

Third District Court of Appeal

State of Florida, January Term, A.D. 2008

Opinion filed June 18, 2008.

Not final until disposition of timely filed motion for rehearing.

No. 3D07-2722

Lower Tribunal No. 05-7080

Comcast Spotlight, Inc.,
Appellant,

vs.

Eventys Marketing and Products, Inc.,
Appellee.

A non-final appeal from the Circuit Court for Miami-Dade County, Daryl E. Trawick, Judge.

White & Case and Jaime A. Bianchi and Sarah E. Davis, for appellant.

Gonzalo R. Dorta, for appellee.

Before GERSTEN, C.J., and RAMIREZ, J., and SCHWARTZ, Senior Judge.

SCHWARTZ, Senior Judge.

Because the parties' mutual course of conduct pursuant to an agreement which contained an arbitration clause clearly evinced their assent to the entire agreement, it does not matter, contrary to the holding below, that the appellee, which was suing for its breach, did not formally execute it. See *BDO Seidman, LLP v. Bee*, 970 So. 2d 869 (Fla. 4th DCA 2007); *Consol. Res. Healthcare Fund I, Ltd. v. Fenelus*, 853 So. 2d 500 (Fla. 4th DCA 2003); *Integrated Health Servs. of Green Briar, Inc. v. Lopez-Silvero*, 827 So. 2d 338 (Fla. 3d DCA 2002); *Sosa v. Shearform Mfg.*, 784 So. 2d 609 (Fla. 5th DCA 2001). Since this principle validates that portion of the agreement which provides for arbitration, see *United Healthcare of Fla., Inc. v. Brown*, ___ So. 2d ___ (Fla. 4th DCA Case no. 4D07-4539, opinion filed, June 4, 2008); *BDO Seidman*, 970 So 2d at 869; *Consol. Res. Healthcare Fund I, Ltd.*, 853 So. 2d at 500; *Integrated Health Servs. of Green Briar, Inc.*, 827 So. 2d at 339, the order under review denying it is reversed with directions to submit the matter to arbitration.

Reversed and remanded.