FORUM 8

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President's Message

By Evan M. Gardiner

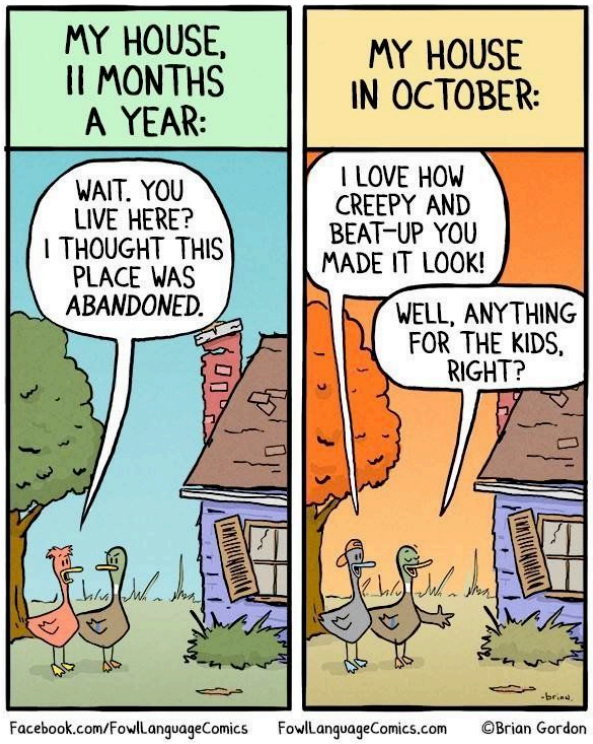
Have you ever felt superstitious and known that as soon as you say something, the opposite will happen? Well of course last month after saying that everything would be back in-person, COVID cases due to the Delta variant increased further than most had anticipated. The continued presence of COVID within our community presents a tough problem for the association. The EJCBA has to walk a fine line, and balance the safety of the membership while taking small steps towards returning to a sense of normalcy. The Board's goal is to balance safety with fun and continue to provide event opportunities while recognizing the need for safety during these hard times.

The EJCBA Board has decided that for the next few months, our luncheons will remain virtual through Zoom. I'd like to thank Mr. Gengler for presenting on the law and history behind desegregation in Alachua County at our September luncheon, and being so flexible in going from an in-person presentation, to a virtual one. October's webcast will feature a panel focusing on Pro Bono and various opportunities for Pro Bono work to coincide with October Pro Bono month.

However, the Board has also chosen to move forward with our annual Cedar Key Dinner located at Steamer's. With UF Homecoming still rolling forward, so should one of the EJCBA's favorite events. For those who feel comfortable attending an in-person event, the Board encourages everyone to come and party on Thursday, October 7th.

I am also excited to announce an update on a personal EJCBA goal of mine. One objective of mine has been finding ways to increase the "value" of an EJCBA membership. I'm excited to announce that I've been working with the Florida Bar on obtaining more free CLE opportunities. In the coming weeks, I hope to roll out bi-weekly CLE webcasts featuring a wide assortment of legal topics. For those missing out on a crucial few credits, these Webcasts will be a great way to fill in the gaps (and snag those elusive technology credits).

As always, I look forward to seeing everyone, in-person or virtually. Keep an eye on our Facebook page (https://www.facebook.com/EJCBA) and check your inbox for emails from EJCBA. COVID may be preventing the association from taking off like a rocket this year, but in no way does that mean we're slowing down.



2021 - 2022 Board Officers

Evan M. Gardiner
President
151 SW 2nd Ave
Gainesville, FL 32601
(352) 388-7385
gardinere@pdo8.org

Robert E. Folsom
President-Elect
220 S. Main Street
Gainesville, FL 32601
(352) 374-3634
folsomr@circuit8.org

Philip Kabler
Past President
2700 NW 43rd St, Ste C
Gainesville, FL 32606
(352) 332-7688
pkabler@boginmunns.com

Monica McMillen
President-Elect Designate
101 NW 75th Street, Ste 1
Gainesville, FL 32607
(352) 327-8251
monica@mcmillenfamilylaw.com

Dominique Lochridge-Gonzales
Secretary
1000 NE 16th Ave, Bldg 1, Ste B.
Gainesville, FL 32601
(352) 415-2324
dominique.lochridge-gonzales@trls.org

Sharon T. Sperling
Treasurer
PO Box 358000
Gainesville, FL 32635
(352) 371-3117
sharon@sharonsperling.com

Members at Large

Jan Bendik
3600 SW 19th Ave, Apt 13
Gainesville, FL 32607
(352) 374-4122
prague@mindspring.com

Alexis J. Giannasoli
151 SW 2nd Ave
Gainesville, FL 32601
(352) 338-7369
giannasolia@pdo8.org

Mikel Bradley
1000 NE 16th Avenue, Building I
Gainesville, FL 32601
(352) 415-2304
mikel.bradley@trls.org

Frank E. Maloney, Jr. - Historian
445 E. Macclenny Ave., Ste 1
Macclenny, FL 32063
(904) 259-3155
frank@frankmaloney.us

Raymond F. Brady
2603 NW 13th Street, Box #403
Gainesville, FL 32609
(352) 554-5328
rbrady1959@gmail.com

James H. McCarty, Jr. (Mac)
2630 NW 41st Street Set A
Gainesville, FL 32606
(352) 538-1486
jhmcjr@gmail.com

Shawn Clark
353 S. Court Street
Bronson, FL 32611
(954) 816-2130
clarks@pdo8.com

George Nelson
81 N. 3rd Street
Macclenny, FL 32063
(904) 259-4245
nelsong@pdo8.org

Cherie Fine
622 NW 1st Street
Gainesville, FL 32601
(352) 372-7777
cfine@ffplaw.com

Peg O'Connor
102 NW 2nd Ave
Gainesville, FL 32601
(352) 372-4263
peg@toklegal.com

Allison Derek Folds
527 E. University Ave.
Gainesville, FL 32601
(352) 372-1282
derek@foldsandwalker.com

Ian Pickens
703 N. Main Street
Gainesville, FL 32601
(352) 373-8000
ipickens@meldonlaw.com

Blake Fugate
PO Box 98
Williston, FL 32696
(352) 528-0019
blake@normdfugatepa.com

Lauren N. Richardson
3620 NW 43rd Street, Unit B
Gainesville, FL 32606
(352) 204-2224
lauren@laurenrichardsonlaw.com

Norm D. Fugate
PO Box 98
Williston, FL 32696
(352) 528-0019
norm@normdfugatepa.com

Dawn M. Vallejos-Nichols - Editor
2814 SW 13th Street
Gainesville, FL 32608
(352) 372-9999
dvallejos-nichols@avera.com

Dean Galigani
317 NW 1st Street
Gainesville, FL 32601
(352) 375-0812
dean@galiganilaw.com

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.

About this Newsletter

This newsletter is published monthly, except in July and August, by:

Eighth Judicial Circuit Bar Association, Inc.
P.O. Box 140893
Gainesville, FL 32614
Phone: (352) 380-0333
Fax: (866) 436-5944

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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.

Judy Padgett
Executive Director
P.O. Box 140893
Gainesville, FL 32614
Phone: (352) 380-0333
Fax: (866) 436-5944
execdir@8jcba.org

Dawn M. Vallejos-Nichols
Editor
2814 SW 13th Street
Gainesville, FL 32608
(352) 372-9999
(352) 375-2526
dvallejos-nichols@avera.com

Deadline is the 5th of the preceding month

Alternative Dispute Resolution

By Chester B. Chance and Charles B. Carter

Mediation: A Joint Session is not a Mere Formality

We recently reviewed an article in the newsletter of the International Institute for Conflict Prevention & Resolution. The article addressed concern over a rise in "caucus-only" mediation and the disappearance of the joint session.

In Florida, it is our experience that joint sessions at the start of a mediation are the norm and are to be encouraged. Of course, as with anything in the law there are sometimes exceptions to the normal procedure of using a joint session. The purpose of this article is to not only encourage a joint session, but, to avoid looking at it as a mere formality.

Mediation seminars universally promote using joint sessions "where dialog and understanding is fostered or at least possible – a joint possible." A joint session should be much more than a mere gathering and introducing of the parties with a general reference to case issues. The point of a joint session is to listen when someone else is talking and to seek clarification when needed. Issue clarification and fact emphasis can be accomplished through PowerPoints, photographs, videos and exemplars of key evidence.

The above referenced article suggests lawyers often are much more comfortable in a private caucus room with its avoidance of engagement and conversation with the other side. In fact the article suggests "the joint session was the primary reason parties would appear in person for mediation." Think about that. Interesting the authors of the article, Eric Galton, Lela Love and Jerry Weiss, suggest a possibility that elimination of the joint session or downplaying the joint session may mirror a "fractured, polarized society where conversation is perceived as awkward, if not dangerous."

The simple psychological necessity to hear about grievances and hurt has a component of amelioration. A study conducted by the Maryland Judiciary which is referenced in the article suggests the more caucusing is used, the result is more participants are likely to feel that the neutral controlled the outcome, pressured them into solutions, and prevented issues from being raised. We suggest that sitting in different conference rooms is not very different from sitting at different tables during a trial.

A joint session can be a forum for several things including apologies, trust, a recognition of understanding and a desire to seek solutions.

Even with attorneys who expect to have a joint session during a mediation, we notice that the statement is often made "ok, can we get to our caucus room now?" In other words, the value of a joint session may be mere lip service value. Reminds us when we were in junior high and we went to a dance, danced to the first song and then immediately headed back to the punch bowl.

The authors of the referenced article note that when people were in the same room they often behaved differently, they often behaved better, "when confronted with their own common humanity."

I think most lawyers in Florida presume there will be a joint session; however, that does not mean they utilize the joint session properly. The willingness to present one's case is always in play; however, the willingness to *listen* to the other side's position is often woefully lacking.

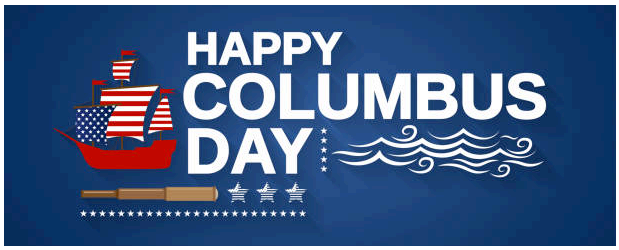
One law professor noted "it is not mediation if parties are kept apart."

A federal judge quoted in the referenced article, notes "Our society devotes too little resources to healing. Mediation is a method for repairing the social fabric."

Additional eclectic thoughts: Zoom mediations are not technically required. Thus, unless all parties agree to a Zoom mediation the assumption is that a mediation will be in-person. There are many valuable aspects to a mediation conducted by Zoom; however, we caution lawyers not to *assume* Zoom is now the *de jure* method of conducting a mediation.

If you and your client do appear at a mediation via Zoom consider some of the following suggestions: (1) Have your client in your office *with you.* We see clients who are two miles from their lawyer's office appearing from home via Zoom. Why? Usually there is no good answer to this question. If your client does appear via Zoom, have you asked them if they know how to use the Zoom link, what device they will use during the mediation, whether they have a reliable internet service, and, again, is there a good reason why they can't come to your office?

Please consider asking yourself and your client these questions if for some reason the mediation in which you participate is not in-person and is conducted via Zoom.



Criminal Law

By Brian Kramer and Brian Rodgers[1]

Since March 2020 we have all experienced the varied and profound impacts of the COVID-19 pandemic on our personal and professional lives, impacts that in some instances will prove to be permanent changes. In the world of criminal justice, one of the most significant developments was the suspension of speedy trial rights for criminal defendants. By administrative order effective at the "close of business" on March 13, 2020, the Florida Supreme Court suspended "[a]ll time periods involving the speedy trial procedure, in criminal and juvenile court proceedings…" In one small sign of the return of the criminal justice system to some sense of post-COVID normalcy, speedy trial rights that have been suspended for well over a year are set to be reinstated starting next month.

Importantly, the United States Constitution guarantees that criminal defendants "shall enjoy the right to a speedy and public trial." This important right is also provided for in Florida by procedural rules promulgated by the Florida Supreme Court. Florida's suspension of speedy trial during the pandemic was only as to the procedural rules, not the constitution. Indeed, there is no mechanism for the Florida Supreme Court, or any other court for that matter, to suspend a constitutional right. So called "constitutional speedy trial" is not a concept that would even be susceptible to suspension. Constitutional speedy trial is a more fluid concept than rule-based speedy trial. The Supreme Court of the United States in the 1972 case of *Barker v. Wingo*, 407 U.S. 514, stated that "the right to speedy trial is a more vague concept than other procedural rights. It is, for example, impossible to determine with precision when the right has been denied. We cannot definitely say how long is too long in a system where justice is supposed to be swift but deliberate." Unlike with rule-based speedy trial, "there is no fixed point in the criminal process" at which a defendant has been deprived of the right to a speedy trial.

Conversely, rule-based speedy trial is definite and mechanical. Florida Rule of Criminal Procedure 3.191 provides that every person charged with a misdemeanor shall be brought to trial within 90 days of arrest and every person charged with a felony shall be brought to trial within 175 days of arrest. If these time periods pass, the defendant may file a notice of expiration, which triggers a hearing to be held within 5 days and requires that the trial commence no more than 10 days after the hearing. Of course, like most rights, a defendant can waive speedy trial. A defendant can also demand a speedy trial at any time regardless of how much time has passed since arrest. Once a demand is filed, a hearing must be held within 5 days and trial must commence no later than 45 days after the hearing. If the trial does not commence upon demand within 50 days, then the defendant may file a notice of expiration as discussed above. There are many nuances and details to Rule 3.191, but in sum it serves to codify an important constitutional right. Indeed, when Florida criminal attorneys speak of speedy trial in the practice of criminal law, they are typically referencing the rule-based scheme as opposed to the amorphous constitutional concept.

So if speedy trial is such an important right, on what authority did Florida's Supreme Court suspend it? First and foremost, Rule 3.191 includes a provision that allows the Court to suspend the time limits when necessary. Additionally, the Court alone has the authority to adopt judicial rules of practice and procedure. As such, these are the Court's rules and the Court may change them as they deem appropriate. The concept of suspension of speedy trial rights is not without precedent. In 2004 for example, the Court tolled all speedy trial time limits for a period of 15 days in Seminole County following the repeated battering of that part of the state by three different hurricanes in a period of approximately one month. Similarly, following the devastation of Hurricane Andrew in 1992, the Supreme Court suspended speedy trial rules in Dade County for two weeks.

Reinstatement of the speedy trial rules will be a two-step process. For those defendants who were arrested prior to March 14, 2020, speedy trial time limits remain suspended until the close of business on October 4, 2021. Given the rules on how time is calculated under the law and with the advent of the automatic time stamping that takes place in the e-filing portal, this means that speedy trial is reinstated as of midnight on October 5, 2021. That is when lawyers and criminal defendants should start counting days again since the date of arrest in each case. However, any demands or notices that are filed before midnight on October 5, 2021 should be treated as nullities. There is no mechanism to automatically execute such filings that are prematurely filed.

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[1]Assistant State Attorney Brian Rodgers is Division Chief, Crimes Against Women and Children.

Criminal Law

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As for how calculations of time will work following the reinstatement of speedy trial, "any time that accrued under the procedure for a person before the suspension began at the close of business on March 13, 2021, must be subtracted from the time periods provided by the procedure." In other words, if a defendant was arrested on a felony 100 days before the speedy trial suspension went into effect, another 75 days will still have to pass before that defendant's speedy trial time limits will have expired, unless, perhaps, there has been a waiver, but that is discussed below. Days that have passed during the time of suspension will never count. For those defendants who were arrested on or after March 14, 2020, speedy trial time limits will remain suspended until the close of business on January 3, 2022. Otherwise, everything is procedurally the same as described above, just with a different start date. Notably, the Supreme Court has expanded the time limit within which the trial must commence following the hearing that is triggered by the filing of a notice of expiration of speedy trial. Where Rule 3.191 ordinarily required the trial to commence within 10 days of the hearing, the rules on reinstatement expand that time to 30 days. Also, trial courts may extend the time limits under the speedy trial rule when warranted due to congestion, lack of courtroom space, unavailability of jurors, or personnel shortages for public defenders, state attorneys, clerks of court, or the courts.

What about waivers? A defendant can always waive a right. That includes the time limits for the speedy trial rule. In those cases where a defendant has waived, he can recapture his right to a speedy trial by filing a demand. Most defendants waive this right. To not do so puts a defendant's lawyer on a shorter time limit within which to investigate the case, to engage in discovery, to locate potentially favorable witnesses, to negotiate with the State, etc. Waiving speedy trial can be done with a written document filed in the case. It can be orally announced by a defendant or his lawyer. It can also be done through a defense request for a continuance prior to the expiration of the applicable speedy trial time period. The practice of waiving speedy trial has continued on throughout the pandemic. However, waiving a right that is suspended at the time of the waiver begs the question of whether the waiver is valid. After all, how does one voluntarily waive time limits that do not legally exist at the time of waiver? Will this be a practical consideration for the courts? That is, will trial courts invite potential chaos by declaring any post-suspension waiver invalid, especially in light of: 1) the fact that waiver is an overwhelmingly common practice in criminal cases; and 2) a defendant may still assert a speedy trial right through demand? The answer is uncertain at this time. Regardless, the defense bar should expect prosecutors to request new waivers on all cases where speedy trial was waived during the suspension or be ready to quickly go to trial.

Setting waivers aside, there is still the matter of demand for a speedy trial, the filing of which triggers a hearing within 5 days and the commencement of trial within 45 days of the hearing. Demands can be filed at any time following the reinstatement of the rule. It does not require that 90 or 175 days have expired first. Speedy trial rights will have been suspended for more than a year and a half when reinstatement commences on October 5, 2021. It will have been closer to two years on January 3, 2022. There will be many cases that are old, that have been investigated, for which witnesses have been located or for which location efforts have been satisfactorily exhausted, etc. Will there be a flood of demands for speedy trial filed after reinstatement of the rules as a means of pressure testing the system or seizing an upper hand in negotiations with the prosecution? Though possible, this seems to be an unlikely problem. First, the rule states that "[n]o demand for speedy trial shall be filed… unless the accused has a bona fide desire to obtain a trial sooner than otherwise might be provided." Further, a demand for speedy trial "shall be considered a pleading that the accused is available for trial, has diligently investigated the case, and is prepared or will be prepared for trial within 5 days." The rule allows the trial court to strike a demand if it is not genuine pursuant to these standards. Moreover, a demand for speedy trial may not be withdrawn by the defendant except with the consent of the State or upon order of the trial court for good cause shown, and good cause specifically does not include non-readiness for trial unless the lack of readiness arose after the demand was filed and could not have been reasonably anticipated. If a demand for speedy trial was filed for strategic reasons only, to take advantage of chaotic scheduling or perceived personnel shortages among the prosecutors, the defendant would be unable to withdraw the tactic in the event that the strategy failed. Instead, he could be forced to try a case he may not be prepared to try. Finally, if a glut of demands for speedy trial begin to clog up the courts, the rule provides power to the trial court to extend such time periods for a variety of exceptional circumstances.

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Self-Defense: Victim's Perspective = Reversible Error

By Steven M. Harris

Broadcast, print and internet content frequently propose that an ostensible victim may have been justified to use force in self-defense. It may even suggest that a victim's right of self-defense annuls a defendant's justification defense. A prosecutor may adopt that flawed view and mention the victim's self-defense viewpoint in closing argument, or request the giving of a victim-oriented jury instruction. Case law soundly rejects that. The victim's imagined competing self-defense perspective is not germane. It should not be considered for pretrial immunity or be the subject of a jury instruction, and it is not proper closing argument. The Florida Statutes establish the nature for such analysis. Jury instructions must correctly charge on the law set forth by those statutes vis-a-vis the *defendant's* circumstance, use of force and belief.

A *victim's* circumstance or overt acts may be relevant to whether a defendant's use or threatened use of force is legally justified. Those are as a trespasser or one engaged in tortious or criminal interference with property (see § 776.031(1), *Fla. Stat*.); the imminent use of unlawful force (see § 776.012(1) and § 776.013(1)(a), *Fla. Stat*.); the imminent use of deadly force or commission of a forcible felony (see § 776.012(2), § 776.031(2)) and § 776.013(1)(b), *Fla. Stat*.); attempting murder or committing a felony (see § 782.02, *Fla. Stat*.). They may also impart or affect a legal presumption (see § 776.013(2)(a) and § 776.013(3)(a), *Fla. Stat*.). Standard jury instructions apply those statutes.

A *defendant's* circumstance or overt acts may bear on the availability of or modify the justification defense. They are forcible felony commission (see § 776.041(1), *Fla. Stat*.) and aggressor provocation (see § 776.041(2), *Fla. Stat*.). Statutes also address when a defendant is engaged in criminal activity or is in a place where he or she has no right to be, resulting in loss of the so-called stand your ground privilege (see § 776.012(2), § 776.013(1) and § 776.031(2), *Fla. Stat*.). They may also impart or affect a legal presumption (see § 776.013(3)(c) and § 776.013(2)(b), *Fla. Stat*.).

Florida appellate case law rejects tendering a jury instruction to consider the possibility of lawful self-defense by a victim who is not on trial. The foremost authority is *Butler v. State*, 493 So.2d 451 (Fla. 1986), where the Florida Supreme Court observed that kind of instruction "would naturally lead a reasonable jury to conclude that the victim had an abstract right to be armed and use force against the defendant." The challenged instruction there (on defense of home when the events occurred in the *victim's* home) improperly shifted the focus of the case from the defense of self-defense to the right of the victim to meet force with force. The court found the instruction confusing and misleading, and that it negated the defendant's only defense. Decades of DCA opinions have followed this rationale to reverse convictions for similar error.

In *Mason v. State*, 584 So.2d 165 (Fla. 1st DCA 1991), a jury instruction was found to be "misleading and confusing" because it "tended to shift the focus away from the issue of whether the defendant was justified in the use of force, and to place emphasis on whether the victim was justified in defending himself--a question which was not at issue. . ." In *Stickney v. State,* 237 So.3d 1022 (Fla. 4th DCA 2018), an instruction on the victim's right to use non-deadly force was found to improperly shift the focus of the case from the defendant's self-defense to the victim's right to use force. See also *Ward v. State*, 12 So.3d 920 (Fla. 1st DCA 2009). In *Quaggin v. State*, 752 So.2d 19 (Fla. 5th DCA 2000), the court disapproved of closing argument commentary focusing on victim intent (respecting commission of burglary).

There are parallel DCA holdings in related contexts. In *Byrd v. State*, 858 So.2d 343 (Fla. 1st DCA 2003), instructions which shifted the jury's consideration from the conduct of the defendant to persons the defendant sought to defend were given. The court determined the instructions incorrectly stated the law and "improperly shifted the jury's attention from whether appellant's behavior provoked the incident to whether someone else may have been the initial cause of the use of deadly force." In *Mann v. State*, 135 So.3d 450 (Fla. 5th DCA 2014), the jury was instructed on the victim's right to use non-deadly force in defense of property (his wife's cat). The court found that harmful error because a reasonable jury might conclude that the victim's right to use nondeadly force precluded the defendant's right to use deadly force. Giving an instruction on the *victim's* lack of duty to retreat constitutes reversible error. *Hansen v. State*, 898 So.2d 201 (Fla. 2d DCA 2005) (modified instruction changing "defendant" to "person" found "unnecessary and simply muddled the issues"); *Desouza v. State*, 650 So.2d 170 (Fla. 4th DCA 1995) (similar modification rejected).

The circumstance and acts of the defendant and victim are ordinarily for a properly instructed jury to decide. See, e.g., *Lusk v. State*, 531 So. 2d 1377 (Fla. 2nd DCA 1988), where the trial judge's finding as a matter of law that "[i]n every claim of self-defense, there must of necessity be unlawful force by the victim against the defendant" was found to be a misstatement of law.

It's the End of the Eviction Moratorium As We Know It (And I Feel Fine)

By Krista L.B. Collins

On August 26, 2021, the Supreme Court issued an opinion granting the application of the Alabama Association of Realtors (et al.) to vacate the stay of judgment pending appeal, and thereby ending the eviction moratorium that the Centers for Disease Control (CDC) had imposed to try to reduce the spread of COVID-19. *Alabama Ass'n of Realtors v. Dep't of Health & Human Services*, 21A23, 2021 WL 3783142, at *1 (U.S. Aug. 26, 2021). The eviction moratorium was originally passed as part of the CARES Act in March 2020, and since then has bounced between being authorized by the CDC and Congress, as various authorizations expired, came into being, and again expired. Most recently, on August 3, 2021, the CDC had issued the latest version of the moratorium, applying only to those parts of the country that were experiencing substantial or high levels of community transmission of COVID-19. Due to the rampant spread of the Delta variant, this covered most of the country.

The matter quickly returned to the Supreme Court, which wasted no time in vacating the stay and ending the moratorium. The Supreme Court found that the CDC had exceeded the authority granted to it under §361(a) of the Public Health Service Act, and that the equities, including the financial harm to landlords (many of whom have modest means themselves), and infringement on the right to exclude, which the Court called "one of the most fundamental elements of property ownership," did not "justify depriving the applicants of the District Court's judgment in their favor." *Alabama Ass'n of Realtors* at *4.

Numerous news organizations have reported that the end of the moratorium could result in large numbers of tenants being evicted. Some estimates suggest that as many as 750,000 households could be evicted by the end of this year. Katy O'Donnell, *Evictions to Hit 750,000 Households, Goldman Says*, Politico, August 30, 2021, at https://www.politico.com/news/2021/08/30/evictions-to-hit-750-000-households-goldman-says-507575. I would argue that the situation will ultimately not be quite so dire.

First, some states, such as California, still have their own eviction moratoriums in place. Adam Liptak and Glenn Thrush, *Supreme Court Ends Biden's Eviction Moratorium*, N.Y. Times, Aug. 26, 2021, at https://www.nytimes.com/2021/08/26/us/eviction-moratorium-ends.html. The state of New York is expected to extend its recently expired state moratorium through January 15, 2022. Luis Ferré-Sadurní, *N.Y. Legislature Expected to Extend Freeze on Evictions in Rare Special Session*, N.Y. Times, updated Sept. 1, 2021 at https://www.nytimes.com/2021/08/31/nyregion/eviction-moratorium-ny-kathy-hochul.html.

Second, the eviction moratorium, was not as all-encompassing as many assumed. Nothing in the CDC's moratorium prevented landlords from filing and obtaining evictions of tenants who were delinquent on their rent. The burden was on the tenants themselves to complete the CDC's declaration form and provide it to their landlord and/or courts. But even that was not the end of the road: landlords (and we, their attorneys) could challenge those declarations in court. One need only look at the dockets of our own County Court to see that evictions have been moving forward even while the CDC moratorium was in place.

Third, *if* there is a sudden large influx of eviction filings (something that is not yet borne out by viewing the Alachua County Court dockets), it will create an equally large backlog, with the potential for equally large delays. While I have no doubt that our judges do their best to expeditiously hear every case that comes onto their dockets, there are only so many hours in a day. Having experienced the mortgage foreclosure backlogs in Southwest Florida that began in 2007 and 2008, for those tenants who choose to defend against the eviction, it is entirely possible that the process will not be as quick as it might normally have been.

And that, perhaps, may lead to the lesson here for us civil litigators and landlord-tenant law practitioners. If we are concerned that the Supreme Court's decision will lead to hundreds of thousands of people being evicted, the best way we can help is to offer pro bono services to defend these eviction actions. As an attorney who has represented landlords in many eviction actions, I realize I may be making my own job harder by advocating for this, but it doesn't change the truth of the matter. As attorneys, I believe we have both the duty and privilege to assist others. If the end of the moratorium is truly a concern, then we should take appropriate steps to help those in need.

Moving Forward in a Post-Pandemic World

By Marcia Green
Pro Bono Director, Three Rivers Legal Services

When I first heard several months ago that the theme of the 2021 ABA National Celebration of Pro Bono is *Moving Forward in the Post-Pandemic World*, I felt excited. This will be fun; we will look back at what we learned, what we accomplished under the circumstances and how we can utilize our technological advances to enhance and expand our efforts. I was sure that the status would be "post" and we would almost need to remember how hard it was. I was expecting to have opportunities to get together and to feel relief!

The Celebration in October is, according to the American Bar Association, an "annual opportunity to shine a spotlight on the amazing pro bono work done by lawyers" and others. I tend to feel an ongoing desire to celebrate our pro bono volunteers, so I do not mind at all this special opportunity to "sing some praises."

In the past year and throughout this pandemic, our volunteers have continued to assist. There are too many to mention in this article and we are grateful to all of you! Here are a few highlights:

- Jack Ross assisted a woman to obtain clear title and secure insurance funds after a Christmas Eve storm damaged her mobile home.
- Jim Gray represented a couple living in rural Alachua County with an easement dispute along with protecting a 30' stand of trees from being clear-cut.
- Mary K. Wimsett settled the adoption of a three-year-old in the care of a relative since birth.
- Tallahassee attorney Teresa Ward helped a woman obtain clear title to her land in Levy County so she can obtain financing for a new mobile home; John McPherson volunteered as Attorney Ad Litem.
- More than 85 clients received assistance from our Telephonic Eviction Clinic volunteers -- Amy Abernethy, Elyot Xia-Zhu and Judy Collins.

Our pro bono volunteers are assisting our clients with wills and advance directives; so important, especially now. They are helping parents obtain guardian advocacy of their adult disabled children and representing respondents in family law matters. They are representing individuals seeking expungement of records to secure employment and probates to settle estates to obtain clear title and homestead exemption. Many of our volunteers hold their document signings in their parking lots or on their office patios. Interviews and hearings are often by telephone and video. Pro bono volunteers step-up to the plate and, given the circumstances, have and continue to accomplish so much.

I love that our legal community is willing to assist those in need. I enjoy the opportunity to celebrate these efforts. As I write this article, however, at the beginning of September, I recognize that our clients and the low-income residents of North Florida are still struggling, facing greater hurdles than ever, and that the legal need grows larger. It all leaves me somewhat stunned … that we are not "post-pandemic" and that there is so much to be done.

I urge you to join us virtually on October 15 to celebrate those members of the legal community who volunteer their services and to learn more about how you can also be a volunteer. Our ethics CLE presentation "Working with Pro Bono Clients" will discuss how you too can become a pro bono lawyer. You will learn about some of the issues facing those who cannot afford an attorney for their civil legal problems. You will learn about how Three Rivers Legal Services supports and assists our volunteers. You will hear from some local pro bono attorneys who will share the reasons for and the successes of their efforts.

Thank you to our volunteers; we celebrate you! Please become a volunteer! We need you! Contact me at marcia.green@trls.org or 352-415-2327. Visit our website at https://www.trls.org/.

Working with Pro Bono Clients

Join Three Rivers Legal Services for a free Ethics CLE focusing on providing advice and representation to pro bono clients. Let us guide you through the benefits of helping our low income and elderly neighbors and communities. We will discuss the struggles that many clients face when encountering the legal system and the benefits of working with Three Rivers Legal Services. You will hear from members of our legal community who regularly accept pro bono clients for advice, brief services and full representation.

Working with Pro Bono Clients will be a part of the EJCBA video conferencing event at noon on Friday, October 15, 2021.

We look forward to *seeing* you there! For more information, contact Marcia Green at marcia.green@trls.org or 352-415-2327.

Criminal Law

Continued from page 5

Though we have been focused here primarily on the reinstatement of rule-based speedy trial, the concept of constitutional speedy trial should not be ignored as we consider the implications of reinstatement. After all, if the reinstatement goes as currently planned, the right to demand or notice the expiration of the time for a speedy trial will have been suspended for more than a year and a half. Such an extended period of time is at least worthy of analysis as to whether due process has been improperly denied to some defendants. The courts are unlikely to hold that the period of suspension was *per se* too long. Such a ruling could lead to wholesale dismissals of criminal cases. That would be absurd where there was a legitimate, rational reason to suspend speedy trial – the protection of the public balanced with the protection of public justice in the midst of a deadly, worldwide medical crisis not seen in more than a century.

While it is unlikely that there will be any *per se* findings regarding the length of the suspension of speedy trial rights, there may still be litigation forthcoming over fundamental due process matters related to this extended suspension of an important right. It will necessarily have to be undertaken on a case by case basis. Any inquiry into a denial of due process via a speedy trial claim necessitates a functional analysis of the right in the particular context and circumstances of each individual case. Fortunately, in the Eighth Judicial Circuit there has been a concerted and largely successful effort by the judiciary to provide meaningful access to the courts including holding trials when needed to resolve cases.

Though it remains to be seen what long-term changes are in store as a result of the COVID-19 pandemic, the pending reinstatement of an important and fundamental right is hopefully a small sign of the return of some semblance of normalcy. However, lawyers and the courts will need to navigate this period carefully to ensure the continued orderly functioning of the criminal justice system.

Annual James C. Adkins, Jr. Cedar Key Dinner

Beginning at 6:00pm
Please feel free to bring a dessert
to share at the event. Your colleagues will thank you!

Members Only Event: $40.00*

Deadline to Register: Thursday, September 30th at Noon

Cocktail hour sponsored by Attorneys' Title Fund Services, LLC
Many thanks for its continued generosity

NOTE: Attendance is limited to current members of the EJCBA and attorneys who are members' guests, but only if the guest attorney(s) would not otherwise be eligible for membership in the EJCBA. You may join/renew your EJCBA membership online at http://www.8jcba.org/join-us

***$45.00 for members and non-members, not having made reservations before the deadline**. If you are reserving at the last minute, or need to change your reservation, email Judy Padgett at execdir@8jcba.org or call **(352) 380-0333**. Note, however, that after the deadline, EJCBA is obligated to pay for your reserved meal and we make the same obligation of you.

Thank you for your support.

INVITATION TO RENEW / JOIN THE 2021-22 EJCBA

The Eighth Judicial Circuit Bar Association (EJCBA) cordially invites you to either renew your membership or join the EJCBA as a new member.

To join, please visit : www.8jcba.org to pay online or return the below application, along with payment, to the EJCBA at PO Box 140893, Gainesville, FL 32614. The EJCBA is a voluntary association open to any Florida Bar member who lives in or regularly practices in Alachua, Baker, Bradford, Gilchrist, Levy or Union counties.

Remember, only current EJCBA members can access a printable version of the complete member directory, edit their own information online, post photos and a website link, and be listed on results for searches by areas of practice. Additionally, our Forum 8 Newsletter, event invitations, and updates are all sent electronically, so please ensure we have your current email address on file and add execdir@8jcba.org to your email address book and/or safe senders list.

EJCBA Membership Dues:

Free - If, as of July 1, 2021, you are an attorney in your first year licensed to practice law following law school graduation.

$70.00 - If, as of July 1, 2021, you are an attorney licensed to practice law for five (5) years or less following graduation from law school; or

- If, as of July 1, 2021, you are a public service attorney licensed to practice law for less than ten (10) years following graduation from law school. A "public service attorney" is defined as an attorney employed as an Assistant State Attorney, or an Assistant Public Defender, or a full-time staff attorney with a legal aid or community legal services organization; or
- you are a Retired Member of the Florida Bar pursuant to Florida Bar Rule 1-3.5 (or any successor Rule), who resides within the Eighth Judicial Circuit.

$90.00 - All other attorneys and judiciary.

Optional – YLD Membership Dues (*in addition to your EJCBA dues above*):

$35.00 - EJCBA Young Lawyers Division
(eligible if, as of July 1, 2021, you are an attorney under age 36 or a new Florida Bar member licensed to practice law for five (5) years or less)
* EJCBA voting membership is limited to Florida Bar members in good standing who reside or regularly practice law within the Eighth Judicial Circuit of Florida. EJCBA non-voting membership is limited to active and inactive members in good standing of the bar of any state or country who resides in the Eighth Judicial Circuit of Florida, and to UF College of Law faculty.

EJCBA Renewal/Application for Membership

Membership Year: 2021 - 2022

Check one: Renewal __ New Membership __

First Name: _____ MI:_____

Last Name:_____

Firm Name: _____

Title: _____

Street Address: _____

City, State, Zip: _____

Eighth Judicial Circuit Bar Association, Inc.

Telephone No: (_____)_____-_____

Fax No: (_____)_____-_____

Email Address: _____

Bar Number:_____

List two (2) Areas of Practice:

_____

_____

Number of years in practice: _____

Are you interested in working on an EJCBA

Committee? ___Yes ___No

October 2021 Calendar

2 UF Football at Kentucky, TBA
5 Deadline for submission to November Forum 8
6 EJCBA Board of Directors Meeting, Office of the Public Defender, 151 SW 2d Ave.,Conference Room (or via ZOOM), 5:30 p.m.
7 Annual James C. Adkins, Jr. Cedar Key Dinner, sunset at Steamers
9 UF Football v. Vanderbilt (Homecoming), TBA
11 Columbus Day – Federal Courthouse closed
13 Probate Section Meeting, 4:30 p.m. via ZOOM
15 EJCBA Monthly Meeting, Panel Discussion on Pro Bono Work, via ZOOM, 11:45 a.m.
16 UF Football at LSU, TBA
30 UF Football v. Georgia, Jacksonville, FL, 3:30 p.m.

November 2021 Calendar

3 EJCBA Board of Directors Meeting, Office of the Public Defender, 151 SW 2nd Ave., Conference Room (or via ZOOM), 5:30 p.m.
5 Deadline for submission to December Forum 8
6 UF Football at South Carolina, TBA
10 Probate Section Meeting, 4:30 p.m. via ZOOM
11 Veteran's Day Holiday – County & Federal Courthouses closed
13 UF Football v, Samford, TBA
19 EJCBA Monthly Meeting, Speaker TBD, via Zoom, 11:45 a.m.
20 UF Football at Missouri, TBA
25 Thanksgiving Day – County & Federal Courthouses closed
26 Friday after Thanksgiving Holiday – County Courthouses closed
27 UF Football v. FSU, TBA

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 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.