

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF  
FLORIDA

Jared Schnackenberg v. Toll Brothers Mortgage Company

Schnackenberg · No. 3:24-cv-324-MMH-PDB · Decided January 26, 2026

SUMMARY

The United States District Court for the Middle District of Florida granted Toll Brothers Mortgage Company’s renewed motion for summary judgment in Jared Schnackenberg’s remaining claim under the Florida Deceptive and Unfair Trade Practices Act. The court held that Schnackenberg’s forfeited property deposits and claimed substitute housing and storage costs were not recoverable actual damages under FDUTPA, and that he failed to present evidence of actual damages. The court directed the Clerk to enter judgment for the defendant and close the case.

CASE DETAILS

|                    |                                                                                                                                                                                                                                                                                                                                                                      |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT              | United States District Court for the Middle District of Florida                                                                                                                                                                                                                                                                                                      |
| JURISDICTION       | United States District Court for the Middle District of Florida                                                                                                                                                                                                                                                                                                      |
| DECIDED            | January 26, 2026                                                                                                                                                                                                                                                                                                                                                     |
| DOCKET             | 3:24-cv-324-MMH-PDB                                                                                                                                                                                                                                                                                                                                                  |
| DISPOSITION        | other                                                                                                                                                                                                                                                                                                                                                                |
| PROCEDURAL POSTURE | Defendant moved for renewed summary judgment on the plaintiff's remaining Florida Deceptive and Unfair Trade Practices Act claim, arguing that the alleged damages were not recoverable actual damages. The court granted the motion and directed entry of judgment for defendant.                                                                                   |
| STANDARD OF REVIEW | Summary judgment is proper when the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court viewed disputed facts and reasonable inferences in the light most favorable to the nonmovant, but held that a mere scintilla of evidence is insufficient to create a genuine dispute. |
| PRECEDENTIAL VALUE | unpublished district court decision; persuasive only                                                                                                                                                                                                                                                                                                                 |
| PARTIES            | Jared Schnackenberg v. Toll Brothers Mortgage Company                                                                                                                                                                                                                                                                                                                |

TOPICS

summary judgment

deceptive trade practices

consumer protection

damages

civil procedure

## PRACTICE AREAS

consumer protection

civil procedure

contracts

remedies

real estate

## QUESTIONS PRESENTED

1. Whether Schnackenberg presented evidence of actual damages recoverable under FDUTPA.
2. Whether the \$67,344 in deposits retained by the seller constituted the purchase price of a valueless mortgage-loan commitment or instead constituted consequential damages.
3. Whether substitute housing and storage expenses were recoverable under FDUTPA, where the plaintiff did not address that category of damages in his summary-judgment response.

## HOLDINGS

1. Actual damages are a required element of a FDUTPA claim, and a plaintiff must proffer evidence of actual damages to survive summary judgment.
2. The deposits retained by the seller were not actual damages measured under FDUTPA; they were consequential damages arising from the separate property-purchase transaction and were not recoverable under FDUTPA.
3. Schnackenberg did not establish that the loan commitment was valueless because TBMC remained willing to provide financing under the terms of the commitment, which Schnackenberg declined to accept.
4. Schnackenberg abandoned any claim for substitute housing and storage expenses by failing to address those damages in his response to the renewed summary-judgment motion.

## KEY QUOTATIONS

*“To state a claim under FDUTPA, a plaintiff must allege “(1) a deceptive act or unfair practice; (2) causation; and (3) actual damages.””* (Discussion section)

*“Under FDUTPA, the measure of actual damages is “the difference in the market value of the product or service in the condition in which it was delivered and its market value in the condition in which it should have been delivered according to the contract of the parties.””* (Discussion section)

*“No matter which FDUTPA formula is used, Schnackenberg’s lost Deposits are more appropriately categorized as consequential damages.”* (Discussion section)

*“Overall, Schnackenberg fails to show that he suffered actual damages. Actual damages are a necessary element of a FDUTPA claim; therefore, the Motion is due to be granted.”* (Conclusion)

## FACTUAL BACKGROUND

Schnackenberg contracted to purchase a new home from Toll FL XIII Limited Partnership and separately obtained a conditional mortgage-loan commitment from its affiliate, Toll Brothers Mortgage Company, for a

\$647,200 loan. He later paid the seller \$67,344 in deposits and received loan estimates and a closing disclosure reflecting a larger proposed loan, but the lender ultimately remained willing to provide only the loan specified in the original commitment. Schnackenberg declined that financing and did not obtain alternate financing, failed to close on the property, and the seller retained the deposits. He also claimed substitute housing and storage costs.

## PROCEDURAL HISTORY

Schnackenberg filed suit in Florida state court on February 15, 2024, and Toll Brothers Mortgage Company removed the action to the Middle District of Florida on March 29, 2024. After the parties filed initial summary-judgment motions, Judge William G. Young, sitting by designation, entered summary judgment for defendant on all but the FDUTPA claim. The court then permitted defendant to file a renewed summary-judgment motion limited to whether the alleged damages were recoverable under FDUTPA. The court granted that motion, ordered judgment for defendant, terminated remaining motions and deadlines as moot, and closed the case.

## DISPOSITION

other

## CASES CITED

- Lee v. Ferraro, 284 F.3d 1188, 1190 (11th Cir. 2002)
- Kesinger ex rel. Estate of Kesinger v. Herrington, 381 F.3d 1243, 1247 (11th Cir. 2004)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 252 (1986)
- Mize v. Jefferson City Board of Education, 93 F.3d 739, 742 (11th Cir. 1996)
- Hairston v. Gainesville Sun Publishing Co., 9 F.3d 913, 919 (11th Cir. 1993)
- Clark v. Coats & Clark, Inc., 929 F.2d 604, 608 (11th Cir. 1991)
- Gonzalez v. Lee County Housing Authority, 161 F.3d 1290, 1294 (11th Cir. 1998)
- Celotex Corp. v. Catrett, 477 U.S. 317, 323, 325 (1986)
- Jeffery v. Sarasota White Sox, Inc., 64 F.3d 590, 593–94 (11th Cir. 1995)
- Haves v. City of Miami, 52 F.3d 918, 921 (11th Cir. 1995)
- Dibrell Bros. International, S.A. v. Banca Nazionale Del Lavoro, 38 F.3d 1571, 1578 (11th Cir. 1994)
- Jean-Louis v. Clear Springs Farming, LLC, No. 8:13-CV-3084-T-30AEP, 2016 WL 6838497, at \*3 (M.D. Fla. Nov. 21, 2016)
- Gold Cross EMS, Inc. v. Children's Hospital of Alabama, 309 F.R.D. 699, 700 (S.D. Ga. 2015)
- Stone v. First Union Corp., 371 F.3d 1305, 1310 (11th Cir. 2004)
- Campbell v. Shinseki, 546 F. App'x 874, 879 n.3 (11th Cir. 2013)
- Marrache v. Bacardi U.S.A., Inc., 17 F.4th 1084, 1097–98 (11th Cir. 2021)
- Carriuolo v. General Motors Co., 823 F.3d 977, 985–86 (11th Cir. 2016)
- HRCC, Ltd. v. Hard Rock Cafe International (USA), Inc., 302 F. Supp. 3d 1319, 1323 (M.D. Fla. 2016), aff'd, 703 F. App'x 814 (11th Cir. 2017)
- Macias v. HBC of Florida, Inc., 694 So. 2d 88, 90 (Fla. 3d DCA 1997)

- A&E Adventures LLC v. InterCard, Inc., 529 F. Supp. 3d 1333, 1345 (S.D. Fla. 2021)
- Tri-County Plumbing Services, Inc. v. Brown, 921 So. 2d 20, 22 (Fla. 3d DCA 2006)
- H & J Paving of Florida, Inc. v. Nextel, Inc., 849 So. 2d 1099, 1101 (Fla. 3d DCA 2003)
- City First Mortgage Corp. v. Barton, 988 So. 2d 82, 86 (Fla. 4th DCA 2008)
- Orkin Exterminating Co. v. Petsch, 872 So. 2d 259, 263 (Fla. 2d DCA 2004)
- Case v. Eslinger, 555 F.3d 1317, 1329 (11th Cir. 2009)
- Johnson v. Board of Regents of the University of Georgia, 263 F.3d 1234, 1264 (11th Cir. 2001)
- Resolution Trust Corp. v. Dunmar Corp., 43 F.3d 587, 599 (11th Cir. 1995)
- Keystone Airpark Authority v. Pipeline Contractors, Inc., 266 So. 3d 1219, 1222–23 (Fla. 1st DCA 2019)
- Morgan v. Enterprise Leasing Co. of Fla., LLC, No. 9:21-CV-80549, 2021 WL 4709787, at \*5 (S.D. Fla. Oct. 8, 2021)
- Orkin Exterminating Co., Inc. v. DelGuidice, 790 So. 2d 1158, 1162 (Fla. 5th DCA 2001)
- Anden v. Litinsky, 472 So. 2d 825, 826–27 (Fla. 4th DCA 1985)
- KC Leisure, Inc. v. Haber, 972 So. 2d 1069, 1074 (Fla. 5th DCA 2008)
- Dania Jai-Alai Palace, Inc. v. Sykes, 450 So. 2d 1114, 1120–21 (Fla. 1984)
- Roberts' Fish Farm v. Spencer, 153 So. 2d 718, 721 (Fla. 1963)