

Third District Court of Appeal

State of Florida

Opinion filed March 28, 2018.
Not final until disposition of timely filed motion for rehearing.

No. 3D16-2460
Lower Tribunal No. 12-17199

Originwave Tech Soft Private Limited,
Appellant,

vs.

Mobile Insight, LLC,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, William Thomas, Judge.

Law Office of Sean C. Burnotes, P.A., and Sean C. Burnotes (St. Petersburg), for appellant.

Law Offices of Charlton Stoner, P.A., and Charlton Stoner, for appellee.

Before EMAS, FERNANDEZ and LUCK, JJ.

PER CURIAM.

Upon our review, and consistent with the acknowledgment of the parties that compulsory counterclaims remain pending below, we dismiss this appeal from the trial court’s summary judgment order in favor of plaintiff on its declaratory judgment claim. See Londono v. Turkey Creek, Inc., 609 So. 2d 14, 19-20 (Fla. 1992);¹ Ryder Truck Lines, Inc. v. Pough, 392 So. 2d 590, 591 (Fla. 3d DCA 1981) (recognizing that “[i]t has been uniformly held that, because of the interrelationship between an original claim and a compulsory counterclaim, no appeal could be taken from either until the final disposition of both the claim and the counterclaim.”)

Appeal dismissed.

¹ In Londono, the Florida Supreme Court adopted the “logical relationship test” to be applied in determining whether a counterclaim is compulsory—that is, whether a counterclaim “arises out of the transaction or occurrence that is the subject matter of the opposing party’s claim.” See Fla. R. Civ. P. 1.170(a). The Londono Court held:

[A] claim has a logical relationship to the original claim if it *arises* out of the same aggregate of operative facts as the original claim in two senses: (1) that the same aggregate of operative facts serves as the basis of both claims; or (2) that the aggregate core of facts upon which the original claim rests activates additional legal rights in a party defendant that would otherwise remain dormant.

Id. at 20 (quoting Neil v. S. Fla. Auto Painters, Inc., 397 So. 2d 1160, 1164 (Fla. 3d DCA 1981)) (additional citations omitted).