

Florida Real Property and Business Litigation Report

Manuel Farach

Deltona Transformer Corp. v. NOCO Co., Case No. 24-13590 (11th Cir. 2026).

Federal registration of a trademark clothes it with presumptive validity, and a mark is not rendered generic merely because a competitor's employees internally or externally refer to it as a generic term when the mark otherwise retains secondary meaning in the relevant market.

Dish Network L.L.C. v. Fraifer, Case No. 24-10223 (11th Cir. 2026).

A certificate of copyright registration issued within five years of a foreign work's first publication entitles the registrant to a statutory presumption of ownership, and a defendant's operation of encoders and content delivery networks to retransmit copyrighted broadcast content to United States subscribers without authorization constitutes direct copyright infringement.

Owoc v. Liquidating Trustee, Case No. 24-14048 (11th Cir. 2026).

A corporate debtor's Subchapter S election belongs to the shareholder rather than the corporation and therefore does not constitute property of the bankruptcy estate under 11 U.S.C. § 541.

Warner v. Hillsborough County Clerk of Courts, Case No. 24-10748 (11th Cir. 2026).

A statute authorizing forfeiture of unclaimed court registry funds through newspaper publication notice is not facially unconstitutional under the Due Process Clause, but its application to a specific claimant violates due process where there was no notice given which was reasonably calculated to reach that claimant, especially given the government's actual knowledge that its chosen means of notice had repeatedly failed.

In Re: Amendments to Florida Rules of Appellate Procedure 9.020 And 9.100, Case No. SC2025-2000 (Fla. 2026).

Florida Rule of Appellate Procedure 9.020 is amended to define "lower tribunal" to include any court, judge, agency, officer, official, board, commission, or body whose order, action, or inaction is the subject of a proceeding, and Rule 9.100 is amended requires service of an original-proceeding petition on the order's issuer but exempts that issuer from later service absent an election to receive it.

The Grandview Palace Condominium Association, Inc. v. Judge, Case No. 3D25-0458. (Fla. 3d DCA 2026).

A trial court properly directs a verdict for the defendant in a breach-of-contract action when the plaintiff's proof of causation would require the jury to stack an unproven initial inference upon further inferences rather than establishing the underlying fact to the exclusion of all other reasonable inferences.

Zorella v. Pathman Schermer Tandy, LLP, Case No. 3D25-1443 (Fla. 3d DCA 2026).
The lodestar method of *Florida Patient's Compensation Fund v. Rowe* does not govern the assessment of damages for breach of an agreement to pay attorney's fees where the disputed fee is to be paid by the client rather than by a non-client payor.

Gleason v. IFP Development, LLC, Case No. 5D2024-2974. (Fla. 5th DCA 2026).
Where a settlement agreement expressly contemplates (but does not require consummation of) a contingency such as a possible purchase of real property and the settling party retains other consideration under the agreement's plain terms, the agreement is not rendered unenforceable for failure of consideration merely because the contemplated component of the bargain is not consummated.

Northwest Baptist Church of Cocoa, Inc. v. Trustee Corp. of the King Street Baptist Church, Inc., Case No. 5D2025-0272. (Fla. 5th DCA 2026).

A grantor church that conveys property by warranty deed containing a reverter clause naming other specific successor entities without any provision for reversion to the grantor retains no ownership, possessory, or reversionary interest in the property and therefore lacks standing to sue regarding that property.

Atout v. Rozanc, Case No. 6D2023-2302. (Fla. 6th DCA 2026).

A property management agreement obligating a manager to "manage, operate and lease" property is breached when the manager instead sells the property without authorization, and a negligence claim against a contracting party or its employee is barred as impermissibly "dependent" on the contract—rather than an "independent" tort—where the source of the duty, the nature of the conduct, the nature of the damages, and public policy all indicate the claim merely recasts the contractual breach with corporate employees who perform the contract on the corporation's behalf sharing the same protection from such dependent tort claims as the corporation itself.

Haught v. Eagle Palms Homeowners Ass'n, Inc., Case No. 2D2025-1403 (Fla. 2d DCA 2026).

A homeowners' association may both foreclose an assessment lien and pursue a money judgment for unpaid assessments against subsequent owners when Florida Statute section 720.3085(1)(c) authorizes both remedies and the association's declaration does not prohibit doing so.

Stein v. Reynolds Ventures, Inc., Case No. 2D2025-2795 (Fla. 2d DCA 2026).

A lienor must strictly comply with Florida Statute section 713.21(4) by timely foreclosing its mechanic's lien or showing legally sufficient cause why it did not do so, and failure to do either requires discharge of the lien.

Lynch v. Deutsche Bank National Trust Co., Case No. 3D26-1142 (Fla. 3d DCA 2026).

A petitioner challenging an order limiting discovery in a foreclosure action is not entitled to certiorari relief absent a showing of irreparable harm, which is rarely established when discovery is denied.

Univision Communications, Inc. v. Lam, Case No. 3D26-0014 & 3D26-0214 (Fla. 3d DCA 2026).

A nonfinal order striking, rather than denying, a successive Anti-SLAPP motion is not appealable under Florida Rule of Appellate Procedure 9.130(a)(3)(J), and certiorari or mandamus does not lie when the trial court acts within its Florida Rule of General Practice 2.515 authority to strike the motion.

9740 W Bay Harbor Dr, LLC v. Bay Harbour Investment, Inc., Case No. 3D25-1232 (Fla. 3d DCA 2026).

A party's failure to file a timely post verdict motion for judgment in accordance with a prior motion for directed verdict waives appellate review of the directed verdict argument, and a decline in a property's market value resulting from fraud constitutes general, not special, damages.

Ryan v. Eckard, Case No. 2D2025-1624 (Fla. 2d DCA 2026).

Florida Statutes section 682.12 mandates confirmation of an arbitration award where no motion to vacate, modify, or correct the award is filed within the ninety-day period established by section 682.13(2), and a trial court has no authority to extend that statutory period through a case-management stay.

Persechino v. Station Square Condominium Association, Inc., Case No. 2D2025-2610 (Fla. 2d DCA 2026).

Florida Statutes section 718.113(8) does not preclude a condominium association from requiring compliance with the material-alteration approval procedures of section 718.113(2)(a) when a unit owner's installation of an electric vehicle charging station constitutes a material alteration or substantial addition to the common elements.

Diaz v. Cat Cay Holdings JHR, LLC, Case No. 3D25-0068 (Fla. 3d DCA 2026).

A plaintiff who establishes the existence of a valid, enforceable express contract governing the parties' transaction cannot, as a matter of law, recover under a theory of unjust enrichment.

McIntosh v. Wood, Case No. 3D25-1157 (Fla. 3d DCA 2026).

A trial court's stay of execution and writ of possession pending appeal is dissolved by operation of Florida Rule of Appellate Procedure 9.310(e) upon issuance of the mandate in a related appeal, mooted any appeal challenging denial of relief from that stay.

Wealth Mortgage Strategies, LLC v. Phinizee, Case No. 4D2025-2893 (Fla. 4th DCA 2026).

A motion to vacate a void order under Florida Rule of Civil Procedure 1.540(b)(4) is subject to generous treatment of the "reasonable time" filing requirement because the passage of time cannot render valid an order that was void from the date of its entry.

Carrington Mortgage Services, LLC v. Tesseneear, Case No. 5D2025-1687 (Fla. 5th DCA 2026).

An equitable action to reform a written instrument for mutual mistake is not subject to the five-year statute of limitations in section 95.11(2)(b), Florida Statutes.

Dundore v. Hall, Case No. 5D2025-1147 (Fla. 5th DCA 2026).

A corporate officer's sworn affidavit denying personal participation in alleged deceptive representations creates a genuine issue of material fact sufficient to preclude summary judgment on a FDUTPA claim against him individually.

Art Connections USA, LLC v. Burgess Modern + Contemporary LLC, Case No. 4D2025-3662. (Fla. 4th DCA 2026).

A negligent misrepresentation claim fails where the defendant consistently identified the subject property by its correct name in writing and the plaintiff cannot show justifiable reliance on any alleged misstatement.

Haramis v. Craft, Case No. 4D2025-1904. (Fla. 4th DCA 2026).

Summary judgment enforcing an easement's restrictive scope is improper where the term defining permitted use is undefined and reasonably susceptible to an interpretation covering the disputed structure, and where the movant fails to identify any specific law, ordinance, or regulation the structure allegedly violates.

Affinity Health Partners, LLC v. Hayes Locums, LLC, Case No. 4D2025-2096. (Fla. 4th DCA 2026).

Damages are unliquidated, and thus require a properly noticed evidentiary trial before entry of a default judgment, when the amount owed cannot be determined with exactness or by arithmetical calculation from the pleadings and supporting documentation alone.

Reid v. Amerifund Equity Group, Case Nos. 4D2025-2277 and 4D2025-2613. (Fla. 4th DCA 2026).

Regardless of a disclaimer's noncompliance with Florida Statute section 45.033(3), a valid and irrevocable disclaimer of an interest in a decedent's property under Florida Statutes chapter 739 eliminates the disclaimant's status as an heir and precludes any subsequent claim to a foreclosure surplus generated by that property.

The Waterfront in Naples Condominium Association, Inc. v. Reynolds Ventures, Inc., Case Nos. 6D2025-0624 and 6D2025-0623. (Fla. 6th DCA 2026).

A timely filed document requesting a trial de novo from a specifically identified non-binding arbitration award satisfies Florida Rule of Civil Procedure 1.820(h)'s notice of rejection requirement even without using the express words "notice of rejection" because the rule's indefinite article "a" before "notice" does not mandate a specific form of words; conflict certified with *People's Trust Insurance Co. v. Hernandez*, 413 So. 3d 127 (Fla. 4th DCA 2025), and *Sanchez v. People's Trust Insurance Co.*, 434 So. 3d 155 (Fla. 3d DCA 2026).

Key Haven Associated Enterprises, Inc. v. Florida Department of Environmental Protection, Case No. 1D2025-0660 (Fla. 1st DCA 2026).

An inverse-condemnation claim alleging a categorical regulatory taking accrues when governmental action definitively prohibits the proposed development, even if the landowner later submits a permit application for the same development.

Ferrari Financial Services, Inc. v. Auto Vault, Inc., Case No. 1D2025-1045 (Fla. 1st DCA 2026).

Whether a purchaser's had implied notice of an unrecorded vehicle lien presents a fact question not answerable on summary judgment when the purchaser knew the seller had recently acquired the vehicle, lacked a certificate of title, and provided no purchase documentation despite circumstances suggesting further inquiry was appropriate.

Stout v. Cassity, Case No. 2D2025-1111 (Fla. 2d DCA 2026).

A trial court may not exclude properly disclosed expert testimony merely because it exceeds a voluntarily produced document that neither the governing pretrial order nor a discovery order required as a comprehensive expert report.

Okaloosa Properties Management, LLC v. Hoffman, Larin & Agnetti, P.A., Case No. 3D24-1502 (Fla. 3d DCA 2026).

Florida's absolute litigation privilege does not immunize an attorney's alleged out of court telephone communications unless the acts occurred before a judicial officer or in pleadings or documents filed with a court.

Overseas Fuels, LLC v. Key Largo Petro, LLC, Case No. 4D2025-2445 (Fla. 4th DCA 2026).

A lessee cannot establish an assignment of a lease or invoke equitable waiver to avoid an express written assignment and anti-waiver requirement without a signed writing by the party against whom the assignment or waiver is asserted.