AUTHOR'S INTRODUCTION
2026-2027 Edition, Volumes 8 and 8A

There are a number of cases that have addressed known legal issues. The following are new cases and statutes that address new material this year.

New case holding that where a license is required under F.S.489.128 the failure to have the license (which must be pleaded) precludes the unlicensed contractor from asserting contractual defenses at trial. Palm Beach Resurfacing, Inc. v. Floyd, --- So.3d ---, 50 Fla. L. Weekly D194 (Fla. 4th CA 2025).

New holding that if the interior design contract includes any tangible personal property, the entire design fee may be taxable for sales tax. Fla. Admin. Code 12a-1.001(209a0 (2025)

For any contract for construction services entered into on or after July 1, 2025, if a local governmental entity receives from its contractor a price quote for a change order requested or issued by the local governmental entity for construction services, and the price quote conforms to all statutory requirements and contractual requirements for the project, the local governmental entity must approve or deny the price quote and send written notice of that decision to the contractor within 35 days after receipt of such quote. A denial notice must specify the alleged deficiencies in the price quote and the actions necessary to remedy those deficiencies. F.S. 218.755 (2025)

Contract modification. A party wished to add terms to an existing agreement. The party sent a notice of the added terms in a quarterly newsletter, which was in a hyperlink. The court held that there was insufficient notice to show that the recipient party agreed to the additional terms. Eglin Federal Credit Union v. Baird, 49 Fla. L. Weekly D 1795, --- So.3d --- (Fla. 1st DCA 2024).

Contract to replace or repair a roof of a residential property made during state of emergency replace or repair a roof of a residential property must include or add as an attachment to the contract the following language, in bold type of not less than 14 points, immediately before the space reserved for the signature of the residential property owner: "You, the residential property owner, may cancel this contract without penalty or obligation within 10 days after the execution of the contract or by the official start date, whichever comes first, because this contract was entered into within 180 days of events resulting in the declaration of a state of emergency by the Governor. Fla. Stat. 489.147

(6) (2025).

In a contract to replace or repair a roof of a residential property there must be a warning for the owner to verify coverage for the proposed roofing work. Fla. Stat. 489.147(7) 2025.

Arbitration – agency - Where a mother purchased a ticket to an event, the mother was found to be the apparent agent of her child for purposes of agreeing to arbitration.[1] Miami Dolphins, Ltd. v. Engwiller, 50 Fla. L. Weekly D 827.---So.3d --- (Fla. 3rd DCA 2025).

Time for response to extra work request – local government. A local governmental entity must approve or deny an extra work price quote and send written notice of that decision to the contractor within 35 days after receipt of such quote. F.S. 218.755 (2025).

Where objection is made to a foreclosure sale, the court is required to give notice and a hearing on the objection. Nehrke v. Leisureville Community Assn., Inc., --- So.3d ---, 50 Fla. L. Weekly D1227 (Fla. 4th DCA 2025).

New Statutory Warranty for builder of certain residences - The warranty applies to a single-family dwelling, duplex, triplex, or quadruplex that has not been previously occupied.

New federal case setting out the elements for a claim of unjust enrichment. Taxinet Corp. v. Noboa, --- F.Supp. 3d ---. 30 Fla. L. Weekly Fed C1325 (11th Cir . 2025).

New case holding that an injunction that failed to set forth factual findings as to each of the four elements, the injunction was overturned. Williams v. Cook, --- So.3d --- 50 Fla. L. Weekly D587 (Fla. 5th DCA 2025).

Seeking an injunction must be pleaded in a complaint. Perdomo v. In re Estate of Luis Rubi, 50 Fla. L. Weekly D705, --- So.3d ___ (Fla. 3rd DCA 2025).

New case holding that the burden to show the detail that counsel has performed when seeking attorney fees is on the party seeking fees. Ward v. Citibank, N.A., 49 Fla. L. Weekly D1639, --- So.3d --- (Fla. 6th DCA 2024).

Recent case holding that the proper interest rate in effect when the court established entitlement to attorney's fees. Michelis v. Nugent, --- So.3d ---, 50 Fla. L. Weekly D1046 (Fla. 4th DCA 2025).

---

[1]

Where a copyright claim was voluntarily dismissed without prejudice the responding party was not entitled to prevailing party attorney fees. Affordable Aerial Photography, Inc. v. Property Matters USA, LLC, --- F.3d --- (30 Fla. L. Weekly Fed. C1219, 11th Cir. 2024).

One contract provided that prevailing party attorney fees may be awarded. A second sentence provided that the fees will be awarded. The trial court held that the fee provision was discretionary with the court. That was reversed on appeal where the court found that fee shifting provision was mandatory. First Financial Northwest, Inc. v. Woodside Credit, LLC, --- So.3d ---, 50 Fla. L. Weekly D550 (Fla. 4th DCA 2025).

The Sanction of dismissal was awarded against parties who repeatedly refused to comply with the rules of pleading. Myers v. Highway 46 Holdings, LLC, 65 So.3d 58 (Fla. 5th DCA 2011).

Where a motion for prevailing party fees is made later than 30 days from underlying judgment it is tardy. Berg v. Scurry, --- So.3d ---. 50 Fla. L. Weekly D 1023 (Fla. 2nd DCA 2025).

Where a motion for prevailing party fees is made later than 30 days from underlying judgment it is tardy. Berg v. Scurry, --- So.3d ---. 50 Fla. L. Weekly D 1023 (Fla. 2nd DCA 2025).

An order awarding attorney fees pursuant to Fla. Stat. 768.79 is reversible where the underlying final judgment is reversed. Geico General Ins. Co. v. Tsao. 50 Fla. L. Weekly D730, ---So3d--- (Fla. 5th DCA 2025).

An order awarding attorney fees which fails to include specific findings of the lodestar factors (time, novelty and difficulty; fees customarily charged in the community, amount involved and results obtained, time limits imposed by client or circumstances, nature and length of professional relationship, experience, reputation and ability of lawyers performing the services, and whether fee is fixed or contingent. Jones v. Bank of America, N.A., 49 Fla. L. Weekly D2320, -- So.3 --- (Fla. 4th DCA 2024).

A joint proposal for settlement must allow for each offeree to accept the offer. Gutierrez v. Security First Ins. Co., 50 Fla. L. Weekly D739, ---So.3d ___ (Fla. 6th DCA 2025).

The court may sua sponte assess 57.105 fees in a case where the court found that a plaintiff fabricated a claim with no basis. Galusha v. Lowe's Home Centers, LLC, 50 Fla. L. Weekly D789. ---So.3d --- (Fla. 5th DCA 2025).

If the trial court's determination to deny fees under is based on a legal conclusion, such as interpretation of a contract or statute, a de novo standard applies. Van San Law, LLC v. Air Isaac, LLC. 353 So.3d 106, 108 (Fla. 2nd DCA 2022); Kistner v. Lowery, 50 Fla. L. Weekly D851, ---So. 3d ___, (Fla. 2nd DCA 2025).

In a civil action brought against the owner of a parcel of real property to resolve a dispute concerning property rights, the court must award reasonable attorney fees and costs to the prevailing defendant if the improvements made to the property by the defendant property owner were made in substantial compliance with, or in reliance on, environmental or regulatory approvals or permits issued by a political subdivision of the state or a state agency. Fla. Stat. 57.106 (2024).

For purposes of the statute of limitations small cracks were held not to be notice of construction defects in a foundation. Snyder v. Wernecke, 813 So.2d 213 (Fla. 4th DCA 2002).

Text messages were requested from a non-party. Objection was made based on attorney client privilege and work product. The objections were overruled without conducting an in camera inspection. The overruled objections were reversed on appeal. Beneschott v. Toptal, LLC, --- So.3d ---, 2025 WL 1131733 (Fla. 6th DCA 2025).

A customer list was ordered to be produced with no showing of reasonable necessity. This was reversible error. MHC Cortez Village, LLC v. Cortez Road Investments and Finance, Inc., --- So.3d ---, 50 Fla. L. Weekly D1297 (Fla. 2nd DCA 2025).

Text messages were requested from a non-party. Objection was made based on attorney client privilege and work product. The objections were overruled without conducting an in camera inspection. The overruled objections were reversed on appeal. Beneschott v. Toptal, LLC, --- So.3d ---, 2025 WL 1131733 (Fla. 6th DCA 2025).

Absent a ruling on a privilege log, it was premature to seek review on objections. Deel Realty, LLC v. O'Malley, --- So.3d ---, 50 Fla. L. Weekly D1042 (Fla. 3rd DCA025).

Where objection is made to business records it is incumbent on the objector to specify the infirmity and obtain a ruling on the specific objection in order to complain about this on appeal. Pescatore v. Fernandez, --- So.3d ---, 50 Fla. L. Weekly D1092

(Fla. 4th DCA 2025).

A homeowner sued its association to obtain some official records (among other relief). The suit to obtain the records was dismissed for failure of the homeowner to seek pre-suit mediation pursuant to F.S. 720.311. Steinberg v. Fiesta Homeowners Assn., Inc., --- So.3d ---, 50 Fla. L. Weekly D553 (Fla. 4th DCA 2025).

Offer of judgment - The court failed to calculate the fees incurred by the offeree to the time of the offer in a case where fees were sought (when calculating whether the result beat the offer by 25%). The failure to include those fees was error. SFR Services, LLC v. Florida Dept. of Financial Svcs., --- So.3d --- 50 Fla. L. Weekly D 1129 (Fla. 6th DCA 2025).

The 2024 Florida Legislature created a statutory mandatory builder warranty effective July 1, 2025. The warranty applies to a single-family dwelling, duplex, triplex, or quadruplex that has not been previously occupied. Fla. Stat. 553.837(1)c. (2024)

A disclaimer of warranties in a contract for sale of a bulldozer was insufficient to disclaim the implied warranty of merchantability. McCormick Machinery, Inc. v. Julian E. Johnson & Sons, Inc. 523 So.2d 651 (Fla. 1st DCA 1988).

Elements of an unjust enrichment claim - the claimant must prove that it conferred a benefit on the defendant, that the defendant appreciated the benefit, and that acceptance and retention of the benefit made it inequitable for him to retain it without paying the value thereof. Taxinet Corp. v. Noboa, --- F.Supp. 3d ---. 30 Fla. L. Weekly Fed C1325 (11th Cir . 2025)

Where an injunction failed to set forth factual findings as to each of the four elements, the injunction was overturned. Williams v. Cook, --- So.3d --- 50 Fla. L. Weekly D587 (Fla. 5th DCA 2025).

A party must file a complaint or allege a cause of action seeking an injunction in a complaint in order to obtain an injunction. Perdomo v. In re Estate of Luis Rubi, 50 Fla. L. Weekly D705, --- So.3d ___ (Fla. 3rd DCA 2025).

When seeking attorney fees the burden to show the detail that counsel has performed is on the party seeking fees. Ward v. Citibank, N.A., 49 Fla. L. Weekly D1639, ---So.3d --- (Fla. 6th DCA 2024).

Where a copyright claim was voluntarily dismissed without prejudice the responding party was not entitled to prevailing party attorney fees. Affordable Aerial Photography, Inc. v. Property Matters USA, LLC, --- F.3d --- (30 Fla. L. Weekly Fed. C1219, 11th Cir. 2024).

One contract provided that prevailing party attorney fees may be awarded. A second sentence provided that the fees will be awarded. The trial court held that the fee provision was discretionary with the court. That was reversed on appeal where the court found that fee shifting provision was mandatory. First Financial Northwest, Inc. v. Woodside Credit, LLC, --- So.3d --- 50 Fla. L. Weekly D550 (Fla. 4th DCA 2025).

The Sanction of dismissal was awarded against parties who repeatedly refused to comply with the rules of pleading. Myers v. Highway 46 Holdings, LLC, 65 So.3d 58 (Fla. 5th DCA 2011).

Where a motion for prevailing party fees is made later than 30 days from underlying judgment it is tardy. Berg v. Scurry, ---So.3d ---. 50 Fla. L. Weekly D 1023 (Fla. 2nd DCA 2025).

An order awarding attorney fees pursuant to Fla. Stat. 768.79 is reversible where the underlying final judgment is reversed. Geico General Ins. Co. v. Tsao. 50 Fla. L. Weekly D730, ---So3d--- (Fla. 5th DCA 2025).

An order awarding attorney fees which fails to include specific findings of the lodestar factors: time, novelty and difficulty; fees customarily charged in the community, amount involved and results obtained, time limits imposed by client or circumstances, nature and length of professional relationship, experience, reputation and ability of lawyers performing the services, and whether fee is fixed or contingent. Jones v. Bank of America, N.A., 49 Fla. L. Weekly D2320, -- So.3 --- (Fla. 4th DCA 2024).

A joint proposal for settlement must allow each offeree to accept the offer. Gutierrez v. Security First Ins. Co., 50 Fla. L. Weekly D739, ---So.3d ___ (Fla. 6th DCA 2025).

The court may sua sponte assess 57.105 fees in a case where the court found that a plaintiff fabricated a claim with no basis. Galusha v. Lowe's Home Centers, LLC, 50 Fla. L. Weekly D789. ---So.3d --- (Fla. 5th DCA 2025).

A trial court's denial of a motion for attorney's fees under section 57.105 is reviewed for abuse of discretion. However, if the trial court's determination is based on a legal conclusion, such as interpretation of a contract or statute, a de novo standard applies. Van San Law, LLC v. Air Isaac, LLC. 353 So.3d 106, 108 (Fla. 2nd DCA 2022); Kistner v. Lowery, 50 Fla. L. Weekly D851, ---So. 3d ___, (Fla. 2nd DCA 2025).

In a civil action brought against the owner of a parcel of real property to resolve a dispute concerning property rights, the court must award reasonable attorney fees and costs to the prevailing defendant if the improvements made to the property by the defendant property owner were made in substantial compliance with, or in reliance on, environmental or regulatory approvals or permits issued by a political subdivision of the state or a state agency. Fla. Stat. 57.106 (2024).

Small cracks were held not to be notice of construction defects in a foundation. Snyder v. Wernecke, 813 So.2d 213 (Fla. 4th DCA 2002). Text messages were requested from a non-party. Objection was made based on attorney client privilege and work product. The objections were overruled without conducting an in camera inspection. The overruled objections were reversed on appeal. Beneschott v. Toptal, LLC, --- So.3d ---, 2025 WL 1131733 (Fla. 6th DCA 2025).

A customer list was ordered to be produced with no showing of reasonable necessity. This was reversible error. MHC Cortez Village, LLC v. Cortez Road Investments and Finance, Inc., --- So.3d ---, 50 Fla. L. Weekly D1297 (Fla. 2nd DCA 2025).

Absent a ruling on a privilege log, it was premature to seek review on objections. Deel Realty, LLC v. O'Malley, --- So.3d ---, 50 Fla. L. Weekly D1042 (Fla. 3rd DCA025).

Where objection is made to business records it is incumbent on the objector to specify the infirmity and obtain a ruling on the specific objection in order to complain about this on appeal. Pescatore v. Fernandez, --- So.3d ---, 50 Fla. L. Weekly D1092 (Fla. 4th DCA 2025).

A homeowner sued its association to obtain some official records (among other relief). The suit to obtain the records was dismissed for failure of the homeowner to seek pre-suit mediation pursuant to F.S. 720.311. Steinberg v. Fiesta Homeowners Assn., Inc., --- So.3d ---, 50 Fla. L. Weekly D553 (Fla. 4th DCA 2025).

The court failed to calculate the fees incurred by the offeree to the time of the offer in a case where fees were sought (when calculating whether the result beat the offer by 25%). The failure to include those fees was error. SFR Services, LLC v. Florida Dept. of Financial Svcs., --- So.3d --- 50 Fla. L. Weekly D 1129 (Fla. 6th DCA 2025).