IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

SILAS PIERCE AND ESTATE
SALES STARS,

      Appellants,

v.   Case No. 5D15-2364

CHRISTOPHER KROHA,

      Appellee.

_____/

Opinion filed September 30, 2016

Non-Final Appeal from the
Circuit Court for Lake County,
Mark J. Hill, Judge.

Pamela R. Masters, Daytona Beach,
and Nicholas A. Shannin, of Shannin
Law Firm, P.A., Orlando, for Appellants.

Sherri K. Dewitt, Moses R. Dewitt and
Melissa L. Newmons, of Dewitt Law
Firm, P.A., Orlando, for Appellee.

PER CURIAM.

      The trial court entered a default judgment after Appellants (defendants below)[1]

filed a motion to dismiss and motion to clarify instead of an answer, as they had been

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      [1] We use the term "Appellants" in the plural because that is the way the appeal is styled, and the arguments are framed as if two distinct defendants were involved. In fact, it appears from the record that "Estate Sales Stars" is simply a fictitious name for

ordered to do. This was an abuse of discretion. *Osheroff v. Osheroff,* 694 So. 2d 855

(Fla. 3d DCA 1997). Although the better practice to challenge this error would have been

a direct appeal, there is authority that it may be challenged by a motion to vacate the

judgment. *Thaw, Gopman & Assocs., P.A. v. Jack J. Greenberg, M.D. & Assocs., P.A.,*

595 So. 2d 305 (Fla. 3d DCA 1992). Accordingly, we reverse and remand this cause for

further proceedings.

REVERSED and REMANDED.

SAWAYA, TORPY and COHEN, JJ., concur.

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defendant Pierce. Although the complaint and other pleadings refer to the so-called entity
as "a Florida Corporation," Appellee's process server's affidavit asserts to the contrary.
Indeed, if it is a corporation, it is not correctly named. A Florida corporation's name must
contain words such as "corporation," "incorporated," "company," or abbreviations for the
foregoing. § 607.0401(1), Fla. Stat. (2016). Although this issue is not raised in this appeal,
the sloppy pleadings should be corrected to reflect the correct status and names of the
parties.