

DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

Schneider v. Slichter

917 So. 2d 299 (Fla. 4th DCA 2005) · Decided December 21, 2005

SUMMARY

The Florida appellate court reversed a summary judgment in favor of the sellers in a dispute involving alleged bad checks tendered to purchase a business. The court held that conflicting affidavits and bank records created genuine issues of material fact concerning whether the accounts contained sufficient funds and whether the checks were presented before a stop-payment order was issued.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fourth District
WRITING FOR THE COURT	Warner, J.; Polen, J.; Gunther, J.
JURISDICTION	Florida
DECIDED	December 21, 2005
DISPOSITION	reversed
PROCEDURAL POSTURE	Appellants challenged a final summary judgment entered for appellees on a statutory bad-check claim arising from the purchase of a business.
STANDARD OF REVIEW	Summary judgment is proper only when the record conclusively shows no genuine issue of material fact and that the movant is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Dave Schneider, Ethel Schneider v. Richard Slichter, Marie Slichter

TOPICS

- summary judgment
- civil procedure
- uniform commercial code
- commercial litigation
- contracts

PRACTICE AREAS

- Civil procedure
- Contracts
- Uniform Commercial Code
- Commercial litigation

QUESTIONS PRESENTED

1. Whether summary judgment was proper when the affidavits and bank records created a genuine issue of material fact regarding whether sufficient funds existed in Schneider's accounts.

2. Whether summary judgment was proper when the record disputed whether Slichter presented the checks for collection before Schneider issued a stop-payment order.
3. Whether the evidence established the statutory bad-check claim under section 68.065, Florida Statutes, as a matter of law.

HOLDINGS

1. Summary judgment was improper because genuine issues of material fact existed regarding whether Schneider's accounts contained sufficient funds and whether Slichter presented the checks for collection before Schneider issued the stop-payment order.

KEY QUOTATIONS

“A trial court may enter summary judgment only when there are no genuine issues of material fact conclusively shown from the record and the movant is entitled to judgment as a matter of law.” (300)

“These issues deserve a trial on the merits.” (300)

FACTUAL BACKGROUND

The Schneiders purchased a business from the Slichters and Dave Schneider tendered a cashier's check and two personal checks. Richard Slichter claimed that the personal checks were presented on December 23, 1999, and refused for insufficient funds, while Schneider submitted evidence that sufficient funds had been deposited on December 22 and that he later issued a stop-payment order because of disputes concerning the purchase. Bank records and affidavits conflicted regarding the account balances, the timing of the deposit and presentment, and the reason the checks were dishonored.

PROCEDURAL HISTORY

The appellees, plaintiffs below, moved for summary judgment under section 68.065, Florida Statutes, relying on affidavits, copies of the checks, and bank records. The trial court entered final summary judgment in their favor. On motion for rehearing, the Fourth District withdrew its prior opinion, substituted the present opinion, and reversed because the record revealed genuine issues of material fact requiring a trial.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The case was remanded for a trial on the merits.

CASES CITED

- Reeves v. N. Broward Hosp. Dist., 821 So. 2d 319, 321 (Fla. 4th DCA 2002)
- Shreffler v. Philippon, 873 So. 2d 1280, 1281 (Fla. 4th DCA 2004)

