

FLORIDA THIRD DISTRICT COURT OF APPEAL

940 Ocean Drive, LLC v. Sobe USA, LLC

940 Ocean Drive · No. Nos. 3D22-1323 & 3D22-2238 · Decided April 2, 2025

SUMMARY

The Florida Third District Court of Appeal denied 940 Ocean Drive, LLC’s motion for rehearing and clarification. The court explained that the trial court’s fee judgment had been affirmed without discussion and clarified that its reversal of the punitive-damages award required further proceedings concerning both entitlement and amount because the tenant had not met the clear-and-convincing-evidence burden.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Chief Judge Logue; Judge Lindsey; Judge Bokor
JURISDICTION	Florida Third District Court of Appeal
DECIDED	April 2, 2025
DOCKET	Nos. 3D22-1323 & 3D22-2238
DISPOSITION	other
PROCEDURAL POSTURE	On the Landlord's motion for rehearing and clarification following the appellate court's affirmance of the trial court's fee judgment and reversal and remand of the punitive-damages award.
PRECEDENTIAL VALUE	Published opinion
PARTIES	940 Ocean Drive, LLC v. Sobe USA, LLC

TOPICS

- appellate procedure
- sanctions
- damages
- attorney fees
- commercial litigation

PRACTICE AREAS

- appellate procedure
- civil procedure
- commercial litigation
- real estate
- remedies

QUESTIONS PRESENTED

1. Whether the appellate court overlooked or failed to adjudicate the trial court's fee judgment.

2. Whether the remand for further proceedings concerning punitive damages included both entitlement to punitive damages and the amount of punitive damages.

HOLDINGS

1. The court did not overlook the fee judgment; the fee judgment was affirmed without discussion, and the motion for rehearing and clarification was denied.
2. The remand included a retrial on both entitlement to punitive damages and the amount of punitive damages.

KEY QUOTATIONS

“Because the Tenant did not establish at trial, by clear and convincing evidence, entitlement to punitive damages, we reversed the punitive damages award and remanded for further proceedings.” (2)

“Therefore, while we take no position on the propriety of any particular amount, the amount awarded here suffered from the same procedural flaw as the entitlement portion.” (2)

FACTUAL BACKGROUND

The trial court entered a sanctions order and, based on that order, awarded Sobe USA, LLC attorney fees and costs through June 30, 2022. The trial court also awarded punitive damages. The appellate court determined that Sobe USA had not established entitlement to punitive damages by clear and convincing evidence under the applicable burden-shifting sanction.

PROCEDURAL HISTORY

The trial court entered a sanctions order and a fee judgment awarding Sobe USA, LLC fees and costs through June 30, 2022. The appellate court affirmed the fee judgment without discussion but reversed the punitive-damages award and remanded for further proceedings. On rehearing and clarification, 940 Ocean Drive, LLC argued that the court had overlooked the fee judgment and sought clarification regarding the scope of the punitive-damages remand.

DISPOSITION

other

REMAND INSTRUCTIONS

The further proceedings on punitive damages include a retrial on both entitlement to punitive damages and the amount of punitive damages.

CASES CITED

- Shayne v. Saunders, 176 So. 495, 496 (Fla. 1937)

OPINION

940 Ocean Drive, LLC v. Sobe USA, LLC

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed April 2, 2025. _____
Nos. 3D22-1323 & 3D22-2238 Lower Tribunal Nos. 22-4881 & 20-1911 _____ 940
Ocean Drive, LLC, Appellant, vs. Sobe USA, LLC, Appellee. Appeals from the Circuit Court for
Miami-Dade County, Valerie R. Manno Schurr, Judge. Dentons US LLP, and Angel A. Cortiñas,
for appellant. Shutts & Bowen LLP, and Ricky L. Polston (Tallahassee), and Steven M. Ebner, and
Julissa Rodriguez, and Jamie B. Wasserman; Wolfe Law Miami, P.A., and Richard C. Wolfe;
Steinberg & Associates, P.A., and Richard Steinberg, for appellee. Before LOGUE, C.J., and
LINDSEY, and BOKOR, JJ. PER CURIAM.

ON MOTION FOR REHEARING AND CLARIFICATION

Appellant 940 Ocean Drive, LLC (the “Landlord”) has filed a Motion for Rehearing and Clarification seeking an adjudication of the trial court’s Fee Judgment, which awarded Appellee Sobe USA, LLC (the “Tenant”) fees and costs through June 30, 2022.¹ The Fee Judgment was predicated on the trial court’s Sanctions Order, which this Court affirmed. The Landlord contends that we overlooked the Fee Judgment. We did not. The Fee Judgment was affirmed without discussion. See, e.g., *Shayne v. Saunders*, 176 So. 495, 496 (Fla. 1937) (“[W]here a case is affirmed no reversible error has been found by the court, and where it is reversed on a stated point, unless the contrary appear in the judgment or by certificate of the appellate court, it will be assumed that all other assignments of error have been examined and found to be without merit.”). We therefore deny the Landlord’s Motion for Rehearing and Clarification. We do, however, briefly write to address the parties’ disagreement as to the scope of this Court’s decision with respect to the amount of the punitive damages award. Because the Tenant did not establish at trial, by clear and convincing evidence, entitlement to punitive damages, we reversed the punitive damages award and remanded for further proceedings. See § 768.725, Fla. Stat. (2024). Under the burden-shifting sanction, the Tenant 1 According to the Fee Judgment, the parties stipulated to the amount of fees through June 30, 2022. 2 did not meet its burden in the context of punitive damages, we therefore reversed as to entitlement. But the same logic necessarily applies for the punitive damages amount. Therefore, while we take no position on the propriety of any particular amount, the amount awarded here suffered from the same procedural flaw as the entitlement portion. So, the further proceedings contemplated in the opinion would, in context, include a retrial on both entitlement to punitive damages as well as amount. Motion denied. 3