

ITEM 1.05 | REMEDIES UNDER FLA. STAT. § 57.105

Fla. Stat. § 57.105 authorizes courts to award sanctions against parties who raised claims and defenses not supported by material facts.³⁶

§ 57.105 can be used in the discovery arena also. § 57.105(2) specifically provides that expenses, including fees and other losses, may be awarded for the assertion of or response to any discovery demand that is considered by the court to have been taken primarily for the purpose of unreasonably delay. § 57.105(6) Provides that the provisions of § 57.105 are supplemental to other sanctions or remedies that are available under law or under court rules.

It is sanctionable to first object to a discovery request and, after the objections are overruled, respond that no such documents exist. Such conduct has been found to constitute discovery abuse and improper delaying tactics.³⁷

Sanctions have been awarded when a party filed a motion to dismiss that was unsupported by the facts and the law, and the same party continually objected to discovery requests, the subject of which was directed to the issues raised in the motion to dismiss.³⁸

Trial Lawyers Section of the Florida Bar
Conference of Circuit Court Judges
Conference of County Court Judges

Footnotes

³⁶ Previously, a fee award was only permissible when there was no justifiable issue regarding claims and defenses. Fee awards were relatively rare under this high standard.

³⁷ See *First Healthcare Corp. v. Hamilton*, 740 So. 2d 1189, 1193 n. 2 (Fla. 4th DCA 1999), disapproved of on other grounds by *Fla. Convalescent Ctrs. V. Somberg*, 840 So 2d 998 (Fla. 2003) (citing *Greenleaf v. Amerada Hess Corp.*, 626 So 2d 263, 264 n. 1 (Fla. 4th DCA 1993).

³⁸ *Pronman v. Styles*, 163 So. 3d 535 (Fla. 4th DCA 2015).

