

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

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

HHA BORROWER, LLC.,

Appellant,

v.

Case Nos. 5D17-2783, 5D18-1357

W.G. YATES & SONS CONSTRUCTION COMPANY,

Appellee.

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Opinion filed March 22, 2019

Appeal from the Circuit Court  
for Volusia County,  
Christopher A. France, Judge.

Vincent F. Vaccarella and Craig R. Lewis,  
of Vincent F. Vaccarella, P.A., Ft.  
Lauderdale, for Appellant.

Stanley LaRue Williams, and Drew C.  
Williams, of Kinsey, Vincent, Pyle, PL,  
Daytona Beach, for Appellee.

HARRIS, J.

HHA Borrower, LLC (“HHA”) appeals the trial court’s order finding that W.G. Yates & Sons Construction Company (“Yates”) was the prevailing party on the significant issues and thus entitled to an award of attorney’s fees and costs. This complex case, a highly contested and protracted construction lien litigation, involved multiple significant issues and each party prevailed on different ones. Under the specific facts and history of this

case, it would be inequitable to award attorney's fees to either party, because although both won on significant issues, they also both lost on significant issues. See Brevard Cty. Fair Ass'n, v. Cocoa Expo., 832 So. 2d 147 (Fla. 5th DCA 2002). We find that the trial court abused its discretion in failing to find that HHA was also a prevailing party on significant issues in the case.

Therefore, we reverse the final order awarding attorney's fees and costs to Yates and remand to the trial court with instructions to enter an order determining that neither party was the prevailing party under section 713.29, Florida Statutes (2017), and to deny both requests for attorney's fees in this case. See Trytek v. Gabe Indus., 3 So. 3d 1194 (Fla. 2009); Prosperi v. Code, Inc., 626 So. 2d 1360 (Fla. 1993); Moritz v. Hoyt Enters. Inc., 604 So. 2d 807 (Fla. 1992); C.U. Assocs. v. R.B. Grove, Inc., 472 So. 2d 1177 (Fla. 1985).

REVERSED and REMANDED.

GROSSHANS, J., and BLECHMAN, M., Associate Judge, concur.