

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

COLLINS ASSET GROUP, LLC,

Appellant,

v.

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

CASE NO. 1D16-5529

PROPERTY ASSET
MANAGEMENT, INC., AND
DELVERT CAMPFIELD,

Appellees.

Opinion filed

An appeal from the Circuit Court for Leon County.
Karen A. Gievers, Judge.

Alvaro Orozco, Pollack & Rosen, P.A., Coral Gables, for Appellant.

No appearance for Appellees.

PER CURIAM.

The trial court erred in failing to consider the factors articulated in *Kozel v. Ostendorf*, 629 So. 2d 817 (Fla. 1993), prior to dismissing Appellant's cause of

action as a sanction for its failure to abide by the court’s “Order Requiring Answer Regarding Deficiency and Setting Case Management Hearing.” *BAC Home Loans Servicing, L.P. v. Ellison*, 141 So. 3d 1290, 1291 (Fla. 1st DCA 2014) (Mem.) (citing *Ham v. Dunmire*, 891 So. 2d 492, 500 (Fla. 2004) (“[F]ailure to consider the *Kozel* factors in determining whether dismissal was appropriate is, by itself, a basis for remand for application of the correct standard.”)); *see also Fed. Nat’l Mortg. Ass’n v. Wild*, 164 So. 3d 94, 95 (Fla. 3d DCA 2015) (reversing order dismissing foreclosure complaint without prejudice due to non-compliance with an order setting trial because findings of fact were not entered as required by *Kozel*); *BAC Home Loan Servicing L.P. v. Parrish*, 146 So. 3d 526, 527 (Fla. 1st DCA 2014) (“Just as in [*BAC Home Loans Servicing, L.P. v. Ellison*], before dismissing Appellant’s case, the trial should have conducted an evidentiary hearing to determine [under *Kozel*] whether counsel’s failure to appear was a willful violation of the court’s order.”). For this reason, we must reverse and remand for the trial court to reconsider its order of dismissal after properly applying the *Kozel* factors.

REVERSED and REMANDED.

WOLF, WINOKUR, and JAY, JJ., CONCUR.