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Manuel Farach

Guardian Ad Litem v. Viajehoy, LLC, No. 3D18-182 (Fla. 3rd DCA 2019).
Claims by Cuban nationals against a United States limited liability company for breach of contract, unjust enrichment, and promissory estoppel are barred by the Cuban Assets Control Regulations, 31 C.F.R. § 515.201., et. seq., and the Trading with the Enemy Act, 50 U.S.C. § 4303, et. seq., unless there has been prior compliance with the laws.

Quintero v. Diaz, Case No. 3D18-2545 (Fla. 3d DCA 2020).
Florida Statute section 768.28(9)(a) does not abrogate the common law immunity afforded public officials from per se defamation claims, and public officials acting within the scope of their official duties are entitled to absolute immunity such that they are shielded from claims of defamation no matter how false, malicious, or badly motivated their statements may have been.

Real Estate Solutions Home Sellers, LLC v. Viera East Golf Course District Association, Inc., Case No. 5D18-3569 (Fla. 5th DCA 2020).
A party that purchases at foreclosure sale is entitled to continue its declaratory suit to determine whether it is entitled to “safe harbor” protection from association assessments even after it sells the property it purchased at foreclosure.

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Williams v. First Advantage LNS Screening Solutions Inc. Case No. 17-11447 (11th Cir. 2020).
Whether in a civil or criminal proceeding, the Due Process Clause requires that a defendant be put on fair notice of the severity of the punitive damages awarded and a civil defendant has not received fair notice (and the award is unconstitutional) when the award is grossly excessive in relation to the relevant state interest prohibiting the particular conduct at issue. The "guideposts" to determine whether notice is imputed to a civil defendant are, first and most importantly, the degree of reprehensibility of the defendant's conduct, and second, the disparity between the harm or potential harm suffered by the plaintiff and the punitive damages award.

Berlin v. State of Florida Department of Transportation, Case No. 4D18-3057 (Fla. 4th DCA 2020).
Whether attorney's fees are awardable for counsel obtaining non-monetary benefits in a condemnation action is an evidentiary question.

Ghani v. Deutsche Bank National Trust Company, Case No. 4D19-18 (Fla. 4th DCA 2020).
Mailing of a breach letter is proven by producing additional evidence such as personal knowledge if relying on routine business practices, an affidavit swearing that the letter was mailed, or a return receipt from the letter; boarding information alone is insufficient.

Picture It Sold Photography, LLC v. Bunkelman, Case No. 4D19-1427 (Fla. 4th DCA 2020).
A contractor that breaches a restrictive covenant with his former employer cannot defend on the basis that customers would not hire the former employer anyway.

Nationstar Mortgage, LLC McDaniel, Case No. 5D19-1070 (Fla. 5th DCA 2020).
Florida Rule of Civil Procedure 1.130 does not require a foreclosing servicer to attach the servicing agreement to the complaint, only the note and mortgage need be attached.

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Ritzen Group, Inc. v. Jackson Masonry, LLC, Case No. 18–938 (2020).
Orders on bankruptcy stay relief motions are immediately appealable under 28 U.S.C. §158(a) as doing so disposes of a discrete procedural unit with the bankruptcy case.

Rodriguez v. Avatar Property & Casualty Insurance Company, Case No. 2D18-65 (Fla. 2d DCA 2020).
An affidavit in support of summary judgment must be based on personal knowledge and may not contain conclusory statements or mere restatements of the motion for summary judgment.

De Soleil South Beach Residential Condominium Association, Inc. v. De Soleil South Beach Association, Inc., Case No. 3D18-1423 (Fla. 3rd DCA 2020).
A declaratory action filed by one association in a mixed-use project to declare itself the sole association able to levy assessments is not an action to "collect" assessments and thus, under the condominium declaration, must satisfy conditions precedent.

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Massachusetts Department of Revenue v. Shek (In re Shek), Case No. 18-14922 (11th Cir. 2020).
So long as it complies with 11 U.S.C. § 523(a)(1)(B), a tax return does not have to be timely filed in order for the tax to be dischargeable.

Sabal Trail Transmission, LLC v. 3.921 Acres of Land In Lake County Florida, Case No. 18-11836 (11th Cir. 2020).
Federal Rule of Evidence 702 permits lay witnesses to testify about the value of their land.

TLC Properties, Inc. v. State of Florida, Department Of Transportation, Case No. 1D17-5034 (Fla. 1st DCA 2020).
Visibility from a roadway - unlike leaseholds, easements, personal property, and incorporeal hereditaments - is not a recognized property right under Florida law.

Hardeman Landscape Nursery, Inc. v. Watkins, Case No. 2D18-4792 (Fla. 2d DCA 2020).
A trial court deciding a breach of contract action must, absent compelling circumstances such as the contract being breached by both parties or neither party proving a breach, declare which party prevailed**.**

The Bank of New York Mellon Corporation as Trustee Hernandez, Case No. 3D19-328 (Fla 3rd DCA 2020).
A mortgage due on sale clause that becomes operative upon any transfer is triggered by an involuntary foreclosure; *Yelen v. Bankers Trust Company*, 476 So. 2d 767 (Fla. 3d DCA 1985), is distinguished as its due on sale clause required voluntary transfer by the borrower to become effective.

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Glasser v. Hilton Grand Vacations Company, LLC, Case No. 18-14499 (11th Cir. 2020).
An "automatic telephone dialing system" that does not use random or sequentially generated number or requires human intervention does not violate 47 U.S.C. § 227(b)(1)(A) of the Telephone Consumer Protection Act.

In Re: Amendments To Florida Rules of Appellate Procedure 9.130 And 9.200, Case No. SC18-2011 (Fla. 2020).
Subdivision (a)(3)(C)(x) is added to Rule 9.130 to permit appealable nonfinal order for permanent guardianships for dependent children pursuant to Florida Statutes section 39.6221, and Rule 9.200 is amended to allow parties to obtain unredacted records on appeal without first having to obtain a court order from the district court.

Jones v. U.S. Bank Trust, N.A., Case No. 2D18-2106 (Fla. 2d DCA 2020).
The court discusses the split in the districts over whether "no standing" means no fees, and further holds a mortgage is not a "stand-alone contract" and is only a lien on real property.

Taneja v. Saraiya, Case No. 2D18-294 (Fla. 2d DCA 2020).
A trial court, in its discretion, may allow or not allow discovery of a Special Litigation Committee appointed under Florida Statutes section 605.0804 of the Florida Limited Liability Act.

Yam Export & Import LLC v. Nicaragua Tobacco Imports, Inc., Case No. 3D19-1083 (Fla. 3d DCA 2020).
The issue of whether a party has waived the right to arbitrate because of failure to make payments under the contract containing the arbitration agreement is itself an arbitrable issue to be determined by the arbitration panel,

Esslinger-Wooten-Maxwell, Inc. v. Lones Family Limited Partnership, Case Nos. 3D19-49, 3D19-135 (Fla. 3d DCA 2020).
A sale that occurred six years after the termination of the contractual one year "protection period" of a listing agreement is not subject to the equitable procuring cause doctrine for awarding of a sales commission

Aguilo v. American Sales and Management Organization LLC, Case No. 3D19-142 (Fla. 3d DCA 2020).
A motion to tax costs is not fatally defective for its failure, without more, to cite to Florida Rule of Civil Procedure 1.420(d).

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Executive Director, in his official capacity only, of The Citizens' Independent Transportation Trust of Miami-Dade County v. Schwiep, Case No. 3D19-1769 (Fla. 3d DCA 2020).
An administrative petition is not, for purposes of an ordinance prohibiting members of a commission filing lawsuits against a county, a "lawsuit" that requires removal from the commission.

Frantz v. EM Paving Corp., Case No. 5D19-379 (Fla. 5th DCA 2020).
A party that has obtained both a construction lien foreclosure judgment and a money judgment cannot execute on its money judgment if it obtained a foreclosure judgment; it must instead seek a deficiency judgment under the foreclosure judgment.

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Darrisaw v. Pennsylvania Higher Education Assistance Agency, Case No. 17-12113 (11th Cir. 2020).
A guaranty agency for federal student loans collects its loans "incidental to a bona fide fiduciary obligation" under 15 U.S.C. § 1692a(6)(F)(i) and thus is not a debt collector under the Fair Debt Collection Practices Act.

Griffin Lasalle Bank, N.A., Case No. SC18-1132 (Fla. 2020).
A circuit court has continuing jurisdiction to consider a third-party purchaser's motion to recover the value of repairs and improvements made to the property he purchased at a foreclosure sale that was later vacated.

2-Bal Bay Properties, LLC v. Asset Management Holdings, LLC, Case No. 2D18-2873 (Fla. 2d DCA 2020).
A court may only award as damages for improvement in an unjust enrichment case the increase in value of the property, not the cost of the improvements. Additionally, transferred property that is encumbered by a valid lien does not meet the definition of an "asset" under Florida Statute section 726.102(2).

BMG Realty Group, LLC v. U.S. Bank National Association, Case No. 2D18-5124 (Fla. 2d DCA 2020).
The statute of limitations to enforce a mortgage does not begin to run upon the borrower's surrender of the property in bankruptcy court.

S.K. Condominium II Association, INC. NS/CSE KEY, LLC, Case No. 2D18-4483 (Fla. 2d DCA 2020).
A declaratory action does not "enforce" the condominium declaration such that a party is entitled to an award of attorney's fees under the declaration that provides fees for enforcing the declaration.

City of Miami Gardens v. US Bank National Association, Case No. 3D19-1263 (Fla. 3d DCA 2020).
Electronic copies, so long as they are certified, meet the requirements of Florida Statute section 162.09(3) to establish a code enforcement lien.

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Emerald Grande West Condominium Association, Inc. v. Abrams, Case No. 1D19-760 (Fla. 1st DCA 2020).
A condominium association may seek declaratory relief as to whether a particular contractual provision is enforceable.

Efron v. UBS Financial Services Incorporated of Puerto Rico, Case No. 3D19-357 (Fla. 3d DCA 2020).
An arbitration panel's refusal to grant a postponement upon withdrawal of a party's counsel deprives that party of a fair hearing and requires vacation of the arbitration award.

Townsend v. Box, Trustee, Case No. 4D18-3004 (Fla. 4th DCA 2020).
The lis pendens statute does not require a party in possession to intervene in litigation regarding the property.

Wells Fargo Bank, N.A. v. Bricourt, Case No. 4D19-325 (Fla. 4th DCA 2020).
A lender seeking to re-establish a lost promissory note need not prove exactly when, how and by whom a promissory note was lost.

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Royal Palm Properties, LLC v. Pink Palm Properties, LLC, Case No. 18-14092 (11th Cir. 2020).
A competing real estate company may have a competitor's service mark canceled but must first prove the contested mark is not distinctive and is confusing similar to other registered marks.

Gundel v. AV Homes, Inc., Case No. 2D18-3199 (Fla. 2d DCA 2020).
A trial court, in a suit by a community association against a developer in which class certification is sought, may limit members of the class to current owners as to claims pertinent only to present owners (voting rights, etc.) but may not limit the class of those seeking repayment of improper assessments only to current owners as prior owners maintain a claim for damages.

City of Naples v. Ethics Naples, Inc., Case No. 2D18-4486 (Fla. 2d DCA 2020).
A court examining a proposed referendum at the pre-election stage may only consider the constitutionality of the proposed referendum if the opponent in good faith challenges the amendment's constitutionality in its entirety and on its face.

Department of Revenue v. Bell, Case No. 2D18-3134 (Fla. 2d DCA 2020).
The Florida Legislature may not constitutionally limit the class of persons entitled to receive ad valorem relief under Florida Statute section 196.081(4) (service members killed from service-related causes must have been a permanent resident of the State of Florida on January 1 in the year of their death in order to be entitled to ad valorem tax relief).

Household Finance Corp III v. Williams, Case No. 4D18-1570 (Fla. 4th DCA 2020).
A reformation action is outside a contract and thus is not entitled to an award of fees under Florida Statute section 57.105(7).

Kostoglou v. Fortuna, Case No. 4D19-168 (Fla. 4th DCA 2020).
A charging order under Florida Statute section 605.0503(1) entitles a creditor to payment of any distributions made that would have otherwise gone to the judgment debtor.

Carollo v. Henderson, Case No. 5D19-2484 (Fla. 5th DCA 2020).
A party seeking to discharge a lis pendens not founded on a duly recorded instrument is entitled to an evidentiary hearing.

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Rodriguez v. Federal Deposit Insurance Corporation, Case No. 18–1269 (2020).
The Bob Richards Rule (in the absence of an agreement, a refund belongs to the group member responsible for the losses that led to it) adopted by federal courts is an improper exercise of federal common law making.

JF & LN, LLC v. Royal Oldsmobile-GMC Trucks Company, Case No. 2D18-523 (Fla. 2d DCA 2020).
A tenant may not exercise an option to purchase if it has failed to timely pay rent under a lease agreement that allows tenant an option to purchase only if tenant is not in default.

Residents For A Better Community v. WCI Communities, Inc., Case No. 2D18-1917 (Fla. 2d DCA 2020).
A voluntary dismissal does not always make the non-dismissing party a prevailing party on the question of attorney's fees; a court may look behind a voluntary dismissal at the facts of the litigation to determine if a party has truly prevailed.

Federal Deposit Insurance Corporation v. Nationwide Equities Corporation, Case No. 3D17-270 (Fla. 3d DCA 2020).
A party seeking to apply equitable tolling to blunt the application of the statute of limitations must itself not have engaged in inequitable conduct.

Cohen v. Cohen, Case No. 3D19-583 (Fla. 2d DCA 2020).
A mediated settlement agreement which states the parties will sell real property and pay sales commissions on "any contract" that is submitted that meets the agreement's requirements applies to parties to the mediation agreement such that one party to the mediation agreement can submit a qualifying offer under the mediation agreement and the other party is required to sell.

Clark v. City of Pembroke Pines, Case No. 4D18-3549 (Fla. 4th DCA 2020).
While a government limiting access to a roadway is typically not considered an inverse condemnation, such actions can constitute a compensable taking if there is a physical taking of property through imposition of barriers, the selling of a right of way easement, and substantial loss of access resulting in diminished use and benefit of the property and municipal services.

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In Re: Amendments to The Florida Rules Of Judicial Administration, The Florida Rules Of Civil Procedure, And The Florida Rules Of Criminal Procedure—Standard Jury Instructions, Case No**.** SC20-145 (Fla. 2020).
The Florida Supreme Court will no longer approve proposed jury instructions drafted by the three standard jury instruction committees, and instead, each committee shall approve instructions by 2/3 vote.

Hock v. Triad Guaranty Insurance Corporation, Case No. 2D16-4008 (Fla. 2d DCA 2020).
A dissolved corporation may nonetheless file suit as part of the "winding up" its affairs; no conflict certified with *National Judgment Recovery Agency, Inc. v. Harris*, 826 So. 2d 1034 (Fla. 4th DCA 2002) (en banc), and *Cygnet Homes, Inc. v. Kaleny Ltd. of Florida, Inc.*, 681 So. 2d 826 (Fla. 5th DCA 1996).

Law v. Law, Case No. 3D18-1177 (Fla. 3d DCA 2020).
A claim for attorney's fees based on an indemnification contract is different from and does not have to meet the requirements of a prevailing party attorney's fees claim.

P.D.K., Inc. McConnell, Case No. 4D18-3124 (Fla. 4th DCA 2020).
On rehearing, the Fourth District states a former shareholder is entitled to receive corporate records and re-affirms that oral modification of a corporate shareholder's agreement requires the parties agree upon and accept the oral modification, that both parties or the party seeking to enforce the amendment perform consistent with the terms of the alleged oral modification, and that, due to plaintiff's performance under the amended contract, defendant received and accepted a benefit that it otherwise was not entitled to under the original contract (i.e., there was independent consideration).

Howard and Associates Attorneys at Law, P.A BWCI Pension Trustees Limited, Case No. 4D19-1791 (Fla. 4th DCA 2020).
The rules regulating the professional conduct of attorneys do not create substantive rights, thus Rule 5-1.1(f) does not require a law firm to hold disputed monies in trust for a money manager with which the law firm has a contract dispute.

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In Re: Amendments To Florida Rule Of Judicial Administration 2.205, Case No. SC20-346 (Fla. 2020).
The Chief Justice of the Florida Supreme Court is given additional powers in a public health emergency, including the power:

> . . . to suspend, extend, toll, or otherwise change time deadlines or standards, including, without limitation, those affecting speedy trial procedures in criminal and juvenile proceedings; suspend the application of or modify other requirements or limitations imposed by rules of procedure, court orders, and opinions, including, without limitation . . .

Deutsche Bank National Trust v. Bennett, Case No. 2D18-2020 (Fla. 2d DCA 2020).
Upon rehearing, the Second District reaffirms that a sanctions order that dismisses an action without prejudice does not require trial court findings under *Kozel v. Ostendorf*, 629 So. 2d 817, 818 (Fla. 1993); conflict certified with First and Third District Courts of Appeal.

Morroni v. Wilmington Savings Fund Society FSB, Case No. 2D18-2347 (Fla. 2d DCA 2020).
A lender does not prove standing at trial when it relies on an instrument claimed to be an original note but fails to refute expert testimony that the instrument is not an original.

4927 Voorhees Road, LLC v. Tesoriero, Case No. 2D18-3668 (Fla. 2d DCA 2020).
An arbitration agreement which contains improper damages and fees provisions is enforceable if the agreement contains appropriate severability provisions; conflict certified with *Novosett v. Arc Villages II, LLC*, 189 So. 3d 895 (Fla. 5th DCA 2016).

Super Cars of Miami, LLC v. Webster, Case No. 3D19-0826 (Fla. 3d DCA 2020).
The word “only” in a settlement agreement means “only” and a party that agrees to pay only for repair costs to a rented Lamborghini that was crashed is not liable for loss of rental income from the car.

Waveblast Watersports II Inc v. UH-Pompano, LLC, Case No. 4D18-3180 (Fla. 4th DCA 2020).
A lease which contains the following provision is not a lease for a term of years and is thus terminable at will: “Term: this lease shall be enforced commencing on September 18, 2007 and terminating on the demolition of the property.”

BB Inlet Property, LLC v. N. Stanley Partners, LLC, Case No. 4D18-3765 (Fla. 4th DCA 2020).
Upland property owners have common law littoral rights, including: “(1) the right to have access to the water; (2) the right to reasonably use the water; (3) the right to accretion.”

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U.S. Bank, N.A. v. Mink, Case No. 2D18-958 (Fla. 2d DCA 2020).
A lender presumptively establishes standing when it moves into evidence an original promissory note indorsed in blank and the original in evidence matches the copy attached to the complaint.

Corey v. Unknown Heirs of Neuffer, Case No. 2D19-1083 (Fla. 2d DCA 2020).
A purchaser under an agreement for deed is not an owner for purposes of determining the parties entitled to surplus foreclosure sale funds under Florida Statute section 45.032.

Manatee County v. Mandarin Development, Inc., Case No. 2D18-4053 (Fla. 2d DCA 2020).
The statute of limitations begins to run on a facial constitutional challenge to an ordinance when the ordinance is adopted.

Hollinger v. Hollinger, Case No. 5D19-2163 (Fla. 5th DCA 2020).
The Parol Evidence Rule may be applied to the stock disposition provision of a shareholder's agreement when application of the provision contains a latent ambiguity, i.e., "where the language of an agreement is facially clear but an extrinsic fact or extraneous circumstance creates a need for interpretation or reveals an insufficiency in the contract of a failure to specify the rights or duties of the parties in certain situations."

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Allen v. Cooper, Case No. 18–877 (2020).
The Copyright Remedy Clarification Act, 17 U. S. C. §511, does not strip states of sovereign immunity protection from claims of copyright infringement.

Allen v. Helms, Case No. 1D18-2417 (Fla. 1st DCA 2020).
A bankruptcy trustee has no rights in a debtor's Proposal for Settlement that was not accepted within thirty days, thus a plaintiff cannot "withdraw" an unaccepted Proposal for Settlement after purchasing it from a bankruptcy trustee.

Clerk of the Circuit Court & Comptroller of Collier County v. Doe, Case Nos. 2D19-2368, 2D19-2620 (Fla. 2d DCA 2020).
There is no statutory or common law duty for a Clerk of Court to redact confidential information, and as a result, cannot be held liable in tort for failure to redact.

Mace v. M&T Bank, Case No. 2D16-3381 (Fla. 2d DCA 2020).
The "additional evidence" can establish that a default letter was mailed are testimony of a witness or witnesses with personal knowledge of relevant facts, evidence that the organization responsible for mailing the letter had a routine practice with respect to mailing letters such that a court can infer that the routine practice was followed and the letter was mailed, and a return receipt or a log entry generated upon mailing that evidences a mailing.

HSBC Bank USA, National Association v. Achinelli, Case No. 2D18-4848 (Fla. 2d DCA 2020).
A purchaser at community association foreclosure sale who receives his certificate of title after the first mortgage lender files its lis pendens is a purchaser pendente lite and may not intervene in the lender's foreclosure action, even if the purchaser executed the purchase documents before the lis pendens was filed.

Jamieson v. Town of Fort Myers Beach Case No. 2D19-238 (Fla. 2d DCA 2020).
A landowner who purchased property with knowledge of a preexisting regulation does not operate as an absolute bar to a takings claim.

Doe v. Natt, Case No. 2D19-1383 (Fla. 2d DCA 2020).
An arbitration provision which refers to a set of rules that delegate the issue of arbitrability to the arbitrator does not satisfy the requirement that parties clearly and unmistakably delegate the power to the arbitrator.

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H Greg Auto Pompano, Inc. v. Raskin, Case No. 3D20-0240 (Fla. 3d DCA 2020).
Florida, as opposed to federal, arbitration law does not require a stay on appeal upon denial of a motion to compel arbitration.

Gannon Airbnb, Inc., Case No. 4D19-541 (Fla. 4th DCA 2020).
Online property search platforms are not required to collect and remit a county's tourist development (bed) tax to the county's tax collector.

Bank of America, N.A. v. Jones, Case No. 4D19-1164 (Fla. 4th DCA 2020).
A borrower that sends a lender a cease and desist letter prohibiting in-person contact cannot later argue that lender failed to perform the condition precedent of a face-to-face meeting under 24 C.F.R. § 203.604(b).

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Acquisition Trust Company, LLC v. Laurel Pinebrook, LLC, Case No. 2D18-4979 (Fla. 2d DCA 2020).
The exercise of a valid right of first refusal by the holder of the right terminates the first ("old") contract and creates a new contract, so the holder of the old contract is not a party to and has no ability to sue the parties to the new contract.

Latimer-MacDonnell v. U.S. Bank N.A., Case No. 2D19-432 (Fla. 2d DCA 2020).
A properly served mortgage foreclosure defendant who was defaulted and against whom default final judgment without hearing was entered can contest unliquidated damages such as pre-acceleration late charges, title search and examination, property inspections mediation expense, property taxes, insurance, the filing fees, service of process, and attorney's fees but attorney's fees less than 3% of the principal amount of the mortgage are deemed liquidated pursuant to Florida Statute section 702.065(2), and upon remand the defendant may only obtain a judgment for damages under Florida Statute section 702.036(1).

78D Team, LLC v. U.S. Bank, N.A., Case No. 3D19-1708 (Fla. 3d DCA 2020).
A subsequent purchaser may not contest application of expedited foreclosure procedures or other defenses.

Management & Consulting, Inc. v. Tech Electric, Inc., Case No. 3D20-152 (Fla. 3d DCA 2020).
A "Verified Response" does not satisfy the requirements under Florida Statute section 713.21(4) as it is neither the filing of a suit nor the demonstration of good cause why suit was not filed within one year.

Espinosa Pavel Pardo Investments, LLC, Case No. 3D17-2650 (Fla. 3d DCA 2020).
The Florida Limited Liability Company Act does not provide a mechanism nor authorize the revocation of a member's shares.

Ramblewood East Condominium Association, Inc. Kaye Bender Rembaum, P.L., Case No. 4D19-166 (Fla. 4th DCA 2020).
Expert witness testimony is not required when attorney's fees are sought as compensatory damages such as for breach of contract.

Wilmington Savings Fund Society, FSB v. Tacoronte, Case No. 5D19-1326 (Fla. 5th DCA 2020).
A mortgage foreclosure complaint signed by a servicer complies with Florida Rule of Civil Procedure 1.115(e).

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Thakkar v. Bay Point Capital Partners, LP (In Re: Bay Circle Properties, LLC), Case No. 18-12536 (11th Cir. 2020).
A "beneficial" interest in a company is not sufficient to sustain Article III standing, including for bankruptcy appeals.

Lawson-Ross v. Great Lakes Higher Education Corporation, Case No. 18-14490 (11th Cir. 2020).
The Higher Education Act of 1965, 20 U.S.C. §§ 1001 *et seq.*, does not preempt claims of misrepresentations and violations under the Florida Consumer Collection Practices Act ("FCCPA"), Fla. Stat. § 559.55 *et seq*.

MTGLQ Investors, L. P. v. Moore, Case No. 1D18-4146 (Fla. 1st DCA 2020).
A lender's failure to transfer a note and mortgage in accordance with a divorce decree does not amount to unlawful activity unclean hands.

Timmons v. Lake City Golf, LLC, Case No. 1D19-2802 (Fla. 1st DCA 2020).
A final judgment confirming an arbitration award cannot order more relief than the arbitrator ordered in the arbitration award.

Law Offices of Granoff & Kessler, P.A. v. Glass, Case No. 3D19-1404 (Fla. 3d DCA 2020).
A law firm suing its former client for unpaid fees need not provide an affidavit of reasonable fees.

Florida Department of Agriculture and Consumer Services v. Mahon, Case No. 5D19-3102 (Fla. 5th DCA 2020).
An inverse condemnation action is a proceeding to compel a government entity to bring a condemnation action to compensate a property owner, and thus the government agency is the plaintiff in the action.

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Roesch v. U.S. Bank National Association, Case No. 2D18-1686 (2d DCA 2020).
A letter log created by a servicer after communications with its third-party mailing company is hearsay unless the predicate can be laid by the third-party mailing company.

Campos Arana Auto Insurance & Multiservices Agency Corp., Case No. 4D19-1419 (Fla. 4th DCA 2020).
A motion to tax costs need not be verified.

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Gavida v. Specialized Loan Servicing LLC, Case No. 2D19-1069 (Fla. 2d DCA 2020).
Inadequacy of consideration, surprise, accident, mistake imposed on complainant, tother with irregularity in the conduct of the sale, are proper bases for vacating a foreclosure sale.

VME Group International, LLC v. The Grand Condominium Association, Inc., Case No. 3D19-139 (Fla. 3d DCA 2020).
A party may not move for an award of appellate attorney's fees in the trial court until the appellate court issues its mandate.

Rivas v. Tsang, Case No. 5D19-965 (Fla. 5th DCA 2020).
A property owner who takes no action when he realizes his property was fraudulently conveyed away is without remedy if the property is sold again, this time to a bona fide purchaser without notice.

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The Bank of New York Mellon v. Barber, Case No**.** 1D18-2097 (Fla. 1st DCA 2020).
A trial judge may not raise defenses not raised by the defendant; doing so makes the judge an advocate for one of the parties.

Elizon DB Transfer Agent, LLC v. Ivy Chase Apartments, LTD., Case No. 2D19-1853 (Fla. 2d DCA 2020).
Upon rehearing, the Second District re-affirms that an allonge signed before closing can establish standing.

Pritchard v. Levin, Case No. 3D19-964 (Fla. 3d DCA 2020).
A corporation generally has no duty to disclose merger discussions, and thus, a corporation has no duty to disclose past merger discussions when entering into a termination agreement with an executive even though the corporation later merges with the company with which it originally had discussions.

Castro v. Mercantil Commercebank, N.A., Case No. 3D19-1179 (Fla. 3d DCA 2020).
Written consent to a continuing writ of garnishment necessarily includes a waiver of the head of family exemption under Florida Statute section 222.11.

CWELT-2008 Series 1045 LLC v. Park Gardens Association, Inc., Case No. 3D19-1341 (Fla. 3d DCA 2020).
An association that litigates a case for 29 months waives its right to demand arbitration under Florida Statute section 718.1255(4)(a), even if its counterclaim is only a month old.

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United States v. Sineneng-Smith, Case No. 19–67 (2020).
A court may not interject its own arguments into a case as doing so violates the Principle of Party Representation.

Miami-Dade County, Florida v. Publix Supermarkets, Inc., Case No. 3D19-1203 (Fla. 3d DCA 2020).
A court reviewing an agency decision on first-tier certiorari review must, pursuant to *City of Deerfield Beach v. Vaillant*, 419 So. 2d 624 (Fla. 1982), confine its evidentiary review to determination whether the agency decision (not the objector's position) is supported by competent, substantial evidence.

Fields v. Toussie Case. Nos. 4D19-1610 & 4D19-1612 (Fla. 4th DCA 2020).
A second sanctions hearing regarding non-compliance with court orders is not necessary unless the sanctions purge was to occur outside of court parameters.

Hoti v. U.S. Bank, N.A., Case No. 4D20-2089 (Fla. 4th DCA 2020).
The Fourth District adopts *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano*, 140 S. Ct. 696 (2020), and amends *Ricci v. Ventures Trust 2013-I-H-R by MCM Capital Partners, LLC*, 276 So. 3d 5 (Fla. 4th DCA), review denied, No. SC19-1547, 2019 WL 7341587 (Fla. Dec. 30, 2019), to the extent *Ricci* intimated that orders entered after removal to federal court were voidable and not void.

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Lucky Brand Dungarees, Inc v. Marcel Fashions Group, Inc., Case No. 18–1086 (2020).
“Defense preclusion” is not a recognized defense as the two acceptable doctrines are issue preclusion (a party is barred from relitigating an issue actually decided in a prior action that was necessary to the judgment; commonly called collateral estoppel) and claim preclusion (a party is barred from raising claims that could have been raised and decided in a prior action; commonly called res judicata); suits involve the same claim or “cause of action” when they “‘aris[e] from the same transaction’” or involve a “common nucleus of operative facts.”

Harbourside Place, LLC v. Town Of Jupiter, Florida, Case No. 18-12457 (11th Cir. 2020).
Governmental noise ordinances, including those imposed on businesses, generally do not violate the First Amendment if they are content-neutral and do not single out any specific type of speech, subject-matter, or message.

Decks N Such Marine, Inc. v. Daake, Case No. 1D18-1396 (Fla. 1st DCA 2020).
Junior interest holders who prevail in construction lien enforcement and foreclosure actions may not recover attorney’s fees under Florida Statute section 713.29.

Scott v. Strategic Realty Fund, Case No. 2D18-3839 (Fla. 2d DCA 2020).
A backdated assignment is capable of two inferences, i.e., documenting an already completed transaction or backdating an event to a party’s benefit, and as a result, typically does not support entry of summary judgment.

Weisman v. Southern Wine & Spirits Of America, Inc., Case No. 4D17-3734 (Fla. 4th DCA 2020).
The Personal Stake Exception to the Intracorporate Conspiracy Doctrine Defense to claims of interference with business relationships requires that the corporate agents be solely motivated by personal basis.

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Compulife Software Inc. v. Newman, Case No. 18-12004 (11th Cir. 2020).
The "scraping" of proprietary trade secrets from a competitor's website can constitute a misappropriation in violation of the Florida Uniform Trade Secrets Act.

City of Miami Beach v. Florida Gas Transmission Company, LLC, Case No. 3D19-503 (Fla. 3d DCA 2020).
On rehearing, the Third District re-affirms that a trial court order on an easement that neither grants immediate possession nor operates an injunction is not a final, appealable order.

Old Cutler Lakes by the Bay Community Association, Inc. v. SRP SUB, LLC, Case No. 3D19-528 (Fla. 3d DCA 2020).
The Third District follows *Beacon Hill Homeowners Ass'n, Inc. v. Colfin Ah-Florida 7, LLC*, 221 So. 3d 710 (Fla. 3d DCA 2017), and *Pudlit 2 Joint Venture, LLP v. Westwood Gardens Homeowners Association, Inc.* 169 So. 3d 145 (Fla. 4th DCA 2015), and holds that Florida Statue section 720.3085 does not override a contrary community association declaration unless the declaration specifically incorporates later amendments to statutes.

Jallali v. Christiana Trust, Case No. 4D19-2717 (Fla. 4th DCA 2020).
Florida recognizes a cause of action for wrongful foreclosure when a foreclosure sale occurs when plaintiff was not in default, but "mere technical violations of the foreclosure process will not give rise to a tort claim; the foreclosure must have been entirely unauthorized on the facts of the case."

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Deutsche Bank National Trust Company v. Cope, Case No. 2D18-3696 (Fla. 2d DCA 2020).
A legal description on a mortgage is not unenforceably ambiguous if it describes two parcels by lot number and a third by parcel i.d. number.

Anderson v. Letosky, Case No. 2D19-2065 (Fla. 2d DCA 2020).
Homestead property that is rented out to tenants loses its protection from creditors if the rented portion contains completely separate living quarters, e.g., separate living rooms and kitchens, and can be divided by horizontal or vertical lines, e.g., duplexes and triplexes.

Earl W. Johnston Roofing, LLC v. Hernandez, Case No. 4D19-404 (Fla. 4th DCA 2020).
A property owner may not cancel a construction lien by paying only the principal amount without paying the prevailing party attorney's fees.

Schlossberg v. Estate of Sadie Kaporovsky, Case No. 4D19-2053 (Fla. 4th DCA 2020).
Generally, the settlor of an inter vivos trust may revoke her trust at any time during her lifetime by any form or instrument - including deeding trust property back to herself - after which she is free to deed former trust property to whomever she pleases.

Astro Aluminum Treating Co., Inc. v. Inter Contal, Inc., Case No. 4D19-2921 (Fla. 4th DCA 2020).
Delivery rather than shipment into Florida is determinative whether long-arm jurisdiction exists under Florida Statute section 48.193 as "[t]he mere fact that [a] contract provides for shipment to Florida is not determinative of jurisdiction, because the contract term does not mean that the contracting party is obligated to 'deliver' the product in Florida."

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GE Energy Power Conversion France SAS, Corp. v. Outokumpu Stainless USA, LLC, Case No. 18–1048 (2020).
Equitable estoppel principles (such as non-signatories being able to compel arbitration of disputes) can be applied in arbitrations conducted under The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention).

Isaiah v. JPMorgan Chase Bank, N.A., Case No. 17-15585 (11th Cir. 2020).
Banks are not responsible under the Florida Uniform Fraudulent Transfer Act ("FUFTA") for routine banking transactions that occurred during a Ponzi scheme.

Microf LLC v. Cumbess (In re: Cumbess), Case No. 19-12088 (11th Cir. 2020).
A trustee's – but not a debtor's - election to assume a lease elevates an unsecured claim arising out of the lease to an administrative claim.

Diageo Dominicana, S.R.L. v. United Brands, S.A., Case Nos. 3D18-1989 & 3D18-620 (Fla. 3d DCA 2020).
A contracting party does not violate the Implied Duty of Good Faith and Fair Dealing by terminating a distribution agreement in order to enter into a distribution agreement with the terminated party's competitor when the agreement permitted either party to terminate the agreement and additionally contained a waiver of all implied conditions, representations, and warranties implied by statute or common law that were not expressly included in the agreement.

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Rosen v. Harborside Suites, LLC, Case No. 3D16-2678 (Fla. 3d DCA 2020).
The D'Oench Doctrine codified at 12 U.S.C. § 1823(e) (any agreement that impairs an asset of a failed financial institution must be in writing and contained within the books and records of the failed institution otherwise it is unenforceable) does not apply to agreements contained in loan documents themselves.

Edwards v. CIT Bank, N.A., Case No. 3D19-1285 (Fla. 3d. DCA 2020).
An estate cannot raise issues on appeal of a foreclosure judgment that were not timely raised by the decedents during their lifetime.

Goodenow v. Nationstar Mortgage, LLC, Case No. 3D20-708 (Fla. 3d DCA 2020).
An order denying a motion to stay is not an order denying an injunction and thus is not appealable as a non-final order under Florida Rule of Appellate Procedure 9.130(a)(3)(B).

Brickell Financial Services – Motor Club, Inc. Road Transportation, LLC, Case Nos. 4D19-986 and 4D19-1481 (Fla. 4th DCA 2020).
Mediation communications are admissible under Florida Statutes Section 44.405 if "[o]ffered for the limited purpose of establishing or refuting legally recognized grounds for voiding or reforming a settlement agreement reached during a mediation …."

Haver v. The City of West Palm Beach, Inc., Case No. 4D19-1537 (Fla. 4th DCA 2020).
A citizen may sue local government for failure to enforce zoning codes but only if the citizen has a special injury different from the public at large.

Williams v. Salt Springs Resort Association, Inc., Case No. 5D18-3913 (Fla. 5th DCA 2020) (en banc).
Community association assessments are "debts" subject to the Florida Consumer Collection Practices Act.

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Hyde v. Irish, Case No. 15-13010 (11th Cir. 2020).
A federal court has jurisdiction to issue sanctions in a case even when it does not have jurisdiction to decide the merits.

Furst v. Rebholz, Case No. 2D18-3323 (Fla. 2d DCA 2020).
Homeowners are entitled to the homestead tax reduction on their personal residence even if they rent rooms to tenants.

Edwin Taylor Corporation Mortgage Electronic Registration Systems, Inc., Case No. 2D19-1531 (Fla. 2d DCA 2020).
A notice of commencement signed by a contractor (not the owner) is not a legal nullity that invalidates the construction lien based on the notice of commencement.

Garcia JPMorgan Chase Bank, National Association, Case No. 3D19-430 (Fla. 3d DCA 2020).
The Florida Constitution's protection of homesteads from forced levy does not preclude foreclosure of an equitable vendor's lien as purchase money mortgages are superior to homestead claims.

Tamiami Electrical, Inc. Infinity Assurance Insurance Company, Case No. 3D20-533 (Fla. 3d DCA 2020).
A circuit court, sitting in its appellate capacity on first tier certiorari review, has no ability to certify a question of great public importance the district court of appeal.

Lugassy v. Lugassy, Case Nos. 4D20-216 and 4D20-546 (Fla. 4th DCA 2020).
A trial court sitting in a corporate deadlock and dissolution action cannot force a dissenting shareholder to sign a loan and personal guarantee for the benefit of the corporation.

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Liu v. Securities And Exchange Commission, Case No. 18–1501 (2020).
Equitable relief, including disgorgement, is permissible under the Securities Act of 1933, 15 U. S. C. §77a et seq., so long as it does not exceed a wrongdoer's net profit.

Bowling v. U.S. Bank National Association, Case No. 17-11953 (11th Cir. 2020).
Counterclaim defendants may not remove a civil action to federal court under 28 U.S.C. § 1441(a) or § 1441(c).

EGI-VSR, LLC v. Coderch, Case No. 18-12615 (11th Cir. 2020).
Service of a suit to confirm an arbitration award under the Inter-American Convention on Letters Rogatory ("Convention on Letters Rogatory"), Jan. 30, 1975, O.A.S.T.S. No. 43, 1438 U.N.T.S. 288, is accomplished by service under the laws of the host country of the defendant, and accordingly, service on a doorman that is proper under Brazilian law is sufficient to support service in federal court.

Russell v. Wells Fargo Bank, N.A., Case No. 1D18-5128 (Fla. 1st DCA 2020).
Raising failure of conditions precedent as an affirmative defense shifts the burden of proof to the defendant even if plaintiff alleged satisfaction of conditions precedent in its complaint.

Korkmas v. Onyx Creative Group, Case No. 1D18-5328 (Fla. 1st DCA 2020).
The Florida Consumer Collection Practices Act does not apply to debts arising out commercial transactions.

Phillips v. Mitchell's Lawn Maintenance Corp., Case Nos. 3D19-375 & 3D18-2407 (Fla. 3d DCA 2020).
A trial judge must set forth in writing the *Kozel* (*v. Ostendorf*, 629 So. 2d 817 (Fla. 1993)), factors only when entering sanctions as the result of misconduct by counsel, no such requirement applies when the sanctions arise out of misconduct by a party.

Aanonsen v. Suarez, Case Nos. 3D18-2466 & 3D19-0612 (Fla. 3d DCA 2020).
Damages arising out of breach of contract are generally limited to the pecuniary loss sustained, or those which are the natural and proximate result of the breach, unless there is proof of a separate and independent tort.

Dumerlus v. Wilmington Trust National Association, Case No. 3D19-1595 (Fla. 3d DCA 2020).
A trial court's dispensing with closing arguments in a civil foreclosure case is not a *per se* due process violation.

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Allied Tube and Conduit Corporation v. Latitude on the River Condominium Association, Inc., Case Nos. 3D19-2054; 3D19-2053; 3D19-2051; 3D19-2048; 3D19-2046; 3D19-2044 (Fla. 3d DCA 2020).
Florida Rule of Civil Procedure 1.221 permits a class action by a condominium association for construction defects located physically within units, rather than in the common elements, if the defect is prevalent throughout the building.

Dawson v. Hernandez, Case No. 4D18-1588 (Fla. 4th DCA 2020).
A trial court can amend a final foreclosure judgment – even after the borrower redeems the property - to include additional attorney's fees.

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United States Patent and Trademark Office v. Booking.Com B. V., Case No. 19–46 (2020).
Adding ".com" to a generic description that is not otherwise capable of being trademarked is permissible if consumers do not view the name containing ".com" as generic.

Seila Law LLC v. Consumer Financial Protection Bureau, Case No. 19–7 (2020).
The Consumer Financial Protection Bureau's structure, which structure states the director cannot be removed at will by the President, is unconstitutional.

DeRoy v. Carnival Corporation, No. 18-12619 (11th Cir. 2020).
A forum selection clause that chooses federal court over state court binds litigants to that forum even though jurisdiction may also lie in state court.

Jackson v. Household Finance Corporation III, Case No. SC18-357 (Fla. 2020).
The predicate for admission of business records can be laid by a qualified witness merely testifying to the foundational elements of the exception, i.e., there is no need for the witness to "detail the basis for his or her familiarity with the relevant business practices of the company or give additional details about those practices as part of the initial foundation . . . ."

Neon Investments, LLC v. Afina Pallada, Inc., Case No. 4D20-281 (Fla. 4th DCA 2020).
Post-judgment intervention is generally not permitted and permitted only when the intervention does not seek to attack the judgment.

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Barr v. American Association of Political Consultants, Inc., Case No. 19–631 (2020).
The federal government cannot exempt itself from the anti-robocall provisions of the Telephone Consumer Protection Act of 1991, 47 U. S. C. §227(b)(1)(A)(iii).

Trichell v. Midland Credit Management, Inc., Case No. 18-14144 (11th Cir. 2020).
Litigants who claim injury under the Federal Debt Collection Practices Act, 15 U.S.C. § 1692(e), arising out of a misleading communication lack Article III standing if they were not misled, i.e., did not rely on the misleading communication.

Foley & Lardner, LLP v. Unknown Heirs, Case No. 2D18-2929 (Fla. 2d DCA 2020).
An "Asset Management Agreement" that permits delegation of "certain aspects of asset resolution tasks to a workout specialist, loan consultant, asset management advisor, real estate broker or agent, attorney, or others, to be determined by [assignor]" does not, under the principle of *ejusdem generis*, limit the ability of assignor to assign foreclosure rights to a third party.

Doe v. Natt, Case No. 2D19-1383 (Fla. 2d DCA 2020).
Reference to the American Arbitration Association's rules in a clickwrap agreement is not "clear and unmistakable evidence" of the intent of the parties to delegate the threshold issue of arbitrability to an arbitrator.

Coral Gables Imports, Inc. v. Suarez, Case Nos. 3D19-1197 & 3D19-1721 (Fla. 3d DCA 2020).
Th clerk of court's affixing a "Summary Reporting System" file closure-type stamp to a non-final order does not transform an otherwise non-final order into a final order for appellate purposes.

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Corley v. Long-Lewis, Inc., Case No. 18-10474 (11th Cir. 2020).
A federal court order granting a voluntary dismissal without prejudice is a final order.

Okefenoke Rural Electric Membership Corporation Dayspring Health, LLC, Case No. 1D18-4059 (Fla. 1st DCA 2020).
A person who uses another's land without the legal right to do so, and does so for the statutory prescriptive period, is entitled to a prescriptive easement even if all parties involved thought the use was not on the servient tenement's property.

Witters Contracting Company v. West, Case No. 2D18-4547 (Fla. 2d DCA 2020).
No judgement for a fraudulent lien can be imposed against the individual owner of a company if the fraudulent lien is signed by the president of the contracting company, i.e., in a representative capacity.

Global Discoveries, Ltd., LLC v. Keller, Case No. 2D19-3627 (Fla. 2d DCA 2020).
The passing of the statute of repose to enforce a lien does not eliminate the lien if an action to enforce the lien was filed prior to the passage of the statute of limitations to enforce the lien.

Bailey v. Shelborne Ocean Beach Hotel Condominium Association, Inc., Case Nos. 3D17-0559 & 3D17-0767 (Fla. 3d DCA 2020).
A condominium association has the authority and duty to maintain the condominium common elements, even if the work may also constitute alterations or improvements, but may not engage in a substantial and material alteration in appearance as part of the work unless it receives unit owner approval.

Bank of New York as Trustee For The Noteholders CWABS Inc. Assetbacked Notes, Series 2006-SD4006-SD4 v. Calloway, Case No. 4D19-584 (Fla. 4th DCA 2020).
A pooling agreement may serve as evidence of a foreclosing lender's standing.

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Securities and Exchange Commission v. Quiros, Case No. 19-11409 (11th Cir. 2020).
A bar order arising out of a settlement agreement must be essential to the settlement as well as fair and equitable and cannot be entered if the parties would have settled even without the bar order.

Regions Bank v. Big Bend Investments Group of Florida, LLC, Case No. 2D19-2530 (Fla. 2d DCA 2020).
Neither insufficient (as opposed to none) notice of a hearing nor failure of a prior court to deal with all affirmative defenses make a prior judgment void under a Florida Rule of Civil Procedure 1.540 motion.

Shoma Coral Gables, LLC v. Gables Investment Holdings, LLC, Case Nos. 3D18-1655 & 3D18-1654 (Fla. 3d DCA 2020).
"Good faith" and "reasonable belief" can qualify contractual duties under Delaware law.

The Arbitrage Fund v. Petty, Case No. 3D19-797 (Fla. 3d DCA 2020).
A shareholder suffers direct injury under *Dinuro Investments, LLC v. Camacho*, 141 So. 3d 731 (Fla. 3d DCA 2014), and may bring a direct (not derivative) action if the board of directors accepts a lower price for sale of the company than a competing offer.

GVK International Business Group, Inc. v. Levkovitz, Case No. 3D19-1119 (Fla. 3d DCA 2020).
In the absence of fraud or a fiduciary relationship, a party's nondisclosure of material facts in an arm's length transaction is not actionable.

Nader + Museu I, LLLP v. Miami Dade College, Case No. 3D19-1427 (Fla. 3d DCA 2020).
A Notice of Voluntary Dismissal is insufficient to dismiss a case where property has been seized or is in the custody of the court, and thus a Motion for Attorney's Fees is timely under Florida Rule of Civil Procedure 1.525 if it is filed within thirty days of the court ruling on a construction bond held in the court registry but not within thirty days of the filing of the Notice of Voluntary Dismissal.

City of Miami Beach, Florida v. Nichols, Case No. 3D19-1954 (Fla. 3d DCA 2020).
A municipality may not levy fines in excess of those set forth in the Local Government Code Enforcement Boards Act, Florida Statute sections 162.01-.13, despite having an alternate code enforcement system pursuant to Florida Statute section 162.03.

Broward County, Florida v. CH2M Hill, Inc., Case No. 4D18-3401 (Fla. 4th DCA 2020).
Despite its language stating it applies to "negligence actions," apportionment of damages under Florida Statute section 768.71 may apply to contract actions.

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UOWEIT, LLC v. Fleming, Case No. 4D19-270 (Fla. 4th DCA 2020).
The Fraudulent Conveyance Act, Florida Statutes Chapter 726m governs the timeliness of a fraudulent conveyance claim brought under Florida Statutes section 56.29(9).

Cornerstone 417, LLC v. Cornerstone Condominium Association, Inc., Case No. 5D19-1621 (Fla. 5th DCA 2020).
A unit owner contesting a plan of termination must first seek nonbinding arbitration despite alleging claims for unjust enrichment, breach of fiduciary duty, and declaratory judgment, i.e., claims arguably outside the scope of arbitration.

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R.J. Reynolds Tobacco Company v. State of Florida, Case No. 4D18-2616 (Fla. 4th DCA 2020).
A party cannot absolve itself of the obligation to make payments under a litigation settlement agreement by selling the assets which created the liability, and a corporation that acquires the assets of another business entity does not, as a matter of law, assume the liabilities of the prior business.

Kelly v. Green Tree Servicing, LLC, Case No. 4D19-1454 (Fla. 4th DCA 2020).
Taxes recorded but not assessed against a property do not have enjoy priority by virtue of Florida Statute section 197.122(1) against prior recorded mortgages.

Ark Real Estate Services, Inc. v. 21st Mortgage Corporation, Case No. 4D20-122 (Fla. 4th DCA 2020).
A mobile home is personal property and remains personal property even when affixed to real property, and thus foreclosure of a real property mortgage on the land to which the mobile home is attached does not foreclose personal property interests in the mobile home.

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Deer Brooke South Homeowners Association of Polk County, Inc. v. Battles, Case No. 2D19-1988 (Fla. 2d DCA 2020).
An affirmative defense may not be raised for the first time in a motion for summary judgment.

UBS Financial Services, Inc. v. Efron, Case Nos. 3D19-1410 & 3D18-2612 (Fla. 3d DCA 2020).
A party seeking to compel a domestic corporation to produce records of a foreign affiliate must either pierce the corporate veil or establish the domestic corporation's legal control of and regular access to the foreign affiliate's records.

World O World Corporation v. Patino, Case No. 3D20-0062 (Fla. 3d DCA 2020).
A loan which is non-usurious at its inception does not become usurious merely because the lender later demands to be paid a usurious rate.

C.V.P. Community Center, Inc. v. McCormick 105, LLC, Case No. 4D19-1515 (Fla. 4th DCA 2020).
The taking of a deed does not create a novation which replaces the prior owner obligee under a restrictive covenant with the new owner; *Jakobi v. Kings Creek Village Townhouse Assoc., Inc.*, 665 So. 2d 325 (Fla. 3d DCA 1995), is distinguished.

AT&T Services, Inc. v. S&S Utilities Engineering, LLC, Case No. 4D20-66 (Fla. 4th DCA 2020).
An arbitration provision is mandatory even if it contains the word "may."

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In Re: Amendments to the Florida Rules of Civil Procedure, Florida Small Claims Rules, and Florida Rules of Appellate Procedure—Jurisdiction, Case No. SC19-1354 (Fla. 2020).
The form for the civil cover sheet is amended to reflect changes in county court jurisdictional amounts and to refine the description of cases being filed.

U.S. Bank N.A. v. Engle, Case No. 2D18-3384 (Fla. 2d DCA 2020).
The sending of demand letter to a third-party vendor for mailing with notification from the vendor that the demand letter was sent is sufficient to satisfy a condition precedent of notification of default.

Diaz v. Kasinsky, Case No. 3D19-1188 (Fla. 3d DCA 2020).
A party who has been awarded entitlement to fees as a sanction under *Moakley v. Smallwood*, 826 So. 2d 221 (Fla. 2002), is not entitled to an award of fees for proving the amount of fees incurred.

Tran v. Deutsche Bank National Trust Company, Case No. 3D19-2215 (Fla. 3d DCA 2020).
While a party is not substituted until a Motion for Substitution is granted, the failure to obtain an order permitting substitution does not make a resulting judgment void when due process was otherwise comported with and the judgment debtor was aware of the court treating the Motion as having been granted and did not object thereto.

Off The Wall & Gameroom LLC v. Gabbai, Case No. 4D19-2657 (Fla. 4th DCA 2020).
A minor may not use infancy as a defense to enforcement of an arbitration agreement in a contract when the minor fraudulently stated he was of majority when he signed the contract.

Deutsche Bank National Trust Company v. Harris, Case No. 4D19-2812 (Fla. 4th DCA 2020).
Neither the negotiation of nor the manner of negotiation is changed when an instrument contains an anomalous indorsement.

Fettig's Construction, Inc. v. Paradise Properties & Interiors LLC, Case No. 4D20-133 (Fla. 4th DCA 2020).
Service of a notice of lien or a contractor's Florida Statute on the last known address of the person to be served complies with and is valid under Florida Statute section 713.18.

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Law Solutions of Chicago LLC v. Corbett, Case No. 19-11405 (11th Cir. 2020).
A federal court, including a bankruptcy court, retains jurisdiction over a case sufficient to impose sanctions "if the district court either incorporates the terms of a settlement into its final order of dismissal or expressly retains jurisdiction to enforce a settlement" or if "there is some independent basis for federal jurisdiction."

Watt v. Lo, Case No. 1D19-2994 (Fla. 1st DCA 2020).
In conflict with the holdings of the Third, Fourth, and Fifth Districts, the First District holds a trial court is not required to make express or affirmative findings when determining whether to permit a claimant to assert a punitive damages claim.

Venezia Wells Fargo Bank, N.A., Case No. 3D19-1869 (Fla. 3d DCA 2020).
A $100 bid foreclosure sale bid by a foreclosing lender is not so grossly inadequate so as to set aside the sale.

Massa v. Michael Ridard Hospitality LLC, Case Nos. 3D20-0357, 3D20-0355, 3D20-0354 (Fla. 3d DCA 2020).
It is error for a trial court to compel non-signatories into arbitration without conducting an evidentiary hearing.

Cinco v. Coquina Palms Homeowners Assoc., Inc., Case No. 5D18-2897 (Fla. 5th DCA 2020).
A party seeking an award of attorney's fees based on the Wrongful Act Doctrine (allows a plaintiff to recover its attorney's fees as a special damage when a defendant's wrongful act caused the plaintiff to litigate with a third party even if there is no statutory or contractual basis for fees) must plead the Wrongful Act Doctrine as special damages.

Speed Dry, Inc. v. Anchor Property And Casualty Insurance Company, Case No. 5D19-3055 (Fla. 5th DCA 2020).
Article X, section 4(c) of the Florida Constitution does not prohibit the assignment of post-loss insurance benefits due as a result of damage to a homestead property; question of great public importance certified.

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Whaley v. Guillen (In re Guillen), Case No. 17-13899 (11th Cir. 2020).
Chapter 13 bankruptcy debtors are not required to show a change in circumstances before modifying confirmed plans.

3499 Saraev Properties, LLC v. US Bank National Association, Case No. 3D19-1208 (Fla. 3d DCA 2020).
A promissory note modification agreement, while part of the note, is not itself a negotiable instrument and thus may be proven by an authenticated copy.

Cornfeld v. Plaza of the Americas Club, Inc., Case No. 3D19-1969 (Fla. 3d DCA 2020).
The party who has prevailed in dismissing a derivative action must, under Florida Statute section 617.07401(5), prove the derivative action was commenced “without reasonable cause” in order to receive an award of costs as the specific statute controls over the general and more lenient Florida Statute 57.041 and Florida Rule of Civil Procedure 1.420 provisions for awarding costs against a party whose case has been dismissed.

P&G Trucking of Brandon, Inc. v. Riverland Hedging & Topping, Inc., Case No. 4D19-1339 (Fla. 4th DCA 2020).
Business interruption damages in negligence actions are measured in terms of lost profits instead of lost time.

Gilison v. Flagler Bank, Case 4D19-3379 (Fla. 4th DCA 2020).
A party suing a lender for aiding and abetting a fraud claim need only allege the existence of the underlying fraud, the lender’s knowledge of the fraud, and that the lender provided substantial assistance to the commission of the fraud in order to state a cause of action.

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McKenny v. United States of America, Case No. 18-10810 (11th Cir. 2020).
Legal costs have to be "related to" and "regarding" a taxpayer's business operations in order to be tax deductible.

Island Travel & Tours Ltd. Co. v. MYR Independent, Inc., Case No. 3D16-2085 (Fla. 3d DCA 2020).
A party who loses a civil theft claim is, under Florida Statute section 772.11, liable for attorney's fees and costs if the claim was "without substantial fact or legal support."

Lupetto, Inc. v. South Bay Developers Group, LLC, Case No. 3D19-1068 (Fla. 3d DCA 2020).
A party that exercises an option contract must fulfill the terms of the underlying contract and must be ready, willing, and able to perform the contract.

National Medical Imaging, LLC v. Lyon Financial Services, Inc., Case No. 3D20-730 (Fla. 3d DCA 2020)6
The Third District re-affirms its earlier *Shop in the Grove, Ltd. v. Union Federal Savings & Loan Ass'n of Miami*, 425 So. 2d 1138 (Fla. 3d DCA 1982), decision and holds that an appeal is not stayed upon the appellant filing bankruptcy.

Truist Bank v. De Posada, Case No. 3D20-795 (Fla. 3d DCA 2020).
An appellate court deciding whether it has jurisdiction to entertain a non-final appeal looks only to the ruling in the non-final order and not to the underlying record.

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Domante v. Dish Networks, L.L.C., Case No. 19-11100 (11th Cir. 2020).
Verifying identities to avoid identify theft is a sufficient "legitimate business interest" to pull a credit report under the Fair Credit Reporting Act, 15 U.S.C. § 1681b.

Feshbach v. Department of Treasury Internal Revenue Service (In re: Feshbach), Case No. 19-10060 (11th Cir. 2020).
A debtor's tax debts are non-dischargeable under 11 U.S.C. § 523(a)(1)(C) if the debtor acted knowingly and deliberately in his efforts to evade his tax liabilities; a showing of criminal fraudulent intent is not required.

Waites v. Middleton, Case No. 1D19-414 (Fla. 1st DCA 2020).
A "statement of the evidence" filed pursuant to Florida Rule of Appellate Procedure 9.200(b)(5) has to be approved by the trial court in order to be considered as the record on appeal.

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Gherardi v. Citigroup Global Markets Inc., Case No. 18-13181 (11th Cir. 2020).
So long as arbitrators do not exceed their powers, an arbitration award – even if it is wrong on the facts or the law – must be confirmed.

Johnson v. Dickenson, Case No. 18-12344 (11th Cir. 2020).
An order approving a class action settlement may not require objections to be filed before counsel fee requests are ruled upon by the court, may not include an "incentive payment" for a class representative, and must contain factual details that allow proper appellate review.

Palma v. South Florida Pulmonary & Critical Care, LLC, Case No. 3D19-1347 (Fla. 3d DCA 2020).
An accommodation party under Florida Statute section 673.4191(1) is liable to the holder but not to the accommodated party; this rule is not supplanted by equitable principles.

2711 Hollywood Beach Condominium Association, Inc. v. TRG Holiday, LTD., Case No. 3D18-1834 (Fla. 3d DCA 2020).
The Economic Loss Rule bars a building purchaser from suing the manufacturer whose installed PVC pipe later leaks as the pipe is part of the "finished product" (i.e., the building) and *Casa Clara Condominium Association v. Charley Toppino & Sons, Inc.*, 620 So. 2d 1244, 1247 (Fla. 1993), bars suits by purchasers against installed products.

Cuomo Trading, Inc. v. World Contract S.R.L., Case No. 3D19-2289 (Fla. 3d DCA 2020).
A non-breaching party may treat a contract as void and seek restoration to the position the party was in prior to entering into the contract or may affirm the contract and be placed in the position they would have been had the contract been completely performed.

Burdett v. Opton, Case No. 4D19-2136 (Fla. 4th DCA 2020).
An award of attorney's fees for retaking collateral under Florida Statute section 679.623(2)(b) is subject to a prevailing party standard.

PennyMac Loan Services LLC v. Ustarez, Case No. 4D19-3547 (Fla. 4th DCA 2020).
The H.U.D. "face to face" meeting requirement of 24 C.F.R. § 203.604(b) is not a condition precedent to foreclosure and not a bar to filing a foreclosure complaint.

Brant v. Metropolitan Life Insurance Company, Case No. 4D20-1207 (Fla. 4th DCA 2020).
The Local Action Rule is modified by Florida Statute section 702.04 such that a mortgage cross-collateralized by real property in more than one county may be foreclosed in any county in which the mortgage is recorded.

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J.J. Rissell, Allentown, PA Trust v. Marchelos (Moffa v. Kapila), Case No. 19-10607 (11th Cir. 2020).
Appellate courts will ignore technical defects in notices of appeal, but an appeal filed on behalf of an artificial entity by someone without legal authority to do so should be dismissed.

Lee Memorial Health System v. Hilderbrand, Case No. 2D19-4722 (Fla. 2d DCA 2020).
A governmental entity is entitled to sovereign immunity for charging fees (extractions) later found to be unconstitutional so long as the extraction does not arise from refusal to follow a direct legislative mandate or from ignoring an established law prohibiting the tax or fee assessed.

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SE Property Holdings, LLC v. Gaddy (In re Gaddy), Case No. 19-11699 (11th Cir. 2020).
A debtor who fraudulently conveys away his assets may still discharge his loan debts notwithstanding 11 U.S.C. § 523(a)(2)(A) and 11 U.S.C. § 523(a)(6) if the loans were not obtained by fraud and the injury was not the result of the debt itself; *Husky International Electronics, Inc. v. Ritz*, 136 S. Ct. 1581 (2016), is distinguished.

Gabriji, LLC v. Hollywood East, LLC, Case No. 4D19-3495 (Fla. 4th DCA 2020).
A prospective purchaser's claim for unjust enrichment arising from a pre-construction deposit on a condominium project that is later foreclosed is not limited by Florida Statute § 95.11(5)(b)'s one-year statute of limitations ("[a]n action to enforce an equitable lien arising from the furnishing of labor, services, or material for the improvement of real property" is one year).

Howell v. Orange Lake Country Club, Inc., Case No. 5D19-2473 (Fla. 5th DCA 2020).
A trial court must hold an evidentiary hearing to impose an injunction even when the defending party's pleadings have been stricken.

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Williams v. M & R Construction Of North Florida, Inc., Case No. 1D19-4518 (Fla. 1st DCA 2020).
Only a "joint creditor" of a husband and wife can execute upon entireties property, and "joint" under *Beal Bank, SSB v. Almand & Assocs*. 780 So. 2d 45, 53 (Fla. 2001), means a creditor who obtained a judgment against husband and wife jointly.

Sack v. WSW Rental Of Sarasota, LLC, Case No. 2D19-728 (Fla. 2d DCA 2020).
The measure of damages for harm to chattels is loss of use of the chattel together with "the difference between the value of the chattel before the harm and the value after the harm" or "the reasonable cost of repairs or restoration where feasible, with due allowance for any difference between the original value and the value after repairs."

Escadote I Corporation v. Ocean Three Condominium Association, Inc., Case No. 3D19-0500 (Fla. 3d DCA 2020).
Summary judgment for the Releasee below is proper as the following release is a general release of all claims and is not limited to pre-existing claims:

> [Releasor releases Releasee] of and from any and all property damage claims, actions, causes of action, damages or demands, in whatever name or nature, in tort, in contract or by statute, in any manner arisen, arising, or growing out of any property damages, property expenses, or losses sought or claimed, of whatever name or nature, past, present, or future, which in any way arise out of or were the result of the property damage occurring at [the Unit] from inception until March 24, 2010. his release covers any and all property damage claims of the Releasing Party for any consequential damages and expenses which have arisen, arise, or which may hereafter arise out of the incidents or matters which were alleged in, or could have been alleged in CASE NO.: 06-10808 CA 04 . . . except that it does not release claims for future failures of the Ocean Three Condominium Association, Inc. to maintain the common elements.

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Kustom US, Inc. v. Herry, LLC, Case No. 1D20-90 (Fla. 1st DCA 2020).
The rule that venue is proper where the breach of contract occurred applies only in instances where liquidated damages are being sought and not where the amount of damages alleged must be proved by evidence.

Drapp v. South Florida Lending Corp., Case No. 2D19-1949 (Fla. 2d DCA 2020).
Deeds are presumed valid and the burden of proof in an action to set aside deeds based on lack of capacity is upon the party claiming lack of capacity.

Quirch Foods LLC v. Broce, Case No. 3D20-842 (Fla. 3d DCA 2020).
An employment agreement signed while employed by the organization requesting the employment agreement is supported by consideration.

Lakeview Loan Servicing, LLC v. Walcott-Barr, Case No. 4D19-1582 (Fla. 4th DCA 2020).
A certified return receipt card is not necessary to prove an attempt to enter into the "face to face" meeting requirement of 24 C.F.R. § 203.604(d) (2019).

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Tufts v. Hay, Case Nos. 19-11496 & 19-11603 (11th Cir. 2020).
The *Barton* (*v. Barbour*, 104 U.S. 126 (1881) Doctrine (suit cannot be brought against a court-appointed receiver without leave of the court that appointed the receiver) does not apply in bankruptcy court after the case is closed.

Pine Mountain Preserve, LLLP v. Commissioner Of Internal Revenue, Case No. 19-11795 (11th Cir. 2020).
A grant to a qualified conservation trust, so long as the grant is in perpetuity for conservation purposes, qualifies for tax deductibility under I.R.C. § 170 even though it is a "Swiss cheese" grant, i.e., land granted for conservation with pockets of development.

Santana v. Miller, Case No. 3D19-1808 (Fla. 3d DCA 2020).
The following language is sufficient to release future claims, including for discriminatory and hostile work environment:

> Based on the consideration described above, Employee hereby fully and finally releases and discharges Employer from any and all claims, wages, overtime, vacation pay or any sums of any nature whatsoever, up through the date this Release is signed . . .

Aleman v. Gervas, Case No. 3D19-2255 (Fla. 3d DCA 2020).
The following clause requires the company, and not individual members, to pay amounts due to Aleman:

> 6. Morningside Management LLC. The Parties are equal owners, directly or indirectly, of Morningside Management LLC ("MM"). The Parties will endeavor to restructure or liquidate this company and pay the amounts owed to Raymond [Aleman]. Within thirty (30) days of the date of this Agreement, each of Gervas and Aleman will pay one half of the amounts owed to the law firms of Murai Wald Biondo & Moreno P.A. and Lagos and Priovolos.

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Muransky v. Godiva Chocolatier, Inc., Case Nos. 16-16486 & 16-16783 (11th Cir. 2020) (en banc).
Parties cannot stipulate that a federal court has jurisdiction and the requirement of *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016), that a plaintiff must plead (and later support) an injury that is concrete, particularized, and actual or imminent (not just conjectural or hypothetical) applies to statutory claims that set forth damages for a statutory violation, including claims under the Fair and Accurate Credit Transactions Act, Pub. L. No. 108-159, 117 Stat. 1952 (2003).

In Re: Amendments to the Florida Rules of Appellate Procedure—2020 Fast-Track Report, Case No. SC20-1374 (Fla. 2020).
The Florida Rules of Appellate Procedure are amended to incorporate the change of county court appeals proceeding directly to district courts of appeal.

Abu-Khadier v. City of Fort Myers, Case No. 2D18-3068 (Fla. 2d DCA 2020).
Government can order the closing of a business, i.e., conduct a temporary taking, but is liable for the taking unless the government can identify background principles of nuisance and property law – such as extensive drug and criminal activity at the business - that support the order of closure and taking.

Kuhnsman v. Wells Fargo Bank, N.A., Case No. 2D19-681 (Fla. 2d DCA 2020).
The "face to face" meeting required under HUD, 24 C.F.R. § 203.604(b) (2016), is subject to a substantial performance standard.

Forty One Yellow, LLC v. Escalona, Case No. 2D18-3730 (Fla. 2d DCA 2020).
Failure to re-establish a lost promissory note is not a bar under res judicata or collateral estoppel to a later foreclosure suit as the focus is whether the foreclosure action, not the promissory note, is barred by the doctrines.

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Sunseeker Investments, Inc. v. Enterprise Maintenance and Contracting, Inc., Case No. 1D19-3779 (Fla. 1st DC 2020).
Five factors must be met for collateral estoppel to bar the re-litigation of an issue: (1) an identical issue must have been presented in the prior proceeding; (2) the issue must have been a critical and necessary part of the prior determination; (3) there must have been a full and fair opportunity to litigate that issue; (4) the parties in the two proceedings must be identical; and (5) the issue must have been actually litigated, thus the issue of interest rate not determined in bankruptcy court does not bind a state trial court judge.

SHEDDF2-FL3, LLC v. Penthouse South, LLC, Case No. 3D19-1100 (Fla. 3d DCA 2020).
Avoidance of a contract for unconscionability requires both procedural and substantive unconscionability and a settlement agreement cannot be avoided if it is devoid of procedural unconscionability.

Regions Bank v. Squitieri, Case No. 3D20-578 (Fla. 3d DCA 2020).
The COVID-19 pandemic is not a valid basis for a trial court not conducting a prompt evidentiary hearing on claim of exemptions from garnishment as required by Florida Statutes Section 77.041(3).

Devino v. 2436 East Las Olas, LLC, Case No. 4D19-1931 (Fla. 4th DCA 2020).
Easements in gross are not favored by the courts and an easement is not presumed to be personal when it may fairly be construed as appurtenant to some other estate.

JB Investment Realty, LLC v. Deutsche Bank National Trust Company Americas, Case No. 4D19-3380 (Fla. 4th DCA 2020).
Reversal for correction of final judgment of foreclosure, as opposed to dismissal of action for failure to prove damages, is proper when damages are proven but in an incorrect amount.

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Maki v. Multibank 2009-1 RES-ADC Venure, LLC, Case No. 2D19-2060 (Fla. 2d DCA 2020).
The amendment of Florida's exemption from garnishment statute, Florida Statute section 222.11, to increase the amount to be exempted is remedial in nature and retroactive.

Universal Property & Casualty Insurance Company v. Deshpande, Case No. 3D19-1566 (Fla. 3d DCA 2020).
An award of attorney's fees of $441,805.14 with four attorneys billing 469 hours on a garden-variety case for obtaining an award of $25,000 is excessive.

Dyck-O'Neal, Inc. v. Herman, Case No. 4D19-3311 (Fla. 4th DCA 2020).
A 1099-A need not be authenticated if a borrower testifies receiving it, but the information contained in the 1099-A is hearsay.

JJD Realty, LLC v. Artesa Homeowners' Association, Inc., Case No. 4D19-3618 (Fla. 4th DCA 2020).
A nunc pro tunc order can correct the record of action previously taken, but cannot be used to enter an order that was "wholly" omitted or to change an existing order.

Can Financial, LLC v. Niklewicz, Case No. 4D19-3668 (Fla. 4th DCA 2020).
Mistakenly bidding on a foreclosure sale, including failing to conduct a title search that would have disclosed a first mortgage superior to the mortgage being foreclosed and property being sold, is not grounds for vacating a foreclosure sale.

Rajabi v. Villas at Lakeside Condominium Association, Inc., Case No. 5D18-852 (Fla. 5th DCA 2020).
Sending a unit owner's disputed monthly payments to the association attorney (who deposited the amounts into his trust account) but not crediting for payments made is a violation of the declaration of condominium.

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Bailey v. Women's Pelvic Health, LLC, Case No. 1D19-1444 (Fla. 1st DCA 2020).
Arbitration provisions which cover claims "arising out of or related to" apply not only to claims arising out of the parties' employment agreements, but also to those claims with a significant relationship to the agreements - including those with a contractual nexus.

MV Senior Management, LLC v. Redus Florida Housing, LLC, Case No. 1D20-111 (Fla. 1st DCA 2020).
The Wrongful Act Doctrine basis for awarding attorney's fees applies only to litigation ensuing from a party's wrongful act against a third party.

Murphy Auto Group, Inc. v. Florida Department of Transportation, Case No. 2D19-1236 (Fla. 2d DCA 2020).
Requiring a private landowner to pay for a new drainage system in order for the landowner to connect to a roadway owned by the government is an improper exaction under *Koontz v. St. Johns River Water Management District*, 570 U.S. 595, 605-06 (2013).

BEO Management Corp v. Horta, Case No. 3D19-1989 (Fla. 3d DCA 2020).
The defenses of not being a party to the contract, there being no consideration for the check, and there being no intent to defraud do not defeat a claim for treble damages for a worthless check under Florida Statute section 68.065(3)(a).

Piazenko v. Pier Marine Interiors GMBH, Case No. 3D19-2193 (Fla. 3d DCA 2020).
Long-arm jurisdiction in Florida can be either specific under Florida Statute section 48.193(1)(a) or general under section 48.193(2), and specific jurisdiction requires "connexity," i.e., that the defendant does one of the enumerated acts within Florida, and that plaintiff's cause of action "arise from" one of the enumerated acts occurring in Florida.

MST Corporation v. Caribe Insurance Agency Corporation, Case No. 3D19-2288 (Fla. 3d DCA 2020).
A junior lienor omitted from a prior foreclosure retains its right of redemption and the redemption amount is the amount of the mortgage debt, not the judgment of foreclosure, and an omitted lienor cannot be compelled to pay the costs or expenses of the foreclosure of the mortgage.

Triton Stone Holdings, L.L.C. v. Magna Business, L.L.C., Case No. 4D19-2371 (Fla. 4th DCA 2020).

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Pension Benefit Guaranty Corporation v. 50509 Marine LLC, Case No. 19-14968 (11th Cir. 2020).
Notwithstanding its bankruptcy and its dissolution under state law, the sponsor of an ERISA plan that continues to authorize payments to beneficiaries and that is not supplanted as the retirement plan sponsor by another entity remains the constructive sponsor such that other members of the group of companies controlled by the plan sponsor may be held liable under ERISA for the plan's termination liabilities.

IATAI Enterprises, Inc. v. Loyacono, Case No. 3D19-1831 (Fla. 3d DCA 2020).
Florida Rule of Civil Procedure 1.280(b)(5) does not apply to non-parties and a non-party objecting to discovery propounded upon it cannot be compelled to produce a log.

Merle Wood & Associates, Inc. v. Frazer, Case No. 4D19-2238 (Fla. 4th DCA 2020).
A party claiming unjust enrichment must prove the value of the benefit provided to and retained by the defendant; providing evidence of the contractual value of commissions is not sufficient substantial, competent evidence of the unjust enrichment.

Indian River County v. Ocean Concrete, Inc., Case No. 4D19-3611 (Fla. 4th DCA 2020).
Damages for violation of the Bert Harris Act, Florida Statute section 70.001, arise from the loss of the investment backed expectation and valuation is not based on the ability of the owner to attain its goal, the date when the owner could attain its goal, or on the highest and best use (value) of the property. An owner can testify as to the loss of investment backed expectation.

The Cove & Deerfield Beach, LLC v. R Fast, Inc., Case No. 4D20-1782 (Fla. 4th DCA 2020).
The requirement of a tenant to deposit rent into the Registry of the Court under Florida Statute section 83.232(5) is strict, and the failure of a tenant to timely do so compels eviction even if the tenant mailed the rent check to the clerk two days before its due date.

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Lucoff v. Navient Solutions, LLC, Case No. 19-13482 (11th Cir. 2020).
A person who consents online to be contacted regarding past due debts even though he earlier advised the company he did not wish to be contacted has, as a legal matter, changed his preference and cannot claim a violation of the Telephone Consumer Protection Act of 1991 (“TCPA”), 47 U.S.C. § 227.

In Re: Amendments to Florida Rules of Appellate Procedure 9.120 And 9.210, Case No. SC20-597 (Fla. 2020).
Changes to the Florida Rules of Civil Procedure, including certification and required fonts.

Galleon Bay Corporation v. Board of County Commissioners of Monroe County, Florida, Case No. 3D19-1783 (Fla. 3d DCA 2020).
Florida Statute sec. 73.111 (the money to satisfy a condemnation judgment award must be deposited in the court registry within 20 days of the judgment) does not apply to inverse condemnation awards.

Kachkar v. U.S. Bank National Association, Case No. 3D19-1961 (Fla. 3d DCA 2020).
A signatory to a mortgage, even if not a party to the foreclosure case, is permitted to intervene in proceedings to set a foreclosure sale.

Wahnon v. Coral & Stones Unlimited Corp., Case No. 3D19-2387 (Fla. 3d DCA 2020).
A trial court faced with invocation of a witness’s invocation of the Fifth Amendment privilege against self-incrimination which impacts a party’s right to discovery and access to the courts may fashion an appropriate balancing remedy, including but not limited to, staying the case, preventing a witness from testifying or a party from presenting evidence, and recognizing an adverse inference.

Torruella v. Nationstar Mortgage, LLC, Case No. 5D19-3298 (Fla. 5th DCA 2020).
A party that has not been served in a lawsuit is not a “prevailing party” entitled to attorney’s fees when the suit is dismissed.

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M & M Realty Partners at Hagen Ranch, LLC v. Mazzoni, Case No. 18-13536 (11th Cir. 2020).
A "binding financial commitment" from a third party, including a wholly owned business entity, is required in order to satisfy the financial requirement of the "ready, willing and able" standard for awarding specific performance.

Persaud Properties FL Investments, LLC v. Town of Fort Myers Beach, Case No. 2D19-1282 (Fla. 2d DCA 2020).
Abandonment of a non-conforming use requires voluntary discontinuation of the use combined with the intent the discontinuation be permanent, i.e., more than the passage of time is required for abandonment.

Schlechter v. Community Housing Trust of Sarasota County, Inc., Case No. 2D19-3619 (Fla. 2d DCA 2020).
Florida Rule of Civil Procedure 1.540 cannot be used to vacate the dismissal of an action based on a party's assertion it would not have agreed to the dismissal if it had the knowledge or information at the time of dismissal that it has now.

JAK Capital, LLC v. Adams, Case No. 2D19-4371 (Fla. 2d DCA 2020).
A party claiming unenforceability of a mortgage due to fraud must plead fraud (not forgery) as a defense and must also prove the mortgagee seeking enforcement participated in the fraud.

Bank of America, N.A. v. De Morales, Case No. 3D19-1782 (Fla. 3d DCA 2020).
Certiorari relief generally is not available to avoid the expense of continued litigation (including discovery) but is available where immunity from litigation altogether is asserted.

Bridge Financial, Inc. v. J. Fischer & Associates, Inc. Case No. 4D19-348 (Fla. 4th DCA 2020).
The owner of 5% of a corporate entity is a sufficient "owner" such that he cannot tortiously interfere with a contract with "his" company.

Accardi v. Regions Bank, Case No. 4D20-0662 (Fla. 4th DCA 2020).
The statute of limitations set forth in Florida Statute section 95.11(5)(h) applies to a motion for a deficiency judgment brought within an existing mortgage foreclosure action.

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Digiport, Inc. v. Foram Development BFC, LLC, Case No. 3D18-1651 (Fla. 3d DCA 2020).
The question of whether an idea constitutes a “trade secret” under the Florida Uniform Trade Secrets is a typically a fact issue and thus summary judgment cannot be granted for a claim that design of a data center for a building constitutes a trade secret.

Koyfman v. 1572 Pledger LLC, Case No. 3D19-1521 (Fla. 3d DCA 2020).
On rehearing, the Third District re-affirms that a person primarily liable on an obligation who pays the obligation is not entitled to subrogation against third parties, e.g., a party cannot pay off a second mortgage on which is it liable, have the mortgage assigned to it instead of having the mortgage satisfied, and then foreclose the “unsatisfied” second mortgage to extinguish junior liens.

1440 Plaza, LLC v. New Gala Building, LLC, Case No. 3D20-0120 (Fla. 3d DCA 2020).
A trial court stating that it was “granting” a party’s motion but then asking for additional argument reflects the trial court was leaning toward a particular outcome but does not demonstrate the trial court had prejudged the case.

Skylink Jets, Inc. v. Klukan, Case No. 4D20-615 (Fla. 4th DCA 2020).
The Fourth District recedes from prior precedent and holds that in some situations neither party in a contract action may be the prevailing party for purposes of an attorney’s fees award.

Baldwin v. Harris, Case No. 5D19-2791 (Fla. 5th DCA 2020).
Directing that a payment be made in an estate planning document does not satisfy a contractual obligation that the payment be made.

Wilcox v. Cupstid, Case No. 5D20-359 (Fla. 5th DCA 2020).
An award of attorney’s fees under Florida Statute section 704.04 (statutory right of way) requires a finding that one party unreasonably refused to comply with 704.01(2) and not just that one party prevailed.

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USF Federal Credit Union v. Gateway Radiology Consultants, P.A. (In re: Gateway Radiology Consultants, P.A.), Case No. 20-13462 (11th Cir. 2020).
Debtors in bankruptcy are not entitled to receive Paycheck Protection Program payments due to the limitations set forth in the CARES Act, Coronavirus Aid, Relief, and Economic Security Act, Pub L. No. 116-136, 134 Stat. 281 (2020).

Herrell v. Universal Property & Casualty Insurance Company, Case No. 2D19-1911 (Fla. 2d DCA 2020).
Aligning itself with the Third District Court of Appeal, the Second District holds that for purposes of an award of attorney's fees a dismissal without prejudice is not the same as the dismissal with prejudice required by Florida rule of Civil Procedure 1.442, Florida Statute section 768.79, and *MX Investments, Inc. v. Crawford*, 700 So. 2d 640 (Fla. 1997).

Gursky Ragan, P.A. v. Association of Poinciana Villages, Inc., Case No. 3D19-0696 (Fla. 3d DCA 2020).
The attachment of a bar complaint to pleadings filed in a separate replevin action is not defamatory if the alleged defamation bears some relation to the replevin action.

Somerset Academy, Inc. v. Miami-Dade County Board of County Commissioners, Case No. 3D19-1053 (Fla. 3d DCA 2020).
Certiorari is not the proper procedure to challenge the constitutionality of a land use decision even if the decision arises from a local administrative agency.

In Re: Assignment for the Benefit of Creditors of Miami Perfume Junction, Inc. v. Osborne, Case No. 3D20-1317 (Fla. 3d DCA 2020).
Following federal bankruptcy law, the Third District holds the Assignee under an assignment for benefit of creditors under Florida Statute section 727.104(b) has the apparent authority to succeed to the attorney-client privilege held by the assignor.

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