

Trial Law TIPS

Roy D. Wasson's
TIP #65

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Florida State Courts Need Not Follow Holdings of Federal District and Circuit Courts, Even on Matters of Federal Law

Introduction

A common complaint among trial lawyers is that state court judges feel compelled to follow holdings of federal courts on important issues. This is a problem because federal courts often are viewed as less consumer-friendly than state courts. In light of the frequency with which defendants remove cases to federal court, and in light of the propensity of federal district courts to issue published opinions on dismissal orders and summary judgments, the chances are good that there is an adverse decision on a key issue that the defense is ready to cite as authority against you.

The chances that a state court judge will feel compelled to follow a federal decision are even greater where the subject matter of the

decision is an issue of federal law, such as a ruling on the constitutionality of a statute. One current issue of importance to trial lawyers, on which there is a negative decision by a federal court and no Florida appellate decisions (at the time of this TIP), is the issue of whether the Florida dangerous instrumentality doctrine is preempted by the federal Graves Amendment in cases against rental car companies. *Garcia v. Vanguard Car Rental U.S.A., Inc.*, 2007 U.S. Dist. LEXIS 15335 (M.D. Fla. Mar. 5, 2007). Judge Hodges of the Middle District issued a lengthy opinion in *Garcia* finding that the Graves Amendment preempts Florida law (specifically, '324.021(9)(b)) and that it is not unconstitutional. Our state judges need to be educated that Judge Hodges' opinion is not binding on them.

Federal District and Circuit Court of Appeal Decisions Not Binding

The law is clear that Florida's trial court judges have no obligation to follow the holdings of federal district court judges, or, for that matter, federal circuit courts of appeal. "The only federal decisions binding upon the courts of our state are those of the United States Supreme Court." *Board of County Comm'rs v. Dexterhouse*, 348 So. 2d 916, 918 (Fla. 2d DCA 1977).

The leading case on this question is the Florida Supreme Court's decision in *State v. Dwyer*, 332 So. 2d 333 (Fla. 1976), involving the question of whether a Florida statute was constitutional. The Florida circuit court judge who was assigned to the case felt compelled to follow a decision by the federal Fifth Circuit Court of Appeals holding the statute unconstitutional. The Florida Supreme Court reversed, holding that the Florida trial judge need not have, and should not have, followed the federal decision on that issue:

Even though lower federal court rulings may be in some instances persuasive, such rulings are not binding on state courts. In *Brown v. Jacksonville*, 236 So.2d 141 (1st D.C.A.Fla.1970), the constitutionality of the vagrancy ordinance was at issue, and the Circuit Court exercising its appellate jurisdiction over a municipal court ruling stated: "***A decision of a Federal District Court***, while persuasive if well-

reasoned, *is not by any means binding on the courts of the state*. The Supreme Court of Florida is the apex of the judicial system of the State of Florida, and its decisions are binding upon this court."

Id. at 334 (emphasis added).

Nor must a state court judge follow the federal Eleventh Circuit Court of Appeals, or another circuit, even on a matter of federal law. As recently as 2005, in a case involving interpretation of the Federal Arbitration Act, the Florida Supreme Court held: "We agree that decision of the federal circuit courts are persuasive precedent on this issue, but they are not binding." *Raymond James Financial Services, Inc. v. Saldukas*, 896 So. 2d 707, 710 (Fla. 2005). Only decisions of the Florida Supreme Court and the United States Court of Appeals are binding on our district courts of appeal. Only state appellate decisions and those from the U.S. Supreme Court are binding on our trial judges.

Conclusion

Do not let the defense buffalo the trial court into thinking that a federal court decision on an important issue is binding precedent. After educating the judge that he or she need not follow a federal case against your position, start arguing that the trial court should not consider it as even persuasive authority. And above all, if at first you don't succeed,

Keep Tryin!

Roy