

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

JANUARY TERM 2008

THEODORE CARTER,

Appellant,

v.

CASE NO. 5D07-1653

CONTINENTAL CASUALTY COMPANY,

Appellee.

Opinion filed April 4, 2008

Appeal from the Circuit Court
for Flagler County,
Raul A. Zambrano, Judge.

Andrew G. Natelson, Flagler Beach, for
Appellant.

DeWitte Thompson of Thompson, Slagle &
Hannan, LLC, Duluth, GA, for Appellee.

PER CURIAM.

Theodore Carter timely appeals from a final summary judgment entered against him and in favor of Continental Casualty Company, finding him liable to Continental under two indemnity agreements and a "funds receipt and disbursement agreement" that he allegedly signed to secure the performance of a construction company. At the time of the summary judgment hearing, Carter's deposition had been taken and filed with the court. In the deposition, Carter denied signing both indemnity agreements and claimed that although the signature on the funds receipt and disbursement agreement

appeared to be his, he did not sign it and had never before seen it. Because Carter's deposition testimony creates a genuine issue of material fact as to whether the signatures on the relevant documents were his or not, the trial court erred in entering summary judgment in Continental's favor. See Fla. R. Civ. P. 1.510(c); *Petruska v. Smartparks-Silver Springs, Inc.*, 914 So. 2d 502, 504 (Fla. 5th DCA 2005).

Therefore, we reverse the judgment against Carter, and remand for further proceedings in this matter.

REVERSED AND REMANDED.

ORFINGER, TORPY and LAWSON, JJ., concur.