

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

MINERVA MARIE MENDEZ
Appellant,

APPELLATE DIVISION (CIVIL): AY
CASE NO: 2016AP900286
L.T. NO: 2016CC004622

v.

ELIZABETH ARAUJO d/b/a
CONSIGNED COUTURE, and
ALFREDO ARAUJO d/b/a
CONSIGNED COUTURE,
Appellees.

Opinion filed:  4 2017

Appeal from the County Court in and for Palm Beach County,
Judge Ted Booras

For Appellant: Minerva Marie Mendez, *pro se*
138 La Mancha Avenue
Royal Palm Beach, FL 33411

For Appellee: Elizabeth and Freddie Araujo, *pro se*
524 Northlake Boulevard, Suite A
North Palm Beach, FL 33408

PER CURIAM.

We affirm the trial court's dismissal of Mendez's complaint against Elizabeth and Alfredo Araujo in their individual capacities. Mendez sought relief from the Araujos for the actions of Consigned Couture, LLC, a company managed by the Araujos. When a party seeks

recovery for injuries caused by a company or corporation, it is improper to seek relief from the owners or managers of that company or corporation. *See, e.g., Seymour v. Panchita Inv., Inc.*, 28 So. 3d 194, 196 (Fla. 3d DCA 2010) (noting service on individual for actions of corporation was ineffective). Rather than filing a complaint against “Consigned Couture, LLC,” Mendez did so against the Araujos “DBA Consigned Couture.” By naming the defendants individually in this manner, Mendez sued the Araujos in their individual capacities and, contrary to Mendez’s apparent intent, did not sue Consigned Couture LLC in any capacity. *See Friedman v. Bielski*, No. 2014AP000076 (Fla. 15th Cir. Ct. June 8, 2016) (holding that a suit against an individual “doing business as” another name is a suit against the individual). Accordingly, the trial court properly dismissed Mendez’s complaint against the Araujos in their individual capacities.

We find, however, that the trial court erred by dismissing Mendez’s complaint with prejudice without allowing her an opportunity to properly plead a cause of action against Consigned Couture LLC as it appears Mendez intended to do. *See Horton v. Freeman*, 917 So. 2d 1064, 1066 (Fla. 4th DCA 2006) (“trial courts must generally afford a litigant an opportunity to cure a defect in the pleading before dismissing it with prejudice.”); *Gladstone v. Smith*, 729 So. 2d 1002, 1003 (Fla. 4th DCA 1999) (“[t]he opportunity to amend a complaint should be liberally given.”).

Accordingly, the dismissal is **AFFIRMED** as to the Araujos in their individual capacities, but **REVERSED** to the extent that the trial court must allow Mendez the opportunity to plead a cause of action against Consigned Couture LLC.

FRENCH, BARKDULL, and ROWE, JJ., concur.

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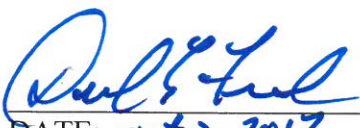
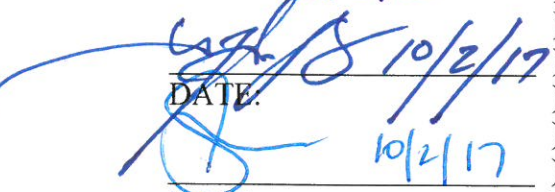

Appealed: November 28, 2016

DATE OF PANEL: SEPTEMBER 26, 2017

PANEL JUDGES: FRENCH, BARKDULL, ROWE

AFFIRMED/REVERSED/OTHER: REVERSED

PER CURIAM OPINION/DECISION BY: PER CURIAM

CONCURRING:)	DISSENTING:)	CONCURRING SPECIALLY:)
)	With/Without Opinion)	With/Without Opinion)
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DATE: <u>Oct 2, 2017</u>)))
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DATE: <u>10/2/17</u>)))
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