

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 07-12992

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT December 10, 2008 THOMAS K. KAHN CLERK
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D. C. Docket No. 02-80527 CV-KLR

SEB S.A.,

Plaintiff,

versus

SUNBEAM CORPORATION,

Defendant-Third Party-
Plaintiff-Cross-Claimant-
Appellee,

SUNBEAM PRODUCTS, INC.,

Defendant-Third-Party-
Plaintiff-Cross-Claimant-
Appellee,

WING SHING INTERNATIONAL, LTD.,
(BVI),

Defendant-Third Party-
Defendant-Counter-Claimant,

PENTALPHA ENTERPRISES, LTD.,

Defendant-Third-Party-
Defendant-Counter-Claimant-
Appellant,

GLOBAL-TECH APPLIANCE, INC.,

Third Party-Defendant-
Counter-Claimant.

Appeal from the United States District Court
for the Southern District of Florida

(December 10, 2008)

Before DUBINA, BLACK and FAY, Circuit Judges.

PER CURIAM:

Appellant, Pentalpha Enterprises, Ltd., appeals the district court's third amended judgment entered on June 4, 2007, following this court's mandate issued on March 16, 2007. The third amended judgment awarded appellee, Sunbeam Products, Inc., additional prejudgment interest on its judgment against Pentalpha in an underlying indemnification and breach of contract action.

After reviewing the record, reading the parties' briefs, and having the benefit of oral argument, we conclude that the district court erred as a matter of law in granting Sunbeam additional prejudgment interest on its claim against

Pentalpha because the mandate did not authorize the district court to grant that relief. Clearly, the mandate only directly applied to Pentalpha and not to Sunbeam. Moreover, because there was no intervening change in the controlling law that would justify the district court's deviation from the mandate, *see Wheeler v. City of Pleasant Grove*, 746 F.2d 1437, 1441 (11th Cir. 1984) (noting exceptions to mandate and law of the case doctrine), we must once again remand this case to the district court with instructions to vacate its most recent award of prejudgment interest to Sunbeam for lack of jurisdiction.

REMANDED with directions.