

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, FLORIDA**

MANASOTA FLOORING, INC.,

Plaintiff,

Case No.: 2018-CA-001252-NC

v.

MORGAN WALLACE and
ARLIE WALLACE,

Defendants.

MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION

Defendant, Arlie Wallace, pursuant to Rule 1.140 of the Florida Rules of Civil Procedures, moves this Court for an Order dismissing the Complaint filed by Plaintiff, Manasota Flooring, Inc., for lack of subject matter jurisdiction, and in support thereof states:

Dismissal for Lack of Subject Matter Jurisdiction

1. On or about March 9, 2018, Plaintiff filed a Complaint against Morgan Wallace and Arlie Wallace, service of which was affected as to Arlie Wallace on or about March 15, 2018.

2. Plaintiff's Complaint was filed in the Circuit Court in and for the Twelfth Judicial Circuit in and for Sarasota County.

3. However, in Plaintiff's Complaint, Plaintiff makes no allegation seeking to implicate or otherwise confer jurisdiction upon the Circuit Court.

4. Rather, Plaintiff merely alleges that its action "is an action for foreclosure of a construction lien." See Plaintiff's Complaint at ¶1.

5. Plaintiff goes on to allege that “Defendants, Morgan Wallace and Arlie Wallace have failed to pay Plaintiff for its work and there is a principal balance presently due of eleven thousand three hundred forty-one dollars and fifty cents (\$11,341.50).” Id. at ¶5.

6. Exhibit A to the Plaintiff’s Complaint purports to be a Contractor’s Final Payment Affidavit, executed pursuant to s.713.06, Fla. Stat., ostensibly for the “purposes of obtaining final payment from the Owner in the amount of Eleven thousand, three hundred and forty-one dollars and fifty cents (\$11,341.50). See Exhibit A to Plaintiff’s Complaint at ¶3.

7. Exhibit B to the Plaintiff’s Complaint purports to be the Claim of Lien referenced in the Complaint, wherein Plaintiff further alleges “there remains unpaid [to Plaintiff] \$11,341.50....” See Exhibit B to Plaintiff’s Complaint.

8. Based on the foregoing, it is clear the sum for which Plaintiff seeks to recover from Defendants in this action is \$11,341.50, which is well less than the minimum threshold needed to confer jurisdiction upon the Circuit Court.

9. Pursuant to Florida Statutes § 26.012, the circuit court “shall have exclusive original jurisdiction ... in all actions at law not cognizable by the county courts.” The county court, in turn, has original jurisdiction “of all actions at law in which the matter in controversy does not exceed the sum of \$15,000, exclusive of interest, costs and attorney’s fees...” pursuant to Florida Statutes § 34.01.

10. Florida Statutes § 34.01(4) further provides that “[j]udges of county courts may hear all matters in equity involved in any case within the jurisdictional amount of the county court, except as otherwise restricted by the State Constitution or the laws of Florida.”

11. Florida law is clear that for the purposes of determining an amount in controversy for jurisdiction purposes, a sum claimed by a plaintiff is accepted as true if the sum claimed is

made in good faith and not for the illusory purpose of conferring jurisdiction on a particular court. Crown Bank v. U.S. Mortg. Network Corp. 705 So. 2d 100 (Fla. 5th DCA 1998).

12. As detailed above, Plaintiff alleges damages in paragraph 5 of its Complaint. A review of the Complaint and exhibits thereto shows that the damages available to Plaintiff fail to even reach \$12,000, let alone the jurisdictional threshold of this Court.

13. Thusly, irrespective of Defendants' anticipated substantive defenses to the Complaint, it is patently apparent on the face of Plaintiff's Complaint (inclusive of the referenced exhibits thereto), that Plaintiff lacks the requisite damages necessary to avail itself of the jurisdiction of the Circuit Court.

14. Because the allegations of Plaintiff's Complaint only support damages in the amount of \$11,341.50, this Court must dismiss the Complaint for lack of subject matter jurisdiction pursuant to Florida Statutes §§ 26.012 and 34.01.

15. Defendant, Arlie Morgan, specifically reserves the right to assert any and all other defenses available to her in the defense of Plaintiff's claims.

WHEREFORE, Defendant, Arlie Wallace, moves this Court for an Order dismissing Plaintiff, Manasota Flooring, Inc.'s Complaint for lack of subject matter jurisdiction, pursuant to Florida Statute §§ 26.012 and 34.01, and for all other relief to which Defendant is entitled at law or in equity.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of April 2018, a true and correct copy of the foregoing was filed via the E- Portal which will electronically serve a copy to Michael A. France,

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