

# Adverse Witness

A publication of the Collier County Bar Association

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**COVID**19

**SPECIAL EDITION**



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The Adverse Witness is pleased to feature articles submitted by Collier County Bar Association members, affiliates and the general public that may be of interest to Collier County Bar Association's membership. The Collier County Bar Association does not verify the accuracy of the information contained in the articles published in the Adverse Witness, nor are the articles published in the Adverse Witness intended to express the views of the Collier County Bar Association. If you have questions or concerns about information contained in articles published in the Adverse Witness, please contact the author of the article directly.

# Adverse Witness

May 2020 - Special Edition

*A special look at living, working and staying healthy  
during the coronavirus pandemic.*

## Letter from the Editor



*The Collier County Bar Association was chartered in 1948. During these past 72 years our members have continuously provided quality legal services through wars, hurricanes, recessions, and even epidemics.*

*Now, as the worst pandemic in modern times grips the world, our members and the Judiciary are finding innovative ways to continue to provide the quality legal services and guaranteeing access to justice that they are so well known for. In many instances legal advice is being provided pro bono, due to massive unemployment in Southwest Florida.*

*In an effort to keep our members abreast of the latest developments and best practices being utilized under these extraordinary circumstances, the Collier County Bar Association has asked several of our Judges, elected officials, and members to provide updates and share their best practices in this Covid-19 Special Edition of the Adverse Witness.*

*I am sure that each one of our members will find something of interest and useful in this Special Edition. Upon review, should you have any questions or comments please do not hesitate to contact me at [Ed@EdwardLarsenEsq.com](mailto:Ed@EdwardLarsenEsq.com).*

*Respectfully,  
Edward Larsen  
Editor of the Adverse Witness.*

Cover photo by Ashley Summers, niece of Lisa Terwilliger, on the night of the pink moon, April 7, 2020. Wonder why it was not actually pink-colored? Visit <https://www.almanac.com/content/full-moon-april>

If you have a picture (old or new) that you'd like to submit for consideration as cover art for the next issue of the *Adverse Witness*, please forward a JPG image to Lisa Terwilliger, [LisaT@colliercountybar.org](mailto:LisaT@colliercountybar.org) along with a brief description of the place depicted in your photo.

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## PRESIDENT'S MESSAGE

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By Richard Montecalvo, Esq.



### *I hope you are safe and well*

These are difficult and confusing times for all of us. Our families, our work, and our daily routines have been deeply impacted by the current pandemic. I hope that this message finds you and your loved ones safe and well. The CCBA is working hard to deliver high quality to service to you and all of our members, especially during these challenging days. Our referral service is active and ready to assist you in finding clients. Our staff is on the phone and on the computer and ready to answer questions, provide information, and help you in any way that we can.

Your Board of Directors met remotely last week. We brainstormed ideas to make sure the CCBA was available to you and to assist you in getting through this extraordinary time. If it seems like you are hearing from us more frequently these days that was part of the plan. We want to keep you apprised of the latest information from the courts as well as disseminate information on ways to keep your practice vibrant, and hopefully, flourishing, during these difficult times.

This special edition of the *Adverse Witness* is one of the results of this plan. We've included information regarding the SBA loan programs, the Safer at Home order, tech tips, advice from a great cross-section of dedicated and dynamic practitioners, and much more. We hope that you find it useful. If you have ideas for future articles or other ways to assist your colleagues, we'd love to hear from you. Thank you for your membership in the CCBA. Stay safe. And stay healthy!

***“If it seems like you are hearing from us more frequently these days that was part of the plan.”***



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*Mark your Calendar*

**BARRISTER'S BASH  
 ~ RESCHEDULED ~**

Thursday, September 17, 2020  
 Hilton Naples  
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 Naples, Florida 34103

## Wills for healthcare heroes

As we all know, thousands of our local hospital workers in Collier County are putting their health and lives on the line each day during the Covid-19 crisis to keep everyone else in our community safe and healthy.

Legal Aid Service of Collier County in collaboration with the Collier County Bar Association is launching "Wills for Healthcare Heroes" to provide free Wills and basic estate plans to hospital workers in Collier County who are battling valiantly for us all to treat, screen and care for those affected by the coronavirus.

This is an 'all hands on deck' direct appeal for any and all attorneys willing to furnish pro bono services to these healthcare heroes right here in Collier County! Won't you please sign up today to help?

The initial phase launch of this program will include Naples Community Hospital and a large request for free legal services is anticipated as these healthcare workers look to protect their families and estates while they continue to serve during the Covid-19 crisis. The program will be limited to those who have never had an estate plan previously. Many members of the CCBA's Trusts & Estates Section have already committed to serve on this important project but **we will need as many pro bono attorneys as possible to meet the anticipated demand for assistance to serve all the healthcare heroes at NCH anxious to have an estate plan**, including those with minor children.

To sign up as a pro bono attorney, email [probono@legalaid.org](mailto:probono@legalaid.org) or call (239) 298-8138. An FAQ sheet is being developed for all pro bono attorneys and will be sent out shortly to those who sign up to volunteer.

Thank you in advance for answering this call for service!

### Satisfy your pro bono reporting requirements while supporting legal aid

"We make a living by what we do, but we make a life by what we give." - Winston Churchill

**Yes, it's that time of year once again - pro bono service reporting time.** Legal Aid Service of Collier County operates the Collier Lawyers Care Pro Bono Program ("CLC") - screening eligible low income clients and matching them with private pro bono attorneys licensed and eligible to practice law in Florida. CLC was formed in collaboration with the Collier County Bar Association in 2005 to provide a means for Collier County attorneys to give back to the community through a recognized and formally structured pro bono program.

Meet your pro bono reporting requirements under R. Regulating Fla. Bar 4-6.1 (c) which states that "[e]ach member of the bar should strive to individually satisfy the member's professional responsibility to provide pro bono service to the poor."

### Sign up today as a pro bono attorney

The aspirational goal under R. 4-6.1 (c) is to perform at least 20 hours of pro bono service annually.

Legal Aid makes it easy and enjoyable to do pro bono. Legal Aid screens all clients for eligibility, matches clients with the attorney's particular area of expertise, provides \$1 million in malpractice insurance, and allows attorneys to retain 100% of awarded fees. Legal Aid covers certain litigation expenses.

Our clients need your help now more than ever, particularly in light of the Covid-19 crisis.

*continued on page 31*



***“I am also honored to work with all of you, the members of the Collier County Bar Association, who have never turned away from a challenge and never turned their backs on the needs of their fellow citizens.”***

## *Oh, the places you’ll go!*

Not to steal a title from Dr. Seuss, but sometimes short phrases say things the best and can sum up what we are feeling in one sentence.

I have been asked by the bar to prepare an article providing my insights on what “we may expect over the next few weeks” relating to the on-going pandemic. As our current situation is unprecedented in our history, and as it seems to continue to evolve and change daily, if not hourly, or even minute to minute, it seems somewhat presumptuous of me to advise you on what you may expect to see happen over the next few weeks. However, as I understand the spirit of the question, I will attempt to address it in the same spirit in which it was asked.

To begin, I really do appreciate the opportunity to write to all of you at this time. In challenging times, I firmly believe that communication and access to information is one of the key elements needed to provide understanding and hopefully lead to greater calm.

As most of you know, a lot of what we do is driven by the decisions of others, from the Governor, the Chief Justice of the Florida Supreme Court, and the Chief Judge of the Circuit. Each of these individuals can, and has, a direct impact on the day-to-day operations of the Collier County Courthouse. But in spite of the pandemic our state and country is facing, the mission of the Florida Courts remains the same, “to protect rights and liberties, uphold and interpret the law, and provide for the peaceful resolution of disputes.”

In these times, Chief Justice Canady has asked us to assure that we are protecting everyone’s rights and access to the courts while also keeping the public and the employees of the court system safe. This can be a difficult balance to maintain, particularly when facing limited resources, but thankfully with the advent of new technologies and reapplication of old technologies, we are able to do more while reducing the number of people that have to be physically present in the courthouse. As with many of you and your law offices, the courts, to some extent, have begun to work from home, or with very little personnel around us to reduce the risk of harm to ourselves and to the public.

I am pleased and honored to work with some very dedicated individuals, each of whom is committed to serving the public as best and as safely as possible. I am also honored to work with all of you, the members of the Collier County Bar Association, who have never turned away from a challenge and never turned their backs on the needs of their fellow citizens.

Basically, over the next few weeks, you can expect to see more of what you have seen in the courts so far. As of this writing, the Chief Justice of the Florida Supreme Court has extended our current level of court operations, which are limited to “essential” court events while allowing the Chief Judge of each circuit some leeway to authorize that certain “non-essential” court events be held totally remotely, until May 29, 2020. By that deadline, we will have been operating in this mode for almost two and a half months. That is a long time for certain “non-essential” court events to remain sitting without the ability to address them. We understand that, and we are currently looking at ways to expand the types of “non-essential” court events that we can offer to hold, while recognizing that a lot of you are also home attempting to keep your children engaged, educated, and entertained. There must be a balance. In these challenging times, I know that you can count on your judges to be accommodating and flexible while we all navigate the quickly changing circumstances.

As with communication, flexibility, patience and a sense of humor are also key during these trying times. I am willing to bet that in February very few of you were considering how you would keep a law practice running from your dining room table, while “homeschooling” your children, and trying to make sure your parents stayed in isolation since they are in the “at risk” population. Times certainly do change unexpectedly and they can change in an instant. But I know that with all of us working together, we will get through this, and we will survive as a community. We always have and we always will. In the meantime, as Dr. Seuss once said, “Oh the Places that You’ll Go!”

Be safe and stay healthy!



## *What are we supposed to be doing while we wait?*

### **1) What are the rules?**

We can stay open for business if we are an “essential” business. The Executive Committee of The Florida Bar Board of Governors has taken a position that law firms are essential businesses, either entirely, or when necessary to assist in compliance with legally mandated activities, especially when time-sensitive legal work is necessary to assist the public in solving urgent needs during these unusual times.

In determining if legal services are essential under the Safer At Home Order, we can look to Governor DeSantis’ comments about essential businesses: “It’s less important what you do, than how you do it...the goal is to avoid close contact with people outside your home to reduce the transmission rate.” So, while the Stay At Home Order is designed to contain the spread of Covid-19, it is not meant to prevent us from working. While some jobs cannot be done from home, fortunately, the practice of law can be.

### **2) How do we go about practicing from home?**

Covid-19 has imposed “social distancing” on a close-knit and collegial legal community. But we are already embracing this change and adapting to meet this challenge. While we cannot go to court, meet our clients, depose witnesses or mediate, in person, all of these functions can be accomplished remotely through electronic means.

For those of us without a dedicated IT person, Windows 10 has a built in Remote Desktop Connection, and for prior Windows versions or Mac users, the App for Remote Desktop Connection can be downloaded. A Google search brings up pages of other Apps and reviews.

For consultations and client meetings, if the telephone doesn’t feel personal enough, Facetime works great and seems to be acceptable to clients as a good alternative.

We can go forward with mediations and depositions, using Zoom.com. The App also allows for break out rooms for caucuses, and private attorney client meetings. Ask our mediators and court reporters if they have Zoom.com, or a similar App. If not, spread the word that the cost of Zoom.com is less than \$20 per month and it comes with an easy tutorial. As a testimonial, I recently used Zoom.com for the first time, for a family law mediation, and it was easy to use, and ended with a settlement agreement.

Some local attorneys are offering services as remote special magistrates, and with consent from both parties, we are able to keep our cases moving forward by scheduling discovery hearings, temporary relief hearings, and trials with special magistrates. For more finality, we also have private judges and binding arbitrators in Collier County.

### **3) Can we really keep up with our productivity while working from home?**

The key is to maintain as much normalcy as we can - within the parameters of the Safer At Home Order.

Some tips according to the American Psychological Association: Have a start and end time to work hours; maintain normal lunch breaks and dinner routines; set up a quiet separate space at home - only for work time; tell family your work hours and when you will be available for family time; and continue normal work out routines - just head out for a walk, bike ride or run, rather than to the gym.

**Got news?  
Contact Lisa Terwilliger  
by calling 252-8711 or  
drop an email  
line to LisaT@  
colliercountybar.org**

## ANNOUNCEMENTS

*Editor's Note:*

An article by the Honorable Ramiro Mañalich appeared in our April issue. It was erroneously titled, *Judicial Jurisprudence and Accountability*. The correct title should have been, *Judicial Independence and Accountability*. We apologize for the error and any inconvenience it may have caused.



**Bryan L. Loeffler** is pleased to announce the opening of the *Loeffler IP Group, P.A.*, a boutique patent and intellectual property law firm located in Naples, Florida.

Bryan Loeffler is a U.S. Registered Patent Attorney and is Board Certified in Intellectual Property Law by The Florida Bar. Bryan can be reached at [bryan@lawipgroup.com](mailto:bryan@lawipgroup.com) or by phone at 239-347-9950.



*Quarles & Brady LLP* announces that **Noel Davies**, a land use and zoning attorney in the firm's Real Estate practice group, has been elected chairman of Urban Land Institute (ULI) Southwest Florida. He

focuses his practice on real estate development and land use matters, and represents developers in all facets of zoning and land development, from due diligence for acquisitions to public hearing representation, including state and local government relations with respect to rezonings, comprehensive plan amendments, site plan approvals, and other permitting and environmental issues. ULI Southwest Florida is a non-profit education and research institute centered on real estate and land development.

## Inclusion Policy

*If you are a CCBA member in good standing and you've moved, been promoted, hired an associate, taken on a partner, or received an award, we'd like to hear from you. Talks, speeches (unless they are of national stature), CLE presentations and political announcements are not accepted. In addition, we will not print notices of honors determined by other publications (e.g., Super Lawyers, Best Lawyers, etc.).*

*Notices must be submitted in writing and limited to 100 words; they are printed at no cost to members and are subject to editing. E-mail your notice to [LisaT@colliercountybar.org](mailto:LisaT@colliercountybar.org).*





## *Florida Bar Board of Governors update*

*Update from Laird A. Lile, Esq., Board of Governors, 20th Judicial Circuit, The Florida Bar*

Your Florida Bar leadership has been closely monitoring the COVID-19 situation and reacting to the quickly changing landscape that this volatile situation presents for each of us, both as Floridians and as members of the legal profession.

The most timely issue leadership has dealt with at the state level is how the Governor's safer-at-home Executive Order applies to attorneys and law practices, even those who may not clearly fit within the exception language: "Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities."

The Bar requested the Governor to include all legal work as an "essential service". Although the Executive Order did not go that far, several provisions are relevant to many of our practices:

- "Businesses that supply other essential businesses with the support or supplies necessary to operate, and which do not interact with the general public" -- the list of other essential businesses encompasses many client categories, including, for example, healthcare, financial institutions, transportation, construction, the media, etc.;
- "Office space and administrative support necessary to perform any of the above listed activities"; and
- "Any business that is interacting with customers solely through electronic or telephonic means, and delivering products via mailing, shipping, or delivery services."

The bottom line is that while most of us can fit under one or more of these exceptions to the safer-at-home order, the intent of the Governor's mandate is to keep as many people as possible working safely at home to prevent the spread of the COVID-19 virus. To the extent that you and your practice are able to serve clients and conduct legal business remotely, please do so for the duration of the order.

Of course, local government may enact stricter requirements. Accordingly, the Bar intends to request local governments to specifically include lawyers/law firms as "essential" businesses, without exception, or at least to be no more restrictive than the Governor's Executive Order.

The Florida Bar also has addressed other issues that may impact you during this time:

**Member Resources Expansion:** Daily updates are being made to the Bar's dedicated COVID-19 webpage. This includes court announcements, Bar announcements, and resources for both members and consumers. The Bar's social media channels are providing timely information, as well.

**New Free LegalFuel COVID-19 Webinar Series:** The Bar's LegalFuel team has developed four COVID-19 Support Series complimentary webinars for members. Two will be released each of the weeks of April 13 and April 20, covering: 1) Navigating the CARES Act; 2) Effective Communication Strategies During COVID-19; 3) Keep Calm and Lawyer On - Top Tools and Resources for Remote Work; and 4) Coping with the Coronavirus: How to Reduce Stress and Stay Sane. The schedule and registration instructions are available here at the Legal Fuel webpage: <https://www.legalfuel.com/covid-19-information-and-resources/>

The **May Board of Governors Meeting on May 14 & 15** will be conducted virtually.

**Bar Section Meetings, CLEs and other activities** are being postponed, canceled or transitioned to virtual platforms through May 31. Deadlines for members with three-year cycle CLE reporting from February through May have been extended to August 31. The 24/7 OnDemand CLE catalog and LegalFuel may be helpful online resources during this time.

Here in the Twentieth Judicial Circuit, the legal community received state and national atten-

**See "Board of Governors," page 31**



## *Safer at home*

Never before has mankind faced a health crisis of this magnitude. Every community, every state and every country on this planet are now tasked with making difficult decisions that affect your health, your job, your education and your quality of life.

In Florida, we are accustomed to preparing for and responding to emergencies such as fires and hurricanes. Those are crises that we can see, their impacts are felt immediately and we have experience in quickly responding. In our modern era, because of our ability to prepare in advance and quickly respond to these events, loss of life in these emergencies is minimal. What is facing us today is something we cannot see, which cannot be predicted and with terrible loss of life. This emergency can be treated only by individuals with extensive training, and it carries economic burdens that will likely affect us all for many years to come.

As you know, Governor DeSantis issued a “Safer at Home” executive order last week after reviewing data and consulting with national and state health officials. The Governor has left many of the decisions surrounding his “safer at home” order up to local governments due to the diversity of our state and an appreciation that local elected officials are in a unique position to determine how to manage citizen movement in their communities. Essential businesses and services in the Panhandle may be different than what is considered essential in Collier County or in Hendry County. The Governor’s philosophy has allowed local governments to respond to this crisis by making decisions appropriate for their communities instead of applying a one-size-fits-all approach.

It is important to note that when a service or business is deemed ‘essential,’ it does not mean they have free rein to stay open and continue their day-to-day operations as they had before COVID-19. Essential businesses are still required to follow CDC guidelines. Because of these guidelines, many essential businesses have implemented different practices in their functions and shifted to online services, such as churches live-streaming worship and local doctors’ offices utilizing telehealth platforms.

At the end of the day, it comes down to personal responsibility, a value we as Americans hold dear. The days ahead will not be easy. As testing becomes more available, the statistics are likely to worsen. If we are diligent, practice social distancing and use our best judgment, we can outlast COVID-19 and get back to normal. We will get through this.

We are all in this together.

Sincerely,

*Kathleen C. Passidomo*  
Senate Majority Leader  
State Senator, District 28



***"I for one am eager to explore that new world. I already know what my first thing will be when we can again venture forth."***

## *My own quarantine*

Most of what you've seen in this issue was originally featured in our special online Covid-19 version of the *Adverse Witness* which rolled out last month. Unfortunately for me, since I opted not to write and instead feature some peaceful and zen aquarium videos, I am now forced to write a column. And not just any column, but one that is fresh, original, amusing, informative, inspiring... in short the column of all columns so as not to get lost amidst the stellar articles in this issue...the impossible column.

As I sit trying to draft this impossible column, I am wearing fuzzy slippers at my dining room table. I never realized the chairs were this uncomfortable until my work from home experience. My Saint Bernard, Hazel, is clamoring for attention. When a puppy that weighs over 100 pounds wants attention, they typically find a way to get it. Her current ploy involves sitting on my foot, which is falling asleep. My chair is facing the saltwater aquarium and I am watching an emerald crab try to snip at the clown fish swimming by. I'm also listening to my Roomba valiantly trying to stay ahead of the vast quantities of hair that Hazel randomly leaves everywhere. Not exactly a quiet corner to inspire creation, but it's what there is so I'll make it work. Riveting so far, right?

I thought of telling you a bit about what the CCBA staff has been doing during all of this. We meet daily via Whatsapp at 10:00 a.m. The ladies have seen me without makeup, wet hair, in yoga pants and a t-shirt. They deserve hazard pay, which is not forthcoming. But they've been true sports. Iris has been processing payments, invoicing, organizing electronic files, navigating the site, and just keeping us humming along. Melissa has been answering calls and making referrals; many of which have been quite unique under the present circumstances. It seems like some people are looking for any drama they can find to make a human connection. She's handling it all with grace and a wry sense of humor. Both ladies are taking a free online course from Harvard on non-profit accounting. This is great for the CCBA so that I have some solid back up in this area. The board and I call it the "bus file" - you know in case I'm hit by a bus others will have information to jump in to the fire. And I've been incredibly busy; busier than I expected.

Then I thought about telling you our plans for getting things back to normal. But honestly at this point, I don't know when we'll be able to open the library or to host meetings. Some organizations have been hosting webinars for CLE and information, but after much thought we decided to allow our members a space in which to create their new routine, whether it was working from home or simply taking a moment to enjoy home and family. We know that when we can get together again it will be both eagerly anticipated and much appreciated by everyone.

As this issue comes to your mailboxes and emails, we are also in the midst of an election for our board of directors, so at least some things are going forward as planned. We have a wonderful slate of candidates so whichever group of four become (or stay) board members, it will be a victory for all of us.

We are also preparing for renewal season, which starts officially in June. Look for postcards and emails coming your way with all of the details.

There are so many faces to this time of quarantine - loneliness, fear, frustration, and anger, but also reflection, peace, laughter, bonding, and contentment. I, like many of you, have been watching them all unfold on social media. It has been a privileged glimpse into how everyone is dealing with the changes wrought by the pandemic.

I will admit to being seriously stir crazy at times despite visits to the office and the odd Publix adventure, but I've also enjoyed this simpler space. I know that as I write that sentiment I am lucky in so many ways. My heart breaks for those who have lost jobs, gotten ill, and have worries for the future. The world that we go back to will be different, at least initially. We have the unique opportunity to take what we've learned from all of this and change our future. What will your new normal look like?

I for one am eager to explore that new world. I already know what my first thing will be when we can again venture forth. I miss my grandchildren like crazy. The minute we have the all clear sign I will be in their driveway waiting to hug and squeeze them until they make me stop. What will your first thing be?



## *The Clerk's office is staffed and working*

The Covid-19 virus very quickly changed our world. Numerous directives from the Chief Judge of the 20th Judicial Circuit, the Chief Justice of the Florida Supreme Court, Florida's Governor and federal agencies changed not only how we do business, but our lives and the lives of those we serve. The usually bustling halls of the courthouse are empty, the once active courtrooms are empty, the service counters are empty and the lines to get through security are gone.

Even in these times, please know that the Clerk's office remains open and staff continues to work normal business hours. We are available to answer your questions. We are in the office or working remotely under appropriate guidelines so that we can continue to process information and serve you and the public. Our call center is operational, as are our individual departments, should anyone have process questions.

Fortunately, in Collier County, attorneys embraced automation years ago and have continued to electronically file (e-file) court case documents and pleadings and electronically record (e-record) information in the Official Records. Our current "paperless" environment has proven to be a great facilitator during these times of "stay at home" and "social distancing" guidelines.

While our face-to-face operations have closed or are limited, our on-line, e-filing and e-recording services have enabled us to continue to serve the courts, the legal profession and the community at large. We are receiving and processing mail daily and have provided the opportunity for those unable to file, record or submit electronically to submit documents by way of a physical locked drop box inside the courthouse entrance, just past security.

We are still facilitating pro se actions and issuing marriage licenses by appointment. Consistent with judicial directives and orders, limited in-person services are available for those seeking domestic violence protection, protective injunctions for vulnerable adults, emergency child pick-up and mental health orders as well as temporary guardianship filings.

In addition, payment plan payments can be made electronically and we will work with individuals encountering hardships to adjust payment plans where possible.

Essential hearings are being handled remotely and very few, for example domestic violence hearings, are being conducted as in-court events, with limited participants and distancing.

Audio and video hearings were quickly established so that essential services can continue and some proceedings classified as non-essential such as civil hearings and pre-trial conferences have continued remotely.

Jury trials have been suspended until May 29th, 2020, having a significant impact on many pending cases.

Foreclosure sales and evictions were ordered suspended for 45 days beginning April 2nd, 2020 by Governor DeSantis' Executive Order 20-94.

Under the most recent Supreme Court Administrative Order (AOSC20-23), all prior orders implementing temporary measures was extended until the close of business on May 29, 2020. A link to the 20th Judicial Administrative Orders, the Supreme Court Administrative Orders and the Governor's Executive Orders regarding Covid-19 will be available on our website at [CollierClerk.com](http://CollierClerk.com).

We continue to work with the Judiciary, Court Administration, the State Attorney's Office and the Office of the Public Defender to develop additional processes that could further facilitate court services under current guidelines and restrictions. As guidelines or orders change, we remain fluid to respond to each situation to continue to provide services to the greatest extent possible.

As we hopefully reach the end of this current crisis, the enhancements we continue to add to our services will better enable us to meet any future mandates, pandemics and of course our annual hurricane season. We want to thank the legal community for the great cooperation, assistance and suggestions as we work together through these unusual times. Be assured that our office is here to serve you to the best of our ability. Be safe and stay healthy.

Please go to [CollierClerk.com](http://CollierClerk.com) for more information on all Clerk's Office services and future service updates.



## Working remotely during COVID-19

I hope everyone is staying safe and sane. Social distancing is tough. Keeping a law practice productive and going strong is challenging. Depositions, hearings, and trials are being canceled. Getting real estate deals closed and estate planning documents signed is difficult. This is also an opportunity to lead others in staying productive and having your firm ready for the snap back to fast-paced economic activity. I am confident that there will be a renewed appreciation for life and opportunity when the COVID-19 crisis ends. This will result in robust economic activity and an increased demand for lawyers. Keep the faith. This will happen.

From a technological perspective, simple ways to stay very productive are critical. I personally use two iPads with keyboards, a MacBook Pro, an iPhone, and AirPods Pro. I do not mean to be an Apple spokesperson. The items just work with minimal set-up. The brand is not important as you can accomplish the same goal with Microsoft-based products. I do have good luck with similar set-ups on Lenovo Thinkpads.

My personal set-up allows me to read email, video conference (using Zoom, for example), send dictations, and use Westlaw and other resources all at the same time. The Notes program in Apple allows me to keep things synced. The iCloud drive provides another option for easily attaching documents to emails. Signing documents on an iPad or iPhone is very easy, either from the email screen, or through the use of an app. Using DropBox and TrialPad on my iPad are easy ways to review documents and have what I need in front of me for telephonic hearings and video conferences. The AirPods Pro provide a nice noise cancellation level that makes working from home easier. The microphone is excellent for phone calls and video calls.

A bit more on my set-up:

**iPad 1** - 1TB iPad Pro with keyboard (<https://www.apple.com/ipad-pro/specs/>). Email - work and personal. Notes - work and personal. Dropbox for my personal files and records. Personal applications. This is the primary iPad from which I do dictations using Quick Voice Pro from the App Store.

**iPad 2** - Same iPad as iPad 1, except strictly business. Notes are business only and can be read by my Team in real time. Law folder with statutes, evidence code, dictionaries, Westlaw, TrialPad, et cetera. Dropbox is synced to the office with work-related files only.

**MacBook Pro** - This is more or less set up as iPad 1 and most of iPad 2 on a computer. The MacBook Pro is more robust than an iPad, and the screen is bigger.

**iPhone** - My iPhone is a virtual mirror image of iPad 1.

When working remotely, I never feel at a loss for getting what I need instantly. Both of the iPads have AT&T service and Wi-Fi. The MacBook Pro is setup to work on Wi-Fi only. On occasion, the Wi-Fi sputters out. The two iPads have given me good coverage when that happens.

Many people in my office use Remote Desktop Connection to remote into our office server and access the accounting software and documents on our server. This works well.

Matt Phillipine at [matt@fl-ts.com](mailto:matt@fl-ts.com) (<http://fl-ts.com>) is excellent and handles our server, firewall and remote access.

There are many great websites out there devoted to putting resources together. An example is from the New Hampshire Bar: <https://www.nhbar.org/working-through-covid-19-a-lawyers-resource-list/>

Stay healthy and sane.

Ed Koester

*Ed Koester is a shareholder at Coleman, Yovanovich & Koester. He is well known for his expert use of trial technology, having everything at his fingertips for instant display to the court and jury. He has experience in a broad range of matters, including international arbitration, jury trials and appeals.*



## *Online ADR works just fine*

Dear Colleagues:

I hope this newsletter finds you and your families safe and well. This is perhaps the most trying period of our lifetimes, but like all other times of adversity, we will pull through this and emerge stronger on the other side.

Meanwhile, life goes on and so must our legal system. Civil litigants may have declared a temporary truce, but the underlying disputes remain in remission and need to be resolved. Now is an ideal time to attempt to resolve civil disputes through online Alternate Dispute Resolution. I say this for several reasons: (1) with jury trials suspended and non-emergent hearings proceeding on a limited basis, case resolution through the courts will be delayed indefinitely; (2) most litigants could ill afford a costly legal proceeding in the first place. The negative economic impact resulting from this crisis will make the cost of continued litigation even more intolerable. Litigants have better places to invest their money at this time, like saving their own businesses, and lawyers face greater risk of not getting paid should they continue to wage their clients' war; (3) the bitter dispute which may have been of utmost importance to the clients two months ago, may seem trivial to them now in comparison to other problems. Why not give your clients an opportunity to extricate themselves from pending litigation now through online ADR?

Online ADR is easy to do. Even I can do it, without assistance from my grandchildren. Here's how it works. The Mediator (or Non-Binding Arbitrator) serves as the "host" of the online session through a video conferencing platform. My firm uses Zoom, but there are others. A Mediator can obtain a Zoom Pro account, which is more than sufficient for a multi-party mediation, at a cost of under \$20 per month. Counsel and mediation participants do not need to have a Zoom account. All they need is a laptop or desk top computer with a camera, a tablet, or a smartphone. Those using a tablet or smartphone can download the Zoom app for free from the app store.

The Mediator invites counsel and the mediation participants to join a Zoom Meeting by an e-mail invitation. When it is time for the mediation to begin, the participants simply click on "Join Zoom Meeting." Only those receiving an invite from the Mediator will be able to join the meeting, and additional layers of security can be imposed, such as password protections. Conveniently, mediation participants can join the meeting from any place in the world. This feature eliminates the travel obstacle, as well as respecting social distancing.

Once everyone has joined the mediation session, the Mediator can control who can be seen and heard at any given time. For example, during the opening joint session, the Mediator will allow every participant to see each other and hear the person speaking. Exhibits and Power-Points can even be shown to all on the screen during opening statements. After conclusion of the joint session, the Mediator can then separate the parties and their counsel into private groups, just like in a typical in person mediation. The Mediator, as the host, can block out other parties, both on video and audio, to preserve confidentiality of the matters discussed in private caucus. I have heard anecdotal evidence of hackers or "Zoom bombers" being able to access a Zoom meeting uninvited. While I have not experienced this myself, private caucuses can be conducted by regular telephone conferencing if parties are concerned about security. While the Mediator is engaged in private caucus with one group, the others can continue communicating with each other on Zoom or confer by telephone if they prefer. They can put themselves on mute and shut off their cameras at any time if they wish to confer privately without the Mediator. In short, online mediation is conducted just as it would be in person.

The mediation process continues until an agreement is reached or an impasse is declared. If an agreement is reached, the parties can exchange drafts of a mediation agreement by e-mail. When the form of the agreement is accepted by all parties, it can be signed digitally and the deal is done.

Non-Binding Arbitration is even easier. The parties can submit their cases to the Arbitrator

**See "Online ADR," page 31**

**Adverse Witness, May 2020**



## Best practices – litigating during COVID-19

Litigators are nimble by nature. We are good on our feet, think quickly and change strategies when necessary in order to achieve our client's objectives. Now, when faced with the effects on our practice of a global pandemic, we must do what we do best – keep our heads down, focus and carry on. But the question is, what should “carrying on” look like under the circumstances that we find ourselves? Hopefully my advice will help point you in the right direction, or at least assure you that you are already on the right track.

### **Best Practice No. 1 – Stay Informed**

This seems like a simple directive, but with the amount of information flooding our e-mail inboxes and social media accounts these days it may be difficult to weed out what information is vital to your practice. First and foremost, make sure that you read – actually read – each Administrative Order issued by the Florida Supreme Court, and any resulting public Advisory or Memo issued by Chief Judge McHugh in the Twentieth Judicial Circuit. This information is conveniently compiled for you and located on the Twentieth Judicial Circuit's webpage at <https://www.ca.cjis20.org/home/main/homepage.asp>. As of the date of this article, Administrative Order AOSC20-23, issued on April 6, 2020, is the latest guidance from the Florida Supreme Court regarding various policies and procedures that affect criminal and civil litigators.

These Administrative Orders, public Advisory communications and Memos should be the first place you look for direction. They already address a wide variety of topics including, but not limited to: the proceedings that are deemed “essential” and will therefore be conducted in person; the proceedings that may move forward telephonically; the proceedings that must be cancelled (i.e. civil jury trials) until at least May 29, 2020; the administration of oaths to witnesses for telephonic evidentiary hearings and depositions; the suspension of time periods in certain rules of criminal procedure; speedy trial rules; and child visitation. Set a reminder on your calendar to check the Twentieth Judicial Circuit's webpage at least twice a week to see if anything new has been added. Also, try not to automatically hit “delete” in a fervor to clear your inbox, since the Collier County Bar Association has been sending you links to the new Administrative Orders!

### **Best Practice No. 2 – Review Local Policies & Procedures**

Litigators live by policies and procedures. Policies and procedures are constant and predictable, but now because of COVID-19, they are neither of those things. In addition to staying informed about any revisions to the various Florida rules of procedure (civil, criminal, appellate, family, etc.) by reviewing the Florida Supreme Court Administrative Orders, you should also make yourself familiar with the Judges' new policies and procedures for their courtrooms. If you are facing down a non-jury trial date, and now have to coordinate witness testimony via telephone or video, or the submission of documentary evidence electronically, and do not know how best to accomplish these tasks, first check your Judge's webpage and determine if updated procedures have been posted. If not, or if you still have questions, do not be afraid to ask the judicial assistant for instructions on how the Judge would like to proceed (just please copy opposing counsel so as to not run afoul of the *ex-parte* communication rules).

If all else fails, file a motion with the Court and ask for guidance. Remember, the Judges are all working through these same issues, and trying to determine how best to proceed in their own courtrooms. It is likely that their policies and procedures will be changing dramatically and often, so you will need to be familiar with what needs to be done. Note, “you” actually means *you*, the attorney. While your legal assistants and paralegals may assist you with locating the new policies and procedures, please read them yourself and make sure that you understand what needs to be done. After all, your client's case, your reputation and your license (yikes!) are on the line. See Florida Rule of Professional Conduct 4-5.3.

### **Best Practice No. 3 – Perform Case Reviews**

If you are finding that you have a bit more time on your hands because depositions have been

See “Best Practices,” page 32

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## *Message concerning COVID-19 emergency*

We are living in unprecedented times. Here in Southwest Florida and throughout the world, life has changed. We are fortunate to live together in the greatest country in the world and the best and safest community in Florida.

As your State Attorney, I want to assure you that the staff of the State Attorney's Office and I are working hard to keep you safe. The Florida Supreme Court and our Chief Judge have put orders into place that govern the operation of the court system. Jury trials are currently suspended in order to practice social distancing and to protect our citizens and court staff. However, essential criminal court proceedings continue and our Assistant State Attorneys continue to attend court. Our prosecutors also continue to work with our law enforcement partners on active investigations, review every arrest made within our five counties, and to file appropriate charges.

We have activated our emergency operations plan, devised by my office for periods of public crisis, such as when a hurricane affects our daily operations. Our mission-critical functions continue without interruption.

As always we are protecting the rights of victims of crime. Our Victim Advocates remain available to ensure that Marsy's Law rights are protected. Unfortunately, during times of isolation and crisis, domestic violence incidents rise. If you are a victim of domestic violence or know someone who is a victim of domestic violence please call the police. You can find contact numbers for assistance below.

You can also find a price gouging hotline number below to report unscrupulous and dishonest pricing practices during this state of emergency.

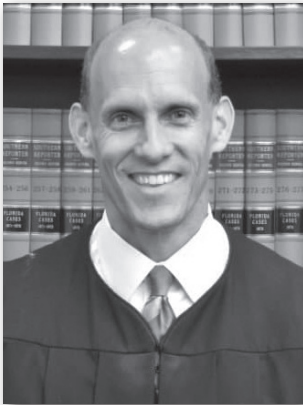
Also, be vigilant against online scams and monitor your kids' use of the internet to protect them from on-line predators. Report suspicious activity to law enforcement.

I am in daily communication with all of our criminal justice and law enforcement partners throughout Charlotte, Collier, Glades, Hendry and Lee counties as well as monitoring local, state, and Federal decisions regarding the emergency. Together we are stronger than one.

Please be assured that your State Attorney's Office is here continuing our mission of keeping you safe so that you can focus on keeping yourselves and your family well.

Stay safe. Stay healthy.





***“... through the incredible ingenuity the legal profession has shown in solving some of the problems placed before us we will have learned more efficient ways to practice law.”***

## COVID-19 message

As 2020 began few of us had any inclination of what the New Year had in store for us. We began the year with high expectations and a feeling that this would be a successful year, full of promise, and hope. Although CoronaVirus was in the news, it was an event far away that didn't seem to really involve us. We heard the warnings on the news, but quite frankly had heard these warnings before and had been relatively unaffected in the past.

Covid-19 has affected all aspects of our lives. The most obvious is the lives that have been lost, and the people who have become ill. But it goes far beyond that. Our economy has suffered to an extent we cannot measure yet. Our ability to commune with our neighbors and participate in social activities that make all of us enjoy our daily lives to the fullest extent have been put on hold. And our ability to practice in the legal profession so many of us love and respect has been altered significantly. There is little good news when you turn on the television or look at your phone, but when you go below the surface you see that people are resilient and persevere. I am proud and inspired by the hard work and ingenuity I have seen from the legal profession.

As soon as this pandemic became a reality I was contacted by all participants within the legal community. We all have incredible concern for access to the courts. In addition we had concerns for the safety of all participants in the legal system. We had to make sure we could continue all core functions while ensuring the safety of the public, our attorneys and everyone who works for them, court staff and personnel, and everyone else who was involved in the legal system. I was heartened by the immediate reaction of attorneys to implement technology to allow all people in their firms to work from home, remotely, or ensure social distancing and a safe workplace was available. The attorneys I talked to were incredibly worried about the health of everyone who worked with them at their firms, but also concerned with their ability to maintain employment for everyone in their firm and make sure people weren't financially devastated by this virus.

With everyone's help and perseverance the Courthouse is still open. We continue to make sure that all mandatory court events continue, but beyond that we have continued to move forward with major parts of the court's docket. With the use of technology we have continued with civil and family hearings. We have done this with no "live participation". This allows the public to continue to move towards resolution in the justice system, allows everyone to remain safe, and allows the legal profession to continue to work and maintain some semblance of normalcy. In fact today I am meeting with stakeholders to determine what else we can begin to hear and how technology can help us move forward.

It will be interesting when this is over what we have gained from the experience. I am certain that through the incredible ingenuity the legal profession has shown in solving some of the problems placed before us we will have learned more efficient ways to practice law. We will have tried things we never would have absent this horrible event. We might appreciate all the little things we take for granted on a daily basis. And hopefully we will have become closer to our families and enjoyed time with them we always want to spend, but might be too busy to find.

Although it might be too early to tell, it appears there is light at the end of the tunnel. We will get through this. We got through Irma, and a myriad of other difficulties over the years. I am proud to be Chief Judge of this Circuit. I am proud of all the attorneys who work so tirelessly for their clients. And I am proud of how everyone has reacted to this situation and rallied for the good of everyone involved in the community.

I am always open to suggestions, so feel free to send me a note if you have an idea you'd like to share. Also know that all the judges in Collier County are working hard to make sure the legal system continues to move forward to the fullest, and safest, degree possible.

Stay safe,  
Mike McHugh



## Family Law challenges during COVID-19

Dear Colleagues,

On April 1, 2020, I attended a teleconference with Judges John O. McGowan and Scott H. Cupp (“Family Law Bench”) to discuss the many and varied challenges currently affecting our Collier County courthouse, and, more specifically, the Domestic Relations division.

The teleconference lasted nearly an hour and a half and covered a number of legal topics, including, but not limited to, the then-current state of court closure, the handling of evidentiary and non-evidentiary hearings in light of recent Supreme Court and local administrative orders, and how best to implement and facilitate remote electronic proceedings.

As your Chair of the Family Law Section, this letter is my attempt to apprise you of the result of that teleconference in hopes of clearing up confusion and assisting our membership in navigating these uncharted waters.

The following represents a summary of issues explored on the April 1 teleconference. Importantly, this letter is not intended to serve as any form of binding authority with respect to any such issue; nor is it intended to bring absolute closure to any one topic. As we are seeing in real time, new procedures are being implemented by our Supreme Court and Chief Judge of the Twentieth Judicial Circuit virtually every week. A week from today, this letter may well become wholly or partially obsolete. Please bear all of this in mind as you read.

### **IN-PERSON HEARINGS**

First and foremost, the Collier County courthouse is following the directives of the Florida Supreme Court and Chief Judge Michael T. McHugh with respect to disallowing the conducting of in-person hearings in “non-essential proceedings.” “Non-essential proceedings” are those proceedings other than the “essential proceedings” identified in Judge McHugh’s *Memorandum re: COVID-19 - Courts Remain Open with Limitations to Mitigate Effects of COVID-19* (March 27, 2020). Following the April 1 teleconference, the Florida Supreme Court issued *In re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts*, Fla. Admin. Order No. AOSC20-23 (April 6, 2020), extending this prohibition through **May 29, 2020**.

Unless your case involves an “essential proceeding,” you will not receive an in-person hearing until after May 29, 2020 or until further court order.

### **CASE MANAGEMENT AND PRETRIAL CONFERENCES**

The teleconference attendees discussed the merits of continuing to conduct case management and pretrial conferences remotely for the remainder of the in-person hearing probationary period. After some debate, the attendees agreed that continuing to conduct regular case management and pretrial conferences would not serve a meaningful purpose at this time. Instead, if a party wishes to address a dispute that would ordinarily be addressed at either a case management or pretrial conference (and assuming same would **not** involve the introduction of evidence), he or she is encouraged to reduce same to a motion and to schedule a non-evidentiary, remote, hearing instead.

Regular case management and pretrial conferences will not be conducted until after May 29, 2020 or until further court order. Any case management or pretrial conferences previously set to take place prior to May 29, 2020 will be reset by the court.

### **NON-EVIDENTIARY MOTION HEARINGS**

The Family Law Bench will continue to schedule and conduct remote, non-evidentiary motion hearings through May 29, 2020 or until further court order.

If you intend to seek a ruling on a non-evidentiary motion, you are encouraged to adhere to all regular procedures for scheduling and noticing same, and should ensure that the resulting

See “*Family Law*,” continued on page 27

*Adverse Witness, May 2020*



## *Real Estate Law in a COVID-19 World: one dirt lawyer's perspective*

Dirt lawyers: that last bastion of paper-pushers. Walk into most real estate law firms and you'll find not only a heavy-duty copier with reams of paper, but also fax machine AND a typewriter. While other law firms were going paperless, real estate lawyers were debating whether to keep our binding machine for the volumes of paper created in a commercial transaction. I am convinced that dirt lawyers are not "old school" because the legal strictures underlying the practice are rooted in common law, but rather because a deed transferring property must be signed in the presence two witnesses and a notary public, and until this year, that ceremony had to be performed in person. We no longer have livery of seisin where the seller symbolically delivered possession of the property by handing a twig or clump of earth to the Buyer, but real estate lawyers were entrenched in the traditional world of paper due to the statutory requirements for transferring real property.

With impeccable timing, the Florida legislature passed house Bill 409, entitled "Electronic Legal Documents" which authorized Remote Online Notarization ("RON") and became effective on January 1, 2020. While real estate lawyers were reviewing demonstrations of the various RON platforms and waiting for the issuance of rules related to registration to provide online notarization services, we may have been unconsciously dragging our feet with RON because it was a move away from the personal nature of a real estate transaction. E-mail has taken over so much of our communication that clients are surprised when we call just to check in. Real estate lawyers were still clinging to the personalized service and experience of real estate.

When coronavirus started taking over the news fees, and travel restrictions and stay at home orders began to roll in, we suddenly had to get serious about RON. Fannie Mae and Freddie Mac realized the necessity of RON and modified their guidelines allowing RON if certain minimum standards are met such that loans closed with RON can be sold. My feeling is that the Covid-19 pandemic jump-started RON, which would otherwise have taken longer to take root in our more traditional business. Now it's part of the conversation on each closing transaction. RON serves a solution available to allow relatively tech-savvy Sellers to adhere to stay at home orders and execute their documents from their own computers in the safety of their own homes. We are fortunate that our Legislature acted last year so we have RON as a solution available to parties to a transaction who cannot leave their homes.

While RON is a change in the closing process sped to the forefront by the coronavirus, a more significant impact of Covid-19 will be the actual focus of our practice as real estate lawyers due to the current real estate slowdown and the longer-term economic impacts. Right now, there is the sparsity of new contracts, which is extremely unusual at this time of year. While real estate agents provide amazing photos, virtual tours and neighborhood information on the internet, people still want to physically walk the property before buying. Many people are not venturing out to view homes (even though commercial and residential real estate services are deemed essential services by the Florida governor) and many HOAs and condominium associations are passing strict guidelines prohibiting third parties from entering the community or condominium building. Buyers are simply not entering into contracts to purchase real estate to the same degree that they would be normally.

In addition to the current lull in new contracts, my speculation, based on the unemployment and economic figures swirling around, is that while we can hope for a quick turnaround of the economy when Covid-19 subsides, we need to prepare for a practice that is reminiscent of the last recession, with foreclosures, loan modifications and even short sales, if the fair market values decline. While we hope that some of the immediate economic impacts will be

**Continued at "Dirt Lawyer," page 32**



## Florida Executive Order and CARES Act

### COVID - 19 Updates: FLORIDA EXECUTIVE ORDER and CARES ACT - Benefits for Individuals and Small Businesses

See below for an updated overview of these critical programs, including PPP updates.

#### FLORIDA SMALL BUSINESS EMERGENCY BRIDGE LOAN PROGRAM

##### Current Status:

This program has run out of funding. There were 38,000 applications for loans. There were 1,000 loans approved and 37,000 applicants were denied.

##### Historical Background:

Governor DeSantis activated the Florida Small Business Emergency Bridge Loan Program which is administered by Florida's Department of Economic Opportunity (DEO) in partnership with the Florida SBDC Network and Florida First Capital Finance Corporation. Up to \$50 million has been allocated for the program to provide cash flow to businesses economically impacted by COVID-19. The short-term, interest-free loans help bridge the gap between the time the economic impact occurred and when a business secures other financial resources, including payment of insurance claims or longer-term Small Business Administration (SBA) loans. Small business owners with two to 100 employees located in Florida affected by COVID-19 can apply for short-term loans up to \$50,000. To be eligible, a business must have been established prior to March 9, 2020, and demonstrate economic impacts as a result of COVID-19. The application period ends May 8, 2020. The caveat with these loans is that they become fully due and payable at the end of one year and then bear interest at a rate of 12% per annum. The State reserves the right to turn these loans over to collection at the end of the year.

#### CARES ACT and PAYROLL PROTECTION PROGRAM AND HEALTH CARE ENHANCEMENT ACT (PPHCEA) - BENEFITS FOR SMALL BUSINESSES

There are a number of good references to access regarding these two pieces of legislation. The Small Business Administration website is a good source of information, [www.sba.gov](http://www.sba.gov). The rules set out below are those which were included in the original Interim Final Rule from April 3, 2020. This rule has been amended and expanded upon by additional Interim Final Rules and FAQs on a variety of issues surrounding the PPP. The documentation issued by the SBA can be found at: <https://www.sba.gov/document/?program=PPP>

The FAQs are amended frequently and while they are not precedential, the SBA disclaimer on each FAQ states that : *"This document does not carry the force and effect of law independent of the statute and regulations on which it is based."*

The FAQs issued on April 29, 2020, along with statements made by Secretary Mnuchin and tweets from Senator Rubio appear to put a much greater burden on borrowers of PPP money to prove a need for the funds. The latest FAQ has two questions, numbers 31 and 37 that strongly suggest that if an entity could fund its operations without borrowing PPP money, it should not take the loan.

It is also important to note that if one receives a PPP loan, the accounting for the use of the funds is very important. The timing of the expenditure on payroll and the use of the funds for payroll are crucial to the forgivability of the loan.

At the time of publication, it is unsure whether any funds are still available for PPP loans.

##### Paycheck Protection Program (PPP)

The PPP provides forgivable loans out of a \$349 billion appropriation in the CARES act, which funds were supplemented by \$310 billion allocated in the PPHCEA on April 27, 2020. There was a huge demand for these funds. The terms of the loans are the same for all applicants.

Businesses with fewer than 500 employees (with some exceptions) are eligible, including sole proprietors and independent contractors. If there are independent contractor/1099 workers on the payroll, they are not eligible to be counted as part of the wages for calculation of loan amount or forgiveness.

Continued at "COVID-19 Updates," page 26

Adverse Witness, May 2020

## THINGS TO KNOW ABOUT COVID -19

As a lawyer you would be remiss if you were to ignore the features and qualities of the opposing side. Knowing the potential arguments for and against your pending case is paramount to success. Similarly, not knowing the characteristics of the COVID-19 disease is to expose (pun intended) you to acquire the disease. The following are pertinent questions, corresponding facts and take away/applications:

QUESTIONS	FACTS	TAKE AWAY
Why the name COVID-19?	COVID-19 is an abbreviation of 2019 Novel Coronavirus and was named by the World Health Organization. The scientific name of the virus causing this disease is SARS-CoV-2.	
Where did SARS-CoV-2 come from?	This virus belongs to a family of many viruses termed coronaviruses. The term “corona” is from the crown like appearance of the many spikes on the virus’s surface. <sup>1</sup> SARS-CoV-2 is the 7 <sup>th</sup> of the family that has infected humans. <sup>2</sup> Research has shown that the coronaviruses all originated in animals, i.e. they are zoonotic. Although a direct transfer has not been documented for SARS-CoV-9, its close resemblance to a virus that is found in Chinese horseshoe bats suggests that source. <sup>3</sup>	It is not an “engineered” virus, i.e. not man-made.
What is the makeup of SARS-CoV-2?	The virus’s shape is that of a ball with multiple spikes on the surface. Inside the ball is a tightly wrapped string of RNA genetic material consisting of 30,000 parts. (By comparison a human cell has 3 billion of these genetic parts in its DNA.) The genetic material contains information which directs the creation of at least 29 proteins that have been currently identified. <sup>4</sup>	The RNA strand was detailed within a very short time. A feat not possible a decade ago. <sup>5</sup>
What do the proteins created by the virus do?	One protein called “copy machine” and two others termed “copy assistants” create a new RNA string which will become a brand-new virus. Another protein is “proofreader” that <i>reads the</i>	The virus is incredibly complex and sophisticated. <sup>2</sup>

<sup>1</sup> <https://www.washingtonpost.com/health/2020/03/23/coronavirus-isnt-alive-thats-why-its-so-hard-kill/>

<sup>2</sup> <https://www.msn.com/en-us/health/medical/why-the-coronavirus-has-been-so-successful/ar-BB11sPCX>

<sup>3</sup> <https://www.asianscientist.com/2020/02/topnews/china-coronavirus-covid-19-study/>

<sup>4</sup> <https://www.nytimes.com/interactive/2020/04/03/science/coronavirus-genome-bad-news-wrapped-in-protein.html>

<sup>5</sup> <https://www.asianscientist.com/2020/02/topnews/china-coronavirus-covid-19-study/>

	<i>new RNA and corrects any errors. Other proteins called “camouflage” hide the virus from the host cell’s defense mechanisms.<sup>2</sup> Incredibly, all this detail is obtained from a virus that is so small it takes 1,000 side by side to equal the diameter of an eyelash.<sup>6</sup></i>	
How many viruses can be created by an initial invading virus?	<i>10,000 new viruses in a few hours!<sup>7</sup></i>	This production can overwhelm our ability to defend against the virus.
Why did it just now become a human infection?	Viruses continually evolve. Two new features of this coronavirus are in the surface spikes. The SARS-CoV-2 spike can be activated by an enzyme, furin, manufactured by human tissues. The spike then is immediately attracted and attaches to a molecule, ACE2, found on the surface of human cells. This is the “gate” into the cell. Previous human coronaviruses were not able to quickly activate and attach to ACE2. <sup>8</sup>	Another factor in the virus’s rapidly becoming a pandemic.
Why is SARS-CoV-2 so contagious?	In addition to the rapid reproduction and ability to quickly invade a human cell, there is a calculated reproduction number of Ro. The Ro represents the number of people an infected person can inoculate. Using the common flu for comparison, a person with the flu virus could infect on average 1.3 others, a Ro of 1.3. Through 10 of these transmission cycles, the <b>total number of people infected would be 1.3 to the 10<sup>th</sup> power or 14 people</b> . The SARS-CoV-2 infected person can infect (2.6 to 4.08) about 3 people; therefore, through the same 10 cycles, 3 to the 10 <sup>th</sup> becomes <b>59,000 newly infected persons!</b> <sup>9, 10</sup>	The rationale for avoiding or protecting oneself from infected persons. (Note that during the early days in Wuhan the Ro was 5.7)
How is SARS-CoV-2 spread?	SARS-CoV-2 is a respiratory virus. According to a recent article in the New	If infected, self-isolate.

<sup>6</sup> [https://www.wired.com/story/to-beat-covid-19-scientists-try-to-see-the-invisible-enemy/?bxiid=5cc9e0053f92a477a0e77a38&cndid=53089947&esrc=AUTO\\_OTHER&source=EDT\\_WIR\\_NEWSLETTER\\_0\\_DAILY\\_ZZ&utm\\_brand=wired&utm\\_campaign=aud-dev&utm\\_mailing=WIR\\_Daily\\_040820&utm\\_medium=email&utm\\_source=nl&utm\\_term=list2\\_p3](https://www.wired.com/story/to-beat-covid-19-scientists-try-to-see-the-invisible-enemy/?bxiid=5cc9e0053f92a477a0e77a38&cndid=53089947&esrc=AUTO_OTHER&source=EDT_WIR_NEWSLETTER_0_DAILY_ZZ&utm_brand=wired&utm_campaign=aud-dev&utm_mailing=WIR_Daily_040820&utm_medium=email&utm_source=nl&utm_term=list2_p3)

<sup>7</sup> <https://www.washingtonpost.com/health/2020/03/23/coronavirus-isnt-alive-thats-why-its-so-hard-kill/>

<sup>8</sup> <https://www.msn.com/en-us/health/medical/why-the-coronavirus-has-been-so-successful/ar-BB11sPCX>

<sup>9</sup> <https://www.livemint.com/news/world/how-alarming-is-coronavirus-and-what-makes-this-virus-so-bad-11580887180660.html>

<sup>10</sup> <https://www.sciencedirect.com/science/article/pii/S0896841120300469>

	<p>England Journal of Medicine an infected person spreads the virus through coughing or sneezing. Droplets of sputum containing the virus fall on objects within 6 feet. A non-infected person can inhale a droplet or by touching a droplet can transmit the virus to his/her body by touching their eyes, nose or mouth. There is documentation that air borne virus particles can also spread the disease though not as likely as droplets. These particles can travel “long distances”<sup>11</sup></p>	<p>Stay 6 feet away from everyone. If outside the house and in public, wear a mask. Wear gloves if touching unknown surfaces.</p> <p>Do not touch your face.</p> <p>If coughing, cover your mouth with your elbow.</p>
<p>How long does a virus remain viable in an infected droplet?</p>	<p>Viable virus is no longer identified after 24 hours on cardboard, 2-3 days on metal and 3 days on plastic. Note the number of viable virus particles diminish during this time. The SARS-CoV-2 virus can survive long term only in the host human.<sup>12</sup></p>	<p>Leave delivered boxes and mail outside for a day. If perishable contents, spritz with isopropyl alcohol and wipe dry. Clean all surfaces frequently - doorknobs, counters, light switches, etc.</p>
<p>Can the virus be destroyed?</p>	<p>The surface of the virus is made up of fatty lipid molecules. Soap will destroy this surface and therefore the virus.<sup>13</sup></p>	<p>Wash hands frequently with soap and water for 20 seconds.</p>
<p>How to determine if a person is infected?</p>	<p>You can’t unless they are symptomatic or have tested positive. A significant number of persons can be asymptomatic and still shed virus in droplets. Once a person is infected, they can infect others during the 4 to 5 days before they become symptomatic.<sup>14</sup></p>	<p>Consider everyone to be infected</p>
<p>How to determine if a person is not infected?</p>	<p>If they have a negative SARS-CoV-2 test. A new test for virus antibody has just been developed. If a person has antibody to SARS-CoV-2, they have had the disease and are not infected.</p>	<p>Soon persons with antibody, i.e. immunity will be identified.</p>

11 <https://www.nejm.org/doi/10.1056/NEJMc2004973>

12 <https://www.nejm.org/doi/10.1056/NEJMc2004973>

13 <https://www.msn.com/en-us/health/medical/why-the-coronavirus-has-been-so-successful/ar-BB11sPCX>

14 [https://www.huffpost.com/entry/how-long-asymptomatic-coronavirus-carriers-infect-others\\_1\\_5e8371f7c5b6d38d98a5af48](https://www.huffpost.com/entry/how-long-asymptomatic-coronavirus-carriers-infect-others_1_5e8371f7c5b6d38d98a5af48)

What treatments are available?	Previously created antiviral medications including those for HIV and Ebola are being. Anti-malarial med has been used.	Though some antidotal benefits have been reported, no medication has been universally beneficial.
If you have had COVID-19, can you be reinfected?	At this time the longevity of the antibodies which an infected person has formed is unknown.	Antibody testing will determine.
When will the mitigation measures be lifted?	To be determined. Interesting data from Taiwan, Singapore and Hong Kong had suggested early lifting of the isolation measures had caused a new increase in infections. But recent data suggests the increase was due to the influx of visitors who brought in new cases of the disease.	Lifting the mitigation measures is a complex decision.
What about a SARS-CoV-2 vaccine?	At least 20 labs around the world are creating potential vaccines. <sup>15,16,17</sup> China and the US both injected a vaccine in a human on the same day. <sup>18,19</sup>	The race for a vaccine has begun.
How long will it take to have a vaccine available?	It will take a year to have a vaccine. The trials cannot be significantly abbreviated. Bill Gates and other private and federal agencies are investing billions of dollars to construct factories that will begin mass production of a vaccine as soon as one shows initial promise, i.e. before completion of all the trials. <sup>20</sup>	The early mass production of a vaccine is a gamble that the selected vaccine will eventually pass all trials. If that vaccine does not pass, the effort and investment will be lost; however, if the vaccine does pass all trials, a large quantity of vaccine will be immediately available.

<sup>15</sup> <https://www.asianscientist.com/2020/02/topnews/singapore-covid19-pandemic-preparedness-playbook/>

<sup>16</sup> <https://www.msn.com/en-ca/health/medical/science-summary-a-look-at-the-search-for-a-covid-19-vaccine-in-canada/ar-BB11TMXN>

<sup>17</sup> <https://www.msn.com/en-us/money/companies/everything-must-go-right-for-big-pharma-s-bet-on-a-fast-vaccine/ar-BB12gbEz?ocid=msn360>

<sup>18</sup> <https://www.cbsnews.com/news/coronavirus-vaccine-jennifer-haller-seattle-first-patient-injected-with-covid-19-shot-in-clinical-trial-cure/>

<sup>19</sup> <https://www.reuters.com/article/us-health-coronavirus-china-vaccine-idUSKBN2141T1>

<sup>20</sup> <https://www.wsj.com/articles/bill-gates-to-spend-billions-on-coronavirus-vaccine-development-11586124716>



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# 2020

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# COVID-19 Updates continued from page 20

The basic rules are:

- It is a temporary type of SBA Loan created specifically for COVID-19 relief, available for a limited time.
- Loan size is equal to 250% of the employer's average monthly payroll, not to exceed \$10 million. This calculation is based on the average payroll costs for the last twelve months. It cannot include individual employee compensation over \$100,000/year (\$8,333/month.)
- The loan can be used to refinance recent SBA Disaster loans. (EIDLs)
- There are no personal guarantees and no collateral is required.
- Loan Forgiveness - The total amount forgivable equals what you pay in eligible payroll costs during 8-week period starting on the loan origination date. These costs are payroll, rent, utilities and payments of interest on any covered mortgage obligation. The non-payroll costs cannot exceed 25% of the total forgiveness amount.
- For any unrelieved amount there will be a 2-year maximum term and a 1% interest rate.
- These loans are to be applied for through your local financial institution. This is a first come - first served loan, so apply early. Wells Fargo announced on April 6 that they were no longer accepting applications.
- There will be no fee to apply and no pre-payment penalties.
- Additionally, the document requirements may differ with each financial institution.

## SBA Economic Injury Disaster Loans (EIDL) and EIDL Loan Advance

The funds available for these loans under both the CARES act and PPPHCEA have been depleted and no further applications are being accepted.

## Small Business Debt Relief Program

This program provides immediate relief to any business that has a currently outstanding SBA 7(a), 504 or microloan. The SBA will cover all loan payments on these SBA loans for six months.

## **CARES ACT -BENEFITS FOR INDIVIDUALS**

The CARES act also provides several benefits to individuals. Here are the highlights of some of the most important, but possibly least understood options.

Direct Cash Payments: Most individuals earning less than \$75,000 will get a one-time cash payment of \$1,200 for an individual, \$2,400 for a married couple filing jointly and \$500 for each child. They are based on either your 2018 or 2019 tax filings. If you receive Social Security benefits and don't file taxes, you should still get a payment. The recovery rebate is reduced by \$5 for every \$100 of adjusted gross income (AGI) above \$75,000 for

individuals, \$112,500 for heads of households, and \$150,000 for married joint filers. Consequently, the rebate is not payable to individuals (with no eligible children) with AGI above \$99,000 or married joint filers (with no eligible children) with AGI above \$198,000. A married couple with two eligible children is ineligible for the rebate with AGI above \$218,000.

Protection from Eviction/Foreclosure: The CARES Act codifies protections for some homeowners against foreclosure and some renters against eviction. If you are experiencing financial hardship due to the coronavirus, you will be granted forbearance on your **federally backed mortgage** loan for up to 60 days, with the potential for up to four 30-day extensions. Foreclosures may not begin for 60 days

from Mar. 18, 2020. No fees, penalties, or added interest may be charged on delayed payments.

If you are a landlord with a **federally backed mortgage** on a multifamily home, you have similar protection that allows a 30-day forbearance on payments and up to two 30-day extensions.

If you are a renter in a multifamily home with a **federally backed mortgage** loan, you may not be evicted solely for failure to pay rent for a 6-month period. You also may not be charged fees or penalties for not paying rent.

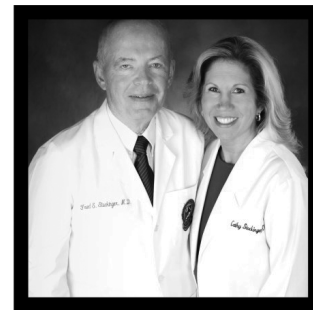
**The major cautions are that to be eligible for these protections, the mortgage must be federally backed whether you are a renter or owner.** This can be determined by going online Here is the link: <https://www.consumerfinance.gov/ask-cfpb/how-can-i-tell-who-owns-my-mortgage-en-214/>.

Other mortgage lenders and landlords may also provide relief at this time but are not mandated to do so. Everyone seeking forbearance or rent relief should contact their lender or landlord immediately. It will not happen automatically.

Extra Unemployment Compensation: The CARES act expanded eligibility for unemployment assistance, increased the benefit amount and allowed for a longer collection period. It provides an extra benefit of \$600/week on top of the base benefit for four months. It also adds an extra 13 weeks of basic unemployment insurance coverage. Also, there is the Temporary Pandemic Unemployment Assistance program that allows people who are self-employed, free lancers, independent contractors and gig workers to collect unemployment compensation.

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# Family Law *continued from page 15*

Notice of Hearing contains all relevant details, including: (i) that the hearing will be non-evidentiary, and (ii) the date and time that the hearing will be held. The presiding judge will then arrange a Zoom™ web conference for said date and time and will circulate the relevant web link and access code for parties and their attorneys to attend remotely.<sup>1</sup>

## **NON-ESSENTIAL EVIDENTIARY HEARINGS**

Absent extraordinary circumstances, the Family Law Bench will not be conducting evidentiary hearings (remote or otherwise), *other than Uncontested Dissolution of Marriage final hearings*, until after May 29, 2020 or until further court order.

### **I. Uncontested Dissolution of Marriage Proceedings**

The Family Law Bench will continue to conduct Uncontested Dissolution of Marriage final hearings through May 29, 2020 or until further court order. In order to qualify for a remote final hearing, the petitioner must:

- a. Follow all regular procedures in securing a date for final hearing, including, but not limited to, coordinating a date with the pertinent judicial assistant, and ensuring that all uncontested dissolution of marriage filings are complete and on file;
- b. Secure access to electronic communication equipment of whatever kind so as to participate in the final hearing both audibly and visually (the judge must be able to both hear and see the petitioner); and
- c. Have on their person at the time of final hearing some form of appropriate identification so as to attest to their identity for purposes of going under oath.

The final hearing will be arranged by the presiding judge and conducted via Zoom™ at the time and date indicated by the court. The final hearing will commence by the petitioner displaying proper identification to the screen, followed by the judge's administration of the oath. The petitioner will then respond to all pertinent questions by their attorney and/or the judge. An oral ruling will follow.

If documents are needed to conduct the final hearing, such as a proposed final judgment, same should be provided electronically to the pertinent judicial assistant in advance of the final hearing.

### **II. Simplified Dissolution of Marriage Proceedings**

The Family Law Bench will not be conducting Rule 12.105 Simplified Dissolution of Marriage proceedings (remote or otherwise) until after May 29, 2020 or until further order of the court.

### **III. Evidentiary Motion Hearings and Trials**

Absent extraordinary circumstances, the Family Law Bench will not be conducting evidentiary motion hearings or trials (remote or otherwise), until after May 29, 2020 or until further court order.

## **REMOTE TECHNOLOGY**

To varying degrees, the Family Law Bench are familiar with electronic communication technologies such as CourtCall™ (<http://www.courtcall.com>),

CourtScribes™ (<http://www.courtscribes.com>), and Zoom™ (<http://www.zoom.us>).

Although a variety of different technologies might be capable of facilitating remote proceedings, the Family Law Bench has elected Zoom™ to be used by litigants and attorneys appearing before them. Zoom™ is currently free to users, supports a variety of popular personal electronic devices, and enables participants to appear both audibly and visually.

Neither the Family Law Bench, nor its staff purport to be Zoom™ experts. If, after a period of time, the Zoom™ platform appears to be insufficient in addressing the needs of the court's remote proceedings, the Family Law Bench is open to reconsidering other technologies.

For now, litigants and attorneys are encouraged to familiarize themselves with the use of Zoom™ so that they are equipped to attend and participate in remote proceedings.

## **MISCELLANEOUS**

### **I. Family Law Magistrates**

All references to the "Family Law Bench," "judge," or "court" include Collier County Magistrates Amy W. Ellis and Maria Dente.

### **II. Electronic Submission of Proposed Orders and Judgments**

Through May 29, 2020 or until further notice, the Family Law Bench will receive all proposed orders and judgments via email through their respective judicial assistants so as to limit or avoid receiving physical mail.

## **CONCLUSION**

I hope the foregoing is useful to you, your clients, and your practice. Should you have questions regarding this letter, please contact me via email at [mshemkus@naplesfamilylaw.com](mailto:mshemkus@naplesfamilylaw.com). Should situations change, additional letters such as this one may be circulated.

On behalf of the Collier County Bar Association and the Collier County courthouse, who oversaw the publication of this letter, I would like to thank everyone's ongoing patience and grace as we all cope and struggle with unfamiliar territory.

Sincerely,

/s/ **Michael M. Shemkus**

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<sup>1</sup> See "Remote Technology" section



## Tips on conducting depositions during COVID-19

Are you like the many others right now that are scrambling to take depositions and attend court hearings remotely? Welcome to our “new normal,” at least for the time being. I am hoping to help navigate you through these rough waters and help settle the waves of uncertainty that are swirling around you and your office staff during these difficult times.

The judicial system can't come to a complete halt during this time and its participants must learn to work within the constraints of the government orders to limit contact with others. With “stay-at-home” orders in effect, we can still attend proceedings with the help of remote services like [Zoom](#), [Avaya](#), or [GoToMeeting](#). On March 18, 2020, the Florida Supreme Court issued Administrative Order AOSC20-16, (<https://www.floridasupremecourt.org/content/download/632105/7182680/AOSC20-16.pdf>) entitled COVID19 Emergency Procedures for the Administering of Oaths Via Remote Audio-Video Communication Equipment.

With this new order, court reporters (who are notaries) can swear in witnesses via audio/video equipment after viewing an appropriate form of identification. This new procedure makes it possible for everyone to abide by the stay-at-home directive and to also meet discovery deadlines. Sometimes, we just need to think outside the box a little and be flexible in times like these.

Setting up a remote deposition is as easy as calling your local court reporting agency. Once the remote proceeding is agreed to by all parties and scheduled, the court reporting agency will send out invites to all attendees. It is highly recommended to do a test run if you are unfamiliar with the videoconferencing platform. You may even need to install software or hardware before your meeting.

While it isn't always possible, if you can connect your computer to your router by an ethernet cable, you can avoid potential Wi-Fi issues. If you're unable to connect with an ethernet cable, be sure to check your signal strength prior to joining. The stronger the connection, the less likely there will be a disruption.

Without the ability to physically share an exhibit in person, it's important that exhibits are sent ahead of time to all participants (including your court reporter). Exhibits can be “shared” via your videoconferencing screen to all participants. It is suggested to pre-mark your exhibits before the deposition so that everyone can follow along easily.

Be prepared to place a stipulation on the record that the deposition will be conducted remotely by videoconference and the oath will be administered remotely. This can be placed on the record by the court reporter or the attorneys before the proceedings take place. This stipulation may also be placed on the notice to ensure that everyone is aware of the Administrative Order in effect.

One other key thing to remember while attending proceedings via videoconferencing is to speak one at a time and articulately. This will ensure that the court reporter gets an accurate record and that all parties hear you clearly. Videoconferencing depositions can be challenging, but with everyone working together it can go smoothly and efficiently.

Other things to keep in mind before setting up your virtual proceedings are that you'll need to use a device with a built-in webcam or use an external webcam. You can use a computer, iPad, or cell phone. Close as many browser windows and programs as possible, while only keeping open the ones you'll need during the deposition. This will prevent an interruption or lag in your streaming. Be sure to turn off all notifications on the device you are using for the video conference, so your stream isn't interrupted.

If you have speakerphone capability, use that, but be sure to mute the audio within the videoconference program. Remember, videoconferencing is only as good as the weakest link. If one of the parties on the conference is having trouble with their connection, it will be disruptive to all.

Obviously, videoconferencing everyone in remotely for a deposition may not be ideal. It certainly brings its own challenges, but with the situation we find ourselves in today, it is a great way to keep your case on track and provide your client with a good alternative to show them their case is moving forward. If you have any further questions about videoconferencing, contact Naples Court Reporting at (239) 316-7733 or email us at [Scheduling@NaplesCRLS.com](mailto:Scheduling@NaplesCRLS.com). We look forward to scheduling your next virtual deposition soon.

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## Legal Aid Notes *from page 5*

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| Probate                  | Expungement            |
| Bankruptcy               | Tax issues             |

## Board of Governors *from page 9*

tion when Chief Judge McHugh issued a memorandum requiring a No Bond Hold pending First Appearance for certain arrests. The Judge's memorandum reflects the seriousness of a violation of an isolation or quarantine order under Fla. Stat. 381.00315.

As we all continue to employ every effort to serve our clients under new and ever-changing conditions, know that your Bar leadership at both the state and local level is here to help, and provide information and assistance. Please let us know how we can best serve you. Stay well, friends.

## Online ADR *from page 14*

solely "on the papers" if they so desire. More typically, however, the parties exchange pre-arbitration briefs and submissions to the Arbitrator in advance of the hearing, as usual. Then the Arbitration hearing can be conducted on Zoom or other teleconferencing platform as described above. Since Arbitration proceedings are always in joint session, the Arbitrator as the host will not need to deal with the logistics of separating parties into private chat rooms.

While online ADR may not be a perfect substitute for in person communications, it is the next best thing. If you have cases that are ripe for resolution during this litigation hiatus, ask your opposing counsel and your go-to Mediator/Arbitrator to give this a try. It works just fine.

Stay well.

Larry Farese



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## Best Practices *from page 15*

cancelled, mediations have been postponed, or trials have been wiped off the docket, take a deep breath, and dive into your cases. Now is the perfect time to perform case reviews and make sure that you have crossed every “t” and dotted every “i.” Review the various causes of action or charges, and defenses thereto, that are presented in your case. Have you served all of the discovery that you will need in order to prove the asserted claims/charges or defenses? Have you performed all of the research that you identified several months ago, but never quite got around to doing? Have you compiled a timeline of events, complete with references to documents or witness testimony, to aid you at mediation or trial? Chances are that there is actually plenty for you to do and taking a dive into your case load will help you to be more prepared after this crisis has subsided.

### **Best Practice No. 4 – Do Not Be Afraid of Technology**

I will admit, it is ironic that I am touting technology. I do not have a Facebook account, have never used AirPods and still play CD’s in my car. However, in these times I have decided that learning to use technology in my practice is a must. After all, we do not know how long the current circumstances will last, and we cannot put off client meetings, witness interviews, depositions or mediations forever. Many of our local mediators are already offering their services via Adobe Connect, Zoom or other platforms. We should all follow their lead and jump on board. Yes, taking a deposition remotely with a stack of paper exhibits and a tiny camera is not ideal, but with a little bit of planning and organization, it is more than doable, and will help us keep our cases moving forward and our clients happy.

### **Best Practice No. 5 – Keep Your Clients Informed**

As I am sure you know, keeping your clients informed of the status of the representation is required by Florida Rule of Professional Conduct 4-1.4. That said, you would be surprised at the amount of disciplinary actions that result out of violations of this rule. Your clients are likely already anxious about their cases, and the uncertainty caused by the COVID-19 pandemic may exacerbate their anxiety. Keeping your clients informed should keep them content, and hopefully keep you out of trouble with The Florida Bar. When you are performing your case review (see Best Practice No. 3), send your client an e-mail about upcoming deadlines, hearings, etc. and tell them whether COVID-19 has affected the timing of any of these deadlines or events. This is an opportunity to connect with your clients, frame the issues for them and explain how you are planning to move forward despite the present situation. While they may be disappointed if there is a delay or two, at the end of the day your clients will be appreciative of the time and thoughtfulness that you are putting into their case.

### **Best Practice No. 6 – Find Time to Laugh**

In preparation to write this article, I reached out to my fellow litigators at Roetzel to solicit their thoughts on “best practices” during these times. I received a flurry of e-mails with advice ranging from “wear pants during Zoom conferences,” to “do not try to use buttermilk to make a latte,” and “try to brush your teeth before noon and take a shower at least every other day.” Needless to say, the comments weren’t quite what I was looking for. But as the e-mails piled on and became even more ridiculous (and amusing) due to our collective isolation and slap happiness, I realized that my colleagues gave me the perfect answer. We all need to find time to

laugh. Thanks to them I laughed today, and for that I am grateful. If you are finding yourself unable to laugh, and needing help during this difficult time, The Florida Bar is there for you. Please visit the “Resources for Coping with COVID-19” webpage at <https://www.floridabar.org/member/healthandwellnesscenter/resources-for-coping-with-covid-19/>. We cannot be effective advocates for our clients without first taking care of ourselves.

\*\*\*

*Jamie B. Schwingamer, Esquire is a Shareholder and Practice Group Manager for Roetzel & Andress, LPA’s Probate, Trust and Guardianship Litigation Group. Jamie is a member of the Collier County Bar Association Board of Directors (2018-2020), the Collier County Women’s Bar Association Board of Directors (2015-2020) and the Florida Bar Real Property, Probate & Trust Law Section Executive Council (2018-2020). She concentrates her practice in the areas of probate, trust and guardianship litigation, and regularly represents individual and institutional trustees, personal representatives and guardians. For more information about Jamie, please visit Roetzel & Andress, LPA’s website at <https://www.ralaw.com/people/jamie-b-schwingamer>.*

## Dirt Lawyer *from page 19*

cushioned by the government loans and the decisions of some lenders to suspend foreclosure activity, some of our practice will likely be geared toward managing the impact of those hardest hit.

Many owners of both residential and commercial rental properties are being faced with requests for relief from rent payments. Real estate lawyers are becoming involved with lease amendments and lease negotiations to address these issues. Some tenants have closed their business and risk not being able to re-open. Others are confident in their future, but need temporary suspension of rent payments. Real estate lawyers are being brought in on both sides to find some creative solutions for their clients.

And while all of that sounds bleak (what’s new in the Covid-19 world?), we do expect an uptick in loan refinancing. Mortgage rates are remaining low and it appears that the Federal Reserve is committed to keeping interest rates low for the foreseeable future. So for those homeowner who still have an income to support their mortgage, a refinance to achieve a reduced mortgage payment can free up cash. Real estate lawyers are happy to provide the title and closing services for refinances.

Covid-19 is impacting just about every aspect of our lives and we anticipate that it will continue to impact the practice of real estate lawyers well after the “peak” subsides and the treatments are discovered and vaccines put into place. We are an optimistic bunch and hope that the impacts will be short term and lessened by the available assistance, but we make ourselves available to try to preserve the great America dream of home ownership and avoid defaults and vacant buildings. And while we definitely prefer to meet our clients in person, we too shall adjust to the paperless world of electronic commerce and will deliver all solutions to our clients tucked safely away in their homes.



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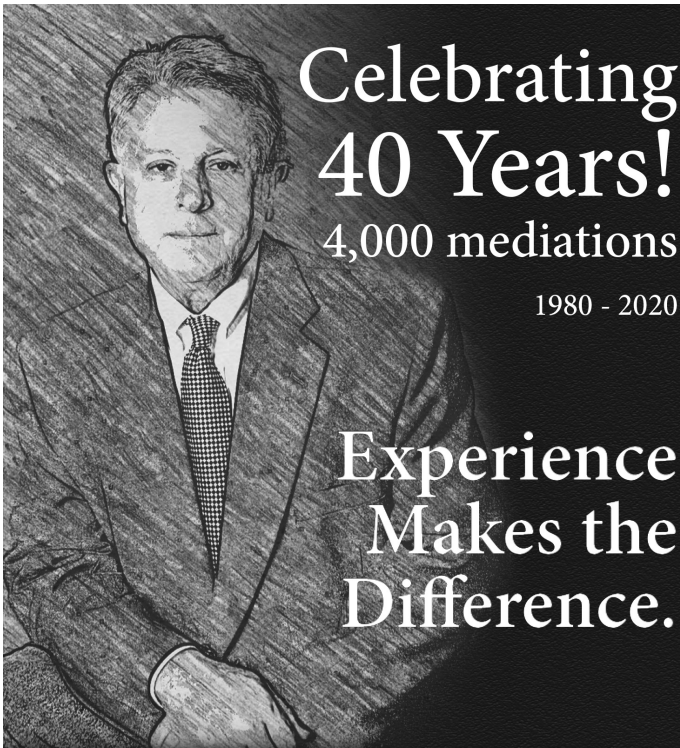
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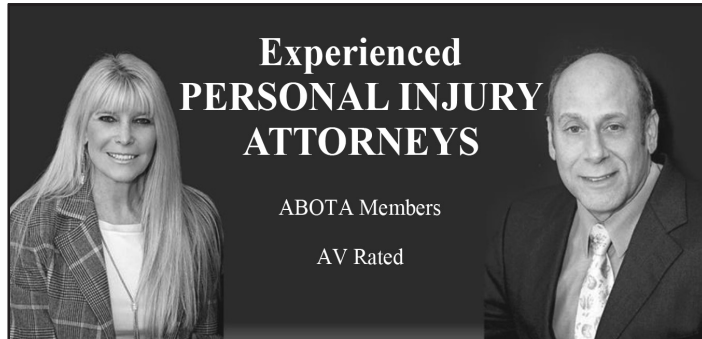
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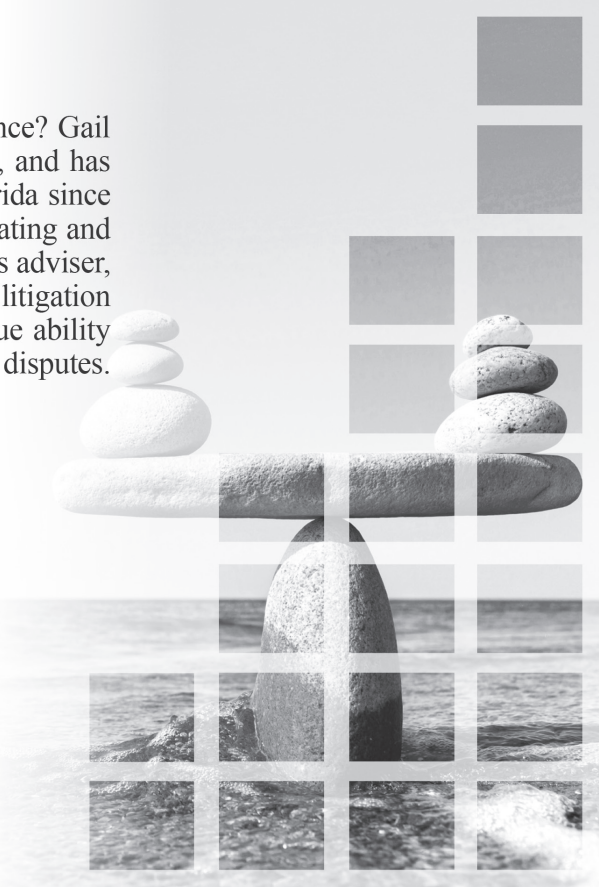
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