

FLORIDA THIRD DISTRICT COURT OF APPEAL

InClaim, LLC v. Structural Wrap, LLC

No. 3D24-1082 · No. 3D24-1082 · Decided May 28, 2025

SUMMARY

The Florida Third District Court of Appeal affirmed an order vacating a default final judgment against Structural Wrap, LLC. The court held that InClaim, LLC failed to exercise due diligence before using substitute service on the Secretary of State because it did not attempt service at an address and on managers identified in the parties’ contract. The resulting defective service rendered the default judgment void.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Emas, J.; Fernandez, J.; Miller, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	May 28, 2025
DOCKET	3D24-1082
DISPOSITION	affirmed
PROCEDURAL POSTURE	InClaim appealed a non-final county-court order vacating a default final judgment against Structural Wrap. The order held that substitute service on the Secretary of State was improper because InClaim had not exercised due diligence in attempting personal service.
STANDARD OF REVIEW	An order granting or denying a motion to vacate a default judgment is reviewed for gross abuse of discretion. Whether a judgment is void is reviewed de novo, and vacating a void judgment is mandatory rather than discretionary.
PRECEDENTIAL VALUE	Published
PARTIES	InClaim, LLC v. Structural Wrap, LLC

TOPICS

- service of process
- default judgment
- limited liability companies
- civil procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether InClaim exercised the due diligence required before using substitute service on the Secretary of State to serve Structural Wrap, a Florida limited liability company.
2. Whether the failure to properly effectuate service rendered the default final judgment void and required the trial court to vacate it.

HOLDINGS

1. Before serving a Florida limited liability company through substitute service on the Secretary of State, a plaintiff must strictly comply with the statutory service procedures and exercise due diligence to attempt personal service on the registered agent or an appropriate person publicly listed by the LLC.
2. Because InClaim did not properly effectuate service of process, the resulting default final judgment was void and had to be vacated.

KEY QUOTATIONS

“Fundamental notions of due process require strict compliance with statutes authorizing substituted or constructive service in order to confer jurisdiction.” (at 7)

“Substitute service is unauthorized if personal service could be obtained through reasonable diligence.” (at 8)

“We therefore affirm the trial court’s order setting aside the default final judgment.” (at 12)

FACTUAL BACKGROUND

InClaim sued Structural Wrap for breach of contract and attempted service once at the registered agent's listed address, where a warehouse employee reported that the company had left and did not know where it moved. The contract identified Structural Wrap, its managers Spiro Naos and Larry Bond, and a Miami address for notices, but InClaim did not attempt service at that address or on the managers before serving the Secretary of State. After Structural Wrap failed to respond, the trial court entered a default and default final judgment, which Structural Wrap promptly moved to vacate.

PROCEDURAL HISTORY

InClaim filed a breach-of-contract action in Miami-Dade County Court and obtained a judicial default and default final judgment after serving Structural Wrap through the Secretary of State. Structural Wrap moved to vacate the judgment, asserting defective service and, alternatively, excusable neglect, a meritorious defense, and due diligence. The trial court granted Structural Wrap's amended motion, vacated the judgment as void, and independently found the alternative requirements satisfied; the Third District affirmed.

DISPOSITION

affirmed

CASES CITED

- Rodriguez v. Falcones, 314 So. 3d 469, 471 (Fla. 3d DCA 2019)
- Chetu, Inc. v. Franklin First Fin., Ltd., 276 So. 3d 39, 41 (Fla. 4th DCA 2019)
- Bequer v. Nat'l City Bank, 46 So. 3d 1199, 1201 (Fla. 4th DCA 2010)
- LPP Mortg. Ltd. v. Bank of Am., N.A., 826 So. 2d 462, 463-64 (Fla. 3d DCA 2002)
- Peaceful Paws Mem'l Servs., LLC v. Tarves, 368 So. 3d 503, 506-07 (Fla. 3d DCA 2023)
- Redfield Invs., A.V.V. v. Village of Pinecrest, 990 So. 2d 1135, 1138 (Fla. 3d DCA 2008)
- Alvarado v. Cisneros, 919 So. 2d 585, 588-89 (Fla. 3d DCA 2006)
- Monaco v. Nealon, 810 So. 2d 1084, 1085 (Fla. 4th DCA 2002)
- McAlice v. Kirsch, 368 So. 2d 401 (Fla. 3d DCA 1979)
- Coastal Cap. Venture, LLC v. Integrity Staffing Sols., Inc., 153 So. 3d 283, 285 (Fla. 2d DCA 2014)
- McDaniel v. McElvy, 108 So. 820, 830-31 (Fla. 1926)
- Knabb v. Morris, 492 So. 2d 839, 841 (Fla. 5th DCA 1986)
- Castro v. Charter Club, Inc., 114 So. 3d 1055, 1059 (Fla. 3d DCA 2013)
- Hendrix v. Dept. Stores Nat. Bank, 177 So. 3d 288, 290 (Fla. 4th DCA 2015)