

BROWARD COUNTY BAR ASSOCIATION

# BARRISTER

JUNE 2018

## *New Professionalism & Civility Magistrate Program*



SERVING THE CITIZENS AND LEGAL COMMUNITY OF BROWARD COUNTY SINCE 1925



**IBERIABANK**

*proudly supports*

**the Broward County  
Bar Association**

*in its efforts to serve members of the legal profession.*

**Jeffrey C. Ginocchi**

Senior Vice President  
954.768.5972

jeffrey.ginocchi@iberiabank.com

**Debra L. Vasilopoulos**

Market President  
561.514.4914

debra.vasilopoulos@iberiabank.com

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

Member  
**FDIC**

# BROWARD COUNTY BAR ASSOCIATION

## Recognizes 100% Membership Club

**\*\*For firms with 5 attorneys or more\*\***

Abramowitz, Pomerantz, & Morehead, P.A.

Billing, Cochran, Lyles, Mauro & Ramsey, P.A.

Birnbaum, Lippman & Gregoire, PLLC

Boies Schiller Flexner LLP – Hollywood Office

Brinkley Morgan

Buchanan Ingersoll & Rooney PC

Catri, Holton, Kessler & Kessler P.A.

Chimpoulis, Hunter & Lynn, P.A.

Coast to Coast Legal Aid of South Florida

Cole, Scott, and Kissane

Colodny Fass

Conrad & Scherer, LLP

Cooney Trybus Kwavnick Peets, PLC

Doumar, Allsworth, Laystrom, Voigt, Wachs & Adair, LLP

Ferencik, Libanoff, Brandt, Bustamante, & Goldstein, P.A.

Fowler, White, Burnett, P.A.

Gladstone & Weissman, P.A.

Gray Robinson, P.A.

Green, Murphy, Murphy & Kellam

Haliczer, Pettis & Schwamm, P.A.

Johnson, Anselmo, Murdoch, Burke, Piper & Hochman, P.A.

Keller Landsberg PA

Kelley/Uustal

Kim Vaughan Lerner LLP

Krupnick, Campbell, Malone, Buser, Slama,  
Hancock & Liberman, P.A.

Legal Aid Service of Broward County

MacLean & Ema

Moraitis, Cofar, Karney & Moraitis

Pazos Law Group, P.A.

Rogers, Morris & Ziegler, LLP

Schlesinger Law Offices, P.A.

Seiler, Sautter, Zaden, Rimes & Wahlbrink

Smith, Currie & Hancock, LLP

Vezina, Lawrence & Piscitelli, P.A.

Walton, Lantaff, Schroeder & Carson, LLP

Wicker, Smith, O'Hara, McCoy and Ford, P.A.

# Broward County Circuit Court's New Professionalism and Civility Magistrate Program

by Gary C. Rosen and Jamie A. Cole

In 2013, the Florida Supreme Court in *Florida Bar v. Norkin*, 132 So. 2d 77, 89 (Fla. 2013), stated that it was “profoundly concerned with the lack of civility and professionalism demonstrated by some Bar members,” and referenced a survey that showed that over two-thirds of the Florida Bar members who responded believed that “in recent years, relationships between attorneys have become more adversarial.”

Unfortunately, since then, the situation has gotten even worse, and things are no better in Broward County. Nearly all Broward litigators have experienced or heard anecdotes about lawyers who have discredited themselves and the legal profession with abhorrent behavior. Whether it is obstreperous conduct during depositions, foul or insulting language with adversaries, or simply refusing to follow normal protocols and courtesies in scheduling hearings or depositions, unprofessional behavior is a problem that has not been effectively tackled by professionalism panels that lack any enforcement authority or even the ability to require lawyers to appear before them. Broward judges are now about to try a new solution. This month, three divisions of the Broward Civil Circuit bench are participating in a pilot professionalism and civility magistrate program, enlisting the services of some of Broward’s experienced civil litigators to hear referred matters relating to professionalism and civility, and issue reports and recommendations of sanctions arising from that conduct.

The idea for the program emerged from the Broward County Bar Association’s Large Law Firm Managing Partners Committee about a year ago. Over the

past several months, a small working group has developed the concept with an eye toward deterring those few lawyers whose behavior repeatedly strays outside professionally acceptable boundaries. These managing partners have enlisted colleagues who have at least 20 years of civil litigation experience and are located here in Broward County to serve as magistrates. The magistrates are volunteers and will serve for no compensation.

On May 2, 2018, Chief Judge Tuter issued Administrative Order #2018-35-Civ detailing the program. The stated purpose of the program is “to promote and better enforce the appropriate level of professionalism and civility among the lawyers practicing in the Civil Circuit divisions of Broward County Circuit Court.” A participating judge may refer a matter to a volunteer magistrate if in the court’s judgment the conduct of an attorney should be examined. The purpose of the magistrate program is not to address routine matters; rather, the only types of matters that are to be referred to a magistrate are those that concern “[b]ehavior involving issues of civility in the courtroom, discovery or other interaction between counsel that undermines the integrity or professionalism of the Bar, including:

- i. Non-routine discovery disputes involving conduct that has occurred more than once
- ii. Non-routine discovery disputes where one party/counsel’s conduct is the subject of multiple motions
- iii. Conduct that is the subject of a sanctions motion that the trial court determines has prima facie merit based on written submissions

- iv. Repetitive disregard for scheduling protocols.

All filings with the magistrate shall be through the electronic filing system and will be a matter of public record. Following submission of written submissions by all parties, a hearing will be held before the magistrate, and a report and recommendation will be issued. The magistrate process is designed to work expeditiously, with the total time from referral to the issuance of a report and recommendation estimated to be no more than 45 days.

Admittedly, this magistrate program is an experiment that may require modification and adjustment. However, the ultimate goal of a more professional and civil practice of law in this circuit is well worth the effort. **B**



*Gary C. Rosen, Esq., Managing Shareholder and Chief Executive Officer of Becker, oversees the firm’s governance while playing a leading role in recruitment, marketing and other business functions. Gary can be reached at 954-987-7550 or grosen@beckerlawyers.com.*



*Jamie Alan Cole, Esq., is the Broward Managing Director and a Member of Weiss Serota Helfman Cole & Bierman, PL, and is the Chair of the Large Law Firm Committee of the BCBA. He practices primarily in the areas of litigation and local government law and can be reached at 954-763-4242 or jcole@wsh-law.com.*