



JIMERSON & COBB, P.A.

April News from Jimerson & Cobb



This month is an exciting one if you are a golf fan, an aspiring golfer or simply love being outdoors. For me, the Masters golf event is something I look forward to every April. This event, more than any other, motivates me for several reasons.

The Masters is the first golf major of the year. It is an event full of history, drama, excitement and even disappointment. It sets the stage for the remaining three majors and leaves me anxiously awaiting them. The setting for the Masters is beautiful, with all of the foliage in bloom. It always reminds me of how beautiful and cruel the game of golf can be.

Watching the Masters motivates me to get outside, enjoy the weather and go play golf. While I will never be a great golfer, I am also motivated after watching the Masters to work on my game and get better. I see the pros hit great shots, and I am inspired to put in the time to be a better golfer.

The Masters motivates and inspires me to set goals and achieve them. Watching the Master's winner slip on the green jacket at end of the tournament is an awesome sight. When you hear golf pros talk about the green jacket, you get a sense of how special it is and how difficult it is to get one.

I encourage you to find events that motivate and inspire to be your best and to find your own "green jacket" once you achieve your goals.

[James O. Burr, III, Esq.](#)

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J&C partners included in Jacksonville Magazine Best Lawyers board certified list



Four J&C partners have been named to the Jacksonville Magazine's board certified listing as part of the publication's annual feature on lawyers in Northeast Florida. All four J&C partners are certified in construction law.

Charles B. Jimerson

Christopher M. Cobb

- James O. Birr, III
- Brent T. Zimmerman

The Florida Bar board certification is the highest level of evaluation of competency and experience in one or more of 24 certification fields, as well as professionalism and ethics in practice. Nearly 4,600 of Florida's 98,000 attorneys are board certified in various practice areas. It is a rigorous process and minimum standards include at least five years of law practice, substantial involvement in the field of law for which certification is sought, confidential peer review by judges and other lawyers, continuing legal education requirements and passing an examination.

J&C case featured in the news

Berkman II, the half-finished condo tower on East Bay Street in Downtown Jacksonville, may be sold at a public auction next month. The general contractor on the project, Choate Construction Co., is represented by J&C and was awarded a \$10.2 million foreclosure judgment on the project after earning the right to proceed from a victory at arbitration. If the property does not sell at the auction, the contractor will own the building. The original project was halted in 2007, when its parking garage collapsed and fatally injured a construction worker. J&C partner Joby Birr was questioned regarding the case.

To read the full article in the *Florida Times-Union*, click [here](#).

To read the full article in the *Jacksonville Business Journal*, click [here](#).



March Madness party featured in this month's Resident News

Local lawyers treat friends, make a few more

Attorneys Charles Jimerson and Chris Cobb have become known for their high workplace morale and camaraderie. After all, their approach has been touted in awards as they were recently voted one of the Top Places to Work in Jacksonville. They have even been known to have putting contests in the office hallways to lighten up the office environment. With this firmly in mind, the young attorneys decided to step it up a notch and throw a March Madness party for patrons and special guests in Riverside on Mar. 20.



Christopher Cobb and Charles Jimerson

As the jumbo screen was prepped for airing the college hoops action, Charles Jimerson took some time to introduce two candidates, Anna Brosche and Paul Renner, whom he considers "friends and colleagues in the business



Michael Russo, Michael Turner, David Brecher, State Rep. Candidate Paul Renner, Campaign Staffer Kelly Harrison and Jeff Davis

community." Brosche, a Republican Pilipino-American CPA and managing partner at Ennis, Pellum & Associates, spoke about her run for City Council Group 1 At-Large seat, where she hopes to take the reins and put her CPA skills to work for voters.

The speaker that followed Brosche was State Rep. candidate Paul Renner, a Republican and attorney at Milam Howard also serves as a Commander in the Naval Reserve. Renner believes he's capable of taking a conservative message to Tallahassee, seeking the House seat for District 15 to replace Chamber President and current State Rep. (R) Daniel Davis, who will be leaving the post at the end of his term. The party, which concluded later in the evening, drummed up support for local business as food from Gastro Gnome Food Truck and beverages by Intuition Ale Works were on tap for friends and clients to enjoy. The firm is located in Riverside Center, at 701 Riverside Park Place in the Riverside neighborhood.

Are Non-Compete Agreements Enforceable If the Employer Hasn't Paid the Employee Due Compensation? It depends on the terms of the contract

By: [Charles B. Jimerson, Esq.](#)

When an employer seeks to enforce its non-competition agreement against its former employee, one of the most common defenses raised by the employee is that the employer failed to compensate the employee under the terms of the contract. The defense of non-payment is often enough to hamper the employer's efforts to enforce its rights with a temporary injunction, which requires the employer to demonstrate its likelihood of success on the merits. So how can an employer get its temporary injunction now and fight the "non-payment" battle later? It all starts with contract drafting: if the non-compete provision is expressly independent of the remaining terms and conditions, non-payment of employee compensation is no defense to its enforcement. This bLAWg post analyzes a recent non-compete case in the latest Florida ruling to address the importance of drafting independent restrictive covenants.

Click [here](#) to read the full bLAWg post.

Great News for Construction Design Professionals: "First Cost" Defense Formally Recognized by Florida Courts

By: [Austin B. Calhoun](#)

The affirmative defense of "First Cost" was formally recognized by a Florida court in the recent decision Sch. Bd. Of Broward County v. Pierce Goodwin Alexander & Linville, 2014 Fla. App. LEXIS 3916 (Fla. 4th DCA Mar. 19, 2014). The concept of first cost has been understood throughout the construction industry for quite a while, but had yet to be formally recognized by that name in Florida courts. See id. at *30. This blawg examines the first cost defense and its application in the Pierce Goodwin Alexander & Linville case.

Click [here](#) to read the full bLAWg post.

Additional bLAWg Posts

How To Determine Whether a Florida LLC Member Breached His/Her Fiduciary Duty in Making Distributions

By: [Charles B. Jimerson, Esq.](#)

Click [here](#) to read the full bLAWg post.

Terminating Condominium According to the Florida Condominium Act: Part II

By: [Hans C. Wahl, Esq.](#)

Click [here](#) to read the full bLAWg post.

Delay Damages: Defenses

By: [Brent T. Zimmerman, Esq.](#) and Mark F. Moss

Click [here](#) to read the full bLAWg post.

Additional Charges for Unpaid Assessments Are Not Collectible Under Florida's Safe Harbor Provisions of the Condominium and Homeowners' Association Acts

By: [Hans C. Wahl, Esq.](#)

Click [here](#) to read the full bLAWg post.

Rights of First Refusal in Florida

By: [Brent T. Zimmerman, Esq.](#)

Click [here](#) to read the full bLAWg post.

Recovery of Attorneys' Fees in Florida: Is In Your Contract?

By: [James O. Birr, III, Esq.](#)

Click [here](#) to read the full bLAWg post.

Terminating Condominiums According to the Florida Condominium Act: Part I

By: [Hans C. Wahl, Esq.](#)

Click [here](#) to read the full bLAWg post.



Interested in reading more bLAWg posts? Subscribe via [RSS Feed](#) or via [email](#). You can also peruse our archives [here](#).

Results Driven

Community stewards by night; see what we do for our clients in our day job.

*Finalized installation and services agreement and bulk billing agreement for new cable provider to install infrastructure for cable and internet services to a large, residential neighborhood to be billed through the homeowner's association for basic services with various tiered upgrades payable by residents.

*Mediated dispute amongst banks pertaining to breach of participation agreement.

*Retained to make claim in Federal seizure and forfeiture matter.

*Assisted condominium association with executing a writ of possession for gaining entry into foreclosed and abandoned unit.

*Revised employment agreement for client to add non-compete provisions.

*Argued motions for summary judgment in Florida state circuit court.

*Conducted depositions of record custodians in construction case.

*Drafted agreements for large commercial leases.

*Argued Motion to Dismiss in Condominium safe harbor dispute.

*Negotiated settlement agreement in large construction defect case.

*Attended ad hoc DBPR meeting on unlicensed activity.

*Negotiated settlement agreement on behalf of small business owner, allowing business operations to continue while restructuring his business obligations.

*Filed contempt of court motion against defendant who absconded with escrowed funds in contravention of court order.

*Served demand letter to debtors for commercial debts.

*Represented guarantor of \$25MM lending obligations in loan workout with secured and unsecured creditors.

*Assisted homeowner in securing new roof after hail storm.

*Resolved matter for a client involving agency's petition to

*Obtained commission and procured foreign counsel to serve deposition subpoena on non-party entity.	*Gained court approval of involuntary Chapter 7 petition filed on behalf of secured creditor.	enforce its final order and to seek injunctive relief pertaining to an agricultural products dealer obtaining a dismissal of the case without the necessity of a hearing, entering an appearance or paying any fines for violation of the final order.
*Prevailed on Motion for Summary Judgment in insurance dispute.	*Assisted purchasing entity in acquisition of real estate valuation and brokerage franchisor.	
*Served Chapter 588 Construction Defect Notices in condominium class action.	*Facilitated large document production in complex commercial case with multiparty litigation.	*Advised client on all aspects of non-compete and non-solicitation agreement.

Client Focus: The Haskell Company

A monthly feature on one of our valued clients.



Haskell, one of the industry's leading integrated architecture, engineering and construction firms, offers client-focused solutions in the industrial, commercial, government and civil infrastructure markets. With approximately \$600 million in annual

revenue and over 2,000 completed projects to date, Haskell serves a multinational client base from strategic points across the United States and in Mexico.

- Founded by Preston Haskell in 1965
- Headquarters - Jacksonville, FL
- Employee owned (ESOP)
- 800 employees, 9 locations including Mexico City

Local Sample Projects include:

- Baptist Medical Center South
- Blue Cross Blue Shield Campus
- Cecil Commerce Center Water Treatment Plant
- Fidelity National Financial Headquarters and Garage
- Jacksonville Municipal Parking Structures
- Jacksonville Municipal Stadium ("Everbank Field")
- Jacksonville University - Oak Hall, 500-bed Student Housing Complex
- JEA Main Street Water Treatment Plant & Reservoir Replacement
- UNF - Osprey Fountains, 1,000-bed Student Housing Community (LEED Certified Silver)
- Pilot Pen Distribution Facility
- Sea Walk Pavilion and Town Center Commons
- Tiger Academy Elementary School Campus
- Wolfson's Children's Hospital

Jimerson & Cobb is proud to represent [The Haskell Company](#) and wishes it continued success in 2014.

Firm News

Curiosities, ruminations and various eccentri of firm biz.



J&C case featured on WJXT

A J&C case continues to gain notoriety for its intricate legal issues. View the most recent case update with the video, "[Battle over Circle K Owner's Death.](#)"



J&C gets in on the madness

In continuing tradition, J&C held its own in-office bracket challenge. Law clerk Brandon Meadows won the office challenge. Kudos!



Austin Calhoun passes the bar

Every attorney who has taken the Bar exam knows what a beast it is. Passing it leaves you with a feeling of accomplishment that is quite unmatched. Congratulations to our own Austin who passed the Florida Bar!



Upcoming RMA luncheon

RMA is hosting its next general membership meeting on April 24 at Maggiano's. Guest speaker will be J. Benjamin Warner, president and CEO of JCCI, Inc. For more information, read the attached [flier](#) or contact [Charlie](#).



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