

IN THE CIRCUIT COURT OF THE  
NINETEENTH JUDICIAL CIRCUIT  
ST. LUCIE COUNTY, FLORIDA.

CASE NO. 56 2006 CA 001676

CAMELOT GARDENS CONDOMINIUM  
HOMEOWNERS ASSOCIATION, INC.,

Plaintiff

vs

STATE FARM FLORIDA INSURANCE  
COMPANY,

Defendant.

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**ORDER**

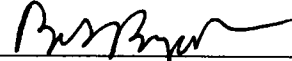
The Court heard argument on the issue of entitlement to attorney's fees. The Court is proceeding based upon the apparent agreement that no further evidentiary hearing is necessary. This is a suit by the insured against its insurer. The damages claimed resulted from Hurricanes Frances and Jeanne. Efforts were made to resolve the matter. The insured requested an "appraisal" which did not get off the ground. It then withdrew the request and engaged in a mediation process which was unsuccessful. The parties were far apart in the amount claimed and amount paid. However, the company paid over \$700,000 prior to the second demand for an appraisal. The plaintiff made a second demand for an appraisal. Although there was no objection, the insured filed a lawsuit approximately three weeks after the request seeking an order and other relief. The company agreed to arbitration and after some tangential disputes, arbitration proceeded. The result was a substantial additional payment to the insured albeit not close to what it demanded. The parties sought this Court's assistance on several occasions regarding matters in dispute.

The insured claims fees and relies primarily on *Travelers Indem. Ins. Co. of Ill. v. Meadows*, 900 So.2d 676 (4<sup>th</sup> DCA 2005). The insurance company relies on the 5<sup>th</sup> DCA cases of *State Farm v. Lorenzo*, 969 So.2d 393, and *Nationwide v. Bobinski*, 776 So.2d 1047. The Court reviewed those cases and others. The *Meadows* case is factually closer to the instant case. This case's facts are better for the insured than those in the *Meadows* case. The 5<sup>th</sup> DCA cases do not reach the level of *Meadows* nor this case. Even if that were the case, this Court is bound by the 4<sup>th</sup> DCA.

The insured is entitled to attorney's fees. The parties have not addressed the amount. If this Court can, it would likely allow a partial fee, as much of what was done was not precipitated by the company and would have had to be done had the company cooperated 110%.

That may be an issue for another day. If this dispute is not resolved, counsel should promptly schedule a hearing to determine the amount of the fee.

**Done and Ordered** in Chambers at Fort Pierce, St. Lucie County, Florida this 6 day of October, 2008.



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BEN L. BRYAN JR.

Circuit Judge

Copies to:

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