

CRIMINAL LAW IN THE CIVIL LITIGATION REALM

With increasing frequency, our firm is being contacted by civil practitioners who have criminal law issues arise in their cases. Sometimes, they are quick to recognize these matters and sometimes they are not. However, the criminal law issues must be handled expeditiously and often times discreetly. The proper handling of the issues can potentially save a client from losing a substantial amount of money or from being unable to recover money awarded in a judgment or from being prosecuted criminally.

The most common areas in which we are seeing these matters arise are in the corporate realm, business disputes, and family law. As the economy has declined, corporations are taking a closer look at their books and finding instances of employee misconduct. It is important to be able to track where money has been moved in advance of terminating and prosecuting employees.

In business disputes, this year we have observed a multitude of investment scams that are in violation of both Florida and federal laws. Unless these matters are handled properly from either the plaintiff or defense sides, there can be adverse consequences. From the plaintiff side, if the civil litigator does not recognize the criminal elements and proceeds civilly, often times, there is nothing to win for their clients, but a worthless judgment. However, early intervention at the criminal law level can often times track assets that might otherwise be laundered outside the country. Likewise, law enforcement and the prosecuting agencies are much less likely to get involved once civil litigation is underway. They will often consent to civil litigation after a criminal investigation and/ or charges are commenced. The dearth of law enforcement resources often leaves investigation up to the lawyer for presentation to law enforcement. From a defense standpoint, if criminal accusations are made up front, there is often much that can be done proactively for the client to prevent criminal charges from being filed. However, this needs to be addressed before the resolution to a civil case.

In family law cases, we are seeing increasing issues related to unlawfully obtaining evidence, unlawful interception of verbal and electronic communications, and criminal tax evasion. These matters can be problematic for the attorneys handling the underlying legal matter as well. Accordingly, astute practitioners are bringing in criminal counsel to handle these issues.

As such, a civil litigator could potentially put a client's case or

liberty in danger if potential criminal issues arise and expert advice about the criminal ramifications is not sought immediately. You are always free to contact our firm for consultation on such matters at 954-765-1900. ¹



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