

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

MARCOS GUZMAN,
Appellant,

v.

ALEXANDER FREMONTSMITH,
Appellee.

No. 4D2024-0987

[December 17, 2025]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; Brett M. Waronicki, Judge; L.T. Case No. 562023CA000377AXXXHC.

Ian Bressler of Ian Bressler Law P.A., Lake Worth, and Andrew A. Harris and Grace Mackey Streicher of Harris Appeals, P.A., Palm Beach Gardens, for appellant.

Jack R. Reiter and Sydney Feldman D'Angelo of GrayRobinson, P.A., Miami, for appellee.

PER CURIAM.

Appellant timely appeals the dismissal of his complaint for failure to comply with Florida Rule of Civil Procedure 1.070(j). Because the limitations period had run before appellant had filed his complaint, the trial court dismissed the complaint with prejudice. On appeal, Appellant argues, among other things, that the trial court erred in its dismissal order by relying upon *Morales v. Sperry Rand Corp.*, 601 So. 2d 538 (Fla. 1992).

Appellant is correct. *Morales* involved an earlier version of rule 1.070(j), which differs materially from the amended version of rule 1.070(j) that was applicable in this case. Accordingly, we reverse the order of dismissal and remand the case to the trial court with instructions to analyze the motion to dismiss under rule 1.070(j)'s amended version. See *Foster v. Chung*, 738 So. 2d 350, 352 (Fla. 4th DCA 1999) (remanding "for a determination of whether [the trial court] would grant [the plaintiff] an extension to serve [the defendant] or dismiss the action in light of rule 1.070(j) as amended").

Reversed and remanded with instructions.

CIKLIN, LEVINE and SHAW, JJ., concur.

* * *

Not final until disposition of timely-filed motion for rehearing.