

Florida Real Property and Business Litigation Report

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Learning Resources, Inc. v. Trump, Case No. 24-1287 (U.S. 2026).

The International Emergency Economic Powers Act does not delegate Congress's Article I power to impose tariffs nor authorization to "regulate . . . importation" to the President and cannot support peacetime "drug trafficking" responses and "reciprocal" tariffs of unlimited amount and duration.

Villarreal v. Texas, No. 24-557 (U.S. 2026).

A qualified order that prohibits a testifying defendant and counsel from discussing the defendant's ongoing testimony for its own sake during a mid-testimony overnight recess, while allowing consultation on other trial-related matters, does not infringe the defendant's Sixth Amendment right to counsel.

In re Amendments to Rules Regulating The Florida Bar Chapter 3, Case No. SC2025-1180 (Fla. 2025).

Chapter 3 of the Rules Regulating The Florida Bar is amended to clarify interim suspension and probation terminology, reorganize and refine available disciplinary sanctions including permanent disbarment and disciplinary revocation without readmission, expand waiver and voting provisions in grievance and discipline procedures, and authorize oral waivers of time limits on the record.

XYZ 300, LLC v. City of St. Petersburg, Case No. 2D2025-0674 (Fla. 2d DCA 2026).

A municipal historic preservation ordinance requiring majority parcel-owner balloting as a prerequisite to historic designation review does not constitute an "initiative" or "referendum" prohibited by Florida Statutes section 163.3167(8) because the ballot process neither compels legislative action nor constitutes a final vote of registered electors and the City Council retains ultimate quasi-judicial authority over designation decisions.

Cedrus Enterprises Holding SAL v. Jabil, Inc., Case No. 2D2025-1068 (Fla. 2d DCA 2026).

A foreign guarantor that executes a joinder and consent to a payment agreement containing a Florida choice-of-law provision and a Pinellas County venue clause consents to personal jurisdiction under Florida Statutes sections 48.193(1)(a)9 and 685.102, and the later forum selection clause supersedes a prior nonexclusive Delaware forum provision in the underlying guaranty.

Palma v. Regions Bank, Case No. 3D25-0717 (Fla. 3d DCA 2026).

A document titled "Release of Lien" that releases specifically described real property from a recorded judgment lien does not extinguish the underlying judgment or effect an accord and satisfaction where the instrument's plain language limits its operative scope to the lien on that property and the underlying claim was liquidated and undisputed.

Moskovits v. L.P. Evans Motors WPB, Inc., Case No. 3D25-1028 (Fla. 3d DCA 2026).

A plaintiff whose lawsuit is stayed pending contractual arbitration bears the burden to initiate the arbitration proceeding, and a defendant's failure to commence arbitration does not constitute a "default" warranting removal of the trial court order compelling arbitration.

Washington v. VyStar Credit Union, Case No. 5D2024-0765 (Fla. 5th DCA 2026).

An account agreement that distinguishes between authorization and payment of signature-based debit card transactions and uses the available balance at the time of payment to determine overdrafts unambiguously permits the credit union to assess overdraft fees when the available balance is insufficient at settlement notwithstanding that sufficient funds existed at the time of authorization.

Burress v. Roots and Fruits Juicery Inc., Case No. 5D2024-1876 (Fla. 5th DCA 2026).

A movant must independently demonstrate a reasonable evidentiary basis for recovery under the standards and procedure set forth in Florida Statutes section 768.72 and sufficient allegations of fraudulent inducement supporting compensatory damages do not, per se, satisfy the evidentiary and procedural requirements of the statute.

National Equity Recovery Services, Inc. v. Amerifund Equity Group, Case No. 6D2025-0561 (Fla. 6th DCA 2026).

An appellant that fails to address on appeal an independent alternative basis for the trial court's adverse ruling—here, the appellant's failure to appear at a properly noticed hearing—abandons the issue and compels affirmance regardless of the merits of any other challenged ground.

Ansaroff v. Laureles, Case No. 3D24-1995 (Fla. 3d DCA 2026).

A trial court does not grossly abuse its discretion by vacating a default foreclosure judgment where the defendant promptly moves to vacate upon learning of the judgment and establishes excusable neglect through attorney abandonment, a meritorious defense via proposed answer and affirmative defenses, and due diligence.

KADA 13, LLC v. Georgetown Holdings, Inc., Case No. 3D25-0303 (Fla. 3d DCA 2026).

Under Florida Statutes Chapter 605 and the operative trust and operating agreements, an individual trustee–manager with independent managerial and conveyance authority may unilaterally transfer the LLC's sole real-property asset to a creditor to satisfy a guaranteed debt, notwithstanding later corporate filings or spendthrift-style limitations, where the agreements confer separate authority to act and permit self-interested but fiduciary transactions.

Dejanovic v. Block, Case No. 3D24-1756 (Fla. 3d DCA 2026).

Default judgments entered against corporate co-defendants do not collaterally estop a contesting individual owner from disputing the pleaded alter-ego and liability allegations because corporate separateness precludes using the entities' technical admissions against the non-defaulting individual defendant and a default of one defendant does not operate as an admission against a contesting co-defendant in the same action.

Steinberg v. Cudak, Case No. 4D2025-3061 (Fla. 4th DCA 2026).

A trial court retains jurisdiction after a plaintiff's voluntary dismissal to adjudicate a pending sanctions motion and may declare a party a vexatious litigant and require security under Florida Statutes section 68.093 but may not bar further pro se filings under its inherent authority without first issuing an order to show cause and providing notice and an opportunity to be heard.

Wynne Building Corp. v. Spanish Lakes Country Club Village Homeowner's Ass'n, Inc., Case No. 4D2025-2169 (Fla. 4th DCA 2026).

Florida Rule of Civil Procedure 1.222 authorizes a single mobile homeowners' association to maintain a class action on behalf of its own members but does not permit multiple associations to aggregate their memberships into one "class of classes" under that rule, but the trial court maintains broad discretion to join or consolidate distinct properly certified Rule 1.222 class actions.

McBride v. Keller, Case No. 5D2025-1397 (Fla. 5th DCA 2026).

A trial court lacks jurisdiction under Florida Rules of Appellate Procedure 9.130(f) and 9.340(a) to render a final order dismissing a complaint with prejudice on the same day an interlocutory appeal is dismissed because jurisdiction is not restored until issuance of the appellate mandate.

Hannah v. Malkani, Case No. 6D2023-1983 (Fla. 6th DCA 2026).

On rehearing, the court adheres to its prior decision in *Melrose* that an appellant's collateral-estoppel and res judicata arguments raised for the first time in a motion for rehearing directed to an order granting summary judgment are unpreserved and certifies conflict with Fifth District authority permitting preservation of new arguments first raised on rehearing.

Ouedraogo v. Walmart Stores East, LP, Case No. 1D2023-1238 (Fla. 1st DCA 2026).

Evidence that a banana peel remained on the floor for almost eight minutes in close proximity to employees, including one who walked directly past it, establishes a triable issue of constructive knowledge under Florida Statutes section 768.0755(1)(a) and precludes summary judgment for the premises owner.

T. Michael Glenn Trust v. Walton County, Case Nos. 1D2024-0682, 1D2024-0720, 1D2024-0748 (Fla. 1st DCA 2026).

Repeal of Florida Statutes section 163.035 nullified a prior circuit court judgment establishing recreational customary use and eliminated any cognizable, non-speculative harm, thereby defeating certiorari jurisdiction and requiring dismissal of the petition.

Broadmoor Enterprises, LLC v. Super Heat and Air, LLC, Case No. 2D2023-1866 (Fla. 2d DCA 2026).

A commercial lease's broad subordination clause unambiguously subordinates the tenant's purchase option and all leasehold rights to any current or future mortgages of the owner and its successors, requiring the tenant to take title subject to the later-recorded

mortgage, and post judgment relief must conform to the final judgment's unchallenged description of the parcels covered by the option.

The Chetrit Group, LLC v. EquiShares, Inc., Case No. 3D25-1964 (Fla. 3d DCA 2026). Communications by an attorney who jointly represented two parties in forming a joint venture concern a matter of common interest and Florida Statutes section 90.502(4)(e) applies to those communications and excludes protection of the attorney-client privilege in subsequent litigation between the co-clients.

Westgate & Wabasso Corp. v. Word of Faith Community Development Corp., Case No. 4D2025-0506 (Fla. 4th DCA 2026).

Part I of Florida Statutes Chapter 83 concerns non-residential leases and imposes no statutory notice, timing, or interest requirements on a landlord's application of a security deposit thus the parties' lease controls and permits the landlord to apply the deposit to unpaid rent without paying interest.

JM Properties of W. Palm Beach, Inc. v. Fort Dallas Truss Co., LLC, Case No. 4D2024-1593 (Fla. 4th DCA 2026).

A supplier that contracts only to design, manufacture, and deliver trusses without performing installation qualifies as a "materialman" under Florida Statutes section 713.01(20) and may recover contract damages but may not enforce a construction lien absent evidence of an "improvement" conferring a permanent benefit under section 713.01(15).

Hi-Land Properties, LLC v. Gantt, Case No. 4D2025-1354 (Fla. 4th DCA 2026).

Recognition of a successor's claimed 75% ownership in a partition action is required when recorded personal representative's releases satisfy Florida Statute section 689.01 (followed by warranty deeds from the devisees) reflect operation-of-law vesting and establish a prima facie chain of title to the decedent's undivided interest without a court order under section Florida Statutes 733.613(1).

Baker v. Yokell, Case No. 5D2024-2015 (Fla. 5th DCA 2026).

An oral assertion by pro se defendants that the plaintiff's case is "insufficient," prompted and developed by the trial judge, does not satisfy Florida Rule of Civil Procedure 1.480(a)'s requirement that a motion for directed verdict state specific grounds, and judicial advocacy on behalf of pro se litigants that disadvantages a represented party violates neutrality principles and warrants a new trial before a different judge.

Sheik Island Farm, Inc. v. Covington Farm, Inc., Case No. 2D2025-0151 (Fla. 2d DCA 2026).

The Florida Right to Farm Act and section 604.50 do not confer nuisance immunity or building-code exemption upon a wedding and events venue which does not produce farm products.

Sandalwood 7160, LLC v. Estevez, Case No. 3D24-2110 (Fla. 3d DCA 2026).

Florida Statutes section 48.23(4) requires automatic tolling of the expiration period of a lis pendens when a notice of appeal is filed before the lis pendens expires, and that tolling is not subject to trial court discretion during the pendency of the appeal.

David v. Gov't Employees Ins. Co., Case No. 4D2024-2441 (Fla. 4th DCA 2026).

An immaterial amendment to a final judgment does not restart the thirty-day jurisdictional deadline for filing a notice of appeal under rule 9.110(b), rendering an appeal filed more than thirty days after rendition of the original judgment untimely.

Crecelius v. Rizzitano, Case No. 6D2024-2217 (Fla. 6th DCA 2026) (en banc).

Binger v. King Pest Control does not obligate a trial court to find prejudice before enforcing a case management or pretrial order that prospectively bars undisclosed or untimely disclosed witnesses or expert opinions, and trial courts retain broad discretion to enforce such orders according to their terms. Conflict certified with opinions of numerous district courts of appeal.