

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM, A.D. 2003

MARATHON RESORT AND MARINA, **
LTD., a Florida limited **
partnership, by and through **
its general partner, MARATHON **
RESORT AND MARINA, INC., a **
Florida corporation, **
Appellants, **

vs.

DITOCO CONSTRUCTION, INC., **
f/k/a DITOCO CONSTRUCTION, **
INC., and DECKTIGHT ROOFING **
SERVICES, INC. **
Appellees. **

CASE NO. 3D02-2096

LOWER
TRIBUNAL NO. 00-197

Opinion filed August 13, 2003.

An Appeal from a non-final order from the Circuit Court for
Monroe County, Mark Jones, Judge.

Graner Root & Heimovics and Thomas U. Graner and Joseph
Heimovics, for appellants.

Oscar E. Soto, and Burger & Traylor, P.A., Andrew T. Traylor,
for appellees.

Before GERSTEN and SHEVIN, JJ., and NESBITT, Senior Judge.

SHEVIN, Judge.

We reverse the order requiring appellants to deposit funds

in the court registry prior to entry of a final judgment. That order is, "in effect, an order granting an injunction and is thus reviewable under Florida Rule of Appellate 9.130(a)(3)(B)." CMR Distrib., Inc. v. Resolution Trust Corp., 593 So. 2d 593, 594 (Fla. 3d DCA 1992). Appellees have failed to show the unavailability of an adequate remedy at law and the likelihood of irreparable harm. Those two elements are essential to entry of an injunction. Proctor v. Eason, 651 So. 2d 1301 (Fla. 2d DCA 1995).

Reversed.