

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

CASE NO.: 502009 CA029903XXXXMB AG
CONSOLIDATED WITH
CASE NO.: 502009 CA040295XXXXMB AG

FD DESTINY, LLC,
ELISABETH DELUCA and
JONATHAN DELUCA, as Co-Personal Representatives
of the Estate of FREDERICK A. DELUCA, and
LAND COMPANY OF OSCEOLA COUNTY, LLC,

Plaintiffs,

vs.

AVP DESTINY, LLC,
ANTHONY V. PUGLIESE, III,
ANTHONY V. PUGLIESE, INC. d/b/a
THE PUGLIESE COMPANY, and
JOSEPH REAMER,

Defendants.

AVP DESTINY, LLC, a Florida limited liability company and
ANTHONY V. PUGLIESE, III, individually,

Plaintiffs,

vs.

ELISABETH DELUCA and JONATHAN DELUCA,
as Co-Personal Representatives of the Estate of
FREDERICK A. DELUCA, FD DESTINY, LLC,
FD DESTINY CREDIT, LLC, and
DOCTOR'S ASSOCIATES INC.,

Defendants.

FINAL DISPOSITION FORM
(FLOR. CIV. P. Form 1.998)

THE CLERK IS DIRECTED TO CLOSE THIS FILE
MEANS OF FINAL DISPOSITION

- | | |
|---|--|
| <input type="checkbox"/> Dismissed Before Hearing | <input type="checkbox"/> Disposed by Non-Jury Trial |
| <input type="checkbox"/> Disposed After Hearing | <input checked="" type="checkbox"/> Disposed by Jury Trial |
| <input type="checkbox"/> Dismissed by Default | <input type="checkbox"/> Other |
| <input type="checkbox"/> Disposed by Judge | |

FINAL JUDGMENT OF ATTORNEYS' FEES AND COSTS

This cause, having come before the Court on November 17, 2017 and December 14,
2017, on FD Destiny, LLC and Land Company of Osceola County, LLC's (collectively "FD

Parties”) Motion for An Award of Attorneys’ Fees and Costs Pursuant to Civil Theft (“Motion”), and the Court, having reviewed the Motion and having reviewed Anthony V. Pugliese, III, Joseph Reamer, and Anthony V. Pugliese, Inc. d/b/a The Pugliese Company’s (collectively “Pugliese Parties”) Response to the Motion, and having taken evidence, heard argument of counsel, and being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED that Judgment in the amount of \$10,290,849.93 is entered in favor of FD Destiny, LLC 300 Bic Drive, Second Floor, Milford CT 06461 and Land Company of Osceola County, LLC C/O FD Destiny Management, LLC 300 Bic Drive, Second Floor, Milford CT 06461 and, jointly and severally, against Anthony V. Pugliese III, 3145 N. Ocean Blvd. Gulfstream, FL 33483 SS # [REDACTED]; Anthony V. Pugliese, Inc. d/b/a The Pugliese Company, 101 Pugliese’s Way, Delray Beach, FL 33444; and Joseph Reamer, 13852 Via Torino, Delray Beach, FL 33444, SS # [REDACTED], as determined below:

1. The Court conducted evidentiary hearings on the FD Parties’ Motion on November 17, 2017 and December 14, 2017 (“Hearings”). Both sides presented expert testimony and other evidence at the Hearings. Based upon the filings, the evidence, and arguments presented during the Hearings, the Court finds as follows:

- a. The respective rates for the attorneys at Holland & Knight LLP, as contained in **Exhibit A** attached hereto, are reasonable in the community when considering the factors set forth in *Florida Patient’s Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985) and Rule 4-1.5 (b) of the Rules Regulating the Florida Bar.
- b. The Court agrees and adopts the blended paralegal hourly rate of \$175.00/hour for Diane Nixon and Jacqueline Ritchie, as testified to by

the FD Parties' expert, Christopher Larmoyeux. The Court finds that \$175/hour is a reasonable hourly rate for the paralegal services in the community when considering the factors set forth in *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985) and Rule 4-1.5 (b) of the Rules Regulating the Florida Bar.

- c. The Court agrees and adopts the reduction of 100 hours for the services provided by Eleni Kastrenakes-Howard, as testified to by the FD Parties' expert Mr. Larmoyeux.
- d. The Court further finds that the reduction of attorneys' fees in the amount of \$300,000.00, as testified to by Richard Hutchison, is also a reasonable reduction in light of the objections to the time entries asserted by the Pugliese Parties.
- e. After taking into account these deductions, the hours expended by each of the individual timekeepers and the total hours expended, as reflected in Exhibit A, were reasonable under the facts and circumstances of this case when considering the factors set forth in *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985) and Rule 4-1.5 (b) of the Rules Regulating the Florida Bar.

2. The Court further finds that, based on the evidence presented at the Hearings, the hours expended on the legal services by the FD Parties are awardable because the claims, and the underlying facts and evidence, relating to the FD Parties' civil theft claim were inextricably intertwined with other issues, including but not limited to, (a) the other claims brought by the FD Parties, (b) the LCOC Operating Agreement, (c) the Pugliese Parties' defenses and affirmative

defenses, and (d) AVP Destiny's breach of the LCOC Operating Agreement claim. *Centex-Rooney Constr. Co. v. Martin Cnty.*, 725 So. 2d 1255 (Fla. 4th DCA 1999); *22nd Cent. Props., LLC v. FPH Props., LLC*, 160 So. 3d 135, 142, 142-44 (Fla. 4th DCA 2015); *Gersh v. Cofman*, 769 So. 2d 407, 409 (Fla. 4th DCA 2000) (where contract involved for civil theft, must prove "an intricate sophisticated scheme of deceit and theft.").

3. In light of the foregoing, the Court awards the FD Parties **\$8,606,936.00** in attorneys' fees.

4. In addition to attorneys' fees, the Court finds that the FD Parties are entitled to reimbursement for costs in the amount of **\$1,348,159.59**. On August 2, 2017, and after a hearing, the Court issued a written order requiring the Pugliese Parties to submit written line-by-line objections to the costs submitted by the FD Parties. The deadline to submit the objections was September 12, 2017. The Pugliese Parties did not submit any objections to the FD Parties' costs by the Court-Ordered deadline. Accordingly, and for the reasons further explained on the record at the Hearings, the Court finds that the Pugliese Parties waived any objections to the FD Parties' request for costs. The Court further denies the Pugliese Parties' December 14, 2017 *ore tenus* motion to reconsider the Court's finding that the Pugliese Parties waived their objections to the costs.

5. Lastly, the Court finds that the FD Parties are entitled to reimbursement for the reasonable expert witness fees of Mr. Larmoyeux in connection with the Motion. *See Travieso v. Travieso*, 474 So. 2d 1184, 1186 (Fla. 1985); *Indemnity Ins. Co. of N. Am. v. Chambers*, 732 So. 2d 1141, 1142 (Fla. 4th DCA 1999). Based upon the evidence presented at the Hearings, the Court finds that the FD Parties shall recover from the Pugliese Parties for 23 hours of Mr.

Larmoyeux's time at the rate of \$600 per hour, and 6.5 hours of Mr. Larmoyeux's time testifying at a rate of \$750 per hour, for a total of \$18,675.00.

6. The Court finds that FD Destiny, LLC is entitled to recover all amounts awarded to the FD Parties herein, because the attorneys' fees, expert witness fees and costs were previously paid by FD Destiny, LLC on behalf of the FD Parties.

7. Based upon the foregoing, and pursuant to Section 772.11, Florida Statutes and other applicable law, FD Destiny, LLC shall recover from Anthony v. Pugliese, III; Anthony V. Pugliese, Inc. d/b/a The Pugliese Company; and Joseph Reamer, jointly and severally, \$8,606,936.00 in reasonable attorneys' fees, \$1,348,159.59 in reasonable costs, and \$18,675.00 in reasonable expert witness fees for a subtotal of \$9,973,770.59. Pre-judgment interest on the \$8,606,936.00 in attorneys' fees and \$1,348,159.59 in costs is also awarded from June 1, 2017 (i.e., the date of entitlement) through January 5, 2018, in the amount of \$317,079.34, *see, e.g., Quality Engineered Installation, Inc. v. Higley S., Inc.*, 670 So. 2d 929, 930-31 (Fla. 1996), **for a total judgment of \$10,290,849.93**, which shall bear interest at the rate of 5.530%, at a per diem rate of \$1,559.13 beginning January 6, 2018, and thereafter at the prevailing rate as provided for by Florida Statutes. For all of the foregoing amounts in this paragraph let execution issue.

8. Jurisdiction of this case is retained to enter further orders that are proper to compel the judgment debtors to complete form 1.977, including all required attachments, and serve it on the judgment creditor's attorney, or the judgment creditor if the judgment creditor is not represented by an attorney, and to enforce this Judgment.

DONE AND ORDERED this 5 day of January, 2018, in Chambers, in West Palm Beach, Florida.


DONALD HAFELE
Circuit Court Judge

Copies furnished to: (see attached Service List)

SERVICE LIST

Willie E. Gary
GARY, WILLIAMS, LEWIS & WATSON, PL
221 E. Osceola Street, Stuart, FL 34994
weg@williegary.com

Rick Hutchison and John Chapman
HOLLAND & KNIGHT LLP
222 Lakeview Avenue, Suite 1000, West Palm Beach, FL 33401
rick.hutchison@hkclaw.com; john.chapman@hkclaw.com

Marwan E. Porter
PORTER LAW FIRM
5033 SE Federal Highway, Stuart, FL 34997
marwan@theporterfirm.com

John F. Mariani
KAMMERER & MARIANI, PLLC
1601 Forum Place, Suite 500, WPB, FL 33401
jmariani@kammerermariani.com

Anthony Yanez
BLANK ROME, LLP
500 E. Broward Blvd., Suite 2100, Ft. Lauderdale, FL 33394
ayanez@blankrome.com

Tricia P. Hoffler
EDMOND, LINDSAY & HOFFLER, LLP
344 Woodward Ave., SE, Atlanta, GA 30312
ckhoffler@edmondfirm.com

Marjorie Gadarian Graham, P.A.
11211 Prosperity Farms Rd., Oakpark – Suite D 129
Palm Beach Gardens, FL 33410
mgg@appeal.com

Exhibit A

Professional	Timeframe	Rate	Hours
Christopher N. Bellows, Partner			339.8
Christopher N. Bellows, Partner	Feb. 2013 to May 2013	\$510	27.8
Christopher N. Bellows, Partner	March 2014	\$525	10.7
Christopher N. Bellows, Partner	March 2016 to present	\$630	301.3
Kelly-Ann G. Cartwright, Partner			875.1
Kelly-Ann G. Cartwright, Partner	June 2016 to present	\$620	875.1
Richard C. Hutchison, Partner			5442.9
Richard C. Hutchison, Partner	Dec. 2009 to Dec. 2010	\$425	935.7
Richard C. Hutchison, Partner	Jan. 2011 to Dec. 2012	\$540	748.4
Richard C. Hutchison, Partner	Jan. 2013 to Feb. 2014	\$585	894.3
Richard C. Hutchison, Partner	Mar. 2014 to Feb. 2015	\$610	680.2
Richard C. Hutchison, Partner	March 2015 to Feb. 2016	\$625	471.7
Richard C. Hutchison, Partner	March 2016 to Dec. 2016	\$655	1081.4
Richard C. Hutchison, Partner	Jan. 2017 to present	\$670	631.2
Jason D. Lazarus, Partner			437.1
Jason D. Lazarus, Partner	March 2016 to present	\$455	437.1
Ilene L. Pabian, Partner			109.1
Ilene L. Pabian, Partner	Sept. 2016	\$595	81.2
Ilene L. Pabian, Partner	October 2016 to December 2016	\$610	27.9
Matthew Z. Zimmerman, Partner			1818.6
Matthew Z. Zimmerman, Associate	Dec. 2009 to Dec. 2010	\$280	520.5
Matthew Z. Zimmerman, Associate	Jan. 2011 to Dec. 2012	\$340	479.9
Matthew Z. Zimmerman, Partner	Jan. 2013 to Feb. 2014	\$355	242.7
Matthew Z. Zimmerman, Partner	March 2014 to Feb. 2015	\$390	259.7
Matthew Z. Zimmerman, Partner	March 2015 to Jan. 2016	\$410	315.8
John R. Chapman, Partner			7308.0
John R. Chapman, Associate	Dec. 2009 to Dec. 2010	\$245	1011.9
John R. Chapman, Associate	Jan. 2011 to Dec. 2012	\$265	1235.0
John R. Chapman, Associate	Jan. 2013 to Feb. 2014	\$300	1414.8
John R. Chapman, Associate	Mar. 2014 to Feb. 2015	\$320	1016.4
John R. Chapman, Associate/Partner	March 2015 to Dec. 2016	350.0	768.9
John R. Chapman, Partner	March 2016 to Dec. 2016	415.0	1280.2
John R. Chapman, Partner	Jan. 2017 to present	455.0	580.8
Joshua R. Levenson, Partner			602.0
Joshua R. Levenson, Associate	April 2016 to December 2016	\$415	219.0
Joshua R. Levenson, Partner	Jan. 2017 to present	\$435	383.0
Eleni S. Kastrenakes Howard, Associate			73.4
Eleni S. Kastrenakes Howard, Associate	February 2016 to Dec. 2016	\$405	73.4
Eleni S. Kastrenakes Howard, Associate	January 2017	\$440	0.0
Benjamin A. Taormina, Associate			1210.5
Benjamin A. Taormina, Associate	April 2014 to Dec. 2016	\$250	806.3
Benjamin A. Taormina, Associate	Jan. 2017 to present	\$345	404.2
Diane M. Nixon, Paralegal			6139.4
Diane M. Nixon, Paralegal	Dec. 2009 to Dec. 2010	\$175	901.7
Diane M. Nixon, Paralegal	Jan. 2011 to Feb. 2016	\$175	3508.5
Diane M. Nixon, Paralegal	March 2016 to present	\$175	1729.2
Jacqueline A. Ritchie, Paralegal			685.0
Jacqueline A. Ritchie, Paralegal	Oct. 2013 to Sept. 2016	\$175	179.1
Jacqueline A. Ritchie, Paralegal	Oct. 2016 to present	\$175	505.9
SUBTOTAL OF FEES (less \$113,260.50 previously collected)			\$ 8,906,936.00
FEE REDUCTION per Pugliese Parties' Objections			(300,000.00)
TOTAL FEES SOUGHT			\$ 8,606,936.00