

FLORIDA THIRD DISTRICT COURT OF APPEAL

Lazaro Rodriguez v. Marciano Jaimes

Rodriguez v. Jaimes · No. 3D24-0937 · Decided November 5, 2025

SUMMARY

The Florida Third District Court of Appeal affirmed the dismissal order in an appeal involving negligence claims against construction-related defendants. The court explained that its de novo review of a dismissal order is limited to the complaint and reiterated that a negligence duty based on control of property requires a legal duty to protect against injury.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Chief Judge SCALES; Judge MILLER; Judge BOKOR
JURISDICTION	Florida Third District Court of Appeal
DECIDED	November 5, 2025
DOCKET	3D24-0937
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of dismissal entered by the Circuit Court for Miami-Dade County.
STANDARD OF REVIEW	De novo review of an order dismissing a complaint; the appellate court looks no further than the complaint and treats all well-pled allegations as true.
PRECEDENTIAL VALUE	published
PARTIES	Lazaro Rodriguez, et al. v. Marciano Jaimes, et al.

TOPICS

- motions to dismiss
- premises liability
- negligence
- standard of review
- appellate procedure

PRACTICE AREAS

- civil procedure
- negligence
- premises liability
- appellate procedure

QUESTIONS PRESENTED

1. Whether the complaint stated a legally sufficient negligence claim based on a duty arising from control of property.
2. Whether the trial court's dismissal order should be affirmed under the de novo standard governing review of a dismissal.

HOLDINGS

1. On de novo review of a dismissal order, an appellate court looks no further than the complaint and treats all well-pled allegations as true.
2. A duty to protect a person from injury on property is predicated on control of the property, including the right to control access; absent a legal duty, there is no cause of action for negligence.

KEY QUOTATIONS

“holding that an appellate court, in its de novo review of a dismissal order, looks no further than the complaint and “treat[s] as true all of the well-pled allegations of the complaint[.]” (at 2)

“The principal issue in any negligence action is whether the injury resulted from the defendant’s violation of a legal duty owed to the plaintiff. . . . Unless a legal duty has been abrogated, there can be no cause of action for negligence.” (at 2)

FACTUAL BACKGROUND

The opinion concerns a negligence claim arising from an injury allegedly connected to property and the defendants' relationship to or control of that property. The court relied on the principle that a duty to protect against injury on property depends on control of the property, including the right to control access. The two-page per curiam opinion does not provide additional factual detail.

PROCEDURAL HISTORY

The appellants appealed from the Circuit Court for Miami-Dade County in case number 23-1317-CA-01. The Third District Court of Appeal affirmed the dismissal.

DISPOSITION

affirmed

CASES CITED

- Chakra 5, Inc. v. City of Miami Beach, 254 So. 3d 1056, 1061 (Fla. 3d DCA 2018)
- Bechtel Corp. v. Batchelor, 250 So. 3d 187, 196 (Fla. 3d DCA 2018)
- Seitz v. Surfside, Inc., 517 So. 2d 49, 50 (Fla. 3d DCA 1987)

OPINION

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed November 5, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D24-0937 Lower Tribunal No. 23-1317-CA-01 _____ Lazaro Rodriguez, et al., Appellants, vs. Marciano Jaimes, et al., Appellees. An Appeal from the Circuit Court for Miami-Dade County, Valerie R. Manno Schurr, Judge.

Ramon M. Rodriguez, P.A., and Ramon M. Rodriguez, for appellants. Shutts & Bowen LLP, and Aliette D. Rodz, Julissa Rodriguez and Giancarlo Cueto, for appellees Fonticiella Construction Corporation, Fonticiella Construction Management, LLC, Fonticiella Development, LLC, Fonticiella GP, LLC, and Fonticiella LLLP.

Before SCALES, C.J., and MILLER and BOKOR, JJ. PER CURIAM. Affirmed. See Chakra 5, Inc. v. City of Miami Beach, 254 So. 3d 1056, 1061 (Fla. 3d DCA 2018) (holding that an appellate court, in its de novo review of a dismissal order, looks no further than the complaint and “treat[s] as true all of the well-pled allegations of the complaint[.]”); Bechtel Corp. v. Batchelor, 250 So.

3d 187, 196 (Fla 3d DCA 2018) (holding that the duty to protect from injury on property is predicated on control of the property, including the right to control access); Seitz v. Surfside, Inc., 517 So. 2d 49, 50 (Fla. 3d DCA 1987) (“The principal issue in any negligence action is whether the injury resulted from the defendant’s violation of a legal duty owed to the plaintiff....

Unless a legal duty has been abrogated, there can be no cause of action for negligence.”). 2