

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

SHARON RAE WILLIAMSON,
formerly known as SHARON R.
STUDLEY, Individually and as
Trustee of Gainesville Country
Village Land Trust,

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

CASE NO. 1D09-365

Petitioner,

v.

BRADFORD C. BANTA, as Trustee
of the Bradford C. Banta Revocable
Trust dated February 5, 1990; in his
own right and in the right of
Gainesville Country Village, L. C., a
Florida Limited Liability Company,

Respondent.

_____ /

Opinion filed November 30, 2009.

Petition for Writ of Certiorari. Original Jurisdiction.

N. Albert Bacharach, Jr., of N. Albert Bacharach, Jr., P.A., Gainesville, for Petitioner.

Gregory G. Olsen of Olsen & Olsen, LLP, Ft. Lauderdale, for Respondent.

PER CURIAM.

In this petition for writ of certiorari, Petitioner argues the trial court's partial summary judgment for monetary damages should be quashed on two grounds. In particular, Petitioner asserts the trial court departed from the essential requirements of

law, causing material injury, not remediable on appeal by (1) entering a summary judgment concerning the parties' settlement agreement where a material issue of fact existed as to the correct interpretation of that agreement; and (2) including the language "upon which let execution issue" in the partial summary judgment. We decline to address Petitioner's first issue because the correct interpretation of the parties' settlement agreement may be addressed on appellate review after all matters have been adjudicated. Respondent concedes, and we agree, however, that the trial court's inclusion of the execution language departed from the essential requirements of the law and caused a material injury that cannot be remedied on appellate review. See Millennium Group I, L.L.C. v. Attorney's Title Ins. Fund, Inc., 847 So. 2d 1115, 1116-17 (Fla. 1st DCA 2003) (holding trial court erred as matter of law by letting execution issue on defendant's counterclaim when original claim remained pending); Baumann v. Intracoastal Pac. Ltd. P'ship, 619 So. 2d 403, 404 (Fla. 3d DCA 1993) (holding partial summary judgment order directing disbursement of funds before disposition of all matters was improper). Accordingly, we GRANT Petitioner's petition, in part, and QUASH the portion of the trial court's partial summary judgment which allows execution to issue on the judgment.

KAHN, BENTON, and CLARK, JJ., concur.