

PUBLICATION UPDATE

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# Florida Commercial Landlord-Tenant Law

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Publication 80530

Release 38

June 2014

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## HIGHLIGHTS

Updates throughout the treatise include new discussion relating to

- Statutory Proceedings Supplementary
- Trade Fixtures
- Federal Court Injunctions
- Assignment of Rent and Foreclosure

**New Discussion of Proceedings Supplementary** in *new* § 4.09 regarding statutory “proceedings supplementary” which allow anyone holding an unsatisfied judgment to file an affidavit and then become entitled to obtain a court order that any property of a judgment debtor, not exempt from execution, in the hands of any person or due to the judgment debtor be applied toward satisfaction of the judgment debt.

**Also:**

*New* § 2.03[c] discussing the right of tenants to remove trade fixtures at the

termination of a lease.

*New* § 3.13 on the application to a state action between a landlord and tenant of the federal Anti-Injunction Act under which the authority of a federal court to grant a stay of proceedings in a state court is limited.

*New* § 6.07 discussing the Florida assignment of rent statute, foreclosures, and appointment of receivers for rent.

Additional topics include

**Case Law Developments:**

*Petinsky v. N & D Holding, Inc.*, 2013 U.S. Dist. LEXIS 173999 (S.D. Fla., December 12, 2013): An action based on the federal Americans with Disabilities Act (ADA) may become moot when the alleged violations are remedied after suit is filed, but settlement of a previous suit does not necessarily render a subsequent one moot.

*H. Allen Holmes, Inc. v. Jim Molter, Inc.*, 2013 Fla. App. LEXIS 18429 (Fla. 4th DCA, November 20, 2013): Where the tenant removed its trade fixtures when it vacated the leased premises after the lease

expired, and in response the landlord retained the security deposit, the court concluded the lease was ambiguous as to which party was entitled to retain the trade fixtures when the lease expired and the tenant was, therefore, entitled to retain the trade fixtures and to partial return of its security deposit.

*Toby's Equine Rescue, Inc. v. Telecom Lease Advisors, LLC*, 2013 U.S. Dist. LEXIS 106417 (M.D. Fla., July 30, 2013): A lease may include a jury waiver clause, and the waiver must be "knowing, voluntary, and intelligent," but where a jury waiver clause was in a separate purchase option that had no jury waiver provision,

the lease clause could not be invoked in an action for specific performance of the option to purchase.

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