

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FOURTH DISTRICT

Ruth A. Green v. Richard Rockefeller-Silvia

No. No. 4D22-226, District Court of Appeal of the State of Florida, Fourth District (March 1, 2023)

SUMMARY

The Florida Fourth District Court of Appeal affirmed summary judgment for Richard Rockefeller-Silvia in Ruth Green's lawsuit arising from a failed horse investment. The court held that Green had not presented record evidence supporting her opposition under Florida Rule of Civil Procedure 1.510(c)(1), while declining to address the viability of claims against the remaining defendants.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fourth District
WRITING FOR THE COURT	Per Curiam; Gross; Conner; Artau
JURISDICTION	Florida
DECIDED	March 1, 2023
DOCKET	No. 4D22-226
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appellant appealed from a circuit court order granting appellee's motion for summary judgment.
STANDARD OF REVIEW	Summary judgment is reviewed under the applicable Florida summary-judgment standard; the appellate court examined whether genuine issues of material fact precluded judgment.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Ruth A. Green v. Richard Rockefeller-Silvia

TOPICS

- summary judgment
- civil procedure
- standard of review
- breach of contract
- fraudulent inducement

PRACTICE AREAS

- civil procedure
- contracts
- torts
- appellate procedure

QUESTIONS PRESENTED

1. Whether genuine issues of material fact precluded summary judgment where the plaintiff relied on an attorney-signed statement of facts that was not sworn and did not constitute a supporting factual position under Florida Rule of Civil Procedure 1.510(c)(1).

HOLDINGS

1. Summary judgment was proper because, at the time the circuit court ruled, the record contained no supporting factual position contemplated by Florida Rule of Civil Procedure 1.510(c)(1). An attorney-signed statement of facts that was not sworn did not provide record evidence sufficient to create a genuine issue of material fact.

KEY QUOTATIONS

“At the time the court ruled on the motion for summary judgment, nothing in the record amounted to a supporting factual position contemplated by Florida Rule of Civil Procedure 1.510(c)(1).” (at 2)

“The circuit court’s ruling, based on the absence of record evidence, was correct.” (at 2)

FACTUAL BACKGROUND

Green sued multiple defendants over a failed investment in a horse. Her fourth amended complaint asserted ten counts, including breach of contract, fraud in the inducement, breach of fiduciary duty, and civil theft. In opposing Rockefeller-Silvia's motion for summary judgment, Green relied on a statement of facts signed by her attorney, but the document was not a sworn statement or other supporting factual position in the record.

PROCEDURAL HISTORY

Green sued multiple defendants in the Circuit Court for Palm Beach County concerning a failed investment in a horse. After Green filed a fourth amended complaint alleging ten causes of action, including breach of contract, fraud in the inducement, breach of fiduciary duty, and civil theft, appellee moved for summary judgment. The circuit court granted the motion, finding that appellee had presented evidence of nonliability and that Green had not submitted record evidence supporting her allegations. The Fourth District affirmed.

DISPOSITION

affirmed

CASES CITED

- *Mane FL Corp. v. Beckham*, 48 Fla. L. Weekly D86, at *8 (Fla. 4th DCA Jan. 4, 2023)
- *Pangilinan v. Broward County*, 914 So. 2d 1094, 1097 (Fla. 4th DCA 2005)

OPINION

RUTH A. GREEN v. CAROLINE ROFFMAN

PER CURIAM.

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA

FOURTH DISTRICT

RUTH A. GREEN,

Appellant, v.

RICHARD ROCKEFELLER-SILVIA,

Appellee. No. 4D22-226 [March 1, 2023] Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; James Nutt, Judge; L.T. Case No. 502018CA004256XXXXMB. Richard S. Lubliner of Lubliner Law PLLC, West Palm Beach, for appellant. No brief filed for appellee. PER CURIAM. Appellant Ruth Green sued multiple defendants in the circuit court over a failed investment in a horse. Her fourth amended complaint alleged ten counts, such as breach of contract, fraud in the inducement, breach of fiduciary duty, and civil theft. Representing himself, one of the defendants, appellee Richard Rockefeller-Silvia, moved for summary judgment. The circuit court granted Rockefeller-Silvia's motion for summary judgment, ruling that he had "provided evidence of non-liability and refuting plaintiff's claims against him. Plaintiff in turn has failed to provide any record evidence to support her allegations." On appeal, Green contends that genuine issues of material fact precluded summary judgment. She points to record evidence which she refers to as "sworn statements" in opposition to the motion. However, they were not sworn statements, just a "Statement of Facts as to Which it is Contended Genuine Issues of Material Fact Exist," which was signed only by her attorney. At the time the court ruled on the motion for summary judgment, nothing in the record amounted to a supporting factual position contemplated by Florida Rule of Civil Procedure 1.510(c)(1). See *Mane FL Corp. v. Beckham*, 48 Fla. L. Weekly D86, at *8 (Fla. 4th DCA Jan. 4, 2023) (finding no abuse of discretion in trial court's determination "that a counter-affidavit presented for the first time on rehearing of a summary judgment is too late") (quoting *Pangilinan v. Broward Cnty.*, 914 So. 2d 1094, 1097 (Fla. 4th DCA 2005)). The circuit court's ruling, based on the absence of record evidence, was correct. In affirming, we do not pass on the viability of any of the causes of action as to the remaining defendants. Affirmed. GROSS, CONNER and ARTAU, JJ., concur. * * * Not final until disposition of timely filed motion for rehearing. 2