

Third District Court of Appeal

State of Florida, July Term, A.D. 2013

Opinion filed September 11, 2013.
Not final until disposition of timely filed motion for rehearing.

No. 3D12-2217
Lower Tribunal No. 08-39816

Aurora Loan Services, LLC,
Appellant,

vs.

Marie Ramirez, et al.,
Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Jose M. Rodriguez, Judge.

Elizabeth R. Wellborn, PA and Audrey Dixon and Aaron Clemens, for appellant.

Frank L. Hollander; Scott J. Levine; Maurice Hinton, for appellees.

Before SHEPHERD, C.J., and SALTER, J., and SCHWARTZ, Senior Judge.

SCHWARTZ, Senior Judge.

The award of \$17,800 in attorney's fees as a sanction for a discovery violation in this mortgage foreclosure case is reversed because the order does not contain the findings mandated by *Kozel v. Ostendorf*, 629 So. 2d 817 (Fla. 1993), and the record does not support a conclusion that the discovery violation was a willful and deliberate one as required by law. See *Commonwealth Fed. Sav. & Loan Ass'n v. Tubero*, 569 So. 2d 1271 (Fla. 1990).¹ Accordingly, the order is reversed and remanded with directions to vacate the award of attorney's fees.

Reversed and remanded.

¹ In light of this ruling, we do not reach any other issue on appeal.