

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

JANUARY TERM 2005

STEVEN MCALLISTER,

Appellant,

v.

**BREAKERS SEVILLE ASSOCIATION,
INC.,**

Appellee.

CASE NO. 4D04-1032

Opinion filed January 26, 2005

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Leroy H. Moe, Judge; L.T. Case No. 98-12376 (13).

Robert Rivas, Spencer M. Sax and Ronna Friedman Young, of Sachs, Sax & Klein, Boca Raton, for appellant.

Mark S. Mucci of Benson, Mucci & Associates, LLP., Fort Lauderdale, for appellee.

FARMER, C.J.

Reversed. The entry of a final judgment was error because no notice of trial was properly given. A notice of hearing merely stating that an “evidentiary hearing” will be held is, without more, insufficient to give proper notice to a party that a full trial on the merits of all issues in the case will be held at the specified time. We also reject the argument that the record demonstrates with adequate clarity a waiver of the notice issue by acquiescence in the trial court’s insistence that counsel present her case.

SHAHOOD and TAYLOR, JJ., concur.

***NOT FINAL UNTIL DISPOSITION OF ANY
TIMELY FILED MOTION FOR REHEARING.***