

FLORIDA THIRD DISTRICT COURT OF APPEAL

Harry Cruz v. Marta Perez

Cruz · No. 3D24-0885 · Decided October 1, 2025

SUMMARY

The Third District Court of Appeal of Florida affirmed the circuit court’s judgment in an appeal involving alleged fraud on the court in a personal injury action. The opinion addresses the clear-and-convincing-evidence standard, dismissal based on misrepresentations and omissions concerning prior injuries, and authentication of business records.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	M. Kevin Emas; Miller; Bokor
JURISDICTION	Florida Third District Court of Appeal
DECIDED	October 1, 2025
DOCKET	3D24-0885
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment of the Circuit Court for Miami-Dade County.
STANDARD OF REVIEW	For a finding supported by clear and convincing evidence, appellate review asks whether the finding is supported by competent, substantial evidence. The cited authority also recognizes abuse-of-discretion review for dismissal of a complaint based on fraud on the court.
PRECEDENTIAL VALUE	Published opinion; precedential status is identified as published, subject to the pending-rehearing finality notice.
PARTIES	Harry Cruz v. Marta Perez

TOPICS

- appellate procedure
- evidence
- hearsay
- fraud
- personal injury

PRACTICE AREAS

- civil procedure
- evidence
- personal injury
- torts

QUESTIONS PRESENTED

1. Whether the circuit court's ruling in the personal injury action should be affirmed in light of the issues concerning alleged misrepresentations or omissions and the admission or foundation of business-record evidence.

HOLDINGS

1. The circuit court's judgment is affirmed.

KEY QUOTATIONS

“Fraud on the court must be established by clear and convincing evidence. Additionally, the standard of appellate review of a clear and convincing finding is whether the finding is supported by competent, substantial evidence.”

“Where a plaintiff makes misrepresentations and omissions about her accident and . . . the extensive nature of the plaintiff’s past medical history belies her claim that she had forgotten or was confused, she thereby forfeits her right to proceed with her personal injury action.”

“Not only did the plaintiff fail to disclose any prior neck or back injury, she continued to deny these injuries when confronted by records and medical bills related to those injuries.”

“[U]nder the business records exception, the proponent of the evidence must . . . [lay a foundation] in one of three formats: (1) testimony of a records custodian, (2) stipulation by the parties, or (3) a certification or declaration that complies with sections 90.803(6)(c) and 90.902(11).”

FACTUAL BACKGROUND

The opinion does not recite the underlying facts. Its cited authorities indicate that the appeal concerned alleged misrepresentations or omissions regarding the plaintiff's accident and medical history, as well as the foundation for business-record evidence.

PROCEDURAL HISTORY

Harry Cruz appealed the circuit court's ruling in a personal injury action. The Third District Court of Appeal affirmed without further explanation, citing decisions concerning fraud on the court, dismissal for material misrepresentations or omissions, and authentication of business records.

DISPOSITION

affirmed

CASES CITED

- Goga v. Publix Supermarkets, Inc., 383 So. 3d 490, 493 (Fla. 4th DCA 2024)
- Austin v. Liquid Distribs., Inc., 928 So. 2d 521, 521 (Fla. 3d DCA 2006)
- Bryant v. Mezo, 226 So. 3d 254, 256 (Fla. 4th DCA 2017)
- Morrill v. State, 184 So. 3d 541, 545 (Fla. 1st DCA 2015)

OPINION

Harry Cruz v. Marta Perez

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed October 1, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D24-0885 Lower Tribunal No. 21-18176-CA-01 _____ Harry Cruz, Appellant, vs. Marta Perez, Appellee. An Appeal from the Circuit Court for Miami-Dade County, Beatrice Butchko Sanchez, Judge. Fuerst Ittleman David & Joseph, and Jeffrey J. Molinaro and Miguel J. Chamorro, for appellant. Quintairos, Prieto, Wood & Boyer, P.A., and Thomas A. Valdez (Tampa), for appellee. Before EMAS, MILLER and BOKOR, JJ. PER CURIAM. Affirmed. See *Goga v. Publix Supermarkets, Inc.*, 383 So. 3d 490, 493 (Fla. 4th DCA 2024) (“Fraud on the court must be established by clear and convincing evidence. Additionally, the standard of appellate review of a clear and convincing finding is whether the finding is supported by competent, substantial evidence.” (citations and quotations omitted)); *Austin v. Liquid Distribs., Inc.*, 928 So. 2d 521, 521 (Fla. 3d DCA 2006) (“Where a plaintiff makes misrepresentations and omissions about her accident and . . . the extensive nature of the plaintiff’s past medical history belies her claim that she had forgotten or was confused, she thereby forfeits her right to proceed with her personal injury action.”); *Bryant v. Mezo*, 226 So. 3d 254, 256 (Fla. 4th DCA 2017) (“Not only did the plaintiff fail to disclose any prior neck or back injury, she continued to deny these injuries when confronted by records and medical bills related to those injuries. Her disclosed arm injury was contained in the same medical records as her prior neck injury. The trial court did not abuse its discretion in dismissing the plaintiffs’ complaint.”); *Morrill v. State*, 184 So. 3d 541, 545 (Fla. 1st DCA 2015) (“[U]nder the business records exception, the proponent of the evidence must . . . [lay a foundation] in one of three formats: (1) testimony of a records custodian, (2) stipulation by the parties, or (3) a certification or declaration that complies with sections 90.803(6)(c) and 90.902(11).”). 2