

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Devolro Inc., and American Technology Ventures, LLC v. Daniyar Kungeibayev

Devolro Inc. v. Kungeibayev, No. 3D23-2237 (Fla. 3d DCA Apr. 9, 2025) · No. 3D23-2237 · Decided April 9, 2025

SUMMARY

The Florida Third District Court of Appeal affirmed the denial of American Technology Ventures, LLC's motion for summary judgment concerning whether Eduard Orlov acted as its agent in the sale of customized trucks. The court held that the agency issue involved conflicting evidence and was properly submitted to the jury, whose verdict finding agency was supported by competent substantial evidence. The court also discussed whether any error in denying summary judgment became moot after the jury verdict, including the effect of Florida's amended summary judgment rule.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	EMAS, J.; GORDO, J.; BOKOR, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	April 9, 2025
DOCKET	3D23-2237
DISPOSITION	affirmed
PROCEDURAL POSTURE	American Technology Ventures, LLC appealed the final judgment entered after a jury verdict finding that Eduard Orlov was its agent and finding ATV liable for fraud, civil theft, conversion, and unjust enrichment. ATV challenged the trial court's interlocutory order denying its motion for summary judgment on the agency issue.
STANDARD OF REVIEW	The court applied the summary-judgment standard by viewing the evidence and reasonable inferences in the light most favorable to the nonmoving party. It also considered whether competent substantial evidence supported the jury's verdict and whether the appellate record was adequate for review.
PRECEDENTIAL VALUE	published

PARTIES

Devolro Inc., American Technology Ventures, LLC v. Daniyar Kungeibayev

TOPICS

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standard of review

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QUESTIONS PRESENTED

1. Whether any error in denying ATV's motion for summary judgment on the agency issue was moot or harmless after the jury found that Orlov was ATV's agent.
2. Whether the 2021 amendments to Florida Rule of Civil Procedure 1.510 precluded application of the rule that an erroneous denial of summary judgment becomes moot or harmless when a subsequent trial verdict resolves the same factual issue.
3. Whether the trial court properly denied summary judgment because conflicting evidence existed regarding whether Orlov was ATV's agent.

HOLDINGS

1. Any alleged error in denying summary judgment on the factual agency issue was moot or harmless because the case proceeded to trial and the jury resolved that issue against ATV.
2. The 2021 amendments to Florida Rule of Civil Procedure 1.510 did not alter the result because the amended rule does not authorize summary judgment as a substitute for trial when material factual disputes exist.
3. The trial court properly denied ATV's motion for summary judgment because the summary-judgment record contained conflicting evidence regarding whether Orlov was ATV's agent in the sale and purchase of the trucks.

KEY QUOTATIONS

"In adopting this amendment, we reaffirm the bedrock principle that summary judgment is not a substitute for the trial of disputed fact issues." (at 4)

"Our goals are simply to improve the fairness and efficiency of Florida's civil justice system, to relieve parties from the expense and burdens of meritless litigation, and to save the work of juries for cases where there are real factual disputes that need resolution." (at 4)

FACTUAL BACKGROUND

In 2019, Daniyar Kungeibayev and Ali Klyshpayev entered an agreement with Eduard Orlov, a purported employee or agent of Devolro, Inc. and American Technology Ventures, LLC, to purchase two customized

trucks. The trucks were never delivered and the purchase money was not returned. At trial, the jury found that Orlov was acting as an agent of ATV and found ATV liable for fraud, civil theft, conversion, and unjust enrichment.

PROCEDURAL HISTORY

Kungeibayev, acting individually and as assignee for Ali Klyshpayev, sued multiple entities after customized trucks were not delivered and the purchase money was not returned. The case proceeded to trial, where the jury found that Orlov was an agent of ATV and returned liability findings against ATV. ATV appealed, arguing that the denial of its earlier summary-judgment motion was erroneous and was not rendered moot or harmless by the 2021 amendments to Florida Rule of Civil Procedure 1.510. The Third District Court of Appeal rejected the argument and affirmed.

DISPOSITION

affirmed

CASES CITED

- Strickland v. State Farm Mut. Auto. Ins. Co., 323 So. 3d 783, 785 (Fla. 1st DCA 2021)
- Sunrise Lakes Condo. Apts. Phase III, Inc. v. Frank, 73 So. 3d 901, 901-02 (Fla. 4th DCA 2011)
- Lacombe v. Deutsche Bank Nat'l Tr. Co., 149 So. 3d 152, 156 (Fla. 1st DCA 2014)
- In re Amends. to Fla. Rule Civ. Proc. 1.510, 309 So. 3d 192, 192, 194 (Fla. 2020)
- In re Amends. to Fla. Rule Civ. Proc. 1.510, 317 So. 3d 72, 75, 77 (Fla. 2021)
- Celotex Corp. v. Catrett, 477 U.S. 317, 327 (1986)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986)
- Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574 (1986)
- Island Travel & Tours, Co. v. MYR Indep., Inc., 300 So. 3d 1236, 1238-39 (Fla. 3d DCA 2020)
- Coba v. Tricam Indus., Inc., 164 So. 3d 637, 643 (Fla. 2015)
- Applegate v. Barnett Bank of Tallahassee, 377 So. 2d 1150, 1152 (Fla. 1979)
- Moradiellos v. Gerelco Traffic Controls, Inc., 176 So. 3d 329, 334 (Fla. 3d DCA 2015)
- Fla. Dep't of Corr. v. Abril, 969 So. 2d 201, 204-05 (Fla. 2007)
- McCain v. Fla. Power Corp., 593 So. 2d 500, 503 (Fla. 1992)
- Williams v. Davis, 974 So. 2d 1052, 1056 n.2 (Fla. 2007)