

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

ERIC FLITE,
Appellant,

v.

MEDI-TRANS, INC., a/k/a **MTI MEDI-TRANS, INC.,** a/k/a
MEDITRANS CORPORATION, a Florida corporation, and **UNITED
NATIONAL TRANSPORT NETWORK, INC.,** a Florida corporation,
Appellees.

No. 4D13-4572

[September 30, 2015]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit,
Broward County; Michael L. Gates, Judge; L.T. Case No. CACE 09-19908
(12).

Amy D. Shield of Amy D. Shield, P.A., Boca Raton, and Lavalley, Brown
& Ronan, P.A., Boca Raton, for appellant.

Shelley H. Leinicke of Wicker, Smith, O'Hara, McCoy & Ford, P.A., Fort
Lauderdale, for appellee.

PER CURIAM.

The circuit court granted a defense motion to dismiss, either because
the defendant was entitled to immunity under the workers' compensation
statute or because, in an earlier settlement, the plaintiff released the
defendant. Resolution of these issues required the court to make factual
determinations outside of the pleadings. Ordinarily, affirmative defenses
cannot be raised by a motion to dismiss, unless "the face of the complaint
is sufficient to demonstrate the existence of the defense." *Wallisville Corp.
v. McGuinness*, 154 So. 3d 501, 504 (Fla. 4th DCA 2015). *See also Stubbs
v. Plantation Gen. Hosp. Ltd. P'ship*, 988 So. 2d 683 (Fla. 4th DCA 2008).
We reverse and remand for the circuit court to consider the issues by way
of summary judgment or an evidentiary hearing.

GROSS, TAYLOR, JJ., and SHEPHERD, CAROLINE, Associate Judge, concur.

* * *

Not final until disposition of timely filed motion for rehearing.