

FLORIDA THIRD DISTRICT COURT OF APPEAL

Moshe Zuchaer and Monique Zuchaer v. Peninsula Condominium Association, Inc.

No. 3D25-0595 · No. No. 3D25-0595 · Decided March 25, 2026

SUMMARY

The Florida Third District Court of Appeal affirmed summary judgment in favor of Peninsula Condominium Association, Inc. The court held that the appellants could not rely on outstanding discovery where they failed to diligently pursue discovery disputes or seek relief under Florida Rule of Civil Procedure 1.510(d) before the summary-judgment hearing.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	GOODEN, J.; LINDSEY, J.; GORDO, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	March 25, 2026
DOCKET	No. 3D25-0595
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final summary judgment entered in favor of Peninsula Condominium Association, Inc.
STANDARD OF REVIEW	Abuse of discretion for the trial court's decision to proceed with the summary-judgment hearing despite pending discovery.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Moshe Zuchaer, Monique Zuchaer v. Peninsula Condominium Association, Inc.

TOPICS

- summary judgment
- discovery dispute
- standard of review
- appellate procedure
- civil procedure

PRACTICE AREAS

- Civil procedure
- Appellate procedure
- Real estate and condominium law

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by proceeding with and granting summary judgment despite the existence of outstanding discovery.
2. Whether a nonmoving party may rely on pending discovery to resist summary judgment when it failed to diligently pursue the discovery or seek relief under Florida Rule of Civil Procedure 1.510(d).

HOLDINGS

1. The trial court did not abuse its discretion by proceeding with the summary-judgment hearing and entering summary judgment because the Zuchaers failed to diligently pursue discovery and did not seek a continuance or other relief under Florida Rule of Civil Procedure 1.510(d).

KEY QUOTATIONS

“A party cannot shield themselves from summary judgment by citing outstanding discovery that he or she failed to diligently pursue.”

“Litigants bear an affirmative obligation to advance their cases and resolve discovery disputes. They must use the tools available to them under the Florida Rules of Civil Procedure.”

“One cannot simply sit on his or her hands and expect a stalemate to last forever.”

FACTUAL BACKGROUND

After the appellate court reversed a final default judgment and remanded the case in September 2022, the Zuchaers waited eleven months before serving discovery. When the Association moved for a protective order, the Zuchaers did not set the motion for hearing or seek to compel responses, and ten more months passed before the Association moved for summary judgment. The Zuchaers opposed summary judgment based on the outstanding discovery but did not seek a continuance or otherwise pursue relief to obtain the discovery. The trial court also determined that the pending discovery was not relevant to the cause of the water intrusion at issue.

PROCEDURAL HISTORY

The trial court entered final summary judgment for the Association. The Zuchaers appealed, arguing that outstanding discovery prevented summary judgment. The appellate court affirmed, concluding that the Zuchaers had not diligently pursued discovery, had not moved to compel responses or set the protective-order motion for hearing, and had not sought a continuance or other relief under Florida Rule of Civil Procedure 1.510(d).

DISPOSITION

affirmed

CASES CITED

- Zuchaer v. Peninsula Condo. Ass’n Inc., 348 So. 3d 1201, 1202 (Fla. 3d DCA 2022)
- Steiner v. Ciba-Geigy Corp., 364 So. 2d 47, 53 (Fla. 3d DCA 1978)

- Cong. Park Off. Condos II, LLC v. First-Citizens Bank & Tr. Co., 105 So. 3d 602, 608 (Fla. 4th DCA 2013)
- Leviton v. Philly Steak-Out, Inc., 533 So. 2d 905, 906 (Fla. 3d DCA 1988)
- De Los Angeles v. Winn-Dixie Stores, Inc., 326 So. 3d 811, 813 (Fla. 3d DCA 2021)

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