



2015
Annual
Florida Bar
Convention

BOCA RATON
RESORT & CLUB

501 EAST CAMINO REAL
BOCA RATON, FL 33432
(561) 447-3000



The Florida Bar Entertainment, Arts & Sports Law Section presents

Counseling The Provocative Client

COURSE CLASSIFICATION: INTERMEDIATE

Friday, June 26, 2015, 4:30 p.m.- 6:00 p.m.

Course 1961R

Staff Contact: Angie Froelich (afroelich@flabar.org)

4:30-6:00: **Counseling the Provocative Client: What is Protected Speech under the First Amendment and How to Counsel A Provocative Client**

The First Amendment and entertainment law will be explained by entertainment attorneys, First Amendment professors, and civil rights leaders. The panel will distinguish between protected and unprotected speech in today's entertainment industry, including fighting words, speech about past and future criminal acts, freedom of association, speech that offends, speech that causes emotional harm, and obscenity. The continuing uncertainties regarding governmental ability to regulate speech in various forums and channels—including the differences between broadcast, television, pay-per-view, satellite, the internet, and social media—will also be discussed. How do attorneys explain these limitations without restraining client creativity? What ethical and professional obligations do attorneys have to society at large and to advise and defend a client's speech in the entertainment industry? Ethics and professionalism concerns will be discussed throughout the presentation, with an interactive audience participation in case studies at the end.

Moderator and Panelist:

Emily Patricia Graham, 2014-15 EASL Chair, The Law Offices of Emily Patricia Graham, Miami Beach and Clearwater

Panelists:

A.J. Comparetto, Comparetto Law Firm, St. Petersburg

Prof. Donald Jones, University of Miami, Coral Gables

Thomas R. Julin, Hunton & Williams LLP, Miami

Prof. Marc Rohr, Nova Southeastern University, Fort Lauderdale

Howard Simon, American Civil Liberties Union of Florida, Miami



2015 Annual Florida Bar Convention

**BOCA RATON
RESORT & CLUB**

**501 EAST CAMINO REAL
BOCA RATON, FL 33432
(561) 447-3000**



SPEAKERS



ANTHONY J. COMPARETTO has devoted his practice for the past 25 years to complex asset protection and business planning issues and for the past 20 years to entertainment law matters with a primary focus on adult entertainment legal issues. He is currently Co-Chair of the Adult Entertainment Committee for the Entertainment, Arts and Sports Law Section of The Florida Bar. His office is located in St. Petersburg, Florida. He frequently lectures on the adult entertainment business and the First Amendment and to date has conducted over 50 seminars and multi-day workshops for both the lawyer and lay person. These seminars and workshops have covered topics ranging from the legal issues of producing adult content and compliance with 18 U.S.C. 2257 to the nuts and bolts of the adult entertainment industry. Mr. Comparetto obtained his B.A. in political science from the University of South Florida and his J.D. from Stetson College of Law. He has been admitted to The Florida Bar since 1989 and is admitted to the United States District Court, Middle District of Florida. He has frequently served as a hearing officer, a special master, a mediator and an arbitrator. Mr. Comparetto has been lead trial counsel in more than 500 civil and criminal matters, of which over 50 have resulted in a trial on the merits.



EMILY PATRICIA GRAHAM has practiced law since 2006, providing full service representation to clients from the entertainment industry, with experience in intellectual property, business, tax, executive compensation, music and film production, fashion, finance, tax, the First Amendment, animal welfare, and real estate and development law. Her firm's clients include DJs, musicians, fashion design companies, production companies, engineers, directors, screenwriters, actors, artists, clubs, restaurants, bars and various non-profit organizations. She has negotiated multi-million dollar deals and settlements. She travels extensively for her clients and is admitted to practice in Florida, Louisiana and California, the United States District Court for the Southern District of Florida, and the United States District Court for the Central District of California. Ms. Graham is 2014-2015 Chair of the Entertainment, Arts and Sports Law Section (EASL) of The Florida Bar. Prior to becoming EASL Chair, she was chair of EASL's Legislation Committee and steered lobbying efforts to promote the passage of new film incentives legislation in Florida. Ms. Graham contributed to the AIPLA's Policy Statement on the first federal Design Piracy Prohibition Act which proposed copyright protection for certain fashion designs. Ms. Graham was a longtime member of the Media and Communications Law Committee of The Florida Bar. She was also an assistant organizer of the Louisiana Filmmakers Group. Ms. Graham is a former faculty member at The Art Institute of Fort Lauderdale in the fashion design and fashion merchandising departments and developed a business law course geared to the fashion industry before there was a textbook on the subject. Ms. Graham also taught the entertainment law seminar at Florida International University in the Legal Studies Institute. She received her J.D.



2015 Annual Florida Bar Convention

**BOCA RATON
RESORT & CLUB**

**501 EAST CAMINO REAL
BOCA RATON, FL 33432
(561) 447-3000**



from the Shepard Broad Law Center at Nova Southeastern University, and her B.S. from Florida State University in political science with a minor in British Studies. Ms. Graham is on the Board of Directors of the Greater Miami Chapter of the ACLU of Florida. She is a member of Save The Chimps, a sanctuary for chimpanzees retired from the entertainment industry, research laboratories, and the pet trade.



DONALD JONES, a Baltimore native, is Professor of Law at the University of Miami. Professor Jones, who teaches constitutional law and criminal procedure at the law school, has published numerous articles in leading journals about the civil and political rights of people of color. His early work includes *Darkness Made Visible: Law, Metaphor and the Racial Self* published in Georgetown in 1993 and *No Time for Trumpets: Title VII and the Fin De Siècle* published in Vanderbilt in 1994. In 1997 Professor Jones was awarded the James Thomas prize by Yale University, recognizing him as one of the nation's foremost civil rights scholars. His most recent article is "He's a Black Male: Something's Wrong With Him!: The Role of Race in the Stand Your Ground Debate, 68 U. Miami. L. Rev. 1025 (2014). Reaching out to audiences beyond the ivory tower, Professor Jones has published two books. His first book, about the plight of black men, is entitled *Race, Sex and Suspicion; the Myth of the Black Male* and was published in 2005. His second book entitled *Fear of a Hip-Hop Planet: America's New Dilemma*, published in 2013, is about how and why racism persists in the 21st century. Professor Jones has appeared on PBS' *Frontline*, CNN's *Burden of Proof*; Bill O'Reilly's *The O'Reilly Factor* and Michael Putney's *The Week in Review*. He is also a frequent contributor to the editorial pages of *The Miami Herald*, *The Huffington Post* and *The South Florida Times*. In 2003 Professor Jones, in conjunction with efforts by Senator Fredericka Wilson, led an investigation into the impact of high-stakes testing in inner city schools. In the same year Professor Jones was hired as a constitutional expert to draft the affirmative action plan for minority contracting in Miami-Dade County. In 2006 he was retained by the City of Miami to review their policy on deadly force. In 2007 Professor Jones was recognized by the National Bar Association as the "Outstanding Member" for that year. In 2009 *Success Magazine* recognized Professor Jones as one of the most influential blacks in South Florida. Professor Jones has been a featured speaker for the Law and Society Association, the National Bar Association, The Florida Association of State Judges, The National NAACP Convention, The National Association of Black Law Students, The Florida Conference of Black State Legislators, and many others.



THOMAS R. JULIN heads the global media practice of the international law firm Hunton & Williams LLP. He recently argued in the U.S. Court of Appeals for the Second Circuit for an application for discovery in the United States pursuant to 28 U.S.C. § 1782 for use by a Swiss prosecutor conducting a criminal investigation in Switzerland. The case, *In Re Application for an Order Pursuant to 28 U.S.C. § 1782 to Conduct Discovery for Use In Foreign Proceedings (Optimal Investment Services, S.A. v. Berlamont)*, No. 14–2807–CV, 2014 WL 6997484 (2d Cir. Dec. 12, 2014), presented an issue of first impression for the Second Circuit and its surprising



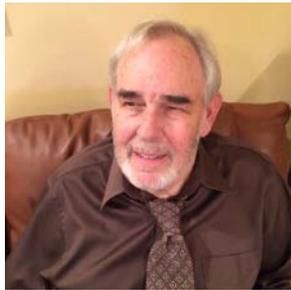
2015 Annual Florida Bar Convention

**BOCA RATON
RESORT & CLUB**

**501 EAST CAMINO REAL
BOCA RATON, FL 33432
(561) 447-3000**



conclusion may have wide-ranging consequences for parties seeking to obtain documents in the U.S. for use in foreign criminal investigations that have not yet yielded formal accusations against anyone. Mr. Julian is best known for his representation of clients in matters involving freedom of speech and of the press. In 2011, he won a milestone U.S. Supreme Court victory for the country's leading health information companies in *Sorrell v. IMS Health Inc.*, 131 S. Ct. 2653 (2011), striking down a state law that banned the sale of data for targeted marketing. His article, *The Dog that Did Bark: First Amendment Protection of Data Mining*, 36 Vt. L. Rev. 881 (2012), describes how the case came about and the significance it may play in future data mining controversies. Mr. Julian is an active member of the *Union Internationale des Avocats* and its Media and Press Law Commission. On November 1, 2014, he presented a paper and spoke on the protection of journalists and their sources at the organization's 58th Annual Congress in Florence, Italy. For investigative news reporters, Tom currently is seeking declassification through the Interagency Security Classification Appeals Panel of a famous Congressional report that may show the role Saudi Arabia played in the financing of terrorist attacks against the United States. He also is seeking to compel the FBI to release all documents relating to its investigation of Saudis who fled the United States shortly before 9/11. In other recent international litigation, Tom has had victories in the Eleventh Circuit compelling enforcement of arbitration and forum selection clauses in a settlement agreement that required all claims to be sent to an arbitrator in Switzerland, *Solytar Investments, Ltd. v. Banco Santander, S.A.*, 672 F.3d 981 (11th Cir. 2012), and holding that a dissolved corporation is a citizen solely of its state of incorporation after dissolution and withdrawal from doing business in the state that formerly was its principal place of business. *Holston Investments Inc. v. LanLogistics, Corp.*, 677 F.3d 1068 (11th Cir. 2012).



MARC ROHR has been on the faculty of the Shepard Broad Law Center since 1976, as a tenured full professor between 1982 and 2014 and now as Professor of Law Emeritus. He taught primarily in the areas of First Amendment law, intellectual property law, and civil procedure, and has published numerous articles, mostly addressing First Amendment issues. He received his bachelor's degree from Columbia University in 1968 and his J.D. from Harvard in 1971.



HOWARD SIMON is the senior state affiliate Executive Director of the American Civil Liberties Union (ACLU), serving from 1974 to 1997 as the Michigan Director and since 1997 as Executive Director of the ACLU of Florida. Mr. Simon graduated from the City College of New York and received a Ph.D. from the University of Minnesota in legal and political philosophy and social ethics. He taught philosophy at the University of Minnesota and at DePauw University. Mr. Simon led the ACLU of Florida's successful efforts to end Florida's use of paperless electronic voting machines, leading to the 2008 election in which all voters used the optical scan voting system. The organization has led efforts to end Florida's Civil War-era system



2015 Annual Florida Bar Convention

**BOCA RATON
RESORT & CLUB**

501 EAST CAMINO REAL
BOCA RATON, FL 33432
(561) 447-3000



of lifetime voting bans for former felons. The ACLU of Florida is in the forefront of efforts to resist many of the anti-civil liberties initiatives from the legislature and the Scott administration. The ACLU filed several lawsuits challenging efforts by Florida officials to make it more difficult to register new voters; make it less convenient to vote by reducing the number of early voting days and banning voting on Sunday prior to the election; and to require more people to vote by provisional, rather than regular, ballot. ACLU lawsuits have blocked the Governor's Executive Order mandating drug/urine screens for all executive branch state employees and all applicants for Temporary Assistance for Needy families (TANF). Litigation by the ACLU ended Florida's ban on adoptions by gays and lesbians, and the organization filed a lawsuit in federal court that resulted in the striking down of the state's ban on same-sex marriage and the recognition of marriages performed in other states. Governor Rick Scott and Attorney General Pam Bondi have appealed the ruling, and the case is pending before the Eleventh Circuit U.S. Court of Appeals. The ACLU will be commemorating its 50th Anniversary in 2015. The ACLU of Florida has approximately 15,000 members, a staff of 30 and has offices in Jacksonville, Pensacola, Tampa and Miami.

CLE CREDIT

CLER PROGRAM

General: 2.0 hours

Ethics: 1.5 hour

CERTIFICATION PROGRAM

Business Litigation: 1.5 hours

Civil Trial: 1.5 hour