Legal Update

ROPER TOWNSEND SUTPHEN

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NEW LAW PROVIDES LONG-NEEDED CLARITY ON FLORIDA CIVIL RIGHTS CLAIM DEADLINES

Florida employers should be aware of a significant change to how discrimination claims proceed under state law. Effective July 1, 2026, a new law reshapes the procedural framework for civil actions under the Florida Civil Rights Act (FCRA), resolving years of uncertainty over when a claimant's deadline to sue actually begins.

The FCRA prohibits discrimination based on race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status, and applies to employers with at least fifteen employees. As with Title VII, employees must exhaust administrative remedies before filing suit. Florida's workshare agreement with the Equal Employment Opportunity Commission (EEOC) allows a charge to be dual-filed, with whichever agency receives the charge typically leading the investigation while preserving the claimant's rights under both federal and state law.

For years, the timing rules depended heavily on which agency handled the charge. If the Florida Commission on Human Relations (FCHR) issued a reasonable-cause determination within its 180-day window, the employee had one year to sue or request an administrative hearing. If the FCHR missed the deadline, the

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CORRECTIONS EMPLOYEE LOSES APPEAL AND HIS ATTORNEYS ARE SANCTIONED BY THE ELEVENTH CIRCUIT

The Eleventh Circuit Court of Appeals recently reviewed an appeal from a district court's grant of summary judgment in favor of the employer on the former employee's retaliation claims brought pursuant to Title VII of the Civil Rights Act of 1964 ("Title VII") and the Americans with Disabilities Act ("ADA") in *Marion Parnell, Jr.*, v. *Florida Department of Corrections*, Case No. 25-11166 (11th Cir. July 10, 2026). The Court was also asked to award sanctions against Parnell's attorneys for citing hallucinogenic cases in his reply brief.

First, we will look at the substantive issues on appeal. Parnell took issue with the district court's determination that his Title VII retaliation claim failed because the FDOC established that his

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statute required the agency to certify that it had notified the employee of the delay, and the employee then had one year from that certification to file suit. In practice, the FCHR often failed to issue the certification, leaving courts to determine how long the claimant actually had. The situation became even more complicated when the EEOC handled the charge. The EEOC's Notice of Right to Sue gave the claimant ninety days to sue in federal court, but Florida law never made clear whether that federal notice also triggered the FCRA's separate one-year deadline. Florida's appellate courts split on the issue, and some courts defaulted to a four-year statute of limitations, creating even more inconsistency.

The new law replaces this patchwork with a clear rule. A civil action under the FCRA must be filed within one year of whichever occurs first: an FCHR reasonable-cause determination or an EEOC Notice of Right to Sue. If neither agency acts within the initial 180 days, the claimant has eighteen months from the date the charge was filed to bring suit. The law also removes the FCHR's outdated registered-mail requirement for certain notices, reducing procedural disputes over service and timing.

For employers and insurers, the new law offers welcome clarity. While the new law leaves the substance of the FCRA untouched, it prevents claims from drifting for years without resolution and gives employers a firmer sense of when potential liability ends. By tightening deadlines and removing outdated procedural requirements, the law should streamline the handling of discrimination charges and reduce the uncertainty that has long surrounded FCRA litigation. These changes apply to actions filed on or after July 1, 2026.

By: Susan G. Gainey

FLORIDA APPELLATE COURT CLARIFIES THAT HILLSBOROUGH COUNTY IS NOT REQUIRED TO ACCOMMODATE MEDICAL MARIJUANA USE

The Second District Court of Appeal, in *Hillsborough County v. Angelo Giambrone*, recently reversed the trial court's entry of summary judgment in favor of an employee who alleged that the County discriminated against him by failing to accommodate his use of medical marijuana after he tested positive on a random drug test and subsequently produced his medical marijuana card. The Court remanded the case with instructions to enter summary judgment in favor of the County.

Giambrone was hired by Hillsborough County Fire Rescue as a firefighter paramedic. During his employment, he was randomly selected for a drug test. Giambrone tested positive for marijuana. Giambrone was placed on paid administrative leave following that result. As a result, he filed suit alleging that the County failed to accommodate him pursuant to the FCRA, wrongful termination, based on the County's refusal to accept his medical marijuana card as justification for the positive result, under the County's drug-free workplace policy, and that the County breached both the County policy and the CBA.

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disciplinary history or excessive absenteeism caused his demotion and termination. Next, he argued that the district court erred in granting summary judgment on his ADA retaliation claim because his request for an ADA accommodation caused his demotion and termination.

The Eleventh Circuit concluded that the district court did not err in granting summary judgment on the Title VII retaliation claim because Parnell was unable to demonstrate that the filing of an Equal Employment Opportunity Commission complaint caused his demotion and termination or that he was disciplined for any reason apart from his disciplinary infractions and excessive absenteeism. Applying the same standards, the Court reached the same conclusion with respect to the ADA retaliation claim and found that Parnell was unable to demonstrate that his request for accommodation under the ADA caused his demotion and termination.

Finally, with respect to the request for sanctions, the FDOC sought attorney's fees and to strike portions of Parnell's reply brief because the reply brief cited two non-existent court opinions and at least five non-existent quotations from other Eleventh Circuit opinions. The Court allowed Parnell's counsel to submit supplemental briefing explaining the source of the defective cases and quotations. His counsel was unable to do so, but instead merely repeated that he "was unable to identify a verified source for the non-existent opinions" and that "the challenged material did not come from a verified review of the cited opinions." He did not explain for how the nonexistent opinions and quotations came to appear in the reply brief.

The Court noted that it was "disappointed with counsel's lack of forthcoming candor" and further commented that "Presumably, counsel wrote the reply brief, and should thus be familiar with how he came to rely on the nonexistent authorities. Whether the appellant's citations were generated by AI, as we suspect, or simply made up by counsel, we nevertheless expect accurate representations from any attorney appearing before this Court. But it seems that counsel has failed to use the required 'legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation [at hand].'"

Ultimately, the Court granted the FDOC's motion to strike the relevant portions of Parnell's reply brief and granted its motion for attorney's fees for the time spent preparing the motion to strike and for sanctions.

By: Cindy A. Townsend

FRAUD ON THE COURT

A "fraud on the court," upon which dismissal of an action can be based, occurs where it can be demonstrated, clearly and convincingly, that a party has sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability to impartially adjudicate a matter by improperly influencing the trier or unfairly hampering the presentation of the opposing party's claim or defense. *Ramey v. Haverty Furniture Companies, Inc.*, 993 So. 2nd 1014, 1018 (Fla. 2nd DCA 2008).

In *Savino v. Florida Drive In Theatre Management, Inc.*, 697 So.2d 1011, 1012 (Fla. 4th DCA 1997), the Court stated that "where a party perpetrates a fraud on the court which permeates the entire proceedings, dismissal of the entire case is proper." Moreover, courts have held that: "The integrity of the civil litigation process depends on truthful disclosure of facts. A system that depends on an adversary's ability to uncover falsehoods is doomed to failure, which is why this kind of conduct must be discouraged in the strongest possible way ... This is an area where the trial court is and should be vested with discretion to fashion the apt remedy." *Cox v. Burke*, 706 So.2d 43, 47 (Fla. 5th DCA 1998), *rehearing denied March 5, 1998*.

However, during the last three decades, Florida courts have used different standards to determine whether or not a party's misrepresentations warrant dismissal for fraud on the court, or whether it should be left to the trier of fact to make such determination based on cross-examination and impeachment of the party. This has caused District Courts across Florida to reach conflicting results in applying an abuse of discretion standard to similar facts.

The Florida Supreme Court recently resolved the issue in *Publix Supermarkets, Inc. v. Goga*, 2026 Fla. LEXIS 1051 (2026). In *Goga*, the trial court dismissed Plaintiff's premises liability complaint with prejudice after finding by clear and convincing evidence that she repeatedly lied in interrogatories and deposition testimony about being unable to lift her children or bend at the waist, when surveillance videos showed her doing these activities without difficulty. The Court found that the abundance and gravity of her lies permeated the entire action and no reasonable judge would be required to allow any claims to proceed. Plaintiff appealed the dismissal, and the Fourth District Court of Appeal partially reversed the trial court's dismissal order, applying "a more stringent abuse of discretion standard."

The Supreme Court analyzed Florida jurisprudence dating back to 1934, and conflicting District Court opinions during the last three decades. The Court stated that: "Whether a party perpetrated a fraud on the court that permeated the entire action presents a mixed question of fact and law. This is so because a trial court's ruling on this issue depends on its application of the governing law—i.e., a particular legal rule—to a case's facts, which "define 'who did what, when or where, how or why." *Id*. at 13.

The Supreme Court held that Goga's pervasive lying about the extent of her physical limitations was an intentional "scheme calculated to interfere with the trial court's ability to impartially adjudicate her claims by improperly influencing the trier of fact. Likewise, Goga's

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At the trial court level, both parties filed opposing summary judgment motions. The trial court granted Giambrone's motion for summary judgment and denied the County's. The Second District Court of Appeals found that the trial court erred in finding that medical marijuana was a prescription drug pursuant to Section 839.02, *Florida Statutes*. The Second District Court of Appeal also found that marijuana did not qualify as a non-prescription medication under the CBA, nor pursuant to federal or state laws governing its general distribution without a prescription. The Second District Court of Appeals further found that the trial court erred in requiring the County to take Giambrone's positive test as a negative one. Finally, the Second District Court of Appeals ruled that Section 381.986 did not create an accommodation mandate on employers. It specifically provided that the trial court's command that the County provide an accommodation to ***any*** employee who produces a medical marijuana card after testing positive is policymaking of the most direct kind and not statutory interpretation.

The Second District Court of Appeals concluded that Hillsborough County was entitled to judgment as a matter of law pursuant to the Florida Constitution, Section 381.96, the County's Drug Testing Framework, and the negotiated CBA governing its safety-sensitive workforce. As such, the Court reversed the final summary judgment entered in favor of Giambrone, and remanded with instructions to enter final summary judgment in favor of Hillsborough County on all counts.

By: Farideh E. Tadros

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fraud permeated the entire case—in the trial court's words, her actions "comprehensively infected the integrity of the action." Therefore, to the extent the Fourth District held to the contrary, it erred when it applied a "more stringent" or "narrowed" abuse of discretion standard. Accordingly, trial courts now have a less stringent traditional standard to dismiss cases based on fraud on the court, when a party lies about matters pertinent to their own claim, or a portion of it. To that effect, it is often helpful to have covert surveillance on claimants when they allege that they cannot perform certain activities, when it is rather evident that it is not a true assertion.

By: Ramon Vazquez

FIRM SUCCESS

Trial Victory: County Prevails in Lawsuit Regarding Missing Stop Sign

Congratulations to Syed Qadri and Chris Prusinowski on their recent trial success! The Plaintiff, who approached an intersection and was advised by her GPS to "turn right at the stop sign," proceeded to go through the intersection because she claimed the stop sign was missing. As a result, Plaintiff's vehicle collided with another car proceeding through the intersection from her left.

The pair represented a County in defending against allegations that the County was purportedly negligent as a result of the missing stop sign at the intersection, which had disappeared after a hurricane. The Plaintiff argued that the County should have located the missing stop sign sooner (the accident occurred 19 days after the sign was missing, as the County was in the middle of post-hurricane recovery efforts), and after a four-day trial, the jury returned with a verdict finding the Plaintiff 99% at fault for the accident.

City Prevails in Stormwater Runoff Case After Court Finds Claims Time-Barred

Jeffrey Carter obtained a summary judgment in a matter alleging negligence and inverse condemnation for property damage as a result of stormwater runoff alleged to have occurred in April and May of 2022. The cause of action was filed in August of 2023. However, emails to the City from the property owner indicated that in April of 2019 flooding was occurring due to stormwater runoff on Plaintiff's property. Thus, Plaintiff was aware of the condition in 2019. However, Plaintiff did not provide notice to the City as required under §768.28 (6) until May, 2023. Statutory notice under §768.28 (6) was required to be given within three years from when Plaintiff knew or should have known of the condition. As such, the notice was untimely. Furthermore, the Statute of Limitations under §768.28 (14) provided the cause of action must be brought within 4 years from when the Plaintiff knew or should have known of the condition. As such, the cause of action was also untimely. Mr. Carter argued the matter was time-barred as the Plaintiff failed to timely give and timely bring her cause of action. The court agreed and summarily dismissed the matter. The holding was appealed and was dismissed upon Mr. Carter's Motion by the Fifth District Court of Appeals in July 2026.

FIRM SUCCESS

Federal Court Dismisses Claim Against City

David Jadon successfully obtained a complete dismissal on the eve of trial from the United States District Court. Plaintiff was trespassed from an outdoor farmers market by a city police officer at the request of the farmers market's manager. Plaintiff subsequently brought a Fourteenth Amendment Due Process claim against the City, alleging he had no mechanism to challenge the trespass warning. Following supplemental briefing, the Court dismissed the remaining claim, finding that the Plaintiff failed to take advantage of adequate state remedies before filing his federal claim.

Resort Prevails on Summary Judgment in Slip-and-Fall Case Based on Video Evidence

Jeffrey Carter obtained a summary judgment in a premises liability matter on behalf of a Resort. Plaintiff claimed she sustained injury from a slip and fall caused by a transitory substance. Plaintiff alleged negligence and a failure to warn. The entire event was captured on internal video. The time between when the water was spilled and when Plaintiff slipped was exactly one minute and twenty-one seconds. Within minutes of the guest's fall, the area was cleaned. Mr. Carter argued that pursuant to §768.0755, the Plaintiff was required to show the Resort had actual or constructive knowledge of the "dangerous condition." As such, the issue for determination by the court was whether the transitory liquid was left on the floor for such a length of time that, in the exercise of ordinary care, the Resort should have known of the condition. The court found (based on the video evidence) that, given the length of time between the spill and the fall, as a matter of law the Resort had no actual or constructive knowledge. Thus, the Resort did not neglect its duty to maintain the premises with reasonable care and did not, as a matter of law, owe Plaintiff a duty to warn.

FIRM SUCCESS

Federal Court Dismisses Claims Against City

In two very similar cases, David Jadon obtained successful decisions from the United States District Court, which dismissed claims against a city and its officers. In the cases, Plaintiff alleged various First Amendment claims, as well as claims against the City for Fourteenth Amendment Due Process violations. The Plaintiff alleged that he was improperly trespassed from the City's buildings for filming, despite a City ordinance prohibiting filming. Plaintiff recorded himself violating the City's ordinance and posted the video(s) online. The Court ruled that the officers had probable cause to issue a trespass warning, and found qualified immunity applied. The Court also determined that because the Plaintiff violated the ordinance, he forfeited any constitutionally protected liberty interest to access City buildings, and thus there was no procedural due process violation.

Firm Secures Complete Victory for County Government Client in Fair Housing Act Case

Susan Gainey obtained a full summary judgment victory on behalf of a Florida county government client in the Middle District of Florida, with Judge Julie S. Sneed entering judgment in the County's favor. Plaintiffs had sought $15 million in damages. After the judgment, Susan also secured partial recovery of the county's attorney's fees.

The case arose from the county's decision to deny a bond financing application for a proposed affordable housing development. Plaintiffs, a group of affordable housing developers, sued under both the Federal and Florida Fair Housing Acts, asserting that the denial had a segregative effect and disparate impact on minority residents in the county.

Susan successfully argued that Plaintiffs could not establish a prima facie case on either theory. On the segregative effect claims, the court agreed that Plaintiffs failed to present any evidence of historical practices of racial segregation in the relevant community or demonstrate that the County perpetuated segregated housing patterns. On the disparate impact claims, the court found that Plaintiffs could not identify a cognizable facially neutral "policy" — the denial of a single bond application does not rise to the level of a policy subject to disparate impact analysis. The court further found that Plaintiffs failed to establish the required causal connection between the County's public hearing process and any alleged racial disparity.

After judgment was entered, Susan filed a motion for costs and attorney's fees and negotiated settlement of those claims, resulting in Plaintiffs' partially reimbursing the County for costs and fees.

FIRM SUCCESS

City Secures Summary Judgment Based on Sovereign Immunity for Discretionary Renovation Decisions

Jeffrey Carter recently obtained a successful ruling granting summary judgment in favor of a city. In that case, Plaintiff alleged the city was negligent in its planning and renovations of the tennis center. Mr. Carter argued the city was protected by sovereign immunity as the renovations of the tennis facility constituted a discretionary/planning level function of the governmental entity. The trial court agreed that planning and judgmental governmental functions cannot be subject to traditional tort liability. More specifically, the wisdom and scope of renovations with the attendant benefits and risks were discretionary matters which involved budgetary and public policy. Thus, the planning and designing of the renovations to the tennis center were discretionary functions immune from tort liability and did not fall within the waiver provisions of §768.28.

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