of counsel.

[Click here for more information.](#)

---

### **Advanced Labor Topics 2010**

Course Classification: Advanced Level

Live Presentation: April 23-24, 2010 - South Seas Island Resort, Captiva Island, FL

The two-day advanced seminar on labor topics will take place at the beautiful South Seas Island Resort on Captiva Island. The topics will include a view from the bench: Judge Mary S. Scriven of the U.S. District Court for the Middle District will discuss how to persuade the court. The Family and Medical Leave Act, the Genetic Information Nondiscrimination Act and Supreme Court and 11th Circuit Updates will also be discussed. In addition, the seminar will provide an in-depth discussion of e-discovery and computer forensics.

[Click here for more information.](#)

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### **State & Federal Government & Administrative Practice Certification Review Course 2010**

Course Classification: Advanced Level

Live & Webcast Presentation: April 8-9, 2010 - FSU Conference Center, Tallahassee, FL

Those who have applied to take the certification exam may find this course a useful tool in preparing for the exam. It is developed and conducted without any involvement or endorsement by the BLSE and/or Certification committees. Those who have developed the program, however, have significant experience in their field and have tried to include topics the exam may cover. Candidates for certification who take this course should not assume that the course material will cover all topics on the examination.



[Click here for more information.](#)

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**Wills, Trusts and Estates Certification Review and Advance Practice Update 2010**

Course Classification: Advanced Level

Live & Webcast Presentation: April 23-24, 2010 - Hyatt Regency Orlando Airport, Orlando, FL

Those who have applied to take the certification exam may find this course a useful tool in preparing for the exam. It is developed and conducted without any involvement or endorsement by the BLSE and/or Certification committees. Those who have developed the program, however, have significant experience in their field and have tried to include topics the exam may cover. Candidates for certification who take this course should not assume that the course material will cover all topics on the examination.

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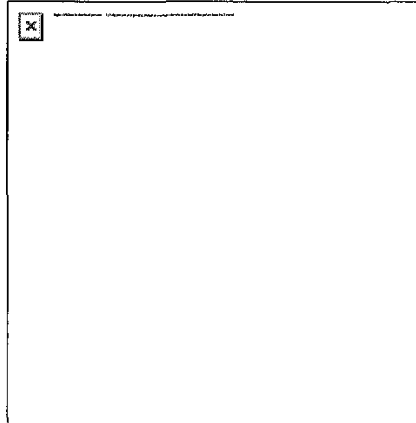
**RELATED FLORIDA BAR CLE PUBLICATIONS**

**The Florida Bar Probate System, Fourth Edition**

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*The Florida Bar Probate System*, once again authored by Rohan Kelley, joined in this new edition by Tae Kelley Bronner as co-author, provides a detailed roadmap for all facets of probate administration, and also serves as a powerful training tool for the law office support staff. You'll find all this and much more in *The Florida Bar Probate System*:

- Detailed how-to instructions for each step in the probate process
- Over 140 pleading and practice forms, with information on service requirements and statutory and rule authority for each form, all cross-referenced to other parts of the System
- Over 75 sample letters
- Essential office forms and information lists
- Extensive legal and tax commentary
- Critical date schedule

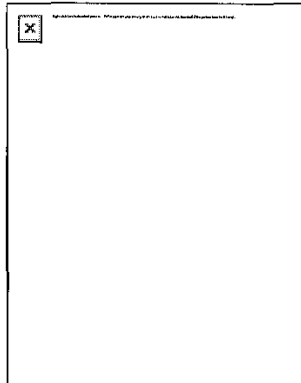


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**Administration of Trusts in Florida, Sixth Edition**

©2009

The revised and expanded Sixth Edition of this perennial best-seller addresses in-depth a truly landmark piece of legislation - the Florida Trust



Code, effective July 1, 2007, and subsequent amendments to the Code passed by the Legislature in 2008 and 2009. In addition, this new edition features extensive treatment of all facets of trust administration, including:

- Powers and duties of the trustee;
- Operation of the revised Principal and Income Act;
- The Modern Portfolio Theory of investments;
- Trust "decanting;"
- Unique situations involving entities such as offshore trusts and Medicaid trusts.

Tax considerations are stressed throughout the text, and are treated in depth in Chapter 12 of the manual. With the explosive increase in the use of trusts by Florida residents, this updated manual addresses a myriad of issues that attorneys practicing in this area are likely to confront on a daily basis.

[Click here for more information.](#)

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### **Advanced Construction Law & Certification Review Course 2010**

Course Classification: Advanced Level

Live Presentation: April 9-10, 2010 - Omni ChampionsGate Resort, ChampionsGate, FL

This course is designed to assist in the preparation for The Florida Bar's Construction Certification Examination. It will include practice pointers on taking the exam from people who have previously served on the Construction Certification Committee. It is also an excellent survey and refresher in advanced construction law topics. Those who have applied to take the certification exam may find this course a useful tool in preparing for the exam. It is developed and conducted without any involvement or endorsement by the BLSE and/or Certification committees. Those who have developed the program, however, have significant experience in their field and have tried to include topics the exam may cover. Candidates for certification who take this course should not assume that the course material will cover all topics on the examination.

[Click here for more information.](#)

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### **3rd Annual Construction Law Institute**

Course Classification: Advanced Level

Live Presentation: April 8-10, 2010 - Omni ChampionsGate Resort, ChampionsGate, FL

This two-day advanced course will cover the following topics: Interpreting Construction Documents: How to find that hidden nugget to support your client's position from typical construction documents, Construction Loan and Bond Underwriting Issues, Integration of, and conflicts between, insurance policies, bonds and contract clauses provided by contractors, subcontractors, and design professionals, Ethics and open microphone issue on The State of Prevailing Party Attorney Fee Awards in Florida After Trytek, Complex Damage Calculations: Computing delay damages, lost profits, and indemnity damages and getting around waivers of consequential damages and limitation of liability clauses, Advanced Lien Law, Court Ordered Non-

Binding Arbitration, Bid Protests, State of the Economy in Construction, Advanced Litigation Skills Training: Selecting, Preparing, Attacking, & Defending, Expert Witnesses, Federal and State Public Construction Contracting and False Claims Act, Forum Selection for Design/Build Claims, Designing and Building to LEED Standards, Legislative & Case Law Update.

[Click here for more information.](#)

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## **Advanced Real Estate Law and Certification Review Course 2010**

Course Classification: Advanced Level

Live & Webcast Presentation: April 23-24, 2010 - Hyatt Regency Orlando Airport, Orlando, FL

This seminar will cover the following topics: FAR/BAR Contract, Case Law and Statutory Update, Construction Liens, Homeowners Associations, Business Entities, Real Property Ethical Considerations, Tax Liens and Tax Titles, Public Lands and Water Boundary Issues, Marketable Record Title Act & Curative Statutes, Foreclosures, Florida Homestead, Condominiums and Condominium Associations, Environmental Issues, Documentary Stamp Taxes, Surveys and Legal Descriptions, Tenancies and Conveyancing Issues, HUD-1 Settlement Statement, Title Insurance - Affirmative Coverages, Zoning and Permitting, Landlord/Tenant Disputes and Evictions, Bankruptcy Issues, Real Estate Opinion Letters, Land Trusts, Judgments & Judgment Liens. Those who have applied to take the certification exam may find this course a useful tool in preparing for the exam. It is developed and conducted without any involvement or endorsement by the BLSE and/or Certification committees. Those who have developed the program, however, have significant experience in their field and have tried to include topics the exam may cover. Candidates for certification who take this course should not assume that the course material will cover all topics on the examination.

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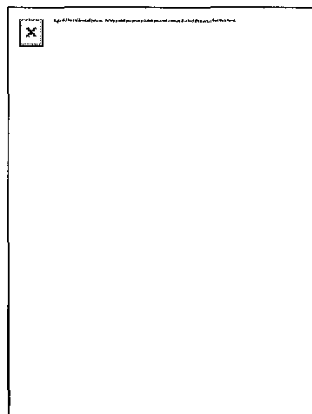
## **Florida Real Property Complex Transactions, Fifth Edition with CD-ROM**

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From commercial development to subdivisions to mobile home parks, Florida Real Property Complex Transactions provides the practical, step-by-step guidance that will be welcomed both by attorneys new to this area and by experienced practitioners.

The new Fifth Edition features:

- New chapter explaining mixed-use communities and mixed-use buildings
- Practical concerns that must be considered when the land includes timberlands, natural resources, and waterfront
- Evictions, potential litigation, closing deliveries and statutory notice



- requirements pertaining to mobile home parks.
- Discussion of the multi-factor test for "shopping center"
- New section on 1031 exchanges
- Determination of value of acreage and timberlands, including a detailed explanation of "best cut"

Forms and checklists are provided throughout the book and on the included CD-ROM, making this a comprehensive yet accessible reference that you will consult often in your practice.

[Click here for more information.](#)

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### **Basic Tax Practice 2010**

Course Classification: Basic  
Live Presentations: April 8, 2010 - Hyatt Regency Downtown, Miami, FL - April 9, 2010 - Tampa Airport Marriott, Tampa, FL

A Basic Overview of Tax Practice to include topics on tax codes; choice of entity; estate, gift, and charitable planning; business and real estate transactions; IRS matters; and forms and resources.

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### **Current Issues in Condominium and Community Association Law: What All Practitioners Need to Know**

Course Classification: Intermediate Level  
Live & Webcast Presentation: April 16, 2010 - Tampa Airport Marriott, Tampa, FL

This seminar will cover the following topics: Arbitration Update; Developer and Associations, Embezzlement - The Problems for Community Association, Owner's Turnover Meeting; Annual Four-Sided Round Table Discussion; Case Law Update and a panel discussion on Ethics & Advertising with Bar Counsel.

[Click here for more information.](#)

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### **IRS: We Got What It Takes to Take What You Got**

Course Classification: Advanced Level  
Live & Webcast Presentation: April 30, 2010 - Seminole Hard Rock Hotel and Casino, Hollywood, FL

We Got What It Takes to Take What You Got seminar will feature panels consisting of a member of the IRS, a Practitioner and a Moderator. Each topic will be debated and discussed by the panels.

[Click here for more information.](#)

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### **Practicing with Professionalism (Spring 2010)**

Course Classification: Basic Level  
Live Presentations (10 locations): January 8, 2010 - May 27, 2010  
Miami - Orlando - West Palm Beach - St. Petersburg - Ft. Lauderdale - Gainesville - Tallahassee -

Panama City

A one day seminar providing a broad overview of ethical and professional issues designed for new lawyers in fulfillment of phase 1 of the Basic Skills Requirement. The Florida Supreme Court in *The Florida Bar Re: Amendment to Rules Regulating The Florida Bar, Rule 6-12 (Basic Skills Course Requirement, 524 So. 2d 634 (Fla. 1988))*, made Practicing with Professionalism, mandatory for attorneys admitted to The Florida Bar after October 1, 1988. Effective on May 12, 2005, the Supreme Court of Florida amended Rule 6-12.3 and Rule 6-12.4. These amended rules state that in addition to attending Practicing with Professionalism, new admittees must attend three "basic" level substantive continuing legal education programs presented by the YLD. The Basic Skills Course Requirement must be completed within the initial 3-year continuing legal education cycle after admission to The Florida Bar or within 2 years after the expiration of any exempt status. The Practicing with Professionalism requirement must be met within the first year of admission to The Florida Bar or one year prior to being admitted to The Florida Bar. Out-of-State Practitioners, Military lawyers and Governmental lawyers may be exempt from the Basic Skills Course Requirement and should refer to Rule 6-12.4 to determine eligibility for an exemption.

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Jenn C. Lussier

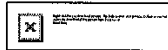
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**To:** Darren K. Jackson  
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DBR TV: The challenges facing labor and employment attorneys

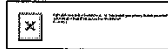


**Criminal Law**

**Miami attorney Michael Diaz Jr. faces road-rage charges**

**By:** Jose Pagliery

The prominent Miami attorney is set for arraignment on felony and misdemeanor charges for allegedly beating up a driver and his girlfriend in a road-rage incident.

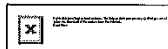


**Condo Meltdown**

**Miami project faces \$216 million foreclosure**

**By:** Eric Kalis

Paramount Bay, a Miami condo project financed by now-failed Corus Bank, is facing foreclosure over its \$216 million construction loan.

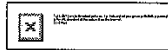


**U.S. Supreme Court**

**Can labor board make decisions with 2 members?**

**By:** Marcia Coyle

The U.S. Supreme Court appears divided in a politically charged case challenging the power of the National Labor Relations Board to operate with only two of five members.



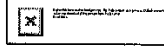
**Employment Law**

**Miami-Dade ordinance ensures workers get paid**

**By:** Jose Pagliery

A new Miami-Dade County ordinance offers

increased protection to workers dealing with employers who refuse to pay them in full or pay them late. The aggressive wage theft ordinance is believed to be the first county law of its kind in the United States.

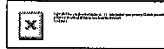


### **Health Care Reform**

#### **Scholars doubt McCollum's challenge will fly**

**By:** Gary Fineout

An assortment of law professors and attorneys see little chance of success for the attorney general's challenge to health-care reform on the legal merits.



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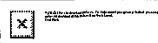
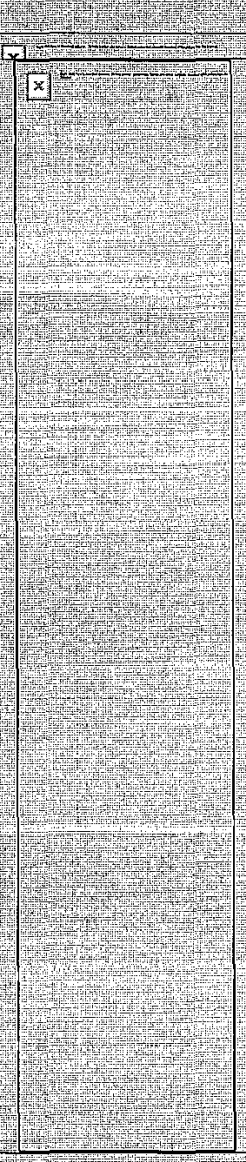
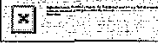
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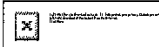
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**To:** Darren K. Jackson  
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for maintenance and operations fees. The fees are being used to subsidize Urgo Hotels, a lawsuit claims .

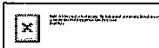


**Nadel Case**

**Judge lets suits stand against Holland & Knight**

**By:** Julie Kay

A Sarasota judge dismissed some counts but let stand malpractice and breach of fiduciary duty charges in a lawsuit filed against Holland & Knight by the receiver in a \$168 million Ponzi scheme.



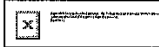
**Money Laundering**

**Wachovia to pay \$160 million in deferred prosecution**

**By:** John Pacenti

Wachovia Bank has agreed to pay \$160 million for failing to effectively monitor more than \$420 billion in transactions with Mexican currency exchange businesses.

DBR TV: Joint press conference announcing the terms of the deferred prosecution at the U.S. Attorney's Office

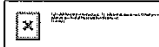


**Tobacco Suits**

**Appellate ruling deemed big victory by smoker attorneys**

**By:** Jose Pagliery

The 3rd District Court of Appeal has upheld a \$24.8 million smoker award against tobacco companies, scoring a win for attorneys representing people hurt by cigarettes.



**Transportation**

**Company shut out of Port of Miami gets \$3.54 million**