# CAPTION: VINEBROOK HOMES, LLC V. PERKINS

**10-13-23**

APPEAL NOS.: C-220538

C-220539

TRIAL NO.: 21CV-13406

KEY WORDS: REAL PROPERTY/LANDLORD-TENANT – PROCEDURE/RULES

SUMMARY:

The trial court erred in dismissing with prejudice defendants-tenants’ counterclaims without notice under Civ.R. 41(B)(1) when defendants failed to appear for trial: Defendants were owed an opportunity to explain their absence before the court entered the final dismissal.

The trial court did not err in entering plaintiff’s voluntary dismissal of its damages claim because the dismissal did not prejudice defendants.

JUDGMENT: AFFIRMED IN PART, REVERSED IN PART, AND CAUSE REMANDED

JUDGES: OPINION by BERGERON, J.; ZAYAS, P.J., and KINSLEY, J., CONCUR.