

FLORIDA DISTRICT COURT OF APPEAL, THIRD DISTRICT

Henry Tien v. Excalibur Towing Service Corp.

No. 3D24-0702 · No. No. 3D24-0702; Lower Tribunal No. 21-22013-CC-25 · Decided March 19, 2025

OPINION

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed March 19, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D24-0702 Lower Tribunal No. 21-22013-CC-25 _____ Henry Tien, Appellant, vs. Excalibur Towing Service Corp., Appellee. An Appeal from the County Court for Miami-Dade County, Gloria Gonzalez-Meyer, Judge.

Henry Tien, in proper person. Herrera Law Firm, P.A. and Jose-Trelles Herrera, for appellee. Before FERNANDEZ, MILLER, and GOODEN, JJ. PER CURIAM. Appellant, Henry Tien, appeals from an order dismissing the declaratory relief and negligence lawsuit he filed against appellee, Excalibur Towing Service Corp. In his operative complaint, he sought damages he claimed his vehicle sustained during a purportedly illegal towing and a declaration that a towing lien perfected by Excalibur was void and unenforceable.¹ Excalibur moved to dismiss, contending that documents attached to its motion established the tow was performed at the direction of law enforcement and complied with the mandates of section 713.78, Florida Statutes (2021).

Reiterating that “[i]n considering [a] motion to dismiss, the trial court is limited to the four corners of the complaint, must accept all allegations within the complaint as true, and must draw all inferences in favor of the non-moving party[.]” *Del Pino-Allen v. Santelises*, 240 So. 3d 89, 91 (Fla. 3d DCA 2018), we conclude that the grounds asserted in furtherance of dismissal hinged on factual findings that could not be properly resolved at this stage of the proceedings.

Accordingly, we are constrained to reverse. Reversed and remanded. ¹ Both parties addressed the sufficiency of the third amended complaint, even though the motion for leave to amend does not appear to have ever been expressly adjudicated. ²