

OPEN NINTH: CONVERSATIONS BEYOND THE COURTROOM

SIXTH DISTRICT COURT OF APPEAL

LOCATION, LOGISTICS, AND LAUNCH

FEATURING JUDGE MEREDITH L. SASSO

EPISODE 164

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HOSTED BY: LISA T. MUNYON

(Music)

NARRATOR: Welcome to another episode of “Open Ninth: Conversations Beyond the Courtroom” in the Ninth Judicial Circuit Court of Florida.

And now, here’s your host, Chief Judge Lisa Munyon.

CHIEF JUDGE MUNYON: Hello, and welcome to Open Ninth. Today we’ll be discussing the newest edition to Florida’s Courts, the Sixth District Court of Appeal. As the first new appellate court since the creation of the Fifth District Court of Appeal in 1979, the Sixth DCA will be composed of three circuits, the Ninth, Tenth and Twentieth. Five judges from the Fifth DCA will also be joining the new appellate court, including today’s guest, Judge Meredith Sasso. Judge Sasso is anticipated to be the incoming Chief Judge of the new Sixth DCA. And was appointed by then Chief Justice Charles Canady as the interim Chief Administrative Officer to lead the creation of this new court. I’m thrilled to have you in the studio today, Judge Sasso. Thanks for joining me.

JUDGE SASSO: Thank you. It’s a pleasure to be here.

CHIEF JUDGE MUNYON: So tell me about the creation of the Sixth DCA. Did the Supreme Court wake up one morning and say I want a new appellate court?

JUDGE SASSO: Not quite. So actually, a constitutional process was initiated. The constitution provides that at various intervals, the Supreme Court can assess the need for an additional district or realignment of a district or additional circuits. So that process was initiated by Chief Justice Canady via administrative order and basically what he did was he put a work group together to assess based on various factors that are delineated by rule whether or not there was a need for an additional district court.

CHIEF JUDGE MUNYON: All right. And that work group recommended an additional district court, correct?

JUDGE SASSO: It did. So the work group evaluated several criteria, took a lot of data. Data on case clearance, case filings. Took some qualitative data on public, trust and confidence, those sort of factors that you can't really quantify with numbers. And based on their assessment of that data, the majority of the committee concluded that there was a need.

CHIEF JUDGE MUNYON: All right. And then the Supreme Court I believe votes on that report whether to make those recommendations to the legislature?

JUDGE SASSO: Correct. So the report was then sent to the Supreme Court as a recommendation. And one interesting aspect of that process is that the Supreme Court's consideration is a little broader than the work groups. The work group was solely to assess whether or not there was a need. The Supreme Court by rule can consider whether it would benefit the court system, kind of broader – a broader consideration than solely a need. And so the Supreme Court took that recommendation and ultimately in an opinion adopted the recommendation of the work group.

CHIEF JUDGE MUNYON: All right, and it was by a majority vote of five to two, I think.

JUDGE SASSO: Five to two. And I think there was a concurring end result so even difference of opinions within the Justices on the Supreme Court, but again the majority adopted the work group recommendation almost to a T.

CHIEF JUDGE MUNYON: And it goes from the Supreme Court to the legislature who would have to enact legislation to make it happen.

The legislature looked at several different models I think when they were making the recommendation, and what did they finally settle on?

JUDGE SASSO: They did. So the legislature gets to make its own independent determination. It's not required of course to accept the Supreme Court's determination on whether there's a need. So the Supreme Court – the legislature looked at the Supreme Court's recommendation and the map proposed by the work group. The work group report had several different iterations of the map, but ultimately the legislature accepted the map that had six districts, although there was a discussion in the work group as to whether seven districts might be needed. And accepted the map that created a Sixth District that was Lakeland based and that district which is the one that we'll be going to draws from the Ninth, the Twentieth, and the Tenth Circuits.

CHIEF JUDGE MUNYON: And once the legislature passed the proposed statutes, it does it in there, then the Governor gets to weigh in I believe.

JUDGE SASSO: Correct. So it's the final steps, so this took the agreement of three branches of government. Ultimately, the Governor did sign the legislation. The Governor did veto though the funding for the Sixth District courthouse, so it was kind of an interesting process at each branch evaluation. Each branch can kind of agree that there was this need and that it would benefit the state of Florida to have a Sixth District, but there wasn't an agreement on exactly how that would happen.

CHIEF JUDGE MUNYON: I have had lawyers and others ask me, so how does this work? You approve a Sixth DCA but you veto its courthouse. Obviously, even if the courthouse had been approved last year, it's a multi-year process to –

JUDGE SASSO: It's a multi – yes, exactly –

CHIEF JUDGE MUNYON: To build a big structure, big government structure.

JUDGE SASSO: It is. And currently the Second DCA is building a courthouse so had the Governor approved the funding for the Sixth DCA courthouse, we'd be working on two at once. Luckily, especially post-COVID, with the increase in technology that we've had and peoples' comfort level with technology, we're exploring hybrid work environments. We're going to take kind of a hodge podge approach to our actual building and the structures that we use and then attorneys have become very comfortable with ZOOM. So although the funding for the courthouse was vetoed, I don't think it's going to slow down our operations at all.

CHIEF JUDGE MUNYON: And because the funding was vetoed, it gives you an opportunity to think outside the box about what is really needed for this circuit that's going to stand from Naples to Orlando.

JUDGE SASSO: Right.

CHIEF JUDGE MUNYON: That's a large chunk of geography.

JUDGE SASSO: It is. It gives us several opportunities. I mean, there's symbolism in the idea that you rent in a new area that you move to before you buy so you can really get to know the neighborhood. And here what we'll be doing is because we're – the Sixth District is going to encompass geographic areas that some of the judges are unfamiliar with. We're going to try to take the law day model to our oral arguments, kind of travel around the state, have oral arguments in different areas and really get to know the community. And then from there kind of assess how the hybrid work environment is going and see what we really need so we can be judicious with the taxpayers money when we ultimately build.

CHIEF JUDGE MUNYON: That sounds like a great plan, and it also allows you – where will your new headquarters be? You will be renting, I would imagine for a number of years.

JUDGE SASSO: Correct. So headquarters is statutory and that's Lakeland. And our plan right now is to take over the lease that the Second DCA which is operating out of Lakeland uses, and that building is sufficient to house kind of operational staff, so a Marshal's office, clerk's office. It's not – it does not have a courtroom, and it doesn't have enough office space to house all the new judges and the, you know, the staff attorneys, that sort of thing. So we'll maintain that building. We're looking at office space somewhere in Orlando for the Orlando-based judges. Judges who work outside of Orlando can designate home offices and then we're looking at likely working with Florida Southern to have kind of a home base for oral arguments.

CHIEF JUDGE MUNYON: Well, it certainly sounds like it would save the taxpayers some money if they didn't have to pay travel expenses for judges that are going from Orlando to Lakeland all the time.

JUDGE SASSO: Yes, I think there's definitely a cost savings. And the other aspect of the legislation is that the legislature put into the legislation creating the Sixth that it would like us to kind of use technology in innovative ways. So we're really intentionally thinking about how we can use technology for our benefit.

CHIEF JUDGE MUNYON: So you have been named Chief Administrative Officer, interim Administrative Officer of this new DCA –

JUDGE SASSO: Yes, it's a mouthful.

CHIEF JUDGE MUNYON: So what does that entail? You are creating a new court from scratch and that has not been done in 40 years.

JUDGE SASSO: It has been very interesting. So there's kind of some easy answer to that which is that we also have a work group that is steering the implementation of this new district across the state. And that work group is composed of some of the most conscientious judges, OSCA members, clerks, Marshals that we have in the state. And so we really are just from a big picture perspective trying to draw on the wisdom from people who have experienced this before in either building courthouses or in transferring cases as we just did from county to when the appellate jurisdiction changed from the county to circuit, to county to appellate courts. So we've had the case transfer process. So it's kind of an all hands on deck approach. And then in terms of setting up the Sixth, we have six judges who are going over there and luckily, we have a very experienced Marshal who's coming over with us. And I can tell you having an experienced Marshal is invaluable to this process of setting up a court. So –

CHIEF JUDGE MUNYON: The DCA Marshal is sort of like the trial court administrator for the trial courts.

JUDGE SASSO: Yes. Yeah, you can think of it as a chief operations officer, you know, there's – to me, the Marshal is – just runs the place.

CHIEF JUDGE MUNYON: He does everything from your safety to the physical plan, the building and your technology, and he just –

JUDGE SASSO: To making sure we have enough sticky notes and pens, yeah, it's a big job.

CHIEF JUDGE MUNYON: And the present Marshal from the Fifth, Charlie Crawford, is being hijacked and going over to the Sixth.

JUDGE SASSO: Yes, we are extremely grateful to our colleagues who are staying in the Fifth that they have not held that against us because I cannot imagine going through this process without Charlie's steady leadership so it's been a very, very big blessing to have him.

CHIEF JUDGE MUNYON: So what has been the most challenging part of being the interim Administrative Officer? I mean, I'm sure there were new challenges that you did not anticipate when you said yes to this request.

JUDGE SASSO: Yeah. So I think certainly what's weighing heavily on me right now is hiring and ensuring that we're fully staffed by January 1st. We're going to be a very lean court. We're going to be the smallest district court in the state and –

CHIEF JUDGE MUNYON: How many judges will you have?

JUDGE SASSO: We'll have nine judges total after the appointment, so six are coming over and then three additional will be appointed. And Florida Courts evaluate workload among judges on what this equation that's called weighted workload. And so our court will have the smallest number of judges and the highest weighted workload in the state, and we think it's definitely doable. But it's going to be, you know, needs to be a very well-oiled machine and so I do think it's important to get all the attorneys we need, all the support staff that we need and I think hiring is a challenge just across the spectrum right now.

CHIEF JUDGE MUNYON: And I think one thing that lawyers and perhaps our citizens don't appreciate is that we are very constrained with regard to the amount that we can offer new hires, especially new staff attorneys. Are you finding that difficulty when you're trying to hire new people?

JUDGE SASSO: And I think salaries are certainly a challenge. We're trying to kind of emphasize the benefits that come along with experience. I think you know working in a court system, especially for attorneys, in general is a great way to start a career. But I think there's a particular benefit to being able to be an attorney on a new court that's just getting off the ground. I mean, it's an historic opportunity so we're trying to emphasize you know that there may be this kind of salary deficit when you look at the job just on numbers but especially when you consider kind of tangible benefits in terms of state benefits, and then this intangible benefit of getting to be a part of this exciting project. We're hoping that that can be a compelling benefit that some people see.

CHIEF JUDGE MUNYON: And there's also some prestige that comes with working for an appellate court. And I would hope that you're able to capitalize on that as well.

JUDGE SASSO: I think so. Yeah, I've gotten a lot of great feedback from the clerks that I've had that have moved on just about how invaluable the experience has been to them in their practice. I know for me, I think I would have been an excellent attorney, now having been behind the scenes for a while. So yeah, I think that's there's just some benefits you can't get outside the court system.

CHIEF JUDGE MUNYON: Have you hired your clerk of the Sixth DCA yet?

JUDGE SASSO: We have. We're very excited about her. Her name is Stacey Pectol and she's moved down from Arkansas. She was the clerk of the Supreme Court there and their district courts. So because they have a smaller court system, she was the clerk over their intermediate and ultimate supreme court. And so she – she has the management experience, the

administrative experience. She has some wisdom from seeing a different system and from seeing our system just fresh so we're very excited to have her on board.

CHIEF JUDGE MUNYON: And I would imagine that some of the clerks that worked in the Second DCA may have been less excited about moving to St. Petersburg and might have elected to stay in Lakeland.

JUDGE SASSO: I think that's true. We actually, with the exception of the deputy clerk, so the number two position, everybody decided to stay. And I don't think that was the case at the beginning. I think you know in any time a court is split up there's some trepidation about who are these new guys coming in, you know –

CHIEF JUDGE MUNYON: And what are they going to do to us.

JUDGE SASSO: Right, exactly. But Lakeland is a great place and I think a lot of them were based in Lakeland and decided to stay. So that's another really wonderful aspect about this transition is that we almost have a fully staffed clerk's office except for the deputy clerk position.

CHIEF JUDGE MUNYON: Wow. That will be huge I think in moving forward.

JUDGE SASSO: Absolutely.

CHIEF JUDGE MUNYON: So how is this court going to get its cases? What will its initial caseload look like?

JUDGE SASSO: That's an interesting question. So across the DCAs, there's a mixed panel so to speak, so the Fifth District and the Second District will be sending cases to the Sixth District. And that is going to happen by virtue of an administrative order, which we anticipate will come out at some point, but we've provided a recommendation, the work group has

provided a recommendation on how that case transfer process will happen. But we'll be getting some cases that have already been filed in the Fifth and the Second. And then we'll of course have new filings coming out of the circuits, which fall within the Sixth DCA's territorial jurisdiction.

CHIEF JUDGE MUNYON: And I won't ask you the million dollar question that all of the trial judges have, and I'm sure all the practitioners have, we don't have any precedence from the Sixth DCA, so all of us are wondering so should I follow the Fifth, or should I follow the Second or do I get to place my own path if they conflict with one another? It's going to be an interesting new world.

JUDGE SASSO: Yeah, it is and I've been asked that question a lot in public forums, and my answer is always, it is an open question.

CHIEF JUDGE MUNYON: Wait and see.

JUDGE SASSO: Yes.

CHIEF JUDGE MUNYON: So I know that five judges are coming from the Fifth DCA, one judge is coming from the Second and there are going to be three new appointments.

JUDGE SASSO: Yes.

CHIEF JUDGE MUNYON: And that process has already started. Can you describe that process for our listeners?

JUDGE SASSO: Sure. So the legislation that created the Sixth DCA also addressed the nomination process and how that works in Florida for the appellate courts, it's called the Missouri Process. So what happens is a nominating commission nominates a slate of nominees to

the Governor and then the Governor is constrained to pick from the list. He cannot send the list back. If there's less than the maximum amount of nominees, the Governor has in the past – not this Governor but Governors in the past have asked for more names. But there is a misconception that the Governor can send the list back and say, nope, try again, I don't like these people. And so the legislation basically wiped the slate clean on the nominating committees and the Governor recently appointed new commissioners to those committees. There's another nuisance there. Some of the commissioners on the commission are called direct appointments by the Governor. So the Governor can essentially select anybody he wants to serve as a commissioner and then some of the commissioners, the Governor must select from a list provided by the Florida Bar. So the Florida Bar has a process whereby they have nominations for who can serve as a Florida Bar Commissioner. Those names are sent to the Governor and then the Governor selects from that list. So the Sixth District Court of Appeal judicial nominating commission was put together. They called for applications. I think there was somewhere in the low thirties.

CHIEF JUDGE MUNYON: That applied.

JUDGE SASSO: That applied for the spots, for the three spots. And they just recently conducted interviews I think this last – this past week, Thursday and Friday this past week they conducted an interview of everybody who applied. And from those applicants, they selected 18, which is the maximum amount that they are allowed to nominate. That list is now with the Governor and the Governor can select three from that list.

CHIEF JUDGE MUNYON: And the Governor has sixty days from when he gets the nominations to make his selections.

JUDGE SASSO: Correct.

CHIEF JUDGE MUNYON: So that will put it toward the end of December.

JUDGE SASSO: It will, yes. And we are excited to have them.

CHIEF JUDGE MUNYON: I hope he doesn't wait until the end of December to do it.

Just from a, you know, a personal point of view, if he selects any of the judges in my court, it's going to affect my rotations.

JUDGE SASSO: Exactly. There's a lot of winding down that happens after a judicial appointment is made so the sooner the better in my view.

CHIEF JUDGE MUNYON: And yeah, then they can get ramping up to take on the new duties that they would have to take on in January.

JUDGE SASSO: Um-hum, because we plan on hitting the ground running.

CHIEF JUDGE MUNYON: Well, that's – that is exciting. So is there anything that lawyers or judges should know about any new procedures that will be in place at the Sixth DCA or that will help – any practice tips that will help them?

JUDGE SASSO: Yeah, I think just be on the lookout for our internal operating procedures. Another aspect of this project is that we don't have to do things just because that's the way they've always been done, so we're looking at every internal operating procedure, every kind of standing administrative order fresh to see what we want to adopt and what we want to tweak a little bit. And so we are in the process of working through the internal operating procedures and we'll have that posted and we'll also have administrative orders on you know motions for extension of time, for example, posted on the Sixth DCA website before January 1st. So my suggestion would just be to keep checking in on the website to see what the latest is.

CHIEF JUDGE MUNYON: Even though the Sixth DCA isn't official yet, is the website up for people to look at at this point?

JUDGE SASSO: There – on the Florida Courts website, there's an existing Sixth DCA kind of tab, I would say and I have the first draft back of the Sixth DCA website so we're anticipating that we'll have that up soon.

CHIEF JUDGE MUNYON: All right. So everyone should keep on the lookout for the new Sixth DCA website and I'm sure that there will be an information blast from the Florida Bar and the Florida Supreme Court when that's up and running.

JUDGE SASSO: Yes, there will likely be an administrative order and then we'll try to get the word out. We also have social media, which I'm personally not that adept with but somebody else will be so we'll try to get the word out that way as well.

CHIEF JUDGE MUNYON: Is there anything else that you would like to share with us about this new adventure and the new Sixth DCA?

JUDGE SASSO: I think one thing that I've just been blown away by, that a lot of people, unless - I know you are intimately involved with the administrative courts - but unless you are, there's this, essentially the courts administrative agency, OSCA, the Office of State Courts Administrators, houses I think some of the most talented state employees that we have probably in the country. And having them as a resource and the amount of work that they're doing, this is an all hands on deck project. It's an around the clock project. It's a nights and weekends project. So I'm just so thankful to everybody throughout the court system for all the effort they've put in, and I just want to give OSCA a shout out.

CHIEF JUDGE MUNYON: They well deserve it. I think most lawyers and many judges don't appreciate the Office of State Court Administrator, and the herculean efforts that they put in to make our jobs easier. If it looks like it's seamless from the outside, it's because of the efforts of OSCA and many people that others don't see.

JUDGE SASSO: I totally agree.

CHIEF JUDGE MUNYON: Well, thank you for joining me today and telling us about the new Sixth DCA.

JUDGE SASSO: Yeah, thank you for having me.

NARRATOR: Thank you for listening to "Open Ninth: Conversations Beyond the Courtroom" brought to you by Chief Judge Lisa Munyon and the Ninth Judicial Circuit Court of Florida. Follow us on Facebook, Twitter or Instagram @ninthcircuitfl for updates on new episodes, and subscribe to Open Ninth on your favorite podcast service.

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