

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

JOHN H. BRYANT, JR. AND
VICTORIA M. BRYANT,

Appellants,

v.

Case No. 5D19-3254

JOHN F. GEOGHAGAN AND USAA
CASUALTY INSURANCE COMPANY,

Appellees.

Opinion filed September 18, 2020

Appeal from the Circuit Court
for Volusia County,
Randell H. Rowe, III, Judge.

Eric J. Netcher, of Walker, Revels,
Greninger & Netcher, PLLC, Orlando, for
Appellants.

Rhonda B. Boggess, of Marks Gray, P.A.,
Jacksonville, for Appellee John F.
Geoghagan.

No Appearance for Appellee USAA
Casualty Insurance Company.

PER CURIAM.

John Bryant and Victoria Bryant appeal an order dismissing their claims against
John Geoghagan for failure to comply with Florida Rule of Civil Procedure 1.260(a)(1).

We conclude that dismissal was proper, but that the dismissal should have been without prejudice. *DeArmas v. Blonstein*, 356 So. 2d 1339 (Fla. 3d DCA 1978) (concluding that dismissal for failure to timely move to substitute parties pursuant to rule 1.260 should have been without prejudice); *see also Wilson v. Pyle*, 851 So. 2d 779, 780 (Fla. 2d DCA 2003).

AFFIRMED, in part; REVERSED, in part; and REMANDED.

EVANDER, C.J., LAMBERT and TRAVER, JJ., concur.