

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM, A.D., 2003

RONEY PLAZA ASSOCIATES, LTD., **

Appellant, **

vs.

** CASE NO. 3D02-1677

ANTHONY HENRY and LYNETTE **

HENRY, **

Appellees. **

LOWER
TRIBUNAL NO. 01-21420

Opinion filed July 2, 2003.

An Appeal from the Circuit Court for Miami-Dade County,
Margarita Esquiroz, Judge.

Stearns Weaver Miller Weissler Alhadeff & Sitterson, and Alan
H. Fein, and Anastasia I. Kokotis, for appellant.

Robert C. Maland; Philip D. Parrish, for appellees.

Before LEVY, GERSTEN, and GREEN, JJ.

PER CURIAM.

Appellant, Roney Plaza Associates, Ltd. ("Roney"), appeals
from the denial of its motion to vacate judgment and default. The
record reflects that Roney demonstrated a meritorious defense to
the action, established excusable neglect for its failure to

respond to the complaint and notice of trial, and acted with due diligence in moving to set aside the default judgment. Thus it was error for the trial court to refuse to set aside the default, and we reverse the order denying Roney's motion to vacate judgment and default. See North Shore Hosp., Inc. v. Barber, 143 So. 2d 849 (Fla. 1962); Royal Caribbean Cruises, Ltd. v. Traveler, 699 So. 2d 847 (Fla. 3d DCA 1997); Electric Engineering Co., Inc. v. General Elec. Can., Inc., 610 So. 2d 51 (Fla. 3d DCA 1992).

Reversed.