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OFFERS OF JUDGMENT: The Current Minefield

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A Brief History

I. Offer of Judgment Rule

Florida first enacted an offer of judgment rule in 1972, when the Florida Supreme Court adopted Fla.R.Civ.P. 1.442 in an effort to encourage settlement and avoid the necessity of trial. *Hernandez v. Travelers Ins. Co.*, 331 So.2d 329, 331 (3d DCA 1976). Rule 1.442 was "the same as" Rule 68 of the Federal Rules of Civil Procedure and was put into effect on January 1, 1973. *In re The Florida Bar*, 265 So.2d 21 (Fla. 1972). This rule only allowed defendants – and not plaintiffs – to serve an offer of judgment. *Id.* If the plaintiff failed to obtain a judgment more favorable than the offer, the rule awarded the defendant costs incurred after making the offer. *Id.* The Civil Procedure Rules Committee believed the Florida rule would not be used often, based on information obtained as to the efficacy of the equivalent Federal Rule 68. *Id.*

In 1989, the Florida Supreme Court adopted a new Rule 1.442 after the Florida Legislature enacted two offer of judgment statutes (F.S. §768.79 and §45.061) that caused confusion in part due to their uncertain relationship with Rule 1.442. *The Fla. Bar re Amendment to Rules of Civil Procedure*, 550 So.2d 442 (Fla. 1989). The Supreme Court sought to resolve this confusion by enacting the new rule, emphasizing, "[t]o the extent the procedural aspects of new rule 1.442 are inconsistent with sections 768.79 and 45.061, the rule shall supersede the statutes." *Id.* The new rule imposed a sanction based on costs and attorney's fees relating to the rejection of the offer to settle. It also strengthened the existing rule by allowing sanctions when the offer was unreasonably refused and the subsequent judgment was disproportionate to the offer by over 25 percent, i.e. an offer of $100,000 by the plaintiff, if not accepted by the defendant, will trigger the attorney's fees and costs provision if a judgment is obtained of $125,000 or more. *Id.* The new rule included extensive language that defined what could constitute an unreasonable refusal and clarified the extent of the trial court's decision on the question, including but not limited to the merit of the claim subject to the offer; the number, nature, and quality of the offers and counteroffers made; and the closeness of questions of fact and law at issue. *Id.*

In 1992, the Florida Supreme Court repealed Rule 1.442 and adopted the procedure set forth in §768.79. *Timmons v. Combs*, 608 So.2d 1, 3 (Fla. 1992). The Court simultaneously deleted Rule 1.442 in accordance with *Timmons*. *In re Amendments to the Fla. Rules of Civ. Procedure*, 604 So.2d 1110 (Fla. 1992). In 1996, the Florida Supreme Court again amended Rule 1.442, effective January 1, 1997. This amendment changed the name of the settlement procedure from "Offer of Judgment" to "Proposals for Settlement" and provided for conditions to be included in the proposals for settlement. *In re Amendments to the Fla. Rules of Civ. Procedure*, 682 So.2d 105 (Fla. 1996). In 2001, the court further amended Rule 1.442. This amendment added subdivision (f)(2) to establish the time for acceptance of proposals in class actions, amended subdivision (g) to conform with a proposed new rule regarding motions for attorneys' fees, and renamed subdivision (b) to better reflect its content. *In re Amendments to the Fla. Rules of Civ. Procedure*, 773 So.2d 1098 (Fla. 2001).

In 2012, subdivision (c)(2)(G) was amended to "reflect the relocation of the service rule from rule 1.080 to Fla. Rule Jud. Admin 2.516." Rule 1.442. Finally, in 2013, two subdivisions were amended. Subdivision (f)(1) was amended to "reflect the relocation of the rule regulating additional time after service by mail or e-mail from rule 1.090(e) to Fla. Rule Jud. Admin. 2.514(b)." *Id.* Subdivision (c)(2)(B) was also

amended to clarify that proposals "must resolve all claims between the proponent and the party to whom the proposal is made, except claims for attorneys' fees, which may or may not be resolved in the proposal." *Id.* The requirements established by the foregoing amendments are set forth below.

II. Offer of Judgment Statutes

The Florida Legislature passed F.S. §768.585 in 1985. This offer of judgment statute allowed a defendant who filed an offer of judgment that was not accepted by the plaintiff to recover reasonable costs and attorney's fees if the judgment obtained by the plaintiff was at least 25 percent less than the defendant's offer. F.S. §768.585. However, this statute only applied to medical malpractice claims. *Id.* In 1986, it was replaced with F.S. §768.79, which applied not only to medical malpractice claims, but to all actions for damages. F.S. §768.79 referred to offers of judgment by the defendant and demands for judgment by the plaintiff. If the plaintiff obtained a judgment that was at least twenty-five percent less than the defendant's rejected offer, the defendant was allowed to recover the reasonable costs and attorney's fees it incurred litigating the claim. *Timmons*, 608 So.2d at 1. The plaintiff could collect costs and attorney's fees if the plaintiff recovered a judgment over twenty-five percent more than the rejected offer. *Id.* Thus, because the statute only referred to judgments obtained by the plaintiff, courts precluded the recovery of costs and attorney's fees by a defendant when the defendant obtained a judgment. *Id.*

The Florida Legislature passed F.S. §45.061 in 1987. This proposal for settlement statute applied to all civil actions unless otherwise provided (i.e. class actions, shareholder derivative suits, and matters relating to dissolution of marriage, alimony, nonsupport, eminent domain, and child custody). F.S. §45.061. It permitted awarding attorney's fees and costs if the court determined that the offer was unreasonably rejected. *Timmons*, 608 So.2d at 2. A defendant unreasonably rejected an offer if the judgment was at least twenty-five percent greater than the offer, while the plaintiff unreasonably rejected an offer when the judgment was at least twenty-five percent less than the offer. *Id.*

F.S. §768.79 and §45.061 differed from the procedure set forth in Rule 1.442 in two ways. First, they allowed either a defendant or a plaintiff to make an offer for settlement, while only a defendant could make an offer under Rule 1.442. Second, F.S. §768.79 and §45.061 included attorney's fees *and* costs if the offer was rejected, while Rule 1.442 included only costs if the offer was rejected.

In 1990, the Florida Legislature repealed F.S. §45.061 and amended F.S. §768.79. The F.S. §768.79 amendment clarified that a defendant could collect under the statute when the offer was rejected by the plaintiff and the judgment was one of no liability. It also deleted the words "[i]n any action to which this part applies," substituting the words, "[i]n any civil action for damages." *Beyel Bros. Crane & Rigging Co. of S. Fla. v. Ace Transp.*, 664 So.2d 62 (Fla. 4th DCA 1995). In 1992, when the Florida Supreme Court repealed Rule 1.442, F.S. §768.79 was the only remaining statute on the subject of offers of judgment, so the Court adopted F.S. §768.79 as the substitute rule of procedure. *Timmons*, 608 So.2d at 3.

III. Case Law Interpreting the Rule and Statutes

The many changes made to Florida's statutes and rules created confusion over which version applied in each specific case. The court in *City of Punta Gorda v. Burnt Store Hotel* found that "an award of attorney's fees pursuant to section 768.79 is controlled by the statute in effect when the cause of action *accrued*, not when the offer was made." *City of Punta Gorda v. Burnt Store Hotel*, 650 So.2d 142, 143 (Fla. 2d DCA 1995) (emphasis in original). Conversely, under Rule 1.442, offerees are "entitled to consider the offer under the law in effect at the time the offer was made." *J.J.'s Mae, Inc. v. Milliken & Co.*, 763 So.2d 1106 (Fla. 4th DCA 1999). Ultimately, these changes mean that F.S. §45.061 will not be used unless the cause of action accrued before October 1, 1990. If the cause of action accrued on or after October 1, 1990, F.S. §768.79 and Rule 1.442 govern.

Florida Offers of Judgment, As of 2017

Currently, Offers of Judgment are governed by Rule 1.442 and F.S. §768.79. In a civil action for damages filed in Florida, if the defendant files an offer of judgment that the plaintiff does not accept within 30 days, the defendant is entitled to recover reasonable costs and attorney's fees if the judgment is one of no liability or the judgment obtained by the plaintiff is at least 25 percent less than the offer. F.S. §768.79. The amount of recoverable costs begins accruing on the date the offer is served. *Id*; *see also Cooper v. Brickell Bayview Real Estate*, 711 So.2d 258 (Fla. 3d DCA 1998) (holding that the defendant was entitled to costs and fees from the date the offer was served, rather than the date the offer was filed). If the defendant is entitled to recover, the court should set off costs and attorney's fees against the award. *Id.* When the costs and attorney's fees total more than the judgment, the court enters judgment "for the defendant against the plaintiff for the amount of the costs and fees, less the amount of the plaintiff's award." *Id.* If the plaintiff files a demand for judgment that the defendant does not accept within 30 days, the plaintiff is entitled to recover reasonable costs and attorney's fees incurred from the date of filing of the demand if the judgment obtained by the plaintiff is at least 25 percent greater than the offer. *Id.*

With regard to the statutory requirement that the judgment obtained must be 25 percent more or less than the offer, F.S. §768.79(6) provides, "[T]he term 'judgment obtained' means the amount of the net judgment entered, plus any postoffer collateral source payments received or due as of the date of the judgment, plus any postoffer settlement amounts by which the verdict was reduced." Once the 25 percent prerequisite has been triggered, the only way to deny an offeror an award is if the court determines that the offer was "not made in good faith," as discussed below. F.S. §768.79(7)(a); Rule 1.442(h)(1).

The Offer of Judgment statute applies only to civil actions for damages. *Palm Beach Polo Holdings, Inc. v. Equestrian Club Estates Prop. Owners Ass'n*, 22 So.3d 140 (Fla. 4th DCA 2009). The statute must be strictly

construed because it is in derogation of the common law rule that each party is responsible for its own attorney fees. *Campbell v. Goldman*, 959 So.2d 223 (Fla. 2007). The Florida statute governing offers of judgment is substantive, rather than procedural. It applies only to Florida causes of action, and cannot be a basis for shifting attorney fees on a federal claim. *Design Pallets, Inc. v. Gray Robinson, P.A.*, 583 F. Supp. 2d 1282 (M.D. Fla. 2008). The enforcement of the statute requires a judgment on the merits or a dismissal with prejudice and does not apply when a party files a voluntary dismissal that is without prejudice.

Procedure

Any proposal for settlement should be made in compliance with the time frames and other provisions of both the applicable statute and the current version of Rule 1.442. If there is a conflict between the requirements of the statutes and the rule, the requirements of the rule should be followed. *See* Rule 1.442(a).

Proposals for Settlement must be served. Rule 1.442(d); F.S. §768.79(3). According to the service rule, Rule 1.080, the offering party must follow the requirements of Rules of Judicial Administration 2.516 in the service of the Offer:

1. Serve by email
2. Attached PFS to service email in PDF forma
3. Make sure subject line of the service email says (in all caps), "SERVICE OF COURT DOCUMENT," followed by the case number
4. The body of the service email must identify the court in which the proceeding is pending, the case number, the name of the initial party on each side, and the title of each document served with that email, and the name and telephone number of the person required to serve the document.
5. BE CAREFUL: If you are also doing a notice of service of proposal, you need to make sure that you list in your service email the proposal for settlement and the notice of serving proposal as two separate items. If you only serve your opponent with the notice of serving proposal, then you have not actually served the proposal. If you fail to list them as separate items in your service email, then you have failed to comply with Rule 2.516.

A proposal for settlement cannot be "served later than 45 days before the date set for trial or the first day of the docket on which the case is set for trial, whichever is earlier." Rule 1.442(b). There is one exception to the bright-line, 45-day rule. If it appears from the facts of the individual case that the Offer of Judgment is not directed to the current trial period, but instead is intended for a subsequent, unscheduled trial period, then the Offer of Judgment is considered timely. However, in order for this exception to apply, "there must be some evidence in the record that both parties know the case will not be tried during the current trial period and that the Offer of Judgment is made in anticipation of the next, as yet, unscheduled trial period." *Progressive Cas. Ins. Co. v. Radiology & Imaging Ctr., Inc.*, 761 So.2d 399, 400 (Fla. 3d DCA 2000).

The proposal for settlement is "served on the party or parties to whom it is made but shall not be filed unless necessary to enforce the provisions of this rule." Rule 1.442(d). F.S. §768.79(3) also provides that an offer "shall not be filed unless it is accepted or unless filing is necessary to enforce the provisions of this section." Nevertheless, the Florida Supreme Court has held that proposals for settlement filed before the entry of a judgment are enforceable if no objection is made.

The offering party should do separate proposals for each individual and serve the proposal according to the rules discussed above. However, the offering party may do a joint proposal, and if they choose to do so, they must apportion the damages. Nevertheless, it is best to not do a joint proposal because the party will have to get 25 percent more than *each* apportioned offer at trial in order to have the proposal for settlement trigger fee entitlement. *Hoang Dinh Duong v. Ziadie*, 153 So.3d 354 (Fla. 4th DCA 2014). It is important to note that the requirements in Rule 1.442(d) and §768.79(3) are always changing, so it is best to check these rules when making your proposal for settlement.

A proposal for settlement can be withdrawn if made (1) in writing and (2) before written acceptance is delivered. Rule 1.442(e). A proposal for settlement is "deemed rejected unless accepted by delivery of a written notice of acceptance within 30 days after service of the proposal." Rule 1.442(f). "No oral communications shall constitute an acceptance, rejection, or counteroffer." Rule 1.442(f). If an offer of settlement is not withdrawn, the offeree's counteroffer does not terminate the offeree's power of acceptance. *Scope v. Fannelli*, 639 So.2d 141 (Fla. 5th DCA 1994). A proposal for settlement that does not allow a 30-day time period for acceptance of its terms cannot be accepted after an adverse verdict. *O'Brien v. Russell*, 698 So.2d 642 (Fla. 3d DCA 1997).

What to Include in an Offer of Judgment

The written offer must identify the applicable Florida law under which it is being made, i.e., F.S. §768.79 and §45.061. Rule 1.442(c)(1). Failure to state in the written proposal that the offer is being made pursuant to a particular statute will render the proposal for settlement unenforceable. The Florida Supreme Court has held that failure to cite the statute in the proposal is not "an insignificant technical violation of the rule." *Campbell v. Goldman*, 959 So.2d 223 (Fla. 2007). Thus, both the rule and statute should always be put in the written offer.

The Florida Supreme Court "has rejected any deviation from the strict requirements of the statute and rule." *Brower-Eger v. Noon*, 994 So.2d 1239 (Fla. 4th DCA 2008). When an offer is made to or from more than one party, it must state the amount attributable to each party. *Id.* Additionally, a proposal for settlement must be apportioned between multiple offerees, *Allstate Indemnity Co. v. Hingson*, 808 So.2d 197 (Fla. 2002), as well as among multiple offerors, *Willis Shaw Express, Inc. v. Hilyer Sod, Inc.*, 849 So.2d 276 (Fla. 2003); see also *Lamb v. Matetzschk*, 906 So.2d 1037, 1042 (Fla. 2004) ("Rule 1.442(c)(3) expressly requires that a joint proposal of settlement made to two or more parties be differentiated."); *Audiffred v. Arnold*, 161 So.3d 1274 (Fla. 2015) (holding that "when a single offeror submits a settlement proposal to a single offeree pursuant to §768.79 and Rule 1.442, and the offer resolves pending claims by or against additional parties ... , it constitutes a joint proposal subject to the apportionment requirement"). However, Rule 1.442(c)(4) now permits joint proposals without apportionment where one party is solely vicariously,

constructively, derivatively, or technically liable. Nevertheless, unless a party is liable under the above exceptions, it is best to make individual proposals as stated previously.

An offer of judgment is in the nature of a contract, so the construction of the offer of judgment must be governed solely by the language employed by the parties if it is unambiguous. *BMW of North America, Inc. v. Krathen*, 471 So.2d 585 (Fla. 4th DCA 1985). Therefore, an offer "must state with particularity any relevant conditions and all non-monetary terms." *Palm Beach Polo Holdings, Inc. v. Cill. Of Wellington*, 904 So.2d 652, 654 (Fla. 4th DCA 2006). A request for a release is a condition or non-monetary term that must be described with particularity in a proposal for settlement. *State Farm Mutual Automobile Insurance Co. v. Nichols*, 932 So.2d 1067 (Fla. 2006). The rule does not demand the impossible with its particularity requirement—it only requires that the offer be clear enough to allow the offeree to make "an informed decision without needing clarification." *Id.* A rejected offer of judgment that does not state all non-monetary conditions cannot form the basis for a later award of attorney's fees to the offeror. *Menard v. Univ. Radiation Oncology Assocs., LLP*, 976 So.2d 69 (Fla. 4th DCA 2008).

The issue of whether a proposal for settlement that offers to settle less than all monetary claims between the offeror and offeree is enforceable has not yet been settled. The Fourth DCA has held that an offer made on two of four counts in a counterclaim was not enforceable. *Bayley Products, Inc. v. Cole*, 720 So.2d 550 (Fla. 4th DCA 1998), In reaching its decision, the court held that F.S. §768.79 "does not authorize offers which, if accepted, would resolve less than all monetary claims." *Id.* However, a growing number of appellate decisions have held that an offer for settlement does *not* need to resolve all claims between the offeror and offeree. *Harris Specialty Chemicals, Inc. v. Punto Azul S.A. de C.V.*, 12 So.3d 809, 810 (Fla. 3d DCA 2009) ("Section 768.79 and Rule 1.442 do not require that a settlement proposal cover all claims between all parties involved, or that it settle all claims between the parties to the proposal."); *Wagner v. Brandeberry*, 761 So.2d 443, 447 (Fla. 2d DCA 2000) ("Nothing in either the statute or the rule requires that a proposal settle all claims between all parties, or even all claims between the parties to the proposal.").

Two recent Florida Supreme Court decisions indicate that enforcing proposals for settlement may become easier. In *Kuhajda v. Borden Dairy Co. of Alabama, LLC*, the court held that a procedural provision of Rule 1.442 that is not also present in F. S. §768.79 does not need to be strictly enforced. *Kuhajda v. Borden Dairy Co. of Alabama, LLC*, 202 So.3d 391 (Fla. 2016). Further, the Florida Supreme Court in *Anderson v. Hilton Hotels Corp.* discouraged courts from "nit-picking" proposals for settlement to search for ambiguity. *Anderson v. Hilton Hotels Corp.*, 202 So.3d 846 (Fla. 2016). A proposal for settlement under the statute and rule must be "sufficiently clear and free of ambiguity to allow the offeree the opportunity to fully consider the proposal." *Id.* However, the court does not require "the elimination of *every* ambiguity—only reasonable ambiguities." *Id.* The court emphasized that the rule merely requires the proposal to be "sufficiently clear and definite to allow the offeree to make an informed decision without needing clarification." *Id.* Thus, if the proposal contains an ambiguity that could reasonably affect

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the offeree's decision, it will not satisfy the particularity requirement. *Id.* In subsequent cases, the Second and Fourth District Courts of Appeal held that proposals for settlement were valid by not nit-picking the proposals to search for ambiguity. *Carey-All., Inc. v. Newby*, 989 So.2d 1201, 1206 (Fla. 2d DCA 2008); *Kiefer v. Sunset Beach Invs. LLC*, 207 So.3d 1008 (Fla. 4th DCA 2017).

Offers Made in Bad Faith[1]

The court may disallow an award of costs and attorney's fees if it determines that the offer was not made in good faith. F.S. §768.79(7)(a). The offeree has the burden to prove the absence of good faith. *Donohoe v. Starmed Staffing, Inc.*, 743 So.2d 623, 624 (Fla. 2d DCA 1999). This good faith obligation merely requires that the offeror have "some reasonable foundation on which to base an offer." *Schmidt v. Fortner*, 629 So.2d 1036 (Fla. 4th DCA 1993); see also *General Mech. Corp. v. Williams*, 103 So.3d 974 (Fla 1st DCA 2012) (finding that the good faith requirement is met as long as the offeror has a basis in known or reasonably believed fact justifying the offer).

The fact that the amount offered in a proposal for settlement is nominal does not determine the issue of good faith. *Downs v. Coastal Systems International, Inc.*, 972 So.2d 258 (Fla. 3d DCA 2008) ("Even nominal offers may be made in good faith."). The court in *Schmidt* noted that just because an offeror believes that the offeree will not accept the figure does not necessarily suggest an absence of good faith. The offer meets the good faith requirement when it is clear that the offeror intends to settle the case if the offer is accepted, and the amount of the offer is not so widely inconsistent with the facts of the case that it suggests that the only reason for making the offer was to create a right to fees if the offer was not accepted. *Schmidt*, 629 So.2d 1036 n.5. As long as the evidence demonstrates that at the time the offer was made, the offeror had a reasonable basis to conclude that its exposure to liability was nominal, a minimum settlement offer can be found to have been made in good faith. *State Farm Mut. Auto. Ins. Co. v. Sharkey*, 928 So.2d 1263 (Fla. 4th DCA 2006).

Each district court of appeal has held that the fact that a proposal for settlement was made offering a nominal figure does not alone determine the issue of good faith. The First DCA has acknowledged the "widely accepted view that even a nominal offer may have been made in good faith." *City of Neptune Beach v. Smith.*, 740 So.2d 25 (Fla. 1st DCA 1999). In *State Farm Mut. Auto. Ins. Co. v. Marko*, the Second DCA found that an offer of $1 was made in good faith because the offeror based its offer on an evaluation of the offeree's case. *State Farm Mut. Auto. Ins. Co. v. Marko*, 695 So.2d 874 (Fla. 2d DCA 1997). The Third DCA has found that an offer of $2,500 was not made in bad faith, even though the case later settled for $3.5 million. *Peoples Gas Sys. v. Acme Gas Corp.*, 689 So.2d 292 (Fla. 3d DCA 1997). In *Allstate Ins. v. Sillow*, the Fourth DCA found that a proposal for settlement of $100 was made in good faith because a reasonable foundation for making the offer existed. *Allstate Ins. v. Sillow*, 714 So.2d 647 (Fla. 4th DCA 1998). The Fifth DCA has also ruled on this issue. In *Weesner v. United Servs. Auto. Ass'n*, the court found that "a nominal offer is not necessarily determinative of the issue of good faith." *Weesner v. United Servs. Auto. Ass'n*, 711 So.2d 1192, 1194 (Fla. 5th DCA 1998).

Conclusion

Offers of judgment were intended to benefit both plaintiffs and defendants alike by encouraging settlement and avoiding trial. However, in practice, they largely favor defendants.[2] Courts generally do not "nitpick" the validity of defendants' proposals for settlement to search for ambiguities. Thus, they award defendants attorney's fees despite ambiguities in defendants' proposals.[3] But, in many cases, courts search for ambiguities within plaintiffs' proposals. Further, courts have repeatedly found that defendants' offers are made in good faith, despite the nominal amounts offered. Ultimately, this means that a defendant can offer to settle a case for a very small number (say, $1)[4], and if the plaintiff does not win at trial, the defendant can collect attorney's fees and costs from the plaintiff. This encourages defendants to offer a nominal amount, which would not even cover the cost of a court filing. Defendants lose nothing by offering a nominal settlement figure, but potentially gain attorney's fees and costs after trial. Plaintiffs are not afforded this same luxury. Offering to settle the case for a nominal figure does not benefit the plaintiff. Although offers of judgment benefit defendants more often than plaintiffs, they are nevertheless a useful tool when done correctly by offering parties a tool to induce settlement, thus preventing the necessity of trial. ■

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[1] The Florida Supreme Court has not yet ruled on this subject. However, the District Courts of Appeal have decided this issue to the benefit of defendants, finding nominal offers to be made in good faith, thus awarding defendants attorney's fees. *See State Farm Mut. Auto. Ins. Co. v. Marko*, 695 So.2d 874 (Fla. 2d DCA 1997) (holding that the defendant's offer of $1 was made in good faith and awarding attorney's fees to the defendant because the defendant offeror based its nominal offer on an evaluation of the plaintiff offeree's case).

[2] *Audiffred v. Arnold*, 161 So.3d 1274 (Fla. 2015); *Campbell v. Goldman*, 959 So.2d 223, (Fla. 2007); *Lamb v. Matetzschk*, 906 So.2d 1037, 1042 (Fla. 2004); *Willis Shaw Express, Inc. v. Hilyer Sod, Inc.*, 849 So.2d 276 (Fla. 2003); *MGR Equipment Corp., Inc. v. Wilson Ice Enterprises, Inc.*, 731 So.2d 1262 (Fla. 1999); *R.J. Reynolds Tobacco v. Ward*, 141 So.3d 236 (Fla. 1st DCA 2014); *General Mech. Corp. v. Williams*, 103 So.3d 974 (Fla. 1st DCA 2012); *Gonzalez v. Claywell*, 82 So.3d 1000 (Fla. 1st DCA 2011); *Jacksonville Golfair, Inc. v. Grover*, 988 So.2d 1225 (Fla. 1st DCA 2008); *Jefferson v. City of Lake City*, 965 So.2d 174 (Fla. 1st DCA 2007); *City of Neptune Beach v. Smith.*, 740 So.2d 25 (Fla. 1st DCA 1999); *Miley v. Nash*, 171 So.3d 145 (Fla. 2d DCA 2015); *Carey-All., Inc. v. Newby*, 989 So.2d 1201 (Fla. 2d DCA 2008); *Anderson v. King*, 817 So.2d 1102 (Fla. 2d DCA 2002); *Allstate Ins. Co. v. Materiale*, 787 So.2d 173 (Fla. 2d DCA 2001); *Danner Const. Co., Inc. v. Reynolds Metals Co.*, 760 So.2d 199 (Fla. 2d DCA 2000); *State Farm Mut. Auto. Ins. Co. v. Marko*, 695 So.2d 874 (Fla. 2d DCA 1997); *Harris Specialty Chemicals, Inc. v. Punto Azul S.A. de C.V.*, 12 So.3d 809 (Fla. 3d DCA 2009); *Downs v. Coastal Systems Intern., Inc.*, 972 So.2d 258 (Fla. 3d DCA 2008); *Oasis v. Espinoza*, 954 So.2d 632 (Fla. 3d DCA 2007); *Kee v. Baptist Hosp. of Miami, Inc.*, 971 So.2d 814 (Fla. 3d DCA 2007); *Miami-Dade v. Ferrer*, 943 So.2d 288 (Fla. 3d DCA 2006); *U.S. Alliance Corp. v. Tobon*, 715 So.2d 1122 (Fla. 3d DCA 1998); *Peoples Gas Sys. V. Acme Gas Corp.*, 689 So.2d 292 (Fla. 3d DCA 1997); *Costco Wholesale Corp. v. Llanio-Gonzalez*, 2017 Fla. App. LEXIS 3779 (Fla. 4th DCA 2017); *Kiefer v. Sunset Beach Invs. LLC*, 207 So.3d 1008 (Fla. 4th DCA 2017); *Am. Home Assur. Co. v. D'Agostino*, 211 So.3d 63 (Fla. 4th DCA 2017); *Gov't Emples. Ins. Co. v. Ryan*, 165 So.3d 674 (Fla. 4th DCA 2015); *Alamo Fin., L.P.*

v. Mazoff, 112 So.3d 626 (Fla. 4th DCA 2013); *Lyons v. Chamoun*, 96 So.3d 456 (Fla. 4th DCA 2012); *Land & Sea Petroleum v. Business Specialists*, 53 So.3d 348 (Fla. 4th DCA 2011); *Saenz v. Campos*, 967 So.2d 1114 (Fla. 4th DCA 2007); *Papouras v. BellSouth Telecomms., Inc.*, 940 So.2d 479 (Fla. 4th DCA 2006); *State Farm Mut. Auto. Ins. V. Sharkey*, 928 So.2d 1263 (Fla. 4th DCA 2006); *McElroy v. Whittington*, 867 So.2d 1241 (Fla. 4th DCA 2004); *Bennett v. American Learning Systems of Boca Delray, Inc.*, 857 So.2d 986 (Fla. 4th DCA 2003); *Allstate Ins. v. Sillow*, 714 So.2d 647 (Fla. 4th DCA 1998); *Nunez v. Allen*, 194 So.3d 554 (Fla. 5th DCA 2016); *Mathis v. Cook*, 140 So.3d 654 (Fla. 5th DCA 2014); *Gurney v. State Farm. Mut. Auto. Ins. Co.*, 889 So.2d 97 (Fla. 5th DCA 2004); *Weesner v. United Servs. Auto. Ass'n*, 711 So.2d 1192, 1194 (Fla. 5th DCA 1998).

[3] *Miley v. Nash*, 171 So.3d 145 (Fla. 2d DCA 2015); *Carey-All., Inc. v. Newby*, 989 So.2d 1201 (Fla. 2d DCA 2008); *Kiefer v. Sunset Beach Invs. LLC*, 207 So.3d 1008 (Fla. 4th DCA 2017); *Am. Home Assur. Co. v. D'Agostino*, 211 So.3d 63 (Fla. 4th DCA 2017); *Alamo Fin., L.P. v. Mazoff*, 112 So.3d 626 (Fla. 4th DCA 2013); *Land & Sea Petroleum v. Business Specialists*, 53 So.3d 348 (Fla. 4th DCA 2011).

[4] *State Farm Mut. Auto. Ins. Co. v. Marko*, 695 So.2d 874 (Fla. 2d DCA 1997) (holding that the defendant's offer of $1 was made in good faith and awarding attorney's fees to the defendant because the defendant offeror based its nominal offer on an evaluation of the plaintiff offeree's case).

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OCTOBER

10/4-6
Masters of Justice, Ritz Carlton Sarasota

10/19
Proposals for Settlement Webinar

NOVEMBER

11/17
Trucking Webinar

11/30
NEW: Learn from the Legends Seminar