



AMERICAN
CONSTITUTION
SOCIETY

NAME OF EVENT: The Florida Supreme Court: A Review of 2023 and a Look Ahead to 2024

DATE | TIME | LOCATION: December 7, 2023 | 12:00 PM - 1:00 PM, Eastern Time | Zoom

BRIEF DESCRIPTION: The panelists will discuss the significant cases decided by, and rule amendments adopted by, the Florida Supreme Court in 2023. The panelists will also discuss what to expect from the Court in 2024.

SPEAKERS' NAMES AND BIOS:

- Peggy Quince, former Chief Justice and Justice of the Supreme Court of Florida
 - Lance Curry, Attorney, Paul Knopf Bigger
 - Rachel Furst, Partner, Maderal Byrne & Furst
 - Benedict "Ben" Kuehne, Attorney, Kuehne Davis Law, P.A.
 - Moderator: Bryan Gowdy, Shareholder, Creed & Gowdy, P.A.
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- Justice Peggy Quince served on the Supreme Court of Florida from 1998 to 2019 and was Chief Justice from 2008 to 2010. She served as a judge on Florida's Second District Court of Appeal from 1994 to 1998. She was the first Black woman to serve as Chief Justice and to be appointed to both the Supreme Court of Florida and a Florida District Court of Appeal. Justice Quince received her undergraduate degree in zoology from Howard University in 1970 and her J.D. from the Catholic University of America in 1975. Justice Quince began her legal career in Washington, D.C. as a hearing officer with the Rental Accommodations Office administering the city's new rent control law, then entered private practice in 1977 in the city of her birth (Norfolk, Virginia), and finally moved to Florida in 1978 and practiced general civil law from 1978 to 1980 in Bradenton, Florida. In February 1980, she moved to the Florida Attorney General's Office, where she stayed for thirteen and half years until her appointment to the bench. In that office, she served for five years as the Tampa Bureau Chief, and she handled numerous appeals in the Second District Court of Appeal, the Florida Supreme Court, the Eleventh Circuit Court of Appeals, and the United States Supreme Court.
 - Lancy Curry handles appeals and complex motions. This past bar year, he was the chair of Florida's Civil Procedure Rules Committee. He also previously chaired the Appellate Court Rules Committee. Many years ago, he clerked for Justice Charles T. Wells at the Supreme Court of Florida.
 - Rachel Furst focuses her work on plaintiffs' representation and has taken a leading role in high-profile class actions and multi-district litigation in Florida. She also represents plaintiffs in individual claims of personal injury, professional malpractice, deceptive consumer practices, and product liability. Rachel graduated magna cum laude from

Princeton University, received her J.D. from the University of Florida with admission to the Order of the Coif, and was a law clerk for the Honorable Ursula Ungaro, United States District Judge for the Southern District of Florida.

- Ben Kuehne is known as the “Iron Lawyer” for his success and accomplishments in complex, protracted trials and appeals, as well as for being an Ironman athlete (140.6 miles of swim, bike, and run). He has made his formidable career in trial and appellate courtrooms throughout the State of Florida and across the nation. While best known as a white-collar criminal defense and civil trial lawyer, he is also one of the premier election law specialists in Florida, having represented Vice President Al Gore and the Gore/Lieberman Recount Committee in the 2000 election recount. He is triple board certified by The Florida Bar in Criminal Trial Practice, Appellate Practice, and Criminal Appellate Law, and by the National Board of Trial Advocacy as a Criminal Trial Advocate.
- Bryan Gowdy is a board-certified appellate lawyer who represents primarily individuals. He has orally argued twice before the U.S. Supreme Court and in four federal appellate courts, as well the Supreme Court of Florida and Florida’s District Courts of Appeal. In 2022 and 2011, he was awarded The Florida Bar President’s Pro Bono Service Award for the Fourth Judicial Circuit. Before law school, Bryan was an active-duty surface warfare officer in the United States Navy.

AGENDA OF PROGRAM (1.0 HOUR OF CLE):

- 12:00 pm – 12:05 pm: Speaker introductions
- 12:05 pm – 12:15 pm: Rachel Furst on civil cases
- 12:15 pm – 12:20 pm: Justice Quince’s comments on the civil cases
- 12:20 pm – 12:30 pm: Lancy Curry on rule amendments
- 12:30 pm – 12:35 pm: Justice Quince’s comments on rule amendments
- 12:35 pm – 12:45 pm: Ben Kuehne on criminal cases
- 12:45 pm – 12:50 pm: Justice Quince’s comments on criminal cases
- 12:50 pm – 1:00 pm: Q&A / Panel discussion on larger themes

READING MATERIALS:

1. Criminal Cases

- a. *Alahad v. State*, 362 So. 3d 190 (Fla. June 1, 2023) (Labarga, J.).
- b. *City of Tallahassee v. Florida Police Benevolent Assn.*, SC21-0651 (Fla. November 30, 2023) (Couriel, J.).
- c. *Cruz v. State*, SC2021-1767 (Fla. July 6, 2023) (Per Curiam).

- d. *Figueroa-Sanabria v. State*, SC2021-1070 (Fla. June 29, 2023) (Couriel, J).
- e. *State v. Manago*, SC2021-1047 (Fla. November 30, 2023) (Couriel, J.).
- f. *Tomlinson v. State*, SC2021-1204 (Fla. August 24, 2023) (Couriel, J).
- g. *Tunidor v. State*, SC2022-1732 (Fla. April 13, 2023) (Per Curiam).
- h. *In re: Amendments to Florida Rules of Criminal Procedure – 2023 Legislation*, SC2023-1420 (Fla. November 22, 2023).

Pending Review Granted Cases:

- a. *Oquendo v. State*, SC2023-0807.
- b. *Pryor v. State*, SC2023-0593.
- c. *Parrish v. State*, SC2022-1457.

2. Civil Cases

- a. *Coates v. R.J. Reynolds Tobacco Co.*, 2023 WL 106899 (Fla. Jan. 5, 2023)
- b. *Coates v. R.J. Reynolds Tobacco Co.*, 365 So. 3d 353 (Fla. 2023)
- c. *Parrish v. State Farm Florida Ins. Co.*, 356 So. 3d 771 (Fla. 2023) (Couriel, J.)
- d. *Fried v. State*, 355 So. 3d 899 (Fla. 2023)
- e. *Ellison v. Willoughby*, 48 Fla. L. Weekly S213 (Fla. Nov. 2, 2023) (Muniz, J.)
- f. *Univ. of Florida Bd. of Trustees v. Carmody*, 48 Fla. L. Weekly S150 (Fla. July 6, 2023) (Couriel, J.)
- g. *In re Amend. To Fla. Rule of App. Proc.*, 2023 WL 4359489 (Fla. July 6, 2023)
- h. *Tsuji v. Fleet*, 366 So. 3d 1020 (Fla. 2023) (Couriel, J.)

3. Rule Amendments

I. Workgroup Referrals

- Workgroup on Improved Resolution of Civil Case
 - (part Judicial Management Council)
 - Recommended widespread changes – 30 plus rules
 - Moving more to federal type system
 - Focused on expediency
- 70+ comments raising objections/concerns
 - CPRC comment
 - OA in December 2022 – trainwreck – COVID efforts have worked
 - Chief Justice Muniz asked how long it would take?
- Careful what you ask for. Declined to adopt WG’s proposals.
- 01/12: Asked CPRC to propose amends to 5 rules by July 3

- July 3 – submitted report providing two tracks (recommending Track A)
 - Track A: based on current case management requirements (COVID AO)
 - Track B: Refinement of the WG’s proposal for differentiate CM
- Both tracks have same 1.440 and 1.460; similar 1.280; Big difference 1.200
- SC2023-0962 – Comments due by Dec. 1; CPRC response due Dec. 22

II. Other Recent Changes:

- Lots of **Sua Sponte** activity from the Court
 - 1.280(h) – Apex Doctrine – effective immediately
 - recently rejected CPRC’s comment
 - 1.530(a) – Motion for New Trial and Rehearing
 - Preservation issue – challenge to sufficiency of the “findings” in final judgment
 - April 27, 2023: After comments—Ct revises rule to eliminate “final judgment”; OPINION says rule applies to “all orders”; effective immediately
 - Problem because a 1.530 motion for rehearing only applies to final orders/judgments.
 - CPRC and ACRC moved for rehearing
 - Third DCA (*Send Enterprises, LLC*) recognizes problem
 - Oct. 19, 2023 – Ct revised rule again without mentioning CPRC/ACRC’s motions
 - Also sua sponte rule changes for appellate rules and RGPJA
 - Rule 9.130 – July 6, 2023 – immediate appeal of MTD on basis of qualifications of a corroborating expert witness under Med Mal presuit statutes. (SC2023-0701)
 - Effective immediately, but 75 days for comments
 - Labarga dissent – change of this magnitude should be referred to appropriate committee *prior to* adoption
 - Rule 2.420 – Oct 19, 2023 – when judgment of acquittal rendered, court clerk must automatically keep the related court record confidential
 - Effective immediately; still in comment period