

IN THE FOURTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

CASE NO.: 4D2024-1633

Lower Tribunal Case No. COCE24029319

ROBERTO TORRES, an individual, and,
21ST CENTURY FUTURE
CONSTRUCTION TECHNOLOGIES, INC., a Florida Corporation,

Appellants,

vs.

4024 JEFFERSON HOLDINGS, LLC., a Florida Limited Liability Company,

Appellee.

On Appeal from Final Judgment for Eviction as to Count I of the County
Court for the Seventeenth Judicial Circuit in and for Broward County,
Florida

APPELLANTS' INITIAL BRIEF

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INTRODUCTION

Roberto Torres will be referred to as Mr. Torres. 21st Century Future Construction Technologies, Inc. will be referred to as 21st Century. Collectively, Mr. Torres and 21st Century will be referred to as Appellants. 4024 Jefferson Holdings, LLC. will be referred to as Appellee.

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STATEMENT OF THE CASE AND FACTS

On May 13, 2024, Appellee filed its Complaint against 21st Century in the County Court of the Seventeenth Judicial Circuit in and for Broward County, Florida (the “Complaint”). (R. 13-20). The Complaint alleged two separate counts against 21st Century: (1) eviction (“Count I”) and (2) damages (“Count II”). Id. At the root of this action is a vacation rental agreement between Appellee and 21st Century for the subject property (the “Agreement”), whose address is 4024 Jefferson Street, Hollywood, Florida 33021 (the “Subject Property”). Id. In accordance with the Agreement entered on February 28, 2024, 21st Century was to occupy the subject property for one month commencing on February 29, 2024, at 4:00 p.m. and concluding on March 29, 2024, at 10:00 a.m. in exchange for the sum of fourteen thousand dollars (\$14,000.00). Id.

Pursuant to the allegations in Count 1, Appellee provides that 21st Century has failed to pay rent in the sum of twenty-three thousand ninety-two dollars and zero cents (\$23,092.00) for the months of April and May 2024 in addition to all subsequent payments under the Agreement. Id. In addition to the alleged past due rent, Appellee also claimed that Appellee was entitled to any incurred attorneys’ fees and costs in bringing the Complaint in

accordance with the Agreement. Id. An amount unknown and undisclosed to 21st Century. Id.

Next, in Count II, again asserts that 21st Century has failed to pay rent in the sum of twenty-three thousand ninety-two dollars and zero cents (\$23,092.00). Id. Appellee then immediately follows this allegation by asserting that 21st Century has been a holdover tenant since March 30, 2024, and Appellee should be entitled to **double the amount of rent owed** for the entire period during which 21st Century remains in possession of the Subject Property. Id. Appellee's claimed damages total forty-six one hundred eighty-four dollars and zero cents (\$46,184.00) for April and May 2024, **exclusive** of interest and attorneys' fees. Id. It is evident that Appellee's Complaint did not account for the time required to effectuate the eviction or obtain a writ of possession, nor did it include interest or attorneys' fees in its calculations for jurisdictional purposes. Id. Under the Agreement, 21st Century was to pay fourteen thousand and zero cents (\$14,000.00) per month for the Subject Property, therefore, each additional month of extended eviction proceedings, **damages would increase by a minimum of twenty-eight thousand dollars and zero cents (\$28,000.00).** Id.

On May 16, 2024, a summons was issued and subsequently forwarded to a process server, who attempted, but failed to serve it on May 17, 2024.

(R. 21-180). On May 20, 2024, Appellee's counsel filed a verified return of non-service. Id. On the same day, Appellee obtained an alias summons instead of conducting further due diligence as required under Florida law. Id. Said alias summons was subsequently served via substitute service on May 30, 2024, specifically, service was effectuated upon on Mariam Morales, the **Mailbox Location Owner** at 11352 W. State Road 84, #126, Davie, FL 33325. Id.

On June 4, 2024, Mr. Torres, a director and owner of 21st Century, filed his *pro se* Motion for Determination of Rent as an individual. (R. 186-190). Despite Mr. Torres' participation, 21st Century did not appear at the rent determination hearing. Id. Instead, Mr. Torres, as an individual, appeared *pro se* and argued on the merits. Id. On June 14, 2024, the trial court ordered the deposit of funds into the court registry. (R. 340-341). Notably, the trial court's Order to Deposit Funds into Registry of Court, specifically, noted that 21st Century did not appear at the rent determination hearing, acknowledged that a corporation must be represented by counsel, and still found that Mr. Torres' appearance waived any issue of service. Id.

Subsequently, on June 14, 2024, Mr. Torres filed his *pro se* Motion for Rehearing, raising the issue of insufficiency of process. (R. 342-369). The trial court outright denied his motion, citing that the parties, being business entities, must be represented by an attorney, and Mr. Torres, not being an attorney, could not sign on behalf of 21st Century. (R. 407). However, no opportunity to obtain counsel to represent 21st Century was afforded. Mr. Torres', albeit, erroneously continued to argue on behalf of himself as to the owed rent even though he is not a party to the Agreement. *Id.* The Agreement was signed by 21st Century, Mr. Torres' corporate entity. (R. 13-20).

On June 18, 2024, Appellee filed a Motion for Entry of Default Final Judgment for Count I—Tenant Eviction for Failure to Deposit Funds into Court Registry, including an unexecuted motion and certificate of service. (R. 381-387). Appellee refiled the same motion on June 24, 2024, still unexecuted. (R. 408-413). On the same day, Appellee filed a Motion for Clerk's Default for Count II—Damages, which was executed on June 28, 2024. (R. 414-420). A Writ of Possession was subsequently executed on July 1, 2024. (R. 490-491).¹

¹ It should be noted that now the additional twenty-eight thousand dollars and zero cents (\$28,000.00) previously mentioned have been incurred. Consequently, on July 1, 2024, the incurred alleged damages according to the Complaint potentially exceed seventy-four thousand one hundred eighty-

By July 18, 2024, Appellee filed a Motion for Entry of Default Final Judgment for Damages, supported by an Affidavit of Amounts Due and Owing, which stated that fifty-one thousand ninety dollars and zero cents (\$51,090.00) were owed, excluding attorneys' fees. (R. 525-530). As such, Appellee explicitly exceeded the court's jurisdictional limits but nevertheless continued to pursue the judgment with utter disregard to said jurisdictional limits. *Id.* Appellee took it one step further and submitted an *ex parte* order for entry of default judgment, which was promptly denied for exceeding the court's jurisdictional amount.

Simultaneously, on August 30, 2024, with the filing of this Initial Brief, the 21st Century has prepared and filed a Motion to Dismiss Plaintiff's Complaint for Lack of Subject Matter Jurisdiction as the trial court denied staying the lower tribunal's action pending this appeal.

four dollars and zero cents (\$74,184.00) exclusive of interest, attorneys' fees, and costs.

SUMMARY OF ARGUMENT

The trial court's judgment should be reversed for several reasons. First, the trial court lacked subject matter jurisdiction to enter a final judgment for eviction as to Count I. The Appellee's claims exceeded the \$50,000 jurisdictional limit of the county court, requiring the case to be heard in the circuit court. The trial court's failure to recognize this jurisdictional issue mandates reversal.

Second, the trial court committed reversible error by entering a final judgment for eviction without affording 21st Century due process. 21st Century was not properly served with process, and service on Mariam Morales, **the Mailbox Location Owner**, did not comply with statutory requirements. A judgment entered without proper service is void, and the trial court's decision to proceed without addressing this deficiency violated 21st Century's due process rights.

Third, the trial court further erred by failing to conduct an evidentiary hearing on the issue of improper service of process. When service of process is challenged, the trial court is required to hold an evidentiary hearing to resolve any factual disputes. The trial court's failure to do so constitutes a denial of due process and necessitates reversal.

Next, the trial court should not have proceeded on the merits of the case because a corporation, such as 21st Century, cannot be represented by a pro se individual in Florida courts. Florida law requires that corporations be represented by a licensed attorney in legal proceedings. In this case, the trial court failed to set a deadline for 21st Century to secure legal representation, thereby allowing the case to move forward improperly. This error further necessitates reversal.

Fifth, the trial court abused its discretion by granting Mr. Torres' Motion for Rent Determination and then compounding this error by denying Mr. Torres' Motion for Rehearing. Mr. Torres, not being a licensed attorney, was not authorized to represent 21st Century in a legal capacity. The trial court's initial decision to grant the motion filed by Mr. Torres was unreasonable and an abuse of discretion. The court's subsequent denial of the Motion for Rehearing failed to correct this error, further punishing 21st Century for the court's own procedural mistakes.

Lastly, the trial court erred in denying the Motion to Stay the Writ of Possession. The writ was issued based on a default judgment that was procedurally flawed due to the lack of proper service. The trial court's refusal

to stay the writ, despite unresolved legal challenges and the potential for irreparable harm to the Appellants, was an abuse of discretion.

For these reasons, the trial court's judgment should be reversed, and the case should be remanded for further proceedings consistent with due process, proper jurisdictional requirements, and the enforcement of legal representation standards for corporate entities.

ARGUMENT

I. THE FINAL JUDGMENT NECESSITATES REVERSAL BY THIS COURT AS IT LACKED SUBJECT MATTER JURISDICTION.

A. Standard of Review

Whether a lower tribunal had subject matter jurisdiction is a question of law, which is reviewed *de novo*. Dep't of Revenue ex rel. Smith v. Selles, 47 So. 3d 916, 918 (Fla. 1st DCA 2010). It is well-established that subject matter jurisdiction may be challenged at any time, including for the first time on appeal. MCR Funding v. CMG Funding Corp., 771 So. 2d 32, 35 (Fla. 4th DCA 2000); see also Fla. R. Civ. P. 1.140(b). Furthermore, subject matter jurisdiction cannot be conferred upon a court by the consent of the parties. Id. Thus, the trial court's determination of its jurisdiction is subject to independent review by this Honorable Court.

B. The lower court lacked subject matter jurisdiction because the amount in controversy exceeded the jurisdictional limit.

Pursuant to section 34.01, of the Florida Statutes, the county court's subject matter jurisdiction is limited to cases where the amount in controversy **does not exceed \$50,000.00**, exclusive of interest, costs, and attorneys' fees. Fla. Stat. § 34.01 (2023). When a plaintiff seeks monetary damages in excess of this amount, jurisdiction rests exclusively within the circuit court. Fla. Stat. § 26.012. Additionally, section 83.231, of the Florida

Statutes, provides that a court may only direct the entry of a money judgment within its jurisdictional limits. Fla. Stat. § 83.231. Therefore, it clear and undisputed that any claim exceeding \$50,000.00 must be brought before the circuit court, and a county court is without jurisdiction to adjudicate such claims.

In the present case, the Appellee filed a Complaint for Eviction and Damages against 21st Century. (R. 13-20). The Complaint sought twenty-three thousand ninety-two dollars and zero cents (\$23,092.00) for unpaid rent for April and May 2024 in Count I. Id. Appellee then proceeded to request damages to be doubled in Count II increasing the claimed damages to a grand total of forty-six thousand one hundred eighty-four dollars and zero cents (\$46,184.00). Id. The Complaint further asserts that damages would continue to accrue at an additional fourteen thousand dollars and zero cents (\$14,000.00) per month, or if doubled, twenty-eight thousand dollars and zero cents (\$28,000.00) for each additional month during which 21st Century remained in possession of the Subject Property. Id. Thus, *ab initio*, the Appellee should have anticipated and known that its claims would exceed the jurisdictional limit of the lower court.

Even so, by the time the Appellee filed its Motion for Entry of Default Final Judgment for Damages, the amount alleged had reached **fifty-one thousand ninety dollars and zero cents (\$51,090.00)**, exclusive of interest, costs, and attorneys' fees. (R. 525-530). Appellee should have known that it had exceeded the jurisdictional limit. Instead, it proceeded to pursue an *ex parte* final default judgment for an amount in excess of the jurisdictional threshold.²

Given that the Appellee was seeking damages exceeding the prescribed jurisdictional amount, the lower court was without jurisdiction to adjudicate this action. The claim for damages hinders upon the claim for eviction. It necessarily follows the amount sought for damages of an eviction establishes the amount of controversy for determination jurisdiction. Consequently, the lower court's decision to enter judgment on Count I for eviction, without transferring the case to the circuit court, constituted a reversible error. Florida law is clear that subject matter jurisdiction cannot be waived or conferred by agreement of the parties, and the court must dismiss or transfer cases exceeding its jurisdictional limits. See generally Williams v.

² It should be noted that counsels for the Appellants filed their notice of appearances on July 3, 2024, well before counsel for the Appellee submitted its July 31, 2024, Default Final Judgment for Damages. The Proposed Order for Default Final Judgment was submitted to the trial court without first being circulated to counsels for the Appellant.

Starnes, 522 So. 2d 469, 471 (Fla. 2d DCA 1988); see also Fla. R. Civ. P. 1.140(h). The trial court's failure to do so deprived it of the authority to enter the judgment, **rendering the judgment void**. N.W.T. v. L.H.D. (In re D.N.H.W.), 955 So. 2d 1236, 1238 (Fla. 2d DCA 2007); see also Burke v. Esposito, 972 So. 2d 1024, 1026 (Fla. 2d DCA 2008).

In conclusion, this Court should render the final judgment entered by the lower court "void." As such, it necessarily follows that reversal is warranted due to the lower court clearly lacking subject matter jurisdiction to adjudicate this action. It is evident that the Appellee's claims exceeded the jurisdictional limit for county court and should have been appropriately brought in circuit court. Accordingly, this Court should reverse the lower court's judgment and remand the case with instructions to transfer it to the circuit court for further proceedings.

II. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY GRANTING FINAL JUDGMENT FOR EVICTION WITHOUT AFFORDING APPELLANTS DUE PROCESS.

A. Standard of Review

The reviewing court defers to the trial court's factual findings when they are supported by competent substantial evidence. Id. Determining whether a judgment is void poses a question of law that the appellate court reviews *de novo*. See generally Int'l Univ. of Health Scis. Ltd., Inc. v. Abeles, 299 So.

3d 405, 408 (Fla. 4th DCA 2020); see also Regions Bank v. Big Bend Invs. Grp. of Fla., LLC, 311 So. 3d 181, 184 (Fla. 2d DCA 2020). Therefore, this Court's review of the trial court's determination of effective service of process upon the Appellant is proper.

B. The lower court's final judgment is void due to improper service.

It is well established that a judgment is void when it is entered by a court which lacks jurisdiction over the person of the defendant. See generally State Farm Mut. Auto. Ins. Co. v. Statsick, 231 So. 3d 528, 531 (Fla. 2d DCA 2017). Service of process statutes are strictly construed and enforced to ensure liberty and property interests are not impacted without due process of law. Standley v. Arnou, 13 Fla. 361, 365-66 (Fla. 1869). To constitute "service," the steps designated under Florida law must be strictly followed. Id. Service of process upon a Florida corporation that has a registered agent is primarily governed by sections 48.081 and 48.091, of the Florida Statutes. Fla. Stat § 46.081; Fla. Stat. § 48.091.

In accordance with said statutes, the process should first be served on the corporation's registered agent. If the registered agent cannot be served because the corporation has failed to comply with the requirements of section 48.091, of the Florida Statutes, such as, not keeping the registered

office open from 10 a.m. to 12 noon on business days or not having a registered agent present during these hours, then service may be made on any employee at the corporation's principal place of business. If these methods are unsuccessful, service may be made on the chair of the board, the president, any vice president, the secretary, or the treasurer of the corporation at the principal office of the corporation in Florida. If these methods fail, service may be made on the Secretary of State as an agent of the corporation. Fla. Stat. § 48.081.

At this juncture, the Appellee attempted service through substitute service on Mariam Morales, **the Mailbox Location Owner**, at 11352 W. State Road 84, #126, Davie, FL 33325, who was neither a registered agent nor an employee of 21st Century. (R. 21-180). This manner of service did not comply with the statutory requirements, rendering the service ineffective and the subsequent judgment void. Based on the Florida Sunbiz records, Mr. Roberto Torres is the designated Registered Agent. The Registered Agent's address is 2518 Monroe Street, Suite B, Hollywood, FL 33020. It should be noted that 2518 Monroe Street is a single-family home, not a virtual office or mailbox. Appellee should have and could have taken further reasonable attempts to effectuate service on the registered agent at this location before resorting to substitute service on the mailbox owner located at 11352 W.

State Road, Davie. Appellee had access to Florida Sunbiz records to conduct its investigation when serving the proper entity but failed to engage in the requisite due diligence. A judgment entered without due service of process is void. Weiss v. Mashantucket Pequot Gaming Enter., 935 So. 2d 69, 70 (Fla. 3d DCA 2006). Similarly, in Myrick v. Walters, the court held that a judgment entered without proper service of process is void and will be set aside and stricken from the record on a motion at any time. Myrick v. Walters, 666 So. 2d 249, 250 (Fla. 3d DCA 1996).

Further, Mr. Torres' actions did not constitute a waiver of service of process. The trial court ruled that Mr. Torres, as a director of 21st Century, waived any issue of individual service of process by requesting a rent determination hearing and arguing the merits of the eviction. (R. 407). However, Mr. Torres, who appeared *pro se*, is not an attorney and was not authorized to represent 21st Century in this capacity. As established in Carmona v. VQ Everglades Homes LLC, a defendant must be properly served, and if the defendant can prove by clear and convincing evidence that they were not properly served, they are entitled to an evidentiary hearing to determine the validity of the service of process. Carmona v. VQ Everglades Homes LLC, 49 Fla. L. Weekly D929 (Fla. 3d DCA May 1, 2024).

Mr. Torres' participation, without proper legal authority, cannot be considered a waiver of 21st Century's right to proper service of process. The trial court's reliance on Mr. Torres' actions as a basis for denying the motion for rehearing was misplaced. Moreover, the denial of the motion for rehearing on the grounds that Mr. Torres could not sign on behalf of 21st Century because he is not an attorney further emphasizes the lack of proper representation and due process afforded to 21st Century in this matter.

All in all, the Appellee failed to effectuate proper service of process on 21st Century and the trial court improperly relied on actions by an unauthorized individual to justify its judgment, the final judgment for eviction must be vacated. Accordingly, this Court should remand the case to the trial court with instructions to dismiss the case.

III. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY FAILING TO CONDUCT AN EVIDENTIARY HEARING.

A. Standard of Review

The standard of review for the trial court's failure to conduct an evidentiary hearing on an alleged insufficiency of service of process is abuse of discretion. BoatFloat, LLC v. Cent. Transp. Int'l, Inc., 941 So. 2d 1271, 1272 (Fla. 4th DCA 2006). In evaluating whether a trial court abused its discretion, the appellate court often finds it determinative whether the trial court applied

the law correctly, and thus, the issue is reviewed *de novo*. Woodward v. Berkery, 714 So. 2d. 1027, 1031 (Fla. 4th DCA 1998); see also Mills Corp. v. Amato, 72 So. 3d 814, 815 (Fla. 4th DCA 2011).

B. The lower court's failure to conduct an evidentiary hearing constituted a violation of due process.

Florida law requires that when the validity of service of process is challenged with supporting evidence, the trial court must hold an evidentiary hearing to resolve the dispute. Id. The failure to do so is a denial of due process, as it prevents the parties from having their arguments heard and considered fully.

In this case, Mr. Torres, attempting to act on behalf of 21st Century in good faith, raised an issue regarding the insufficiency of process in his June 15, 2024, motion for rehearing, arguing that the corporation had not been properly served. (R. 342-369). However, the trial court denied the motion without holding an evidentiary hearing to resolve the factual dispute regarding proper service. (R. 407). The trial court's failure to hold such a hearing in this case, particularly when service of process is the foundation for the court's jurisdiction, constituted a reversible error. As such, it necessarily follows that this Honorable Court should reverse the trial court's

judgment and remand the case for an evidentiary hearing to properly determine the validity of service of process.

IV. THE LOWER COURT SHOULD NOT HAVE HEARD THIS MATTER ON THE MERITS AS A CORPORATION CANNOT BE REPRESENTED BY A *PRO SE* INDIVIDUAL.

A. Standard of Review

As stated previously, the trial court’s discretionary decisions are reviewed for an abuse of discretion. Mercer v. Raine, 443 So. 2d 944 (Fla. 1984); see, e.g., Barrett v. Escape of Arrowhead Ass’n, Inc., 194 So. 3d 504 (Fla. 4th DCA 2016). The test for abuse of discretion is one of reasonableness—that is, “[i]f reasonable men could differ as to the propriety of the action taken by the trial court, then the action is not unreasonable and there can be no finding of an abuse of discretion.” Canakaris v. Canakaris, 382 So. 2d 1197, 1203 (Fla. 1980).

B. The lower court erred by permitting Mr. Torres to act on behalf of 21st Century.

If a corporation attempts to represent itself *pro se* in Florida, the court should not permit it. See Szteinbaum v. Kaes Inversiones y Valores, C.A., 476 So. 2d 247, 248 (Fla. 3d DCA 1985). Florida law requires that a corporation must be represented by a licensed attorney in court proceedings. Id. This rule applies even if the individual attempting to represent the

corporation is an officer, shareholder, or the sole owner of the corporation. Richter v. Higdon Homes, Inc., 544 So. 2d 300, 300 (Fla. 1st DCA 1989).

If a corporation attempts to file documents or appear in court without an attorney, the court may strike the filings and potentially enter a default judgment against the corporation if it fails to obtain legal representation **within a specified period**. See Drozd v. Beaches Auto., 2017 Fla. Cir. LEXIS 16714, *1. Failure to comply with such orders can result in adverse consequences, including default judgments. Id. In Drozd v. Beaches Auto., the court granted a motion to strike a *pro se* response filed by a corporation and **provided the corporation with a deadline to obtain counsel and file a response**. Drozd v. Beaches Auto., 2017 Fla. Cir. LEXIS 16714.

In the present case, the lower court allowed Appellee to prosecute its allegations and secure a default judgment without affording Mr. Torres the opportunity to secure counsel to represent 21st Century. Mr. Torres, who participated in the proceedings *pro se*, erroneously believing he was protecting his interests and 21st Century, was never compelled to retain counsel for 21st Century by a specified date. In fact, the lower court noted on several occasions that Mr. Torres could not represent 21st Century as he was not a licensed attorney but repeatedly failed to order Mr. Torres to retain

counsel by a specified deadline. Instead, the lower court proceeded to allow Appellee to secure a wrongfully entered default against 21st Century.

The failure of the trial court to enforce this fundamental requirement not only violated well-established legal principles but also prejudiced Mr. Torres, and subsequently, 21st Century's ability to adequately defend itself. Courts have a duty to ensure that corporations are represented by licensed attorneys, and when this requirement is not met, the court must take appropriate actions to enforce compliance, including striking unauthorized filings and setting deadlines for securing legal representation.

Given the trial court's failure to enforce the requirement that 21st Century be represented by a licensed attorney, this Court should reverse the lower court's judgment against Mr. Torres and 21st Century.

V. THE TRIAL COURT ABUSED ITS DISCRETION BY DENYING MR. TORRES' MOTION FOR RENT DETERMINATION AND THEREAFTER DENYING MR. TORRES' MOTION FOR REHEARING.

A. Standard of Review

The trial court's discretionary decisions are reviewed for an abuse of discretion. Mercer v. Raine, 443 So. 2d 944 (Fla. 1984); see, e.g., Barrett v. Escape of Arrowhead Ass'n, Inc., 194 So. 3d 504 (Fla. 4th DCA 2016). The test for abuse of discretion is one of reasonableness—that is, “[i]f reasonable

men could differ as to the propriety of the action taken by the trial court, then the action is not unreasonable and there can be no finding of an abuse of discretion.” Canakaris v. Canakaris, 382 So. 2d 1197, 1203 (Fla. 1980). Abuse of discretion has been found when the decision is “arbitrary, fanciful or unreasonable.” Delno v. Market St. Ry. Co., 124 F.2d 965, 967 (9th Cir. 1942). A denial of a motion for rehearing is reviewed under the abuse of discretion standard. See Gibson Trust, Inc. v. Office of the Atty. Gen., 883 So.2d 379 (Fla. 4th DCA 2004).

B. The trial court abused its discretion in denying Mr. Torres’ Motion for Rent Determination.

Mr. Torres, who appeared *pro se*, and is not an attorney nor authorized to represent 21st Century in a legal capacity was not compelled to retain an attorney nor afforded the opportunity to be properly represented in this matter. Florida law is clear that a corporation cannot be represented in court by anyone other than a licensed attorney. Daytona Migi Corp. v. Daytona Automotive Fiberglass, 417 So. 2d 272, 274 (Fla. 5th DCA 1982). Despite this, the trial court permitted Mr. Torres to file the motion, which is an error that falls outside the bounds of reasonableness. The trial court's decision to grant a motion filed by a nonlawyer on behalf of a corporation was both

arbitrary and unreasonable. As such, this Court should reverse the trial court's decision to grant the Motion for Rent Determination.

The trial court further abused its discretion by denying Mr. Torres' Motion for Rehearing. (R. 407). The court denied the motion on the grounds that Mr. Torres, not being an attorney, could not represent 21st Century in the legal proceedings. Id. However, in doing so, the trial court failed to acknowledge its earlier error in allowing Mr. Torres to file the Motion for Rent Determination. By denying the Motion for Rehearing, the trial court effectively compounded its initial mistake and unjustly penalized 21st Century for the procedural errors committed by both Mr. Torres and the court itself. The trial court's failure to correct its own error in permitting the initial motion to be filed constituted an abuse of discretion. For these reasons, this Court should reverse the trial court's decisions to grant Mr. Torres' Motion for Rent Determination and to deny Mr. Torres' Motion for Rehearing.

VI. THE TRIAL COURT ERRED IN DENYING APPELLANT'S MOTION TO STAY THE WRIT OF POSSESSION.

A. Standard of Review

A trial court's denial of a motion to stay a writ of possession is reviewed under an abuse of discretion standard. See generally Canakaris v. Canakaris, 382 So.2d 1197, 1203 (Fla.1980). The appellate court must

determine whether the trial court's decision was arbitrary, fanciful, or unreasonable. Id. If reasonable people could differ as to the propriety of the trial court's action, then there has not been an abuse of discretion. Id.

B. The trial court abused its discretion by denying the Motion to Stay the Writ of Possession.

The trial court erred in denying 21st Century's Motion to Stay the Writ of Possession. The writ was issued based on a default judgment, which itself was founded on a process that did not comply with due process requirements and which lacked subject matter jurisdiction. Mr. Torres raised substantial issues regarding the validity of service of process, and these issues had not been resolved at the time the writ was issued. Moreover, the trial court's denial of the motion to stay, despite the unresolved questions of law and the potential harm to 21st Century, was arbitrary and failed to consider the serious implications of proceeding with the eviction before these issues were addressed.

The failure to stay the writ of possession resulted in irreparable harm to the Appellants, as it lost possession of the property without having had a fair opportunity to challenge the underlying judgment. This constitutes an abuse of discretion and warrants reversal. This Court should reverse the trial court's denial of the Motion to Stay the Writ of Possession and remand the case for

further proceedings to address the unresolved issues concerning service of process and the validity of the underlying judgment.

CONCLUSION

The appellant requests this Court to reverse and remand for a new trial.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the foregoing document has been furnished on this 30th day of August 2024 to Appellate Counsel for Appellee and Trial Counsel for Appellee by electronic mail through the court’s e-filing portal pursuant to Florida Rule of General Practice and Judicial Administration 2.516(b)(1) at their addresses below:

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CERTIFICATE OF COMPLIANCE

WE HEREBY CERTIFY that the foregoing Initial Brief complies with Rule 9.045 and Rule 9.210, of the Florida Rules of Appellate Procedure and that it has been submitted in Arial 14-point font and does not exceed 13,000 words.

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