

FLORIDA THIRD DISTRICT COURT OF APPEAL

Ocean Capital Funding, LLC v. Obsidian Financial Services, Inc.

Ocean Capital Funding · No. 3D24-1606 · Decided December 10, 2025

SUMMARY

The Florida Third District Court of Appeal considered whether the trial court violated due process by sua sponte dismissing Ocean Capital Funding's complaint for failure to perfect service within 120 days. The court held that dismissal based on the alleged impropriety of substitute service required notice and an opportunity to be heard under Florida Rule of Civil Procedure 1.070(j). The dismissal was reversed and the case remanded for further proceedings.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	LOBREE, J.; SCALES, C.J.; MILLER, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	December 10, 2025
DOCKET	3D24-1606
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order of the Miami-Dade County Circuit Court dismissing the complaint without prejudice for failure to perfect service of process within 120 days.
STANDARD OF REVIEW	De novo review applies to a claim of deprivation of procedural due process.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Ocean Capital Funding, LLC v. Obsidian Financial Services, Inc.

TOPICS

- service of process
- due process
- civil procedure
- appellate procedure
- standard of review

PRACTICE AREAS

- civil procedure
- appellate procedure
- commercial litigation
- constitutional law

QUESTIONS PRESENTED

1. Whether Florida Rule of Civil Procedure 1.070(j) permits a trial court to dismiss an action sua sponte for allegedly improper service without notice and an opportunity to be heard concerning the propriety of the service.
2. Whether the absence of notice and an opportunity to be heard before dismissal on that ground violated procedural due process.

HOLDINGS

1. A trial court may dismiss an action on its own initiative under rule 1.070(j) only after providing notice and an opportunity to be heard; the rule does not authorize an automatic dismissal.
2. The trial court violated Ocean Capital's procedural due process rights by dismissing its action based on the alleged impropriety of service on Obsidian without notice and an opportunity to be heard on that issue.

KEY QUOTATIONS

“However, rule 1.070(j) does not provide for an ‘automatic’ dismissal, and while the trial court can dismiss ‘on its own initiative,’ it can do so only ‘after notice or on motion.’” (6)

“The trial court’s failure to provide OCF notice and an opportunity to be heard before dismissing its action on this ground contravened the notice requirement of rule 1.070(j) and constituted a due process violation.” (7-8)

FACTUAL BACKGROUND

Ocean Capital filed suit on March 31, 2024, against Obsidian and its alleged principal and sole shareholder, Dianna S. Griffiths. Before the 120-day service deadline, a process server attempted unsuccessfully to serve Griffiths and reported serving Vanessa Norman, identified as a closing agent, at Obsidian's address. Ocean Capital believed this constituted substitute service on Obsidian and moved for an extension only as to Griffiths. The trial court later concluded that service on a closing agent was improper and dismissed Obsidian and the action without first providing notice and an opportunity to be heard on that issue.

PROCEDURAL HISTORY

Ocean Capital Funding filed suit against Obsidian Financial Services, Inc., and Dianna S. Griffiths. The trial court dismissed Griffiths after denying an extension of time to serve her, then dismissed Obsidian and the action without prejudice after determining that service on a purported closing agent was improper. Ocean Capital appealed, arguing that the sua sponte dismissal occurred without notice and an opportunity to be heard regarding the propriety of service on Obsidian.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion, including proceedings addressing the propriety of service on Obsidian after notice and an opportunity to be heard.

CASES CITED

- Pena v. Rodriguez, 273 So. 3d 237, 240 (Fla. 3d DCA 2019)
- Crown Asset Mgmt., LLC v. Bribiesca, 394 So. 3d 82, 84 (Fla. 3d DCA 2024)
- Premier Cap., LLC v. Davalle, 994 So. 2d 360, 362 (Fla. 3d DCA 2008)
- Chaffin v. Jacobson, 793 So. 2d 102, 103-04 (Fla. 2d DCA 2001)
- Albo v. Martell, 394 So. 3d 158, 162-63 (Fla. 3d DCA 2024)
- Carter v. Mendez, 139 So. 3d 984, 985-86 (Fla. 4th DCA 2014)
- Connelly v. Crown, 636 So. 2d 886, 887 (Fla. 4th DCA 1994)