

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

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

WILLIAM W. HOWELL, JR. AND  
HELPING TIMESHARE OWNERS,  
LLC D/B/A HELP4TSO,

Appellants,

v.

Case No. 5D19-2473

ORANGE LAKE COUNTRY CLUB, INC.,  
PINE TREE CONSULTANTS, LLC,  
1CREDITSHOP.COM, LLC, GOOT LLC  
D/B/A GOOTINC, DENNIS M. LAING,  
AND WILLIAM G. OWENS, JR.,

Appellees.

\_\_\_\_\_ /

Opinion filed October 2, 2020

Nonfinal Appeal from the Circuit  
Court for Orange County,  
Luis Fernando Calderon, Judge.

Moses R. Dewitt, of Dewitt Law Firm, P.A.,  
Orlando, for Appellants.

John H. Pelzer, of Greenspoon Marder,  
LLP, Ft. Lauderdale, for Appellee, Orange  
Lake Country Club, Inc.

No Appearance for other Appellees.

PER CURIAM.

William Howell and Helping Timeshare Owners, LLC (collectively, "Appellants"),  
appeal the trial court's order granting a temporary injunction in favor of Orange Lake

Country Club, Inc. (“OLCC”).<sup>1</sup> The underlying dispute involves Appellants, who purport to offer “timeshare relief.” Appellants seek out OLCC’s timeshare owners (“Owners”) and encourage them to cancel their timeshare contracts with the promise that in return for the payment of a fee, cancellation will come with no liability or adverse consequences. OLCC filed a three-count complaint against Appellants, and several other defendants, alleging tortious interference with advantageous business relationships and violation of Florida’s Deceptive and Unfair Trade Practices Act. In that suit, OLCC requested both permanent and temporary injunctive relief.

According to the complaint, once retained, defendants Pine Tree and Laing directed the Owners to stop making mortgage payments related to their timeshare interest with OLCC. Pine Tree and Laing then worked with Appellants, who prepared and sent letter correspondence to OLCC, which purported to come directly from the Owners. The letters accused OLCC of having made misrepresentations and material omissions during the sale of the Owners’ timeshare interest. The fabricated letters then demanded the cancellation and/or rescission of the Owners’ purchase contract with OLCC.

After numerous efforts to obtain discovery, following an evidentiary hearing, the trial court found that Appellants had “contumaciously and willfully disregarded” the court’s orders; as a result, it struck Appellants’ pleadings and entered a default against them. Following the entry of default, OLCC filed a verified motion for temporary injunction, which reiterated the factual allegations contained in its complaint. That motion was set for a

---

<sup>1</sup> Defendants, Pine Tree Consultants, LLC (“Pine Tree”); 1Creditshop.com, LLC; Goot, LLC; Dennis Laing; and William Owens are not parties to this appeal. Pine Tree and Laing stipulated to a permanent injunction. 1Creditshop.com, LLC; Goot, LLC; and Owens had partial default judgments entered against them on the Injunction request.

hearing, and the parties took competing views as to whether, under these circumstances, the court was required to hold an evidentiary hearing prior to entry of a temporary injunction. Relying upon the verified motion and without holding an evidentiary hearing, the trial court entered an order granting a temporary injunction.

Issuance of a temporary injunction requires the movant to plead and prove: (1) a likelihood of irreparable harm; (2) unavailability of an adequate legal remedy; (3) a substantial likelihood of success on the merits; and (4) considerations of the public interest support the entry of the injunction. Dispoto v. Marion Cty., 969 So. 2d 423, 425 (Fla. 5th DCA 2007). The primary issue in this appeal is whether the trial court was required to conduct an evidentiary hearing despite having struck the Appellants' pleadings. Neither side has presented any case law which addresses this issue.

Contrary to OLCC's contention, we hold that despite the striking of Appellant's pleadings, the trial court was required to conduct such an evidentiary hearing. Rittirucks v. Barrette, 254 So. 3d 1194 (Fla. 5th DCA 2018). Under the unique circumstances of this case, their pleadings having been struck based upon repeated and intentional obstruction of the discovery process, certain facts alleged are now deemed established; specifically, that Appellants intentionally and without justification interfered with OLCC's business relationships by soliciting its timeshare owners and encouraging them to cancel their contracts with OLCC. Appellants also have been deemed to admit to engaging in misleading and deceptive conduct by using false advertising to solicit the Owners and cause them to cancel their contractual relationship with OLCC.

While these facts are procedurally admitted, OLCC must still establish that it will be irreparably harmed if Appellants are not enjoined and that they have no adequate

remedy at law. A review of OLCC's verified motion for temporary injunction, filed subsequent to the striking of Appellants' pleadings, reflects only conclusory allegations on these issues. Additionally, we find the order entered failed to articulate the required factual findings. Rittirucksa, 254 So. 3d at 1194. The trial court's factual findings must do more than parrot the four-prong test.<sup>2</sup> Salazar v. Hometeam Pest Def., Inc., 230 So. 3d 619, 621 (Fla. 2d DCA 2017). We quash the order granting the temporary injunction, without prejudice, allowing OLCC Lake to file an amended motion.

REVERSED.

COHEN and EDWARDS, JJ. concur.  
SASSO, J., concurs in result only.

---

<sup>2</sup> The lower court also erred, as acknowledged by OLCC, in its failure to set a bond. Fla. R. Civ. P. 1.610(b).