

Third District Court of Appeal

State of Florida

Opinion filed August 28, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D19-1056
Lower Tribunal No. 16-3232

Victor Lopez,
Petitioner,

vs.

Southern Audio Visual, Inc. and Paul Lowenthal,
Respondents.

On Petition for Writ of Certiorari from the Circuit Court for Miami-Dade County, Antonio Arzola, Judge.

Holland & Knight LLP, and Jesus E. Cuza, Eric L. Ray, Rebecca J. Canamero and Monica Vila Castro, for petitioner.

Berger Singerman LLP, and Leonard K. Samuels and Caitlin M. Trowbridge (Fort Lauderdale), for respondents.

Before **SALTER, MILLER** and **GORDO, JJ.**

SALTER, J.

Victor Lopez petitions for a writ of certiorari and quashal of a circuit court order bifurcating the trial of certain counts of his fifth amended complaint against Southern Audio Visual, Inc. (“SAV”) and Paul Lowenthal. Lopez’s claims against SAV and Lowenthal are based on allegations that (1) Lopez is owed compensation under an employment agreement with SAV, as well as a 20% equity interest in SAV under an alleged oral agreement with Lowenthal and SAV, and (2) about seven months after terminating Lopez’s employment, SAV and Lowenthal fraudulently transferred all of SAV’s business operations, assets, and liabilities to a non-party for over \$37,000,000.00 (which, Lopez alleges, was a fraudulent transfer).

Florida Rule of Civil Procedure 1.270(b) provides a trial court with broad discretion “to order separate trials for any claim, crossclaim, counterclaim, or third-party claim.” Solari v. Zublin Chile Ingenieria y Construcciones, 987 So. 2d 161, 163 (Fla. 3d DCA 2008). We have granted certiorari, however, to remedy “orders severing or bifurcating claims which involve interrelated factual issues because severance risks inconsistent outcomes.” Kavouras v. Mario City Rest. Corp., 88 So. 3d 213, 214 (Fla. 3d DCA 2011).

In this case, the trial court carefully considered the memoranda and argument presented by the parties, concluding ultimately that bifurcation of the fraudulent transfer claim would avoid potential confusion on the part of the jury at trial, prejudice to the defendants, a possible waste of judicial resources, and unnecessary

delay. A failure to prevail on the employment claim and unwritten “20% equity” claim would preclude the further prosecution of the fraudulent transfer claim, and the transferees were not named as defendants in the fifth amended complaint.

The petitioner contends that these findings and the bifurcation order are both (1) a material injury that cannot be corrected on appeal (an irreparable harm), and (2) a departure from the essential requirements of law under Friedman v. Heart Institute of Port St. Lucie, Inc., 863 So. 2d 189 (Fla. 2003). We disagree on both points.

As to irreparable harm, the bifurcation order and record in this case do not involve claims that are inextricably intertwined, or the prospect of inconsistent verdicts. And inasmuch as this first-prong requirement of irreparable harm is a prerequisite to our certiorari jurisdiction, our conclusion on this point requires dismissal. See Damsky v. Univ. of Miami, 152 So. 3d 789, 792 (Fla. 3d DCA 2014). We thus decline to proceed further into an analysis of the “essential requirements of law” relating to the bifurcation order.

Petition dismissed.