

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D19-2315

ARCH INSURANCE COMPANY,

Appellant,

v.

LENDER PROCESSING SERVICES,
INC.,

Appellee.

On appeal from the Circuit Court for Duval County.
Tyrie W. Boyer, Judge.

August 29, 2019

PER CURIAM.

We grant Appellee's motion to dismiss, and dismiss this appeal. The order on appeal, rendered May 23, 2019, merely repeats the lower tribunal's ruling in 2016 that there was no valid settlement agreement between these parties. The 2016 order was nonfinal and not appealable. However, a new provision of the nonfinal appeal rule became effective January 1, 2019, authorizing appeals of nonfinal orders that determine "that, as a matter of law, a settlement agreement is unenforceable, is set aside, or never existed." Fla. R. App. P. 9.130(a)(3)(C)(xii). *See In re Amendments to Florida Rules of Appellate Procedure-2017 Regular-Cycle Report*, 256 So. 3d 1218 (Fla. 2018).

Starting late in 2018, Appellant attempted to revisit the 2016 ruling by filing new motions raising the same issues on the same facts, culminating in a 2019 order on motion for partial summary judgment and then a “partial summary judgement [sic]” that references the court’s earlier rulings and the reasons for them. The 2019 order appealed was a republication of the trial court’s 2016 ruling, and did not open a window for an interlocutory appeal under the new appellate rule. *See Henderson v. Tandem Health Care of Jacksonville, Inc.*, 898 So. 2d 1191, 1192 (Fla. 1st DCA 2005) (holding rendition of new order requiring rescheduling and active participation in arbitration was not appealable as order determining entitlement to arbitration, which had been determined in earlier order that was not appealed); *Churchville v. Ocean Grove R.V. Sales, Inc.*, 876 So. 2d 649, 651 (Fla. 1st DCA 2004) (holding rendition of new order materially the same as prior order that was not appealed did not open new appeal window); *see also, e.g., Shannon v. Cheney Bros. Inc.*, 157 So. 3d 397, 399 (Fla. 1st DCA 2015) (noting that non-appealable nonfinal orders may be reviewed on plenary appeal as explained in Fla. R. App. P. 9.110(h) and Fla. R. App. P. 9.130[h]).

Accordingly, this appeal is DISMISSED. All pending motions are denied as moot.

LEWIS, ROWE, and KELSEY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Jeptha F. Barbour and Edward L. Birk of Marks Gray, P.A., Jacksonville; Peter D. Webster of Carlton Fields, P.A., Tallahassee, for Appellant.

James D. Gassenheimer and Paul A. Avron of Berger Singerman LLP, Miami, for Appellee.