

Florida Civil Procedure

Cases and Materials

SECOND EDITION

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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, we 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 intended as a survey of Florida civil procedure. Incidentally, because of the *Erie* doctrine, 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.

We wish to thank our respective wives, both named Josie, for their patience and support in the many hours we spent compiling and drafting the materials.

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