

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

SUZANNE FOUCHE,

Appellant,

v.

Case No. 5D16-848

PILOT CATASTROPHE SERVICES, INC.,

Appellee.

_____ /

Opinion filed April 21, 2017

Appeal from the Circuit Court
for Seminole County,
Melanie Chase, Judge.

Suzanne Fouche, Orlando, pro se.

Marc A. Sugerman, of Allen, Norton &
Blue, P.A., Winter Park, for Appellee.

PALMER, J.

Suzanne Fouche appeals the order entered by the trial court enforcing this court's mandate which directed the court to send this matter to arbitration.¹ We reverse the trial court's order dismissing, rather than staying, Fourche's lawsuit pending arbitration. We otherwise affirm.

¹ Pilot Catastrophe Servs., Inc. v. Fouche, 145 So. 3d 151 (Fla. 5th DCA 2014).

In the previous appeal, we reversed the trial court's order denying the motion to compel arbitration filed by appellee, Pilot Catastrophe Services, Inc. We remanded the matter to the trial court with instructions to submit the case to arbitration. On remand, Fouche filed a motion for entry of an order on remand. After a hearing, the trial court entered an order submitting the case to arbitration and dismissing Fouche's lawsuit without prejudice. Fouche contends that the trial court erred in dismissing, rather than staying, her lawsuit. We agree.

Pursuant to section 682.03 of the Florida Statutes, the imposition of a stay, not an order of dismissal, is the appropriate disposition when a matter is sent to arbitration. The statute reads, in pertinent part, as follows:

682.03. Proceedings to compel and to stay arbitration

. . . .

(7) If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration.

§ 682.03(7), Fla. Stat. (2015). Our court recently recognized the appropriate disposition under facts similar to the instant case. In Timber Pines Plaza, LLC v. Zabrzyski, No. 5D16- 3275 (Fla. 5th DCA March 10, 2017), we reversed the trial court's order denying a motion to compel arbitration and remanded with instructions to send the matter to arbitration and to stay the litigation, citing to section 682.03(7).

Accordingly, the trial court's order is reversed in part and this matter is remanded with instructions to vacate the dismissal language and to impose a stay of the instant lawsuit. In all other respects, the order is affirmed.

AFFIRMED in part; REVERSED in part; REMANDED.

SAWAYA and EVANDER, JJ., concur.