

NOT FINAL UNTIL TIME EXPIRES  
TO FILE REHEARING MOTION  
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JULY TERM, A.D., 2001

TERRY ABRAMS BERGER, \*\*

Appellant, \*\*

vs. \*\*

CASE NO. 3D00-3337

GREGORY CONTINO; FIDELITY \*\*

INVESTMENTS; and BANK OF \*\*

AMERICA, N.A., f/k/a \*\*

NATIONSBANK, N.A., a \*\*

National Banking Association, \*\*

Appellee. \*\*

LOWER

TRIBUNAL NO. 00-5543

Opinion filed October 17, 2001.

An Appeal from the Circuit Court for Miami-Dade County, Jon I. Gordon, Judge.

Lewis R. Cohen, for appellant.

Liebler, Gonzalez & Portuondo, and Frank Cuneo, for Appellee, Bank of America, N.A.

Before SCHWARTZ, C.J., and LEVY, and GERSTEN, JJ.

PER CURIAM.

Appellant Terry Abrams Berger, as successor personal representative of the Estate of Charles Contino, appeals an adverse order granting appellee Bank of America's motion to dismiss for failure to state a cause of action. We find the complaint

sufficiently stated causes of action for negligence and statutory conversion, and thus it was error for the trial court to grant the motion to dismiss. See Kond v. Mudryk, 769 So. 2d 1073 (Fla. 4th DCA 2000); Miller v. Foster, 686 So. 2d 783 (Fla. 4th DCA 1997); Harris v. Lewis State Bank, 482 So. 2d 1378 (Fla. 1st DCA 1986). Accordingly, the order below is reversed.

Reversed.