

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

MYRIAM IVETTE COLON-PEREZ,

Appellant,

v.

Case No. 5D21-441
LT Case No. 2018-CA-000456

BEKKI LINDENBERGER,

Appellee.

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Opinion filed November 12, 2021

Nonfinal Appeal from the Circuit Court
for Lake County,
Dan R. Mosley, Judge.

Jeffrey S. Berman and Jeffrey E.
Bigman, of Smith Bigman Brock, P.A.,
Daytona Beach, for Appellant.

Andrew B. Greenlee, of Andrew B.
Greenlee, P.A., Sanford, and Michael
B. Scoma, of Scoma Law Firm,
Clermont, for Appellee.

SASSO, J.

The Estate of Myriam Ivette Colon-Perez (“the Estate”) seeks review of the trial court’s order denying its motion to dismiss for lack of subject matter jurisdiction and lack of personal jurisdiction.

We have jurisdiction of the Estate’s appeal to the extent it challenges the denial of the motion to dismiss based on lack of personal jurisdiction. See Fla. R. App. P. 9.130(a)(3)(C)(i). However, because the Estate has failed to demonstrate the trial court abused its discretion in permitting Bekki Lindenberger to amend the complaint and properly name the Estate as a party, we affirm. See *generally Friedel v. Edwards*, 46 Fla. L. Weekly D2125 (Fla. 2d DCA Sept. 29, 2021).

We do not address the Estate’s alternative argument that the trial court erred in denying the Estate’s motion to dismiss based on Lindenberger’s failure to comply with section 733.705(5), Florida Statutes (2020). This portion of the trial court’s order does not fall within one of the categories of nonfinal orders that may be appealed. See *generally* Fla. R. App. P. 9.130(a)(3). Similarly, the trial court’s determination is not one of subject matter jurisdiction and therefore cannot form the basis of extraordinary relief. Compare *Dohnal v. Syndicated Offs. Sys.*, 529 So. 2d 267, 269 (Fla. 1988) (observing that the time limitation within which a creditor must file an independent action is merely a rule of judicial procedure and not a statute of

nonclaim), *with Walker v. Garrison*, 610 So. 2d 716, 718 (Fla. 4th DCA 1992) (rather than a mere bar to the action, noncompliance with a jurisdictional statute of nonclaim deprives a court of subject matter jurisdiction). We therefore dismiss this portion of the appeal.

AFFIRMED IN PART; DISMISSED IN PART.

EISNAUGLE and TRAVER, JJ., concur.