

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, STATE OF FLORIDA
CIVIL DIVISION A

MAREK W. PIEKOS,
Appellant,

v.

APPEAL: 2014 AP 7099 NC
LT NO: 2014 CC 4015 NC

STEPHEN A. WITZER,
Appellee.

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OPINION

THIS CAUSE is an appeal from county court and came before the Court for oral argument on October 13, 2015. Counsel represented the parties. The parties were represented by counsel.

HISTORY

Appellee, Stephen Witzer (“Witzer”) filed a one count complaint for eviction in county court and claimed that Appellant, Marek Piekos (“Piekos”) violated the terms of the settlement agreement by failing to timely pay approximately \$52,000. The relief sought by Witzer was an eviction of Piekos and attorney’s fees and costs.


The settlement agreement was filed but the parties did not seek an order from the trial court approving or ratifying the agreement. Witzer filed a counter-claim seeking damages of \$300,000. The trial court deemed Piekos violated the terms of the agreement and dismissed the counter-claim that sought damages in excess of \$15,000. The trial court also reserved jurisdiction for damages that were not sought in the complaint.

RULING AND RATIONALE

After carefully considering argument by counsel, reviewing the relevant pleadings and legal authority, the Court finds that county court lacked subject matter jurisdiction to dismiss the counter-claim. Jurisdiction is conferred upon a court by constitution or statute and cannot be created by waiver, acquiescence or agreement by the parties. *See, Polk County v. Sofka*, 702 So. 2d 1243 (Fla. 1997). In this case, the settlement agreement of the parties does not confer jurisdiction upon the county court. Furthermore, county court does not have jurisdiction where the amount in controversy exceeds \$15,000. *See, Good to Go Food Store, Inc. v. LRM Realty, LLP*, 93 So. 3d 362 (Fla. 2d DCA 2012). Moreover, assuming jurisdiction was proper in county court, the decision to enter a default was not supported by competent substantial evidence and the relief granted by the trial court was not plead in the complaint. Therefore, it is,

ORDERED AND ADJUDGED that the decision by the county court is reversed and the case is remanded to county court with instructions to transfer the case to circuit court.

DONE AND ORDERED this 26 day of October, 2015 in Sarasota, Florida.



Rochelle T. Curley
Circuit Judge

Cc: James Essenson, Attorney for Appellant
Andrew Rosen, Attorney for Appellee