

PREFACE TO THE 2025-2026 EDITION

This work, consisting of 31 chapters, gives the reader a comprehensive treatise on what I consider to be the basic and fundamental areas of Florida law relating to personal injury and wrongful death actions. Obviously, I would have preferred to include many more chapters on other topics relating to this area of the law, but such an undertaking would have spanned many more years of work and effort on my part and encompassed an enormous amount of material that space constraints would not allow to be included in this book.

The first part of the book deals with the general principles of negligence that form the basis for any personal injury action. The book also deals with more specific principles of liability in separate chapters. For example, strict liability, joint and several liability, government tort liability, premises liability, medical malpractice, products liability, and liability for punitive damages are some of the topics that are extensively discussed in separate chapters. A separate part of the book is devoted to wrongful death actions primarily because there is little written on this subject in Florida and because it has grown into a more specialized field of practice over recent years. Eight chapters are devoted to wrongful death actions. The other parts of the book contain chapters dealing with burden of proof, discovery, attorney-client relations and post-trial motions.

This book is written for attorneys who specialize in personal injury and wrongful death cases, the general practitioner who handles these types of cases once in a while, judges assigned to hear these cases, and law professors and students. The book contains extensive citation of authority for each principle discussed in each chapter, and I sincerely hope that it will prove to be a valuable and useful research tool for the user.

In 2024, the Florida Supreme Court amended several of the rules found in the Florida Rules of Civil Procedure. Rule 1.280, among others, was substantially amended. Therefore, a lot of my time was spent discussing those amendments in the book where appropriate. I also spent a lot of time rewriting and revising Chapter 25, entitled “Discovery”. The remainder of my time was spent researching many new cases rendered by the Florida courts. I have included in this edition those decisions that I believe add to the substantive discussion in each chapter. The research is current through June 5, 2025. Some of the new materials include:

- Chapter 25 has been rewritten and substantially revised to discuss the amendments to the Florida Rules of Civil Procedure that became effective on January 1, 2025. Many of the changes incorporate provisions of the Federal Rules of Civil Procedure and are intended to streamline and make more efficient the handling of civil litigation in the Florida courts.
- § 25:2 is a new section. It discusses the initial disclosure requirements incorporated into rule 1.280 that litigants must comply with. These provisions are intended to make initial discovery automatically available without a request or demand.
- § 25:3 discusses the scope of discovery and includes a discussion of the new proportionality requirement. This requirement is new to Florida law and essentially comes from provisions in the Federal rules.
- § 25:5 is a new section. It discusses the rules governing the discovery of electronically stored information. So much of the information relevant to civil litigation is electronically stored and special rules are needed to govern the discovery of this kind of information.
- § 25:12 is a new section. It discusses the rules relating to requests for admissions. Requests for admissions are widely used in all types of civil litigation and are an economical way of obtaining discoverable material without a court order.
- § 25:15(D) is a new section. It discusses the law relating to privilege logs. Litigants must be very mindful of the law relating to privilege logs because, in many instances, this is how privilege is first raised. Some courts hold that unless a privilege log is properly filed, the right to raise privilege as a defense may be waived.
- § 12:4(D) discusses compensation under the Florida Birth-Related Neurological Injury Compensation Plan. This section has been rewritten and revised to incorporate recent changes to the law relating to this subject.
- § 26:6 has been revised to discuss more recent cases dealing with the issue of whether the standard jury instruction 301.11(a), regarding adverse inferences, should be given in spoliation cases.
- § 28:8 discusses Fla. R. Civ. P 1.510 governing summary judgments. This section explains whether a hearing is mandatory to resolve motions for summary judgments.
- Several hundred new citations of authority.

I want to express my sincere appreciation to those who have taken time to provide constructive suggestions for additions to this book and to those who have pointed out errors that need to be corrected. Their efforts have undoubtedly assisted me in improving this book and I hope that they and others will do so in

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the future.

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