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# TALLAHASSEE BAR BULLETIN

Quarter 2, 2025

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## THANK YOU *Presenting Partners*



# PRESIDENT'S MESSAGE

As we reach the halfway point of the year, I'm filled with gratitude for what we've accomplished—and anticipation for the goals ahead. Our members have shown remarkable dedication and enthusiasm in 2025.

We began the year with our Swearing-In Ceremony on January 9, followed by the Past Presidents Reception and Awards Dinner in February, celebrating the history of our Bar. That month also included a valuable virtual CLE on E-Discovery. In March, we attended the Investiture of the Hon. LaShawn D. Riggins and held an in-person CLE luncheon on the updated Florida Rules of Civil Procedure. April featured our Table for 8 event and a free virtual CLE on Charging Liens. In May, we were honored at Legal Services of North Florida's Law Day Celebration, and we capped off the first half on June 5 with a Summer Happy Hour that brought members together for fellowship and connection.

This quarter also brought a momentous milestone in Florida's legal history. Rosalyn "Sia" Baker-Barnes was installed on June 27 as the 77th President of The Florida Bar, making history as the first African American woman to hold that position. Her words—"History rarely moves in a straight line... but with our imperfection comes opportunity"—invite us to embrace progress and intentional leadership, and to widen the circle of inclusion within our profession.

Our Low Bono Program continues to be a powerful force for access to justice. In partnership with Gwendolyn Marshall Knight of the Leon County Clerk's Office, TBA attorneys have been supporting

self-represented litigants with legal forms and pleadings. These direct, hands-on efforts make a tangible difference. If you've volunteered, thank you. If not, we welcome you to join us—and stay tuned for our upcoming Volunteer Appreciation Reception to honor those who've contributed. Looking ahead, don't miss our Annual Chili Cookoff, now scheduled for October 16. It's a family-friendly tradition that brings together fun, food, and community—while supporting a meaningful cause. You won't want to miss it.

As we move through the rest of 2025, we remain committed to growing our membership, enhancing member value through CLEs and networking, and deepening our community engagement. Thank you for giving me the honor of serving as your President. Together, we will make the Tallahassee Bar Association stronger, more inclusive, and more impactful.

Warm regards,

*Jami Coleman*

TBA President



**“TALLAHASSEE BAR ASSOCIATION MEMBERS WORK TOGETHER TO ENHANCE THE LEGAL PROFESSION, PROMOTE FELLOWSHIP AMONG THEIR COLLEAGUES AND SERVE THE COMMUNITY.”**

# SERVICE OF PROCESS STATUTES GOING INTO EFFECT THIS YEAR

By Brennan Fogarty



Legislative session has come and gone. Did you know that there were changes made to chapter 48? To ensure your service of process is performed correctly, use Accurate Serve for your service of process needs!

We will be posting a more in-depth discussion of the substantive changes in our newsletter due to the size constraints of this medium. Furthermore, we will be preparing a CLE presentation that we will be happy to bring to your office, or legal professional event.

Many people have a misconception of what a process server does. The public at large thinks we are somewhere between a bounty hunter, and a dogcatcher with paperwork. What many people are surprised to hear is that most of our process is directed at registered agents of various business entities. In 2022, there were changes to how we effect process on registered agents of business entities. The procedure was standardized across these entities so that we must make one good faith attempt to serve the registered agent, during statutory registered agent hours, PRIOR to attempting to serve the principals at any other location, and finally making substitute service upon the Secretary of State. This change led to some confusion, and more than one affidavit of service being quashed.

The problem was that R/A hours are mandated by statute to be between 10 and noon Monday-Friday, excluding weekends and holidays. In practice, the mandated RA hours were insufficient. Our servers

out in the field simply cannot make it to ALL the registered agent addresses they need to get to within that two-hour timeframe. Our servers here in the Second Judicial Circuit could have two separate pieces of process in opposite ends of the circuit with a two-hour drive in between. The change described below will help facilitate expedient service of process on business entities and their registered agents.

Effective October 1 2025, registered agents *"designated registered office open from at least 10 a.m. to 12 noon and 2 p.m. to 4 p.m. each day except Saturdays, Sundays, and legal holidays, and shall cause the designated registered agent to keep one or more individuals who are, or are representatives of, the designated registered agent on whom process may be served at the office during these hours."*

Stay tuned to our newsletter, or reach out to our local Accurate Serve office if you would like to be kept up to date on all the new changes and our upcoming presentations on service of process.

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# THE FLORIDA SUPREME COURT MAKES NOTEWORTHY CHANGES TO THE FLORIDA RULES OF CIVIL PROCEDURE

By Tiffany A. Roddenberry



Beginning January 1, 2025, amended Florida Rules of Civil Procedure went into effect concerning case management, conferral requirements, discovery obligations, and summary judgment motions, among other things. More specifically, on December 5, 2024, the Florida Supreme Court entered two orders adopting additional amendments to make earlier 2024 changes to the rules more effective. Every civil practitioner should ensure they are familiar with the amended rules. A few of the key changes are summarized below.

**Active Case Management.** The Court's major focus in the rule changes was ensuring early and active case management by the courts and the parties. To that end, the Court further amended Rule 1.200, which governs pretrial procedure and case management, to require that the "court must issue the case management order no later than 120 days after commencement of the action." Additionally, pursuant to the amended rule, the deadlines established in the case management order are strictly enforced unless changed by court order.

**Conferral.** Under new Rule 1.202, before filing a non-dispositive motion, the movant must confer with the opposing party in a good faith effort to resolve the issues raised in the motion, and include a certificate of conferral to that effect. The rule lists various motions that are exempt from the conferral requirement. Note that the failure to comply with the conferral requirement may result in an appropriate sanction, including denial of a motion without prejudice—and "purposeful evasion of communication under this rule may result in an appropriate sanction."

**Discovery and Initial Disclosure Obligations.** Some of the more significant changes made in the amended rules relate to discovery. Under amended Rule 1.280, the Court has incorporated the

requirement found in the Federal Rules of Civil Procedure that discovery be "proportional to the needs of the case" as well as a requirement that parties provide certain initial disclosures generally within 60 days of service of the complaint or joinder in the case.

**Summary Judgment Procedure.** In an order issued earlier in 2024, the Florida Supreme Court significantly revised the procedure for filing and hearing summary judgment motions. In its December 2024 order, the Court further amended the summary judgment rule to tie the deadline to respond to a motion for summary judgment to the date the motion is served rather than to the hearing date. Under Rule 1.510 as amended, the nonmovant must serve a response no later than 40 days after service of the summary judgment motion, and any hearing on a summary judgment motion must be set for a date at least 10 days after the deadline for serving a response, absent stipulation by the parties or the court orders otherwise.

**Tiffany A. Roddenberry is a Tallahassee attorney who practices commercial, administrative and appellate litigation, with a focus on assisting clients that do business with, or are regulated by, state and local governmental entities.**

# MEMBER SPOTLIGHT

## GET TO KNOW MAGIE OZAROWSKI



### **Tell us about yourself.**

I am a graduate of the University of California, Berkely (Go Bears!) and the University of Florida College of Law (Go Gators!) and currently Of Counsel at Ausley McMullen where I practice general civil and administrative litigation. After law school at UF, I went home to California, and practiced in San Francisco and Southern California for about 5 years before returning to Florida. Before joining Ausley, I worked for the state government for 10 years at various agencies, including DBPR, the Attorney General's Office, DFS, and most recently, the Department of Agriculture and Consumer Services, where I served as Deputy General Counsel. I am a Past President of Tallahassee Women Lawyers ('19-'20), a former fellow of the Florida Bar Leadership Academy, the current Chair of the Second Circuit Grievance Committee A, on the executive committee of the Stafford Inn of Court, and a board member of Legal Services of North Florida and Funding Florida Legal Aid, formerly the Florida Bar Foundation.

### **Why do you find it important to stay involved with voluntary bar associations, like TBA?**

Voluntary Bar Associations are incredibly important to the continued fostering of civility and professionalism in our practice, particularly in our increasing digital age. I found that particularly true

during Covid, where we were largely isolated from each other's persons, organizations like TBA and TWL and Inns were instrumental in making sure we still had meetings and CLEs, and a sense of continued community, in a really difficult period.

### **If you could change one thing about the practice of law, what would it be and why?**

The thing that I find most annoying about the practice of law is needless aggressiveness. There is a marked difference between zealous advocacy and aggression for the sole sake of aggression. It should not be difficult for people to be kind, empathetic, and professional to each other, especially in the practice of law. Let your work speak for you and treat people with humanity.

### **Tell us about "On Civility"!**

On Civility is itself a re-boot of Judge Hetal Desai's wonderful podcast called Never Contemplated, which was a term from a US Supreme Court case that found that women entering the profession of law, and specifically joining the New York Bar, was "never contemplated." I interview leaders from our profession, in all walks of life, judges, practitioners etc. and get them to tell me what they think professionalism and civility mean and whether its getting better or worse out there. Its been a very edifying experience. Also, you can get CLE credit :)

### **What do you do for fun?**

For fun, I like to travel, practice yoga, and hang out with my favorite little dude, my basset hound Bacon.



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# COMBINING TECHNOLOGY WITH STANDARDIZED PROCESSES TO BE MORE PROFITABLE

By Lee Allman

In order for Law firms to be more profitable, they need to implement standardized processes utilizing up-to-date technology. Being inefficient can lead to a number of issues that impact profitability for law firms. Attorneys often cite frustrations with:

- Spending too much time on administrative, non-billable tasks;
- Costs that are out of control;
- Billing and accounts receivable issues with clients;
- Accounts payable and overdue payments; and
- Compliance with Florida Bar rules related to maintaining a trust account.

## What Technology should I use?

Your technology stack will depend on the size of your firm and the type of law practiced. For the purpose of this article, we will focus on the accounting and billing system for smaller firms with around 15 or fewer attorneys. Most firms of this size can use QuickBooks Online (QBO) as their base bookkeeping software. QBO can be set up to be simple for the smallest firms or more complex if you have more members and are interested in tracking financial performance by attorney or practice area.

You will need billing software that integrates as seamlessly as possible with QBO. The two I recommend are LeanLaw and Clio.

LeanLaw is a great choice for firms that already have a case management system that works well for them. The software has great workflows built into it allowing for attorneys to track time for all matter types (hourly, fixed fee, contingency or pro bono). Then it allows an online review, finalization,

and distribution process of client invoices that clearly shows payments already applied, including money from trust. These invoices and any trust accounting associated with them flow seamlessly to the QBO bookkeeping software, allowing for easier reconciliations to help keep firms in compliance with Florida Bar rules.

Clio is another great choice if you are also looking for a case management piece to go along with the billing module. It requires a little more attention in its interface with QBO to keep the book accurate, but with the right set up and procedures in place it can work well. Clio has recently rolled out its own bookkeeping module but currently it is very basic and my recommendation is to give it a few years before trying to implement it while they continue to improve it.

There are other software options available, but it is important to do your research on what is the best fit for your firm. It is also important to make sure the bookkeeping and accounting team are included and understand the set up. Otherwise, your books can get messy quickly.

## Importance of Standardized Processes

You can have the best software available, but it will be throwing money away without having processes in place and holding everyone accountable for doing their part. This is the basis for allowing for timely and accurate information input to support the billing and reporting needed for information to make decisions on firm operations.

It all starts with the attorneys recording their time daily. The software mentioned allows for this to be

done easily online and even with phone apps so it can be captured on the go. Some have even developed ways to look at your computer and phone activity to aid in capturing time.

Accurate daily time capture leads to an easier billing process that requires less review time before bills go out to clients. Also, for firms with multiple attorneys, the system can give great reporting for compensation decisions based on attorney performance.

On the expense side, it is important the accounting department gets all invoices and credit card receipts with the information that allows them to determine what type of expense it is, what profit center it belongs to, and if it needs to be billed to a client. The LeanLaw system allows any costs to be billed to the client to automatically show up on the client invoice without double entry – it feeds directly from QBO to LeanLaw.

With standardized workflows, you will be able to get timely reports to see performance at both the

firm level and the profit center level to allow strategic planning for the firm. The accounting department will also be able to track trust account transactions accurately allowing for a smooth reconciliation process each month to help stay in compliance with Florida Bar rules.

### **Conclusion**

Standardized processes combined with a technology stack that fits your firm have many benefits. With these in place, you will spend less time on administrative tasks. It also leads to reporting that aids in controlling costs, monitoring cash flow for paying bills on time, and assessing billable hours. Finally, it allows for more timely invoices to clients.

**Lee Allman, CPA, is the Principal of All Law Accounting, PLLC, which provides Law Firm Accounting and Advisory Services. He can be reached by email at [Lee@AllLawAccounting.com](mailto:Lee@AllLawAccounting.com) or phone at (850) 570-7757.**

# MEMBER NEWS

## **SUBMIT YOUR TBA MEMBER NEWS**

Changing firms? Made partner? Receiving an award? Celebrating a personal or professional milestone? We want to hear about it!

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# 2025 LEGISLATIVE SESSION RECAP

By Robert Walters



The 2025 Florida Legislative Session commenced on Tuesday, March 4, and was set to conclude on Friday, May 2, 2025. However, due to on-going budget negotiations, the House and Senate extended the 2025 Regular Session to reach a final budget agreement, which was finished on June 16, 2025. All proposed legislation not passed by both chambers as of the original Session conclusion date of May 2, 2025 was indefinitely postponed and withdrawn from consideration,

## Session by the Numbers

At the start of the 2025 Legislative Session, legislators filed over 1,900 pieces of legislation. However, during committee weeks, there was a delay in the normal deliberations of bills due to a record-breaking snowstorm and three Special Sessions. Given the unusual start to this year's legislative Session, this will likely be one of the lowest number of general bills passed in recent years, around 140 general bills:

2024 Legislative Session – 272 general bills  
2023 Legislative Session – 303 general bills  
2022 Legislative Session – 220 general bills  
2021 Legislative Session – 238 general bills  
2020 Legislative Session – 182 general bills

## Recap of the 2025 Legislative Session

The following bills are just a handful of bills during the 2025 Legislative Session that passed out of both chambers and should be presented to the Governor for his signature over the coming weeks. Once presented to the Governor by the Officers of the Legislature, the Governor has 15 days to sign or veto the bill.

**The Repeal of the Customary Use Statute - [SB 1622](#)**, filed by Senator Trumbull, repeals the customary use statute originally enacted in 2018 as [HB 631 \(codified as 163.035, Fla. Stat.\)](#). The practical effect of the repeal means that local governments can once again adopt ordinances or rules affirming the public's right to utilize dry sand areas of privately owned portions of the beach based on the doctrine of customary use without having to seek a judicial declaration first. If signed by the Governor, SB 1622 will be effective upon the date of signing.

**Employment Agreements – [HB 1219](#)**, filed by Representative Koster, provides that certain types of employment agreements typically used in the financial industry—such as covered garden leave agreements—are not restraint of trade or attempt to monopolize trade or commerce. The bill provides for certain procedures and requirements for such agreements, and creates a mechanism for enforcing the agreements in addition to providing for injunctive relief.

**[VETOED] Recovery of Noneconomic Damages by Adult Children and Parents of Adult Children in Medical Malpractice - HB 6017**, filed by Representatives Trabulsy and J. Lopez, expands the application of the Florida Wrongful Death Act by repealing provisions that prohibit certain parents and children of a patient who died due to medical negligence from recovering noneconomic damages. Once enacted, a decedent's adult children, and parents of adult decedents, may recover noneconomic damages. On June 2, 2025, the Governor vetoed HB 6017.

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**[SIGNED INTO LAW] Uniform Commercial Code – HB 515**, filed by Representative Gentry, incorporates the newly promulgated Article 12 of the Model Uniform Commercial Code. In doing so, the bill provides updated rules for commercial transactions involving virtual currencies, distributed ledger technologies, artificial intelligence, and other technological developments and establishes a baseline framework allowing creditors to secure liens against digital assets owned by debtors.

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**Emergency Preparedness and Declarations - SB 180**, filed by Senator DiCeglie, addresses Florida's statewide and local responses to emergency and natural disasters by:

- Strengthening Florida and its state agencies by increasing funding, while also ensuring proper reporting and auditing occurs.
- Ensuring local governments properly coordinate with federal and state agencies, and adequately respond to natural disasters.
- Ensuring local governments allow impacted communities to rebuild while prohibiting the enactment of burdensome regulations.

If signed by the Governor, SB 180 will be effective July 1, 2025, except as relating to Sections 10 and 28. Section 10 relating to the tolling and extension of permits shall apply retroactively to January 1, 2023. Section 28 relating to the prohibition on local government moratoriums shall apply retroactively to August 1, 2024.

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**Live Local 3.0 - SB 1730**, filed by Senator Calatayud, streamlines the process for building more affordable homes in Florida by:

- Authorizing, but not requiring, local governments to approve affordable housing on parcels containing a house of worship owned by a religious institution.
- Clarifying that flexibly-zoned areas, such as planned unit developments, qualify for development under the Live Local Act.
- Creating a private right of action to challenge a local government when a violation of the Live Local Act occurs.
- Creating the Public Sector and Hospital Employer-sponsored Housing Policy under Chapter 420.
- Providing that projects on parcels with a contributing structure within a historic district have an additional height restriction and may be subject to architectural design requirements.

If signed by the Governor, SB 1730 will be effective July 1, 2025, except as relating to ordinances relating to density, FAR, and height.

**Condominium Reforms - HB 913**, filed by Representative V. Lopez, provides for reforms to the governance and regulations of condominiums. The 2025 Legislative Session condominium bill continues to make sweeping reforms stemming from the Surfside tragedy, while balancing concerns raised by Floridians about the costs of the new requirements. The bill outlines the below changes:

- Community Association Managers (CAMs)
  - Revises regulations related to CAM firms and CAMS, specifically clarifying conflict of interest reforms passed in 2024.
  - Requires CAMs to maintain an online account, and prohibits CAMs from contractually avoiding new legal requirements.
- Structural Integrity Reserve Study (SIRS)
  - Clarifies reporting requirements for associations.
  - Requires local enforcement agencies to report status of statutorily required inspections.
  - Extends the deadline for associations to comply with SIRS.
- Insurance – clarifies requirements for insurance, including adequate coverages.
- Reserves – expands the utilization of alternative funding method for reserves.
- Meetings and Voting – revises requirements for different types of meetings, expands electronic voting.
- Online Reporting – creates new requirements for association to report information to DBPR.

If signed by the Governor, HB 913 will be effective July 1, 2025, except as relating to Section 31 that revises the retroactive application of HB 1021 (2024).

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**Modernizing Construction Regulations & Standards and Expansion of Private Providers - HB 683**, filed by Representative Griffiths, modernizes development by standardizing synthetic turf rules, limiting permit-related financial documentation, and mandating quicker turnaround on change orders. The legislation also expands the authority of private inspectors for qualifying projects. If signed by the Governor, HB 683 will be effective July 1, 2025.

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**Utility Service Restrictions - HB 1137**, filed by Representative Shoaf, preempts local governments from prohibiting fuel sources used by residential properties and keeps local governments/utilities from charging a fee for the right to utilize an energy source, such as natural gas. If signed by the Governor, HB 1137 will be effective July 1, 2025.

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**Prohibition of Fluoride in Drinking Water - SB 700**, filed by Senator Truenow, primarily serves as the agency package for the Florida Department of Agriculture and Consumer Services and covers a wide range of issues. The most debated impact of the bill is the revision to the definition of “water quality additive.” The bill does not mention “fluoride” specifically, but the practical effect will mean that fluoride and other additives not meeting the new definition of “water quality additive” cannot be added to a public water supply. If signed by the Governor, SB 700 will be effective July 1, 2025, except as otherwise provided in the bill.

The [Government Affairs](#) group at Stearns Weaver Miller, P.A. monitors both the legislative and executive branches to stay well informed of emerging legislative and regulatory developments.

**Robert Walters | Associate:** Robert focuses his practice on Florida administrative law, regulatory compliance, civil litigation and appeals, government affairs, and election law. Robert routinely provides guidance to clients to navigate Florida’s complex regulatory scheme regulated by the above agencies and boards, in order to minimize compliance issues.

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Congratulations to **Elizabeth Desloge Ellis** on her new role as President-Elect of TBA. We look forward to seeing how your dedication, passion and guidance will enhance the legal profession, promote fellowship among colleagues and serve the north Florida community.

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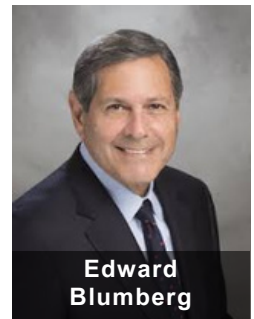
I have prepared the following calendar event for you.

# EVENTS *Recap*

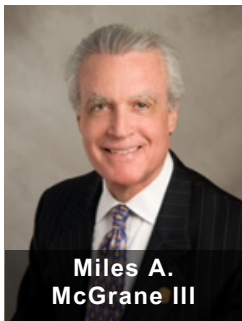
## FLORIDA BAR CELEBRATED 50-YEAR MEMBERS AND SENIOR COUNSELORS DURING LUNCHEON

On June 27 in Boca Raton, The Florida Bar celebrated more than 700 attorneys and senior counselors who marked 50 years of dedication to practicing law. The event featured remarks from outgoing President Roland Sanchez-Medina, Jr., a National Anthem by Sterling Hill, and a pledge led by honoree Julius “Jay” Zschau.

Edward R. Blumberg, a Miami-based trial lawyer and former Bar president (1997–98), spoke as one of the honorees. He leads the firm Deutsch Blumberg & Caballero and has held leadership roles with the Bar, The Florida Bar Foundation, and the ABA. His practice focuses on medical malpractice, products liability, and catastrophic injury cases.



**Edward  
Blumberg**



**Miles A.  
McGrane III**

Miles A. McGrane III, also a past Bar president (2003–04), addressed the group. He is a Fort Lauderdale mediator and attorney known for his advocacy on behalf of children’s legal needs, court funding, and judicial independence. He has previously served on the Florida Board of Bar Examiners and chaired the Judicial Qualifications Commission.

The luncheon provided a meaningful opportunity to recognize and celebrate the enduring commitment of these legal professionals to Florida’s justice system. To read more about this event, visit Mark D. Killian’s article [floridabar.org](http://floridabar.org).

### THE HONOREES AT THIS EVENT INCLUDED:

- Barry Alexander Abbott
- Richard Abramowitz
- Richard L. Adams
- Augustus Davis Aikens, Jr.
- Edward Akel
- Matthew David Alexander III
- Chris William Altenbernd
- Carlos Alvarez
- James Walter Anderson
- Kathryn Klein Anderson
- Christine Hovey Andriacchi
- Eric Lee Ansel
- Jan Appel
- Joel M. Aresty
- Norman B. Arnoff
- Richard Alan Arnold
- William W. Atterbury III
- George Nathan Aylesworth
- Paul Lawrence Backman
- Barry Christopher Balonek
- Rex Martin Barbas
- John M. Barkett
- James Albert Barks
- Chalmers Horne Barnes
- Gary Wayne Barrick
- Baron Lynn Bartlett
- James Ellwood Bartlett III

- James Manly Barton II
- Michael Basile
- Abraham L. Bassie
- William Parker Battaglia
- James D. Beach
- James Koger Beckham
- Mitchell Jay Beers
- Laurel G. Bellows
- Barry Wayne Bennett
- Carlton Frank Bennett
- Donald H. Benson
- Sally Sue Simons Benson
- Michael Beraha
- Zelma L. Berger
- Steven Bennett Berger
- William Joseph Berger
- William J. Bernstein
- Mary-Anne Bestebreurtje
- Marvin Wecker Bingham, Jr.
- Bruce Beuford Blackwell
- Richard Raymond Blakeman
- Richard Beirn Blanchard
- Jorge E. Blanco
- Fishel Philip Blank
- William Samuel Blatt
- Edward David Bloom
- Harold Bluestein
- Edward Robert Blumberg
- Thomas Lee Boll
- Robert J. Bondi
- Ray Michael Bourgeois
- Neal Dwight Bowen
- Charles Everett Boyd
- Wayne J. Boyer
- James Scott Bramnick
- Randy Robert Briggs
- Daniel Cramer Brown
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- Wanda Leigh Brown
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- Albert Ray Cook
- Kathy Sherman Cook
- John C. Cooper
- Marc Cooper
- James Craig Corbett
- Peter Reed Corbin
- Martin Lewis Cordell
- Ware Cornell, Jr.
- Lloyd McClure Costley
- Mary Young Cousar
- Richard Earl Cox, Jr.
- Glenn Alvin Craig
- Joyce Krutick Craig
- Jeffrey Allen Cramer
- William Gentry Crawford, Jr.
- Michael Joseph Corso
- Timothy George Crowley
- John Bradford Culverhouse
- Hugh Franklin Culverhouse, Jr.
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- George Pernon Mose Daniels
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- Jonathan Joseph Davis
- Joseph Ray Davis
- William Earl Davis
- James Bevington Davis
- Ted Day, Jr.
- Isaac Henry Dean
- Rafael Gregory de Armas
- Charles August Dehlinger
- Emilio De La Cal
- Cosme J. De La Torriente
- Susan Smotherman Demers
- Stephen Joseph deMontmollin
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# EXPANDED FTC RULE ON NEGATIVE OPTIONS AND AUTOMATIC RENEWALS GOES INTO EFFECT IN JULY 2025

By Patricia A. Conners & Douglas L. Kilby



**Coming Soon - Expanded FTC Rule on Negative Options and Automatic Renewals** sells or markets goods or services using a “negative option” (where a customer’s failure to act results in an ongoing obligation) or automatic renewal plan (e.g., subscriptions, membership agreements, software agreements, continuity agreements (where the customer will continue to receive a product or service until they cancel) and free trial conversion offers (free-to-pay)) they are likely covered by the FTC’s Negative Option Rule. That Rule has been greatly expanded, and the FTC will begin enforcing the amended Rule beginning July 14, 2025. Some key notes on the amended Rule:

1. **Mandatory Disclosure of All “Material Terms”** – the seller must clearly and conspicuously disclose all “Material Terms” of the agreement, regardless of whether those terms directly relate to the negative option feature. The Rule provides a non-exhaustive list of terms that must be disclosed, including how much and how frequently customers will be charged, when free trials end, and how to cancel.

2. **Express Affirmative Consent** – the Rule sets out requirements for consent (e.g., the consent to the negative option feature must be separate from any other portion of the transaction), and sets out record-keeping requirements.

3. **Simple Cancellation (“Click to Cancel”)** – the Rule requires sellers to provide a “simple mechanism” for cancellation of any negative option feature or to avoid being charged, and the customer must be able to easily cancel using the same method they used to sign up.

4. **Prohibition against misrepresentations** as to “Material” facts, even if the facts do not relate to the negative option feature. For example, the FTC suggested that when a company using negative option features in marketing or sales makes a misleading statement in the company’s website privacy policy, the misrepresentation might constitute a violation of the Rule.

5. The Rule applies to marketing and sales to both consumers and business customers (B2B) (e.g., a continuing monthly contract for delivery of bottled water or printer paper to an office).

More information on the amended Rule can be found here: [Click to Cancel: The FTC’s amended Negative Option Rule and what it means for your business | Federal Trade Commission](#)

Companies that violate the Rule may be subject to civil penalties in actions brought by the FTC or State AGs. Moreover, at least 30 states, including Florida, have their own statutes regulating negative

option contracts, with varying scope and obligations. Florida's law, section 501.165, Fla. Stat., only applies to automatic renewal of service contracts, and violations of that law render contracts void and can subject the violator to civil penalties and/or consumer restitution in actions brought by the Florida AG. Individuals can also pursue restitution claims under the Florida statute, potentially resulting in consumer class actions.

If your client is using negative option features in their contracts or marketing, you should revisit this practice with your client to ensure compliance with existing law, including the amended FTC Rule. As Benjamin Franklin famously said, an ounce of prevention is worth a pound of cure.

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**OCTOBER 16**  
5:30–8:00pm

## 28th Annual Chili Cook Off

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- TBA Bulletin, LAF newsletter, website, and social media recognition
- TBA Email Blast or TBA Bulletin – Full-Page Ad (\$600 value) – Bulletin reaches all attorneys in Second Judicial Circuit
- Includes Team Registration (\$350 value) or 6 tickets
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For more information about sponsorships please contact TBA Executive Director at [executivedirector@tallahasseebar.org](mailto:executivedirector@tallahasseebar.org)

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# TALLAHASSEE BAR BULLETIN

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