CIVIL JURY DIVISION GUIDELINES REGARDING POST-ACCIDENT SURVEILLANCE VIDEO

It is well-established that upon receipt of a proper request to produce or interrogatories under Rule 1.280 of the Florida Rules of Civil Procedure, the existence of post-accident surveillance video ***must be disclosed*** whether or not it will be used at trial. *Dodson v. Percell*, 390 So.2d 704, 707-08; *see also Huet v. Trump*, 912 So.2d 336, 338 (Fla. 5th DCA 2005) and *Hunt v. Lightfoot*, 239 So.3d 175, 177-78 (Fla. 1st DCA 2018) (emphasis added).

It is also well-established that although the ***existence*** of the surveillance must be disclosed upon request whether or not it will be used at trial, the ***content*** of the surveillance is discoverable only if it will be used at trial for substantive, corroborative, or impeachment purposes. Thus, the contents of post-accident surveillance video not intended to be presented at trial are considered attorney work product and subject to protection, not discoverable unless a showing of extraordinary circumstances can be made. See *Dodson*, 390 So.2d at 707-08; *Huet*, 912 So.2d at 340-41; and *Hunt*, 239 So.3d at 177-78.

The type of post-accident surveillance video at issue in *Dodson* of a purportedly injured plaintiff taken after the accident occurred characterized by the Florida Supreme Court as work product should be distinguished from a static, permanent store security surveillance video of the accident itself which is generally considered non-work product, discoverable under the Rules of Civil Procedure, which are designed to "prevent the use of surprise, trickery, bluff and legal gymnastics." *Target Corporation v. Vogel*, 41 So.3d 962, 963 (Fla. 4th DCA 2010) *quoting Surf Drugs v. Vermette*, 236 So.2d 108, 111 (Fla. 1970).

The Florida Supreme Court in *Dodson* held that judges have discretion to order the depositions of parties to be conducted before requiring production of post-accident surveillance video that is going to be used at trial. **Dodson**, 390 So.2d at 708. Post-*Dodson*, a bright line rule has been established that such surveillance video need not be produced until the surveilling party has had the opportunity to depose the subject of the video. *Hankerson v. Wiley*, 154 So.3d 511 (Fla. 4th DCA 2015).

Generally, post-accident surveillance video that is going to be used at trial is subject to discovery and may not be used as a last-minute surprise at trial. Therefore, late or surprise disclosures of such surveillance videos are discouraged and disfavored as such tactics frequently lead to, at best, otherwise unnecessary and inefficient extensions of the Court's existing pretrial deadlines or at worst trial continuances resulting in the Court failing to manage a case to its presumptively reasonable time period for the completion of cases in the trial courts of this state. See Rules 2.250 and 2.545, Fla. R. Gen. Prac. & Jud. Admin.