

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JANUARY TERM, A.D. 2004

FISHER ISLAND HOLDINGS, L.L.C.\*\*

Appellant,

\*\* CASE NO. 3D03-3334

vs.

\*\* LOWER  
TRIBUNAL NO. 02-23067

DR. IRWIN POTASH, in his \*\*  
capacity as one of a majority \*\*  
of Equity Member Directors of \*\*  
Fisher Island Club, Inc., and \*\*  
on behalf of the Equity \*\*  
Members of Fisher Island Club,  
Inc., and FISHER ISLAND CLUB, \*\*  
INC., a Florida not-for-profit \*\*  
corporation,

Appellees.

\*\*

Opinion filed February 4, 2004.

An Appeal from a nonfinal order of the Circuit Court for Miami-Dade County, Ronald M. Friedman, Judge.

Greenberg Traurig, P.A., and Alan T. Dimond, Elliot H. Scherker, and Elliot B. Kula; Phillips, Eisinger & Brown, for appellant.

Aragon, Burlington, Weil, Schwiep, Kaplan & Blonsky, P.A., and Robert K. Burlington, Daniel F. Blonsky, and Alejandro F. Hoyos, for appellees.

Before SCHWARTZ, C.J., and COPE, J., and BARKDULL, THOMAS H., JR., Senior Judge.

PER CURIAM.

We reverse an order of the trial court staying and abating an arbitration instituted by Fisher Island Holdings, L.L.C. ("Holdings"), a non-party to the litigation pending between the appellees. No jurisdiction over Holdings was obtained by judicial process, and Holdings did not voluntarily appear in the pending litigation by seeking any affirmative relief. Therefore, it was inappropriate to enter the order under review. See ATM Ltd. v. Caporicci Footwear Ltd., Corp., 28 Fla. L. Weekly D2834 (Fla. 3d DCA December 10, 2004); Norville v. Bellsouth Advertising & Pub. Corp., 664 So. 2d 16 (Fla. 3d DCA 1995); Moretto v. Staub, 370 So. 2d 1220 (Fla. 3d DCA 1979).

This matter is returned to the trial court, which may consider appropriate proceedings to formally bring Holdings within the pending litigation as an interested party.

Reversed and remanded with directions.