

[NOT FOR PUBLICATION — NOT TO BE CITED AS PRECEDENT]

# United States Court of Appeals For the First Circuit

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Nos. 00-2075  
00-2259

JORGE MACIAS,  
  
Plaintiff, Appellee,  
  
v.

FURNITURE SERVICES, INC., ET AL.,  
  
Defendants, Appellants.

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APPEALS FROM THE UNITED STATES DISTRICT COURT  
  
FOR THE DISTRICT OF PUERTO RICO

[Hon. Jaime Pieras, Jr., Senior U.S. District Judge]

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Before  
  
Selya, Boudin, and Lynch,  
  
Circuit Judges.

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Jerrold J. Wohlgemuth, with whom Reppert, Kelly & Wohlgemuth, LLP was on brief, for appellants.

Julian R. Rivera-Aspinall, with whom Rivera-Aspinall, Garriga & Fernandini, P.S.C. was on brief, for appellee.

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April 25, 2001

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**Per Curiam.** These appeals stem from a dispute between defendant-appellant Furniture Services, Inc. (FSI) and plaintiff-appellee Joseph Macias, formerly FSI's exclusive sales representative in Puerto Rico. When FSI terminated the arrangement, Macias invoked diversity jurisdiction, 28 U.S.C. § 1332(a), and sued FSI (along with several related persons and firms) for damages in the federal district court.

The district court, acting with commendable dispatch, set trial for June 19, 2000. In the period from June 9 to June 15, the court attempted to broker a settlement. The judge believed that his efforts had borne fruit, and, accordingly, entered a judgment of dismissal. The scheduled trial did not transpire.

FSI promptly moved to vacate the judgment. Macias acquiesced and urged the court to restore the case to the trial calendar. The district judge nonetheless denied the motion to vacate.

We have carefully considered the record, the parties' briefs, and the attorneys' statements during oral argument. We are persuaded that the district court, in good faith, misunderstood the representations of FSI's counsel, and that the court therefore entered judgment based on a mistaken premise. A judgment resting on a clear mistake of fact, seasonably called to the trial court's attention, cannot be allowed to stand.

Accordingly, we vacate the judgment and remand the case for trial.

Vacated and remanded. No costs.