

FLORIDA THIRD DISTRICT COURT OF APPEAL

Paul Cowan v. Rosemary Levai, etc., et al.

Cowan v. Levai · No. Nos. 3D25-0049, 3D24-2290 · Decided December 31, 2025

SUMMARY

The Florida Third District Court of Appeal held that a motion to amend a pleading to add punitive damages must attach the proposed amended pleading and comply with Florida Rule of Civil Procedure 1.190(a) and (f). Because the Levais did not attach the proposed amended complaint at least 20 days before the hearing, the court vacated the order granting leave to amend and remanded with instructions to deny the motion. The court did not decide whether the Levais’ evidentiary proffer was otherwise sufficient to support punitive damages.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Bokor, J.; Fernandez, J.; Miller, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	December 31, 2025
DOCKET	Nos. 3D25-0049, 3D24-2290
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Interlocutory appeals from a non-final order granting the plaintiffs leave to amend their pleadings to add claims for punitive damages.
STANDARD OF REVIEW	De novo.
PRECEDENTIAL VALUE	published; precedential
PARTIES	Paul Cowan v. Rosemary Levai, Max Levai, Marcia Levine

TOPICS

- motion to amend
- punitive damages
- appellate jurisdiction
- appellate procedure
- probate

PRACTICE AREAS

- civil procedure
- probate
- remedies
- appellate procedure

QUESTIONS PRESENTED

1. Whether the court had jurisdiction to review an order granting leave to amend pleadings to add punitive-damages claims.
2. Whether a motion to amend pleadings to add punitive-damages claims must attach the proposed amended pleading at least twenty days before the hearing under Florida Rules of Civil Procedure 1.190(a) and (f).
3. Whether the trial court erred by granting the noncompliant motion to amend.

HOLDINGS

1. An order granting leave to amend pleadings to add a claim for punitive damages is reviewable as a non-final order under Florida Rule of Appellate Procedure 9.130(a)(3)(G).
2. A motion to amend a pleading to add punitive-damages claims must comply with both Florida Rule of Civil Procedure 1.190(a), requiring attachment of the proposed amended pleading, and rule 1.190(f), requiring service at least twenty days before the hearing.
3. Because the Levais failed to attach the proposed amended complaint to their motion at least twenty days before the hearing, the trial court erred in granting leave to amend; the order must be vacated and the motion denied.

KEY QUOTATIONS

“Because a motion to amend a complaint by adding claims for punitive damages is also a motion to amend a pleading, it must comply with both rule 1.190(a) and 1.190(f).” (at 4)

“The Levais failed to follow the mandatory requirement of attaching the proposed amended complaint with the motion “at least 20 days before the hearing.”” (at 5)

FACTUAL BACKGROUND

Rosemary and Max Levai, the surviving wife and son of Pierre Levai, sued lawyer Paul Cowan and Pierre's longtime girlfriend, Marcia Levine, over alleged manipulation of Pierre while he was seriously ill with dementia and resulting harm to his estate. The complaint asserted claims including elder abuse, conversion, civil conspiracy, interference with inheritance, and declaratory relief concerning testamentary documents. The Levais later sought leave to add punitive-damages claims, but their motion did not include the proposed amended complaint; that pleading was filed only five days before the scheduled hearing.

PROCEDURAL HISTORY

Rosemary and Max Levai sued Paul Cowan and Marcia Levine concerning alleged misconduct involving Pierre Levai's estate. The Levais moved for leave to amend to add punitive-damages claims but did not attach a proposed amended complaint at least twenty days before the hearing. The trial court granted leave to amend after the proposed pleading was filed later, and Cowan and Levine timely appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the order granting the motion to amend, reverse the order, and remand with instructions to deny the motion to amend.

CASES CITED

- In re Amend. to Fla. Rule of App. Proc. 9.130, 345 So. 3d 725, 726 (Fla. 2022)
- McLane Foodservice Inc. v. Wool, 400 So. 3d 757, 760 (Fla. 3d DCA 2024)
- Greenspire Glob., Inc. v. Sarasota Green Grp., LLC, 363 So. 3d 1150, 1152 (Fla. 2d DCA 2023)
- Estes v. Rodin, 259 So. 3d 183, 199 (Fla. 3d DCA 2018)
- Gromann v. Avatar Prop. & Cas. Ins. Co., 345 So. 3d 298, 300 (Fla. 4th DCA 2022)
- Ballinger v. Bay Gulf Credit Union, 51 So. 3d 528, 529 (Fla. 2d DCA 2010)
- Globe Newspaper Co. v. King, 658 So. 2d 518, 519 (Fla. 1995)
- Whitehall at Bal Harbour Condo. Ass'n, Inc. v. Raviv, 410 So. 3d 674, 677-78 & n.3 (Fla. 3d DCA 2025)
- Vaziri v. Jenkins, 400 So. 3d 634, 636-37 (Fla. 4th DCA 2025)
- Varnedore v. Copeland, 210 So. 3d 741, 745-46 (Fla. 5th DCA 2017)
- Fetlar, LLC v. Suarez, 230 So. 3d 97, 99 (Fla. 3d DCA 2017)
- Bentley Condo. Ass'n, Inc. v. Bennett, 321 So. 3d 315, 317 (Fla. 3d DCA 2021)
- Taylor v. City of Lake Worth, 964 So. 2d 243, 244 (Fla. 4th DCA 2007)
- WFTV, Inc. v. Hinn, 705 So. 2d 1010, 1011 (Fla. 5th DCA 1998)
- Mayer v. Frank, 659 So. 2d 1254 (Fla. 4th DCA 1995)

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