

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

PETER CAPAZZI,

Appellant,

vs.

SADITH MENDOZA GOLDBERG,
F/K/A/ SADITH MENDOZA,

Appellee.

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** CASE NO. 3D04-573

** LOWER
TRIBUNAL NO. 03-2048

**

Opinion filed November 10, 2004.

An Appeal from the Circuit Court for Miami-Dade County,
Sidney B. Shapiro, Judge.

Sheldon Zipkin, for appellant.

Robert D. Slewett, and Steven K. Schwartz, for appellee.

Before LEVY, GERSTEN, and FLETCHER, JJ.

PER CURIAM.

Because one or more issues of material fact exist, summary
judgment was improper. See Holl v. Talcott, 191 So. 2d 40 (Fla.

1966). In particular, paragraph 7 of the trial court's order and its use of equivocal language indicates issues of fact to be determined. Accordingly, we reverse the order granting summary judgment and remand for further proceedings. See Moore v. Morris, 475 So. 2d 66 (Fla. 1985).

Reversed and remanded.