

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., 2004

UNIVERSAL PRINTING CO.,	**	
Appellant,	**	
vs.	**	CASE NO. 3D04-209
U.S. FIRE INSURANCE CO.,	**	LOWER
Appellee.	**	TRIBUNAL NO. 01-12635

Opinion filed November 10, 2004.

An Appeal from the Circuit Court for Miami-Dade County,
Jerald Bagley, Judge.

Scott Alan Orth, for appellant.

Benson & Ross, for appellee.

Before GODERICH, SHEVIN and RAMIREZ, JJ.

PER CURIAM.

We reverse the trial court's denial of Universal Printing
Company's motion for permission to file a third amended
complaint as to counts I and II. Universal sought to assert

that its insurer, U.S. Fire Insurance Company, waived its settlement defense. There is no "pertinent consideration" to support the court's order denying Universal's motion to amend. See Carib Ocean Shipping, Inc. v. Armas, 854 So. 2d 234, 235-37 (Fla. 3d DCA 2003), and cases cited therein.¹ Therefore, the trial court abused its discretion in refusing to permit such amendment. Accordingly, we are compelled to vacate the summary judgments on those counts. In addition, because the court granted summary judgment on count III on the same basis as counts I and II – breach of the cooperation clause, we vacate the judgment on that count.

Reversed and remanded.

¹ We note that Universal may prevail if it successfully proves that U.S. Fire waived the settlement defense despite Universal's breach of the cooperation clause. See American Reliance Ins. Co. v. Perez, 712 So. 2d 1211 (Fla. 3d DCA 1998).