

# FORUM 8

Volume 83, No. 6

Eighth Judicial Circuit Bar Association, Inc.

February 2024

## Three Rivers Legal Services: We've Got Your Back!<sup>1</sup>

By Samantha Howell, Pro Bono Director, TRLS



*"While it is February, one can taste the full joys of anticipation. Spring stands at the gate with her finger on the latch."*

~Patience Strong~

February is short, but what a difference you could make in the live(s) of persons who cannot afford adequate legal assistance. Open that gate and help a family in need.

One reason we may be hesitant to open the gate is a concern with violating our ethics. It's scary, to be sure. But, there is no need for it to be!

In a comment to rule 4-1.1 (competence), the Rules Regulating the Florida Bar state "A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar [...] A lawyer can provide adequate representation in a wholly novel field through necessary study. Competent representation can also be provided through the association of a lawyer of established competence in the field in question." When you take a pro bono case - or even a paying case - in a new area of law, you want to make sure that you have supports in place. TRLS helps with this for any pro bono cases referred by offering access to a mentor and training materials. We also provide liability coverage, so that you are always protected.

The Rules also provide guidance on conflicts and scope of representation. Rule 4-6.6 (short-term limited legal services programs), states that attorneys providing short-term limited legal services (such as advice/counsel, filling out forms, etc.), through a nonprofit organization, and without the expectation of continuing the representation are subject to 4-1.7 (conflict of interest; current clients) and 4-1.9(a) (conflict of interest; former clients) *only* if the lawyer **knows** that the representation

of the client involves a conflict of interest, and 4-1.10 *only* if the lawyer **knows** that another lawyer associated with the lawyer in a law firm is disqualified to work on the matter (per 4-1.7 or 4-1.9(a)). (emphasis added).

It's good to remember that TRLS has your back as you venture into new areas of law, aiding those in need. *We will make every effort to ensure you have a positive experience volunteering with TRLS.*

Just as importantly, there are a multitude of ways to volunteer:

**Telephonic Housing Clinic** - This advice-only clinic is offered every Tuesday, with appointments at 5 p.m. and 5:45 p.m. TRLS staff screen and schedule clients, notifying volunteers of their assignments on the Friday (or Monday) prior to the clinic.

Issues involve private landlord/tenant issues (eviction, repairs, and security deposits, usually). Volunteers complete an online form during the call so that TRLS knows what advice was given and if any follow-up by TRLS is needed.

**Pro Se Divorce Clinics** - These clinics are offered every three months in Gainesville and involve a morning session (for petitioners with minor children) and an afternoon session (for petitioners without minor children). TRLS will pre-fill much of the forms with the clients; volunteer attorneys will participate for the limited purpose of providing counsel/advice. Upcoming clinics will be held on March 26th and June 18th.

**Ask-A-Lawyer** - These "pop-up" clinics are hosted at local shelters including Grace Marketplace, St. Francis House, Peaceful Paths, and the VA Honor Center. Volunteers will meet with individuals in need of legal assistance, and provide advice/counsel and, perhaps, even a brief service. These clinics are held one Saturday a month, typically between 10 am-12 pm.

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<sup>1</sup>EJCBA President Monica Perez-McMillen's President's Message is on page 9 due to technical difficulties. We hope to see her back in this spot in the March 2024 *Forum 8*!

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## Contribute to Your Newsletter!

*From the Editor*

I'd like to encourage all of our members to contribute to the newsletter by sending in an article, a letter to the editor about a topic of interest or current event, an amusing short story, a profile of a favorite judge, attorney or case, a cartoon, or a blurb about the good works that we do in our communities and personal lives. Submissions are due on the 5th of the preceding month and can be made by email to [dvallejos-nichols@avera.com](mailto:dvallejos-nichols@avera.com).

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## About this Newsletter

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Any and all opinions expressed by the Editor, the President, other officers and members of the Eighth Judicial Circuit Bar Association, and authors of articles are their own and do not necessarily represent the views of the Association.

News, articles, announcements, advertisements and Letters to the Editor should be submitted to the Editor or Executive Director by Email. Also please email a photograph to go with any article submission. Files should be saved in any version of MS Word, WordPerfect or ASCII text.

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**Deadline is the 5th of the preceding month**

# Alternative Dispute Resolution

By Chester B. Chance and Charles B. Carter



## OK, So This is Not About Mediation

Maybe that comes as a relief. To be honest, it does to us. Still, we will find a way to work the word mediation into this article. This is in honor of “National Do Not Write About ADR Day” which leads us to today’s topic.

We are tired of the various ‘days’ honoring everything under the sun. In fact, we printed off an “All Celebrations” calendar for 2023 and it was 21 pages long!! Many days have multiple celebrations, most of which are completely pointless unless you are a stockholder in Hallmark or a Google tech looking for a topic at the top of the search screen.

Now, to be honest, some of the days really are important, for example: Easter, New Year’s Day, Martin Luther King’s Birthday, President’s Day, World Whiskey Day, Rum Day, Beer Day, Tequilla Day, Bourbon Day and Vodka Day.

Other days, not so much. For instance:

World Introvert Day (we predict no one comes to the public rally); National Bobblehead Day (need we say more); National Houseplant Appreciation Day (which is better than National Take Your Houseplant to Work Day); National Weatherperson’s Day (since meteorology is one of the least reliable sciences, we assume this is a day for weatherpersons to take remedial courses). There is an International Day of Sport for Development and Peace (April 6<sup>th</sup>). The following should note this on their calendars: Auburn/Alabama, Michigan/Ohio State, Florida/Georgia fans.

Other ‘days’ are, well, ridiculous.

Like what? National Museum Selfie Day (we hoped that is a day when you are forbidden to be annoying and precluded from taking selfies while looking at the Mona Lisa; rather, this day *encourages* people to go to a museum and take a selfie, probably with one of those obnoxious extension poles); National Bubble Wrap Appreciation Day (fill in your own pithy comment here); February 28<sup>th</sup> is Rare Disease Day (and since it’s rare we suggest making it February 29<sup>th</sup>); National Toothache Day (everyone shows up at a dentist office with or without a toothache as toothaches are difficult to plan in advance); World Thinking Day (necessary for those who keep coming up with these ‘days’ to reconsider what they have

done); National Kick Butts Day (please find someone who sponsors a ‘day’ and honor the suggestion); and National Find a Rainbow Day (not as easy as it sounds).

Other ‘days’ are confusing. Do you celebrate Galentine’s Day on February 13<sup>th</sup>? That is a day to leave your husbands and boyfriends at home and gather with women to celebrate female friendship. We assume it is also National Shopping Day (a sexist would say).

What do you do on National Name Yourself Day? It is suggested you change your name to something you like or want to try out; however, with all the forms to fill-out with the Department of Motor Vehicles, The Florida Bar, Social Security, etc., it should be a month rather than a single day.

April 14<sup>th</sup> is National Ex-Spouses Day, followed on April 15<sup>th</sup> by Husband Appreciation Day (assuming your husband did not leave home after you celebrated on April 14<sup>th</sup>).

For people who do not ‘follow the science,’ there is National Homeopathy Day. For those who do ‘follow the science’ there is a National No Pants Day. Speaking of no pants, there is a National Donald Duck Day (June 9<sup>th</sup> for those of you with an Annual Disney Pass) which apparently was recently suggested by Chris Christie.

World Sauntering Day is June 19<sup>th</sup>. We like to saunter almost every day. Sauntering is great especially followed by the appropriate Boulavardier. March 13<sup>th</sup> is National K9 Veterans Day with a rally in Gainesville at the fire hydrant on the downtown square. October 8<sup>th</sup> is National Podiatry Day aka Take Your Feet to Work Day. January 1<sup>st</sup> is National Repeat Day is National Repeat Day. National Insurance Awareness Day involves lawyers making you aware of their fight against insurance companies.

International Town Crier Day is July 10<sup>th</sup> although attendance at the festivals has been low since the Fourteenth Century. September 6<sup>th</sup> is Fight Procrastination Day but the events were postponed until September 7<sup>th</sup>. National Crush Day is...

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What holiday is today?

ALL ABOUT THE NATIONAL DAY CALENDAR

# Selected Casenotes For “Self-Defense” (Not “Stand Your Ground”) Immunity

By Steven M. Harris



From my appellate opinion knowledge base, in no particular order. With some rephrasing, AI free:

A defendant may seek review of a trial court’s ruling on immunity by writ of prohibition or by pleading no contest with reservation to appeal the denial of immunity. *Edwards v. State*, 257 So.3d 586 (Fla. 1st DCA

2018).

A trial court’s failure to hold a pretrial immunity hearing or error in conducting a hearing is rendered moot upon conviction. *Boston v. State*, 326 So.3d 673 (Fla. 2021); *Toiran v. State*, 337 So.3d 93 (Fla. 3d DCA 2021).

Prohibition is an available remedy in a *civil* case to challenge a trial court’s nonfinal order denying immunity. *Nadell v. Hursey*, - So.3d – (Fla. 3d DCA 2023).

Whether a defendant deserves immunity in a moral or public policy sense is not the question before the court. The legislature has directed that a defendant who files a sufficient motion to dismiss on grounds of immunity is entitled to it unless the State clearly and convincingly establishes that the defendant is not. *Bouie v. State*, 292 So.3d 471 (Fla. 2d DCA 2020).

A motion to dismiss based on immunity under § 776.032, *Fla. Stat.*, is made under Rule 3.190(b) and falls within 3.190(c) and (c)(3) for motions based on fundamental grounds and immunity. Thus, the motion may be filed at any time — including after arraignment. Immunity is self-executing and considered jurisdictional. An immune defendant may not be subjected to trial. *Acostafigueroa v. State*, - So.3d – (Fla. 4th DCA 2023). See also *Martinez v. State*, 44 So.3d 1219 (Fla. 1st DCA 2010).

It is a misnomer to label or refer to the motion for and hearing on pretrial immunity as “Stand Your Ground.” The immunity process has almost nothing to do with the provisions of law which treat the duty to retreat or privilege of nonretreat. *Swift v. State*, 342 So.3d 852 (Fla. 1st DCA 2022); *Mency v. State*, 292 So.3d 1 (Fla. 1st DCA 2019) (Roberts, J., concurring).

A prima facie claim of immunity must allege *facts* that show or tend to show that the movant threatened or used force and reasonably believed such force was necessary as might be justified under an incorporated provision of Chapter 776 (§ 776.012, § 776.013, or § 776.031, *Fla. Stat.*). In the case of deadly force, the movant must also show the movant was not otherwise engaged in a criminal activity and was in a place he or she had a right to be, or attempted to retreat or that retreat would have been

unavailing. See *State v. Moore*, 337 So.3d 876 (Fla. 3d DCA 2022); *Langel v. State*, 255 So.3d 359 (Fla. 4th DCA 2018). Note: *Freeman v. State*, - So.3d - (Fla. 1st DCA 2023), citing *Edwards v. State*, 351 So.3d 1142 (Fla. 1st DCA 2022), incorrectly includes § 782.02, *Fla. Stat.*, deadly force predicates (internally misstated) and omits the consequence of a righteous behavior or location failure.

An order summarily denying a motion asserting immunity from prosecution is reviewable by certiorari. Certiorari is appropriate when the trial court’s ruling is flawed by legal error which precluded a proper determination of the immunity claim. *Jimenez v. State*, 353 So.3d 1286 (Fla. 2d DCA 2023). Procedural error should be raised in a petition for writ of certiorari rather than prohibition. *Corbett v. State*, 348 So.3d 645 (Fla. 5th DCA 2022).

It is error to consider a law enforcement officer’s testimony (admitted as “expert” or otherwise) about the accused’s status as the initial aggressor or the validity of the accused’s claim of self-defense justification. *Thomas v. State*, - So.3d - (Fla. 2d DCA 2023); *Zangroniz v. State*, 358 So.3d 827 (Fla. 3d DCA 2023); *Hunt v. State*, 284 So.3d 1092 (Fla. 4th DCA 2019); *Edwards v. State*, 248 So.3d 166 (Fla. 4th DCA 2018).

Clear and convincing evidence requires the evidence to be credible. The facts to which the witnesses testify must be distinctly remembered. Testimony must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established. *Bouie v. State*, 292 So.3d 471 (Fla. 2d DCA 2018); *Slomowitz v. Walker*, 429 So.2d 797 (Fla. 4th DCA 1983).

A petition for prohibition will be denied when the trial court’s findings of fact are supported by competent, substantial evidence, and its conclusions of law are not erroneous. The appellate court does not “reweigh” the evidence. *Morris v. State*, 325 So.3d 1009 (Fla. 1st DCA 2021).

If a defendant asserts the commission of a forcible felony supported the use of deadly force, the State must prove by clear and convincing evidence that the defendant did not reasonably believe the victim was committing the forcible felony. *Cummings v. State*, 310 So.3d 155 (Fla. 2d DCA 2021).

A defendant seeking self-defense immunity bears the initial burden of presenting evidence *at the pretrial immunity hearing* sufficient to raise a prima facie claim. An immunity claim cannot be raised by relying on unsworn, boilerplate allegations. *Freeman v. State*, ...

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# Navigating Complex, High-Asset Divorces

By Cynthia Swanson



Divorce can be an intricate legal process that becomes even more complex when substantial assets are involved. High-asset divorces present unique challenges that demand careful navigation by legal professionals and often the use of multiple experts.

## Complex assets and complex personalities

High-asset divorces are characterized by significant financial holdings, including real estate, investments, business interests, complicated legal entities and complicated documents, and valuable personal property. Often, although not always, such divorces also involve personalities who may have difficulty being involved in litigation. With doctors, for example, this can be for reasons of time (making time in their busy schedule to gather information, meet with the lawyers or other experts, to attend depositions and hearings). Many entrepreneurs are “big picture” people and may have difficulty following detailed instructions or gathering detailed information, preferring to delegate such to assistants. Sometimes they treat their lawyers as their assistants! Sometimes they don’t like being questioned at a deposition or hearing about actions they’ve taken in the past. Most are highly intelligent and some are willing and able to take advice, and others are their own worst enemies.

High asset cases demand a specialized approach due to the intricate financial structures and the potential for heightened emotional tension.

## Understanding Equitable Distribution

Florida operates under the principle of equitable distribution, meaning that marital assets and liabilities are divided fairly and usually equally between spouses. In high-asset divorces, identifying and valuing these assets accurately becomes a crucial step. Lawyers must have a deep understanding of financial matters, including forensic accounting, if necessary, to ensure a fair division that aligns with the unique circumstances of each case. If the marital assets are mostly in cash or cash equivalent type investments, such valuation and distribution may be pretty easy. But where the assets consist of various types of real estate, or a business operated substantially by one spouse, or multiple businesses, then those assets are more difficult to value and will almost always require the use of valuation experts, and tax and other financial planning experts. In addition, if a valuable asset is awarded to one spouse, there often must be an equalization payment which may be structured in various ways, requiring financial planning on both sides.

## Valuation Challenges

Valuing assets in high-asset divorces is often more intricate than in standard cases. Real estate holdings, privately held businesses, vested and unvested stock options, intellectual property, and investment portfolios require specialized knowledge. Appraisers and financial experts may be engaged to provide accurate and comprehensive valuations. Lawyers must have a “portfolio” of such experts and be able to collaborate closely with these professionals to present a compelling case before the court. Further, lawyers need to have experience in cross-examining such experts as are presented by the other side and be able to work with their own experts to develop such cross-examination. It is very difficult to craft an effective cross-examination if the lawyer does not have a thorough understanding of the particular subject area.

## Strategies for Asset Protection

High-asset divorces necessitate strategic planning to safeguard clients' financial interests. Attorneys should explore prenuptial agreements, postnuptial agreements, non-disclosure agreements, buy-sell agreements, and other legal instruments to investigate and determine the status of various assets. Proper documentation and a proactive approach can mitigate potential disputes and streamline the divorce process.

## Alimony Considerations

Alimony, or spousal support, is often a significant factor in high-asset divorces. Lawyers must assess the financial needs and contributions of each spouse to determine an equitable alimony arrangement. Last year’s reforms in Florida’s alimony laws further underscore the importance of staying updated on legislative changes that may impact these calculations. In addition, the use of a vocational expert may be useful to show that the party requesting alimony has (or doesn’t have) the ability to be self-supporting. Another expert!

## Privacy Concerns

High-asset divorces may be accompanied by some local media scrutiny and public and competitor interest. Lawyers must be adept at handling the sensitive nature of these cases, ensuring that client privacy is protected. Crafting confidentiality agreements and employing discreet legal strategies are essential components of successful representation in high-profile divorces. Additionally, all filings in divorce cases are public record, unless there is confidential information that meets certain criteria. Lawyers must plan ahead with all court filings to determine the need to request confidential treatment, or

*Continued on page 6*

# Navigating Complex, High-Asset Divorces

*Continued from page 5*

better yet, negotiate with the opposing side to keep important information private by exchanging and not filing most documents, answers to interrogatories, financial affidavits (if appropriate under recent statutory changes).

## Business Valuation and Division

For spouses with business interests, the valuation and division of the business present additional challenges. Lawyers should collaborate with forensic accountants and business valuation experts to ascertain the true value of the business and explore options for equitable distribution. It may be particularly important to develop arguments in favor of or against the valuation of personal goodwill (which in Florida is not a marital asset) and separate it out from the valuation of the rest of the business. This may involve negotiating buyouts, selling the business, or structuring long-term financial arrangements. This can be an extremely expensive undertaking - with business valuations costing from about \$15,000 to \$50,000 and higher. It's very important to choose the right expert for the job, and then to work with the expert to get the best valuation report possible (and testimony if needed).

## Collaborative Divorce

The best way to preserve privacy is via the collaborative divorce route. Valuation and other experts may still be needed, but the parties control the engagement of experts, the reports are kept private and are not filed in court, all other financial information can likewise be kept private, the parties can work at their own pace rather than being required to follow court deadlines or to wait weeks and sometime months to get court hearing time to settle disputes during litigation. Usually, complex personalities can work better within the collaborative parameters, sharing information (rather than each party having to create their own set of documents and other information) and hearing the same information from the same expert at the same time. Tensions are usually decreased substantially.

## Conclusion

High-asset divorces demand a specialized skill set from family law practitioners. Navigating the complexities of substantial financial holdings, equitable distribution, and alimony considerations requires a deep understanding of both legal and financial aspects. Lawyers should approach these cases with diligence, leveraging the expertise of financial and other professionals and employing strategic legal measures to protect their clients' interests. By staying abreast of

legislative changes, valuing privacy, and adopting a proactive approach, attorneys can effectively guide their clients through the often intricate terrain of high-asset divorces.

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## TRLS

*Continued from page 1*

**Law in the Library** - These are community outreach events, wherein a volunteer presents on a legal topic for about 40 minutes and then answers a few audience questions. The clinics are presently being held via Zoom and will be at the Alachua Library Main Branch when they return to in-person (recordings of the session are available on the Library website). They are scheduled for the 2nd Wednesday of each month at 5:30 pm.

Finally, you can take on a client matter for **limited scope or full representation** in a variety of areas including bankruptcy, special education, family, housing/property, consumer, income maintenance, and trusts & estates. We are in particular need of attorneys to assist with family matters, probate cases, guardianship, and landlord/tenant.

And, just a friendly reminder that, as attorneys, we are encouraged to provide at least 20 hours of pro bono service each year. Volunteering with TRLS is a great - and easy - way to take care of this duty while meeting colleagues and learning more about our client communities. It is also an effective way to dip your toes into a new area of law.

If you have any questions or would like to participate in any of the above, please contact me at [samantha.howell@trls.org](mailto:samantha.howell@trls.org) or 352-415-2315. You can also select an available case and learn more about TRLS's Pro Bono Legal Assistance Program (PBLAP) at <https://www.trls.org/volunteer/>.

♥ H A P P Y ♥  
*Valentine's*  
♥ Day ♥

**NEED PRO BONO HOURS?**

**PARTICIPATE IN THE  
ASK-A-LAWYER CLINIC!**

Attorneys will meet with clients one-on-one to help ID legal issues and provide advice and counsel.

We are in particular need of attorneys with experience in the areas of: family, housing (L/T), criminal, personal injury/torts, and public benefits.

1/20/24 - Grace Marketplace (10a-12p)

2/17/24 - Civic Media Center (11a-1p)

3/16/24 - Cedar Key Library (10a-12p)

4/13/24 - TBD

5/18/24 - Grace Marketplace

6/22/24 - Civic Media Center

7/20/24 - Grace Marketplace

8/17/24 - TBD

9/28/24 - Grace Marketplace

10/26/24 - Civic Media Center

11/9/24 - Grace Marketplace

12/7/24 - TBD

**NO ONGOING REPRESENTATION EXPECTED!**

This clinic provides free legal advice and brief services to members of the community who are houseless.

To participate, contact [samantha.howell@trls.org](mailto:samantha.howell@trls.org)



# Absence Procured by the Party

By Siegel Hughes Ross & Collins



Civil practitioners know that the deposition of a witness, including a party, may be used by any party for any purpose if the witness is more than 100 miles from the trial or is out of the state. Rule 1.330(a)(3)(B). However, the deposition may not be used if “it appears that the absence of the witness was procured by the party offering the deposition.” *Id.* What constitutes “procuring” the absence of the witness? Is an affirmative act preventing the witness from appearing necessary or does the failure to take reasonable steps to obtain the presence of the witness constitute procuring his/her absence?

There is surprisingly little authority on this issue in civil cases. However, there is something to be learned by cases decided under the Rules of Criminal Procedure employing the same language. “If the court determines that any person whose deposition has been taken is absent because of procurement, inducement, or threats” that deposition may not be used. Rule 3.190(i)(6). A review of appellate decisions in criminal cases seems to suggest that the failure to obtain the presence of the witness, when possible, will constitute “procuring” the absence of the witness.

In *State v. Villarreal*, 990 So.2d 1166 (Fla. 3<sup>rd</sup> DCA 2008), the Third District Court of Appeal entered an Order of Certiorari preventing the trial court from allowing testimony by satellite of Defendant’s two minor children who resided in Ecuador. The Defendant argued they were unavailable because they could not get visas to enter the United States and the trial court entered an order allowing their testimony. However, the reason the children could not enter the country was because the Defendant refused to execute the necessary paperwork. The Third District held the unavailability of the children was due to Defendant’s own “wrongdoing and/or inaction” and reversed the trial court. *Id.* at 1169. In that case the Defendant’s “inaction” was the procuring cause of the witnesses’ unavailability and the court did not allow the witnesses’ remote testimony.

Also, the wording of Rule 32(a)(4), Fed. R. Civ. Pro. is almost identical to Florida Rule 1.330(a)(3)(B). It provides that the deposition of a witness may be used at a trial or hearing if the witness is more than 100 miles from the

hearing or out of the country “unless it appears that the witness’s absence was procured by the party offering the deposition.” Therefore, review of federal civil cases also provides some insight to the proper construction of the rule. The federal courts generally require a party to use reasonable efforts to obtain live testimony before resorting to use of a deposition. An example is the case of *Santana v. Mack*, 889 F. Supp 223 (D. V.I. 1995); the Plaintiff sought to introduce the deposition testimony of his physician because the physician was busy in his office. The Court excluded the doctor’s deposition testimony because the Plaintiff had not subpoenaed the witness.

In *Culebra II, LLC v. River Cruises and Anticipation Yachts, LLC*, 564 F. Supp. 2d 70 (D. Me. 2008), the Court went further and refused to allow the Defendant limited liability company to introduce the deposition of its co-Defendant/member who did not attend. In that case Culebra sued River Cruises and its member, James Campbell, for breach of contract. Campbell did not appear at the trial and River Cruises sought to introduce his deposition. The Court rejected use of the deposition on the grounds that Campbell sought to justify his absence on a “vague and unsubstantiated claim of financial hardship.” The Court found such an explanation was not sufficient and rejected the deposition testimony. Of interest is the fact that the deposition was offered, not by Campbell but by the co-Defendant, River Cruises. However, the Court apparently found River Cruises responsible for the absence of its member/agent, Campbell.

Thus, while there is scant authority addressing the issue in Florida civil cases, the weight of the authority seems to be that a party must not only refrain from interfering with a witness’s attendance, but also must make reasonable efforts to obtain the attendance of a witness before it will be allowed to use the witness’s deposition. “Depositions may only be used where the witness is unavailable or where exceptional circumstances necessitate their use. Rule 26(d) contemplates such use and was not intended to permit depositions to substitute at the trial for the witness himself.” *G.E.J. Corporation v. Uranium Aire, Inc.*, 311 F.2d 749 (9thCir. 1963).





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September 27<sup>th</sup> and we always send importuning emails to movie stars whose names we cannot mention due to the restraining orders.

Sadly, all the above mentioned 'days' are actual days in a calendar that is only possible due to the memory capacity of modern computers. We estimate there are 1000 - 1500 'days' in a year with 365 days. Honorable mentions include: National No Bra Day, National Name Your Car Day, National Kale Day, and Hobbit Day. We assume all these 'days' exist as a result of things getting out of hand on National Just Because Day (August 27<sup>th</sup>).

We promise to not be so sarcastic about the plethora of 'days' and will meditate, rather than mediate, on this point on March 9<sup>th</sup>, which is National Get Over it Day.

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- So.3d – (Fla. 1st DCA 2023). Note: Other decisions hold a defendant may satisfy the prima facie claim requirement in the motion. *Casanova v. State*, 335 So. 3d 1231 (Fla. 3d DCA 2021); *Jefferson v. State*, 264 So. 3d 1019 (Fla. 2d DCA 2018).

A law enforcement officer is eligible to seek pretrial immunity under § 776.032, *Fla. Stat.*, including when the use of force occurred in the course of making a lawful arrest. *State v. Peraza*, 259 So.3d 728 (Fla. 2018).

## SAVE THE DATE

Construction Law CLE – Construction Documents (Plans for Attorneys) with Brice Miller of Miller Building Group, LLC has been rescheduled for Wednesday, March 20, 2024 from 3-5 p.m., location TBD. For additional information, please contact Chelsey Clements at [CClements@carltonfields.com](mailto:CClements@carltonfields.com).

## President's Message

By Monica Perez-McMillen



Welcome to February, 8JCBA. We've made it through one whole month in 2024 and it has felt like a long month in our household. I am excited to see what changes 2024 brings and hope that many of you are able to thrive in your practices and relationships.

We enjoyed gathering with Chief Judge Moseley in January and are grateful that so many of you attended the 8<sup>th</sup> Bar luncheon's State of the Circuit Address. Judge Moseley's humor, patience, and love for our circuit was evident. He announced big future changes to our courthouse facilities and we are thrilled to see the new building plans come to fruition.

Much is happening around our circuit during the month of February and I'd love for each and every one of you to consider joining us.

On February 9, 2024, we will celebrate Judge Walter Green's retirement during the lunch hour. The 8JCBA has officially changed their luncheon date scheduled for the 9<sup>th</sup> so that we can gather to celebrate Judge Green's career on the bench. The retirement celebration will occur in the Criminal Courthouse from 12-1 pm and is open to the legal community. On this same day, UF Law will be hosting a Free all day CLE seminar on campus.

On February 16, 2024, we will gather in Levy County to welcome Judge Bustamante to the Levy County bench with his Investiture. On Wednesday, February 21, 2024, the First District Court of Appeal will host oral arguments in the Baker County Courthouse and to end the month, we will gather again for a luncheon **on Thursday, February 29, 2024**, where Retired Judge Stan Morris will be our keynote speaker. Our March 8JCBA Board meeting will take place in Union County. We love visiting each county within our circuit and look forward to meeting you there.

I'd like to offer the first three members of our legal community that email me at [Monica@McMillenFamilyLaw.com](mailto:Monica@McMillenFamilyLaw.com) to attend the luncheon at my expense.

We hope that you will consider joining us for everything that is happening around the circuit.

On behalf of our board, we wish you a wonderful February 2024. See you soon.

## SAVE THE DATE

The EJCBA Charity Golf Tournament, "The Gloria," benefiting the Guardian Foundation/Guardian ad Litem Program, has been scheduled for Friday, April 5, 2024 at the Mark Bostick UF Golf Course. Watch your inbox and this newsletter for registration information.

## Become a Safe Place

Please consider becoming a Safe Place location. All your office will need to do is complete a few questions and a training. If a runaway youth or a child feels endangered, they can easily spot the sign at your door and seek safety. Your role is to make them comfortable, give us a call, and we will take it from there. You will be doing a true service with a recognized national program and at no cost to your organization.

For information, please contact Phil Kabler of CDS Family & Behavioral Services, Inc. at [philip\\_kabler@cdfsfl.org](mailto:philip_kabler@cdfsfl.org) or by telephone at (352) 244-0628, extension 3824.



## February 2024 Calendar

- 5 Deadline for submission to March Forum 8
- 7 EJCBA Board of Directors Meeting via ZOOM, 5:30 p.m.
- 9 Judge Walter Green's retirement celebration, Stephan P. Mickle, Sr. Criminal Courthouse, 12-1 pm
- 14 Valentine's Day – show the love!
- 14 Probate Section Meeting, 4:30 p.m. via ZOOM
- 16 Investiture of Honorable Luis Bustamante, Levy County Courthouse, Courtroom A, 3:00 pm
- 19 President's Day (observed) – Federal Courthouse closed
- 29 EJCBA Monthly Luncheon Meeting, Judge Stan Morris, The Woolly, 11:45 a.m.

## March 2024 Calendar

- 5 Deadline for submission to April Forum 8
- 6 EJCBA Board of Directors Meeting in Union County, 5:30 p.m.
- 13 Probate Section Meeting, 4:30 p.m. via ZOOM
- 20 Construction Law CLE with Brice Miller, Miller Building Group, LLC, 3-5pm, Location TBD
- 22 EJCBA Monthly Luncheon Meeting, Speaker TBD, The Woolly, 11:45 a.m.
- 29 Good Friday, County Courthouses closed

Have an event coming up? Does your section or association hold monthly meetings? If so, please fax or email your meeting schedule to let us know the particulars, so we can include it in the monthly calendar. Please let us know (quickly) the name of your group, the date and day (i.e. last Wednesday of the month), time and location of the meeting. Email to Dawn Vallejos-Nichols at [dvallejos-nichols@avera.com](mailto:dvallejos-nichols@avera.com).