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Florida Commercial Landlord-Tenant Law

Publication 80530

Release 39

December 2014

HIGHLIGHTS

Updates throughout the treatise include new discussion relating to

- **Lease Radius Clauses** (*new* § 2.03[15])
- **Malicious Prosecution Actions by Tenants in Response to a Landlord's Wrongful Eviction Action** (*new* § 3.12)

Case Law Developments:

Winn-Dixie Stores, Inc. v. Dolgencorp, LLC, 746 F.3d 1008, 1042 (11th Cir. 2014): Florida law imposes no pre-suit demand requirement on a plaintiff seeking enforcement of restrictive covenants.

326-330 St. Armands Circle, LLC v. GEE22, LLC, 139 So. 3d 353 (Fla. 2d DCA 2014): Where the landlord was to remodel its property and install an elevator, but the contract specified no date for completion of the renovations and only required the landlord to “work diligently,”

a “time is of the essence” clause was insufficient to find the landlord breached the contract when it failed to complete the renovations about 52 months after the lease was signed.

Abou Sharaka v. E & A, Inc., 135 So. 3d 428 (Fla. 2d DCA 2014): A 3-day notice that improperly included a demand for common area expenses for which annual statements had not been provided as required by the lease, was invalid and could not be the predicate for eviction action.

In re 2408 W. Kennedy, LLC, 512 B.R. 708 (Bankr. M.D. Fla. 2014): Mere entry of a final judgment for possession or issuance of a writ of possession, without more, does not terminate a lease since they simply grant the landlord the right to retake possession of the premises and if entry of judgment or writ of possession terminated a lease, then the tenant could never be liable for future rent when the landlord successfully recovers possession.

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