

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Nuce Acoustic Ceilings & Drywall, Inc. v. DeLesline Construction, Inc.

Nuce Acoustic · No. 2D2025-1179 · Decided May 8, 2026

SUMMARY

The Florida Second District Court of Appeal affirmed a final judgment for DeLesline Construction, Inc. after a bench trial in a subcontractor payment dispute. The court held that the trial court did not improperly permit unpleaded affirmative defenses because the evidence concerned general denials and Nuce failed to prove its claims.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Silberman, Judge; Sleet, Judge; Rothstein-Youakim, Judge
JURISDICTION	District Court of Appeal of Florida, Second District
DECIDED	May 8, 2026
DOCKET	2D2025-1179
DISPOSITION	affirmed
PROCEDURAL POSTURE	Subcontractor appealed a final judgment entered against it after a bench trial and challenged the denial of its motion for summary judgment.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Nuce Acoustic Ceilings & Drywall, Inc. v. DeLesline Construction, Inc.

TOPICS

- contracts
- construction law
- summary judgment
- affirmative defenses
- appellate procedure

PRACTICE AREAS

- contract law
- construction law
- civil procedure
- appellate procedure
- commercial litigation

QUESTIONS PRESENTED

1. Whether the trial court improperly allowed DeLesline to present evidence supporting affirmative defenses that were allegedly not pleaded.
2. Whether the trial court erred in entering final judgment against Nuce after the bench trial.
3. Whether the trial court erred in denying Nuce's motion for summary judgment.

HOLDINGS

1. Although affirmative defenses generally must be pleaded in the answer or separately and are waived if not pleaded, a general denial is not an affirmative defense. The affidavit submitted in opposition to summary judgment did not raise affirmative defenses, and the final judgment was based on Nuce's failure to prove its pleaded claims rather than on unpleaded affirmative defenses.
2. The final judgment in favor of DeLesline is affirmed because Nuce failed to establish reversible error.
3. The denial of Nuce's motion for summary judgment does not warrant reversal.

KEY QUOTATIONS

"There are 'two classes of defensive pleas.'" (2)

"The second 'is one by way of confession and avoidance. All affirmative defenses are pleas by way of confession and avoidance. They admit the allegations of the plea to which they are directed and allege additional facts that avoid the legal effect of the confession.'" (2)

FACTUAL BACKGROUND

Nuce Acoustic Ceilings & Drywall, Inc., a subcontractor, installed drywall for DeLesline Construction, Inc., the general contractor, at a commercial property. Nuce claimed that DeLesline owed \$13,688 plus prejudgment interest for additional work that was not included in an initial letter of intent or contract. Nuce asserted contract and quasi-contract theories, but after a bench trial the county court found that Nuce failed to prove any of its claims.

PROCEDURAL HISTORY

Nuce sued DeLesline for breach of contract, breach of implied-in-fact contract, breach of contract implied-in-law, and unjust enrichment, claiming payment for additional drywall work. The trial court denied Nuce's motion for summary judgment, conducted a bench trial, and entered final judgment for DeLesline after finding that Nuce failed to prove any count. The Second District affirmed.

DISPOSITION

affirmed

CASES CITED

- Paul Gottlieb & Co. v. Alps S. Corp., 985 So. 2d 1, 5 (Fla. 2d DCA 2007)
- Kitchen v. Kitchen, 404 So. 2d 203, 205 (Fla. 2d DCA 1981)

- Moore Meats, Inc. v. Strawn, 313 So. 2d 660, 661-62 (Fla. 1975)

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