

FIFTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

Case No. 5D23-211
LT Case No. 21-CA-1705

FARAHNAZ GHANDI MCGLOTHIN,

Appellant,

v.

KYLE MCDONALD,

Appellee.

Nonfinal appeal from the Circuit Court for Duval County.
Virginia Norton, Judge.

Christian J. Lake, of Alexander Degance Barnett, P.A.,
Jacksonville, for Appellant.

Thomas S. Edwards, Jr., and Jennifer L. Reiber, of Edwards &
Ragatz, P.A., Jacksonville, for Appellee.

December 8, 2023

EDWARDS, C.J.

Appellant, Farahnaz Ghandi McGlothin, appeals the trial court's order granting Appellee, Kyle McDonald's, motion to amend his complaint to add a claim for punitive damages. We agree that Appellee's proffer was insufficient to support a claim that Appellant's placement of concrete blocks that restricted drainage through a common grate constituted intentional

misconduct or gross negligence. Appellee proffered nothing to suggest that Appellant had “actual knowledge” of the wrongfulness of her conduct or that there was a high probability that it would result in harm to Appellee. *See Werner Enters., Inc. v. Mendez*, 362 So. 3d 278, 282 (Fla. 5th DCA 2023). Furthermore, Appellee’s proposed amended complaint improperly set forth his claim for punitive damages as a stand-alone count. *See Keen v. Jennings*, 327 So. 3d 435, 438–39 (Fla. 5th DCA 2021) (citing *Soffer v. R.J. Reynolds Tobacco Co.*, 187 So. 3d 1219, 1221 (Fla. 2016) and *Varnedore v. Copeland*, 210 So. 3d 741, 745 (Fla. 5th DCA 2017)); *see also Frugoli v. Winn-Dixie Stores, Inc.*, 464 So. 2d 1292, 1293 (Fla. 1st DCA 1985). Accordingly, we reverse, quash the order permitting Appellee to amend his complaint to seek punitive damages, and remand for further proceedings in accordance with this opinion.

REVERSED; ORDER QUASHED and REMANDED for further proceedings.

BOATWRIGHT, J., concurs.

JAY, J., dissents, without opinion.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.
