Condominium and Homeowner Associations





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CONDOMINIUMS • HOMEOWNER ASSOCIATIONS
REAL ESTATE • CONSTRUCTION • PERSONAL INJURY

Condominium Overview



Homeowner Association Overview





Unique Issues When Representing or Opposing an Association

Patent v. Latent

Tolling and Turnover

718.203 Warranties



Standing

Pre-Suit Considerations

Statute of Limitations

Statute of Repose

Mediation and Settlement

Implied Warranties

Attorney Client Relationship



Pre-Suit Requirements

- 558 Notice & Response Requirements
- Approvals by Association
- Common Elements
- 718.1255 Mediation / Arbitration
- 720.311 Mediation

Statute of Limitations

Section 95.11(3)(c), Florida Statutes, sets forth the statute of limitations applicable to construction defect claims.

- **Scope**
- **Specification of Time Statute of Limitation and Repose Commences**
- **Tolling for Latent Defects**
- **Repose** (more on that in a minute)



Statute of Repose

Section 95.11(3)(c), Florida Statutes, also addresses statute of repose applicable to construction defect claims.



When is Contract Complete?

***Cypress Fairway Condo v. Bergeron Construction Co. Inc.*, 164 So.3d 706 (Fla. 5th DCA 2015)**

Statute of Limitations / Repose commences when the **contract** is completed not when the **construction** is completed.

Completion of the contract refers to performance by both owner and contractor, namely payment is an element of completion.

When is Contract Complete? - Part Two

Busch v. Lennar Homes, LLC 219 So. 3d 93 (Fla. 5th DCA 2017)

Did the 2017 go beyond the issue of payment?

When are "all contracted services" completed?

Chapter 2018-97

Correction of defects to completed work or repair of completed work does not extend limitations or repose period

Tolling Until Turnover?

Sabal Chase Homeowners Association v. Walt Disney World Co., 726 So.2d 796 (Fla. 3d DCA 1999)

However, a statute of limitations is not the same as a statute of repose. The clearly stated purpose of Section 718.124 is to lengthen the statute of "limitations" period, see *Regency Wood Condo., Inc. v. Bessent, Hammack & Ruckman, Inc.*, 405 So. 2d 440 (Fla. 1st DCA 1981), not the "repose" period. The appellant's argument to the contrary ignores fundamental distinctions between ordinary statutes of limitations and statutes of repose.

In sum, we find no support for the appellants argument that a statute of repose, which establishes a reasonable time period to bring an action, can be artificially extended by a statute of limitations that has a tolling effect.

Lakeview Reserve Homeowners v. Maronda Homes, Inc.

Whether a homeowners association has a claim for breach of the common law implied warranties of fitness and merchantability, also referred to as a warranty of habitability, against a builder/developer for defects in the roadways, drainage systems, retention ponds and underground pipes in a residential subdivision.

Lakeview Reserve Homeowners v. Maronda Homes, Inc. - Chronology

Oct. 2010 – 5th DCA says yes, reversing summary judgment by trial court. Certifies conflict with 4th DCA.

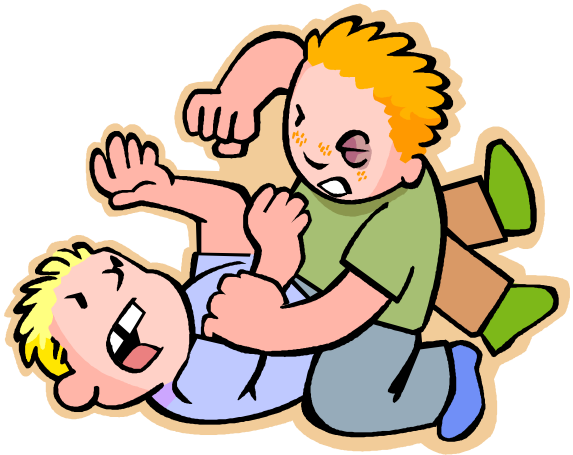
July 2012 – Legislature enacts s. 553.835 Fla. Statutes – abrogating ruling by 5th DCA.

July 2013 – Fla. Supreme Court finds new law unconstitutional as retroactively applied and holds that the implied warranties of fitness and merchantability apply to the improvements that provide essential services.

Mediation & Settlement

Rule 1.720, Florida Rules of Civil Procedure
Condominium Associations:
Section 718.1255, Florida Statutes
Homeowners' Associations:
Section 720.311, Florida Statutes





Thank you.



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