

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Kevin Simek and Falynn Simek v. Heritage Property & Casualty Insurance Company

No. 2D2024-2463 · No. 2D2024-2463 · Decided October 1, 2025

SUMMARY

The Florida Second District Court of Appeal reversed an order transferring the Simeks' insurance dispute from Hillsborough County to Polk County on forum non conveniens grounds. The court held that Hillsborough County was a proper venue and that Heritage failed to provide evidence showing substantial inconvenience or undue expense sufficient to overcome the plaintiffs' venue choice.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	LaROSE, Judge; KHOUZAM, J.; SLEET, J.
JURISDICTION	District Court of Appeal of Florida, Second District
DECIDED	October 1, 2025
DOCKET	2D2024-2463
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The insureds appealed an order granting Heritage's motion to transfer venue from Hillsborough County to Polk County on forum non conveniens grounds.
STANDARD OF REVIEW	A ruling transferring venue is reviewed for abuse of discretion, while the trial court's legal conclusions are reviewed de novo.
PRECEDENTIAL VALUE	Published opinion; precedential value subject to Florida law and any later court treatment.
PARTIES	Kevin Simek, Falynn Simek, f/k/a Falynn Sisk v. Heritage Property & Casualty Insurance Company

TOPICS

- forum non conveniens
- venue
- appellate procedure
- standard of review
- insurance

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Hillsborough County was a proper venue under section 47.051, Florida Statutes.
2. Whether Heritage met its burden to overcome the plaintiffs' choice of Hillsborough County by proving that Polk County was a more convenient forum under the doctrine of forum non conveniens.
3. Whether the trial court abused its discretion by transferring venue based on an unsupported motion and speculation rather than competent evidence.

HOLDINGS

1. Hillsborough County was a proper venue because Heritage maintained its principal place of business there, and section 47.051 permits an action against a corporation to be filed in the county where the corporation has or usually keeps an office for transacting its customary business.
2. When a plaintiff selects a venue that is proper under the applicable venue statute, the plaintiff's choice is presumptively correct, and the defendant must prove substantial inconvenience or undue expense requiring a change for the convenience of the parties or witnesses.
3. An unsupported and unverified motion, together with speculation about travel and depositions, does not establish the substantial inconvenience or undue expense necessary to transfer venue on forum non conveniens grounds.

KEY QUOTATIONS

“To overcome the Simeks' venue choice, Heritage had to prove that Polk County is a more convenient forum.”
(at 3)

“Heritage bore the burden; it failed to displace the Simeks' choice of venue.” (at 4)

FACTUAL BACKGROUND

Heritage insured the Simeks' home in Lakeland, Florida, which was damaged by Hurricane Ian. After Heritage refused to pay the full amount of the claim, the Simeks filed a breach-of-contract action in Hillsborough County, where Heritage maintained its principal place of business. Heritage asserted that the claim, property, inspections, residences, and contract were connected to Polk County, but its motion to transfer was unverified and unsupported by affidavits, sworn testimony, or other evidence of substantial inconvenience or undue expense.

PROCEDURAL HISTORY

The Simeks sued Heritage in Hillsborough County for breach of an insurance contract after Heritage allegedly failed to pay the full amount of their Hurricane Ian claim. Heritage moved to dismiss or alternatively transfer venue to Polk County, asserting that Polk County was the proper and more convenient forum. The trial court granted the transfer motion, and the Second District reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings after reversal of the order transferring venue.

CASES CITED

- RJG Env't, Inc. v. State Farm Fla. Ins., 62 So. 3d 678, 679 (Fla. 2d DCA 2011)
- PricewaterhouseCoopers LLP v. Cedar Res., Inc., 761 So. 2d 1131, 1133 (Fla. 2d DCA 1999)
- Hightower v. Est. of Lyman, 58 So. 3d 377, 379 (Fla. 2d DCA 2011)
- Eth-Wha, Inc. v. Blankenship, 483 So. 2d 872, 873 (Fla. 2d DCA 1986)
- P.V. Holding Corp. v. Tenore, 721 So. 2d 430, 431 (Fla. 3d DCA 1998)
- Johnson v. Johnson, 288 So. 3d 745, 748 (Fla. 2d DCA 2019)
- Eggers v. Eggers, 776 So. 2d 1096, 1098 (Fla. 5th DCA 2001)
- Sheffield Steel Prods., Inc. v. Powell Bros., 385 So. 2d 161, 162 (Fla. 5th DCA 1980)
- Fla. Health Scis. Ctr., Inc. v. Elsenheimer, 952 So. 2d 575, 579 (Fla. 2d DCA 2007)