



Topic: Punitive damages: An update of recent cases and the strategy to avoid the current intra-district conflict with Fla. Stat. §768.72's pleading standard.

AGENDA/TIME SCHEDULE

DATE: February 23, 2024 11am – 12:15pm

Location: Via Zoom

Timothy (“Tim”) Kenison
GoldLaw

Tim is a former medical malpractice defense attorney who represented hospitals and physicians from 2010 to 2020. Since 2020, he has been prosecuting medical negligence and other complex personal injury claims on behalf of injured parties. A graduate of the University of Florida and the Temple University Beasley School of Law, Tim began his career in 2004 at the Office of the Public Defender for the Fifteenth Judicial Circuit and was eligible for criminal trial board certification before he switched to the civil bar in 2010.

In 2022, the Florida Supreme Court amended Florida Rule of Appellate Procedure 9.130 to allow for review of nonfinal orders granting leave to assert punitive damages. Since then, Florida appellate courts have written opinions that have made the threshold for demonstrating a reasonable evidentiary basis to plead punitive damages in satisfaction of *Fla. Stat. §768.72* more challenging and unclear. This webinar will review *Federal Ins. v. Perlmutter*, 48 Fla. L. Weekly D 2320 (Fla. 4th DCA Dec. 13, 2023) (*en banc*) and the intra-district conflict it created as to the standard for pleading punitive damages in Florida state court. It will also discuss the overlooked advantages to the filing of a diversity action in federal court when punitive damages are potentially viable.

Our presenter, Tim Kenison, will cover the following topics:

11am: Welcome & Intros

11:10am: Review of *Federal Ins. v. Perlmutter*, 48 Fla. L. Weekly D 2320 (Fla. 4th DCA Dec. 13, 2023) (*en banc*) and the intra-district conflict it created with the punitive damages pleading standard

11:40am: Pleading punitive damages in a federal diversity action

- *Cohen v. Office Depot, Inc.*, 184 F. 3d 1292 (11th Cir. 1999) and its progeny
- “Facial plausibility:” what it means and what is required to demonstrate it
- How defense attorneys attempt to conflate the relatively low pleading standard in motions to strike punitive damages claims

11:55am: Subsequent entitlement to net worth discovery in federal court

- The Eleventh Circuit requires a showing of a reasonable evidentiary basis in order to be entitled to net worth discovery
- Defining the evidentiary threshold for entitlement to net worth discovery and how it differs from the recent state court appellate decisions

12:10pm – 12:15pm: Wrap Up & Audience Q&A

**ACCREDITATION REQUESTED FOR GENERAL PRACTITIONERS AS WELL AS CIVIL
TRIAL CERTIFIED ATTORNEYS. THANK YOU.**