

FLORIDA

Court Upheld Order Dismissing Lawsuit without Prejudice and Granted Defendant's Motion for Costs



**LUKS, SANTANIELLO
PETRILLO, COHEN & PETERFRIEND**
— OUR VERDICTS TELL THE STORY —

Orlando Managing Partner Anthony Merendino obtained a favorable result in a Motor Vehicle Accident matter styled Leon Hood & Felicia Brown v. Elizabeth Vilece and Frank Vilece when the Court denied Plaintiffs' Motion to Vacate the Order of Dismissal and thereby upheld its prior Order dismissing the lawsuit without prejudice. The Court also granted the Defendants' Motion for Costs for defending the action.

Plaintiffs alleged that Defendant rear-ended the Plaintiffs' motor vehicle. The Court issued a Case Management Order requiring the Plaintiffs to submit an Agreed Case Management Plan by a date certain outlining pretrial deadlines. The Plaintiffs failed to timely file an Agreed Case Management Plan by the deadline imposed by the Court's Case Management Order. The Court issued an Order to Show Cause requiring the Plaintiffs to explain why the Case Management Plan was not timely filed. Thereafter, counsel for the Plaintiffs and

Defendants agreed upon a Case Management Plan, but the Plaintiffs neglected to file the Case Management Plan. The Court subsequently entered an Order of Dismissal of the case without prejudice. Plaintiffs filed a Motion to Vacate the Order of Dismissal alleging excusable neglect, and filed an Affidavit of a paralegal supporting the excusable neglect (which attempted to explain why the agreed Case Management Plan had not been filed). At a hearing on Plaintiffs' Motion to Vacate the Order of Dismissal, Mr. Merendino pointed out deficiencies in the Affidavit filed by the Plaintiffs and convinced the Court that Plaintiffs had not demonstrated the requisite excusable neglect. The Court denied Plaintiffs' Motion to Vacate the Order of Dismissal and thereby upheld its prior Order dismissing the lawsuit without prejudice. The Court also granted the Defendants' Motion for Costs for defending the action.



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