

Top 10 Lawsuits Counties Face and How to Avoid Them

FLORIDA ASSOCIATION OF COUNTIES

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1 Personal Injury

- Slip and fall
- Falling Trees
- Premises Liability – defect at County building
- Third Party Crimes

2 Review of Land Use Decisions

- Grant or denial of rezoning
- Variances
- Conditional uses
- Etc.....
 - What is in the record? Court confusion...

3 Vehicular Accidents

- Similar to Personal Injury
- Individual employees may be sued
- Pre-suit notice per 768.28
- Seatbelt defense & comparative negligence defense
- Technology

#4 Employment

- State claims
- Federal claims
- Pre-suit requirements
- Attorneys Fees
- Expensive
- Disruptive

#5 Appeals

- Code Enforcement and Animal Control (Dangerous Dogs)
- Circuit court limited to record
- Pro-se challenges
- Challenges with unusual procedure in Circuit courts with judge and personnel
- Be ready to educate court and personnel

#6 Public Records

- “Gotcha” lawsuits
- Testers
- Bloggers
- Designate custodian – keep records of records produced
- If plaintiff prevails 48 hours to get records

#7 Civil Rights

- Unlimited Damage
- Attorney's Fees recoverable
- Complex cases
- Practice and Policy Required
- Federal Courts tend to be better

#7 Bert Harris Act

- New law, ordinance or regulation
- Inordinately burdens “existing use” of real property
- Permanent impact resulting in damages
- Fees to prevailing party
- Judge trial on liability
- Jury Trial on Damages

#9 Inverse Condemnation and Property Drainage

Government action “takes” property...

- County construction causes unintended flooding of private property with a degree of permanency
- Government action eliminates direct access to property from a road.

#10 Contracts

- Typically no insurance coverage
- Damages are not capped
- Have attorneys reviewed Contract *before* it is presented to Commission?
- Was attorney involved in negotiations?
- New movement for lawyers to take on contingency

Honorable mention

- Ethics complaints
 - Pre-election
 - Employment setting (Whistleblower)

Tip # 1

Social Media and the Information Age

- Especially with a trial
- Information Technology
- Recording devices
- Social media



Example:

Reptile Theory/Trial paralegal trained with IT skills

Tips:

- Be careful not to give them that “sound bite”
- Rebut “snapshots” of truth with the whole picture
- Good policies

Tip # 2

Where did personal responsibility go?

- Reptile tactics
- Pictures
- Videos
- Keep good notes
- Sexual Harassment
- Would you say it in Church?



Tip # 3

You are going to lose cases that you should have won.

Tips:

- Motion for Reconsideration?
- Appeal
- Settlement



Tip # 4 Lawsuits are going to happen

- All we can do is try to avoid them
- Dignity and Respect

Tips:

- Good self-insurance coverage
- This is something you CAN plan for!
- Ask your colleagues in other communities what type of claims are they seeing?
- Involve your County attorney or outside counsel early (Ex. Contract and employment cases)

