




BOARD OF COUNTY COMMISSIONERS

County Attorney's Office

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Building C, Room 308  
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**TO:** Brevard County Board of County Commissioners  
**FROM:** Christine Reilly, Attorney Law Clerk  
**THRU:**  Eden Bentley, County Attorney  
**SUBJECT:** Legal Notices in Newspapers – Legal Requirements  
**DATE:** 3/19/2020

**Question 1:** Are Veteran Voice, Trader Jake's, USA Today, The Orlando Business Journal, the Orlando Sentinel and/or Florida Today, considered legally sufficient publications for the purpose of publishing of legal notices pursuant to Florida Statutes, sections 50.031 and 50.011?

**Short Answer:** Florida Today meets the statutory requirements.

USA Today and the Orlando Sentinel do not publish legal notices in Brevard County. Trader Jake's, Veteran Voice, and the Orlando Business Journal do not appear to meet all statutory requirements. Of specific concern is section 50.031, Florida Statutes, which requires registration as "periodicals matter" with the U.S. Post Office in Brevard County.

Orlando Business Journal and Veteran Voice are registered as periodicals matter with the U.S. Post Offices in other counties; however, it cannot be confirmed they are registered in Brevard County. Trader Jake's is not registered as periodicals matter in Brevard County. In addition, it is questionable whether Trader Jake's, Veteran Voice and Orlando Business Journal have a large enough circulation and enough news of interest to

the general public to pass muster as a newspaper which can publish legal notices.

Finally, several of the statutes specific to county issues require the newspaper be published 5 days a week. Only the Florida Today meets that requirement.

The consequences for not advertising in a newspaper of general circulation is that the legal advertisement will not be considered valid and the Board's action on an advertised matter could be declared invalid.

#### **General Law:**

In order to publish legal notices, a newspaper needs to satisfy the following statutory requirements in Chapter 50, Florida Statutes.

1. The newspaper must be published weekly or more often;
2. The newspaper must be at least 25% in English;
3. The newspaper needs to have been registered as a "periodicals" matter in the post office in that county;
4. The newspaper should be for sale to the general public. In other words, it cannot be a free newspaper;
5. The newspaper must be available to the general public;
6. The newspaper must contain news in which the general public will be interested;
7. One year before the legal notice is published, the newspaper has to have been published in that county;
8. There are also some specific situations in which the publication must be published at least 5 days a week; and
9. The newspaper must meet the requirement of section 50.0211, Florida Statutes, Internet website publication. (For complete statute, see attachment "A")

The six of the nine factors above are ascertainable without legal analysis and staff has been able to verify which publications meet these criteria.

The issues for further examination in this memorandum focus mainly on the #3, #5 and #6 above i.e. being registered as periodicals in the post office of the county in question and whether they are available to the general public and contain news in which the general public would be interested.

With regard to the issue of availability to the general public and containing news in which the general public would be interested, the courts appear to have melded these two requirements together in determining whether a newspaper is one of "general circulation" which is another way of stating that the newspaper meets the requirements in Chapter 50, Florida Statutes.

Chapter 50 does not state a minimum circulation number a newspaper needs to have to be deemed a newspaper of general circulation. Neither is there a requirement in Chapter 50 that the circulation for a newspaper equal a certain percentage of a county's population for the newspaper to be considered a newspaper of general circulation.

The Supreme Court states that in discerning the meaning of a statute, one needs to consider the purpose of the statute. In construing the service by publication statute "it may become necessary to reach members of any profession, trade, craft, or calling by constructive service, hence the reason for publication of a newspaper of general circulation, read and subscribed to by the public generally." *State v. Rose*, 114 So. 373 (Fla. 1927)

**Newspapers of General Circulation, Meeting the Requirements of Chapter 50; Sale to the Public, General Public Interest**

**Newspapers Intended for One Group, rather than the Population at Large**

Case law indicates that "it would not only be unjust but it would be contrary to the spirit and letter of the law to recognize as newspapers (of general circulation) those publications designed for the benefit of any one class of the whole population, and that class a negligible percentage of the population..." See *State v. Rose*, 114 So. 373, 374 (Fla. 1927). However, the court in *Rose* stated that such an objection can be overcome, "if it is made to appear that any periodical published for the benefit of a class or profession, in addition thereto, reports daily or weekly the news of a local or foreign interest, and in other respects meets the requirements of a newspaper as defined herein" *Id.*

A publication with very limited circulation, and primarily published for lawyers, was not considered a newspaper of general circulation in *State v. Rose* where the Florida Supreme Court stated that:

"the court takes judicial notice of the population of Dade County

(over 150,000) ... and the Daily Record with a subscription of 350 or less, in a county the population of Dade County, and devoted primarily to reporting the proceedings and transactions of the various courts of Dade County, reporting little or no news in which the general public would be interested would in our judgment not be a newspaper in contemplation of our constructive service statute."

Three issues are identified above. First, the circulation was very low compared to the population in the county. Second, the publication was intended for the benefit of lawyers, a single group, not the general population. Third, there was little news which the general public would be interested in, so that it is not read by the general public.

Extrapolating from the *Rose* case with a ratio of 350 papers to a population of 150,000 indicates a percentage of .23% was not acceptable; however, there were multiple other factors were discussed. Applying the same .23% from the *Rose* case to Brevard with a population 588,000 would result in a circulation of 1,353, with little or no news in which the general public would be interested, does not meet the standard in Chapter 50, and is not a newspaper of general circulation. None of the publications except Florida Today has a circulation as high as 1,353.

However, there are cases which found publications that appeared to have targeted a certain population sufficient for advertising. For example, the Florida Supreme Court, in *State ex rel. Miami Leathercote Co. v. Gray*, 39 So. 2d 716 (1949) held that a newspaper, published primarily for members of one religious group, The Jewish Floridian, with a circulation of 4,000 copies in Dade County in 1949, and some news of general interest, was sufficient to be a "newspaper of general circulation." This case arose when the Miami Leathercote Co. published a notice of its dissolution in The Jewish Floridian, and the Secretary of State rejected the certificate of dissolution arguing that this newspaper was not a newspaper as contemplated by section 49.03, Florida Statutes.<sup>1</sup>

In *Miami Leathercote Co.*, The Jewish Floridian had a circulation of about 3,300 and about 13.5 percent of the circulation is non-Jewish, so this means that roughly 445 newspapers each week went to non-Jewish subscribers. In addition, it was sold on newsstands in Miami, and about 1,000 copies were purchased each week by a theatre in Miami Beach and given to their patrons (circulated in the general public). The court found that much of the contents of the newspaper would be of interest to the general public.

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<sup>1</sup> Section 49.03, Florida Statutes was renumbered to section 50.031, Florida Statutes

In *Culclasure v. Consolidated Bond & Mortgage Co.*, 94 Fla. 764 (Fla. 1927), the Florida Supreme Court determined that the newspaper in question, Financial News, was a sufficient newspaper for constructive service. Financial News was published daily in Duval County, it had 700 paid subscribers and several thousand copies circulated monthly from newsstands. The court stated that there were 25,000 copies of one issue of the paper circulated carrying the delinquent tax list of Duval County, Florida. The court stated that not all of the 700 paid subscribers were from Duval County, and that some were from other states and foreign countries. The court stated in *Culclasure* that the U.S. Bankruptcy Court had designated the Financial News as the official publication for bankruptcy notices.

In determining that this publication was qualified to publish legal notices, the court stated that although the newspaper is of special interest to members of the bar, it is broad in its interests, carries limited telegraphic or general news, such as social, religious, political, business, professional and allied subjects, for the information of the public and has, in fact, a wide and diversified clientele ... and its subscribers are representative of many different lines of business and interest. These considerations, and not the number of subscriptions, are the controlling elements which determine the status of a newspaper as used in constructive service statutes and as to whether or not service published therein would meet the requirements of due process of law per the court.

The court in *Culclasure* noted the Financial News carried items of interest to those with musical interests, that it carried editorials, a list of the real estate agents in Duval County, items of interest to bankers, to realtors, news items regarding the merger of two real estate concerns in Jacksonville, an account on the death of Jacob E. Cohen, an editorial column on the subject of "Gold in India", a list of the theatre entertainments of the week, an editorial on scenic artists, and other news items.

#### Case Involving Publication with Limited Circulation

*Johnson v. Taggart*, 92 So. 2d 606 (Fla. 1957), involved the legal notice required for an application of a tax deed in Palm Beach county. In *Taggart*, the landowner sued to have a tax deed declared invalid based on an allegation that the landowner never received notice and that the publication used by the county was not qualified to publish legal notices. The Florida Supreme Court held that publication in a newspaper that had limited circulation in the city where the landowners resided and no circulation in the section of the city where they and their friends lived was adequate, as the statute, Chapter 49 (the precursor to Chapter 50) does not require that the newspaper be circulated in the section of the city where the landowners lived. (paraphrase) *Id.* at 607. The court stated, "The newspaper to qualify should be one of general circulation in the county, although it is not required that it be read by everyone in the county so long as it is available to the general public." Citing *State ex rel. Miami Leathercote Co. v. Gray*,

39 So. 2d 716 (Fla. 1949). Unfortunately, this case did not disclose the number of papers in circulation in the county.

In *Sarasota Herald-Tribune Co. v Sarasota County*, 632 So 2d 606 (Fla. 2<sup>nd</sup> DCA 1993), the Second DCA held that sections 50.011, 50.031, and 197.402 do not require a newspaper to run delinquent tax notices in the entire full-run publication of the newspaper. A more limited run was permissible. In this case Sarasota County had issued a solicitation for competitive bids for publication of delinquent tax notices with a required minimum distribution of 9,000 copies. The Herald-Tribune won the right to publish the notices. The Herald-Tribune had a general circulation of 115,000 copies. The Herald-Tribune decided to only publish the notices in 9,000 of the 115,000 copies. The copies with tax notices were distributed to select zip codes and later to all Herald-Tribune vending machines. After discovering the reduced publication, the county directed the Herald-Tribune to cease publication and awarded the Venice Gondolier the right to publish the notices in its full run of 9,000 copies. In holding that a more limited run was permissible the court stated that there is no language in the statute that indicated the legislature intended the legal notices be published in the full run of a newspaper. The court pointed out that nothing in the lower court record indicated that publication in 9,000 copies of the Venice Gondolier, distributed mostly in the southwest portion of the county, provided more effective notice than publication in the same amount of copies of the Herald-Tribune.

Newspaper must be considered periodicals matter by post office in  
county where published

Section 50.031, Florida Statutes, states in pertinent part, that “No notice of publication required to be published in a newspaper ... shall be deemed to have been published in accordance with the statutes providing for such publication, unless the same shall have been published for the prescribed period of time required for such publication, in a newspaper which at the time of such publication shall have been in existence for 1 year and shall have been entered as periodicals matter at a post office in the county where published ...”

In *Johnson v. Taggart* discussed above, the Florida Supreme Court stated that the newspaper that had published the legal notice, the Riviera Beach Press, had published in Palm Beach County and had been entered as second class mailing matter<sup>2</sup> at the Post Office in Riviera Beach in the same county (Palm Beach County), which was a basic requirement of sections 49.01 and 49.03<sup>3</sup>, Florida Statutes. *Taggart* at (paraphrase and parenthetical added).

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<sup>2</sup> Second class mailing matter was changed to periodicals matter when the U.S. Post Office changed this nomenclature, but this was not a material change.

<sup>3</sup> Sections 49.01 and 49.03 later became sections 50.011 and 50.031.

In *BAC Home Loans Servicing v. Brand*, 2018 WL 5909311 (Fla 12<sup>th</sup> Jud. Cir. November 6, 2018) the defendant to a foreclosure objected to the Certificate of Sale based on an assertion that the newspaper, La Gaceta, was not qualified to publish legal notices. *Id.* at 1. In *Brand*, the court stated that “La Gaceta serves and is published in ten counties in the Tampa Bay region, including Sarasota County.” *Id.* “There is no county specific edition.” *Id.* “La Gaceta is printed in Polk County and then brought to La Gaceta’s main office Hillsborough County.” *Id.* “From there it is sent to the various counties, including Sarasota County.” *Id.* The court in *Brand* while reviewing the statutory requirements for newspapers which provide legal notices, i.e., Chapter 50, Florida Statutes, stated “The paper (La Gaceta) must hold a periodical permit from the post office within Sarasota”, and the court found that “La Gaceta previously obtained a Second Class permit through the U.S. Postal Service (USPS) which includes Sarasota County. The USPS changed the name from Second Class to Periodical Mail, although there has been no substantive change to the nature of the qualifications for that class of mail.” *Id.* at 3.

See also Op. Atty Gen Fla. 1974-125 (1974) which stated that where the statute, section 50.03, Florida Statutes states that the newspaper “be entered as second class matter (now referred to as periodicals matter) at a post office in the county where published” means the county where the legal notice is disseminated and made available to the public, not where the newspaper is printed. See also Op. Atty Gen. Fla. 2002-70 (1970) (a pending application to be entered as periodical material does not satisfy the requirements imposed for the publication of legal notices by a municipality, section 50.011 and 50.031, Florida Statutes, as the statute requires ... that the newspaper be entered as a periodical matter at the post office.)

#### Requirements for Internet Posting of the Newspaper’s Legal Notices.

According to section 50.0211, when a newspaper publishes a legal notice, it must post the legal notice to its website on the same day as it appears in the newspaper, at no additional charge, on a separate webpage titled “Legal Notices,” “Legal Advertising,” or comparable identifying language, and without requiring a registration to view the legal notices. A link to the legal notices should be provided on the front page of the newspaper’s website, and the website should contain a search function to facilitate searching the legal notices.

In addition, the newspaper must also publish the notice on the statewide website at [www.floridapublicnotices.com](http://www.floridapublicnotices.com).

#### Requirements for Publication 5 days a week

In addition to the requirements of Chapter 50, Florida Statutes, several topic specific statutes applicable to the county require that the newspaper be published 5 days a week. See e.g. section 12.566(4)(b)(2), Florida Statutes, which states:



2. The required advertisements shall be no less than 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general paid circulation in the county and of general interest and readership in the community pursuant to chapter 50, not one of limited subject matter. It is the legislative intent that, whenever possible, the advertisement shall appear in a newspaper that is published at least 5 days a week unless the only newspaper in the community is published less than 5 days a week. (Emphasis added.)

A list of other statutes impacting notice requirements for county actions is provided in the attached Excel spreadsheet.

**Facts:**

**Florida Today**

Florida Today is published daily and is sold in Brevard County. It is in English and has been considered periodicals matter at the U.S. Post Office in Brevard County for a considerable number of years.<sup>4</sup> Its U.S.P.S. # is 632-160. Per its website (which is currently advertising a St. Patrick's Day sale) a weekly subscription begins at \$2.99 per week. There are other subscriptions available including unlimited digital access. Florida Today's circulation in Brevard County is 69,000 daily and 89,000 on Sundays, and it is widely available on newsstands, and in such locations as grocery stores like Publix and Walmart and is also sold by subscriptions. Florida Today has been publishing its newspaper in Brevard County for decades, and it contains news of interest to the general public; specifically, it carries political news, current events, listings of theatrical and community wide events, editorials, and other items. Brevard County's population is estimated at 588,265.

Florida Today's website, [floridatoday.com](http://floridatoday.com), allows one to choose "classified" which then brings you to a page where you can select "legal" which brings you to a page entitled "Legal Notices." To view the legal notices, no fee is charged and no registration is required.

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<sup>4</sup>The U.S. Postal Service in Tampa, FL was contacted by phone. Georg-Anne Gargaliatsis, (813-243-5955) stated Florida Today has a periodicals permit in Brevard County which is considerably more than a year old.



The legal notices published in Florida Today are also placed on the statewide website, [www.floridapublicnotices.com](http://www.floridapublicnotices.com) and are searchable by date, party name, city and county.

### Trader Jake's

Trader Jake's is a weekly publication. It is in English. The owner of Trader Jake's indicates that it does not have a U.S. Postal Service permit number and so is not registered as periodicals matter in the county where it is published. Regarding its availability to the general public, Trader Jake's places approximately 15 copies of its newspaper in each of its 32 metal boxes in Brevard County – 480 copies, is not sold on newsstands nor is it sold at such stores as Publix and Walmart. Per its website, it is sold for \$.25 per copy.

With respect to the issue of news in which the general public would be interested, The March 6, 2020 copy of Trader Jake's was 27 pages in length. Of those 27 pages, there is a 2/3 page item entitled "Polk County Human Trafficking, Prostitution Sting Nabs 124" with pictures/article of seven men arrested for soliciting prostitution involving children, one page devoted to two stories, one story is written by a chaplain entitled, "Blindly Go ..." (a short story) and the other is entitled "A Man Walks Into a Bar" (a joke); a two-page article called, "Crack Reality" (by Steve, which is run once or twice per year, so apparently it is a rerun. "Crack Reality" is one person's advice to others who love a person who is on crack.); a ½ page photo of people in a house by the river in Melbourne at US 1 in the late 1890's (with no explanation/story). The March 6, 2020 edition therefore has 3 and 2/3 pages of stories and a ½ page photo of the 27 pages, approximately 23 pages, are devoted to advertising.

Trader Jake's has been publishing since 1998 and in Brevard County for more than the required one year.

Trader Jake's does not currently meet certain requirements of the statutes i.e, for those situations in which the publication must be published at least 5 days a week, it is a weekly publication, and it currently does not meet the 'periodicals matters' test<sup>5</sup>. The Florida Attorney General has opined that the statute requires a newspaper to be considered as a periodicals matter in the county where published for a year prior to the publication of legal notices, and

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<sup>5</sup> The City of Melbourne and the City of Palm Bay use Trader Jake's for some legal advertisements. Both municipalities were contacted and asked if they had information regarding the apparently absent periodicals registration. No documentation was forthcoming. The Brevard County Clerk of the Court's website which lists Trader Jake's and Veteran Voice has a clear disclaimer regarding the publications listed and compliance with statutory requirements for advertising.

that making an application for a periodicals permit is not sufficient. (An email has been received indicating the periodicals permit is pending.)

In addition, based on the case law, there is a concern that Trader Jake's may not be considered a newspaper of general circulation under Chapter 50, based on the low number of copies that are placed in Brevard County (480). Although Chapter 50 does not define the number or percentage of copies that must be circulated in a county for it to be considered a newspaper of general circulation, Florida Supreme Court cases have discussed the circulation of various newspapers in relation to the total population of the county where the newspaper is published in their decisions. In other words, there may be potential arguments and challenge on this basis. (See *State v. Rose*, discussed above.)

The court in *Rose*, found that the newspaper in that case had "little or no news in which the general public would be interested." Other courts have considered such news of a local interest to be an editorial column on "the Gold Situation in India", a list of theater entertainments, Financial Market News, Daily News Events-Leased Wire Service, the merger of two real estate firms, and editorial on scenic arts. Contrasting these kinds of news articles and editorials to the stories in Trader Jake's described above, a challenge could be made that the items in Trader Jake's therefore would not be news in which the general public would be interested.

Trader Jake's website is traderjakes.com and is not a statewide website. The Trader Jake's website home page does not link directly to a separate legal notices page. There is no separate webpage entitled "Legal Notices" on the website. The website allows you to click on the last two issues of the newspaper (last two weeks). There is no search function facilitating the search for legal notices. Some of the legal notices are on pages that state "Legal Notices" at the top of the page, but other legal notices are placed on pages with other commercial advertising. There is no fee or registration required for viewing or searching the two issues of the newspaper on the website which have the legal notices for those two weeks in them.

Therefore, due to the small circulation, lack of registration as a periodical and the limited types of articles in Trader Jake's, this publication could be challenged.

### Veteran Voice

Veteran Voice is published weekly and is published in English. It is printed in Stuart in Martin County. It is for sale and the circulation is slightly under 1,000 per week including subscriptions and papers at physical pickup locations (Counties of Brevard, Indian River, St. Lucie, Martin). The Veteran's Voice is registered as a periodicals matter in the Post Office in

Stuart, in Martin County as USPS # 9749. We have not been able to establish if Veteran Voice is registered as an additional entry to its USPS in Martin County for Brevard County. In speaking with Veteran Voice's former attorney, he did not know and did not believe that such additional entry for Brevard County was obtained.

The Veteran Voice has 13 rack locations (per its website) in Brevard with 15 papers usually per rack, totaling 195 papers. The Veteran Voice website indicates 13 locations where the newspaper can be obtained for \$.35; and yearly subscriptions are available at \$12/\$18 (veteran or active military/ nonveteran); 8 of them are traditional veteran's related locales, such as American Legion halls and VFW's, 2 of them are donut shops in Titusville, 2 of them are restaurants in Titusville, and one is the Chamber of Commerce in Melbourne. The Veteran Voice is not offered in newsstands, and is not for sale at such places as Publix, Walmart or convenience stores.

The Veteran Voice website address is [www.veteranvoiceweekly.com](http://www.veteranvoiceweekly.com). The home page of the website has a link to a page entitled "public notices" which opens up the legal notices for each week of publication back until May, 2014. There is no fee or registration required for viewing or searching the legal notices. There is no search function facilitating the search for legal notices on these pages on the website. The legal notices page provides a link to the statewide website, [www.floridapublicnotices.com](http://www.floridapublicnotices.com), and this site is searchable by date, party name, city and county.

As stated above in the discussion of Trader Jake's, the circulation of approximately 1,000 weekly newspapers in Brevard County represents less than the percentage of circulation as compared to the population in the *State v. Rose* case, which we computed as .23%. 1,000 divided by 588,265 (Brevard County's population in 2020) and expressed as a percentage is .17% of the population.

This publication appears to be targeted to a particular group within the population in Brevard County. If the Veteran Voice published news that would be considered of a local interest, i.e. or of interest to the general public, there could be an argument it meets the local interest prong of the Chapter 50 requirements.

The Thursday, March 5, 2020 edition of the paper was reviewed. The paper is 20 pages long, and there are eight pages of legal notices. The articles include the following: Florida Veteran Foundation announces Forward March Ambassador Program, West Palm VA opens the Dom (The West Palm Beach VA Medical Center) and Op-Ed entitled "Drive Safely, Save Veterans", a calendar of veteran's events, Birthdays of Military Units, a fundraiser for the honor flight to bring Vietnam Vets to see the memorials in Washington, D.C., two Iwo Jima veterans,



and Military Health system reforms. These articles are all related to veterans and not the type of general interest referenced in *Culclasure*, such as items appealing to those with musical interests, as well as items of interest to real estate professionals, bankers and attorneys, or a list of the theatre entertainments of the week, or an editorial on scenic artists. Therefore, a challenge could be made that the items in Veteran Voice, would not be news in which the general public would be interested and accordingly it fails to meet the requirements of Chapter 50. This publication would not meet a requirement to have been published at least 5 days a week.

#### Orlando Business Journal

This newspaper is published weekly and sold by subscription in Brevard County. It is published in English. It is registered periodicals matter in Orange County, permit # 8750 (issued more than a year ago), but not in Brevard County. Staff has been unable to verify that that Brevard County has been entered as an additional entry to its periodicals permit for Orange County. The USPS Tampa Office was contacted and advised its records reflect only Orange County. The New York Division of the USPS (which approves permits and additional entries) was contacted for further information, but we have received no response at this time.

Per its website, subscriptions for 52 weeks for digital/digital and print are \$115/\$140 respectively, but it is not for sale on newsstands or other outlets. The circulation in Brevard County is reported to be 200.

The publication is designed for business professionals primarily in the Orlando area. A review of the March 6, 2020 issue was 28 pages with 14 pages of articles, 8 pages of legal notices, and the remainder to advertising. The articles involved Amazon Sales and central Florida industrial demand, several on impact of the coronavirus, Orlando timeshare CEO, new Disney CEO, proposed legislation involving real estate, "people on the move", list of real estate firms, etc. In short, the focus was on business particularly business in Orlando.

Orlando Business Journal's website is [biz.journal.com/Orlando](http://biz.journal.com/Orlando) and its homepage has a link to legal notices (Click on "More" to get drop down menu including Legal Notices). The legal notices are maintained on the website in separate documents by date they appeared in the printed publication (currently available back to the end of June 2013). To search and find a specific legal notice, one would need to know the date the legal notice was printed in the print edition, select the day, and all the legal notices for that day are listed on the page one after the other. The Journal's legal notices are entered on a statewide website, [www.floridapublicnotices.com](http://www.floridapublicnotices.com), and this site is searchable by date, party name, city and county.

The issues identified for the Orlando Business Journal involve the lack of permit as periodicals matter in Brevard, the limited circulation in Brevard and the limited interest of the news published to the general public.

Per the discussion in *BAC Home Loans Servicing v. Brand*, referenced previously, the publication must have the registration as a periodicals matter or be added to a registration. It does not appear the Orlando Business Journal has this.

Circulation is only 200 in Brevard and is directed to the business community versus the general public. The circulation numbers do not equal the numbers set forth in the *Rose* case. Based on the analysis of the courts in *Rose* (where it found the publication directed to lawyers) and *Culclasure* (where it was directed to bankers), the focus of the Journal's audience being the business community (along with the low circulation) raises concerns about meeting the elements of availability to the general public and news of general interest to the public.

#### **Consequences for failure to advertise in accordance with statutory requirements:**

Failure to advertise properly can result in the invalidation of the action taken by the Board. The statute of limitations may vary depending upon the statute violated, *See, e.g. section 125.66*, Florida Statutes.

#### **Summary:**

Chapter 50, Florida Statutes contains very specific criteria for newspapers to be eligible to publish legal notices. Florida Today meets the statutory requirements for all statutes used by the County. Other publications mentioned appear to fail to meet one of the statutory requirements for the most basic type of publication. Without adding publications 4 additional days per week, all publications, except Florida Today, fail to meet the requirements of several topic specific statutes governing advertising conducted by the county and requiring a newspaper that is published 5 days a week. Veteran Voice and Trader Jake's may be able to cure some of the deficiencies in the future.

Select Year:  

## The 2019 Florida Statutes

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Title VI  
CIVIL PRACTICE AND PROCEDURE

Chapter 50  
LEGAL AND OFFICIAL ADVERTISEMENTS

[View Entire Chapter](#)

### CHAPTER 50 LEGAL AND OFFICIAL ADVERTISEMENTS

- 50.011 Where and in what language legal notices to be published.
- 50.021 Publication when no newspaper in county.
- 50.0211 Internet website publication.
- 50.031 Newspapers in which legal notices and process may be published.
- 50.041 Proof of publication; uniform affidavits required.
- 50.051 Proof of publication; form of uniform affidavit.
- 50.061 Amounts chargeable.
- 50.0711 Court docket fund; service charges; publications.

**50.011 Where and in what language legal notices to be published.**—Whenever by statute an official or legal advertisement or a publication, or notice in a newspaper has been or is directed or permitted in the nature of or in lieu of process, or for constructive service, or in initiating, assuming, reviewing, exercising or enforcing jurisdiction or power, or for any purpose, including all legal notices and advertisements of sheriffs and tax collectors, the contemporaneous and continuous intent and meaning of such legislation all and singular, existing or repealed, is and has been and is hereby declared to be and to have been, and the rule of interpretation is and has been, a publication in a newspaper printed and published periodically once a week or oftener, containing at least 25 percent of its words in the English language, entered or qualified to be admitted and entered as periodicals matter at a post office in the county where published, for sale to the public generally, available to the public generally for the publication of official or other notices and customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public.

History.—s. 2, ch. 3022, 1877; RS 1296; GS 1727; s. 1, ch. 5610, 1907; RGS 2942; s. 1, ch. 12104, 1927; CGL 4666, 4901; s. 1, ch. 63-387; s. 6, ch. 67-254; s. 21, ch. 99-2.

Note.—Former s. 49.01.

**50.021 Publication when no newspaper in county.**—When any law, or order or decree of court, shall direct advertisements to be made in any county and there be no newspaper published in the said county, the advertisement may be made by posting three copies thereof in three different places in said county, one of which shall be at the front door of the courthouse, and by publication in the nearest county in which a newspaper is published.

History.—RS 1297; GS 1728; RGS 2943; CGL 4667; s. 6, ch. 67-254.

Note.—Former s. 49.02.

**50.0211 Internet website publication.**—

(1) This section applies to legal notices that must be published in accordance with this chapter unless otherwise specified.

**A**

(2) Each legal notice must be posted on the newspaper's website on the same day that the printed notice appears in the newspaper, at no additional charge, in a separate web page titled "Legal Notices," "Legal Advertising," or comparable identifying language. A link to the legal notices web page shall be provided on the front page of the newspaper's website that provides access to the legal notices. If there is a specified size and placement required for a printed legal notice, the size and placement of the notice on the newspaper's website must optimize its online visibility in keeping with the print requirements. The newspaper's web pages that contain legal notices must present the legal notices as the dominant and leading subject matter of those pages. The newspaper's website must contain a search function to facilitate searching the legal notices. A fee may not be charged, and registration may not be required, for viewing or searching legal notices on a newspaper's website if the legal notice is published in a newspaper.

(3)(a) If a legal notice is published in a newspaper, the newspaper publishing the notice shall place the notice on the statewide website established and maintained as an initiative of the Florida Press Association as a repository for such notices located at the following address: [www.floridapublicnotices.com](http://www.floridapublicnotices.com).

(b) A legal notice placed on the statewide website created under this subsection must be:

1. Accessible and searchable by party name and case number.
2. Posted for a period of at least 90 consecutive days after the first day of posting.

(c) The statewide website created under this subsection shall maintain a searchable archive of all legal notices posted on the publicly accessible website on or after October 1, 2014, for 18 months after the first day of posting. Such searchable archive shall be provided and accessible to the general public without charge.

(4) Newspapers that publish legal notices shall, upon request, provide e-mail notification of new legal notices when they are printed in the newspaper and added to the newspaper's website. Such e-mail notification shall be provided without charge, and notification for such an e-mail registry shall be available on the front page of the legal notices section of the newspaper's website.

History.—s. 1, ch. 2012-212; s. 1, ch. 2014-210.

**50.031 Newspapers in which legal notices and process may be published.**—No notice or publication required to be published in a newspaper in the nature of or in lieu of process of any kind, nature, character or description provided for under any law of the state, whether heretofore or hereafter enacted, and whether pertaining to constructive service, or the initiating, assuming, reviewing, exercising or enforcing jurisdiction or power, by any court in this state, or any notice of sale of property, real or personal, for taxes, state, county or municipal, or sheriff's, guardian's or administrator's or any sale made pursuant to any judicial order, decree or statute or any other publication or notice pertaining to any affairs of the state, or any county, municipality or other political subdivision thereof, shall be deemed to have been published in accordance with the statutes providing for such publication, unless the same shall have been published for the prescribed period of time required for such publication, in a newspaper which at the time of such publication shall have been in existence for 1 year and shall have been entered as periodicals matter at a post office in the county where published, or in a newspaper which is a direct successor of a newspaper which together have been so published; provided, however, that nothing herein contained shall apply where in any county there shall be no newspaper in existence which shall have been published for the length of time above prescribed. No legal publication of any kind, nature or description, as herein defined, shall be valid or binding or held to be in compliance with the statutes providing for such publication unless the same shall have been published in accordance with the provisions of this section. Proof of such publication shall be made by uniform affidavit.

History.—ss. 1-3, ch. 14830, 1931; CGL 1936 Supp. 4274(1); s. 7, ch. 22858, 1945; s. 6, ch. 67-254; s. 1, ch. 74-221; s. 22, ch. 99-2.

Note.—Former s. 49.03.

**50.041 Proof of publication; uniform affidavits required.**—

(1) All affidavits of publishers of newspapers (or their official representatives) made for the purpose of establishing proof of publication of public notices or legal advertisements shall be uniform throughout the state.

(2) Each such affidavit shall be printed upon white paper and shall be 8½ inches in width and of convenient length, not less than 5½ inches. A white margin of not less than 2½ inches shall be left at the right side of each



affidavit form and upon or in this space shall be substantially pasted a clipping which shall be a true copy of the public notice or legal advertisement for which proof is executed. Alternatively, the affidavit may be provided in electronic rather than paper form, provided the notarization of the affidavit complies with the requirements of s. 117.021.

(3) In all counties having a population in excess of 450,000 according to the latest official decennial census, in addition to the charges which are now or may hereafter be established by law for the publication of every official notice or legal advertisement, there may be a charge not to exceed \$2 for the preparation and execution of each such proof of publication or publisher's affidavit.

History.—s. 1, ch. 19290, 1939; CGL 1940 Supp. 4668(1); s. 1, ch. 63-49; s. 26, ch. 67-254; s. 1, ch. 76-58; s. 2, ch. 2012-212.

Note.—Former s. 49.04.

**50.051 Proof of publication; form of uniform affidavit.**—The printed form upon which all such affidavits establishing proof of publication are to be executed shall be substantially as follows:

NAME OF NEWSPAPER

Published (Weekly or Daily)

(Town or City) (County) FLORIDA

STATE OF FLORIDA

COUNTY OF :

Before the undersigned authority personally appeared , who on oath says that he or she is of the , a newspaper published at in County, Florida; that the attached copy of advertisement, being a in the matter of in the Court, was published in said newspaper in the issues of .

Affiant further says that the said is a newspaper published at , in said County, Florida, and that the said newspaper has heretofore been continuously published in said County, Florida, each and has been entered as periodicals matter at the post office in , in said County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this day of , (year), by , who is personally known to me or who has produced (type of identification) as identification.

(Signature of Notary Public)

(Print, Type, or Stamp Commissioned Name of Notary Public)

(Notary Public)

History.—s. 2, ch. 19290, 1939; CGL 1940 Supp. 4668(2); s. 6, ch. 67-254; s. 1, ch. 93-62; s. 291, ch. 95-147; s. 23, ch. 99-2; s. 3, ch. 99-6.

Note.—Former s. 49.05.

**50.061 Amounts chargeable.**—

(1) The publisher of any newspaper publishing any and all official public notices or legal advertisements shall charge therefor the rates specified in this section without rebate, commission or refund.

(2) The charge for publishing each such official public notice or legal advertisement shall be 70 cents per square inch for the first insertion and 40 cents per square inch for each subsequent insertion, except that government notices required to be published more than once, the cost of which is paid for by the government and not paid in advance by or allowed to be recouped from private parties, may not be charged for the second and successive insertions at a rate greater than 85 percent of the original rate.

(3) Where the regular established minimum commercial rate per square inch of the newspaper publishing such official public notices or legal advertisements is in excess of the rate herein stipulated, said minimum commercial rate per square inch may be charged for all such legal advertisements or official public notices for each insertion, except that government notices required to be published more than once, the cost of which is paid for by the government and not paid in advance by or allowed to be recouped from private parties, may not be charged for the second and successive insertions at a rate greater than 85 percent of the original rate.

(4) A governmental agency publishing an official public notice or legal advertisement may procure publication by soliciting and accepting written bids from newspapers published in the county, in which case the specified charges in this section do not apply.

(5) If the public notice is published in a newspaper, the posting of the notice on the newspaper's website pursuant to s. 50.0211(2) must be done at no additional charge.

(6) All official public notices and legal advertisements shall be charged and paid for on the basis of 6-point type on 6-point body, unless otherwise specified by statute.

(7) Any person violating this section, either by allowing or accepting any rebate, commission, or refund, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) Failure to charge the rates prescribed by this section shall in no way affect the validity of any official public notice or legal advertisement and shall not subject same to legal attack upon such grounds.

**History.**—s. 3, ch. 3022, 1877; RS 1298; GS 1729; RGS 2944; s. 1, ch. 12215, 1927; CGL 4668; ss. 1, 2, 2A, 2B, ch. 20264, 1941; s. 1, ch. 23663, 1947; s. 1, ch. 57-160; s. 1, ch. 63-50; s. 1, ch. 65-569; s. 6, ch. 67-254; s. 15, ch. 71-136; s. 35, ch. 73-332; s. 1, ch. 90-279; s. 3, ch. 2012-212; s. 2, ch. 2014-210.

**Note.**—Former s. 49.06.

#### **50.0711 Court docket fund; service charges; publications.—**

(1) The clerk of the court in each county may establish a court docket fund for the purpose of paying the cost of publication of the fact of the filing of any civil case in the circuit court of the county by the style and of the calendar relating to such cases. This court docket fund shall be funded by \$1 mandatory court cost for all civil actions, suits, or proceedings filed in the circuit court of the county. The clerk shall maintain such funds separate and apart, and the proceeds from this court cost shall not be diverted to any other fund or for any purpose other than that established in this section. The clerk of the court shall dispense the fund to the designated record newspaper in the county on a quarterly basis.

(2) A newspaper qualified under the terms of s. 50.011 shall be designated as the record newspaper for such publication by an order of the majority of the judges in the judicial circuit in which such county is located, and such order shall be filed and recorded with the clerk of the circuit court for such county. The designated record newspaper may be changed at the end of any fiscal year of the county by a majority vote of the judges of the judicial circuit of the county ordering such change 30 days prior to the end of the fiscal year, notice of which order shall be given to the previously designated record newspaper.

(3) The publishers of any designated record newspapers receiving payment from this court docket fund shall publish, without additional charge, the fact of the filing of any civil case, suit, or action filed in such county in the circuit. Such publication shall be in accordance with a schedule agreed upon between the record newspaper and the clerk of the court in such county.

(4) The publishers of any designated record newspapers receiving revenues from the court docket fund established in subsection (1) shall, without charge, accept legal advertisements for the purpose of service of process by publication under s. 49.011(4), (10), and (11) when such publication is required of persons authorized to proceed as indigent persons under s. 57.081.

**History.**—s. 46, ch. 2004-265.