

SIXTH DISTRICT COURT OF APPEAL OF FLORIDA

MTW Jordan Inc., Jordan Ave. Management, Inc., Markee White,
and Tanya White v. TNT Educators, Inc. d/b/a Apple Academy,
Tanya Baskerville, and Waltrell Lee

MTW Jordan Inc. v. TNT Educators, Inc. · No. 6D2023-3775 · Decided April 4, 2025

SUMMARY

The Sixth District Court of Appeal of Florida affirmed the denial of the appellants’ second motion to dismiss but reversed the amended default final judgment in a breach of contract action. The court held that entering the amended default final judgment was error because the second motion to dismiss was pending when the judgment was entered. The case was remanded for further proceedings, and the portion concerning the postjudgment motion under Florida Rule of Civil Procedure 1.540 was dismissed as moot.

CASE DETAILS

COURT	Sixth District Court of Appeal of Florida
WRITING FOR THE COURT	White; Brownlee; Lambert, B.D., Associate Judge
JURISDICTION	Sixth District Court of Appeal of Florida
DECIDED	April 4, 2025
DOCKET	6D2023-3775
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an amended default final judgment in a breach-of-contract action, including the denial of the defendants' second motion to dismiss and the implicit denial of a postjudgment motion under Florida Rule of Civil Procedure 1.540.
PRECEDENTIAL VALUE	published
PARTIES	MTW Jordan Inc., Jordan Ave. Management, Inc., Markee White, Tanya White v. TNT Educators, Inc. d/b/a Apple Academy, Tanya Baskerville, Waltrell Lee

TOPICS

- default judgment
- motions to dismiss
- mootness
- civil procedure
- breach of contract

PRACTICE AREAS

civil procedure

appellate procedure

contracts

commercial litigation

QUESTIONS PRESENTED

1. Whether the trial court erred by entering an amended default final judgment while the appellants' second motion to dismiss was pending.
2. Whether the trial court's denial of the appellants' second motion to dismiss should be affirmed.
3. Whether the portion of the appeal challenging the implicit denial of the appellants' Rule 1.540 postjudgment motion should be dismissed as moot after reversal of the amended default final judgment.

HOLDINGS

1. The trial court erred by entering the amended default final judgment while the appellants' second motion to dismiss was pending; the judgment must be reversed and the case remanded for further proceedings.
2. The denial of the appellants' second motion to dismiss is affirmed.
3. The portion of the appeal challenging the implicit denial of the Rule 1.540 postjudgment motion is dismissed as moot because reversal of the amended default final judgment renders that motion moot.

KEY QUOTATIONS

“But under the factual circumstances of this case, including that the second motion to dismiss was pending at the time of the hearing, it was error to enter the amended default final judgment.” (at 2)

FACTUAL BACKGROUND

Appellees filed a breach-of-contract lawsuit against appellants. The trial court entered an order directing appellants to file an answer within ten days and later entered an amended default final judgment awarding appellees significant damages. At the time of the hearing leading to the amended default final judgment, appellants' second motion to dismiss was pending.

PROCEDURAL HISTORY

The Orange County Circuit Court entered an amended default final judgment awarding the appellees significant damages and determined the appellants' second motion to dismiss within that judgment. The appellants appealed, challenging both the judgment and the denial of the second motion to dismiss. They also challenged the implicit denial of a Rule 1.540 postjudgment motion. The Sixth District affirmed the denial of the second motion to dismiss, reversed the amended default final judgment, dismissed the portion of the appeal concerning the Rule 1.540 motion as moot, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded for further proceedings after reversal of the amended default final judgment.

CASES CITED

- Sansbury v. Wells Fargo Bank, N.A., 204 So. 3d 985, 986 (Fla. 5th DCA 2016)
- Lenhal Realty, Inc. v. Transamerica Com. Fin. Corp., 611 So. 2d 79 (Fla. 4th DCA 1992)
- Pierce v. Kroha, 200 So. 3d 241, 241 (Fla. 5th DCA 2016)
- Osheroff v. Osheroff, 694 So. 2d 855, 855 (Fla. 3d DCA 1997)

OPINION

PER CURIAM.

SIXTH DISTRICT COURT OF APPEAL STATE OF FLORIDA
_____ Case No. 6D2023-3775 Lower Tribunal No. 2021-CA-009130-O _____ MTW JORDAN INC., JORDAN AVE. MANAGEMENT, INC., MARKEE WHITE, and TANYA WHITE, Appellants, v. TNT EDUCATORS, INC. d/b/a APPLE ACADEMY, TANYA BASKERVILLE, and WALTRELL LEE, Appellees. _____ Appeal from the Circuit Court for Orange County.

Denise Kim Beamer, Judge. April 4, 2025 PER CURIAM. Appellants challenge the amended default final judgment entered against them that awarded Appellees significant damages in the breach of contract lawsuit filed. Appellants also contest the denial of their second motion to dismiss the complaint that was determined within the amended default final judgment.

We affirm the denial of Appellants' second motion to dismiss without further discussion. We reverse the amended default final judgment and remand for further proceedings. See Fla. R. Civ. P. 1.500(c) (providing that a "party may plead or otherwise defend at any time before default is entered"); Sansbury v. Wells Fargo Bank, N.A., 204 So. 3d 985, 986 (Fla. 5th DCA 2016) (finding judicial default must be reversed because borrowers' motion to dismiss was pending at the time that the trial court entered the default); Lenhal Realty, Inc. v. Transamerica Com.

Fin. Corp., 611 So. 2d 79 (Fla. 4th DCA 1992) (holding that the entry of default was error where defendants filed a motion to dismiss the complaint before the default had been entered). Additionally, we recognize that the trial court is empowered to enforce its own orders, including the standing case management order and the order directing the defendants to file their answer within ten days.

But under the factual circumstances of this case, including that the second motion to dismiss was pending at the time of the hearing, it was error to enter the amended default final judgment. See Pierce v. Kroha, 200 So. 3d 241, 241 (Fla. 5th DCA 2016); Osheroff v. Osheroff, 694 So. 2d 855, 855 (Fla. 3d DCA 1997).¹ AFFIRMED, in part; REVERSED, in part; DISMISSED, in part, and REMANDED for further proceedings.

WHITE and BROWNLEE, JJ., and LAMBERT, B.D., Associate Judge, concur. 1 To the extent that Appellants in their initial brief also challenge the “implicit denial” of their postjudgment motion filed under Florida Rule of Civil Procedure 1.540, we dismiss that portion of the appeal. Our opinion today reversing the amended default final judgment also renders that motion moot.

2 Tanya White and Spenser Nampon, of TW Law Group, PLLC, Winter Park, for Appellants. Jeffrey W. Smith, Jennifer A. Englert, and Andrew G. Storie, of The Orlando Law Group, PL, Orlando, for Appellees. NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF TIMELY FILED 3