

# Third District Court of Appeal

## State of Florida

Opinion filed October 14, 2020.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D19-1360  
Lower Tribunal No. 18-21364

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**Jane Doe,**  
Appellant,

vs.

**University of Miami, etc.,**  
Appellee.

An appeal from the Circuit Court for Miami-Dade County, Michael A. Hanzman, Judge.

Eversole & Associates, P.A., and John F. Eversole III; and Burlington & Rockenbach, P.A., and Philip M. Burlington, and Adam Richardson (West Palm Beach), for appellant.

Isicoff Ragatz, and Eric D. Isicoff, Teresa Ragatz, Christopher M. Yannuzzi, and Christopher A. Ajizian, for appellee.

Before EMAS, C.J., and LOGUE and MILLER, JJ.

PER CURIAM.

Appellant, Jane Doe, seeks review of a final decree of dismissal, rendered in favor of appellee, University of Miami. Obligated to treat the factual allegations set forth in the four-corners of the operative complaint as true, we conclude that Doe has pled a cause of action adequate to survive a motion to dismiss. Accordingly, and given the procedural posture, the dismissal of the action, premised upon the conclusion that the University lacked a duty, was premature. See Gross v. Sand & Sea Homeowners Ass'n, Inc., 756 So. 2d 1073, 1075 (Fla. 4th DCA 2000) (finding dismissal of the complaint was premature as plaintiff's allegation of a legal duty of care was sufficient to proceed past the motion to dismiss stage); see also McCain v. Fla. Power Corp., 593 So. 2d 500, 502 (Fla. 1992); Sewell v. Racetrac Petroleum, Inc., 245 So. 3d 822, 825 (Fla. 3d DCA 2017); Ramirez v. M.L. Mgmt. Co., Inc., 920 So. 2d 36, 38 (Fla. 4th DCA 2005); Gross v. Family Servs. Agency, Inc., 716 So. 2d 337, 339-40 (Fla. 4th DCA 1998).

Reversed and remanded.