

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Citizens Property Insurance Corporation v. Meghan Anderson

241 So. 3d 221 (Fla. 2d DCA 2018) · No. 2D16-616 · Decided February 14, 2018

SUMMARY

The Florida Second District Court of Appeal reversed an attorneys' fee award to Meghan Anderson that included a 1.7 contingent fee multiplier. The court held that the trial court's order lacked a specific finding on whether the relevant market required a multiplier under Florida fee-award precedent, and that the absence of a hearing transcript did not preclude reversal because the error was apparent on the face of the order. The case was remanded for further proceedings.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Morris, J.; Black, J.; Khouzam, J.
JURISDICTION	Florida
DECIDED	February 14, 2018
DOCKET	2D16-616
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Citizens appealed a final judgment awarding Anderson attorneys' fees and costs, including a 1.7 contingency fee multiplier, after Anderson prevailed on a breach of contract claim involving a denied sinkhole insurance claim.
STANDARD OF REVIEW	An order applying a contingency fee multiplier is reviewed for abuse of discretion. The multiplier must be supported by competent, substantial evidence, and reversal is required when the trial court fails to make specific findings supporting the multiplier.
PRECEDENTIAL VALUE	Published Florida District Court of Appeal opinion; precedential within the applicable Florida appellate hierarchy subject to later treatment.
PARTIES	Citizens Property Insurance Corporation v. Meghan Anderson

TOPICS

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breach of contract

remedies

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court erred by applying a 1.7 contingency fee multiplier without making a specific finding that the relevant market required the multiplier.
2. Whether the absence of a transcript or adequate substitute statement of the fee hearing precluded appellate reversal of the fee award.

HOLDINGS

1. A trial court awarding a contingency fee multiplier must make specific findings addressing the applicable enhancement factors, including whether the relevant market required a multiplier to obtain competent counsel. A conclusory statement that the case was appropriate for a multiplier is insufficient.
2. The absence of a transcript does not preclude reversal when the fee order is fundamentally erroneous on its face because it lacks findings required by *Rowe* and *Quanstrom*.

KEY QUOTATIONS

“Reversal is also required if a trial court fails to include specific findings supporting the application of a multiplier.” (at 226)

“If there is no evidence that the relevant market required a contingency fee multiplier to obtain competent counsel, then a multiplier should not be awarded.” (at 228)

“And under the unusual circumstances here, we simply cannot affirm due to lack of a transcript or a more thorough statement of the evidence.” (at 229)

“The order under review is fundamentally erroneous on its face because it fails to contain a specific finding regarding whether the relevant market required the application of the contingent fee multiplier.” (at 231)

FACTUAL BACKGROUND

Anderson alleged that cracking damage to her home resulted from a sinkhole. Citizens denied the sinkhole claim, and Anderson prevailed at trial, receiving an \$84,000 jury award. In the subsequent fee proceeding, the trial court awarded \$290,145 in base fees and applied a 1.7 contingency fee multiplier, but the court's written judgment did not specifically find that the relevant market required a multiplier.

PROCEDURAL HISTORY

Citizens denied Anderson's claim for sinkhole-related damage, and Anderson sued for breach of contract. A jury returned a verdict for Anderson and awarded \$84,000. The trial court later awarded \$493,246.50 in attorneys' fees, including a 1.7 contingency fee multiplier. Citizens appealed the fee judgment; the evidentiary fee hearing was not transcribed, and the parties could not agree on a substitute statement of the evidence.

DISPOSITION

REMAND INSTRUCTIONS

Remand for further proceedings regarding the attorneys' fee award consistent with the opinion, including specific findings supporting any contingency fee multiplier.

CASES CITED

- Standard Guaranty Insurance Co. v. Quanstrom, 555 So. 2d 828 (Fla. 1990)
- Florida Patient's Compensation Fund v. Rowe, 472 So. 2d 1145 (Fla. 1985)
- USAA Casualty Insurance Co. v. Prime Care Chiropractic Centers, P.A., 93 So. 3d 345 (Fla. 2d DCA 2012)
- Speer v. Mason, 769 So. 2d 1102 (Fla. 4th DCA 2000)
- Department of Agriculture & Consumer Services v. Schick, 553 So. 2d 361 (Fla. 1st DCA 1989)
- Wolfe v. Nazaire, 758 So. 2d 730 (Fla. 4th DCA 2000)
- Guardianship of Halpert v. Martin S. Rosenbloom, P.A., 698 So. 2d 938 (Fla. 4th DCA 1997)
- Giltex Corp. v. Diehl, 583 So. 2d 734 (Fla. 1st DCA 1991)
- Bell v. U.S.B. Acquisition Co., Inc., 734 So. 2d 403 (Fla. 1999)
- Esaw v. Esaw, 965 So. 2d 1261 (Fla. 2d DCA 2007)
- Massie v. Progressive Express Insurance Co., 25 So. 3d 584 (Fla. 1st DCA 2009)
- Nunes v. Nunes, 112 So. 3d 696 (Fla. 4th DCA 2013)
- Eckhardt v. 424 Hintze Management, LLC, 969 So. 2d 1219 (Fla. 1st DCA 2007)
- Joyce v. Federated National Insurance Co., 228 So. 3d 1122 (Fla. 2017)
- DiStefano Construction, Inc. v. Fidelity & Deposit Co. of Maryland, 597 So. 2d 248 (Fla. 1992)
- Applegate v. Barnett Bank of Tallahassee, 377 So. 2d 1150 (Fla. 1979)
- O'Connor v. O'Connor, 184 So. 3d 1149 (Fla. 2d DCA 2015)
- Mobley v. Mobley, 18 So. 3d 724 (Fla. 2d DCA 2009)
- Perez v. Perez, 100 So. 3d 769 (Fla. 2d DCA 2012)
- Ortiz v. Ortiz, 227 So. 3d 730 (Fla. 3d DCA 2017)
- Gunsby v. State, 574 So. 2d 1085 (Fla. 1991)