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Client Alert: Handshake Deals, Text Threads, and Half-Written Contracts: How Florida Businesses Can Avoid Enforceability Traps

Florida business owners move quickly to meet customer needs and market demands. In the rush to seize opportunities, deals are often sealed with a handshake, a text, or an email chain. However, that speed becomes a liability when a deal falls apart and the question becomes: *was there ever a binding contract?*

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In Shumaker's litigation and business practice, we regularly see Florida businesses blindsided by enforceability gaps: a vendor who thought a text confirmation locked in a six-figure supply order, a contractor who relied on a verbal scope description that meant something different to the client, a buyer who assumed emails constituted a signed deal for commercial real estate. These disputes cost real money, and most are entirely preventable.

Oral and Informal Agreements

Florida generally enforces oral contracts if they satisfy the same basic elements as written ones, specifically offer, acceptance, consideration, capacity, and sufficiently definite terms. However, there are hard limits. Under Florida's General Statute of Frauds, Fla. Stat. § 725.01, certain contracts are unenforceable without a written document signed by the party against whom enforcement is charged. These include contracts for the sale of real property, agreements that cannot be performed within one year, and guarantees of another's debt.

In the recent case of *Walsh v. Abate*, 336 So. 3d 50 (Fla. 4th DCA 2022), a $3.4 million real estate deal was negotiated entirely through emails and texts, including offer, counteroffer, and acceptance, all communicated electronically with definite terms of price and closing date agreed. Then, after texting and emailing its agreement to the sale, the seller accepted a different buyer's offer. The original buyer sued, arguing that the electronic exchanges formed a binding agreement. The Fourth District Court of Appeal (DCA) affirmed dismissal of the lawsuit, holding that unsigned texts and emails did not satisfy Florida Statute Section 725.01's signed writing requirement.

Even where oral deals are legally enforceable (outside statute of frauds categories), proving the terms is difficult and hinges on invoices, emails, witness testimony, and course of performance. Florida's statute of limitations compounds this. Chapter 95, Florida Statutes, provides five years to sue on written contracts but only four years for oral ones, meaning informal deals also compress your enforcement window.

Takeaway: Never treat a text thread or email exchange as a done deal when the transaction requires a signed document. Even where a written document is not legally required, the evidentiary risks and shorter limitations period make written memorialization the best practice.

Vague Scope Terms

A binding Florida contract requires sufficiently definite essential terms that evidence a true "meeting of the minds." Essential terms typically include parties, scope/subject matter, price, quantity (for goods), and time for performance. When scope is left open-ended, such as "we'll figure out details later" or "acceptable terms to be finalized," Florida courts often find that no contract exists. The parties merely have an "agreement to agree" at a later time. For instance, in *FI Real Estate Fund Two LP v. Donda, LLC*, No. 23-13742, 2024 WL 5154003 (11th Cir. Dec. 18, 2024), the Eleventh Circuit, applying Florida law, held that letters of intent committing parties only to good faith, future negotiation on key terms were non-binding.

Ambiguity compounds the risk. As the Fourth DCA recognized in *Hillcrest Partnership v. Zyscovich, Inc.*, 288 So. 3d 1265 (Fla. 4th DCA 2020), a term that can reasonably be interpreted in more than one way is ambiguous. This opens the door to costly litigation examining extrinsic evidence and intent to determine the meaning of the ambiguous term. That means depositions, discovery, and trial to determine what a clearer contract could have resolved at the drafting stage.

Takeaway: Define the scope and terms of your contracts with enough specificity that both parties—and a judge who has never met either party—can determine what was promised, what was delivered, and what constitutes a breach.

Missing Quantity Terms in Goods Contracts

If your business buys or sells goods, such as inventory, raw materials, equipment, or component parts, Florida's Uniform Commercial Code (UCC) governs your contracts and imposes a specific trap for businesses that operate informally.

Under Fla. Stat. § 672.201(1), a contract for the sale of goods priced at $500 or more is not enforceable unless there is signed writing sufficient to indicate a contract was made. The statute is forgiving about most terms. A writing that omits or incorrectly states price, delivery terms, or payment schedule can still be enforceable, but the statute draws a hard line on quantity. The contract "is not enforceable … beyond the quantity of goods shown" in such writing.

This makes quantity the indispensable term. Florida's UCC is otherwise deliberately liberal about formation. Fla. Stat. § 672.204(3) provides that a contract "does not fail for indefiniteness if the parties have intended to make a contract and there is a reasonably certain basis for giving an appropriate remedy." Courts can gap fill missing prices and imply reasonable delivery times under Fla. Stat. §§ 672.305 and 672.309, but that flexibility does not apply to quantity. If the writing does not state a quantity, the contract is unenforceable for any quantity at all.

Takeaway: For any goods transaction of $500 or more, always state quantity in writing and ensure the document is signed. A document saying, "I'll take the microchips at $4.50 each" is worth far less than one stating, "I'll take 100 microchips at $4.50 each." The first is potentially unenforceable, whereas the second has teeth.

Disputed Contract Formation

Under Florida law, a binding contract requires (1) offer, (2) acceptance mirroring the offer, (3) consideration (i.e., payment or exchange of promises), (4) capacity to contract, and (5) sufficiently definite essential terms. Missing any of the above elements is fatal to contract formation. We often see several recurring patterns and issues in contract formation:

- **The letter of intent (LOI) trap:** Parties sign an LOI intending it as non-binding, but one side later argues the LOI itself was the contract, or conversely, parties intend to be bound but fail to include clear binding language.
- **The conditional acceptance problem:** One party responds, "Sounds good, but I need to change the payment terms." Under Florida law, a conditional or modified acceptance is a counteroffer. No contract was formed, even though both parties believed they were close.
- **The "formal agreement to follow" scenario:** When communications indicate a formal signed document is expected (i.e., an agreement to agree), courts will not find that preliminary negotiations—however detailed—formed a binding agreement.
- **Partial performance confusion:** One party begins performing before the contract is finalized, and both sides later disagree whether performance constituted acceptance or merely reliance on an expectation.

Not every missing term is fatal. Courts distinguish essential terms (i.e., parties, scope, price, quantity) from non-essential ones (i.e., exact payment date, minor logistics). For non-essential terms, courts may imply a reasonable time for performance rather than voiding the agreement, but gaps in core terms are far more dangerous as they can void the deal entirely.

Takeaway: Because formation disputes turn heavily on evidence, contemporaneous documentation, even informal, such as a confirmation email restating terms or a signed quote referencing agreed quantities, dramatically improves your position if a dispute arises.

Practical Contract Formation Checklist for Florida Businesses

Before treating any business deal as done, confirm the following elements are documented in a signed document:

1. **Parties:** Include full legal names of all contracting parties. If contracting with an LLC or corporation, name the entity itself, not just the individual you're dealing with.
2. **Scope:** Outline specific description of goods, services, or work to be performed, and avoid open-ended catchalls like "all necessary services" without an attached specification.
3. **Price:** State total price, unit price, or clear calculation method. If it's variable, specify any caps or not-to-exceed limits.
4. **Quantity (for sales of goods):** For any sale of goods $500 or more, state quantity explicitly. Under Florida's UCC, quantity is the one term that cannot be gap filled. No quantity in writing means no enforceable contract.

5. **Deadlines:** Include key dates for delivery, performance, payment, and completion. Courts may imply "reasonable time" but relying on that implication invites dispute.
6. **Acceptance:** Outline how and when the deal becomes binding (i.e., signature, purchase order confirmation) so it's never ambiguous whether negotiations are still ongoing.
7. **Change Orders**: Define a process for documenting and approving changes to scope, price, or timeline in writing before they take effect. This single provision prevents more disputes than almost any other contract term.
8. **Signature Authority.** Confirm the signer has actual authority to bind the entity. A signature from someone without authority may leave you with an unenforceable agreement.

Conclusion

Following this checklist will not eliminate every dispute, but it closes off the most common and costly enforceability traps that arise from handshake deals, text threads, and half-written contracts. The few hours it takes to memorialize your deal in a clear, signed writing is an investment that pays for itself many times over. Florida law provides guardrails, but it will not rescue a business that skipped the basics.

If you have questions about whether your existing agreements are enforceable or need assistance building contract templates that protect your business, contact Elizabeth Brusa or a member of our Litigation & Disputes team.