

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

International Construction Consultants, Inc. & David E. McCulla v.
Joel W. Match

No. 2D2023-2081 (Fla. 2d DCA Mar. 28, 2025) · No. 2D2023-2081 · Decided March 28, 2025

SUMMARY

The Florida Second District Court of Appeal reversed a final summary judgment in favor of Joel W. Match in a contract dispute over payment for construction consulting services. The court held that conflicting evidence about whether David E. McCulla acted as a consultant or as an unlicensed general contractor created genuine issues of material fact under section 489.128(1), Florida Statutes, requiring further proceedings.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Kelly; Northcutt; LaRose
JURISDICTION	District Court of Appeal of Florida, Second District
DECIDED	March 28, 2025
DOCKET	2D2023-2081
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a final summary judgment entered in favor of Joel W. Match in a breach-of-contract action.
STANDARD OF REVIEW	De novo review applies to an order granting summary judgment. Under the former Florida summary-judgment standard applicable here, summary judgment is proper only when no genuine issue of material fact exists, viewing every reasonable inference in favor of the nonmoving party, and the movant is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	International Construction Consultants, Inc., David E. McCulla v. Joel W. Match

TOPICS

- summary judgment
- standard of review
- breach of contract
- construction law
- civil procedure

PRACTICE AREAS

civil procedure

contracts

construction law

commercial litigation

QUESTIONS PRESENTED

1. Whether the circuit court properly granted summary judgment on the ground that McCulla acted as an unlicensed contractor under section 489.128(1), Florida Statutes.
2. Whether disputed evidence concerning McCulla's role in the construction project created a genuine issue of material fact precluding summary judgment.

HOLDINGS

1. Summary judgment was improper because the record contained conflicting depositions, documents, and affidavits concerning whether McCulla merely provided consulting services or acted as the project's general contractor.
2. Because summary judgment was entered before the effective date of the amendments to Florida Rule of Civil Procedure 1.510, the former summary-judgment standard governed the appeal.

KEY QUOTATIONS

“Because disputed issues of fact remain, we reverse and remand for further proceedings.” (at 1)

“If the record reflects the existence of any genuine issue of material fact or the possibility of any issue, or if the record raises even the slightest doubt that an issue might exist, summary judgment is improper.” (at 2)

“Because the record reflects the possibility of a genuine issue of material fact, the case was improperly resolved by summary judgment.” (at 4)

FACTUAL BACKGROUND

The appellants sought payment under a contract for consulting services provided during construction of a high-end home. Match contended that McCulla was functioning as an unlicensed contractor and therefore could not enforce the contract under section 489.128(1), Florida Statutes. Evidence in the record conflicted about whether McCulla merely provided consulting services or acted as the project's general contractor; the record also identified Giovanni Giannini of Sound Building Contractors as the contractor in charge of construction.

PROCEDURAL HISTORY

International Construction Consultants, Inc. and David E. McCulla alleged that Match breached a contract by failing to pay for construction consulting services. Match moved for summary judgment under section 489.128(1), Florida Statutes, arguing that the appellants could not enforce the contract because McCulla was an unlicensed contractor. The circuit court granted final summary judgment for Match, and the appellants appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The final summary judgment in favor of Match is reversed, and the case is remanded for further proceedings.

CASES CITED

- Volusia County v. Aberdeen at Ormond Beach, L.P., 760 So. 2d 126 (Fla. 2000)
- White v. Fort Myers Beach Fire Control Dist., 302 So. 3d 1064 (Fla. 2d DCA 2020)
- In re Amends. to Fla. Rule of Civ. Proc. 1.510 (In re Amends. I), 309 So. 3d 192 (Fla. 2020)
- In re Amends. to Fla. Rule of Civ. Proc. 1.510 (In re Amends. II), 317 So. 3d 72 (Fla. 2021)
- Holland v. Verheul, 583 So. 2d 788 (Fla. 2d DCA 1991)
- Cannon v. Fournier, 57 So. 3d 875 (Fla. 2d DCA 2011)

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