

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

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

JOHN A. OLIVER and
SEAN P. SHEPPARD,

Appellants,

v.

Case No. 5D12-3215

MARY ANNE OLIVER,
BRANDON BEARDSLEY,
and DANIEL MOWREY,

Appellees.

_____ /

Opinion filed February 14, 2014.

Appeal from the Circuit Court,
for St. Johns County,
Clyde E. Wolf, Judge.

Sean P. Sheppard of Sheppard Firm, P.A.,
Fort Lauderdale, for Appellants.

Jessie L. Harrell of Creed & Gowdy, P.A.,
Jacksonville, for Appellees.

WALLIS, J.

John A. Oliver and his attorney, Sean P. Sheppard, ("Appellants") appeal the lower court's order granting attorney's fees pursuant to Florida Rule of Civil Procedure 1.380(a)(4) jointly and severally against Appellants after Brandon Beardsley and Daniel Mowrey ("Appellees") prevailed on a motion for protective order¹ that prevented

¹ Fla. R. Civ. P. 1.280(c).

Appellants from deposing Appellees. During the attorney's fees hearing, Appellants admitted Appellees' entitlement to fees, choosing to contest only whether the fees were reasonable. On appeal, Appellants are, contrary to their position before the trial court, attempting to contest Appellees' entitlement to attorney's fees. We, therefore, find that Appellants' challenge to Appellees' entitlement to attorney's fees was waived in the trial court.² Additionally, Appellants maintain their position that independent expert testimony was required regarding the reasonableness of the fees. See Sea World of Florida, Inc. v. Ace Am. Ins. Companies, Inc., 28 So. 3d 158, 160 (Fla. 5th DCA 2010) (citing Crittenden Orange Blossom Fruit v. Stone, 514 So. 2d 351, 352-53 (Fla. 1987)). Because Appellees concede this point, we reverse and remand for the lower court to hear expert testimony. All remaining issues are without merit.

AFFIRMED in part, REVERSED in part, and REMANDED for further proceedings consistent with this opinion.

TORPY, C.J., and GRIFFIN, J., concur.

² An argument not raised at trial is waived for purposes of appellate review. Dep't of Rev. v. Yambert, 883 So. 2d 881, 884 n.3 (Fla. 5th DCA 2004) (citing Kozich v. Hartford Ins. Co. of Midwest, 609 So. 2d 147 (Fla. 4th DCA 1992)).