

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.

OPINION

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).”).