

IN THE CIRCUIT COURT FOR THE  
NINETEENTH JUDICIAL CIRCUIT IN AND  
FOR ST LUCIE COUNTY, FLORIDA.  
**APPELLATE DIVISION**

Circuit Case No. 16-AP-5  
Lower Tribunal No. 13-CC-2360

BANK OF AMERICA, N.A.,

Appellant,

v.

Not final until time expires for filing motion  
for rehearing, and if filed, disposed of.

ROBERT CARLIN,

Appellee.

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Decision filed February 21, 2017.

Appeal from the County Court for St. Lucie County; Nirlaine Smartt, Judge.

Dana Stern, Hayt, Hayt & Landau, P.L., Miami, for appellant.

Robert Rydzewki, Jr., Treasure Coast Legal, Stuart, for appellee.

PER CURIAM.

A dismissal with prejudice is improper without giving the plaintiff an opportunity to amend, unless the pleading cannot be amended to state a cause of action. *Golden v. Jones*, 194 So. 3d 1060, 1063 (Fla. 4th DCA 2016) (citing *Kairella v. John D. and Catherine T. MacArthur Found.*, 534 So. 2d 774, 775 (Fla. 4th DCA 1988)). Florida has a liberal policy of allowing amendment so that cases may be decided on the merits, unless amendment would prejudice or disadvantage the opposing party. *Caduceus Properties, LLC v. Graney*, 137 So. 3d 987, 991-992 (Fla. 2014). Therefore, the trial court is reversed and directed to allow the Bank leave to amend the second amended complaint to strictly comply with Fla. R. Jud. Admin. 2.515(c).

METZGER, MIRMAN, JJ., and ROBERTS, Acting Circuit Judge, concur.

Copies of above decision  
were furnished to the attorneys/parties  
of record on the same date  
the decision was filed.