

PREFACE TO THE 2025-2026 EDITION

In the courtroom, a successful claim or defense must have all the right elements in order to succeed. There is a right way and a wrong way to do any task. A lawsuit is no exception. This book is intended to spell out for you the elements necessary to develop your claims and defenses into winners. To that end, I provide the elements of each cause of action with an explanation of those elements as appropriate. I provide an enumeration of possible defenses to each cause of action. Footnotes provide citations to primary sources that support my contentions. Depending upon the assumed needs of each action, I provide a sample complaint, a sample jury instruction, or a list of secondary sources for further research. I hope that this book helps even the busiest lawyers in creating the perfect claim or defense in the least time possible.

Thank you for purchasing this book. I want to thank West once again choosing me to draft this work for Florida. I thank my West attorney editor, Ms. Alexi Maggio, and her helpful staff, for all of their proofreading and editorial assistance. I thank practitioners like you who purchase, use or cite to Florida Elements of an Action. I thank Florida's First District Court of Appeal for their citation to this work as an authority for deciding a multi-million dollar class action (at 53 So. 3d 1060). I thank all of Florida's judges who wrote opinions that explore in detail the elements of various common law causes of action, because by so doing, they made it easy for me to reliably pass that information on to you. I thank my marathon-running, globally-traveling sister Alice for always being there for me but somehow always being everywhere else at the same time. (Her frequent flyer miles add up quickly.) I thank my brother-in-law Steve for putting up with me and Alice. I thank my Aunt Isabel Sayers who always finds a way to stay involved with me, Bernadette and our kids no matter how many miles apart we might be. I thank my in-laws, James and Alice Behan, who might tell everyone they are retired but who surely must realize that they work nearly full-time babysitting our son Patrick and our daughter Madeleine. Of course, I thank my wife, Bernadette, who was kind enough not to complain about all the hours I spent in front of the word processor writing this book. Above all, I thank my Lord and Savior for the mercy He shows me, for the ability He gives me to write this book, for

the blessing of the world's best wife and world's most adorable son and daughter, and for all His other gifts to me, none of which I deserve.

My goal is to make this book better and better with the passage of time. I cannot achieve that goal without your help. Please bombard me with feedback, positive or negative. In return I will respond by improving this work. No comment or suggestion is insignificant. Call or email me anytime. Thank you once again for purchasing my work.

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NOTE: This edition is fully updated to reflect all legislative enactments and all appellate case law decisions that were final as of July 17, 2025.