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Florida Specialized Carriers, Inc. v. Tierra Const.
 Co., Inc.
 Fla.App. 5 Dist.,1994.

District Court of Appeal of Florida, Fifth District.
 FLORIDA SPECIALIZED CARRIERS, INC.,
 Appellant,


v.

TIERRA CONSTRUCTION COMPANY, INC., and
 Lamar Adams, Appellees.
 No. 93-2085.


Feb. 25, 1994.

After entry of final default judgment in civil action, defendants filed motion for order granting relief from default judgment. The Circuit Court, Seminole County, Robert B. McGregor, J., granted motion, and plaintiff appealed. The District Court of Appeal held that defendants failed to establish excusable neglect warranting relief from default judgment.

Reversed and remanded with instructions.
 West Headnotes

[1] Judgment 228  143(2)228 Judgment228IV By Default228IV(B) Opening or Setting Aside Default228k143 Excuses for Default228k143(2) k. Necessity for Excuse.Most Cited Cases

Entitlement to order setting aside final default judgment requires movant to establish both excusable neglect and meritorious defense.

[2] Judgment 228  143(3)228 Judgment228IV By Default228IV(B) Opening or Setting Aside Default228k143 Excuses for Default228k143(3) k. Mistake, Surprise, or

Excusable Neglect in General. Most Cited Cases
 Defendants did not establish excusable neglect justifying order setting aside final default judgment, where, over period of ten months, defendants consistently failed to attend court hearings and depositions and ignored trial court's order to answer amended complaint.

[3] Appeal and Error 30  982(1)30 Appeal and Error30XVI Review30XVI(H) Discretion of Lower Court30k982 Vacating Judgment or Order30k982(1) k. In General. Most CitedCases

Order setting aside final judgment in absence of any evidence demonstrating excusable neglect constitutes gross abuse of discretion mandating reversal.

***282** Victor L. Chapman and R. Steven Ruta, Barrett & Chapman, P.A., Orlando, for appellant.

***283** Stuart I. Hyman, NeJame & Hyman, P.A., Orlando, for appellees.

PER CURIAM.

[1][2] This is an appeal from an order setting aside a final default judgment. Entitlement to that relief requires the movant to establish both excusable neglect *and* a meritorious defense. Kindle Trucking Co. v. Marmar Corp., 468 So.2d 502 (Fla. 5th DCA 1985). Although the appellees below alleged a meritorious defense, the trial judge did not find, nor would the record support, a finding of excusable neglect. To the contrary, the record shows that over a period of ten months, the corporation and the pro se appellee consistently failed to attend court hearings and depositions and ignored the court's order to answer the amended complaint.

[3] An order setting aside a final judgment in the absence of any evidence demonstrating excusable neglect constitutes a gross abuse of discretion mandating reversal. Sterling Drug, Inc. v. Wright, 342 So.2d 503 (Fla.1977); Tire Kingdom, Inc. v. Bowman, 480 So.2d 221 (Fla. 5th DCA 1985); TPM Constructors, Inc. v. Twin Coast Tile, Inc., 425 So.2d 580 (Fla. 5th DCA), *review denied*, 434 So.2d 889 (Fla.1983). On remand, the trial court is instructed to reinstate the final judgment.

REVERSED and REMANDED with instructions.

HARRIS, C.J., and GOSHORN and THOMPSON, JJ., concur.

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