

# Real Property and Business Litigation Report – Vol. IX, Issue 24

June 13, 2016

Cases of interest this week include:

**Townsend v. R.J. Reynolds Tobacco Company, — So. 3d —, 2016 WL 3191105 (Fla. 2016).**

The 2010 version Florida Statute section 55.03(3) applies to a judgment entered between October 1998 and June 30, 2011, and accordingly, judgments entered in that time period have a non-fluctuating interest rate of six percent (6%).

**Higgins v. Dyck-O'Neal, Inc., — So. 3d —, 2016 WL 3191146 (Fla. 1st DCA 2016).**

A trial court's reservation of jurisdiction to consider the entry of a deficiency decree requires the plaintiff seek a deficiency in that action, and further prohibits the plaintiff from filing a separate suit at law seeking a deficiency.

**Nowlin v. Nationstar Mortgage, LLC, Case No. 2D15-331 (Fla. 2d DCA 2016).**

A contract (such as a mortgage) is modified upon there being an offer, acceptance, and consideration. "Pursuant to contract law, the acceptance of an offer which results in an enforceable agreement must be (1) absolute and unconditional; (2) identical with the terms of the offer; and (3) in the mode, at the place, and within the time expressly or impliedly stated within the offer." Acceptance is the last act necessary to complete a bilateral contract.

**Florida Peninsula Ins. Co. v. Brunner, — So. 3d —, 2016 WL 3181908 (Fla. 3d DCA 2016).**

The following provision makes a proposal for settlement ambiguous and unenforceable due to the requirement imposed on third parties:

It is agreed upon by ANN BRUNNER and his [sic] respective counsel that all known liens, attorney charging liens or other claims of third parties, will be satisfied and extinguished by ANN BRUNNER and his [sic] counsel.

**Florida Community Bank, N.A. v. Red Road Residential, LLC, — So. 3d —, 2016 WL 3176813 (Fla. 3d DCA 2016).**

A party seeking prevailing party fees under Florida Statute section 57.105(7) (reciprocity of contractual prevailing party fees) must both prevail in the litigation and be a party to the contract containing the fee provision.

**Cornelius v. Holzman, — So. 3d —, 2016 WL 3182769 (Fla. 4th DCA 2016).**

A trial court has no jurisdiction to make substantive changes to a final judgment based on Florida Rule

of Civil Procedure 1.540 (a), and changes to a judgment under 1.540 (b) must be made within one year of final judgment (except for void judgments).

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Manuel Farach