

Real Property and Business Litigation Report - Vol. IX, Issue 27

Florida Real Property and Business Law Update

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The PDF of this week's Update, including the full text of each decision, can be read [here](#).

Cases of interest this week include:

Flo & Eddie, Inc. v. Sirius XM Radio, Inc., --- F.3d ---, 2016 WL 3546433 (11th Cir. 2016).

The Eleventh Circuit Court of Appeals certifies to the Florida Supreme Court questions regarding Florida's common law of copyright.

Bazemore v. Jefferson Capital Systems, LLC, Case No. 15-12607 (11th Cir. 2016).

The Eleventh Circuit discusses the appropriate type and amount of proof to enforce an internet "click wrap" contract.

Forest Brooke/Hillsborough, LLC v. Henriquez, --- So. 3d ---, 2016 WL 3541045 (Fla. 2d DCA 2016).

Florida Statute section 194.171(5) requires that a taxpayer pay all taxes due after the year for which the taxpayer is contesting the assessment; payment of all taxes for the year in which the taxpayer is contesting the assessment is not required.

Deutsche Bank National Trust Company v. Kummer, Case No. 2D15-3812 (Fla. 2d DCA 2016).

A trial court may not make credibility determinations and weigh the evidence when considering a motion for involuntary dismissal; the court must only focus on whether a prima facie case has been proven.

HCA Health Services Of Florida, Inc. v. Cyberknife Center Of The Treasure Coast, LLC, Case No. 4D14-3199 (Fla. 4th DCA 2016).

Damages for breach of true leases is measured by the difference between the amount stipulated to be paid and the amount paid; damages for breach of hybrid leases (leases with non-lease elements) must prove lost profits. Additionally, lost profits are general (not consequential) damages when they flow from "directly and immediately from the breach of a contract."

Jallali v. Knightsbridge Village Homeowners Ass'n, Inc., Case No. 4D15-2036 (Fla. 4th DCA 2016).

Declarations of restrictive covenants which are recorded before a lender's mortgage are "interests" under Florida Statute 48.23 (1)(d) that do not need to be joined in the lender's mortgage foreclosure action.

Dyck-O'Neal, Inc. v. Beckett, Case No. 5D15-3005 (Fla. 5th DCA 2016).

Florida Statute section 702.06 does not prohibit a party from filing an independent action for deficiency judgment when the trial court reserved jurisdiction to enter deficiency judgments in the foreclosure judgment; conflict certified with the First District's opinion in Higgins v. Dyck-O'Neal, Inc., 41 Fla. L. Weekly D1376 (Fla. 1st DCA June 9, 2016).

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