

ITEM 3.01 | REMEDIES FOR FRAUD ON THE COURT

A trial court has the inherent authority to dismiss an action as a sanction when a party has perpetuated a fraud on the court. However, this power should be exercised cautiously, sparingly, and only upon the most blatant showing of fraud, pretense, collusion, or other similar wrong doing.¹ Fraud on the court occurs where there is clear and convincing evidence "that a party has sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability impartially to adjudicate a matter by improperly influencing the trier or unfairly hampering the presentation of the opposing party's claim or defense."²

Although a finding of fraud on the court generally has been premised on a proven outright lie on a critical issue or the intentional destruction or alteration of determinative evidence, whatever scheme or fraud a court finds must be supported by clear and convincing evidence that goes to "the very core issue at trial."³

A trial court's decision on whether to dismiss a case for fraud on the court is reviewed under a somewhat narrowed abuse of discretion standard, to take into account that the dismissal must be established by clear and convincing evidence.⁴ For the trial court to properly exercise its discretion, there must be an evidentiary basis to dismiss the case. An evidentiary hearing is almost always necessary to provide clear and convincing evidence to support dismissal for fraud, even where neither party requests the hearing.⁵ In a recent case, the third district court of appeal remanded the case to the trial court for an evidentiary hearing where the trial court had dismissed the case with prejudice based on fraud on the court.⁶

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Footnotes

¹ *Granados v. Zehr*, 979 So. 2d 1155 (Fla. 5th DCA 2008).

² *Cox v. Burke*, 706 So. 2d 43, 46 (Fla. 5th DCA 1998).

³ *E. I. Dupont DeNemours & Co. v. Sidran*, 140 So. 3d 620, 623 (Fla. 3d DCA 2014).

⁴ *Gautreaux v. Maya*, 112 So. 3d 146, 149 (Fla. 5th DCA 2013).

⁵ *Gilbert v. Eckerd Corp. of FL, Inc.*, 34 So. 3d 773 (Fla. 4th DCA 2010).

⁶ *Diaz v. Home Depot USA, Inc.*, 137 So. 3d 1195 (Fla. 3d DCA 2014).

