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Client focused. Results driven.

February News from Jimerson & Cobb, P.A.



Because this year's winter has been hardly that, I feel it appropriate to get everyone looking to the spring. Spring and springtime broadly refer to ideas of rebirth, renewal and regrowth. For northeast Florida, we experience some of the best weather of the year, coupled with the sprinkling of ever-present yellow pollen. And on March 11, we set our clocks forward an hour and "gain" some daylight. Personally, spring represents an opportunity to resume outdoor activities. Whether it is fishing, softball, golf or running the Gate River Run, spring is also a time to do revisit the progress of new year's resolutions or do some serious "spring cleaning." So whatever activity you enjoy, just make sure you carve out some time of your hectic day to enjoy it.

Best Regards,

[Christopher M. Cobb, Esq.](#)

Jimerson & Cobb named 2012 Florida Super Lawyers Rising Stars



J&C shareholders, Charles B. Jimerson and Christopher M. Cobb, can count themselves among the top 2.5 percent of lawyers in the state, as both were named to the 2012 *Florida Super Lawyers Rising Stars* list. The peer-nominated award recognizes the best attorneys who are 40 or under or have been practicing for 10 years or less. Congratulations!

Both will be formally recognized in the June issue. To learn more about

February 2012

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this prestigious recognition, visit the Super Lawyers [site](#).

***Featured bLAWg Post: Duval Ford v. Rogers:
How a Merger Clause Backfired on a Car
Dealer: Part 1 of 2***

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

Recently, a clause in an industry standard sales contract backfired, much to the dismay of the car dealer. In *Duval Ford v. Rogers*, 73 So. 3d 261 (Fla. 1st DCA June 21, 2011) a sophisticated car dealer's Retail Buyer's Order ("RBO") was rendered unenforceable by the existence of a merger clause in their Retail Installment Sales Contract ("RISC"). Florida's First District Court of Appeals held that the RISC was the entire contract, consistent with the merger clause. Therefore, the RBO was totally irrelevant. Irrelevant RBO's will require substantial sales practices changes in the automotive industry.

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

***Featured bLAWg Post: Navigating the Ins and
Outs of Liquidating a Small Business
Administration Loan***

By: [Kelly K. Karstaedt, Esq.](#), and [Charles B. Jimerson, Esq.](#)

The Small Business Administration ("SBA") has been providing small businesses with loans since its creation in 1953. Its mission statement is "...to aid, counsel, assist and protect the interests of small business concerns, to preserve free competitive enterprise and to maintain and strengthen the overall economy of our nation." It is clear that the strength of today's economy is making liquidation of these loans more of a priority than in previous decades. Now, one of the most important pieces of information a bank should know about an SBA loan is how to properly liquidate it.

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

Additional bLAWg Posts

**TOP 5 THINGS YOU SHOULD KNOW ABOUT FLORIDA'S
CONSTRUCTION DEFECT STATUTE**

By: [Christopher M. Cobb, Esq.](#)

Chapter 558 of the Florida Statutes, otherwise known as "Florida's Construction Defect Statute," requires an owner to send a written notice to contractors, subcontractors, developers, suppliers and design professionals which identifies any construction or design defects associated with a construction project. Florida's Construction Defect Statute is a complex web of notices, cross-notices, deadlines and inspections which can be confusing to the construction industry and the lawyers who represent

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Client Focus



American Heritage Life
Insurance Company
(American Heritage Life®)
was founded in 1956 in
Jacksonville, Florida, and has
expanded to a national
presence. In October 1999,
American Heritage Life was
acquired by The Allstate
Corporation and now uses the
marketing name of [Allstate
Benefits](#).

The company is licensed to
conduct business in 49 states,
Puerto Rico, the District of
Columbia, Guam and the U.S.

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

TOP TEN IPHONE APPS FOR THE BUSINESS WORLD

By: Kristen Sinnott
If there is one thing most people can agree on, it would be the fact that Steve Jobs provided the business world with one of the greatest creations, an Apple iPhone. Whether you are an attorney, doctor, small business owner, or CEO of a Fortune-500 corporation, the iPhone can single-handedly make your work day easier, more organized, and frankly, more entertaining. Millions of applications have been produced, and quite a few have received honorable mention from New York Times, Forbes and the bloggers of the world. For those of you who need on-the-go access to your files, presentations, inventory, and agendas while away from your desk, these ten apps are for you!
Click [here](#) to read the full bLAWg post.

LIENING ON YOUR CONTRACT

By: [Christopher M. Cobb, Esq.](#), and Kristen Sinnott
Construction liens under Chapter 713, Florida Statutes, are complex and require careful attention. A construction lien will can be imposed on real property for nonpayment of labor and/or materials provided in the improvement of that real property. Florida Statute § 713.01 defines a "contract" as an agreement for real property improvement(s) which may be written or oral, express or implied, which also may include extras and/or change orders. Florida law requires a valid contract to exist, otherwise a construction lien cannot attach to the property.
Click [here](#) to read the full bLAWg post.

**J&C Service Spotlight:
Breach of Fiduciary Duty and
Business Torts**



When a business is harmed by the illegal or negligent actions of another company, that business can take action to obtain damages and halt the tortious behavior. Jimerson & Cobb provides experience and resourceful advocacy on a wide range of business tort issues. As a lean practice with a low overhead and direct client service, our firm combines high quality representation with a keen regard for your bottom line, whether you are pursuing or defending business tort claims.

We provide legal representation for the following types of business torts:

- Abuse of process
- Breach of Fiduciary Duty
- Civil Conspiracy and Conspiracy to Induce Breach of Contract
- Civil RICO
- Civil theft
- Copyright infringement
- Constructive trust
- Conversion

Virgin Islands.

More than 22,000 agents are licensed to sell American Heritage Life products. Their portfolio of products currently include universal life, term life, disability income, cancer, accident, heart & stroke, critical illness, hospital indemnity, vision and dental insurance. Its products are now offered to more than 31,000 companies.

Jimerson & Cobb is very proud and thankful to represent American Heritage Life Insurance Company/Allstate Benefits and wishes it continued success and growth in 2012.

Results Driven

*Jimerson & Cobb attorneys prepared for and prevailed in trial for regional building supplier against owners of large custom home involving supply of goods and claims of defective products.

*Jimerson & Cobb attorneys worked with expert witnesses in compiling liability and damages reports for lender liability action. Reports concluded substantial breaches in fiduciary duties by lender amounting to damages in excess of \$185 million dollars.

*Jimerson & Cobb attorneys engaged to prosecute building code violation and construction negligence claims.

*Jimerson & Cobb attorneys participated in discovery phase of fast-moving, document intensive shareholder derivative action.

*Jimerson & Cobb attorneys retained to pursue specific performance of real estate transaction and claims for money lent.

- Defamation
- Equitable accounting
- Fraud and fraud in the inducement
- Injurious falsehood
- Interference with employment or prospective economic advantage
- Misappropriation of trade secrets
- Negligence and negligent misrepresentation
- Nuisance
- Product liability
- Slander and slander of title
- Theft and loss of business opportunities
- Theft of trade secrets
- Tortious interference with contractual relations
- Trade libel or disparagement
- Trademark infringement and trade name infringement
- Unfair competition and trade practices

For more information about our practice, or to discuss your legal concerns with a lawyer who understands [business tort law](#), [contact](#) our offices today.

Industry News

SOME JACKSONVILLE BANKS STILL SEEKING CAPITAL

The year-end reports of all 11 FDIC-insured commercial and savings banks in the Jacksonville metropolitan area show that [four banks continue to have capital levels below industry standards](#) after posting net losses in 2011.

JAX CHAMBER UNVEILS \$2M RENOVATION PLANS.

JAX Chamber unveiled plans to [transform its headquarters](#) as part of its effort to encourage downtown redevelopment.

BANK OF AMERICA TOWER ACHIEVES LEED CERTIFICATION

The Bank of America Tower in Downtown Jacksonville has received [Leadership in Energy and Environmental Design \(LEED\) certification](#) from the U.S. Green Building Council.

JURY RETURNS \$67M VERDICT AGAINST TD BANK IN ROTHSTEIN-RELATED CASE

TD Bank was hit with a \$67 million verdict in the [first trial related to Scott Rothstein's Ponzi scheme](#).

JACKSONVILLE LAWYER APPOINTED TO DUVAL COUNTY COURT

Gov. Rick Scott appointed Jacksonville lawyer [Scott Mitchell](#) to the Duval County Court. He will fill the vacancy created by the appointment of Judge Tyrie Boyer to the Fourth Judicial Circuit.

SIX WEEKS, SIX LESSONS: WHAT WE'VE LEARNED IN THE 2012 RACE

Six weeks into a roller-coaster election year, the [2012 presidential race](#) has defied history, expectations and easy predictions.

*Jimerson & Cobb attorneys participated in professional and community services involvement, including bar association chili cook-off, Rotary Centennial Gala, Junior Achievement bowl-a-thon, community hospital philanthropic events and Jacksonville Legal Aid charity auction.

*Jimerson & Cobb attorneys engaged to enforce non-compete provision of shareholder agreement.

*Jimerson & Cobb attorneys successfully argued denial of motion to increase transfer bond security based on forward seeking attorneys fees.

*Jimerson & Cobb attorneys engaged to pursue claims against sellers, appraisers, surveyor and realtors for negligence and failure to disclose.

*Jimerson & Cobb attorneys assisted franchisor in analyzing franchise agreement and terminating nearly forty non-compliant franchisees. Jimerson & Cobb attorneys continued to seek liquidated damages against terminated franchises.

*Jimerson & Cobb attorneys engaged to defend structural engineer in residential construction defect lawsuit.

*Jimerson & Cobb attorneys assisted commercial banks in working out several defaulted commercial loans. Workout resulted in substantial recovery and favorable repositioning for banking institutions.

*Jimerson & Cobb attorneys mobilized quickly to file motion to set aside final judgment and quash improper service of process at evidentiary hearing.

*Jimerson & Cobb attorneys were consulted by media outlets

J&C Firm News

*J&C welcomes associate Matthew F. Havice to the firm. Matt has extensive trial experience and is an asset to our team. He earned his J.D. from Florida Coastal School of Law, where he served as business manager and staff editor at its Law Review and graduated in the top five percent of his class.

*Chris has been appointed to the NAIOP Charities Committee Chair and is working on involvement with a downtown kayaking tour in April to promote Jacksonville's Downtown.

*Congratulations to law clerk Austin Calhoun for being appointed staff editor on Law Review for the Florida Coastal School of Law.

*Chris will speak later this month at the American Conference Institute's premier Construction Litigation Conference. The conference will be held in Orlando at the Caribe Royale Convention Center from February 20 through March 1. To learn more, click [here](#).

*J&C is very proud of its Jacksonville Bar Association Young Lawyers Section Putt-Putt champs. Chris and Charlie, along with Tim Anderson and Lenny Schoenfeld took home the inaugural trophy after seven weekly tournaments. Click [here](#) to see them posing with the victorious prize.

*Play a Round Fore UNF: save the date for the University of North Florida's Alumni Association's 6th Annual Golf Tournament on April 30, 2012. You will not want to miss out on this great event! The money raised will benefit UNF Student Scholarships and the UNF Alumni Association. For more information, [contact](#) attorney Chris Cobb.

*J&C hosted a luncheon yesterday held by the Risk Management Association (RMA) entitled "Banking After Dodd Frank Act: Compliance, the New Growth Business in Banking." Guest speaker Dev Strischeck, the SVP and Senior Credit Policy Officer at SunTrust Banks Inc., spoke to the group.

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for commenting on developments within the mortgage servicing industry and recent financial regulations passed.

*Jimerson & Cobb attorneys engaged to pursue repayment of unearned commissions to insurance agents.

*Jimerson & Cobb attorneys obtained a dismissal of all claims and avoidance of turnover of alleged preferential payments for mechanical contractor in bankruptcy preference action.

*Jimerson & Cobb attorneys negotiated construction contracts for renovation of local fast-food restaurants.

*Jimerson & Cobb attorneys domesticated and executed on substantial foreign judgment for landscaping contractor seeking to enforce payment obligations against general contractor.

*Jimerson & Cobb attorneys successful in removing fraudulent construction lien from residential property.

*Jimerson & Cobb attorneys represented several commercial tenants in terminating commercial leases on favorable terms.

*Jimerson & Cobb attorneys engaged by office park association to analyze declarations.

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