

FLORIDA THIRD DISTRICT COURT OF APPEAL

Restoration Genie, Inc., etc. v. Citizens Property Insurance Company

No. 3D26-0303 · No. 3D26-0303 · Decided May 27, 2026

SUMMARY

The Florida Third District Court of Appeal granted Restoration Genie’s petition for writ of certiorari and quashed an order awarding costs and staying proceedings. The court accepted Citizens Property Insurance Company’s confession of error, concluding that the motion to tax costs was untimely because it was filed more than 30 days after dismissal and not in the same action.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Fernandez; Gordo; Bokor
JURISDICTION	Florida Third District Court of Appeal
DECIDED	May 27, 2026
DOCKET	3D26-0303
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Restoration Genie petitioned for a writ of certiorari challenging the County Court's order granting Citizens's motion to stay proceedings and motion to tax costs following dismissal of the first action for lack of prosecution. Citizens confessed error.
STANDARD OF REVIEW	Certiorari review
PRECEDENTIAL VALUE	Published
PARTIES	Restoration Genie, Inc. v. Citizens Property Insurance Company

TOPICS

- writ of certiorari
- costs
- appellate procedure
- civil procedure
- insurance

PRACTICE AREAS

- Civil procedure
- Appellate procedure
- Insurance litigation

QUESTIONS PRESENTED

1. Whether the trial court erred by granting Citizens's motion to tax costs when the motion was filed more than thirty days after dismissal of the first action.
2. Whether a motion to tax costs after dismissal must be filed in the same action in which the costs were incurred.

HOLDINGS

1. A motion to tax costs in a dismissed action must comply with Florida Rule of Civil Procedure 1.525, or the materially equivalent Florida Small Claims Rule 7.110(d), including the requirement that costs be assessed and judgment entered in the same action and that the motion be filed within the applicable thirty-day period.

KEY QUOTATIONS

“rule 1.525 provides that costs in a dismissed action “shall be assessed and judgment for costs entered in that action.”” (at 2)

FACTUAL BACKGROUND

Restoration Genie filed an action against Citizens that was dismissed for lack of prosecution on March 5, 2025. After Restoration Genie refiled the case, Citizens sought a stay and filed a motion to tax costs more than 300 days after dismissal of the first action. The appellate court accepted Citizens's confession of error concerning the untimely and procedurally improper costs motion.

PROCEDURAL HISTORY

The County Court for Miami-Dade County dismissed Restoration Genie's first action for lack of prosecution on March 5, 2025. Restoration Genie refiled the case on November 4, 2025. Citizens moved to stay the refilled proceedings on December 18, 2025, and moved to tax costs on January 8, 2026. The trial court granted the stay and taxed costs in an order dated February 11, 2026. The Third District granted certiorari, quashed the order, and remanded.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The February 11, 2026 order is quashed, and the matter is remanded for further proceedings not inconsistent with the opinion.

CASES CITED

- City of Hallandale v. Chatlos, 236 So. 2d 761, 763 (Fla. 1970)
- McKelvey v. Kismet, Inc., 430 So. 2d 919, 921-22 (Fla. 3d DCA 1983)

OPINION

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed May 27, 2026. Not final until disposition of timely filed motion for rehearing. _____ No. 3D26-0303 Lower Tribunal No. 25-174246-SP-05 _____ Restoration Genie, Inc., etc., Petitioner, vs. Citizens Property Insurance Company, Respondent. A Writ of Certiorari to the County Court for Miami-Dade County, Lawrence D. King, Judge.

Ruiz Legal, PLLC, and Santino Ruiz, for petitioner. Franklin Legal Group, PA, and Jonathan D. Franklin, for respondent. Before FERNANDEZ, GORDO and BOKOR, JJ. PER CURIAM. ON CONFESSION OF ERROR Restoration Genie, Inc. (“Restoration Genie”) petitions this Court for a writ of certiorari and contends that the trial court’s February 11, 2026 Order as to Taxable Costs and Stay of Proceedings, which granted Citizens Property Insurance Company’s motion for stay and motion to tax costs as to the first action which was dismissed on March 5, 2025, should be quashed.

That first action filed by Restoration Genie was dismissed by the trial court for lack of prosecution. On November 4, 2025, Restoration Genie refiled the case against Citizens. Restoration Genie argues that the trial court’s order was entered in error because Citizens never filed a motion to tax costs after the first action was dismissed and within the thirty (30) day requirement pursuant to Florida Rule of Civil Procedure 1.525.

Citizens filed its motion for stay on December 18, 2025, and filed its motion to tax costs on January 8, 2026, over three hundred (300) days after the trial court entered its order dismissing Restoration Genie’s case for lack of prosecution on March 5, 2025. Citizens properly confesses error on this point and states that rule 1.525 provides that costs in a dismissed action “shall be assessed and judgment for costs entered in that action.” Citizens further asserts that the governing rule in this case is Florida Small Claims Rule 7.110(d) and points out that there is no material difference between the two rules.

Courts require 2 that the motion be filed in the same action. See *City of Hallandale v. Chatlos*, 236 So. 2d 761, 763 (Fla. 1970); *McKelvey v. Kismet, Inc.*, 430 So. 2d 919, 921-22 (Fla. 3d DCA 1983). Accordingly, we grant Restoration Genie’s petition for writ of certiorari as to the trial court’s February 11, 2026 order, quash the order and remand for further proceedings not inconsistent with this opinion.

Petition granted, order quashed. 3