

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

JANUARY TERM 2011

K.E.L. TITLE INSURANCE AGENCY, INC.,

Appellant,

v.

Case No. 5D09-3081

CIT TECHNOLOGY FINANCING
SERVICES, INC.,

Appellee.

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Opinion filed April 8, 2011

Appeal from the Circuit Court
for Seminole County,
Clayton D. Simmons, Judge.

Mark A. Skipper, Orlando, for Appellant.

Diane N. Wells of Devine Goodman Rasco
& Wells, Miami, for Appellee.

COHEN, J.

Appellant, K.E.L. Title Insurance Agency, Inc., challenges the entry of summary judgment in favor of Appellee, CIT Technology Financing Services, Inc. While two issues were raised on appeal, only one merits discussion: whether Appellant's affidavit raised a genuine issue of material fact, precluding summary judgment.

Appellant entered into two lease agreements with Appellee for the purchase of digital imaging equipment. After Appellant defaulted on payment, Appellee filed suit and later moved for summary judgment. In support of its affirmative defense that Appellee

materially breached the contract by failing to comply with its service agreement, Appellant filed a sworn affidavit asserting the existence of a service agreement with a third party that was an agent of Appellee. This affidavit is contradicted by the explicit terms of the lease agreements which stated Appellant was responsible for any service or maintenance and the supplier was not Appellee's agent. Despite Appellant's sworn affidavit, the trial court granted Appellee summary judgment after determining no genuine issues of material fact existed.

Notwithstanding Appellant's argument to the contrary, the trial court did not err in granting summary judgment because Appellant's affidavit was merely conclusory in nature and insufficient to raise a genuine issue of material fact. See Landers v. Milton, 370 So. 2d 368, 370 (Fla. 1979) (holding conclusory affidavits inadequate to create issue of fact); Valderrama v. Portfolio Recovery Assocs., LLC, 972 So. 2d 239, 239 (Fla. 3d DCA 2007).

Accordingly, the final summary judgment is affirmed.

AFFIRMED.

GRIFFIN and TORPY, JJ., concur.