

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*January Term 2008*

**CURRENT BUILDERS OF FLORIDA, INC.,**  
Appellant,

v.

**FIRST SEALORD SURETY, INC.,**  
Appellee.

Nos. 4D06-4076 and 4D07-132

[June 4, 2008]

***ON MOTION FOR REHEARING***

WARNER, J.

In moving for rehearing, Current Builders suggests that our ruling on First Sealord's motion for attorney's fees is contrary to *Franzen v. Lacuna Golf Limited Partnership*, 717 So. 2d 1090 (Fla. 4th DCA 1998), which was followed in *Froman v. Kirland*, 746 So. 2d 1120 (Fla. 4th DCA 1999). We disagree. Although in *Franzen* we reversed for reapportionment of fees, the attorney expert in that case did not attempt to distinguish between fees incurred regarding successful claims as opposed to the unsuccessful claims. Here, on the contrary, both attorneys, their experts, and the court concluded that the successful claims were inextricably intertwined with the unsuccessful claims. Thus, this factual difference between *Franzen* and this case dictates the different result. We do, however, grant rehearing to the extent that the amount of the fees should be limited to \$125,000, the amount requested in First Sealord's brief.

FARMER and GROSS, JJ., concur.

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Appeals and cross-appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Miette K. Burnstein, Judge; L.T. Case Nos. 04-12162 CACE21 and 04-17843 CACE02.

Vincent F. Vaccarella and Jordan M. Keusch of Vincent F. Vaccarella,

P.A., Aventura, for appellant.

John J. Shahady and Thomas R. Shahady of Adorno & Yoss LLP, Fort Lauderdale, for appellee.