

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

PALMETTO BLUFF
PROPERTIES, LLC, a Florida
limited liability company,
EDGAR C. MARSHALL, IV, an
individual, and LANIER J.
EDWARDS, an individual,

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

CASE NO. 1D12-3503

Appellants,

v.

TRUSTMARK NATIONAL
BANK, GULF REFLECTIONS
OWNERS' ASSOCIATION,
INC., a Florida not for profit
Corporation, FLORIDA
COMMUNITY SERVICES
CORP. OF WALTON COUNTY,
INC., a Florida not for profit
Corporation, ANGUS G.
ANDREWS, JR., TERRY
PILCHER, and JOHN GILLIS,

Appellees.

Opinion filed October 25, 2013.

An appeal from the Circuit Court for Walton County.
Marci L. Goodman, Judge.

Robert O. Beasley of Litvak Beasley & Wilson, LLP, Pensacola, for Appellants.

Michael P. Dickey and Jeffrey S. Carter of Barron & Redding, P.A., Panama City,
for Trustmark National Bank and John Gillis; Harry Matthew Fuqua, Marianna, for

Angus G. Andrews, Jr., and Terry Pilcher; William H. Green, Defuniak Springs, for Florida Community Services Corp. of Walton County, Inc., a Florida not for profit Corporation.

PER CURIAM.

AFFIRMED.

LEWIS, C.J. and WOLF, J., CONCUR; MAKAR, J., DISSENTING.

Makar, J., dissenting.

Fraud is generally not a proper subject of a summary judgment because “it requires an explanation of the facts and circumstances of the alleged wrongdoing to determine if they collectively constitute a fraud and for that reason such determination is seldom one that can be made in a legally sufficient manner without a trial.” Baker v. United Servs. Auto. Ass’n, 661 So. 2d 128, 132 (Fla. 1st DCA 1995). That said, summary judgment on a fraud claim is proper where no doubt exists that any interpretation of the evidence, considered in the light most favorable to the non-moving party, shows no issue for trial. Because the evidence appears to be conflicting as to (1) whether Gus Andrews was an agent for Trustmark, upon whose board he served, and (2) whether Jon Gillis, an executive vice-president of Trustmark, made statements that induced plaintiffs into the transaction at issue, summary judgment in favor of Trustmark and its board member and officer on the fraudulent inducement and breach of fiduciary duty claims was improper.