



Martinez Law

Redefining Legal Care

**BEST PRACTICES FOR THE
FAR/BAR AS IS CONTRACT**

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MARTINEZ LAW, P.A.



MEET THE SPEAKER

Tiffani Thornton serves as an Associate Attorney for Martinez Law, P.A., a statewide law firm located in Lutz, Florida. Attorney Thornton is a former Assistant Attorney General for the State of Florida, launched a senior care business with her mother during college, and has research experience in election law, wire fraud and securities, and premises liability. Attorney Thornton served as a student assistant to the Florida Bar Real Property, Probate, & Trust Law Section, Title Issues and Standards Committee during law school.

Practice Groups:

- Estate Planning
- Homeowners' & Condominium Associations
- Landlord/Tenant
- Real Property Acquisitions & Asset Protection
- Real Property Litigation

TODAY'S ITINERARY



Contract Formation



Well-Drafted Contracts



The Unlicensed Practice of Law



Common Pitfalls



Default Procedures and Remedies



Practical Takeaways



Questions?



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CONTRACT FORMATION

○ 3 Elements:

(1) Offer

(2) Acceptance

(3) Consideration

○ Negotiation:

- Offers and Counteroffers should ALWAYS be submitted on the contract itself



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HOW CAN I
ENSURE A
WELL-DRAFTED
CONTRACT?



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A WELL-DRAFTED CONTRACT...

- Is completely and accurately filled out
- Is drafted on standard contracts or attorney-reviewed contracts ONLY
- Eliminates ambiguities
- Has proper use of Addenda

But, a well-drafted contract is not enough....

CLIENTS MUST READ AND UNDERSTAND THE CONTRACT!



UPL

BEWARE OF THE UNLICENSED PRACTICE OF LAW!

○ YES

- Completing standard FAR/BAR, CRSP, or Florida Realtors Contracts and Addenda
- Summarizing or paraphrasing contract terms
- Recommending attorney review

○ NO

- Drafting your own contract provisions
- Drafting your own addendum
- Advising as to outcomes or consequences



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COMMON PITFALLS

- Time for Acceptance
- Closing Date
- Inspection Period
- Loan Approval Period



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COMMON PITFALLS

- Seller's right to cancel
- Seller's Disclosures
 - ***SELLER DISCLOSURE:*** *Seller knows of no facts materially affecting the value of the Real Property which are not readily observable, and which have not been disclosed to Buyer. Except as provided for in the preceding sentence, Seller extends and intends no warranty and makes no representation of any type, either express or implied, as to the physical condition or history of the Property. Except as otherwise disclosed in writing Seller has received no written or verbal notice from any governmental entity or agency as to a currently uncorrected building, environmental, or safety code violation.*
- Final Walkthrough



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DEFAULT AND REMEDIES

Default Procedures

○ Escrow Disputes

- 10-day hold
- Mediation
- Lawsuit

○ Other Disputes

- Mediation (Monetary Damages Only)
- Lawsuit
- Lis Pendens



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DEFAULT AND REMEDIES

Remedies

- Buyer Remedies
 - Damages
 - Specific Performance
- Seller Remedies
 - Liquidated Damages
 - Specific Performance



PRACTICAL TAKE-AWAYS

- 1) The Contract is King!
- 2) You are not an attorney
- 3) Play Devil's Advocate
- 4) Ask questions



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QUESTIONS?

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