

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

FLORIDA INSURANCE GUARANTY
ASSOCIATION,

Appellant,

v.

Case No. 5D13-4501

JAMES HANSE AND RITA HANSE,

Appellees.

Opinion filed November 21, 2014.

Non-Final Appeal from the Circuit
Court for Hernando County,
Richard Tombrink, Jr., Judge.

Dorothy Difiore, of Haas Lewis Difiore,
P.A., Tampa, for Appellant.

George A. Vaka and Nancy A. Lauten, of
Vaka Law Group, Tampa, and Kenneth C.
Thomas, Jr., of Marshall Thomas Burnett,
Land O'Lakes, for Appellees.

WALLIS, J.

Florida Insurance Guaranty Association ("Appellant") appeals a non-final order compelling appraisal for James and Rita Hanse ("Appellees") in a dispute over a sinkhole loss. Appellant raises three issues: (1) Appellees waived their right to demand appraisal because the case has been actively litigated; (2) No issues exist that can be determined by an appraisal panel because only the amount of loss is subject to appraisal under the

policy; and (3) Appellees selected an unqualified appraiser. Because we addressed identical arguments on substantially similar facts in Florida Insurance Guaranty Association v. Branco, 39 Fla. Law Weekly D2020 (Fla. 5th DCA Sept. 19, 2014), we affirm, in part, holding Appellees did not waive their right to demand appraisal and appraisable issues exist. However, we reverse, in part, and remand the order to the extent it permits Appellees to select their own attorney as a disinterested appraiser. Id. ("Given the duty of loyalty owed by an attorney to a client, we conclude that attorneys may not serve as their clients' arbitrators or appraisers when 'disinterested' arbitrators or appraisers are bargained for.").

AFFIRMED in part; REVERSED in part; and REMANDED.

LAWSON and LAMBERT, JJ., concur.