

# LIFE, LIBERTY, AND THE LAW



**CULLEN & HEMPHILL** <sup>PLC</sup>  
PERSONAL INJURY ATTORNEYS

**407-254-4901**

## An Insider's Look At The Impact Of COVID-19 On Personal Injury Cases And Claims

By Kim Cullen

Bob and I are spending a lot of time these days speaking to clients and non-clients alike about how COVID-19 - and particularly the recent surge in Florida infections and deaths - is impacting Florida personal injury cases and claims. So we thought we'd share what we've been telling folks on the phone with you - our dear newsletter readers.

As many of you probably already know, the courthouses in most of the counties in Florida have essentially been shut down for months. Other than emergency matters that require personal interaction (of which there are very few), almost all court business is being handled remotely - either by phone or by video conference (Zoom or other technologies).

For us, this has meant a lot of hearings and depositions by Zoom or phone. After having done a number of these events by Zoom or phone by now, I can report to you that technology really cannot beat the "real thing." It is difficult to describe, but not being in the same room with a judge or a witness makes it very difficult to "read" the other human beings involved in the event and adapt an argument or questioning to the mood or vibe in the room. The work is getting done, but it just seems like something (soul?, personality?) is missing from the entire experience and final product.

Importantly, trials are simply not happening right now. All of the trials that Bob and I had scheduled in the spring and summer this year have been already been continued to the spring of 2021. We have several trials scheduled this fall, and - while it is not yet official - the judges' Judicial Assistants are telling us

that it is very unlikely that ANY civil/personal injury cases will be tried in 2020.

The reason for this is that there is a HUGE backlog of criminal cases that need to be tried as soon as possible - for Constitutional reasons (i.e. right to speedy trial, etc.) Whenever trials start happening again in Florida (and nobody knows when that will be), it is anticipated that most, if not all, of the judges in each Circuit will be required to devote almost all of their time to conducting criminal trials until each Circuit's backlog gets under control.

As a result, the word from the lawyer rumor mill is that we should not expect any personal injury trials to actually happen until the summer or fall of 2021.

As many of you will know from experience, one of the factors that helps us settle personal injury cases is the threat of a jury trial, and the deadlines and money pressure that a jury trial necessary generates. Without the threat of a trial, we are finding that the Defendants in several of our litigated cases are showing little or no interest in making reasonable offers to our clients. In the meantime, these cases are just kind of "sitting" waiting for a trial. It is a helpless feeling...

On the other hand, we are finding that insurance companies in our clients' pre-suit personal injury claims seem to still be interested in getting cases resolved, and seem to be offering reasonable compensation. We consider this a positive sign that things will get back to normal once we have this COVID-19 mess under control and behind us. (Fingers crossed...)

In the meantime, we are going to maintain positive attitudes, maintain our social distances, and mask-up!



## Should Nursing Homes Be Held Accountable for COVID-19 Deaths?

By Kim Sprouse

Based upon the best medical evidence they have, scientists continue to believe that sick and elderly people face the highest risk of death or serious illness due to COVID-19. Nevertheless, several states have enacted laws providing protections from lawsuits to healthcare workers, generally. Nine states have passed laws granting wholesale COVID-19 immunity to nursing homes.

Florida lawmakers are currently facing a full-court press from nursing home industry lobbyists looking for immunity for their clients. They say nursing homes should be excused from liability because of the many challenges that COVID-19 has caused. They point to frequently changing standard-of-care guidelines for

COVID, as well as a shortage of employees due to sickness or fear of getting sick. They also point to the obvious fact that their residents are almost all high-risk to begin with.

But let's face it: nursing homes in Florida have had issues for a long time. Patient care has always been challenging for nursing homes. After all, most nursing homes' business model is to spend as little money as possible in exchange for delivering the minimum level of acceptable care.

Even before COVID-19, nursing homes in Florida have frequently been sued for negligence, abuse or neglect, or wrongful death. The people who

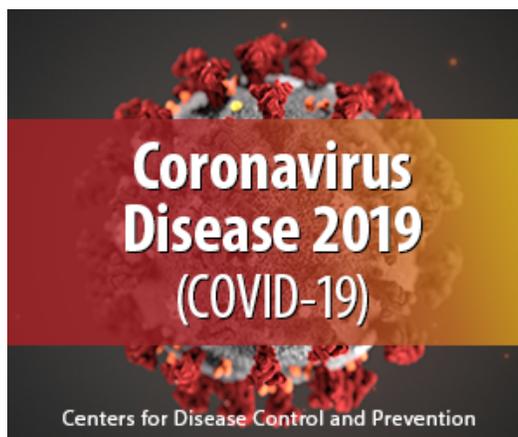
operate nursing homes in Florida have become quite adept at creating complex and confusing corporate structures in an effort to make it difficult, if not impossible, for nursing home victims to receive just compensation.

Families who have loved ones in nursing homes are understandably upset about the idea that nursing homes would receive blanket immunity from COVID-19 claims.

Kim and Bob recently took a phone call from a woman whose 59-year old mother was in a local nursing home recovering from a stroke. The bed next to her in her room at the nursing home was empty, so the nursing home decided to occupy it with a woman that the nursing home knew had tested positive for COVID-19. Before

the woman's daughter realized what was going on with the new roommate, her 59-year old mother had been exposed and tested positive for COVID-19. Three weeks later, and after a hard fight against the disease, the 59-year old mother died from COVID.

We find it difficult to understand why any nursing home should receive immunity from justice for a situation like the one faced by the family above. We think it is already difficult enough to secure justice from nursing homes. The State of Florida doesn't need to make it any harder.



## Three Tips to Ensure a Successful Hurricane Insurance Claim

By: Kim Cullen

At about this time each year, we Floridians begin to ease into hurricane season. While most Floridians fare well each year and have no need to assert a hurricane insurance claim, some people undoubtedly will. We thought we would share a few tips for those who, unfortunately, might be making hurricane claims this year.

**Tip #1:** Make sure you understand the provisions of your hurricane coverage. The Florida Legislature changes the rules on hurricane coverage all the time. It is probably a good idea to take look at the hurricane coverage provisions in your insurance policy, and make sure that your deductible is a number that you understand and feel comfortable with. You want to make sure that in the event there is a claim that you can afford to pay that deductible. You will also want to make sure that you have notified your insurance company of any changes or upgrades you have recently done to your property.

**Tip #2:** Make sure that your important paperwork (deeds, marriage license, birth certificates, etc.) is preserved in a way that you can get to it if disaster strikes. If you want to go "old school" you can physically put important papers in a safety deposit box in a bank vault or some similar place. Alternatively, you could scan all of your important papers and save them in a secure place on "the cloud" or on a USB drive that you can carry with you if you are forced to evacuate. In today's digital world, it is less and less important to have an original version of any document, so scanning makes a lot of sense.

**Tip #3:** Make sure that you have a reliable records of your "stuff". It is very easy these days to simply go through each room of your home with a camera and take pictures or videos of your tangible items (electronics, furniture, family heirlooms, jewelry, etc.), and the inside structure of your home. We recommend you also go around the exterior of your home with a camera, as well. These images or videos need to be saved in a safe place, too.

We will keep our fingers crossed that you never have to make a hurricane claim. If you do, or if you have any questions, please call us.



## Do You Know Anyone Who Can Use Our Help?

By Kim Cullen

One of my mentors early in my career used to say frequently, "**The highest compliment that can be paid to an attorney is a referral from a past client or good friend.**" I have found this statement to be so accurate over the years.

Bob and I have been blessed to have built our law practices largely on the basis of client and former client referrals. Despite the fact that we receive referrals from other lawyers, our internet presence, etc., the vast majority of our work comes from satisfied clients.

As most of you know, the practice of law - and particularly personal injury law - has changed a lot over

the last several years. There seem to be literally dozens of large law firms spending huge amounts of money on television and billboard advertising.

As a result, boutique firms like ours face a real challenge in "getting the word out" about our results and the personalized service we are proud to provide to our clients.

**If you have a friend, family member, or colleague who needs an attorney, or might need an attorney, we would be honored to receive the referral.** Even if it is an area of the law that we do not handle, we will be glad to help them find the perfect attorney for their needs.

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## Free Legal Information - Worth Thousands Of \$\$\$\$

By Kim Cullen

I wanted to remind all of our readers that Cullen & Hemphill offers an extremely valuable legal resource to the public that is 100% free-of-charge. Of course, I am referring to our firm's YouTube channel (<https://www.youtube.com/c/Cullen-hemphill>).

So far this year we have added almost 80 new instructional videos that cover issues that commonly arise in the several different personal injury practice areas we cover. Each of our roughly 200 videos is between 2 and 5 minutes long and contains the benefit of our combined 45 years of legal experience handling thousands of different person injury matters.

If you or anyone you know has a question about a personal injury issue, please check out our videos. If one or more of our videos don't fully provide a solution, please feel free to call us. We love to answer questions.

