# CAPTION: CAMP V. GERWIN

**01-12-24**

APPEAL NOS.: C-230066

C-230082

TRIAL NO.: A-2103908

KEY WORDS: CONTRACTS – SUMMARY JUDGMENT – FRAUD – BREACH – EVIDENCE

SUMMARY:

 The trial court did not err in failing to convert defendants’ fraud counterclaim into an affirmative defense where there is no evidence indicating that defendants mistakenly designated fraud as a counterclaim.

The trial court did not err in granting summary judgment where defendants did not clearly explain the nature of the breach that they allege excuses their performance.

 The trial court did not err by excluding evidence where there is no indication in the record that the trial court did not consider all evidence summited on summary judgment.

 The trial court did not err in failing to award damages for credit card debt where the amount owed was omitted from the summary judgment motion and was not included in overall computation of damages requested.

[*But see* DISSENT: The trial court’s order granting summary judgment was not a final, appealable order where an inextricably, intertwined issue remains outstanding and the interest of sound judicial administration is not served by permitting a piecemeal appeal.]

JUDGMENT: AFFIRMED

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