

763 So.2d 1106, 24 Fla. L. Weekly D2777
(Cite as: 763 So.2d 1106)

District Court of Appeal of Florida,
 Fourth District.
 J.J.'S MAE, INC., Appellant,
 v.

MILLIKEN & COMPANY, and Jonathan Birth, a
 minor, by and through his parents and next friends,
 David Birth and Sandra Birth, and David Birth, indi-
 vidualy, and Sandra Birth, individually, Appellees.


Nos. 98-1789, 98-4182.

Dec. 15, 1999.

Attorney fees pursuant to offer of judgment were
 awarded by the Circuit Court, Fifteenth Judicial Cir-
 cuit, Palm Beach County, [Catherine M. Brunson](#), J.,
 and appeal was taken. The District Court of Appeal,
[Warner](#), C.J., held that conditions contained in offer
 rendered it invalid.

Reversed.

West Headnotes

Costs 102  194.50

[102](#) Costs

[102VIII](#) Attorney Fees

[102k194.50](#) k. Effect of Offer of Judgment or
 Pretrial Deposit or Tender. [Most Cited Cases](#)
 Conditions contained in offer of judgment rendered it
 invalid and precluded award of attorney fees pursuant
 thereto, as offer was made before applicable rule was
 amended to permit inclusion of conditions. [West's](#)
[F.S.A. RCP Rule 1.442\(c\)\(2\)\(C\)](#).

*[1107](#) [Clifford M. Miller](#) and [Glenn Webber](#) of Law
 Office of Bohdan Neswiacheny, Fort Lauderdale, for
 appellant.

[Benjamin L. Bedard](#) and [Paul F. Grondahl](#) of Roberts
 & Reynolds, P.A., West Palm Beach, for appellee
 Milliken & Company.

[WARNER](#), C.J.

We reverse the award of attorney's fees recovered
 pursuant to an offer of judgment. The offer contained
 various conditions requiring the offeree to satisfy

certain liens. In [Martin v. Brousseau](#), [564 So.2d 240](#),
[241](#) (Fla. 4th DCA 1990), we held that an offer of
 judgment which imposed conditions was invalid under
 the rule and statute. When the court decided [Martin](#),
[Florida Rule of Civil Procedure 1.442](#), regarding of-
 fers of judgment, did not allow for any conditions to
 be included in an offer. Although the rule has subse-
 quently been amended to permit the inclusion of con-
 ditions, *see* [rule 1.442\(c\)\(2\)\(C\)](#), appellant was entitled
 to consider the offer under the law in effect at the time
 the offer was made. *See* [Metropolitan Dade County v.](#)
[Jones Boatyard, Inc.](#), [611 So.2d 512](#), [513-14](#)
[\(Fla.1993\)](#); [Brodose v. School Bd. of Pinellas County](#),
[622 So.2d 513](#), [515](#) (Fla. 2d DCA 1993). Thus, the
 conditions of this offer rendered it invalid, and the
 attorney's fee award made pursuant to the offer is
 reversed.

[DELL](#) and [GUNTHER](#), JJ., concur.

Fla.App. 4 Dist., 1999.

J.J.'s Mae, Inc. v. Milliken & Co.

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