

BROWARD COUNTY BAR ASSOCIATION BARRISTER

February/March 2021

MEET THE NEW FACES OF CRIMINAL JUSTICE IN BROWARD COUNTY



Harold Pryor
Broward County State Attorney



Gordon Weekes
Broward County Public Defender



**ALSO IN
THIS ISSUE...**

A YEAR AFTER...
WHAT IS THE SILVER
LINING FROM
COVID-19 AND
WHAT CAN WE
EXPECT FOR 2021

Last month, we celebrated **Black History**.

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...and justice for all



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Braulio Rosa
braulio@browardbar.org

LAYOUT AND PRINTING

Broward County Bar Association

COORDINATING EDITOR

Lauren Riegler Capote
lauren@browardbar.org

CONTRIBUTING WRITERS

Juan Carlos Arias
Arielle Demby Berger
Omar A. Giraldo
Kristen Goss
Debra Klauber
Brian L. Lerner
Brendan Sweeney
Robert C.L. Vaughan
Deborah Ward
Morgan Weinstein

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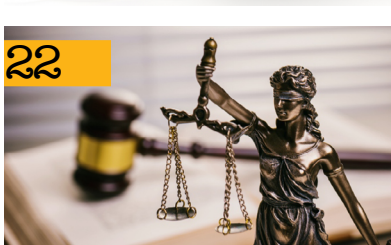
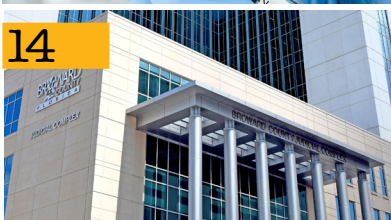
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Robert C.L. Vaughan, Esq.

Celebrating Each Other

In February 2021, we celebrated Black History Month. The Broward County Bar presented another historic look into the rich, inspiring history of Black Broward County. This year we focused on the pioneers who broke through individual barriers of access to the medical profession, which enabled them to tackle the much larger problem of access to healthcare for our growing and underserved Black community. We heard the inspiring stories of these heroic men and women who have paved the way for today's frontline medical professionals, and who are the true heroes in the midst of this global

pandemic.

We hosted another amazing panel discussion in our Enlightenment through Engagement Series ("ETE"), where we discussed the intersection between the Constitutional protections of free speech and free assembly; policing and unconscious bias; and the broken promises and failed obligations of our wider social contract. Our BCBA Young Lawyer Section, in partnership with several minority Voluntary Bar Associations, hosted an engaging discussion into the after-effects of the social justice and civil rights protests of Summer 2020. They discussed the impact of the protests on the community and possible policy and legislative changes resulting therefrom.

In March, we celebrate Women's month. On March 8, we honored nine women pioneers and leaders in Broward County, who recounted their own inspiring stories—all emblematic of the common struggles of women worldwide, to secure the right to equal opportunities in social and professional circles. On March 11, along with the Broward County Hispanic Bar, we hosted Latinas in Law—a celebration of the historic and continuing accomplishments and contributions of Latin women to our community and our profession.

Many in our society remain ignorant of the significant contributions made by minorities and women to our society. Many remain ignorant of the marginalization and exclusion still experienced by women and minorities in so many different facets of society. Some question the continued need for these celebrations. Yet, we grapple daily with issues of racial inequity in policing, education, healthcare, and housing; and continue to witness the disparity of wages for women in the work force. In the last decade, we have experienced a dramatic rise in hate crimes and an increase in incidents of human trafficking and violence against women. There is more work to be done, so we must never forget why these affinity group celebrations and acknowledgments are important.

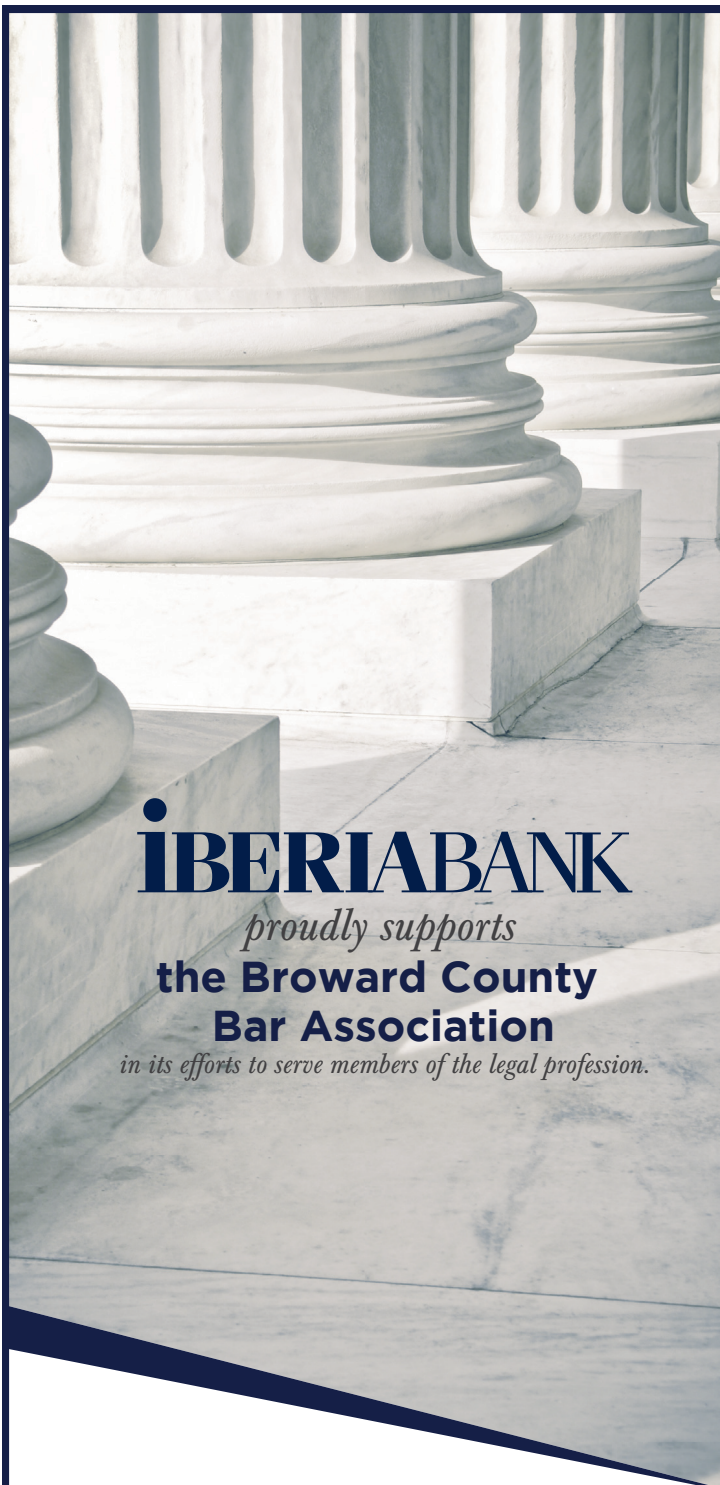
Through positive and persistent engagement, our Bar will continue to provide opportunities for meaningful interaction and discovery of common life experiences. This year, I encourage you to attend an affinity group program you have never attended before. I encourage you to learn something new about a group or cause with which you were not previously affiliated.

Together, we can make change happen.



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I need to start off with a big thank you to Brendalyn Edwards for organizing a phenomenal event, "Beyond the Protest", for Black History Month. Brendalyn organized this joint event and brought on co-host organizations Gwen S. Cherry Black Women Lawyers Association, TJ Reddick Bar Association, Fred G. Minnis, Sr. Bar Association, Haitian Lawyers Association, George Edgecomb Bar Association, and the Caribbean Bar Association. We had a great group of panelists and a packed room. Over 100 in attendance via Zoom! Thanks again Brendalyn!

Now is the time to start thinking about getting involved with YLS by joining the Board or obtaining a larger leadership role. Elections

are right on the corner. Reach out to myself or any board member if you think you would like to run.

Speaking of elections, I hope everyone has voted in the Florida Bar President and YLD representative elections that are ongoing. Voicing your opinion by voting for our reps is huge, and unfortunately as lawyers the voter turnout is incredibly low for these elections. I urge everyone to check your email, including spam folders, and keep an eye out for paper ballots to be able to cast your vote. If you are having any issues you can email flabarhelp@electionservicescorp.com to see where your ballot is.

As you may recall, the Florida Bar Young Lawyers Division has previously brought attention to the stigmas associated with physical and mental health through its #StigmaFreeYLD Campaign. The YLD has now shifted its focus to action. Hence, the 2021 Health & Wellness Olympics!

The Health and Wellness Olympics, which runs from April 1, 2021 through May 27, 2021, is designed to encourage all members of the Florida Bar (not just the young ones!) to live a healthier lifestyle. Participants can earn points through a variety of activities including physical activity, meditation, counseling, group sports, reading, webinars, and much more. Awards will be given to the top three affiliates (small, medium, and large affiliates) and to the top three individual point earners.

Go and register now so that you can help us get the recognition, grant money (and bragging rights!) we deserve. It's free, simple and will help keep all of us on track to meet our goals. Be sure to choose Broward County Bar Association Young Lawyers Section on the drop down, so that we can collectively go for the GOLD! If you post to social media, be sure to use #YLDMotionGranted.

Also, the Broward County Bar Association YLS will be hosting some weekly competitions on our own, to help promote health and wellness during the months of April and May. This will include step, Peloton, Apple watch, and Fit Bit challenges.

We greatly appreciate your commitment to our Young Lawyers. Lastly, please mark your calendars for upcoming events, details of which can be found on our online calendar: www.browardbar.org/calendar/. If you are interested in joining a YLS, partnering with YLS on an event, or have any questions, please feel free to contact me at VG Law Group at (954) 500-2422 or ogiraldo@vg.law.

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MANDATORY COVID VACCINATIONS IN THE WORKPLACE

by Brian L. Lerner

The pandemic changed the workplace. Overnight, many employees started working at home. While workplaces reopened over time, many offices continue to operate remotely or function on reduced or staggered staffing. The approval of several COVID-19 vaccines brings with it the opportunity for law firms and other employers alike to think about returning to a pre-pandemic workplace. But that return, right now, hinges on employees getting vaccinated.

So questions naturally arise what may an employer do to require vaccination. In short, an employer may require employees to get vaccinated as a condition of returning to or remaining in the workplace. Likewise, an employer may require employees to provide proof of vaccination. But, like everything, there are some rules to follow, and of course, there are some exceptions that apply.

As an initial matter, the U.S. Equal Employment Opportunity Commission (“EEOC”) has issued guidance that vaccination (shots in arms) is not a “medical examination” (that being a process of eliciting information about an individual’s impairments or current health status). This is important because certain employment laws trigger protections when an employer attempts to administer a medical examination to an employee. But the process of administering the vaccine still does trigger protections for employees.

To receive the vaccine, an employee must answer medical questions to ensure there is no medical reason preventing the employee from receiving the vaccine. These screening questions likely will require employees to disclose medical conditions. These medical conditions may, in turn, qualify as a “disability” under federal and state employment disability laws. Because screening questions could lead to employers learning about previously unknown medical conditions, there are two things that employers must consider if they are going to directly, or through a third party (like a pharmacy), administer vaccinations.

First, the employer must prove that these screening questions are “job-related and consistent with business necessity.” If the employer cannot meet this requirement, then administering the vaccination cannot be done. There are ways to avoid this detailed legal analysis. The EEOC has stated that one way to avoid this issue is to have the vaccination administered by a third party that does not have a contract with the employer. The other way to avoid this issue is for employers to not administer the vaccination but rather just request proof of receipt of vaccination. In both cases, the employer generally will not have access to the screening questions and thereby will not receive medical information.

Second, if the employer has received information from the

screening questions that discloses a medical condition, the employer may need to work directly with the employee to see if any essential job duties need to be adjusted (accommodated) so the employee may perform these job duties notwithstanding the disability.

In the end, the biggest hurdle employers likely will face is the scenario where an employee does not want to get vaccinated. Some employees have concerns about the vaccine based on a variety of reasons—the speed of approval, unknown possible side effects, uncertainty about effectiveness, general distrust, etc. These types of concerns, even if raised in good faith, are not a permissible basis to refuse to comply with an employer’s requirement of vaccination. As such, if an employee refuses to get vaccinated on these general concerns, then an employer would be entitled to end the employment relationship. Before doing so, however, the EEOC advises that employers consider letting the employee work remotely, offer leave under the employer’s own leave policy, or allow the employee to work under existing COVID protocols (e.g., masks, social distancing, staggered schedule).

There are two protected legal bases for an employee to not get vaccinated: (1) an employee’s sincerely held religious belief, practice, or observance; or (2) an employee’s medical disability. If either legal basis exists, then the employer generally would need to accommodate the employee by allowing him/her to work. This could include, as noted above, letting the employee work remotely, offering leave under the employer’s own leave policy, or allowing the employee to work under existing COVID protocols. The employer does not have to accommodate the employee’s religious accommodation if the accommodation would pose an “undue hardship.” Moreover, the employer does not have to accommodate the employee’s medical disability accommodation if the employee would pose a “direct threat” due to a “significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.” These exceptions are highly individualized and highly involved and thus employers should consult with an attorney to assist with analyzing these exceptions.

Brian Lerner is a Board Certified Specialist in Labor and Employment Law representing businesses and individuals in employment-related matters. He is the Chair of the Labor & Employment Group at the law firm of Kim Vaughan Lerner LLP, a certified minority business enterprise.



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5 CONSIDERATIONS FOR BEST PRACTICES UNDER PANDEMIC CONDITIONS

by Juan Carlos Arias

Practicing attorneys have navigated uncharted waters now for almost a year. Since mid-March 2020, many of us had a crash course on technology as we adapted to new lawyering conditions. As with anything new, some of us have done better at maintaining best practices in new environments and some have struggled considering that there is little guidance out there to tackle the lawyering issues unique to these unprecedented times. In this article I share some considerations to promote better practices during this never-ending pandemic.

Texting is the MOST INFORMAL form of communication.

Generational developments have made texting an acceptable form of professional communication. It is only natural that our younger attorneys (with fast and fluid texting skills) would rely heavily on texting to practice law. However, other than general messages such as scheduling information, texting should not be used to convey important messages and case information that is confidential. Texting should not replace the delivery of case-sensitive information that should be conveyed in person, by telephone or by email. Also, you should never communicate with a client via texting unless you have the client's permission.

Strive to compose Emails with the same care and judgment as any other written communication.

Over the years, I have represented attorneys facing bar complaints that arise from treating electronic communications with a lesser degree of professionalism. For some reason, many attorneys treat emails as a form of communication that is different from communicating in writing under their letterhead. The rules of ethics do not differentiate between communications in letterhead paper and email form. A communication is a communication and threats, bullying, or any other form of unprofessional written conduct is all the same under the rules. When communicating with clients or opposing counsel, observe the basics of writing, punctuation, and spelling. Always be professional in all forms of communication.

Using Remote Technology requires a bit more preparation.

We all know of attorneys who grab a file and rush to a deposition - business as usual. However, virtual, or remote depositions ARE NOT business as usual and certain important matters should be considered before

and during a virtual deposition. First, the court reporter should be asked to provide the necessary credentials and log in information to all participants days before the deposition and this information should be re-sent to all participants the day before the deposition. Second, witnesses should be instructed to be positioned in front of an appropriate background and to minimize interruptions such as individuals appearing on screen or pets interrupting. Third, all witnesses should be informed to have their ID in hand so that the oath can be given.

Protect the record.

Remember to state on the record that the deposition is being conducted under Florida Supreme Court Administrative Order AOSC20-23 and to exclude non-parties and non-essential persons under Florida Statute 90-616. Mute your microphones during breaks. I personally prefer to have witnesses move the camera around the room to make sure no other persons are present in the room and I always request that the camera angle show the door to the room during the entire deposition.

Pandemic conditions are not an excuse for lack of communication with client.

The sudden closure of law offices and transitioning to virtual practice initially affected attorney-client communications as many law firms struggled to set up virtual capabilities. It goes without saying that now, a year into the pandemic, lawyers should have found a way to maintain effective communication with clients as well as alternative methods to the traditional meetings in person. The inconveniences caused by the pandemic should not be used to defend unprofessional conduct or negligence.

Juan Carlos Arias is the Managing Attorney of the Professional Regulation Department at Anidjar & Levine P.A., and focuses his practice in the areas of Florida Lawyer Regulation, Lawyer Ethics Consulting, State Professional Licensing before the Florida Department of Health and the Florida Board of Nursing, Law Student Representation before the Florida Board of Bar Examiners, and Unlicensed Practice of Law (UPL).



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MEET YOUR NEW STATE ATTORNEY AND PUBLIC DEFENDER

by Arielle Demby Berger

1) Meet the new faces of criminal justice in Broward County. For the first time ever, Broward County has elected both an African American State Attorney and Public Defender. What impact do you hope this brings to the community? What are some areas of concern?

Harold Pryor: I think this election was a clear mandate for both offices that the community truly wants criminal justice reform. I want to work with Gordon and the other criminal justice stakeholders to ensure that we have a just and equitable criminal justice system.

Gordon Weekes: The impact to the community is recognizing the potential it brings diversity of perspective and real-life experiences when addressing the very important issues in the criminal justice arena. Particularity when it comes to the disparate impact that communities of color endured at the hands of the systems with hopes of placing reforms and really impactful programming that will bring equality, equity, and justice to the forefront. Area of concern is the overwhelming desire to have reform quickly when we know that deconstructing the mountain of inequities that have existed will take time. I urge patience and grace when we begin to erect a new approach to the system. Good reform and systematic change take time.

2) Mr. Weekes you are the first African American Public Defender in the State of Florida, what additional hardships do you think that may bring?

Gordon Weekes: I don't see it as hardships, I see it as opportunities and a promise on a horizon to bring a fresh new set of eyes to the systemic issues that we recognized that need to be addressed. The time is right for reform and change and to have this furtive conversation

about what a criminal justice system should accomplish. I recognize that there are other issues that bring people into the criminal justice system- substance abuse, mental health, and poverty. None of this is a hardship- I embrace the challenge to push change forward.

3) Mr. Pryor, your predecessor, Michael J. Satz has been in office since 1976. What are some ideas from him that you plan to keep and some you plan on changing?

Harold Pryor: I want to thank Mike Satz for his 40+ years of service to the Broward County Community. One thing that I can personally take away from Mike is his encouragement to young attorneys to do the right thing. My goal is to build upon that legacy and to ensure that we comport to that standard.

4) There are some strained relationships between current Assistant Public Defenders and Assistant State Attorneys. What do you think can be done to improve that? How do you envision the role of ASAs and APDs working together going forward?

Harold Pryor: One way that we can try to fix this is to do joint CLE (Continuing Legal Education) trainings together. Our offices can also constructively work on identifying issues that we can agree on, like mental health, drug addiction, and giving our children second chances.

Gordon Weekes: I think it is important for us to move along and to do so we need to have better communication at the highest levels of the office because it's the policies that we take that will predict the outcome of a number of these cases. In order to effectively and equitably impact lives we have to communicate how these policies will change such as diversions

Continued on page 15

MEET YOUR NEW STATE ATTORNEY AND PUBLIC DEFENDER

by Arielle Demby Berger

programs, drug court and how we approach children. We need to make sure policies have a far greater impact than punishment and making sure it is working fairly. Greater weight needs to be made before we make policies. We need to understand the complexities of rehabilitation and relapse of substance abuse and maturation of children when we make policies that affect lives.

5) What is one thing you wish from the other?

Harold Pryor: I wish that Gordon will always answer my call, sarcastically. In all seriousness, I wish Gordon and all our employees for that matter, success and prosperity. Our two offices handle most of the criminal justice system for Broward County. In order for our county to be safe and prosper we all have to be successful.

Gordon Weekes: I wish that Harold brings his deep understanding of the issues in the system, and his great support with him. I hope he brings his real-life experiences to all of the work that he does in the office. I wish him and his family good health and good spirits. This is an awesome responsibility and with that comes great expectations.

6) Mr. Pryor you played for the Gators, what are some other interesting facts that people don't know about you?

Harold Pryor: I love jazz music.

7) Mr. Weekes you have spent your entire career as a Public Defender. What are some unique things that you've learned from this experience? Or what is something that people don't know about you.

Gordon Weekes: I enjoy working with my hands and I still work on my car and do all of the repairs myself. I attended vocational school in high school and I appreciate that experience.

I have learned so much from really building, making, and repairing. Working on cars relieves a lot of my stress.

8) This time next year, what do you hope people are saying about you and your offices?

Harold Pryor: That we have truly moved towards a criminal justice system that has been reformed responsibly while not compromising the safety of our community and that we repaired and restored a respectful working relationship with the law enforcement community.

Gordon Weekes: I hope people are saying that they are appreciating the work we do on behalf of the community and our clients and that we have some of the best and brightest attorneys and staff bar none to any other office in the state.

Arielle Demby Berger is an Assistant State Attorney and head of the Conviction Review Unit for the Broward County State Attorney's Office.





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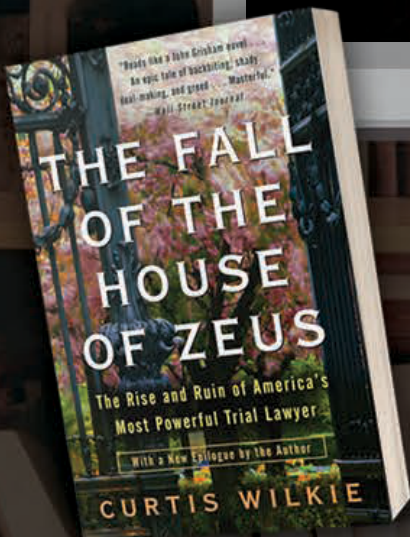
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A Discussion With The Honorable Jack Tuter, Chief Judge Of The Seventeenth Judicial Circuit

One year ago, times were much different: in-person court hearings, in-person mediations and depositions, in-person trials, no face masks, and significantly less use of hand sanitizer. Immense changes have taken place with the legal system as a result of the pandemic. As President John F. Kennedy stated “Change is the law of life, and those who look only to the past or present are certain to miss the future.”

The Honorable Jack Tuter, Chief Judge of the Seventeenth Judicial Circuit, has been embracing the immense changes as a result of the pandemic, and recently discussed some of the positives that Covid-19 has brought as well as what to expect moving forward in 2021. Broward County is Florida’s second largest county, with a population just under two million people, and the caseloads are among the highest in the state. With the pandemic, Chief Judge Tuter has been faced with different challenges every month. There is no handbook for how to deal with these challenges; instead Judge Tuter has met the challenges head-on. Chief Judge Tuter regularly speaks with his counterparts in Palm Beach and Dade counties concerning the unique issues that the courts are currently facing. Additionally, there are quarterly meetings among the twenty Chief Circuit Judges in Florida, as well as regular weekly meetings when the legislature is in session. The challenges, stress level, problems and concerns, appear to be rather consistent amongst the twenty judicial circuits in Florida, despite their population size.

Chief Judge Tuter has noted that one of the biggest positives in Broward County and around the state has been the utilization of remote proceedings to conduct uniform motion calendar hearings, evidentiary hearings, and a plethora of other discovery matters. The ability of Broward Judges to transform to remote hearings did not necessarily happen overnight, however; it was very close. The Judges participated in ZOOM training, and eight high-tech video presentation systems were purchased for the courthouse. The high-tech video presentation systems allow for full blown trials to be conducted, and will be primarily utilized for trials and first appearance court. Chief Judge Tuter commended the Broward Judges and their staff, as well as attorneys, for embracing technology, cooperating, and being patient.

With remote proceedings, Judges have recognized that the parties are more time sensitive, i.e.: more cognizant of the time they are using, and are therefore less likely to run over their allotted hearing time. Further, the remote proceedings have significantly increased the ability of the general public to watch the hearings being conducted on their matters. Traditionally, parties will appear for family and criminal law matters, and Judges are recognizing a significant increase of parties logging on to hearings in general civil matters. The costs and time to participate or watch a hearing has now significantly decreased. What use to require an individual to take off a half day of work, fight traffic to get downtown, find and pay for parking, wait for the elevators, and wait for your hearing time, can now be accomplished in less than thirty minutes with the party signing-in virtually.

When asked whether uniform motion calendar hearings will be

conducted remotely after the pandemic, Judge Tuter advised that this is one of the most common questions he receives, and that the answer is yes for sure. Judge Tuter has already started addressing the different logistical issues concerning using remote technology when the pandemic is over and requiring that all Broward Judges use remote technology.

One of the biggest issues that needs to be addressed is Broward County’s jail capacity is at 80%, while the lowest it has been during the pandemic was 63%. The increase is primarily attributable to more arrests. Judge Tuter has a finger on the pulse of this issue, and already has a plan to address the over two hundred in-custody felony violation of probation cases that are set to have face to face hearings in the middle of March, which will most likely decrease the jail capacity. Judge Tuter is hopeful and optimistic that in-person jury trials will begin in April. The courthouse had glass partitions installed in eight county and circuit courtrooms in order to have in-person jury trials. The logistics as to which matters receive priority for the courtrooms is currently being addressed.

The civil divisions in Broward are working as efficiently at closing cases as they were just prior to the outbreak of the pandemic. However, there has been a substantial increase of approximately twenty thousand county civil matters. This increase could be attributable to the recent increase in the jurisdictional limit to thirty thousand dollars, or could be an aberration as to Covid-19. Judge Tuter is already closely monitoring this issue and noted that some of the County Civil Judges may have higher caseloads, or some Judges currently in the criminal division may have to help out with the additional matters.

Chief Judge Tuter currently sees a light at the end of the tunnel with the increase of vaccinations. However, there is currently no rush to fully open up the courthouse until it is safe for everyone. The logistics related to social distancing in a twenty-story tower with eight elevators is mind-boggling, yet have already been started to be addressed. While we cannot be certain as to what the future holds, we can be certain that Chief Judge Tuter will be very prepared for any future challenges and will do everything in his power to ensure that parties’ due process rights and access to the courthouse is protected.

Brendan A. Sweeney, Esq., LL.M., Sweeney Law, P.A. a boutique law firm in downtown Fort Lauderdale, Florida, is an AV Preeminent Martindale Rated Attorney, that has been selected as a Florida Super Lawyer and Florida Legal Elite in 2020, and regularly handles construction, real estate, and business litigation matters throughout Florida.



2021: NOW WHAT?

by Morgan Weinstein

In many ways and for awful and belabored reasons, 2020 was a lost year. While some firms thrived in the pandemic, anemic business led to fewer transactions, and the unavailability of jury trials caused cases to languish. Certain practice areas, such as landlord-tenant, credit card litigation, and foreclosure, were simply placed on hold. Meanwhile, a forced work-from-home model has had partners and associates alike question the continued viability of the downtown office model and of the need for large amounts of office space.

During the first nine months of 2020, average law firm revenue grew by 5% as compared to the same period during 2019. During the same period, expenses were reduced by approximately 2%.

However, much of that growth was focused on senior attorney hours at some of the larger law firms in the country. Not only was the gulf in law firm stability based on the seniority of attorney or the size of the law firm, but it was also occasioned by particular practice areas. Bankruptcy, financial restructuring, regulatory investigations, and certain other practice areas saw an uptick in demand. Likewise, and perhaps due to increased free time at home and worries about mortality, intellectual property and trusts and estates practitioners saw increased volume.

Notwithstanding the fact that the 2020 legal market did not collapse in the manner many expected, the practice was nevertheless difficult for newer attorneys and smaller firms, as well as for attorneys in more vulnerable practice areas. Associates were furloughed or laid off, salaries were temporarily cut, and panic may have resulted in decisions that were ultimately not in the best interest of those in charge. In addition, many firms reduced non-attorney staff, a trend that is likely to continue.

Firms opted for a work-from-home solution for attorneys. The shift to remote work has been largely successful. More meetings are required because there is less chance for unintentional communication. But frequent, planned communication has eased the transition.

Further, the pandemic required technological innovation, largely in the form of an immediate switch to Zoom or other video-conferenced hearings. This change has decreased cost and travel time for attorneys and has also been lauded by the judiciary. A number of judges have already expressed their intentions to continue to allow such hearings, even after restrictions are eased and lifted. Eventually, we are likely to see a mixed model, at least for non-evidentiary hearings, in which the courts are open to all who wish to attend in person, with the ability to be heard remotely maintained at the practitioner's option.

In the year to come, businesses and courts will likely reopen. There will be more of a return to a "normal" flow of business, but some changes from 2020 may be permanent. Firms should be more willing to allow remote working opportunities. Firms may be seeking to reduce or keep reduced the number of attorneys they employ, focusing on billing fewer hours overall, but more of a percentage of hours by more senior attorneys. It may also be helpful to focus on balancing the mix of practice areas offered at a firm, if possible. Some of the areas that saw a boon during the height of the pandemic may fall back to previous averages, while negatively-impacted areas could regain traction. For instance, labor and employment litigation and healthcare law, in particular, are expected to grow in 2021. Finally, a trend of 2020 was for greater emphasis on diversity and inclusion, which should continue in 2021.¹⁰

Mr. Weinstein is board certified by the Florida Bar in appellate practice. He is a partner at Twig, Trade, & Tribunal, PLLC, focusing on appellate practice and trial support



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WHAT'S NEW IN THE COURTROOMS FOR 2021?!

by Kristen Goss

On Friday, January 22, 2021, Chief Judges Tuter (Broward), Soto (Miami-Dade), and Marx (Palm Beach) hosted the Tri County Judges' Update: 2021 A Year of Transition and the New Normal. 2020 was definitely one of a kind for the entire world.

In Broward, Chief Judge Tuter is diligently working with the appropriate authorities to ensure that safety of the public remains of utmost importance. Plexiglass is being utilized in the courtrooms, and there will be a tentative soft opening of criminal cases in March 2021 depending on the COVID-19 numbers. A soft opening for civil and family cases is less likely due to the ability of things running smoothly on Zoom.

In addition, Mondays and Tuesdays will be subpoena day for jurors (1,000 jurors anticipated). As for county court jurors, Thursdays and Fridays have been discussed as subpoena days, but that determination has not been finalized. Not all judges will get a jury panel in their courtrooms. Instead, jurors will be placed in adjoining courtrooms and communications will proceed by Zoom. Zoom pushback for depositions has decreased, and lawyers report being satisfied the vast majority of the time.

In Miami-Dade, many judges are working from home. Pleas occur on Fridays.

Jury trials were available October, November, and December 2020, but most cases plead out or resolved. Jury trials will be resuming March 1, 2021 due to the decreasing COVID-19 numbers. Only pleas and jury trials are being held in person, and 273,413 hearings have occurred since April 2020. No more than 3 to 4 jury cases are being conducted at a time for civil/DV, felony, and misdemeanors. Administrative Orders 2023 and 2028 address exemptions and excusals for jurors who are immunocompromised. Non-jury trials by Zoom will no longer be delayed unless there is a valid reason.

Safety is also a priority, and the following procedures are being utilized: air scrubbers for 3 buildings have been purchased, there are plans for everyone who enters the courthouse to be provided with hand sanitizers, gloves, a place to put their personal items and masks, and people are required to remain 6 feet apart. Lawyers are being asked to bring their own masks and sanitizers. Face

shields will not be acceptable. Jurors and lawyers will be placed in a separate courtroom during breaks and lunch.

As for inmate movement from the jails to the courthouse: no defendants have been transferred, but defendants will be brought into the courthouse for trials 3 at a time. They will be tested going in and out of the courthouse.

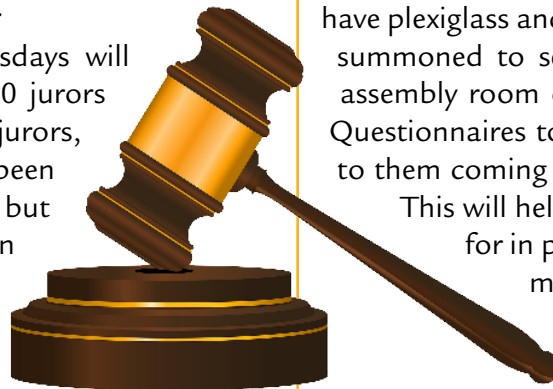
Finally, in Palm Beach, most judges come to the courthouse every day. Approximately 250,000 in person and Zoom cases have occurred since March 2020. Of that, 7 to 8 jury dates occurred in 2020. All courtrooms have plexiglass and air cleaners in the jury rooms. Jurors summoned to serve in trials will appear in the jury assembly room only. There will be 24 jurors chosen. Questionnaires to prospective jurors will be sent prior to them coming to the courthouse and after arriving.

This will help ensure jurors who will be a good fit for in person participation are chosen. Clear masks will be worn for jury trials.

Civil jury trials are beginning and will be occurring on floors 9, 10 and 11.

Masks are provided at the entrance of the courthouse. There are also free-standing temperature machines, plexiglass in the courtrooms, stickers reminding people to remain 6 feet apart, air purifiers for every room, and extra-large courtrooms for the jury to remain in to deliberate.

Even with all of the uncertainty, it is comforting and encouraging to know that safety is the number one goal and focus for all Chief Judges while making major strides to ensure all maintain reasonable access to justice.



Kristen Goss is the founder and managing partner of KWG Family Legal and Mediation Services, LLC. Her areas of focus include Divorce, Child Support, Timesharing, Adoption, Surrogacy, Dependency, Wills, Trusts, Probate, and Guardianship.



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RECENT DEVELOPMENTS IN LAW

by Debra P. Klauber

Florida Supreme Court amends the summary judgment rule, adopts federal standard.

The Fifth District certified a question to the Florida Supreme Court, which implicitly asked whether Florida's existing summary judgment standard should be rethought – “perhaps along the lines of the more common sense approach” adopted by the United States Supreme Court. The Florida Supreme Court agreed that it should adopt the federal summary judgment standard and did so through a prospective rule amendment (effective May 1, 2021). The rule change is designed to address three differences between the prior Florida standard and the now-adopted federal standard: (1) the fact that standard for a summary judgment should “mirror” the standard for a directed verdict; (2) to clarify that a party seeking summary judgment is not required to “negate” the non-moving party's case; rather, the moving party's burden on summary judgment depends on who bears the burden or persuasion at trial; and (3) to uniformly apply a standard regarding what constitutes a genuine issue of material fact. The Florida Supreme Court noted that one of the principal purposes of the summary judgment rule is “isolate and dispose of factually unsupported claims or defenses,” and held that the adoption of the federal standard would help accomplish that purpose. *Wilsonart LLC v. Lopez*, SC19-1336, 46 Fla. L. Weekly S2 (Fla. Dec. 31, 2020); *In re: Amendments to Florida Rule of Civil Procedure 1.510*, SC20-1490, 46 Fla. L. Weekly S6 (Fla. Dec. 31, 2020).

New formatting requirements adopted for Florida appellate courts.

Among some other rule changes, the Florida Supreme Court adopted a new rule of appellate procedure (9.045) governing the “form of documents” to be filed in the Florida appellate courts. The fonts now permitted for all documents filed in appellate court are Arial and Bookman Old Style. Because these fonts take up more space on a page, page limits have now been replaced with word counts and parties are required to include a certificate of compliance with the font and word-count requirements. *In re Amendments to Florida Rules of Appellate Procedure 9.120 and 9.210*, SC20-597, 45 Fla. L. Weekly S317 (Fla. Dec. 3, 2020).

Court amends rules of judicial administration regarding confidentiality of court records.

On its own motion, the Florida Supreme Court amended Florida Rule of Judicial Administration 2.420(d) to eliminate the requirement that the clerk's office

independently designate as confidential information filed in civil cases. The person filing the information with the court now has sole responsibility for designating the information as confidential. *In re: Amendments to Florida Rule of Judicial Administration 2.420*, SC20-1765, 46 Fla. L. Weekly S22 (Fla. Jan. 21, 2021).

Other changes to the rules of judicial administration.

Rules of General Practice and Judicial Administration (Rule 2.110):

Because the rules apply to bar members and the judiciary, the scope and purpose has been modified and the rules are now called the Florida Rules of General Practice and Judicial Administration (to be abbreviated as Fla. R. Gen. Prac. & Jud. Admin.).

Disqualification of Judges (Rule 2.330):

The requirements for the disqualification of trial judges have been modified, including a requirement that the motion specifically identify the date when the facts constituting the grounds for the motion were discovered, and requiring the motion be filed within 20 days (instead of 10) after either the party or the party's counsel learns of those facts. The court also added a subdivision which prohibits parties from filing a motion for disqualification based on a new attorney's involvement in the case (in order to eliminate the ability of practitioners to create grounds for disqualification through the appearance of substitute or additional counsel).

Attorneys (Rule 2.505):

This rule has been modified to address the appearance of attorneys, substitution of counsel, limited appearances, the identification of “stand-in” counsel, as well as the use of law students, certified legal interns and foreign attorneys.

Municipal Ordinances (Rule 2.265):

A trial court may now take judicial notice of duly enacted municipal ordinances and resolutions.

In re: Amendments to the Florida Rules of Judicial Administration – 2020 Regular Cycle Report, SC20-165, 46 Fla. L. Weekly S24 (Jan. 21, 2021)

Debra P. Klauber, Esq., a partner with Haliczzer Pettis & Schwamm, oversees the firm's trial support and appellate practice and provides guidance to litigators throughout Florida. Debbie can be reached at: 954-523-9922 or dklauber@hpslegal.com



LISTEN TO YOUR HEART: FEBRUARY IS HEART MONTH

By Deborah Ward

The past year has brought changes we never would have imaged. Our day-to-day habits such as how we work, interact with others, and move about our 'normal' activities has changed, resulting in a more sedentary lifestyle and poorer eating habits for many. But one thing has remained constant, the importance of caring for our health. Although much of the focus this past year has been on the pandemic, do not forget chronic diseases still plague our society. February is American Heart Month and a time to bring awareness to cardiovascular disease, which remains a global burden as the number one cause of death worldwide. It has always been important to focus on health maintenance, but maybe now, more than ever.

For many, day-to-day physical activity has drastically decreased due to changes related to the pandemic, such as working from home and decreased outings. We cannot discount the steps we normally would take with simple activities such as walking to our car, into the office, or running errands. Additionally, if healthy eating has fallen to the wayside, weight gain may be a secondary consequence. Obesity and a sedentary lifestyle are known risk factors for not only cardiovascular disease but other chronic medical conditions such as diabetes, depression and anxiety, kidney disease, and some cancers. Health promotion is key to not only remaining healthy during the pandemic but also for chronic disease prevention.

Key ingredients to a healthy lifestyle include proper nutrition and exercise. The American Heart Association has published recommendations for physical activity, along with many other resources, which can be found on their website at www.heart.org. Additionally, during these unusual times, it is important to assess what regular physical activity you are achieving daily. Monitoring your steps may help you evaluate where you stand presently, regarding how your activity has changed during these different times. Walking is the simplest way to start an exercise routine, even if for just 10 minutes a day and increasing the duration each week. One recommendation to improve consistency with an exercise routine is to implement a schedule, and exercise on the same days, at the same time each week. Set out your clothes the day prior to make it easy for you to get dressed and moving. For better accountability, try setting up a virtual exercise group where each member can check in prior to work out time.

Proper nutrition is fundamental to maintaining our health. An overall healthy diet includes emphasis on nutritious foods, fruits, vegetables, grains, nuts and legumes. It is important to avoid processed foods, those which come

premade and packaged, and are generally high in trans-fat. Focus on healthy food you can make at home, so you have control over the ingredients you use. Do not forget about the importance of portion control.

These times have affected not only our physical health, but our mental health as well. The dramatic shift which occurred abruptly has led to many challenges regarding our social and emotional well-being. How we interact with others has changed in both work and personal settings. In a way, the abrupt change relates to a form of loss, which many of us may have grieved over. Not to mention, illness also places a heavy burden. Although we continue to adapt each day, it is still important to connect with others, even if virtual via video to maintain social connections. Take time to talk to others and listen as well. Physical exercise, proper nutrition, and activities such as meditation, yoga, and coloring all assist with reducing stress and anxiety.

Limitations and changes during the past year have also affected doctor visits. If you have not seen your provider for a check-up, it is important to do so. Many offices have implemented procedures and protocols to remain safe during these times. An annual physical and routine follow-up with your physician is fundamental for maintaining good health.

Chronic diseases, including cardiovascular disease, continue to afflict our society and communities. Take time to evaluate your health status and follow-up with your healthcare provider. Implement positive changes for yourself each day with exercise, proper nutrition, and activities to support emotional well-being. Engage others around you as well, including friends, family, and co-workers to maintain accountability. Be kind to yourself and others, talk and listen. The results may surprise in you in developing healthier communities overall. Cheers to a healthy and happy New Year!

Deborah Ward, APRN, LNC is a board-certified nurse practitioner working as a legal nurse consultant. Her nursing expertise and legal nurse consultant services assist attorneys with full case development of a wide range of medical related cases. Deborah can be contacted at deborah@drwardconsulting.com or (954) 290-7311.



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