



JIMERSON & COBB, P.A.

May News from Jimerson & Cobb



For those of you who wish to know what it is like to walk in the shoes of a complex commercial litigator, please [click this link](#). It is a fictional recreation of an actual exchange in a deposition from a business tort case. Specifically, it is six minutes of comedy gold wherein an Ohio lawyer becomes embroiled in an absurd argument about the definition of a photocopier. Please read the article for more context in the

video before you click play.

Regretfully, I've been everyone in that video at one point in time, save for the ambivalent stenographer. Sometimes a little less melodramatic, sometimes a little more. I always enjoy the mental volley with obstructive witnesses in depositions. Some witnesses will intentionally try to evade, or argue with you about each important question. More than others, these witnesses require your patience and persistence. When the witness gives an evasive answer to my question, it's commonplace for me pursue the line of questioning until I obtain a responsive answer. That usually requires me to narrow the questions and rephrase them so that the witness is required to answer it despite pesky "asked and answered" objections. At some point it may become a battle of wills. If that is a fight I want to fight, I'll persist. If it is not, I'll choose to fight a more important one at a later point in time.

An argumentative witness will often try to anticipate where you are going with each question and defeat your objective. He will quibble with small details and try to evade when he cannot quibble. I treat these witnesses just like the evasive witness. Questions are just repeated or modified to eliminate objectionable details. If a witness claims he doesn't understand my terms, I either define the term or ask him to define the term and then repeat the question. Eventually, he will break down and answer. If necessary, I'll use pinning techniques to make sure I have answers that can be used to impeach at trial.

As for the video above, it's a rarity for us lawyers to trade such gems. In reality, most depositions involving good lawyers and sophisticated parties have a natural flow and

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few animated moments. Any good lawyer would tell you that the deponent's counsel should not have been portrayed as bumbling and timid. The witness was stonewalling at his lawyer's direction, and doing quite well at it. Note that the defendant's lawyer objects to tone of questioning early on only, but not afterwards - despite the addition of louder vocals and aggressive body language. Good attorneys are skilled at keeping exasperation to a minimum. If this had gone to court, such a display could have turned a jury against Plaintiff's counsel. No seasoned litigator should ever lose his cool like this. Rather, you should just keep asking the same question, over and over and over, until you get the answer you are after. Be mentally stronger than the adversary.

Truth is, this deposition would have likely been noxiously mundane like most of the depositions in complex multi-party litigation. Unless you are lucky enough to have one of those days where it becomes those few select war stories that would make for a solid transcript dramatization. Those are the days where you sit back and enjoy the sport of it. Remind me to tell you about a few of my deposition battles next time we bump into each other. My favorite was the executive of the publicly traded company who said, "I don't remember," 468 times in a six-hour deposition. I let him dig himself into a hole he could never get out of. At the conclusion of the deposition, I said, "Thank you for your time. I love listening to lies when I know the truth." I then placed a large stack of documents that contradicted his testimony in front of him as we exited. The case settled a month later for everything my client was asking for.

Very Truly Yours,

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

J&C case continues to gain attention of press

A J&C case continues to be featured in news headlines, as its legal twists and turns have many unsure as to what will happen next.

Former Jacksonville businessman and Circle K Furniture owner Jose Lantigua was traveling in Venezuela last April when he unexpectedly passed away. Within a month, the estate was involved in litigation to settle up \$10 million in bills.

J&C represents a regional bank, which was pledged first rights on an insurance policy of Lantigua's for \$2 million. What initially began as a standard insured-benefits case turned into a much more complex matter when an investigative company for the insurance company revealed that they had reason to believe Lantigua was alive and well and living in Venezuela. If true, the insurance company would have basis to deny the bank's claim to the policy.

Yet another twist recently revealed that the investigative company itself fraudulently manufactured and misrepresented evidence to support their denial of the claim. J&C, along with attorneys for the Lantigua estate, recently went to court to accuse the insurance company of fraud and to ask for the entire case to be thrown out.

Managing partner Charles Jimerson was quoted in an article in the *Jacksonville Business Journal* regarding the motion. Click [here](#) to read the full article.

Featured bLAWg Posts

One Spark 2014

By: Jessica Campbell

During One Spark 2014, the streets of downtown Jacksonville were alive like we've never seen them before! If you were one of the estimated 260,000+ who attending during the five-day crowd fund festival, then you don't need to read about it to know that. The results are in and the numbers are astounding!



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

Disgorgement of Funds by Licensed Parties

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

Florida law requires certain types of persons to be licensed in order to do business. Lawyers, realtors, and even construction contractors are among those professionals regulated by specific licensing requirements. So, what happens when a party unknowingly contracts with a person who is required to be licensed but is not? The penalties for doing business without the proper licensing are harsh, and can even result in criminal charges and the return of all monies paid (known as disgorgement). This post explores certain remedies for engaging an unlicensed person or entity.

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

Additional bLAWg Posts

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

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III

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Residential Roofing in Florida: Part 1 of 3

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

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Measuring Delay Damages: Modified Total Cost Method

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

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Terminating Condominiums According to the Florida Condominium Act: Part V

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

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



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

- *Negotiated multi-million dollar leases in connection with retail space within malls.
- *Drafted notice for condo association to property owner for the tenants noise violations, disturbance of the peace and destruction of condominium property.
- *Argued motion for sham pleadings against life insurer accused of perverting fraud upon the court.
- *Obtained regulatory denial of production request seeking FDIC examination materials propounded upon community lender.
- *Successfully resolved foreclosure action prior to hearing on Order to Show Cause on behalf of defaulted owner of commercial property with personal guaranties on the debt where the bank agreed to waive all rights to pursue a deficiency judgment with an agreement for a deed in lieu and other terms even with a substantial deficiency in the value of the property with other terms in comparison to the defaulted loan amount.
- *Participated in foreclosure sale of construction lien in excess of \$10 million.
- *Successfully argued against motions for protective order.
- *Engaged to file suit against roofing company for failing to properly install tile roof according to the Florida Building Code.
- *Negotiated and drafted large construction contract for construction project located in Puerto Rico.
- *Drafted and revised internal credit and contracting documents for large commercial printer.
- *Resolved dispute on behalf of homeowner against builder on remodeling project with a cost-plus contract that far exceeded the original budget where the contractor agreed to finish the project for a guaranteed maximum price.
- *Filed motion to dismiss in action against shareholder of winding down corporation.
- *Represented community lender in regulatory dispute with SBA pertaining to denial of guaranty payment.
- *Advised commercial roofer on licensure compliance and nuanced issues pertaining to contractor qualification.
- *Lectured on key construction contract provisions.
- *Argued motion for contempt of court for turnover of rents against non-compliant defendant.
- *Filed 57.105 motion against spurious claims of fraud asserted without basis.
- *Resolved breach of contract, tortious interference, conversion claims with additional threatened fraud claim against client without the need to respond to complaint.
- *Defended claims of fair credit reporting violations levied against community bank.
- *Obtained six-figure judgment on behalf of financial institution and against debtors for defaulting on a personal guaranty for commercial loan.
- *Conduct substantial non-party document discovery and non-party depositions in multimillion dollar commercial dispute.
- *Defended claims pertaining to municipal code violations on residential construction project.
- *Obtained order of eviction and judgment for tenant damages on behalf of commercial landlord.

Client Focus: McKesson

A monthly feature on one of our valued clients.



As the oldest and largest health care services company in the nation, McKesson plays an integral role in health care and has a unique vision for its future. It serves more than 50% of American hospitals, 20% of physicians and 100% of health plans, and as the largest pharmaceutical distributor in North America, McKesson delivers one-third of all medications used there every day.

Its software, distribution and business services play an essential role in addressing the challenges health care organizations face today -

and shaping how they'll overcome them tomorrow. McKesson connects people and organizations, supports the quest for higher quality and improved clinical outcomes, and helps health care businesses run better.

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

Firm News

Curiosities, ruminations and various eccentricities of firm biz.



Happy Mother's Day

Ode to Mommas

In celebration of a mom's special day, J&C was treated to an afternoon of Sweet Frog frozen yogurt. We hope that you all enjoyed celebrating the moms in your life last weekend.



Lunch and Learn

Brent Zimmerman dazzled us all with his knowledge of summary judgments in Florida business litigation when he presented this month's Lunch & Learn!



Upcoming JBA CLC luncheon

The JBA Construction Law Committee is hosting a panelist luncheon on May 29 at J&C. Guest panelists include The Honorable Judge Carithers, The Honorable Judge Wallace, Bill Cooper, Esq., and Blane McCarthy, Esq. For more information, read the attached [flier](#) or contact [Felicia](#).



Movin' On Up

J&C staffer Jessica Campbell earned her A.S in paralegal studies from FSCJ this month and is now a proud member of [PAF](#) and [NEFPA](#). She will take an exam in the fall to become a Florida Registered Paralegal. Marketing intern Vida Caibigan graduated from JU with a degree in political science and humanities. Congratulations!



Paper airplane contest

Each employee was given a sheet of paper of which they were allowed to create their own paper airplane design. Rules were simple: no cutting, taping or adding anything to the air plane and whichever went the farthest won. We made an "air strip runway" and had every pilot stand behind a designated line and then marked how far each plane went. Charlie won both the distance competition and then the obstacle course.



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