

# **DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales,  
Condominiums, and Mobile Homes  
Arbitration Section**

Northwood Centre  
1940 North Monroe Street  
Tallahassee, Florida 32399-1029

## **ATTORNEY'S FEES SUBJECT MATTER INDEX**

**June 2005**

Note: This interim supplement contains summaries of final orders entered by division arbitrators in the arbitration program described by Section 718.1255, Florida Statutes, from January 1, 2003 through June 30, 2005. The final order summaries are organized by subject matter. Final orders entered on or after July 1, 2005 will be reported in a subsequent publication. Volume One of the Final Order Index (available separately) summarize final orders entered from January 1992 through December 31, 2002.

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**Costs**[Dyes v. The Sands on the Ocean, a Condo., Section 1 Assn., Inc.,](#)

Case No. 2003-07-2406 (Mnookin / Final Order on Motion to Award Reimbursement of Costs / August 8, 2003)

- Where the prevailing party is a pro se unit owner, he can be compensated for ordinary office expenses, as there is no attorney hourly rate which typically covers these expenses.

[Guerra v. Friendly Corner Assn., Inc.,](#)

Case No. 2005-01-2535 (Earl / Final Order on Motion for Attorney's Fees and Costs / April 18, 2005)

- Costs for photocopies, mail and messenger services are not recoverable, as they are routine overhead expenses that should be incorporated into the attorney's hourly rate.

[Hampton Court Condo. Inc. v. Foreman,](#)

Case No. 2003-04-7074 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / April 17, 2003)

- Service of process costs is typically awarded when service is ordered by the arbitrator or the date of service is at issue. In the instant case, service was ordered for three of the four respondents. It was later determined that two of these individuals were improperly named as respondents and were accordingly dismissed from the proceedings. It is the responsibility of the association to determine the proper parties to name in arbitration proceedings. Since service was not necessary for the two dismissed respondents, the petitioner's request for costs associated with service of process is reduced by 2/3.

[Harlow v. Bretton Woods Condo. Assn., Inc.,](#)

Case No. 2004-05-0582 (Earl / Final Order Awarding Costs / November 30, 2004)

- In cases involving attorneys, normal office expenses are not typically awarded, as they should be incorporated into the attorney's hourly rate. However, in the instant matter, the petitioner is a *pro se* unit owner and as such, there is no attorney hourly rate which would normally cover these expenses. Therefore, the petitioner may recover such costs.

[Imperial House of Venice, Inc. v. Bradley,](#)

Case No. 2004-03-9320 (Earl / Final Order on Motion for Attorney's Fees and Costs / August 25, 2004)

- Costs for copying documents are not recoverable, as they are routine overhead expenses that should be incorporated into the attorney's hourly rate.

[Oceans Four Condo. Assn. Inc. v. Becker,](#)

Case No. 2003-05-8563 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / May 30, 2003)

- Due to the emergency nature of the proceedings where the unit owner's actions placed the association's contracts for balcony repairs in jeopardy, the association's costs for express delivery charges and service of process are recoverable.

[Poinciana Place Condo. Assn. Inc. v. Black,](#)

Case No. 01-3219 (Scheuerman / Final Order Awarding Attorney's Fees and Costs / January 30, 2003)

- Where the association on its own initiative served the unit owner with a copy of the petition prior to filing the petition with the Division, and where the owner was subsequently served with an order requiring answer via certified mail by the arbitrator, the cost of service was not a recoverable cost.

[Point East Two Condo. Corp., Inc. v. Falero,](#)

Case No. 2004-04-2828 (Earl / Final Order Awarding Attorney's Fees and Costs / September 28, 2004)

- The costs of photocopies and postage are not recoverable, as they are normal overhead expenses that should be incorporated into the attorney's hourly rate.

[Rohan v. De La Bahia Condo. Assn., Inc.,](#)

Case No. 2004-04-7240 (Earl / Final Order on Motion for Attorney's Fees and Costs / May 13, 2005)

- A copy of the final hearing transcript was provided to the arbitrator for his use; consequently, the associated costs are recoverable.

[Seville Place Condo. Assn. Inc. v. Elias,](#)

Case No. 02-5891 (Coln / Final Order Awarding Attorney's Fees and Costs / January 30, 2003)

- Association entitled to recover the service of process fee where the association was ordered by the arbitrator to personally serve the respondents in the original arbitration action.

[Terraces North at Turnberry Condo. Assn., Inc. v. Lehman,](#)

Case No. 02-5937 (Gioia / Final Order Awarding Attorney's Fees and Costs / February 10, 2003)

- The association requested compensation for \$66.00 that included \$16.00 for service of process. It was alleged that plaster was falling from the ceiling in the unit directly below the Respondent. Due to the nature of this situation an emergency hearing was scheduled, which, in turn, required service of process. The service of process expense was necessary for the prosecution of the case.

[The Verandas on the Gulf Condo. Assn., Inc. v. Rudz,](#)

Case No. 2005-01-0874 (Earl / Final Order on Motion for Costs and Attorney's Fees / April 22, 2005)

- Where the arbitrator permitted or required the association to effectuate service, the related costs may be awarded.

## **Defenses**

### ***Failure to time file/request fees***

[Classic Towne House Condo. West, Inc. v. Goldberg,](#)

Case No. 2005-01-0870 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / April 14, 2005)

- Where a pro se unit owner who prevailed on one issue in the underlying arbitration proceeding failed to file his request for fees and costs within 45 days of the entry of the final order on motion for rehearing, the request is denied as untimely, pursuant to Rule 61B-45.048, F.A.C.

[The Fountains of Palm Beach Condo., Inc. No. 9 v. Meisner,](#)

Case No. 2004-06-0170 (Scheuerman / Final Order on Motion for Costs and Attorney's Fees / February 2, 2005)

- Where the association untimely filed its motion for attorney's fees but demonstrated that the late filing was due to office closures and utility outages directly caused by the series of hurricanes that impacted the area, in accordance with the administrative order entered by the Division, the motion was considered timely filed and was accepted by the arbitrator.

[The Four Ambassadors Assn., Inc. v. Lindsay Properties, Inc.,](#)

Case No. 03-6083 (Scheuerman / Final Order Denying Motions for Attorney's Fees / August 19, 2003)

- No fees awarded where the parties failed to file a motion for attorney's fees within 45 days of entry of the final order in underlying case. The untimely filed motion for rehearing did not have the affect of tolling the time required for the filing of the motion for attorney's fees.

[O'Brien v. Majestic View Condo. Assn., Inc.,](#)

Case No. 2004-05-3566 (Scheuerman / Final Order on Motion for Attorney's Fees / December 17, 2004)

- Where the owner spent \$11,674 on attorney's fees, no fees could be awarded where the owner had failed to request or demand an award of attorney's fees prior to the rendition of the final order.

[Snapper Village Condo. Assn., Inc. v. Hernandez,](#)

Case No. 2003-06-6849 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / August 5, 2003)

- The association, as the prevailing party, submitted its motion for attorney's fees on the 46<sup>th</sup> day following the entry of the final order in the underlying arbitration proceeding. However, pursuant to Rule 61B-45.009(1), F.A.C., when the last day of the period falls on a Saturday, Sunday or legal holiday, the period shall be extended to the end of the next business day. Here the 45<sup>th</sup> day fell on a Sunday, and the motion was filed on the following Monday; as such, the motion was timely filed.

***General defenses***

[330 South Ocean, Inc. v. Bivins,](#)

Case No. 2005-00-7792 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / March 18, 2005)

- The only fees awarded are those incurred in an arbitration proceeding; those fees incurred in a collateral proceeding are not incurred in the arbitration proceeding and are not awarded.

[Stevens v. Cricket Club Condo. Assn., Inc.,](#)

Case No. 2005-02-6340 (Scheuerman / Final Order on Motions for Attorney's Fees / July 29, 2005)

- Only time spent on activities undertaken in the arbitration proceeding are recoverable under section 718.1255, F.S. Of the 15.7 hours spent prior to the drafting of the petition, the arbitrator awarded only one hour for preparation of the pre-arbitration demand letter required by section 718.1255, F.S.
- Where counsel spent 7.0 hours preparing a reply to an answer that was unsolicited, not permitted or required by the rules of procedure, and did not contain arguments not already present in the petition, counsel was only awarded 3.0 hours for this effort.
- The sum of 5.0 hours spent drafting a petition for trial de novo was not recoverable as it was not incurred in the arbitration proceeding.

[Sunset House North Apartments of Marco Island, Inc. v. Brownsen,](#)

Case No. 01-3772 (Earl / Final Order Awarding Attorney's Fees and Costs / October 21, 2004)

- The respondent contended that the arbitrator in the underlying case failed to directly address the issue of lack of pre-arbitration notice which she raised in the underlying case. However, the arbitrator's denial of the respondent's motion to dismiss and ultimate ruling in favor of the association are sufficient indication that the arbitrator considered the defense to be without merit. Moreover, any attempt to re-address this matter as part of the fees proceeding would constitute an untimely motion for rehearing.

[Boca Ciega Manor Condo. Assn., Inc. v. Fevrier,](#)

Case No. 2004-05-3712 (Bembry / Final Order on Motion for Award of Attorney's Fees and Costs / June 13, 2005)

- An affirmative defense that was raised for the first time in the attorney's fees case that could have been raised in the underlying arbitration proceeding would not be considered by the arbitrator, as failure to raise the affirmative defense when answering the petition for arbitration in the underlying case resulted in a waiver of the defense.

[Brink v. Tudor Cay Condo. Assn., Inc.,](#)

Case No. 2004-04-6975 (Scheuerman / Final Order on Motions for Costs and Attorney's Fees / December 8, 2004)

- Where an owner filed a petition for arbitration seeking to overrule a fine imposed by the association for a rule violation, where the petition was filed a year after the association had lost an arbitration case against a unit owner in the same condominium involving the identical issue, it was incumbent on the owner before filing the present petition to refresh his pre-arbitration demand letters and to allow the association to voluntarily withdraw its fine. Similarly, since the association had outstanding letters demanding that this owner submit the required fine, and did not retract the letters after the prior case was lost, it is not unreasonable to put the burden on the association to retract outstanding fines. The arbitrator found that under these circumstances, neither party was the prevailing party.

[Buckbee v. Wilder Boulevard Condo. Assn. Inc.,](#)

Case No. 02-5925 (Coln / Final Order Awarding Attorney's Fees and Costs / January 8, 2003)

- The unit owner claim that the board of directors did not authorize the attorney representing the association to seek fees against him would not be recognized. Where an attorney is employed to represent a client in a lawsuit, he or she is presumed to have the authority to enter his or her client's appearance in the case and do the things necessary to accomplish the trial of the case. A challenge to the authority of an attorney to represent a party is a defense available only to a represented party claiming that their attorney acted outside the scope of his or her representation.

[Coquina Isle Condo. Assn., Inc. v. Unit Owners Voting for Recall,](#)

Case No. 2005-01-9953 (Mnookin / Final Order Denying Motion for Attorney's Fees and Costs / April 14, 2005)

- When a final order certifying a recall effort is issued, the unit owners who supported the recall are not entitled to an award of prevailing party attorney's fees or costs pursuant to Section 718.1255, F.S.

[Gulfpointe Condo. Assn. Inc., v. Nascone,](#)

Case No. 2003-04-8615 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / June 26, 2003)

- Where the unit owner for the first time alleged during the pendency of the fees case that the association had failed to provide pre-arbitration notice of the underlying arbitration proceeding, the defense was waived below and could not be brought up first in the fees proceeding.

[Imperial House of Venice, Inc. v. Bradley,](#)

Case No. 2004-03-9320 (Earl / Final Order on Motion for Attorney's Fees and Costs / August 25, 2004)

- Where the respondent raised the defense of discrimination for the first time as part of the fees proceeding, the arbitrator found that the defense was untimely and may not be considered.

[Jamestown Condo. Assn., Inc. v. Brackett,](#)

Case No. 2004-04-1994 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / September 13, 2004)

- Where the unit owner sells her unit, thereby rendering the illegal pet issue moot, and fails to demonstrate that the sale of the unit was not related to the arbitration proceeding, the association is deemed the prevailing party as it received the benefit it sought when initiating the case, namely, removal of the owner's pet.

[Messina v. Rimini Beach Condo. Assn., Inc.,](#)

Case No. 2004-02-0473 (Scheuerman / Final Order on Motion for Attorney's Fees / November 17, 2004)

- No fees were awarded to certain unit owners who were never made parties in the arbitration proceeding and were never served with process. Only a party may recover prevailing party costs and attorney's fees.

[Morton v. Sea Dip Beach Resort Condo. Assn., Inc.,](#)

Case No. 2003-07-7231 (Coln / Final Order Denying Award of Attorney's Fees and Costs / October 7, 2003)

- Where the association failed to respond to a written inquiry submitted by the unit owners, the association is not entitled to an award of costs and fees due to the operation of Section 718.112(2)(1)2, F.S. (2002). According to this section, the failure by the board to provide a substantive response to the inquiry "precludes the board from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry." The association, in not responding in writing to the unit owners' inquiry, forfeited its right to collect costs and attorney's fees incurred in the arbitration proceeding.

[Oceans Four Condo. Assn. Inc. v. Becker,](#)

Case No. 2003-05-8563 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / May 30, 2003)

- Where a unit owner defaults in the underlying arbitration proceeding by failing to file any pleadings and then asserts defenses to the arbitration case for the first time in the fee proceeding, those defenses are untimely and consequently rejected.

[Palms Association of Alton Road, Inc. v. Tomes,](#)

Case No. 2004-05-2340 (Earl / Final Order Denying Motion for Attorney's Fees and Costs / December 1, 2004)

- Where the respondent was never served with petition or otherwise made a party to the arbitration, the arbitrator may not order the respondent to pay the petitioner's attorney's fees and costs.

[Prawdzik v. Marine Colony Condo. Assn., Inc.,](#)

Case No. 2003-07-7409 (Mnookin / Final Order on Motion for Award of Attorney's Fees and Costs / December 3, 2003)

- In order for a party to be eligible for reimbursement for paralegal services provided in an arbitration proceeding, it must be determined that the service provided are non-clerical, meaningful legal work performed under the supervision of an attorney. Appropriate supervision typically requires an attorney to file a notice of appearance in the arbitration matter and to sign the documents prepared by the paralegal. Without showing such supervision requirements, a party using the services of an individual that attests to be a paralegal but is not employed by a law firm or licensed attorney, cannot be awarded for services provided as a paralegal. However, a party who utilized the services of such an individual may be eligible to be compensated a reasonable fee for document preparation/typist services provided in the arbitration proceeding.

[Pukit v. Bay Colony Club Condo. Inc.,](#)

Case No. 02-5866 (Mnookin / Final Order on Attorney's Fees and Costs / February 12, 2003)

- Fees incurred in a collateral county court proceeding are not incurred in the arbitration proceeding and are denied. Likewise, costs incurred in the county court proceeding are denied.

[Quittschreiber v. Crestwoode Condo. Assn., Inc.,](#)

Case No. 2004-05-5441 (Grubbs / Final Order on Motion for Award of Attorney's Fees / January 25, 2005)

- Association could not raise issue of lack of service on the corporation in the underlying case as a defense to an award of attorney's fees when the association had participated in the underlying arbitration case.

[Ro-Len Management Corp. and Ro-Len Lake Gardens "M" Corp. v. Julien,](#)

Case No. 2003-06-3918 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / July 7, 2003)

- In the underlying arbitration proceeding involving an illegal dog, counsel for the association submitted a motion for verified emergency injunctive relief and motion to abate. However, it was not established that these motions were necessary for this proceeding or that they found an affirmative basis in the law. The association did not allege that the dog in question was aggressive or that it had or would harm other pets or individuals on the condominium property. As a result, fees for these motions are denied. Fees are not awarded for pleadings that are unnecessary to advance the case.

[Town Homes of Winter Garden Condo. Assn. Inc. v. Almanza,](#)

Case No. 03-6096 (Mnookin / Final Order on Attorney's Fees and Costs / February 27, 2003)

- Counsel also requests 3.00 additional hours in order to perform whatever work is necessary in the future to bring the case to a final disposition. Section 718.1255 (4)(k), F.S., restricts the fee award to "include the costs and reasonable attorney's fees incurred in the arbitration proceeding." Those additional hours are denied because they are not incurred in the arbitration proceeding where a summary final order had already been entered, and because no additional hours were needed to close the fee case.

[Unit Owners Voting for Recall v. Coral Ridge East Condo. Assn., Inc.,](#)

Case No. 2004-03-8533 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / October 13, 2004)

- When the association fails to certify a recall and fails to file a petition for arbitration, the unit owners in favor of the recall are permitted to file a petition for arbitration under Section 718.1255, F.S., to challenge the board's action where the prevailing party will be eligible for an award of attorney's fees and costs.

[Van Weelden v. Gulf Island Beach and Tennis Club I Condo.,](#)

Case No. 2003-07-8559 (Coln / Final Order Denying Award of Attorney's Fees and Costs / October 7, 2003)

- The association filed a motion for costs and attorney's fees. The unit owners argued that the association is not entitled to an award of costs and fees due to the operation of Section 718.112(2)(a)2, F.S. (2002), which provides in part that when an unit owner files a written inquiry by certified mail with the board, the board must respond within 30 days. According to this section, the failure by the board to provide a substantive response to the inquiry "precludes the board from recovering attorney's fees and cost in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry." The association, in not responding in writing to the unit owners' inquiry, forfeited its right to collect costs and attorney's fees incurred in the arbitration proceeding.

[Villas of Pinecrest Condo. Assn., Inc. v. Zapata.](#)

Case No. 2004-04-0029 (Bembry / Final Order on Motion for Award of Attorney's Fees and Costs / October 1, 2004)

- Where unit owner could have raised the affirmative defense of selective enforcement in the underlying arbitration case but failed to do so, selective enforcement would not be considered in the subsequent attorney's fees proceeding.

[Whisper Walk Section E. Assn. Inc. v. Wigdor.](#)

Case No. 02-5820 (Scheuerman / Final Order on Motions for Attorney's Fees / April 4, 2003)

- A unit owner takes title to the unit subject to existing defects and with the responsibility to remove the violations existing within the property subject to his dominion and control. An owner is not permitted to reside in the unit with impunity after the purchase of a pre-existing violation of the documents under the theory that the former owner is responsible, or that the violations are somehow grandfathered in.

[Wine v. Lighthouse Colony, Inc.](#)

Case No. 2004-06-0221 (Scheuerman / Final Order on Motions for Attorney's Fees / May 18, 2005)

- Where a party prevailed on some issues and not on others, and where there is no basis in the time records kept by counsel to apportion time spent on various issues, the arbitrator was authorized to disallow fees in their entirety.

[Winfield Gardens South Condo. Assn., Inc. v. Brown.](#)

Case No. 2005-00-5739 (Grubbs / Final Order on Attorney's Fees and Costs / March 9, 2005)

- To be compensated for the work of a paralegal, it must be shown that the paralegal performed non-clerical services.

**Excessive / Reasonable**[330 South Ocean, Inc. v. Bivins,](#)

Case No. 2004-00-7792 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / March 10, 2005)

- An attorney who has been practicing law for 14 years and has substantial experience in condominium law is entitled to an hourly rate of \$195.00.

[Agan v. Plaza East Assn., Inc.,](#)

Case No. 2004-00-3894 (Earl / Final Order on Motion for Attorney's Fees and Costs / February 25, 2004)

- Rate of \$250 per hour requested by petitioner for services of attorney who has been practicing since 1978 found not entirely consistent with amount customarily awarded for representation in similar cases by attorneys with similar experience. \$225.00 per hour found to be a reasonable rate.

[Amsel v. Condo. Assn. of Gateway House Apartments, Inc.,](#)

Case No. 2003-07-4704 (Coln / Final Order Awarding Attorney's Fees and Costs / September 9, 2003)

- The unit owner sought compensation for the legal services of his attorney, at the rate of \$250.00 per hour. Counsel for the unit owner has been licensed to practice law in the State of Florida since 1978 and has experience in condominium law. The requested rate, however, exceeds the amount customarily awarded for representation in similar arbitration proceedings by attorneys with similar experience; therefore, the unit owner will be compensated at the rate of \$225.00 per hour for counsel's legal services.

[Atlantic Cloisters Assn., Inc. v. Courteau,](#)

Case No. 2004-02-0460 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / July 30, 2004)

- The association requested compensation for 88.70 hours for legal services incurred in the underlying arbitration proceeding. While the subject matter of the disputed issue is of average complexity and both parties submitted numerous pleadings, the requested hours are excessive, especially when considering that the case was disposed of without the necessity of a final hearing. The arbitrator determined that an award of 50.00 hours for legal services incurred in a case of this type was reasonable.

[Beachplace Assn. Inc. v. Hurwitz,](#)

Case No. 2003-05-8732 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / May 30, 2003)

- The rate of \$225 per hour charged by an attorney with seventeen years legal experience does not exceed the rate customarily awarded for representation in similar arbitration proceedings by attorneys with similar experience.

[Cabrera v. Oakland Forest Club Condo., Inc.,](#)

Case No. 2003-08-9970 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / December 11, 2003)

- Where the attorney representing the unit owner has been practicing law since 1978 and has experience in condominium law charges the unit owner \$250.00 per hour for legal services rendered in the arbitration proceeding, the hourly rate exceeds that amount customarily awarded for representation in similar arbitration proceedings by attorneys with similar experience; rather, the attorney will be compensated at the rate of \$225.00 per hour.

[Carr v. River Reach, Inc.,](#)

Case No. 2003-06-9929 (Scheuerman / Final Order on Request for Attorney's Fees / October 14, 2003)

- The hourly fee of \$225 was found to be in excess of those rates charged typically by attorneys with 13 years of experience offering services in the area in which the condominium is located; the sum of \$175 was awarded instead.
- Where counsel for the association spent 11.1 hours preparing a response to the owner's request for emergency relief, but where a significant part of the document is comprised of complaints that the association is being forced into a proceeding against its will and against its cooperation, this time was not spent with a sense of propriety, and four hours were deducted.

[Champlain Towers South Condo. Assn., Inc. v. Utrilla,](#)

Case No. 2004-04-2200 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / September 22, 2004)

- Attorney who has been licensed to practice law in the State of Florida since 1991 requests compensation in the amount of \$200.00 per hour for legal services provided in the arbitration proceeding; the requested rate does not exceed the amount customarily awarded for representation in similar arbitration proceedings by attorneys with similar experience.

[Classic Towne House Condo. West, Inc. v. Goldberg,](#)

Case No. 2005-01-0870 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / April 14, 2005)

- Where an attorney who has been licensed to practice law in the State of Florida since 1976 and has extensive experience in condominium law requests an hourly rate of \$175.00 for legal services rendered in the arbitration matter, the rate is found to be reasonable based on the experience of the attorney.

- The association seeks to recover 12.40 hours for legal work provided in the arbitration proceeding, which includes 1.50 hours for additional legal work to be completed. Because the additional hours are not "incurred in the arbitration proceeding," those hours are not awarded.

[Cristelle Condo. Assn. of Broward County, Inc. v. Van Ess.](#)

Case No. 01-4074 (Mnookin / Final Order on Motion for Attorney's Fees and Cost / July 22, 2003)

- Counsel for the unit owner requested an hourly rate of \$300.00 per hour. While counsel has been practicing law since 1974 and has considerable experience in condominium law, the requested rate exceeds the amount customarily awarded for representation in similar arbitration proceedings. Rather, counsel is compensated at the rate of \$200.00 per hour.

[Delphi Towers Condo. Assn., Inc. v. Swain.](#)

Case No. 2005-01-8415 (Grubbs / Final Order on Attorney's Fees and Costs / July 13, 2005)

- Although 10.6 hours spent on the underlying case was a considerable amount of time, considering that the respondent defaulted, the respondent had to be personally served, which added to the length of time required to pursue this case, and several hours were spent by the attorney researching arbitration cases involving similar issues. Therefore, the amount of time expended was not found to be unreasonable.

[Dering v. Meadowbrook Lakes View Condo. Assn. "A", Inc.](#)

Case No. 2004-03-9004 (Mnookin / Final Order on Motion for Attorney's Fees & Costs / August 23, 2004)

- An attorney who has been practicing law for over five years and has experience in condominium law requests an hourly rate of \$165.00 for legal services rendered in the underlying arbitration proceeding. Such a rate does not exceed the amount customarily awarded in similar arbitration proceedings by attorneys with similar experience.

[Doral House Condo. Assn., a/k/a/ Doral House I Condo. Assn., Inc. v. Astudillo.](#)

Case No. 2004-04-1182 (Bembry / Final Order on Motion for Attorney's Fees and Costs / October 4, 2004)

- Hourly rates of \$185.00 and \$200.00 were considered excessive for attorneys having four or less years of experience in the practice of law.

[Fairbanks Terrace South, Inc. v. Broniecki.](#)

Case No. 2004-00-7357 (Earl / Final Order on Motion for Attorney's Fees and Costs / March 1, 2004)

- The respondent's argument that she is the prevailing party because she opposed any order compelling removal of her pet cat and the final order did not require removal was found by the arbitrator to be unpersuasive as the only issue in dispute in the underlying case was whether the respondent should be enjoined from allowing her cat on the common elements and the arbitrator held so.
- Hourly rate of \$240.00 sought for counsel admitted to the Florida Bar in 1988 is not consistent with the amount customarily awarded for representation in similar arbitration proceedings by attorneys with similar experience. Rate of \$200.00 per hour found reasonable.
- Except for the drafting of the statutorily mandated pre-arbitration notice, the prevailing party will not be awarded fees for efforts prior to arbitration.
- The petitioner not entitled to be reimbursed for the attendance of two attorneys at the final hearing because only one of the attorneys presented the petitioner's case in its entirety at the final hearing and underlying case's complexity did not merit that attendance of a second attorney at the final hearing.
- The petitioner is not entitled to be reimbursed for efforts of attorney which are duplicative of efforts by the petitioner's other counsel for whose efforts the petitioner has been awarded fees.
- The petitioner was not awarded the costs of the transcript of the final hearing transcript where the transcript was not filed in the case.
- The cost of purchasing arbitration indexes and copies are not recoverable, as they are overhead expenses that should be incorporated into the attorney's hourly rate.

[The Fairways at Emerald Greens Condo. Assn., Inc. v. Goetten.](#)

Case No. 2005-00-7789 (Earl / Final Order on Motion for Attorney's Fees and Costs / April 1, 2005)

- Requested rate of \$225.00 charged by an attorney who had been practicing for over 21 years was found to be reasonable. However, fee of \$225.00 to \$250.00 per hour for associate attorney who has been practicing for less than five years found to be unreasonable and association was awarded \$200.00 per hour for the associate's efforts.

[Glenwood Estates, Inc. v. Reynolds.](#)

Case No. 2003-04-5422 (Mnookin / Final Order on Attorney's Fees and Costs / April 25, 2003)

- Counsel requested a total of 8.90 hours for both attorney and paralegal services associated with drafting and filing the initial petition. Those hours were found to be excessive for a proceeding in which the issues presented were neither novel nor

complex. This case should have required only a minimal expenditure of time by the association's attorney and paralegal. Accordingly, those hours were reduced to 4.00 hours.

- Fees requested after the closing of the case are typically denied because they are not incurred in the arbitration proceeding as required by Section 718.1255, F.S. However, counsel is awarded 2.00 hours for services relating to the preparation of the motion for attorney's fees and costs.

[Golden Gate Condo. Assn. Inc. v. Arulene,](#)

Case No. 2003-06-6344 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / July 25, 2003)

- As the prevailing party, the association sought compensation for 17.10 hours for legal services rendered in the underlying arbitration proceeding. Considering that the unit owner defaulted and that the issues presented were neither novel nor complex, the requested hours are deemed excessive. The arbitrator ruled that a total of 8.00 hours was reasonable to successfully litigate this case.

[Grogis v. Marina Harbour South Assn., Inc.,](#)

Case No. 2005-01-8423 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / June 2, 2005)

- Where an association prevails on 2 out of 3 issues in dispute and requests compensation of 65.20 hours for attorney services and general legal matters for the underlying proceeding, the requested hours are deemed excessive, and reduced to 40.00 hours.
- Where the association, as a respondent in the underlying arbitration case, requests attorney's fees for legal services that were provided before it was served with the petition, these hours are denied as they were not incurred in the arbitration proceeding, as required by Section 718.1255, F.S.

[Guerra v. Friendly Corner Assn., Inc.,](#)

Case No. 2005-01-2535 (Earl / Final Order on Motion for Attorney's Fees and Costs / April 18, 2005)

- Requested rate of \$250.00 per hour for an attorney with less than three years experience found excessive. Association awarded \$175.00 per hour for counsel's services.
- 14.1 hours claimed for drafting and preparation of the petition, reviewing the rules, traveling to meet with client, reviewing arbitration case law and documents was found to excessive where allegations involved failure to provide access to official records and failure to conduct meetings properly. Seven hours found to be a reasonable amount of time to prepare the petition. Furthermore, an attorney's travel time is typically not

allowed, unless there is a showing of lack of local counsel competent to handle the matter.

[Hampton Court Condo. Inc. v. Foreman,](#)

Case No. 2003-04-7074 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / April 17, 2003)

- Attorney with 3 years legal experience requested an hourly rate of \$150.00. The requested rate does not exceed the amount customarily awarded for representation in similar arbitration proceedings by attorneys with similar experience.
- Counsel requested 1 hour for "estimated time to complete the matter" after the entry of the final order. This was not awarded because there was no hearing on the motion for fees and no other expenditure of time was required.

[Horizon West Condo. No. 8 Assn., Inc. v. Da Silva,](#)

Case No. 2005-01-3872 (Earl / Final Order on Motion for Attorney's Fees and Costs / April 22, 2005)

- Fee of \$165.00 per hour charged by an attorney with four years of experience found to be reasonable.
- Association will not be awarded time required to amend petition in order to correct an error.

[Imperial House of Venice, Inc. v. Bradley,](#)

Case No. 2004-03-9320 (Earl / Final Order on Motion for Attorney's Fees and Costs / August 25, 2004)

- Rate of \$225.00 per hour for an attorney who has been practicing for 18 years with emphasis in condominium and homeowners' association law found to be reasonable.

[Inverness III Condo. Assn., Inc. v. Flournoy,](#)

Case No. 2005-00-9710 (Earl / Final Order on Motion for Attorney's Fees and Costs / May 31, 2005)

- Requested rates of \$175.00 and \$190.00 per hour for attorneys with four and five years of experience respectively, found to be reasonable.

[Jamestown Condo. Assn., Inc. v. Brackett,](#)

Case No. 2004-04-1994 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / September 13, 2004)

- An attorney who has been licensed to practice law in the State of Florida since 1998 is not entitled to an hourly rate of \$200.00 as this rate exceeds the amount customarily

awarded for representation in similar arbitration proceedings by attorneys with similar experience. The attorney was awarded the hourly rate of \$190.00.

- Where an attorney's time sheet requests 3.05 hours for legal activities that pre-date the drafting and filing of the petition for arbitration, these hours were denied, except that 1.00 hour is awarded for activities dedicated to the pre-arbitration demand letter required by Section 718.1255, F.S.

[Key Biscayne VI, Inc. v. Bielich,](#)

Case No. 2003-06-2893 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / June 20, 2003)

- An attorney who has been practicing law for 4 years is not reasonably entitled to be compensated at rates of \$185.00 or \$200.00 per hour. Those rates exceed the amount customarily awarded for representation in similar arbitration proceedings by attorneys with similar experience. The attorney will be compensated at the rate of \$175.00 per hour.

[The Lakes of Oakland Forest Condo., Inc. v. Dowling,](#)

Case No. 2005-01-8419 (Earl / Final Order on Motion for Attorney's Fees and Costs / May 17, 2005)

- Rate of \$165.00 per hour for attorneys with 6.5 and 13.5 years experience was found reasonable.
- Except for the drafting of the statutorily mandated pre-arbitration notice, the prevailing party may not be awarded fees for efforts undertaken prior to the filing of the arbitration petition.

[Madden v. Windmill Village by the Sea Condo. No. 1 Assn., Inc.,](#)

Case No. 2005-01-3863 (Grubbs / Final Order on Attorney's Fees and Costs / May 3, 2005)

- What might be considered an excessive amount of time defending the case by an attorney with extensive experience in condominium or community law is not necessarily an excessive amount of time spent on the case by a relatively new attorney. However, the relatively new attorney is not entitled to receive the same hourly fee as the lawyer with extensive experience in community association law. The hourly fee awarded was reduced from \$200 per hour to \$175 per hour for attorney who had been in the bar barely five years and apparently had no experience in condominium or community association law.

[Meyer v. South Seas Northwest Condo. Apartments of Marco Island, Inc.,](#)

Case No. 2003-08-6625 (Earl / Final Order Awarding Attorney's Fees and Costs / October 20, 2004)

- Requested rate of \$135.00 per hour for attorney admitted to practice law in Florida since 1994 found to be reasonable.
- The cost of purchasing arbitration indexes and copies are not recoverable, as they are overhead expenses that should be incorporated into the attorney's hourly rate.

[Oakland Forest Club Condo. Assn., Inc. v. Cabrera,](#)

Case No. 2004-00-6529 (Earl / Final Order on Motion Awarding Attorney's Fees and Costs / February 25, 2004)

- \$195 per hour rate requested by attorney who has been a member of the Bar for less than one year found to be unreasonable. Reasonable rate determined to be \$150 per hour.
- Where senior and junior attorney's efforts are duplicative, the association was only compensated for the senior attorney's efforts as the supervising attorney.

[O'Brien v. Majestic View Condo. Assn., Inc.,](#)

Case No. 2004-05-3566 (Scheuerman / Final Order on Motion for Attorney's Fees / December 17, 2004)

- Where the owner spent \$11,674 on attorney's fees, no fees could be awarded where the owner had failed to request or demand an award of attorney's fees prior to the rendition of the final order.
- Where counsel had been a member of the Bar since 1999, the hourly rate of \$250 was deemed in excess of the amounts awarded in cases where the attorney had experience; the hourly rate of \$175 was awarded instead.

[Ovanes v. The Marina at the Bluffs Condo. Assn., No. 23, Inc.,](#)

Case No. 2003-04-9971 (Coln / Final Order Awarding Attorney's Fees and Costs / August 13, 2003)

- Attachments to the motion for attorney's fees indicated that the association spent 13.5 hours preparing an answer to the petition for arbitration. While the answer to the petition, and the attachments thereto, was an extensive pleading, the time spent preparing the answer was unreasonable and was reduced to 10 hours.

[Peruvian Terrace Condo. Assn., Inc. v. Mittica,](#)

Case No. 2004-06-0531 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / February 17, 2005)

- An attorney who has been practicing law since 1981 but does not have extensive experience in condominium law is not entitled to an hourly rate of \$250.00, rather, a reasonable fee based on fees charged by attorneys with similar experience when providing services in arbitration proceedings is \$200.00 per hour.

- Where the disputes included in an arbitration petition are not complex, the request for 7.30 hours for preparation of the petition is excessive and reduced to 2.50 hours.

[Point East Two Condo. Corp., Inc. v. Falero,](#)

Case No. 2004-04-2828 (Earl / Final Order Awarding Attorney's Fees and Costs / September 28, 2004)

- The requested rate of \$175.00 per hour for services of counsel who was admitted to the Bar in February 2002 found to be reasonable.

[Prawdzik v. Marine Colony Condo. Assn., Inc.,](#)

Case No. 2003-07-7409 (Mnookin / Final Order on Motion for Award of Attorney's Fees and Costs / December 3, 2003)

- A reasonable fee for typing or transcribing services for preparing legal documents is \$4.00 per page.
- A pro se litigant is eligible to be reimbursed for costs, such as office supplies, photocopies and postage, but not for mileage charges.

[The Preserve at Walnut Creek Condo. Assn., Inc. v. Galvo,](#)

Case No. 2004-05-6941 (Grubbs / Final Order on Attorney's Fees / February 23, 2005)

- Although the association may allow the respondents to set up a schedule for payment of the attorney's fees awarded to the association, the arbitrator's function is to determine and award reasonable attorney's fees and costs. Had the parties settled the case and agreed to a payment schedule, the arbitrator could have incorporated the settlement into the final order; however, the respondents failed to provide any authority allowing the arbitrator to award attorney's fees on a payment schedule in the absence of a settlement agreement.

[Pukit v. Bay Colony Club Condo. Inc.,](#)

Case No. 02-5866 (Mnookin / Final Order on Attorney's Fees and Costs / February 12, 2003)

- Five hours requested for the drafting and filing of the motion for attorney's fees and costs is determined to be excessive; time awarded will be reduced to 2.00 hours.

[Quittschreiber v. Crestwoode Condo. Assn., Inc.,](#)

Case No. 2004-05-5441 (Grubbs / Final Order on Motion for Award of Attorney's Fees / January 25, 2005)

- Fee request of \$200 per hour was too high where motion failed to allege customary rate in the community, attorney was admitted to practice in 1992, and no experience in community or condominium law was alleged. Fee of \$175 per hour would be awarded.

[Riverbend of Naples Mobile Homeowners Assn., Inc. v. Dowling,](#)

Case No. 2004-06-1879 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / February 9, 2005)

- An attorney who has been licensed to practice law in the State of Florida since 2000 and has experience in condominium law is entitled to be compensated at the hourly rates of \$185.00 and \$195.00.

[Rohan v. De La Bahia Condo. Assn., Inc.,](#)

Case No. 2004-04-7240 (Earl / Final Order on Motion for Attorney's Fees and Costs / May 13, 2005)

- Requested hourly rates of \$300.00 per hour for an attorney with 24 years experience and \$200.00 per hour for an attorney with 2 years experience reduced to \$225.00 and \$175.00 per hour, respectively.
- Except for the drafting of the statutorily mandated pre-arbitration notice, the prevailing party may not be awarded fees for efforts undertaken prior to arbitration.

[Ro-Len Management Corp. and Ro-Len Lake Gardens "M" Corp. v. Julien,](#)

Case No. 2003-06-3918 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / July 7, 2003)

- The association, as the prevailing party, requested to be compensated for 34.00 hours of legal services. In light of the unit owner's default in the underlying arbitration proceeding and the issues presented being neither novel nor complex, these hours are deemed excessive. A total of 8.00 hours is determined to be reasonable for legal services rendered in this proceeding.

[Serda v. Shores Villas Condo. Assn., Inc.,](#)

Case No. 2004-04-5747 (Scheuerman / Final Order on Motion for Attorney's Fees and Costs / November 23, 2004)

- The hourly fee of \$250 paid to counsel who has been a member of the Bar since 1972, and has longstanding experience in community association representation is somewhat in excess of the amounts typically charged by practitioners with experience representing parties in arbitration proceedings conducted pursuant to Section 718.1255, F.S., and the hourly fee of \$225 was instead awarded.

[Spyglass Condo., Inc. v. Love,](#)

Case No. 2004-05-7854 (Grubbs / Final Order on Motion for Award of Attorney's Fees / February 22, 2005)

- A fee of \$175 per hour is reasonable for an attorney admitted to practice in 1986 with extensive experience in condominium law. The fee request was accompanied by a

supporting affidavit of an attorney attesting that the charge of \$175 per hour is consistent with the fees customarily charged by attorneys in the Southeast Florida area.

- The 5.8 hours requested for preparing the petition for arbitration was excessive.
- Although 8.8 hours of legal services would normally be an excessive amount of time spent on a routine case that results in a default final order, in this case much of the time expended was necessitated by the difficulty in serving the respondent.

[Sunrise Lakes Condo. Assn. Phase One, Inc. v. Rudich,](#)

Case No. 2003-06-4503 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / June 26, 2003)

- Where the prevailing party's counsel requests to be compensated at rates of \$350.00 and \$200.00 per hour, but fails to specify a reason for charging dual rates, only one rate will be awarded. In any event, the rate of \$185.00 per hour is a reasonable hourly rate for an attorney who has been practicing law for six years and has experience in condominium law.

[Sunrise Lakes Condo. Assn., Phase I, Inc. v. Friedman,](#)

Case No. 2005-00-6633 (Bembry / Order on Motion for Attorney's Fees and Costs / April 26, 2005)

- An attorney's claim for 7.5 hours of time to successfully litigate the underlying arbitration case was reduced to 3.0 hours where attorney failed to attach any time records reflecting how attorney's time was incurred and where claim for hours was excessive considering the lack of complexity of the issue in the underlying case.

[Sunset House North Apartments of Marco Island, Inc. v. Brownsen,](#)

Case No. 01-3772 (Earl / Final Order Awarding Attorney's Fees and Costs / October 21, 2004)

- Requested rate of \$250.00 per hour for an attorney admitted to the Florida Bar in 1983 found to be excessive. Rather, \$225.00 per hour found to be reasonable.
- Except for the time incurred in drafting the mandatory pre-arbitration notice letters, the petitioner may not be awarded fees for efforts incurred prior to the arbitration. Requested time of 8.25 hours for preparation of the motion for fees and costs and related affidavits found to be excessive and the petitioner was awarded one hour for such efforts. After taking into consideration the prior reductions, the petitioner still sought compensation for 29.0 hours. This amount is excessive considering the case only involved one noncomplex issue, the respondent's failure to provide the association a key to access her unit.

[Terra Condo. Assn. Inc. v. Bryson,](#)

Case No. 02-5764 (Mnookin / Final Order on Attorney's Fees and Costs / January 29, 2003)

- Respondent cannot argue that petitioner's hours claimed for attorney's fees are excessive because they include discussions that concerned the arbitration issue as well as other non-related matters when the respondent was the party who caused those non-related matters to be part of the arbitration discussion.

[Terra Condo. Assn., Inc. v. Kusy,](#)

Case No. 2004-06-1876 (Grubbs / Final Order on Attorney's Fees and Costs / March 1, 2005)

- When the only documents prepared by the attorney were the prearbitration notice, the petition for arbitration, and the motion for attorney's fees, 4.83 hours of attorney's time and 1 hour of paralegal time was awarded as a reasonable.

[Timber Lakes Estates, Inc. v. Scott,](#)

Case No. 2005-02-8393 (Bembry / Final Order on Motion for Attorney's Fees and Costs / July 12, 2005)

- Hourly rate of \$195.00 was deemed reasonable fee for attorney having over 25 years of experience in the practice of law.
- Final order granting association's motion for attorney's fees and costs entered where unit owner did not dispute the association's claim of prevailing party status.

[The Verandas on the Gulf Condo. Assn., Inc. v. Rudz,](#)

Case No. 2005-01-0874 (Earl / Final Order on Motion for Costs and Attorney's Fees / April 22, 2005)

- Association's requested fee of \$195.00 per hour for attorney with 26 years experience and who had specialized in condominium law for twenty years found to be reasonable.

[Versailles Gardens Condo. Assn., Inc. v. Kean,](#)

Case No. 2004-03-8720 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / September 8, 2004)

- Attorney who has been licensed to practice law in the State of Florida since 2001 requested compensation in the amount of \$150.00 per hour for legal services provided in the arbitration proceeding; the requested rate does not exceed the amount customarily awarded for representation in similar arbitration proceedings by attorneys with similar experience.

[Village Towers Condo. Assn., Inc. v. Buchwald,](#)

Case No. 2004-03-4931 (Earl / Final Order on Motion for Attorney's Fees and Costs / August 16, 2004)

- Requested rate of \$225.00 per hour for an attorney who has been practicing law for over 25 years was found reasonable.

[Vista Pines Assn., Inc. v. Williamson,](#)

Case No. 2004-05-6933 (Grubbs / Final Order on Attorney's Fees and Costs / March 1, 2005)

- Petitioner will not be reimbursed for time spent on activities that occurred in a separate case or for time that is not explained sufficiently on the attorney's time sheet to allow the arbitrator to determine whether the time spent was necessary, reasonable, and related to the case.

[Westgate Blue Tree Orlando, Ltd. v. Blue Tree Resort at Lake Buena Vista Condo. Assn., Inc.,](#)

Case No. 2004-06-0167 (Scheuerman / Final Order on Motion for Costs and Attorney's Fees / February 2, 2005)

- The hourly fee of \$350 is deemed in excess of that amount charged reasonably by attorneys who have been members of the Bar since 1978 even where they have developed an expertise in community association practice. The hourly fee is found to be in excess of those fees typically charged by attorneys with experience providing services in arbitration proceedings in the area in which the condominium is located; the sum of \$225 per hour was awarded as a reasonable fee.
- The hourly fee of \$300 for an attorney who has been a member of the Bar since 1984 was in excess of those rates charged by attorneys with experience providing services in arbitration proceedings in the area in which the condominium is located; the hourly fee of \$200 would be reasonable.

[Wine v. Lighthouse Colony, Inc.,](#)

Case No. 2004-06-0221 (Scheuerman / Final Order on Motions for Attorney's Fees / May 18, 2005)

- The hourly fees of \$200 for an attorney admitted to the Bar in 2000, \$185 for an attorney licensed in 2003, and \$210 per hour for someone admitted in 2002 were found excessive and the association was awarded fees at \$175 per hour, where specialized knowledge in community association practice had not yet been achieved.

[Winfield Gardens South Condo. Assn., Inc. v. Brown,](#)

Case No. 2005-00-5739 (Grubbs / Final Order on Attorney's Fees and Costs / March 9, 2005)

- Where attorney filed only one document in the underlying case -- the petition for arbitration -- which dealt with only one simple dispute, a dog in the unit, and otherwise only prepared the prearbitration notice and the motion for attorney's fees, a total fee of \$794.00 for 3.6 hours of work plus a flat fee of \$200 was reasonable.

### **Generally**

#### [Block v. Brickell Townhouse Assn., Inc.,](#)

Case No. 2005-00-1852 (Scheuerman / Final Order on Motion for Attorney's Fees / February 14, 2005)

- Where the original petition challenged the validity of an owner vote taken to require the installation of hurricane shutters, and where during the pendency of the arbitration proceeding, the association conducted an additional corrective unit owner vote that was unsuccessfully challenged by the petitioning owners, the owners were deemed to be the prevailing party on the first vote, and the association prevailed on the subsequent challenge. By agreeing to conduct an additional vote, the association is presumed to have acknowledged the invalidity of its initial vote.

- Where the original petition challenged the validity of an owner vote taken to require the installation of hurricane shutters, and where during the pendency of the arbitration proceeding, the association conducted an additional corrective unit owner vote that was unsuccessfully challenged by the petitioning owners, the arbitrator found that each of the two issues presented in the case were of equal significance and time requirements, and that each party prevailed on one issue. No fees were awarded and each side was ordered to bear its own costs and attorneys fees, as each fee award would have offset the other.

#### [Carr v. River Reach, Inc.,](#)

Case No. 2003-06-9929 (Scheuerman / Final Order on Request for Attorney's Fees / October 14, 2003)

- Where the time and activity sheets of counsel failed to provide a date associated with each activity undertaken, and where there was a companion circuit court case pending, it was impossible to link each activity listed with actions taken in the arbitration case, and some deductions were appropriate.

#### [Classic Towne House Condo. West, Inc. v. Goldberg,](#)

Case No. 2005-01-0870 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / April 14, 2005)

- While a prevailing party that appears pro se and does not retain an attorney for representation in the arbitration matter is not entitled to an award of attorney's fees, the party may recover eligible costs.

#### [Continuum on South Beach, the South Tower Condo. Assn., Inc. v. Schiffman,](#)

Case No. 2004-06-0959 (Bembry / Final Order on Motion for Attorney's Fees and Costs / June 13, 2005)

- Attorney's fees which were generated by attorneys' involvement in circuit court proceeding during pendency of arbitration case were not awarded because only those fees incurred in arbitration proceeding are subject to recovery.

[Foxcroft Condo. Apartments, Inc. v. Olibrice,](#)

Case No. 2005-02-5791 (Grubbs / Final Order of Dismissal / July 5, 2005)

- Although the Notice of Voluntary Dismissal filed in the fees case stated that the case was being dismissed "withouth prejudice", because there is a 45-day time limit for filing a motion for attorney's fees, a voluntary dismissal after that 45-day period is necessarily "with prejudice" because another motion for attorney's fees cannot be timely filed.

[Glenwood Estates, Inc. v. Reynolds,](#)

Case No. 2003-04-5422 (Mnookin / Final Order on Attorney's Fees and Costs / April 25, 2003)

- Fees incurred prior to the drafting and filing of the petition for arbitration are not fees incurred *in the arbitration proceeding* and are therefore disallowed. Where the association requested 2.20 hours for activities that pre-dated the drafting and filing of the initial petition, those hours are reduced to 1 hour for activities dedicated to the pre-arbitration demand letter required by Section 718.1255, F.S.

[Grogis v. Marina Harbour South Assn., Inc.,](#)

Case No. 2005-01-8423 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / June 2, 2005)

- Where an association's motion for attorney's fees identifies numerous attorneys who contributed to the arbitration proceeding, each charging a different hourly rate, and it is impossible to divide the awarded hours among each of the attorneys, it is appropriate for the arbitrator to award a reasonable flat hourly fee for all hours awarded.

[Hillsboro Colonade, Inc. v. Swasey,](#)

Case No. 2003-09-2412 (Coln / Final Order on Motion for Attorney's Fees and Cost / February 3, 2004)

- Where the association prevailed on only one of the two counts raised in its petition for arbitration, and the issues were of equal significance, the award of attorney's fees were reduced by one-half.

[The Lakes of Oakland Forest Condo., Inc. v. Dowling,](#)

Case No. 2005-01-8419 (Earl / Final Order on Motion for Attorney's Fees and Costs / May 17, 2005)

- Paralegal services are compensable where services are provided under the supervision of a licensed attorney and are non-clerical, meaningful work.

[Madden v. Windmill Village by the Sea Condo. No. 1 Assn., Inc.,](#)

Case No. 2005-01-3863 (Grubbs / Final Order on Attorney's Fees and Costs / May 3, 2005)

- The party who seeks reimbursement for attorney's fees carries the burden of establishing the prevailing charge in the community for lawyers of reasonably comparable skill, experience and reputation.

[Poinciana Place Condo. Assn. Inc. v. Black,](#)

Case No. 01-3219 (Scheuerman / Final Order Awarding Attorney's Fees and Costs / January 30, 2003)

- Amount of attorney time spent defending a complaint filed by the owner with the fair housing agency is not time spent in the arbitration proceeding and is not recoverable in the arbitration proceeding.

[The Preserve at Walnut Creek Condo. Assn., Inc. v. Galvo,](#)

Case No. 2004-05-6941 (Grubbs / Final Order on Attorney's Fees / February 23, 2005)

- Although attorney had practiced condominium law for 16 years in Florida, a fee of \$225 per hour was too high where no supporting affidavit attesting to the reasonableness of the fee was filed, and attorney's affidavit did not state that the requested hourly fee was within the range of fees customarily charged in the local area. The fee was reduced to \$200 per hour.
- For an attorney with extensive experience in condominium law, 4.5 hours of time for preparation of a routine petition and 0.5 hours to review the standard Order Requiring Answer are excessive. A reasonable time to prepare the routine petition was 2.5 hours, and 0.1 hour awarded for review of the ORA.

[Quittschreiber v. Crestwoode Condo. Assn., Inc.,](#)

Case No. 2004-05-5441 (Grubbs / Final Order on Motion for Award of Attorney's Fees / January 25, 2005)

- Efforts expended by the attorney after a case is completed, designed to enforce a final arbitration order, are not activities undertaken in the arbitration proceeding and are not compensable.

[Rohan v. De La Bahia Condo. Assn., Inc.,](#)

Case No. 2004-04-7240 (Earl / Final Order on Motion for Attorney's Fees and Costs / May 13, 2005)

- As the motion for fees and costs failed to identify persons listed by their initials on the time sheet and provide their qualifications, and the arbitrator was unable to determine such information, no time was awarded for the unidentified persons' efforts.

[Rokest Condo. Assn., Inc. v. Tenen,](#)

Case No. 2003-07-7408 (Bembry / Final Order on Motion for Attorney's Fees and Costs / December 3, 2003)

- The association found to be prevailing party where it prevailed on one of two equally significant issues presented in the underlying arbitration case. The association prevailed on the issue whether respondents' landscaping was located in area(s) permitted by the governing documents, but not on the issue of whether the type of plants used in respondents' landscaping was of the type permitted by the governing documents. Accordingly, the association was awarded one-half of its reasonable costs and attorney's fees.

[Spyglass Condo., Inc. v. Love,](#)

Case No. 2004-05-7854 (Grubbs / Final Order on Motion for Award of Attorney's Fees / February 22, 2005)

- Time spent by attorney on a complaint for injunctive relief to be filed in the circuit court would not be compensated.
- Time spent attempting to serve and prosecute case against the deceased respondent would not be assessed against the remaining respondent. The petitioner did not establish that Mr. Schlak was alive when the case was filed, and Ms. Love should not be responsible for reimbursing the petitioner for legal work that was not necessitated by her actions.

[Sunset House North Apartments of Marco Island, Inc. v. Brownsen,](#)

Case No. 01-3772 (Earl / Final Order Awarding Attorney's Fees and Costs / October 21, 2004)

- The arbitrator declined to extend the holding in Huff v. Village of Stuart Assn., Inc., 741 So.2d1217 (Fla. 4<sup>th</sup> DCA 1999), that the de novo trial court may consider a fees request regarding the related arbitration, to provide that the de novo trial court has exclusive jurisdiction over the fees determination for both the trial and arbitration proceedings. Such an interpretation would be inconsistent with Rule 61B-45.048(6), F.A.C., which provides that any proceeding seeking costs and attorney's fees shall be stayed if a complaint for a trial de novo is timely filed and that the stay shall be in force and effect until the conclusion of that litigation or any subsequent appeal. Accordingly, where the trial court has not considered a request for fees incurred during the related arbitration, the arbitrator may consider such a request.

[Vista Pines Assn., Inc. v. Williamson,](#)

Case No. 2004-05-6933 (Grubbs / Final Order on Attorney's Fees and Costs / March 1, 2005)

- Petitioner will not be reimbursed for time spent on activities that occurred in a separate case or for time that is not explained sufficiently on the attorney's time sheet to allow the arbitrator to determine whether the time spent was necessary, reasonable, and related to the case.

[Winfield Gardens South Condo. Assn., Inc. v. Brown,](#)

Case No. 2005-00-5739 (Grubbs / Final Order on Attorney's Fees and Costs / March 9, 2005)

- To be compensated for the work of a paralegal, it must be shown that the paralegal performed non-clerical services.
- The time spent on drafting a motion for default would not be reimbursed as the motion was never filed.

**Prevailing Party**

[330 South Ocean, Inc. v. Bivins,](#)

Case No. 2004-00-7792 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / March 10, 2005)

- Where the arbitrator permits an association to seek injunctive relief in circuit court and the court grants the association's motion for injunctive relief and orders the unit owner to provide the association with access to his unit for the completion of a balcony restoration project, the association is the prevailing party as it received the benefit it sought in initiating the arbitration proceeding.

[330 South Ocean, Inc. v. Campaniello,](#)

Case No. 2004-05-0578 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / March 10, 2005)

- Where the unit owners demonstrate that they complied with the association's request for access to their unit to perform balcony repairs before being served with a copy of the petition for arbitration and complaint for injunctive relief, it cannot be said that the petition was the motivating catalyst behind the owners' compliance. Accordingly, the association is not the prevailing party, and is not entitled to an award of attorney's fees and costs.

[Baffly Woods Condo., Inc. v. Weaver,](#)

Case No. 2005-02-9261 (Bembry / Final Order on Motion for Attorney's Fees and Costs / July 12, 2005)

- The association's motion for attorney's fees was granted where unit owner did not dispute the association's claim that it was the prevailing party in the underlying case and

where requested hourly rate of \$185.00 for the services of attorney having eight years of experience was found to be reasonable.

[Bay Pointe Waterfront Condominium Assn. Inc. v. Delia,](#)

Case No. 03-6044 (Mnookin / Final Order Denying Motion to Determine and Tax Attorney's Fees and Costs / May 20, 2003)

- In order to be the prevailing party in an arbitration proceeding where the underlying case is dismissed as moot, a party must demonstrate that it obtained the relief sought in the arbitration or lawsuit; the petition for arbitration or lawsuit was the catalyst that motivated the opposing party to take the action causing the case to become moot; and the action taken by the opposing party was required by law. However, where the association claims to be the prevailing party because the unit owner's act of compliance was undertaken after the filing of the petition for arbitration petition, it cannot be said that the petition was the motivating catalyst which caused the compliance because it had not been served on the unit owner at the time of compliance. Accordingly, the association is not the prevailing party. When determining which party is the prevailing party, the date at issue is the date the petition was served on the respondent, not the date the petition was filed with the arbitration section.

[Bedford A Condo. Assn., Inc. v. Bressner,](#)

Case No. 2004-00-3032 (Bembry / Final Order on Motion for Attorney's Fees and Costs / August 5, 2004)

- Association found to be prevailing party where evidence showed that arbitration proceeding was the motivating factor for unit owner's voluntary compliance with relief requested in petition for arbitration. The arbitrator found that the respondent removed her birds after being served with the petition.

[Benjamin Freeland Trust v. Cricket Club Condo. Assn., Inc.,](#)

Case No. 2004-04-4170 (Earl / Final Order on Motion for Attorney's Fees and Costs, December 27, 2004)

- Where the underlying case was dismissed due to lack of jurisdiction because the unit owner/petitioner had sold its unit, the respondent is not the prevailing party for the purpose of awarding fees and costs.

[Block v. Brickell Townhouse Assn., Inc.,](#)

Case No. 2005-00-1852 (Scheuerman / Final Order on Motion for Attorney's Fees / February 14, 2005)

- Where the original petition challenged the validity of an owner vote taken to require the installation of hurricane shutters, and where during the pendency of the arbitration proceeding, the association conducted an additional corrective unit owner vote that was unsuccessfully challenged by the petitioning owners, the owners were deemed to be the prevailing party on the first vote, and the association prevailed on the subsequent

challenge. By agreeing to conduct an additional vote, the association is presumed to have acknowledged the invalidity of its initial vote.

[Bonavida Condo. Assn., Inc. v. Gonzales,](#)

Case No. 2005-00-5792 (Earl / Final Order on Petitioner's Motion for Attorney's Fees and Costs / June 29, 2005)

- When the underlying case is rendered moot due to the respondent's compliance, the petitioner is the prevailing party for the purpose of awarding costs and attorney's fees if the respondent's compliance was motivated by the filing of the petition. However, where prior to filing the petition, the respondent/unit owner informs the association that she intends to comply with its demands and does so prior to the filing of the petition, the association is not entitled to recover its fees and costs as it would be reasonable to expect the association to confirm whether the violation was present at the time of filing the petition.

[Brink v. Tudor Cay Condo. Assn., Inc.,](#)

Case No. 2004-04-6975 (Scheuerman / Final Order on Motions for Costs and Attorney's Fees / December 8, 2004)

- Where an owner filed a petition for arbitration seeking to overrule a fine imposed by the association for a rule violation, where the petition was filed a year after the association had lost an arbitration case against a unit owner in the same condominium involving the identical issue, it was incumbent on the owner before filing the present petition to refresh his pre-arbitration demand letters and to allow the association to voluntarily withdraw its fine. Similarly, since the association had outstanding letters demanding that this owner submit the required fine, and did not retract the letters after the prior case was lost, it is not unreasonable to put the burden on the association to retract outstanding fines. The arbitrator found that under these circumstances, neither party was the prevailing party.

[Castellano v. Shore Colony Condo. Assn., Inc.,](#)

Case No. 2003-06-8318 (Bembry / Final Order on Motion for Attorney's Fees and Costs / August 11, 2003)

- Where each party prevailed on equally significant issues in underlying arbitration proceeding, arbitrator found that each party's fees and cost offset the other party's fees and costs, and therefore, parties' motion for an award of fees and costs were denied.

[Coronado Condo. Assn., Inc. v. Cora,](#)

Case No. 2004-04-2160 (Bembry / Final Order on Motion for Attorney's Fees / February 2, 2005)

- Where the greater weight of the evidence supported a finding that the unit owners' compliance with the association's demand to remove a commercial vehicle was in response to their receipt of the association's pre-arbitration demand letter and not due

to its filing a petition for arbitration, the association was not considered to be the prevailing party.

[El Galeon by the Sea Condo. Assn. Inc. v. Heisey,](#)

Case No. 02-5247 (Scheuerman / Final Order on Motion for Attorney's Fees / May 29, 2003)

- Where the association instituted an action seeking a determination of whether the declaration permitted short-term leasing, and where the arbitrator held that short-term leasing was permitted in favor of the named respondents/owners, the association was ordered to pay prevailing party attorney's fees even though it took no definitive position on the ultimate issue presented. The association was the moving force propelling the dispute to a resolution and was further fulfilling a public purpose in the filing of the petition seeking an answer to a problem that had haunted the association for years; the association should be available to pay for the costs and fees as a common expense. Alternatively, the association, having taken no position on the issue, could not be considered to have prevailed on any issue and is properly held responsible for reasonable costs and fees.

[Fairbanks Terrace South, Inc. v. Broniecki,](#)

Case No. 2004-00-7357 (Earl / Final Order on Motion for Attorney's Fees and Costs / March 1, 2004)

- The respondent's argument that she is the prevailing party because she opposed any order compelling removal of her pet cat and the final order did not require removal was found by the arbitrator to be unpersuasive as the only issue in dispute in the underlying case was whether the respondent should be enjoined from allowing her cat on the common elements and the arbitrator held so.

[The Fairways at Emerald Greens Condo. Assn., Inc. v. Goetten,](#)

Case No. 2005-00-7789 (Earl / Final Order on Motion for Attorney's Fees and Costs / April 1, 2005)

- Where the arbitrator issued an order in the underlying case finding that the unit owners had violated the condominium documents as alleged by the association and granting the association its requested relief, the association is the prevailing party.

[Field v. Blind Pass Lagoons, Unit 1 Condo., Inc.,](#)

Case No. 2004-06-1875 (Earl / Final Order on Motion for Attorney's Fees / February 3, 2005)

- Where the underlying case was dismissed due to lack of jurisdiction there was no determination regarding the merits of the case. Accordingly, it cannot be determined that the association is the prevailing party.

[Fish v. Chateau by the Sea Assn., Inc.,](#)

Case No. 2004-06-1889 (Scheuerman / Final Order on Motion for Attorney's Fees / May 2, 2005)

- Where the evidence established that the association had scheduled and conducted a corrective membership vote approving a material alteration to the common elements not in response to the filing of the petition, but rather, in order to appease the Division investigator, it could not be said that the petitioning owner was the prevailing party on this issue.
- Where the owner filed a petition for arbitration alleging that the association had willfully denied her access to the official records on 8 occasions, the owner was found to be overall the prevailing party on this count even where the arbitrator only awarded statutory damages for 3 violations, where the majority of the inspections had been tainted and circumscribed by an illegal association rule limiting inspections to 3 documents per session.

[Fourth Gulfstream Garden Apartment Condo. v. Delfis,](#)

Case No. 2003-08-3366 (Earl / Final Order Awarding Attorney's Fees and Costs / November 4, 2003)

- Where petitioner succeeded on a significant issue in the arbitration and achieved the benefit sought in bring action, the petitioner is the prevailing party and is entitled to recover costs and attorney's fees. Costs of paralegal services found to be compensable where service were provided under the supervision of a licensed attorney and are non-clerical, meaningful work.

[Gentry v. Casa Del Sol \(Winter Haven\) Condo. Assn., Inc.,](#)

Case No. 2003-04-4592 (Scheuerman / Final Order on Motions for Attorney's Fees / April 7, 2003)

- Where the arbitrator found that the association had committed fundamental error in the conduct of an election by failing to use the two envelope system designed to ensure confidentiality in voting, but where it was not shown that the will of the voters was thwarted or that the actual level of secrecy had been compromised, no new election was ordered as requested by the owner/petitioner. However, the owner challenging the election was held to be the prevailing party since the association was ordered to conform its conduct of elections to the requirements of the law in the future and since the ruling benefited the unit owner and constrained the future conduct of the association; the owner was found to have obtained a benefit which was fairly within the ambit of the relief requested.

[Grogis v. Marina Harbour South Assn., Inc.,](#)

Case No. 2005-01-8423 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / June 2, 2005)

- Where the association prevails on 2 out of 3 disputed issues, it is entitled to an award of prevailing party attorney's fees to be reduced to reflect the issue it did not prevail on.

[Huseby v. Seven Springs Villas Assn., Inc.](#)

Case No. 2004-04-8540 (Scheuerman / Final Order on Motion for Costs and Attorney's Fees / December 17, 2004)

- Where the petition for arbitration filed by a group of owners seeking to set aside an agreement entered into between their association and an adjacent country club was dismissed for lack of jurisdiction (the dispute was being litigated in the courts), there was no prevailing party and no fees were awarded to the association. No determination on the merits was made on any significant issues, and there was no end to the litigation which continued in court.

[Inverness III Condo. Assn., Inc. v. Flournoy](#)

Case No. 2005-00-9710 (Earl / Final Order on Motion for Attorney's Fees and Costs / May 31, 2005)

- Where the association could not establish that the unit owner's unit had not been cleaned of mold prior to the filing of the petition and failed to immediately confirm compliance when the unit owner indicated in her answer that she had undertaken remedial efforts permitting the case to proceed to a final hearing, the unit owner is the prevailing party. However, where the association and unit owner had an extensive dialogue regarding the mold problem prior to the filing of the petition and the unit owner never mentioned that she was undertaking remedial efforts, it was found reasonable to have expected the unit owner to inform the association of her efforts prior to the filing of her answer and that she should not be awarded any attorney's fees or costs incurred prior to the filing of her answer.

[Jamestown Condo. Assn., Inc. v. Brackett](#)

Case No. 2004-04-1994 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / September 13, 2004)

- Where the unit owner sells her unit, thereby rendering the illegal pet issue moot, and fails to demonstrate that the sale of the unit was not related to the arbitration proceeding, the association is deemed the prevailing party as it received the benefit it sought when initiating the case, namely, removal of the owner's pet.

[Kings Lake Condo. Assn., Inc. v. Olivarea](#)

Case No. 2003-07-7063 (Mnookin / Final Order of Dismissal / September 30, 2003)

- Where the unit owner complies with the relief requested in the petition for arbitration before being served with the petition and order requiring answer, it cannot be said that the filing of the petition was the catalyst for securing the relief provided.

[Liberty Square Condo. Assn. Inc. v. Assam.](#)

Case No. 03-6160 (Gioia / Final Order Awarding Attorney's Fees and Costs / May 9, 2003)

- The association achieved the benefit it sought when initiating the case because the unit owner asked the two roommates "that were responsible for the loud noise" to leave. Additionally, the unit owner was ordered to comply with the declaration. Therefore, the association is the prevailing party.

[Ludwig v. Tudor Cay Condo. Assoc., Inc.](#)

Case No. 2004-02-0464 (Scheuerman / Final Order on Motion for Attorney's Fees / August 20, 2004)

- Although the petitioning unit owner did not prevail on each and every count alleged in his petition, where the final arbitration order reversed a fine imposed by the association, found that the association was selectively enforcing its rules and regulations, and prohibited the association from enforcing its rule against any owner, the unit owner succeeded in obtaining all or most of the relief requested, and is deemed to be the prevailing party.

[Meyer v. South Seas Northwest Condo. Apartments of Marco Island, Inc.](#)

Case No. 2003-08-6625 (Earl / Final Order Awarding Attorney's Fees and Costs / October 20, 2004)

- Where the arbitrator dismissed the underlying case because a prior circuit court order prohibited petitioner from filing any similar future arbitration petitions, the respondent is the prevailing party as the petitioner failed to achieve any benefit any bringing the underlying action.

[Oakland Forest Club Condo. Assn., Inc. v. Cabrera.](#)

Case No. 2004-00-6529 (Earl / Final Order on Motion Awarding Attorney's Fees and Costs / February 25, 2004)

- Where case was dismissed as moot because the respondent provided the relief sought by the petitioner subsequent to the filing of the petition, petitioner deemed to be the prevailing party.

[Park Lake Towers Condo. Assn., Inc. v. Halley.](#)

Case No. 2003-08-3367 (Scheuerman / Amended Final Order on Motions for Attorney's Fees / January 28, 2004)

- Where the association sought access to the respondent's unit in order to fix a plumbing assembly located in the common element space between adjoining units, and where the owner directed a letter to the association reasonably understood by the association as refusing access unless the association produced for the owner's information and satisfaction a proper building permit and proof of insurance for the

contractor chosen, the owner held to have denied access to the unit in violation of the statute. Hence, the association was the prevailing party in the case and was entitled to an award of costs and attorney's fees. If the owner, who is not on the board and is not therefore responsible for maintenance of the common elements, desires to challenge the board's decision to proceed with a particular maintenance project with a particular contractor, the owner must sue the association in court or in arbitration, and may not hold his unit hostage while he extracts items and concessions from the board that exceed his authority as an unit owner. The owner was held to have constructively denied access to the unit.

[Pine Ridge at Delray Beach Condo. Assn., Inc. v. Swope,](#)

Case No. 2004-04-8648 (Earl / Final Order Awarding Attorney's Fees and Costs / December 17, 2004)

- Where the underlying case is rendered moot due to the respondent's compliance, the petitioner is the prevailing party for the purpose of awarding costs and attorney's fees if the respondent's compliance was motivated by the filing and receipt of the petition.

[Regency Tower Assn., Inc. v. Diniz,](#)

Case No. 2004-04-4139 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / January 10, 2005)

- Where mediation results in an impasse, without both parties agreeing to continue with arbitration, and the unit owners comply with relief requested in the petition for arbitration after an impasse is declared but before the final order of dismissal is issued, the association was not awarded attorney's fees, notwithstanding its argument that it prevailed on that issue. Section 718.1255(4)(h), F.S., clearly indicates that after an impasse is declared at a mediation, the arbitration proceeding terminates unless both parties agree to continue with arbitration. The clear intent of the statute is for attorney's fees to be awarded in subsequent litigation, not arbitration. Jurisdiction for the fee award does not lie with the arbitrator when mediation results in an impasse, unless and until a court directs the arbitrator to issue such an award.

[Rokest Condo. Assn., Inc. v. Tenen,](#)

Case No. 2003-07-7408 (Bembry / Final Order on Motion for Attorney's Fees and Costs / December 3, 2003)

- The association found to be prevailing party where it prevailed on one of two equally significant issues presented in the underlying arbitration case. The association prevailed on the issue whether respondents' landscaping was located in area(s) permitted by the governing documents, but not on the issue of whether the type of plants used in respondents' landscaping was of the type permitted by the governing documents. Accordingly, the association was awarded one-half of its reasonable costs and attorney's fees.

[Snapper Village Condo. Assn., Inc. v. Hernandez,](#)

Case No. 2003-06-6849 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / August 5, 2003)

- Where a unit owner voluntarily removed her dogs, which had created a nuisance, from the condominium property after the petition for arbitration was filed, and where the association subsequently dismissed its petition, the association was deemed the prevailing party because it achieved the benefit it sought when initiating this case in that the dogs were removed from the premises. A party may be a prevailing party even if the case is not resolved on the merits.

[Stevens v. Cricket Club Condo. Assn., Inc.,](#)

Case No. 2005-02-6340 (Scheurman / Final Order on Motions for Attorney's Fees / July 29, 2005)

- Where the petitioning unit owner challenged the results of an election and sought entry of a final order declaring his candidate of choice to be named to the board, the unit owner was the prevailing party where the arbitrator ordered the association to conduct a runoff election. A runoff election was within the ambit of the relief requested. Also, the fact that the owner's favored candidate ultimately withdrew her candidacy after the runoff had been ordered is mere happenstance, and does not affect prevailing party status.

[Sunrise Lakes Condo. Assn., Phase I, Inc. v. Friedman,](#)

Case No. 2005-00-6633 (Bembry / Order on Motion for Attorney's Fees and Costs / April 26, 2005)

- Although the association was entitled to an award of attorney's fees and costs as the prevailing party in the underlying arbitration case, the association would only be awarded a total of 3.0 hours of its attorney's time where the record reflected that the attorney's activities consisted of preparing and filing simple petition for arbitration and a motion for attorney's fees and costs.

[Terraces of Forest Lakes Condo. Assn., Inc. v. Mangione,](#)

Case No. 2004-05-2346 (Bembry / Final Order on Motion for Attorney's Fees and Costs / January 24, 2005)

- The association was entitled to recover its reasonable attorney's fees and costs as the prevailing party in the underlying case although the final order entered in the underlying case afforded the association an alternate form of relief requested in its petition for arbitration. Where final order compelled the unit owners' compliance with the provision of declaration of condominium which prohibited nuisance pets requiring owner to maintain pets indoors as opposed to require owner to permanently remove the pet from the property, the association obtained the benefit it sought when bringing the underlying action and was deemed the prevailing party.

[Thrasher v. Octagon Towers Condo. Assn., Inc.,](#)

Case No. 2004-03-0772 (Mnookin / Final Order on Motion for Attorney's Fees / August 13, 2004)

- Where the petitioning unit owner filed a voluntary dismissal after the arbitrator denied his motion for emergency injunctive relief and his request for rehearing, the association was the prevailing party.

[Town and Country Condo. Assn., of Lauderdale Lakes, Inc. v. Rabinowitz,](#)

Case No. 2005-00-6655 (Bembry / Final Order on Motions for Attorney's Fees and Costs / June 23, 2005)

- Where the respondent in the underlying case did not comply with the demands of the association until after the association had initiated the arbitration proceeding, the association was deemed to be the prevailing party despite the fact that the underlying case was dismissed as being moot.

[Town and Country Mobile Home Park of Largo, Inc. v. Scott,](#)

Case No. 2003-04-6638 (Coln / Final Order Awarding Attorney's Fees and Costs / August 12, 2003)

- In the underlying case, the association held that the unit owners had failed to comply with the senior housing restrictions contained in the association's bylaws. A final order dismissing the case as moot was entered in the underlying matter when the unit owners sold their unit. Even though the unit owners sold their unit, the association achieved the benefit it sought when initiating the case, compliance with the senior housing restrictions. Accordingly, the association is the prevailing party and is entitled to an award of attorney's fees and costs.

[Unit Owners Voting for Recall v. Coral Ridge East Condo. Assn., Inc.,](#)

Case No. 2004-03-8533 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / October 13, 2004)

- When the association fails to certify a recall and fails to file a petition for arbitration, the unit owners in favor of the recall are permitted to file a petition for arbitration under Section 718.1255, F.S., to challenge the board's action where the prevailing party will be eligible for an award of attorney's fees and costs.

[The Verandas on the Gulf Condo. Assn., Inc. v. Rudz,](#)

Case No. 2005-01-0874 (Earl / Final Order on Motion for Costs and Attorney's Fees / April 22, 2005)

- Where the unit owner sells his or her unit in response to the petition, providing the relief sought by the association, the association is the prevailing party.

[Villa Del Mare of Marco Island Condo. Inc. v. Weis,](#)

Case No. 03-6118 (Mnookin / Final Order on Motion for Attorney's Fees and Costs / May 9, 2003)

The association is determined to be the prevailing party when the unit owners failed to establish that they removed an illegal boat trailer from the condominium property due to a medical condition, rather than due to the filing of the underlying arbitration petition.

When a unit owner claims that an illegal boat trailer was removed from the condominium property because he cannot use his boat as he had in the past due to the onset of a medical illness and fails to provide evidence to support this, the association is the prevailing party entitled to an award of attorney's fees and costs. This is true even more so when a unit owner claims to be unable to use his boat and, as a result, removes the boat trailer from the property, but continues to dock his boat at the condominium. Even assuming that the unit owner is no longer able to use his boat as he had prior to his current medical condition, it does not mean he can continue to violate the association's rules and regulations regarding parking trailers on

[Villager Assn., Inc. v. Dowling,](#)

Case No. 2004-00-7743 (Grubbs / Final Order / February 9, 2005)

- Where unit owner was charged with violating the declaration by installing an awning over the balcony and unit owner defended by affirmatively stating that she had received permission and attached a copy of the association's approval for "awnings," the association should have replied to the defense by stating that the approval was only for those awnings requested on December 23<sup>rd</sup>, which did not include the awning over the balcony. Affirmative defenses based on factual matters that raise a new point require an avoidance by reply. The avoidance admits the facts alleged in the former pleading and shows cause why they should not have their ordinary legal effect. However, the board's approval, or lack thereof, for the awning over the balcony was considered one of mutual mistake, with neither the association or unit owner prevailing on the issue.

[Villager Assn., Inc. v. Dowling,](#)

Case No. 2005-01-7011(Grubbs / Final Order on Attorney's Fees and Costs / July 6, 2005)

- A party cannot be considered a "prevailing party" for purposes of attorney's fees when it succeeds in obtaining relief on only one portion of one "count" of its petition and that portion was not even specifically mentioned in the petition. In the petition, the association alleged that the respondents had placed furniture and decorations on the balcony in violation of the declaration. At the hearing, it was determined that a light fixture installed by the respondents over the stairwell would have to be removed by the respondents, but on all other issues tried, the owners prevailed. The arbitrator concluded that it would be hard to justify the association being considered the prevailing party on a "significant" issue when the association found the issue so insignificant that the light over the stairwell was not even mentioned in the petition for arbitration or pictured in the photographs attached to and incorporated into the petition.

- Even if the association could have been considered the prevailing party as to the one issue it successfully pursued, attorney's fees still could not be awarded because the association made no attempt to apportion its attorney's fees between the one issue on which it claimed to have prevailed and the other issues raised in the petition and the vast majority of the fees claimed could not have been expended on the issue it prevailed upon.

[Wine v. Lighthouse Colony, Inc.](#)

Case No. 2004-06-0221 (Scheuerman / Final Order on Motions for Attorney's Fees / May 18, 2005)

- Where the association prevailed on certain issues and the unit owner prevailed on others, the unrelated claims will be treated as if they had been raised in separate lawsuits, and no fee may be awarded for services on the unsuccessful claims. The prevailing party on each distinct claim is entitled to an award of attorney's fees for those fees generated in connection with that claim. As the unit owners prevailed on a majority of the major issues, recovery to the owners included a set off for fees incurred by the association on issues upon which the association prevailed.