

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2007

EDWARD HOWLAND,
Appellant,

v.

BARRY S. SCHRAGER,
Appellee.

No. 4D05-3644

[August 22, 2007]

PER CURIAM.

The trial court entered a default and default final judgment in this action brought by appellee, Barry S. Schrager, against appellant, Edward Howland, for fraudulent transfer of property by appellee's former wife to appellant. We find no abuse of discretion in the trial court's order denying appellant's motion to vacate the default judgment, given that appellant failed to demonstrate excusable neglect or inadvertence. However, we agree with appellant that he was not given proper notice before the trial court entered final judgment awarding damages based solely on appellee's affidavit. Because this action involves unliquidated damages, appellant was entitled to notice of an order setting the matter for trial and an opportunity to defend. *See Viets v. Am. Recruiters Enters., Inc.*, 922 So. 2d 1090, 1095 (Fla. 4th DCA 2006).

Accordingly, we reverse the damages portion of the order and final judgment and remand for trial, after notice, on the damages issue.

Affirmed in part, reversed in part, and remanded.

SHAHOOD, C.J., GROSS and TAYLOR, JJ., concur.

* * *

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Leroy H. Moe, Judge; L.T. Case No. 01-342 CACE 13.

Peter E.S. Wallis of Wallis & Wallis, Pompano Beach, for appellant.

Steven H. Meyer of Steven H. Meyer, P.A., Boca Raton, for appellee.

Not final until disposition of timely filed motion for rehearing.