

# **Florida Civil Procedure**

*Carolina Academic Press  
Law Casebook Series  
Advisory Board*



Gary J. Simson, Chairman  
*Dean, Case Western Reserve University School of Law*

Raj Bhala  
*University of Kansas School of Law*

John C. Coffee, Jr.  
*Columbia University Law School*

Randall Coyne  
*University of Oklahoma College of Law*

John S. Dzienkowski  
*University of Texas School of Law*

Paul Finkelman  
*Albany Law School*

Robert M. Jarvis  
*Shepard Broad Law Center  
Nova Southeastern University*

Vincent R. Johnson  
*St. Mary's University School of Law*

Michael A. Olivas  
*University of Houston Law Center*

Kenneth Port  
*William Mitchell College of Law*

Michael P. Scharf  
*Case Western Reserve University School of Law*

Peter M. Shane  
*Michael E. Moritz College of Law  
The Ohio State University*

Emily L. Sherwin  
*Cornell Law School*

John F. Sutton, Jr.  
*Emeritus, University of Texas School of Law*

David B. Wexler  
*John E. Rogers College of Law  
University of Arizona*

# Florida Civil Procedure

---

## Cases & Materials

**Juan Ramirez, Jr.**

CAROLINA ACADEMIC PRESS

---

Durham, North Carolina

Copyright © 2007  
Juan Ramirez, Jr.  
All Rights Reserved.

ISBN: 978-1-59460-132-3  
LCCN: 2007926424

CAROLINA ACADEMIC PRESS  
700 Kent Street  
Durham, North Carolina 27701  
Telephone: (919) 489-7486  
Fax (919) 493-5668  
[www.cap-press.com](http://www.cap-press.com)

Printed in the United States of America.

*To my wife, Josie, and to my sons, Juan Luis and Julian.*



# Contents

---

Table of Principal Cases	xxvii
Preface	xxxiii
<b>Chapter 1 Actions; Pre-Filing Considerations</b>	<b>3</b>
§ 1-1. Introduction	3
§ 1-2. Substantive v. Procedural	3
<i>Caple v. Tuttle's Design-Build, Inc.</i>	4
Notes and Questions	6
<i>McMillian v. State, Dept. of Revenue ex rel. Searles</i>	6
Notes and Questions	7
<i>Knealing v. Puleo</i>	7
§ 1-3. Pre-Filing Considerations	9
§ 1-3(a). Accrual	9
<i>Shuck v. Bank of America, N.A.</i>	9
Notes and Questions	11
§ 1-3(b). Demand	12
<i>Mosher v. Anderson</i>	12
Notes and Questions	15
§ 1-3(c). Notice of a Claim	16
<i>Levine v. Dade County School Board</i>	16
Notes and Questions	18
<i>Metropolitan Dade County v. Reyes</i>	19
Notes and Questions	20
<i>Brown v. State, Dept. of Corrections</i>	21
Notes and Questions	23
<i>VonDrasek v. City of St. Petersburg</i>	23
Notes and Questions	25
§ 1-3(d). Conditions Precedent	25
<i>Blanchard v. State Farm Mut. Auto. Ins. Co.</i>	26
Notes and Questions	27
<i>Vest v. Travelers Ins. Co.</i>	27
Notes and Questions	29
<i>Macola v. Government Employees Insurance Company</i>	30
§ 1-3(e). Joinder and Misjoinder of Actions and Defenses	35
<i>Pages v. Dominguez By and Through Dominguez</i>	35
Notes and Questions	37
§ 1-3(f). Splitting Causes of Action	38
<i>Stanley Builders, Inc. v. Nacron</i>	38
Notes and Questions	40

§ 1-3(g). Exhaustion of Administrative Remedies	41
<i>Vanderbilt Shores Condominium Ass'n, Inc. v. Collier County</i>	42
§ 1-4. Federal Preemption	43
§ 1-5. Removal to Federal Court	43
<i>Lincoln Property Co. v. Roche</i>	43
§ 1-6. Lis Pendens	46
<i>De Pass v. Chitty</i>	46
<i>Chiusolo v. Kennedy</i>	47
<i>Medical Facilities Dev't, Inc. v. Little Arch Creek Properties, Inc.</i>	48
<b>Chapter 2 Rules of Procedure</b>	<b>53</b>
§ 2-1. Scope and Title of Rules	53
<i>Castillo v. Vlamincck de Castillo</i>	53
Notes and Questions	55
§ 2-2. Nonverification of Pleadings	55
§ 2-3. One Form of Action	55
<i>Weinstein v. Aisenberg</i>	56
§ 2-4. When Action Commenced	61
<i>Tucker v. Ruvin</i>	62
Notes and Questions	62
§ 2-5. Limitations of Actions	63
§ 2-5(a). Generally	63
<i>Dibble v. Jensen</i>	63
<i>F.S. § 95.11</i>	64
<i>Robinson v. Auto Owners Ins. Co.</i>	65
Notes and Questions	66
<i>State Farm Mut. Auto. Ins. Co. v. Bishop</i>	67
<i>Carter v. Brown &amp; Williamson Tobacco Corp.</i>	68
Notes and Questions	70
<i>Heekin v. CBS Broadcasting, Inc.</i>	71
<i>F.S. § 770.07. Cause of action, time of accrual</i>	72
<i>Musto v. Bell South Telecommunications Corp.</i>	72
Notes and Questions	74
<i>Mezroub v. Capella</i>	74
Notes and Questions	77
<i>Merkle v. Robinson</i>	78
§ 2-5(b). Tolling Provisions	80
<i>Hearndon v. Graham</i>	80
Notes and Questions	83
<i>Davis v. Monahan</i>	83
Notes and Questions	86
§ 2-5(c). Statutes of Repose	86
<i>Kush v. Lloyd</i>	86
<i>Pulmosan Safety Equipment Corp. v. Barnes</i>	91
Notes and Questions	92
<i>Major League Baseball v. Morsani</i>	92
<i>Florida Dept. of Health and Rehabilitative Services v. S.A.P.</i>	95
§ 2-5(d). Medical Malpractice	99
<i>Kukral v. Mekras</i>	99



§ 2-5(e). Other Professional Malpractice	104
<i>Silvestrone v. Edell</i>	104
Notes and Questions	106
<b>Chapter 3 Jurisdiction</b>	<b>107</b>
§ 3-1. Subject Matter Jurisdiction	107
<i>Malone v. Meres</i>	107
Notes and Questions	110
<i>Allen v. Oakbrook Securities Corp.</i>	110
<i>Cunningham v. Standard Guar. Ins. Co.</i>	111
<i>Ruth v. Department of Legal Affairs</i>	112
<i>Paulucci v. General Dynamics Corp.</i>	115
§ 3-2. Trial Courts	117
§ 3-2(a). Generally	117
Rule of Priority	118
<i>Mabie v. Garden St. Management Corp.</i>	118
Notes and Questions	118
FL CONST Article V	119
§ 3-2(b). Circuit	121
F.S. § 26.012. Jurisdiction of circuit court	121
<i>Alexdex Corp. v. Nachon Enterprises, Inc.</i>	122
<i>Melkonian v. Goldman</i>	124
Notes and Questions	125
<i>Oceania Joint Venture v. Ocean View of Miami, Ltd.</i>	126
<i>Board of County Com'rs of Brevard County v. Snyder</i>	127
Notes and Questions	129
<i>Martin County v. Yusem</i>	129
Notes and Questions	130
<i>Miami-Dade County v. Omnipoint Holdings, Inc.</i>	131
<i>Ivey v. Allstate Ins. Co.</i>	133
§ 3-2(c). County	136
F.S. § 34.01. Jurisdiction of county court	137
F.S. § 34.011. Jurisdiction in landlord and tenant cases	137
Rule 7.010. Title and Scope	137
F.S. § 51.011. Summary procedure	138
<i>Metro Ford, Inc. v. Green</i>	138
§ 3-3. Jurisdiction Over the Parties	140
§ 3-3(a). In General	140
<i>Manrique v. Fabbri</i>	140
<i>Burnham v. Superior Court of California</i>	142
Notes and Questions	145
Two Step Inquiry	145
<i>Venetian Salami Co. v. Parthenais</i>	145
F.S. § 48.193. Acts subjecting person to jurisdiction of courts of state	149
§ 3-3(b). Tortious Act Within the State	149
<i>Wendt v. Horowitz</i>	149
Notes and Questions	153
<i>Acquadro v. Bergeron</i>	153
<i>Gerber Trade Finance, Inc. v. Bayou Dock Seafood Co., Inc.</i>	156

<i>Benson v. Norwegian Cruise Line Ltd.</i>	159
<i>Doe v. Thompson</i>	160
<i>Oesterle v. Farish</i>	161
§ 3-3(c). Causing Injury in Florida	163
<i>Thomas Jefferson University v. Romer</i>	163
Notes and Questions	165
<i>Execu-Tech Business Systems, Inc. v. New Oji Paper Co. Ltd.</i>	165
<i>Sierra v. A Betterway Rent-A-Car, Inc.</i>	168
Specific v. General Jurisdiction	169
<i>Northwestern Aircraft Capital Corp. v. Stewart</i>	170
<i>Helicopteros Nacionales de Colombia, S. A. v. Hall</i>	173
Notes and Problems	177
§ 3-3(d). Persons Engaging in Business	177
<i>Marsh Supermarkets, Inc. v. Queen's Flowers Corp.</i>	177
Notes and Problems	179
<i>Camp Illahee Investors, Inc. v. Blackman</i>	179
§ 3-3(e). Contract to be Performed in Florida	181
<i>Burger King Corp. v. Rudzewicz</i>	181
<i>Banco Inversion, S.A. v. Celtic Finance Corp., S.A.</i>	186
<i>QSR, Inc. v. Concord Food Festival Inc.</i>	190
§ 3-3(f). Contract to Insure in Florida	193
<i>Glovegold Shipping, Ltd. v. Sveriges Angfartygs Assurans Forening</i>	193
§ 3-4. In Rem Jurisdiction	196
<i>Honegger v. Coastal Fertilizer &amp; Supply, Inc.</i>	197
<b>Chapter 4 Venue</b>	<b>199</b>
§ 4-1. Selection of Venue	199
§ 4-1(a). Venue and Jurisdiction	199
<i>Rule 1.060. Transfers of Actions</i>	199
<i>McClain v. Crawford</i>	199
<i>Podd v. Becker</i>	200
Notes and Problems	201
<i>F.S. § 47.011. Where actions may be begun</i>	201
<i>Fontana v. Hugo International, Inc.</i>	201
Notes and Problems	204
<i>Goedmakers v. Goedmakers</i>	204
4-1(b). Venue Privilege	206
<i>A-Ryan Staffing Solutions Inc. v. Ace Staffing Management Unlimited, Inc.</i>	207
§ 4-1(c). Inconvenient Venue	210
<i>Loiaconi v. Gulf Stream Seafood, Inc.</i>	210
<i>F.S. § 47.122. Change of venue; convenience of parties or witnesses or in the interest of justice</i>	211
<i>Morrill v. Lytle</i>	211
<i>Eggers v. Eggers</i>	212
§ 4-1(d). Other Grounds	213
§ 4-2. Actions Against Individuals	214
§ 4-3. Actions Against Corporations	214
<i>F.S. § 47.051. Actions against corporations</i>	214
§ 4-4. Actions Against Multiple Defendants	215

<i>Pozo v. Roadhouse Grill, Inc.</i>	215
Notes and Problems	218
<i>Aladdin Ins. Agency, Inc. v. Jones</i>	219
§ 4-5. Actions Involving Multiple Claims	221
<i>F.S. § 47.041: Actions on several causes of action</i>	221
§ 4-6. Actions Against Public Entities and Officials	221
<i>Carlile v. Game and Fresh Water Fish Commission</i>	221
<i>Florida Public Service Commission v. Triple A Enterprises, Inc.</i>	223
<i>Board of County Com'rs of Madison County v. Grice</i>	224
<i>Florida Dept. of Children and Families v. Sun-Sentinel, Inc.</i>	226
§ 4-7. Local Action Rule	229
<i>Bauman v. Rayburn</i>	230
§ 4-8. Contract Actions	231
<i>Rayman v. Langdon Asset Management, Inc.</i>	231
Notes and Problems	231
§ 4-9. Tort Actions	232
<i>Allen v. Walker</i>	232
§ 4-10. Declaratory and Equitable Actions	233
§ 4-11. Counterclaims, Crossclaims, and Third-Party Actions	233
<i>State Dept. of Transp. v. San Marco Contracting Co.</i>	233
Notes and Problems	235
<i>Stowers Equipment Rental Co. v. Brown</i>	235
§ 4-12. Objections, Transfers, and Changes of Venue	237
<i>Suzanne Walker &amp; Associates, Inc. v. Qualtec Quality Servs., Inc.</i>	237
<i>Government Employees Ins. Co. v. Burns</i>	238
Objections	242
<i>Tip Top Enterprises, Inc. v. Summit Consulting, Inc.</i>	242
Transfer	243
<i>Lottinger-Serraes v. Serraes</i>	243
§ 4-13. Selection of Forum	244
<i>Kinney System, Inc. v. Continental Ins. Co.</i>	244
<i>Rule 1.061. Choice of Forum</i>	250
<b>Chapter 5 Service of Process</b>	<b>253</b>
§ 5-1. Introduction	253
<i>Decker v. Kaplus</i>	253
Notes and Problems	254
§ 5-2. Waiver	254
<i>Rojas v. Rojas</i>	254
Notes and Problems	255
<i>MacDougall v. Kutina</i>	255
Notes and Problems	256
<i>Allbritton v. Stahlman</i>	257
Notes and Problems	258
<i>Florida Dept. of Children and Families v. Sun-Sentinel, Inc.</i>	258
Notes and Problems	261
§ 5-3. Procedure	261
§ 5-3(a). Overview	261
<i>American Hosp. of Miami, Inc. v. Nateman</i>	261

Notes and Problems	262
<i>Rule 1.070. Process</i>	263
Notes and Problems	264
<i>Aboudraah v. Tartus Group, Inc.</i>	264
Notes and Problems	266
<i>F.S. §48.21. Return of execution of process</i>	266
Notes and Problems	266
§ 5-3(b). Motion to Quash	267
<i>Stebnicki v. Wolfson</i>	267
<i>Emmer v. Brucato</i>	268
<i>Southeastern Termite and Pest v. Ones</i>	269
<i>Telf Corp. v. Gomez</i>	270
<i>Fern, Ltd. v. Road Legends, Inc.</i>	271
<i>Gonzalez v. Totalbank</i>	271
<i>Carlini v. State Dept. of Legal Affairs</i>	273
§ 5-4. Time for Initial Service of Process	275
<i>Rule 1.070. Process</i>	275
<i>Gardina v. Aronowitz</i>	275
<i>Chaffin v. Jacobson</i>	277
§ 5-5. Methods of Serving Process	279
§ 5-5(a). Personal Service	279
<i>F.S. §48.031. Service of process generally</i>	279
<i>Torres v. Arnco Const., Inc.</i>	279
<i>Luckey v. Smathers and Thompson</i>	281
<i>Schupak v. Sutton Hill Associates</i>	282
§ 5-5(b). Substitute Service	283
<i>Gilbert v. Storey</i>	284
§ 5-5(c). Constructive Service	285
<i>Shepherd v. Deutsche Bank Trust Co. Americas</i>	285
Notes and Problems	288
<i>Fla. Stat. §49.011 Service by publication</i>	288
§ 5-5(d). Service by Mail	289
§ 5-5(e). Service Pursuant to the Hague Convention	289
<i>Semet Lickstein Morgenstern Berger Friend Brooke &amp; Gordon, P.A. v. Sawada</i>	290
<i>Armet S.N.C. di Ferronato Giovanni &amp; Company v. Hornsby</i>	290
§ 5-6. Types of Service	291
§ 5-6(a). Service on Individuals	291
§ 5-6(b). Service on Corporations	292
<i>Emery Worldwide, Inc. v. Indemnity Ins. Co. of North America</i>	292
Notes and Problems	293
<i>Cannella v. Auto-Owners Ins. Co.</i>	293
Notes and Problems	295
§ 5-6(c). Service on Sole Proprietors	296
§ 5-6(d). Service on Minors	297
§ 5-6(e). Service on Incapacitated Persons	297
§ 5-6(f). Service on Nonresidents	297
<i>Labbee v. Harrington</i>	298
Notes and Problems	301

§ 5-6(g). Service on Unincorporated Associations and Labor Unions	302
§ 5-6(h). Service on Partnerships	302
<i>Boatfloat LLC v. Golia</i>	303
§ 5-6(i). Service on Public Entities	304
§ 5-6(j). Service on Agents Designated by Statute	304
<b>Chapter 6 Pleadings and Motions</b>	<b>307</b>
§ 6-1. Service of Pleadings and Papers—Overview	307
<i>Rule 1.080. Service of Pleadings and Papers</i>	307
<i>Smith v. Smith</i>	308
<i>Greenberg Traurig Hoffman Lipoff Rosen &amp; Quentel v. Bolton</i>	310
<i>Suarez v. Hillcrest Development of South Florida, Inc.</i>	311
Notes and Problems	313
<i>State Farm Mut. Auto. Ins. Co. v. Horkheimer</i>	313
Certificate of Service	316
<i>Mr. Martinez of Miami, Inc. v. Ponce De Leon Federal Sav. and Loan Ass'n</i>	316
§ 6-2. Computation of Time	316
<i>Rule 1.090. Time</i>	316
<i>Werntz v. Floyd</i>	317
<i>State, Dept. of Transp. v. Southtrust Bank</i>	317
Notes and Problems	319
<i>Juliano v. Juliano</i>	320
<i>Florida Rule of Judicial Administration 2.071. Use of Communication Equipment</i>	320
§ 6-3. Pleadings and Motions	321
<i>Rule 1.100. Pleadings and Motions</i>	321
<i>Jaffrey v. Baggy Bunny, Inc.</i>	321
<i>Frugoli v. Winn-Dixie Stores, Inc.</i>	322
<i>Kitchen v. Kitchen</i>	323
<i>North American Philips Corp., Inc. v. Boles</i>	324
<i>F.S. § 92.525, Verification of documents; perjury by false written declaration, penalty</i>	325
<i>Brown v. School Bd. of Palm Beach County</i>	326
<i>Florida Rule of Judicial Administration 2.060. Attorneys</i>	327
<i>Quinn v. Housing Authority of City of Orlando</i>	329
Notes and Problems	330
<i>Florida Rule of Judicial Administration 2.061. Foreign Attorneys</i>	330
<i>Torrey v. Leesburg Regional Medical Center</i>	331
<i>Colby Materials, Inc. v. Caldwell Const., Inc.</i>	335
Notes and Questions	338
<i>Kiriakidis v. Kiriakidis</i>	338
§ 6-4. General Rules of Pleading	341
<i>Rule 1.110. General Rules of Pleading</i>	341
<i>Conte v. R &amp; A Food Services, Inc.</i>	342
<i>Ranger Const. Industries, Inc. v. Martin Cos. of Daytona, Inc.</i>	343
§ 6-5. Pleading Special Matters	345
<i>Rule 1.120. Pleading Special Matters</i>	345
<i>Bankers Mut. Capital Corp. v. U.S. Fidelity and Guar. Co.</i>	346
<i>Precision Tune Auto Care, Inc. v. Radcliffe</i>	348

<i>Stockman v. Downs</i>	349
<i>Green v. Sun Harbor Homeowners' Ass'n, Inc.</i>	351
<i>Caufield v. Cantele</i>	353
§ 6-6. Attaching Exhibits	354
<i>Rule 1.130. Attaching Copy of Cause of Action and Exhibits</i>	354
<i>Chemical Residential Mortg. v. Rector</i>	354
<i>Department of Revenue ex rel. Meire v. Bander</i>	355
<i>Fladell v. Palm Beach County Canvassing Bd.</i>	356
<i>Contractors Unlimited, Inc. v. Nortrax Equipment Co. Southeast</i>	357
§ 6-7. Defenses	358
<i>Rule 1.140. Defenses</i>	358
<i>Abichandani v. Related Homes of Tampa, Inc.</i>	359
Notes and Problems	360
<i>Southeast Medical Products, Inc. v. Williams</i>	360
Notes and Problems	361
<i>Nash v. Wells Fargo Guard Services, Inc.</i>	361
<i>Bogosian v. State Farm Mut. Auto. Ins. Co.</i>	363
<i>Shuler v. Darby</i>	364
Notes and Questions	365
<i>Cartan Tours, Inc. v. ESA Services, Inc.</i>	365
<i>Ropiza v. Reyes</i>	367
§ 6-8. Sham Pleadings	367
<i>Rule 1.150. Sham Pleadings</i>	367
<i>Upland Development of Cent. Florida, Inc. v. Bridge</i>	368
Notes and Problems	369
<i>Furst v. Blackman</i>	370
<b>Chapter 7 Counterclaims, Crossclaims and Third-Party Practice</b>	<b>373</b>
§ 7-1. Generally	373
<i>Rule 1.170. Counterclaims and Crossclaims</i>	373
<i>Allie v. Ionata</i>	374
<i>Rybovich Boat Works, Inc. v. Atkins</i>	377
<i>Beach v. Great Western Bank</i>	380
<i>Maynard v. Household Finance Corp. III</i>	383
§ 7-2. Counterclaims	385
<i>Londono v. Turkey Creek, Inc.</i>	385
<i>Aguilar v. Southeast Bank, N.A.</i>	388
Notes and Problems	390
<i>Equity Residential Properties Trust v. Yates</i>	390
§ 7-3. Crossclaim against Co-Party	391
<i>Lindahl v. Laralen Corp.</i>	391
<i>D. A. D., Inc. v. Poole</i>	394
<i>Southern Bell Tel. &amp; Tel. Co. v. Florida Dept. of Transp.</i>	395
<i>Bischoff v. Dixie Auto Parts &amp; Equipment Corp.</i>	396
§ 7-4. Third Party Practice	396
<i>Rule 1.170. Counterclaims and Crossclaims</i>	396
<i>Rule 1.180. Third-Party Practice</i>	397
<i>Houdaille Industries, Inc. v. Edwards</i>	397
<i>Leggiere v. Merrill Lynch Realty/Florida, Inc.</i>	399

<i>Dade County School Bd. v. Radio Station WQBA</i>	400
<i>Attorneys' Title Ins. Fund, Inc. v. Punta Gorda Isles, Inc.</i>	404
<b>Chapter 8 Amended and Supplementary Pleadings; Pretrial Procedure</b>	<b>407</b>
§ 8-1. Amendments and Supplementary Pleadings	407
<i>Rule 1.190. Amended and Supplemental Pleadings</i>	407
<i>Surf Tech Intern., Inc. v. Rutter</i>	408
<i>Scheb v. Shalam Imports, Inc.</i>	409
<i>Diaz v. First Capital Corp.</i>	411
<i>Noble v. Martin Memorial Hosp. Ass'n, Inc.</i>	412
<i>Scott v. Trevett</i>	413
Notes and Problems	414
<i>Williams v. Palm Beach Community College Foundation, Inc.</i>	415
<i>Geer v. Jacobsen</i>	416
§ 8-2. Amendments to Conform with the Evidence	419
<i>Simon, Pipes &amp; Ross, Inc. v. Cuartas</i>	419
<i>Book v. City of Winter Park</i>	420
Notes and Problems	421
<i>Suntree Homes, Inc. v. Sims</i>	422
§ 8-3. Amendment to Assert Punitive Damages	422
<i>Globe Newspaper Co. v. King</i>	422
<i>Simeon, Inc. v. Cox</i>	424
<i>Strasser v. Yalamanchi</i>	425
Notes and Problems	426
<i>W.R. Grace &amp; Company—Conn. v. Waters</i>	427
§ 8-4. Relation Back of Amendments	429
<i>Colandrea v. King</i>	429
<i>Schwartz v. Metro Limo, Inc.</i>	430
<i>City of Miami v. Cisneros</i>	433
<i>Tanner v. Hartog</i>	434
Notes and Problems	435
<i>Totura &amp; Co., Inc. v. Williams</i>	435
§ 8-5. Pretrial Procedure	438
<i>Rule 1.200. Pretrial Procedure</i>	438
<i>Fugnole v. Crumbly Bros., Inc.</i>	439
Notes and Problems	440
§ 8-6. Settlements	440
<i>State Farm Mut. Auto. Ins. Co. v. InterAmerican Car Rental, Inc.</i>	440
<i>Dosdourian v. Carsten</i>	442
<i>Rosen v. Florida Ins. Guar. Ass'n</i>	446
<b>Chapter 9 Parties</b>	<b>451</b>
§ 9-1. Parties in General	451
§ 9-1(a). Introduction	451
<i>Rule 1.210. Parties</i>	451
<i>Lage v. Blanco</i>	452
<i>F.S. § 57.105. Attorney's fee; sanctions for raising unsupported claims or defenses; service of motions; damages for delay of litigation</i>	453
<i>Visoly v. Security Pacific Credit Corp.</i>	454

<i>Whiteside v. School Bd. of Escambia County</i>	456
<i>Tran v. Fragnoli</i>	457
§9-1(b). Who May Be Parties	457
<i>Cocoa Academy for Aerospace Technology v. School Bd. of Brevard County, Florida</i>	458
<i>Yordon v. Savage</i>	458
<i>Kingsley v. Kingsley</i>	460
<i>Gilbertson v. Boggs</i>	462
<i>Rinas v. Rinas</i>	465
§9-1(c). Real Parties in Interest	466
<i>Kumar Corp. v. Nopal Lines, Ltd.</i>	466
<i>Federal Rule of Civil Procedure 17. Parties Plaintiff and Defendant; Capacity</i>	468
<i>Florida Emergency Physicians-Kang and Associates, M.D., P.A. v. Parker</i>	469
<i>F.S. §768.20. Parties</i>	470
<i>Guadalupe v. Peterson</i>	470
<i>F.S. §744.301. Natural guardians</i>	471
<i>F.S. §744.387. Settlement of claims</i>	472
<i>Rogers &amp; Ford Const. Corp. v. Carlandia Corp.</i>	473
<i>RHPC, Inc. v. Gardner</i>	475
Notes and Problems	477
§9-1(d). Subrogation	478
<i>Holyoke Mut. Ins. Co. in Salem v. Concrete Equipment, Inc.</i>	478
<i>Dade County School Bd. v. Radio Station WQBA</i>	479
Notes and Problems	481
<i>Royal Atlantic Health Spa, Inc. v. B.L.N., Inc.</i>	482
§9-1(e). Indispensable or Necessary Parties	484
<i>Tobin v. Vasey</i>	484
<i>Florida Department of Revenue v. Cummings</i>	485
§9-2. Class Actions	488
§9-2(a). In General	488
<i>Rule 1.220. Class Actions</i>	488
Notes and Problems	491
<i>Osceola Groves v. Wiley</i>	491
Notes and Problems	492
<i>Taran v. Blue Cross Blue Shield of Florida, Inc.</i>	493
§9-2(b). Class Certification	495
<i>KPMG Peat Marwick LLP v. Barner</i>	495
<i>Lance v. Wade</i>	496
<i>Kuhnlein v. Department of Revenue</i>	498
<i>Engle v. Liggett Group Inc.</i>	500
<i>Barnhill v. Florida Microsoft Anti-Trust Litigation</i>	505
§9-3. Condominium Associations	508
<i>Rule 1.221. Condominium Associations</i>	508
<i>Avila South Condominium Ass'n, Inc. v. Kappa Corp.</i>	508
<i>Graves v. Ciega Verde Condo. Ass'n</i>	510
§9-4. Mobile Homeowners' Associations	513
<i>Rule 1.222. Mobile Homeowners' Associations</i>	513
<i>Palm Point Property Owners' Ass'n of Charlotte County, Inc. v. Pisarski</i>	513



§ 9-5. Interventions	515
<i>Union Cent. Life Ins. Co. v. Carlisle</i>	515
<i>Beeler v. Banco Indus. de Venezuela</i>	517
<i>Kissoon v. Araujo</i>	518
§ 9-6. Interpleader	520
<i>Rule 1.240. Interpleader</i>	520
<i>Wassman v. Travelers Cas. and Sur. Co.</i>	520
§ 9-7. Misjoinder and Nonjoinder of Parties	523
<i>Rule 1.250. Misjoinder and Nonjoinder of Parties</i>	523
<i>Alanco v. Bystrom</i>	524
<i>National Bank of Commerce v. Jupiter Mortg. Corp.</i>	525
Motor Vehicle Accidents	527
<i>F.S. § 627.7403. Mandatory joinder of derivative claim</i>	527
<i>Government Employees Ins. Co. v. Krawzak</i>	527
Notes and Questions	529
<i>Hemingway v. Bresney</i>	530
§ 9-8. Survivor; Substitution of Parties	531
<i>Rule 1.260. Survivor; Substitution of Parties</i>	531
<i>Niemi v. Brown &amp; Williamson Tobacco Corp.</i>	532
<i>Smith v. Crumm</i>	534
<i>Martin v. Hacsí</i>	534
<i>Eusepi v. Magruder Eye Institute</i>	536
<i>Levine v. Gonzalez</i>	538
§ 9-9. Consolidation; Separate Trials	541
§ 9-9(a). Consolidation	541
<i>Rule 1.270. Consolidation; Separate Trials</i>	541
<i>State Farm Florida Ins. Co. v. Bonham</i>	541
<i>Pages v. Dominguez By and Through Dominguez</i>	543
§ 9-9(b). Separate Trials	546
<i>General Star Indem. Co. v. Boran Craig Barber Engel Const. Co., Inc.</i>	546
§ 9-10. Standing	548
<i>Vaughan v. First Union Nat'l Bank of Fla.</i>	548
Notes and Problems	549
<i>Peregood v. Cosmides</i>	549
<b>Chapter 10 Discovery</b>	<b>553</b>
§ 10-1. Discovery in General	553
<i>Kaplan v. Allen</i>	553
Notes and Questions	554
<i>Dodson v. Persell</i>	555
Notes and Questions	557
<i>Binger v. King Pest Control</i>	558
Notes and Questions	560
<i>Compton v. West Volusia Hosp. Authority</i>	560
Notes and Questions	563
§ 10-2. Methods of Discovery	563
<i>Rule 1.280. General Provisions Governing Discovery</i>	563
Notes and Problems	566
<i>Article I, § 23. Right of Privacy</i>	566

<i>Rasmussen v. South Florida Blood Service, Inc.</i>	567
Public Records	570
<i>Article I, § 24. Access to Public Records and Meetings</i>	570
<i>F.S. § 119.01. General state policy on public records</i>	570
<i>F.S. § 286.011. Public meetings and records; public inspection; criminal and civil penalties</i>	571
<i>Florida Rule of Judicial Administration 2.051. Public Access to Judicial Branch Records</i>	573
§ 10-3. Scope of Discovery	576
<i>Amente v. Newman</i>	576
<i>Allstate Ins. Co. v. Langston</i>	578
Notes and Questions	580
§ 10-4. Experts	580
<i>Elkins v. Syken</i>	580
Notes and Questions	584
<i>Allstate Ins. Co. v. Boecher</i>	584
Notes and Questions	588
<i>City of Jacksonville v. Rodriguez</i>	588
Notes and Problems	590
§ 10-5. Protective Orders	590
<i>Meier v. Meier</i>	590
<i>H.B.A. Management, Inc. v. Estate of Schwartz</i>	591
§ 10-6. Supplementing Discovery	594
<i>Tetrault v. Fairchild</i>	594
<i>Bogosian v. State Farm Mut. Auto. Ins. Co.</i>	596
§ 10-7. Privileges	598
<i>Southern Bell Tel. &amp; Tel. Co. v. Deason</i>	598
Notes and Problems	604
<i>American Tobacco Co. v. State</i>	604
<i>Cone v. Culverhouse</i>	607
<i>Northup v. Acken</i>	611
Notes and Problems	614
<i>Coralluzzo v. Fass</i>	615
<i>Acosta v. Richter</i>	616
Notes and Questions	620
<i>Estate of Stephens ex rel. Clark v. Galen Health Care Inc.</i>	620
Notes and Questions	623
<i>Cruger v. Love</i>	623
Notes and Questions	625
<i>Notami Hosp. of Florida, Inc. v. Bowen</i>	626
§ 10-8. Depositions	629
<i>National Healthcorp Ltd. Partnership v. Close</i>	630
<i>Rule 1.290. Depositions Before Action or Pending Appeal</i>	632
<i>Publix Supermarkets, Inc. v. Frazier</i>	633
Notes and Questions	634
<i>Rule 1.300. Persons Before Whom Depositions may be Taken</i>	634
Notes and Problems	635
<i>Rule 1.310. Depositions Upon Oral Examination</i>	635
<i>Beekie v. Morgan</i>	638

Notes and Problems	642
<i>National Sec. Fire &amp; Cas. Co. v. Dunn</i>	642
<i>Brown v. Brown</i>	644
<i>Logitech Cargo, U.S.A., Corp. v. JW Perry, Inc.</i>	644
Notes and Problems	645
<i>Rule 1.320. Depositions Upon Written Questions</i>	646
Notes and Problems	646
<i>Rule 1.330. Use of Depositions in Court Proceedings</i>	646
<i>Castaneda v. Redlands Christian Migrant Ass'n, Inc.</i>	648
§ 10-9. Interrogatories	651
<i>Rule 1.340. Interrogatories to Parties</i>	651
Notes and Problems	652
<i>Adventist Health System/Sunbelt Health v. Judge Silvers v. Wal-Mart Stores, Inc.</i>	652
<i>Florida Dept. of Professional Regulation v. Florida Psychological Practitioners Ass'n</i>	654
<i>Mt. Sinai Medical Center, Inc. v. Perez-Torbay</i>	656
Notes and Problems	657
<i>Summit Chase Condo. Ass'n, Inc. v. Protean Investors, Inc.</i>	657
§ 10-10. Requests for Production and Inspection	659
<i>Rule 1.350. Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes</i>	659
<i>Kaye Scholer LLP v. Zalis</i>	660
Notes and Questions	662
<i>Gosman v. Luzinski</i>	662
<i>Menke v. Broward County School Bd.</i>	664
<i>Harley Shipbuilding Corp. v. Fast Cats Ferry Service, LLC</i>	666
<i>Rule 1.351. Production of documents and things without deposition</i>	668
<i>Morgan, Colling &amp; Gilbert, P.A. v. Pope</i>	669
Notes and Problems	670
<i>Franco v. Franco</i>	670
§ 10-11. Physical and Mental Examinations	672
<i>Rule 1.360. Examination of Persons</i>	672
<i>Schlagenhauf v. Holder</i>	673
Notes and Problems	678
<i>Tsutras v. Duhe</i>	678
<i>Olges v. Dougherty</i>	679
§ 10-12. Requests for Admission	681
<i>Rule 1.370. Requests for Admission</i>	681
<i>Asset Mgt. Consultants Of Virginia, Inc. v. City Of Tamarac</i>	682
<i>Davis v. Dollar Rent A Car Systems, Inc.</i>	684
<i>Thomas v. Chase Manhattan Bank</i>	686
§ 10-13. Failure to Make Discovery; Sanctions	687
<i>Rule 1.380. Failure to Make Discovery; Sanctions</i>	687
<i>Mercer v. Raine</i>	689
Notes and Questions	691
<i>Commonwealth Federal Sav. and Loan Ass'n v. Tubero</i>	691
Notes and Questions	692
<i>Kozel v. Ostendorf</i>	692

<i>Liebreich v. Church of Scientology Flag Service Org'n, Inc.</i>	694
Spoliation of Evidence	696
<i>Public Health Trust of Dade County v. Valcin</i>	696
§ 10-14. Depositions of Expert Witnesses	699
<i>Rule 1.390. Depositions of Expert Witnesses</i>	699
<i>Sihle Ins. Group, Inc. v. Right Way Hauling, Inc.</i>	700
<i>Dimeglio v. Briggs-Mugrauer</i>	701
<i>Ross v. Hobbs</i>	703
§ 10-15. Subpoenas	704
<i>Rule 1.410. Subpoena</i>	704
<i>Reedy v. Safeco Ins. Co. of America</i>	706
<b>Chapter 11 Dismissal of Actions</b>	<b>709</b>
§ 11-1. Voluntary Dismissals	709
<i>Rule 1.420. Dismissal of Actions</i>	709
<i>Patterson v. Allstate Ins. Co.</i>	710
Notes and Questions	712
<i>Guess v. City of Miramar</i>	712
<i>National Bank of Commerce v. Jupiter Mortg. Corp.</i>	713
<i>Olympia Mortgage Corp. v. Pugh</i>	714
Notes and Questions	717
<i>Miller v. Fortune Ins. Co.</i>	717
Notes and Questions	721
<i>MCR Funding v. CMG Funding Corp.</i>	721
Notes and Questions	725
<i>Fleet Services Corp. v. Reise</i>	725
Notes and Questions	726
§ 11-2. Involuntary Dismissals	726
<i>Smith v. St. Vil</i>	726
<i>Ballestas v. Montego Ass'n</i>	728
Notes and Questions	729
<i>Thompson v. Florida Cemeteries, Inc.</i>	729
Notes and Questions	730
Fraud on the Court	731
<i>Savino v. Florida Drive In Theatre Management, Inc.</i>	731
Notes and Questions	731
<i>Andrews v. Palmas De Majorca Condominium</i>	731
§ 11-3. Costs on Dismissal	734
<i>Coastal Petroleum Co. v. Mobil Oil Corp.</i>	734
Notes and Questions	737
<i>Wilson v. Rose Printing Co., Inc.</i>	737
<i>Commercial Service of Perry, Inc. v. Campbell</i>	738
§ 11-4. Failure to Prosecute	740
<i>Wilson v. Salamon</i>	740
Notes and Problems	746
<i>Patton v. Kera Technology, Inc.</i>	746
<i>Seabury v. Cheminova, Inc.</i>	749
§ 11-5. Effect on Lis Pendens	751
<i>Vonmitschke-Collande v. Kramer</i>	751

<b>Chapter 12 Defaults</b>	<b>753</b>
§ 12-1. Defaults Generally	753
<i>Rule 1.500. Defaults and Final Judgments Thereon</i>	753
<i>Zephyr Aviation Services, Inc. v. Amerijet Intern., Inc.</i>	754
Notes and Problems	754
<i>Yellow Jacket Marina, Inc. v. Paletti</i>	755
<i>Dunkley Stucco, Inc. v. Progressive American Ins. Co.</i>	755
Notes and Problems	757
<i>Geer v. Jacobsen</i>	757
Notes and Questions	760
§ 12-2. Final Judgments after Default	760
<i>Behar v. Jefferson Nat. Bank at Sunny Isles</i>	760
<i>Days Inns Acquisition Corp. v. Hutchinson</i>	762
Notes and Problems	765
<i>Hesser v. Flick</i>	766
Notes and Questions	768
<i>Szucs v. Qualico Development, Inc.</i>	768
Notes and Problems	770
<i>Jayre Inc. v. Wachovia Bank and Trust Co., N.A.</i>	770
Notes and Questions	771
§ 12-3. Vacating Judgments and Setting Aside Defaults	771
<i>Londono v. Big Lake National Bank</i>	771
<i>M.L. Builders, Inc. v. Reserve Developers, LLP</i>	772
<i>Dawkins, Inc. v. Huff</i>	775
<i>Allstate Ins. Co. v. Ladner</i>	776
Notes and Questions	777
<i>Devlin v. Delray Community Hosp.</i>	777
<b>Chapter 13 Trials</b>	<b>781</b>
§ 13-1. Right to Jury Trial	781
<i>Department of Revenue v. Printing House</i>	781
<i>Billian v. Mobil Corp.</i>	783
<i>Chabad House-Lubavitch of Palm Beach County, Inc. v. Banks</i>	784
§ 13-2. Demand for Jury Trial; Waiver	785
<i>Rule 1.430. Demand for Jury Trial; Waiver</i>	785
<i>Rodriguez v. Mummery</i>	786
<i>Dr. Phillips, Inc. v. L &amp; W Supply Corp.</i>	787
<i>Paramount Engineering Group, Inc. v. Oakland Lakes, Ltd.</i>	788
<i>Del-Rena, Inc. v. KFM, Inc.</i>	790
Notes and Questions	791
§ 13-3. Trial Jury	791
§ 13-3(a). Qualifications of Jurors	791
<i>F.S. § 40.01. Qualifications of jurors</i>	791
<i>F.S. § 40.013. Persons disqualified or excused from jury service</i>	792
§ 13-3(b). Questionnaire	793
<i>Rule 1.431. Trial Jury</i>	793
§ 13-3(c). Number of Jurors	793
<i>F.S. § 69.071. Number of jurors</i>	793

<i>F.S. §73.071. Jury trial; compensation; severance damages; business damages</i>	793
<i>Eickmeyer v. Dunkin Donuts of America, Inc.</i>	793
§ 13-3(d). Examination by Parties	794
<i>Rule 1.431. Trial Jury</i>	794
Notes and Problems	795
<i>Roberts v. Tejada</i>	795
<i>Ottley v. Kirzharr</i>	800
§ 13-3(e). Challenge for Cause	803
<i>Rule 1.431. Trial Jury</i>	803
<i>Wallace v. Holiday Isle Resort and Marina, Inc.</i>	804
§ 13-3(f). Peremptory Challenges	805
<i>Rule 1.431. Trial Jury</i>	805
<i>Melbourne v. State</i>	805
<i>Milstein v. Mutual Sec. Life Ins. Co.</i>	808
§ 13-3(g). Exercise of Challenges	809
<i>Rule 1.431. Trial Jury</i>	809
§ 13-3(h). Swearing of Jurors	809
<i>Rule 1.431. Trial Jury</i>	809
§ 13-3(i). Swearing of Jurors	810
<i>Rule 1.431. Trial Jury</i>	810
§ 13-3(j). Conduct of Jurors	810
<i>F.S. §40.50. Jury duty and instructions in civil cases</i>	810
<i>Florida Rule of Judicial Administration 2.170. Standards of Conduct and Technology Governing Electronic Media and Still Photography Coverage of Judicial Proceedings</i>	811
§ 13-3(k). Opening Statements	812
<i>Maleh v. Florida East Coast Properties, Inc.</i>	813
§ 13-3(m). Receiving Testimony	814
<i>Florida Rule of Judicial Administration 2.071. Use of Communication Equipment</i>	815
§ 13-3(n). Interview of a Juror	816
<i>Rule 4-3.5. Impartiality and decorum of the tribunal</i>	816
<i>Baptist Hosp. of Miami, Inc. v. Maler</i>	816
Notes and Questions	819
<i>Myron v. Shulman</i>	820
Notes and Questions	821
§ 13-4. Setting Action for Trial	821
<i>Rule 1.440. Setting Action for Trial</i>	821
<i>Schreiber v. Schreiber</i>	822
<i>Brown v. Reynolds</i>	822
§ 13-5. Proposals for Settlement	827
<i>Rule 1.442. Proposals for Settlement</i>	827
<i>F.S. §768.79. Offer of judgment and demand for judgment</i>	828
Notes and Questions	830
<i>BDO Seidman, LLP v. British Car Auctions, Inc.</i>	830
<i>Nationwide Mut. Fire Ins. Co. v. Robinson</i>	835
<i>Willis Shaw Exp., Inc. v. Hilyer Sod, Inc.</i>	836
<i>Lamb v. Matetzschk</i>	838

Notes and Questions	841
<i>Saia Motor Freight Line, Inc. v. Reid</i>	842
<i>Wagner v. Brandeberry</i>	845
§ 13-6. Evidence	848
<i>Rule 1.450. Evidence</i>	848
§ 13-7. Continuances	848
<i>Rule 1.460. Continuances</i>	848
§ 13-8. Exceptions Unnecessary	849
<i>Rule 1.470. Exceptions Unnecessary</i>	849
§ 13-9. Motion for a Directed Verdict	849
<i>Rule 1.480. Motion for a Directed Verdict</i>	849
<i>Williams v. Salem Free Will Baptist Church</i>	850
Notes and Questions	851
<i>Fulton County Adm'r v. Sullivan</i>	851
<i>Williams v. School Bd. of Palm Beach County</i>	852
Notes and Questions	854
§ 13-10. Verdicts	854
<i>Rule 1.481. Verdicts</i>	854
<i>F.S. § 768.77. Itemized verdict</i>	854
<b>Chapter 14 Judgments and Post-Trial Motions</b>	<b>855</b>
§ 14-1. Judgments Generally	855
<i>Wiggins v. Dojcsan</i>	855
Notes and Questions	857
§ 14-2. Summary Judgments	857
<i>Rule 1.510 Summary Judgment</i>	857
Notes and Problems	858
<i>Mobley v. Gilbert E. Hirschberg, P.A.</i>	859
<i>Winfield v. Lazarus</i>	860
<i>Carbonell v. BellSouth Telecommunications, Inc.</i>	861
Notes and Questions	862
<i>Koresko v. Coe</i>	862
<i>Lawrence v. Pep Boys Manny Moe &amp; Jack, Inc.</i>	863
<i>Wolford v. Ostenbridge</i>	864
<i>Bush v. State Farm Fire &amp; Cas. Co.</i>	865
Notes and Problems	866
<i>Kehle v. Modansky</i>	866
<i>Shafran v. Parrish</i>	867
<i>Fleet Finance &amp; Mortg., Inc. v. Carey</i>	868
§ 14-3. Form of Judgment	869
<i>Southern Bell Tel. &amp; Tel. Co. v. Broward County</i>	869
<i>F.S. § 55.01. Judgments; general form</i>	870
Notes and Questions	871
<i>Palamara v. Chinnock Marine, Inc.</i>	871
<i>Pennington v. Waldheim</i>	871
§ 14-4. Entry and Recordation of Judgment	873
<i>F.S. § 28.222. Clerk to be county recorder</i>	873
<i>F.S. § 28.29. Recording of orders and judgments</i>	874
<i>Clinton v. Doehla</i>	874

<i>Gaines v. Sayne</i>	876
§ 14-5. Motion for Costs and Attorneys' Fees	880
<i>Moritz v. Hoyt Enterprises, Inc.</i>	880
<i>Rule 1.525. Motions for Costs and Attorneys' Fees</i>	882
<i>State Farm Fire &amp; Cas. Co. v. Palma</i>	882
Notes and Questions	885
<i>Faro v. Romani</i>	885
<i>Bell v. U.S.B. Acquisition Co., Inc.</i>	887
<i>Stockman v. Downs</i>	891
§ 14-6. Interest	894
<i>Argonaut Ins. Co. v. May Plumbing Co.</i>	894
<i>Quality Engineered Installation, Inc. v. Higley South, Inc.</i>	896
§ 14-7. Motion for New Trial or Rehearing	898
<i>Rule 1.530. Motions for New Trial and Rehearing; Amendments of</i>	
<i>Judgments</i>	898
<i>Brown v. Estate of Stuckey</i>	899
<i>Allstate Ins. Co. v. Manasse</i>	902
<i>F.S. §768.043. Remittitur and additur actions arising out of operation of</i>	
<i>motor vehicles</i>	904
Notes and Questions	905
§ 14-8. Motion for Relief from Judgment	905
<i>Rule 1.540. Relief From Judgment, Decrees, or Orders</i>	905
<i>Dunfine Florida, Inc. v. Golden Gate Development Corp.</i>	906
<i>Pure H2O Biotechnologies, Inc. v. Mazziotti</i>	907
<b>Chapter 15 Enforcement of Judgments</b>	<b>911</b>
§ 15-1. Consent Judgments	911
<i>Ahern v. Odyssey Re (London) Ltd.</i>	911
<i>Independent Fire Ins. Co. v. Paulekas</i>	914
§ 15-2. Executions and Final Process	915
<i>Rule 1.550 Executions and Final Process</i>	915
<i>GEICO Financial Services, Inc. v. Kramer</i>	916
<i>E.H.G. Enterprises, Inc. v. Amstell</i>	917
<i>F.S. § 55.10. Judgments, orders, and decrees; lien of all, generally;</i>	
<i>extension of liens; transfer of liens to other security</i>	918
<i>Form 1.914. Execution</i>	919
<i>F.S. § 55.201. Central database of judgment liens on personal property</i>	920
Notes and Questions	920
<i>F.S. § 55.202. Judgments, orders, and decrees;</i>	
<i>lien on personal property</i>	920
<i>F.S. § 55.203. Judgment lien certificate; content, filing, and indexing</i>	921
<i>Haigh v. Planning Board of the Town of Medfield</i>	922
§ 15-3. Stays of Execution	925
<i>Allstate Ins. Co. v. Cruz</i>	925
<i>Tooltrend, Inc. v. C.M.T. Utensili, S.r.l.</i>	927
§ 15-4. Discovery in Aid of Execution	927
<i>Rule 1.560. Discovery in Aid of Execution</i>	927
<i>Form 1.977. Fact Information Sheet</i>	928
§ 15-5. Attachment	933



<i>Friedman v. Heart Institute of Port St. Lucie, Inc.</i>	933
Notes and Problems	936
<i>F.S. § 76.03. Courts from which attachments shall issue</i>	936
<i>F.S. § 76.08. Procurement of attachment; generally</i>	936
<i>F.S. § 76.24. Dissolution of attachment</i>	936
<i>F.S. § 76.04. Grounds when debt due</i>	937
<i>F.S. § 76.05. Grounds when debt not due</i>	937
<i>F.S. § 76.12. Attachment bond</i>	937
§ 15-6. Garnishment	938
<i>F.S. § 77.03. Issuance of writ after judgment</i>	938
<i>F.S. § 77.031. Issuance of writ before judgment</i>	938
<i>F.S. § 77.04. Writ; form</i>	938
<i>Beal Bank, SSB v. Almand and Associates</i>	939
<i>F.S. § 222.12. Proceedings for exemption</i>	942
<i>Hill v. Haywood</i>	943
§ 15-7. Replevin	944
<i>F. S. § 78.01. Right of replevin</i>	944
<i>F. S. § 78.068. Prejudgment writ of replevin</i>	944
Notes and Problems	945
<b>Chapter 16 Appeals</b>	<b>947</b>
§ 16-1. Jurisdiction	947
§ 16-1(a). Supreme Court	947
<i>Art. V, § 3. Supreme court</i>	947
<i>Rule 9.030. Jurisdiction of Courts</i>	948
Notes and Problems	949
<i>Persaud v. State</i>	949
§ 16-1(b). District Courts	951
<i>Art. V, § 4. District courts of appeal</i>	951
<i>Rule 9.030. Jurisdiction of Courts</i>	952
<i>Miami-Dade County v. Omnipoint Holdings, Inc.</i>	952
<i>Rule 9.100. Original Proceedings</i>	956
<i>Rule 9.130. Proceedings to Review Non-Final Orders and Specified Final Orders</i>	958
Notes and Problems	960
§ 16-1(c). Circuit Courts	960
<i>Rule 9.030. Jurisdiction of Courts</i>	960
§ 16-2. Appeal Proceedings	960
<i>Rule 9.110. Appeal Proceedings to Review Final Orders of Lower Tribunals and Orders Granting New Trial in Jury and Non-Jury Cases</i>	960
<i>St. Moritz Hotel v. Daughtry</i>	962
<i>Hoffman v. Hoffman</i>	964
<i>Rule 9.310. Stay Pending Review</i>	965
<i>Clear Channel Communications, Inc. v. City of North Bay Village</i>	965
<i>Perez v. Perez</i>	966
§ 16-3. Appellate Provisions	969
§ 16-3(a) Jurisdiction of Lower Tribunal Pending Review	969
<i>Rule 9.600. Jurisdiction of Lower Tribunal Pending Review</i>	969
<i>Bradenton Group, Inc. v. Department of Legal Affairs, State of Fla.</i>	969

§16-3(b) Notice	971
<i>Alphonso v. Department of Environmental Regulation</i>	971
Timing	974
<i>Raysor v. Raysor</i>	974
<i>Breakstone v. Baron's of Surfside, Inc.</i>	975
Notes and Problems	978
§ 16-3(c). The Record	979
<i>Applegate v. Barnett Bank of Tallahassee</i>	979
Notes and Problems	980
§ 16-3(d). Briefs	980
§ 16-3(e). Filing; Service of Copies; Computation of Time	982
§ 16-3(f). Oral Argument	982
§ 16-3(g). Dismissal of Appeal	983
§ 16-3(h). Motions	983
§ 16-3(i). Rehearing; Clarification; Certification	983
§ 16-3(j). Rehearings En Banc	984
§ 16-3(k). Disposition of Appeals	984
§ 16-3(l). Costs and Attorney's Fees	984
§ 16-3(m). Sanctions	985
Index	987

# Table of Principal Cases

---

- A-Ryan Staffing Solutions Inc. v. Ace Staffing Management Unlimited, Inc., 207
- Abichandani v. Related Homes of Tampa, Inc., 359
- Aboudraah v. Tartus Group, Inc., 264
- Acosta v. Richter, 616
- Acquadro v. Bergeron, 153
- Adventist Health System/Sunbelt Health v. Judge, 652
- Aguilar v. Southeast Bank, N.A., 388
- Ahern v. Odyssey Re (London) Ltd., 911
- Aladdin Ins. Agency, Inc. v. Jones, 219
- Alanco v. Bystrom, 524
- Alexdex Corp. v. Nachon Enterprises, Inc., 122
- Allbritton v. Stahlman, 257
- Allen v. Oakbrook Securities Corp., 110
- Allen v. Walker, 232
- Allie v. Ionata, 374
- Allstate Ins. Co. v. Boecher, 584
- Allstate Ins. Co. v. Cruz, 925
- Allstate Ins. Co. v. Ladner, 776
- Allstate Ins. Co. v. Langston, 578
- Allstate Ins. Co. v. Manasse, 902
- Alphonso v. Department of Environmental Regulation, 971
- Amente v. Newman, 576
- American Hosp. of Miami, Inc. v. Nateman, 261
- American Tobacco Co. v. State, 604
- Andrews v. Palmas De Majorca Condominium, 731
- Applegate v. Barnett Bank of Tallahassee, 979
- Argonaut Ins. Co. v. May Plumbing Co., 894
- Armet S.N.C. di Ferronato Giovanni & Company v. Hornsby, 290
- Asset Mgt. Consultants Of Virginia, Inc. v. City Of Tamarac, 682
- Attorneys' Title Ins. Fund, Inc. v. Punta Gorda Isles, Inc., 404
- Avila South Condominium Ass'n, Inc. v. Kappa Corp., 508
- Ballestas v. Montego Ass'n, 728
- Banco Inversion, S.A. v. Celtic Finance Corp., S.A., 186
- Bankers Mut. Capital Corp. v. U.S. Fidelity and Guar. Co., 346
- Baptist Hosp. of Miami, Inc. v. Maler, 816
- Barnhill v. Florida Microsoft Anti-Trust Litigation, 505
- Bauman v. Rayburn, 230
- BDO Seidman, LLP v. British Car Auctions, Inc., 830
- Beach v. Great Western Bank, 380
- Beal Bank, SSB v. Almand and Associates, 939
- Beekie v. Morgan, 638
- Beeler v. Banco Indus. de Venezuela, 517
- Behar v. Jefferson Nat. Bank at Sunny Isles, 760
- Bell v. U.S.B. Acquisition Co., Inc., 887
- Benson v. Norwegian Cruise Line Ltd., 159
- Billian v. Mobil Corp., 783
- Binger v. King Pest Control, 558
- Bischoff v. Dixie Auto Parts & Equipment Corp., 396
- Blanchard v. State Farm Mut. Auto. Ins. Co., 26
- Board of County Com'rs of Brevard County v. Snyder, 127
- Board of County Com'rs of Madison County v. Grice, 224
- Boatfloat LLC v. Golia, 303
- Bogosian v. State Farm Mut. Auto. Ins. Co., 363
- Bogosian v. State Farm Mut. Auto. Ins. Co., 596
- Book v. City of Winter Park, 420
- Bradenton Group, Inc. v. Department of Legal Affairs, State of Fla., 969

- Breakstone v. Baron's of Surfside, Inc., 975  
 Brown v. Brown, 644  
 Brown v. Estate of Stuckey, 899  
 Brown v. Reynolds, 822  
 Brown v. School Bd. of Palm Beach County, 326  
 Brown v. State, Dept. of Corrections, 21  
 Burger King Corp. v. Rudzewicz, 181  
 Burnham v. Superior Court of California, 142  
 Bush v. State Farm Fire & Cas. Co., 865  
 Camp Illahee Investors, Inc. v. Blackman, 179  
 Cannella v. Auto-Owners Ins. Co., 293  
 Caple v. Tuttle's Design-Build, Inc., 4  
 Carbonell v. BellSouth Telecommunications, Inc., 861  
 Carlile v. Game and Fresh Water Fish Commission, 221  
 Carlini v. State Dept. of Legal Affairs, 273  
 Cartan Tours, Inc. v. ESA Services, Inc., 365  
 Carter v. Brown & Williamson Tobacco Corp., 68  
 Castaneda v. Redlands Christian Migrant Ass'n, Inc., 648  
 Castillo v. Vlaminc de Castillo, 53  
 Caufield v. Cantele, 353  
 Chabad House-Lubavitch of Palm Beach County, Inc. v. Banks, 784  
 Chaffin v. Jacobson, 277  
 Chemical Residential Mortg. v. Rector, 354  
 Chiusolo v. Kennedy, 47  
 City of Jacksonville v. Rodriguez, 588  
 City of Miami v. Cisneros, 433  
 Clear Channel Communications, Inc. v. City of North Bay Village, 965  
 Clinton v. Doehla, 874  
 Coastal Petroleum Co. v. Mobil Oil Corp., 734  
 Cocoa Academy for Aerospace Technology v. School Bd. of Brevard County, Florida, 458  
 Colandrea v. King, 429  
 Colby Materials, Inc. v. Caldwell Const., Inc., 335  
 Commercial Service of Perry, Inc. v. Campbell, 738  
 Commonwealth Federal Sav. and Loan Ass'n v. Tubero, 691  
 Compton v. West Volusia Hosp. Authority, 560  
 Cone v. Culverhouse, 607  
 Conte v. R & A Food Services, Inc., 342  
 Contractors Unlimited, Inc. v. Nortrax Equipment Co. Southeast, 357  
 Coralluzzo v. Fass, 615  
 Cruger v. Love, 623  
 Cunningham v. Standard Guar. Ins. Co., 111  
 D. A. D., Inc. v. Poole, 394  
 Dade County School Bd. v. Radio Station WQBA, 400  
 Dade County School Bd. v. Radio Station WQBA, 479  
 Davis v. Dollar Rent A Car Systems, Inc., 684  
 Davis v. Monahan, 83  
 Dawkins, Inc. v. Huff, 775  
 Days Inns Acquisition Corp. v. Hutchinson, 762  
 De Pass v. Chitty, 46  
 Decker v. Kaplus, 253  
 Del-Rena, Inc. v. KFM, Inc., 790  
 Department of Revenue ex rel. Meire v. Bander, 355  
 Department of Revenue v. Printing House, 781  
 Devlin v. Delray Community Hosp., 777  
 Diaz v. First Capital Corp., 411  
 Dibble v. Jensen, 63  
 Dimeglio v. Briggs-Mugrauer, 701  
 Dodson v. Persell, 555  
 Doe v. Thompson, 160  
 Dosedourian v. Carsten, 442  
 Dr. Phillips, Inc. v. L & W Supply Corp., 787  
 Dunfine Florida, Inc. v. Golden Gate Development Corp., 906  
 Dunkley Stucco, Inc. v. Progressive American Ins. Co., 755  
 E.H.G. Enterprises, Inc. v. Amstell, 917  
 Eggers v. Eggers, 212  
 Eickmeyer v. Dunkin Donuts of America, Inc., 793  
 Elkins v. Syken, 580  
 Emery Worldwide, Inc. v. Indemnity Ins. Co. of North America, 292  
 Emmer v. Brucato, 268  
 Engle v. Liggett Group Inc., 500  
 Equity Residential Properties Trust v. Yates, 390  
 Estate of Stephens ex rel. Clark v. Galen Health Care Inc., 620  
 Eusepi v. Magruder Eye Institute, 536  
 Execu-Tech Business Systems, Inc. v. New Oji Paper Co. Ltd., 165  
 Faro v. Romani, 885  
 Federal Rule of Civil Procedure 17. Parties Plaintiff and Defendant; Capacity, 468  
 Fern, Ltd. v. Road Legends, Inc., 271  
 Fladell v. Palm Beach County Canvassing Bd., 356  
 Fleet Finance & Mortg., Inc. v. Carey, 868  
 Fleet Services Corp. v. Reise, 725

- Florida Department of Revenue v. Cummings, 485
- Florida Dept. of Children and Families v. Sun-Sentinel, Inc., 226
- Florida Dept. of Children and Families v. Sun-Sentinel, Inc., 258
- Florida Dept. of Health and Rehabilitative Services v. S.A.P., 95
- Florida Dept. of Professional Regulation v. Florida Psychological Practitioners Ass'n, 654
- Florida Emergency Physicians-Kang and Associates, M.D., P.A. v. Parker, 469
- Florida Public Service Commission v. Triple A Enterprises, Inc., 223
- Fontana v. Hugo International, Inc., 201
- Franco v. Franco, 670
- Friedman v. Heart Institute of Port St. Lucie, Inc., 933
- Frugoli v. Winn-Dixie Stores, Inc., 322
- Fugnole v. Crumbly Bros., Inc., 439
- Fulton County Adm'r v. Sullivan, 851
- Furst v. Blackman, 370
- Gaines v. Sayne, 876
- Gardina v. Aronowitz, 275
- Geer v. Jacobsen, 416
- Geer v. Jacobsen, 757
- GEICO Financial Services, Inc. v. Kramer, 916
- General Star Indem. Co. v. Boran Craig Barber Engel Const. Co., Inc., 546
- Gerber Trade Finance, Inc. v. Bayou Dock Seafood Co., Inc., 156
- Gilbert v. Storey, 284
- Gilbertson v. Boggs, 462
- Globe Newspaper Co. v. King, 422
- Glovegold Shipping, Ltd. v. Sveriges Angfar-tysg Assurans Forening, 193
- Goedmakers v. Goedmakers, 204
- Gonzalez v. Totalbank, 271
- Gosman v. Luzinski, 662
- Government Employees Ins. Co. v. Burns, 238
- Government Employees Ins. Co. v. Krawzak, 527
- Graves v. Ciega Verde Condo. Ass'n, 510
- Green v. Sun Harbor Homeowners' Ass'n, Inc., 351
- Greenberg Traurig Hoffman Lipoff Rosen & Quentel v. Bolton, 310
- Guadalupe v. Peterson, 470
- Guess v. City of Miramar, 712
- H.B.A. Management, Inc. v. Estate of Schwartz, 591
- Haigh v. Planning Board of the Town of Med-field, 922
- Harley Shipbuilding Corp. v. Fast Cats Ferry Service, LLC, 666
- Hearndon v. Graham, 80
- Heekin v. CBS Broadcasting, Inc., 71
- Helicopteros Nacionales de Colombia, S. A. v. Hall, 173
- Hemingway v. Bresney, 530
- Hesser v. Flick, 766
- Hill v. Haywood, 943
- Hoffman v. Hoffman, 964
- Holyoke Mut. Ins. Co. in Salem v. Concrete Equipment, Inc., 478
- Honegger v. Coastal Fertilizer & Supply, Inc., 197
- Houdaille Industries, Inc. v. Edwards, 397
- Independent Fire Ins. Co. v. Paulekas, 914
- Ivey v. Allstate Ins. Co., 133
- Jaffrey v. Baggy Bunny, Inc., 321
- Jayre Inc. v. Wachovia Bank and Trust Co., N.A., 770
- Juliano v. Juliano, 320
- Kaplan v. Allen, 553
- Kaye Scholer LLP v. Zalis, 660
- Kehle v. Modansky, 866
- Kingsley v. Kingsley, 460
- Kinney System, Inc. v. Continental Ins. Co., 244
- Kiriakidis v. Kiriakidis, 338
- Kissoon v. Araujo, 518
- Kitchen v. Kitchen, 323
- Knealing v. Puleo, 7
- Koresko v. Coe, 862
- Kozel v. Ostendorf, 692
- KPMG Peat Marwick LLP v. Barner, 495
- Kuhnlein v. Department of Revenue, 498
- Kukral v. Mekras, 99
- Kumar Corp. v. Nopal Lines, Ltd., 466
- Kush v. Lloyd, 86
- Labbee v. Harrington, 298
- Lage v. Blanco, 452
- Lamb v. Matetzschk, 838
- Lance v. Wade, 496
- Lawrence v. Pep Boys Manny Moe & Jack, Inc., 863
- Leggiere v. Merrill Lynch Realty/Florida, Inc., 399
- Levine v. Dade County School Board, 16
- Levine v. Gonzalez, 538
- Liebreich v. Church of Scientology Flag Service Org'n, Inc., 694
- Lincoln Property Co. v. Roche, 43
- Lindahl v. Laralen Corp., 391
- Logitech Cargo, U.S.A., Corp. v. JW Perry, Inc., 644

- Loiaconi v. Gulf Stream Seafood, Inc., 210  
Londono v. Big Lake National Bank, 771  
Londono v. Turkey Creek, Inc., 385  
Lottinger-Serraes v. Serraes, 243  
Luckey v. Smathers and Thompson, 281  
M.L. Builders, Inc. v. Reserve Developers, LLP,  
772  
Mabie v. Garden St. Management Corp., 118  
MacDougall v. Kutina, 255  
Macola v. Government Employees Insurance  
Company, 30  
Major League Baseball v. Morsani, 92  
Maleh v. Florida East Coast Properties, Inc.,  
813  
Malone v. Meres, 107  
Manrique v. Fabbri, 140  
Marsh Supermarkets, Inc. v. Queen's Flowers  
Corp., 177  
Martin County v. Yusem, 129  
Martin v. Hacsí, 534  
Maynard v. Household Finance Corp. III, 383  
McClain v. Crawford, 199  
McMillian v. State, Dept. of Revenue ex rel.  
Searles, 6  
MCR Funding v. CMG Funding Corp., 721  
Medical Facilities Dev't, Inc. v. Little Arch  
Creek Properties, Inc., 48  
Meier v. Meier, 590  
Melbourne v. State, 805  
Melkonian v. Goldman, 124  
Menke v. Broward County School Bd., 664  
Mercer v. Raine, 689  
Merkle v. Robinson, 78  
Metro Ford, Inc. v. Green, 138  
Metropolitan Dade County v. Reyes, 19  
Mezroub v. Capella, 74  
Miami-Dade County v. Omnipoint Holdings,  
Inc., 131  
Miami-Dade County v. Omnipoint Holdings,  
Inc., 952  
Miller v. Fortune Ins. Co., 717  
Milstein v. Mutual Sec. Life Ins. Co., 808  
Mobley v. Gilbert E. Hirschberg, P.A., 859  
Morgan, Colling & Gilbert, P.A. v. Pope, 669  
Moritz v. Hoyt Enterprises, Inc., 880  
Morrill v. Lytle, 211  
Mosher v. Anderson, 12  
Mr. Martinez of Miami, Inc. v. Ponce De Leon  
Federal Sav. and Loan Ass'n, 316  
Mt. Sinai Medical Center, Inc. v. Perez-Torbay,  
656  
Musto v. Bell South Telecommunications  
Corp., 72  
Myron v. Shulman, 820  
Nash v. Wells Fargo Guard Services, Inc., 361  
National Bank of Commerce v. Jupiter Mortg.  
Corp., 525  
National Bank of Commerce v. Jupiter Mortg.  
Corp., 713  
National Healthcorp Ltd. Partnership v. Close,  
630  
National Sec. Fire & Cas. Co. v. Dunn, 642  
Nationwide Mut. Fire Ins. Co. v. Robinson,  
835  
Niemi v. Brown & Williamson Tobacco Corp.,  
532  
Noble v. Martin Memorial Hosp. Ass'n, Inc.,  
412  
North American Philips Corp., Inc. v. Boles,  
324  
Northup v. Acken, 611  
Northwestern Aircraft Capital Corp. v. Stewart,  
170  
Notami Hosp. of Florida, Inc. v. Bowen, 626  
Oceania Joint Venture v. Ocean View of  
Miami, Ltd., 126  
Oesterle v. Farish, 161  
Olges v. Dougherty, 679  
Olympia Mortgage Corp. v. Pugh, 714  
Osceola Groves v. Wiley, 491  
Ottley v. Kirchharr, 800  
Pages v. Dominguez By and Through  
Dominguez, 543  
Pages v. Dominguez By and Through  
Dominguez, 35  
Palamara v. Chinnock Marine, Inc., 871  
Palm Point Property Owners' Ass'n of Char-  
lotte County, Inc. v. Pisarski, 513  
Paramount Engineering Group, Inc. v. Oak-  
land Lakes, Ltd., 788  
Patterson v. Allstate Ins. Co., 710  
Patton v. Kera Technology, Inc., 746  
Paulucci v. General Dynamics Corp., 115  
Pennington v. Waldheim, 871  
Peregoud v. Cosmides, 549  
Perez v. Perez, 966  
Persaud v. State, 949  
Podd v. Becker, 200  
Poza v. Roadhouse Grill, Inc., 215  
Precision Tune Auto Care, Inc. v. Radcliffe,  
348  
Public Health Trust of Dade County v. Valcin,  
696  
Publix Supermarkets, Inc. v. Frazier, 633  
Pulmosan Safety Equipment Corp. v. Barnes,  
91  
Pure H2O Biotechnologies, Inc. v. Mazziotti,  
907

- QSR, Inc. v. Concord Food Festival Inc., 190  
Quality Engineered Installation, Inc. v. Higley South, Inc., 896  
Quinn v. Housing Authority of City of Orlando, 329  
Ranger Const. Industries, Inc. v. Martin Cos. of Daytona, Inc., 343  
Rasmussen v. South Florida Blood Service, Inc., 567  
Rayman v. Langdon Asset Management, Inc., 231  
Raysor v. Raysor, 974  
Reedy v. Safeco Ins. Co. of America, 706  
RHPC, Inc. v. Gardner, 475  
Rinas v. Rinas, 465  
Roberts v. Tejada, 795  
Robinson v. Auto Owners Ins. Co., 65  
Rodriguez v. Mummery, 786  
Rogers & Ford Const. Corp. v. Carlandia Corp., 473  
Rojas v. Rojas, 254  
Ropiza v. Reyes, 367  
Rosen v. Florida Ins. Guar. Ass'n, 446  
Ross v. Hobbs, 703  
Royal Atlantic Health Spa, Inc. v. B.L.N., Inc., 482  
Ruth v. Department of Legal Affairs, 112  
Rybovich Boat Works, Inc. v. Atkins, 377  
Saia Motor Freight Line, Inc. v. Reid, 842  
Savino v. Florida Drive In Theatre Management, Inc., 731  
Scheb v. Shalam Imports, Inc., 409  
Schlagenhauf v. Holder, 673  
Schreiber v. Schreiber, 822  
Schupak v. Sutton Hill Associates, 282  
Schwartz v. Metro Limo, Inc., 430  
Scott v. Trevett, 413  
Seabury v. Cheminova, Inc., 749  
Semet Lickstein Morgenstern Berger Friend Brooke & Gordon, P.A. v. Sawada, 290  
Shafran v. Parrish, 867  
Shepherd v. Deutsche Bank Trust Co. Americas, 285  
Shuck v. Bank of America, N.A., 9  
Shuler v. Darby, 364  
Sierra v. A Betterway Rent-A-Car, Inc., 168  
Sihle Ins. Group, Inc. v. Right Way Hauling, Inc., 700  
Silvers v. Wal-Mart Stores, Inc., 654  
Silvestrone v. Edell, 104  
Simeon, Inc. v. Cox, 424  
Simon, Pipes & Ross, Inc. v. Cuartas, 419  
Smith v. Crumm, 534  
Smith v. Smith, 308  
Smith v. St. Vil, 726  
Southeast Medical Products, Inc. v. Williams, 360  
Southeastern Termite and Pest v. Ones, 269  
Southern Bell Tel. & Tel. Co. v. Broward County, 869  
Southern Bell Tel. & Tel. Co. v. Deason, 598  
Southern Bell Tel. & Tel. Co. v. Florida Dept. of Transp., 395  
St. Moritz Hotel v. Daughtry, 962  
Stanley Builders, Inc. v. Nacron, 38  
State Dept. of Transp. v. San Marco Contracting Co., 233  
State Farm Fire & Cas. Co. v. Palma, 882  
State Farm Florida Ins. Co. v. Bonham, 541  
State Farm Mut. Auto. Ins. Co. v. Bishop, 67  
State Farm Mut. Auto. Ins. Co. v. Horkheimer, 313  
State Farm Mut. Auto. Ins. Co. v. InterAmerican Car Rental, Inc., 440  
State, Dept. of Transp. v. Southtrust Bank, 317  
Stebnicki v. Wolfson, 267  
Stockman v. Downs, 349  
Stockman v. Downs, 891  
Stowers Equipment Rental Co. v. Brown, 235  
Strasser v. Yalamanchi, 425  
Suarez v. Hillcrest Development of South Florida, Inc., 311  
Summit Chase Condo. Ass'n, Inc. v. Protean Investors, Inc., 657  
Suntree Homes, Inc. v. Sims, 422  
Surf Tech Intern., Inc. v. Rutter, 408  
Suzanne Walker & Associates, Inc. v. Qualtec Quality Servs., Inc., 237  
Szucs v. Qualico Development, Inc., 768  
Tanner v. Hartog, 434  
Taran v. Blue Cross Blue Shield of Florida, Inc., 493  
Telf Corp. v. Gomez, 270  
Tetrault v. Fairchild, 594  
Thomas Jefferson University v. Romer, 163  
Thomas v. Chase Manhattan Bank, 686  
Thompson v. Florida Cemeteries, Inc., 729  
Tip Top Enterprises, Inc. v. Summit Consulting, Inc., 242  
Tobin v. Vasey, 484  
Tooltrend, Inc. v. C.M.T. Utensili, S.r.l., 927  
Torres v. Arnco Const., Inc., 279  
Torrey v. Leesburg Regional Medical Center, 331  
Totura & Co., Inc. v. Williams, 435  
Tran v. Fragnoli, 457  
Tsutras v. Duhe, 678  
Tucker v. Ruvin, 62

- Union Cent. Life Ins. Co. v. Carlisle, 515  
Upland Development of Cent. Florida, Inc. v. Bridge, 368  
Vanderbilt Shores Condominium Ass'n, Inc. v. Collier County, 42  
Vaughan v. First Union Nat'l Bank of Fla., 548  
Venetian Salami Co. v. Parthenais, 145  
Vest v. Travelers Ins. Co., 27  
Visoly v. Security Pacific Credit Corp., 454  
VonDrasek v. City of St. Petersburg, 23  
Vonmitschke-Collande v. Kramer, 751  
W.R. Grace & Company—Conn. v. Waters, 427  
Wagner v. Brandeberry, 845  
Wallace v. Holiday Isle Resort and Marina, Inc., 804  
Wassman v. Travelers Cas. and Sur. Co., 520  
Weinstein v. Aisenberg, 56  
Wendt v. Horowitz, 149  
Werntz v. Floyd, 317  
Whiteside v. School Bd. of Escambia County, 456  
Wiggins v. Dojcsan, 855  
Williams v. Palm Beach Community College Foundation, Inc., 415  
Williams v. Salem Free Will Baptist Church, 850  
Williams v. School Bd. of Palm Beach County, 852  
Willis Shaw Exp., Inc. v. Hilyer Sod, Inc., 836  
Wilson v. Rose Printing Co., Inc., 737  
Wilson v. Salamon, 740  
Winfield v. Lazarus, 860  
Wolford v. Ostenbridge, 864  
Yellow Jacket Marina, Inc. v. Paletti, 755  
Yordon v. Savage, 458  
Zephyr Aviation Services, Inc. v. Amerijet Intern., Inc., 754



# Preface

---

This casebook is intended as an introduction to Florida Civil Procedure which necessitates a survey not only of the Florida rules of court and the reported cases, but also the numerous applicable statutes and a few constitutional provisions. By the rules of court, I mean the Florida Rules of Civil Procedure, together with other rules that may be relevant, such as the Rules of Appellate Procedure, the Rules of Judicial Administration, with occasional references to the Florida Evidence Code, Small Claims Rules and Family Law Rules of Procedure. But the bulk of the material included in this text is the cases found in the Southern Reporter, decided in the Florida Supreme Court and the five District Courts of Appeal.

To appreciate the importance of this subject matter, one need only read a few of the cases included in the text. The landscape is littered with cases that had merit, but fatally crashed into a procedural roadblock. Thus, before a lawsuit can find its way in front of a jury, the practitioner needs to comply properly with a number of prerequisites, some of which must be complied with even prior to the filing of a complaint with the clerk of the court. Other potential traps include statute of limitations, jurisdiction, venue, motion practice, discovery obligations, and pretrial orders, all before a judge or jury begins to listen to the evidence.

This book has not attempted to replace a basic introduction to civil procedure, nor will it attempt to provide an exhaustive review of federal civil procedure. Of course, there will be numerous references to the Federal Rules of Civil Procedure, but this text is strictly intended as a survey of Florida civil procedure. Incidentally, because of the *Erie* doctrine,<sup>1</sup> federal courts will look to Florida law for many of their decisions, and the Florida Constitution provides the mechanism, under Article V, §3(b)(6), for the United States Supreme Court or any Court of Appeals, to certify questions directly to the Florida Supreme Court.

I wish to thank all those that have helped me in the compilation of this text, including the students that struggled through the early drafts of these materials. I want to thank my friends at Carolina Academic Press. Finally, and most importantly, I wish to thank my wife and sons, to whom this book is dedicated, for their patience and understanding.

Juan Ramirez, Jr.  
Judge, Third District Court of Appeal  
Miami, Florida  
April 2007

---

1. *Erie R.R. Co. v. Tompkins*, 304 U.S. 64 (1938).