

Third District Court of Appeal

State of Florida, July Term, A.D., 2013

Opinion filed November 27, 2013.
Not final until disposition of timely filed motion for rehearing.

No. 3D12-1787
Lower Tribunal No. 12-13713

Ammy M. Kogan,
Appellant,

vs.

Michael Mildenberger,
Appellee.

An appeal from a non-final order from the Circuit Court for Miami-Dade County, Victoria Platzer, Judge.

Ammy M. Kogan, in proper person.

Bressler, Amery & Ross, P.C., and Alex J. Sabo, Jonathan C. Schwartz and Leonel Peraza, Jr. (Fort Lauderdale), for appellee.

Before WELLS, LAGOA and FERNANDEZ, JJ.

ON MOTION TO DISMISS

PER CURIAM

Appellee, Michael Mildenberger (“Mildenberger”) moves to dismiss the appeal filed by Appellant, Ammy Kogan (“Kogan”). Mildenberger contends that

the order on appeal is a non-final, non-appealable order and that this Court lacks jurisdiction to entertain this appeal. We agree.

On June 15, 2012, Mildenerger filed a Motion for Entry of Default Judgment against Kogan pursuant to Rule 1.500(b), Florida Rule of Civil Procedure. On June 27, 2012, the trial court entered an order granting Mildenerger's Motion for Entry of Default Judgment against Kogan as to liability only, and Kogan appeals from this order.

Florida Rule of Appellate Procedure 9.130(a)(3) authorizes interlocutory review of a limited number of non-final orders. Rule 9.130 "is designed to reduce the number of appealable pretrial orders and to discourage piecemeal review. Given this objective, the courts have narrowly construed the scope of the rule so that it applies only to the orders it identifies as appealable orders." Cotton States Mut. Ins. v. D'Alto, 879 So. 2d 67, 69 (Fla. 1st DCA 2004) (citations omitted). Appeals of non-final orders determining the issue of liability in favor of a party seeking affirmative relief were previously appealable under Florida Rule of Appellate Procedure 9.130(a)(3)(C)(iv). See Doctor's Hosp. of Hollywood, Inc. v. Madison, 411 So. 2d 190, 191 (Fla. 1982). "However, that provision of Rule 9.130 was deleted, effective January 1, 2001, so orders determining the issue of liability now 'are not appealable until the conclusion of the case.'" Fascetti v. Fascetti, 795 So. 2d 1094, 1095 (Fla. 4th DCA 2001) (quoting Fla. R. App. P. 9.130 (Committee

Notes, 2000 Amendment)). No remaining section of Rule 9.130 allows for an immediate appeal of the instant order.

Here, Kogan appeals the trial court's entry of a Default Judgment on the issue of liability. The order at issue, however, does not bring an end to the litigation below. Because this type of order was expressly removed from the list of appealable non-final orders included in Rule 9.130, we grant the motion and dismiss this appeal for lack of jurisdiction. See Westwood One, Inc. v. Flight Express, Inc., 940 So. 2d 1241 (Fla. 5th DCA 2006) (dismissing appeal of trial court's non-final order granting motion for default for lack of jurisdiction).

APPEAL DISMISSED.