

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D22-1018

DAVID MARK VAN DYKE,

Appellant,

v.

DOMINIQUE BRIANNE TILLMAN
and CENTRAL FLORIDA
CONTRACTORS SERVICE, LLC,

Appellees.

On appeal from the Circuit Court for Alachua County.
Peter K. Sieg, Judge.

September 28, 2022

OPINION ON MOTION TO DISMISS

PER CURIAM.

At issue is a motion to dismiss this appeal for lack of jurisdiction to review the trial court's amended order granting plaintiff Dominique Brianne Tillman leave to add claims for punitive damages against defendants Central Florida Contractors Service, LLC, and David Mark Van Dyke. In granting a motion to clarify an error in its original order, the trial court corrected its initial "oversight" by issuing the amended order that made clear for the first time that Van Dyke was potentially subject to the additional claim for punitive damages, granting him twenty days to respond to the amended complaint. The original order included

Central Florida Contractors Service, as the *only* defendant subject to the punitive damages order. The addition of Van Dyke was a material change that was sufficient to restart the clock for purposes of appeal; it is not the type of minor or superficial change that has no impact on the final judgment. *See Churchville v. Ocean Grove R.V. Sales, Inc.*, 876 So. 2d 649, 651 (Fla. 1st DCA 2004) (noting that an “amendment or modification of an order or judgment in an immaterial, insubstantial way does not restart the clock to file an appeal”). While the original unamended judgment clearly included defendant Central Florida Contractors Service, who was given twenty days to respond to the amended complaint, Van Dyke was left guessing because he was not included or named. The trial court’s amended order granting Van Dyke’s good faith request to clarify his standing restarted the clock for jurisdictional purposes such that Tillman’s motion to dismiss this appeal is denied.

MAKAR, JAY, and NORDBY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Todd L. Wallen of Wallen Kelley, Coral Gables, for Appellant.

Chad A. Barr of Chad Barr Law, Altamonte Springs; Nick G. Zissimopoulos, John J. Kelly, and Paul Bruce Brockway of Glassman & Zissimopoulos, PLLC, Gainesville; Courtney King and Tiffany Ward of McDonald Toole Wiggins, P.A., Orlando; and F. Bryant Blevins and Joshua A. Golembe of Butler Weihmuller Katz Craig LLP, Tampa, for Appellees.