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UNFAIR TRADE PRACTICES
by Ted Babbitt

Florida Statute 501.201 through 501.213, the Florida Deceptive and Unfair Trade Practices Act is a powerful consumer protection weapon. It provides for the imposition of compensatory and punitive damages as well as attorney's fees against anyone who utilizes deceptive and unfair trade practices. The Supreme Court in PNR, Inc. v Beacon Property Management, Inc., 28 F.L.W. S229 (Fla. March 13, 2003) has determined that the Florida Deceptive and Unfair Trade Practices Act applies across the board to anyone who utilizes unfair practices even if it is a single act against a single individual.

In that case, the plaintiff, PNR, purchased a restaurant which had a long-term lease managed by the defendant, Beacon Property. Plaintiff contended that the Defendant intentionally failed to provide maintenance such that the building literally fell down, putting the restaurant out of business. A jury returned a verdict well in excess of \$1,000,000.00 in compensatory and punitive damages based, in part, upon the Florida Deceptive and Unfair Trade Practices Act. The Fourth District reversed, holding as a matter of law that the Act applied only to a systematic method of conducting business for numerous individuals and had no application to a single act against a single individual. The Supreme Court reversed. Relying upon, in part, Delgado v J.W. Courtesy Pontiac GMC-Truck, 693 So.2d 602 (Fla. 2nd DCA 1997), the Court concluded that the intention of the

Legislature was to allow a cause of action under this Act for anyone aggrieved by unfair business practices.

In its analysis of the case, the *Delgado* court stated that in passing the FDUTPA, the Florida Legislature intended to create a simplified statutory cause of action to provide additional substantive remedies to the citizens of this state to recover economic damages related to products or services purchased in a transaction infected with unfair or deceptive trade practices or acts.

The majority rejected the dissent's concern that this holding would convert every breach of lease to a cause of action under the Florida Deceptive and Unfair Trade Practices Act, pointing out that the Act still required conduct which was either unfair or deceptive under the controlling case law. The majority then concluded that if that type of conduct existed, there was no reason to limit the Act to conduct which affected only multiple parties. The Court held:

Based on the foregoing, we conclude that the FDUTPA applies to private causes of action arising from single unfair or deceptive acts in the conduct of any trade or commerce, even if it involves only a single party, a single transaction, or a single contract. An unfair practice is "one that 'offends established public policy' and one that is "immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers.'" (Citing cases).

Trial lawyers should be aware of the existence of the Florida Deceptive and Unfair Trade Practices Act. This opinion opens the door to a significant

number of actions under this Act allowing the recovery of both punitive damages and attorney's fees in addition to compensatory damages for a variety of actions.

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