

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2008

LINGO CONSTRUCTION,
Appellant,

v.

PRITTS INCORPORATED,
Appellee.

No. 4D07-4633

[September 24, 2008]

PER CURIAM.

We reverse an order dismissing for failure to prosecute. On the fifty-ninth day after a notice of lack of prosecution was issued by the clerk, plaintiff filed a motion to set a date for arbitration. The parties had previously agreed to submit the case to binding arbitration. Because plaintiff filed the motion to set arbitration within the sixty day period provided by rule 1.420(e), the court should have denied the motion to dismiss. *Edwards v. City of St. Petersburg*, 961 So. 2d 1048 (Fla. 2d DCA 2007). Reversed.

KLEIN, HAZOURI and DAMOORGIAN, JJ., concur.

* * *

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; John T. Luzzo, Judge; L.T. Case No. 01-4001 CACE 18.

Gary B. Goldman, North Miami Beach, for appellant.

Allen S. Kaufman of Allen S. Kaufman, P.A., Plantation, for appellee.

Not final until disposition of timely filed motion for rehearing.