

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DICK PELASCINI and CECILIA)	No. 63758-4-I
PELASINI, husband and wife)	
and their marital community;)	
WINDERMERE REAL)	DIVISION ONE
ESTATE/BELLEVUE COMMONS,)	
INC.; THOMAS BOBOTH; and)	
PACIFIC SHORELINE)	UNPUBLISHED OPINION
MORTGAGE, INC.,)	
)	
Appellants,)	
v.)	
)	
VILA PACE-KNAPP)	
)	
<u>Respondent.</u>)	FILED: February 14, 2011

Schindler, J. — This is the second appeal in this case. In the first appeal, we held that the trial court’s unchallenged findings supported the determination that Dick and Cecilia Pelascini, Thomas Boboth, and Pacific Shoreline Mortgage Inc. (collectively the Pelascinis) violated the Consumer Protection Act, chapter 19.86 RCW, by engaging in a real estate foreclosure scheme to obtain ownership of Vila Pace-Knapp’s home.¹ However, because the court erred in ordering rescission, we remanded to determine the amount of damages and attorney fees Pace-Knapp was entitled to under the

¹ Pace-Knapp v. Pelascini, 143 Wn. App. 1037, 2008 WL 699279.

Consumer Protection Act (CPA). In this appeal, the Pelascinis challenge the award of attorney fees and contend the trial court erred in awarding prejudgment interest. The Pelascinis argue that the court abused its discretion in awarding fees by failing to segregate time spent on unsuccessful claims, failing to deduct duplicative and nonproductive time, and awarding fees based on time records that were not recorded contemporaneously. Pace-Knapp concedes the court should not award her attorney fees for the time spent in responding to the petition for review and that the court incorrectly awarded duplicative prejudgment interest. We accept Pace-Knapp's concessions as well taken, and remand to recalculate the attorney fee award and prejudgment interest accordingly. In all other respects, we affirm.

FACTS²

In early 2001, Vila Pace-Knapp fell behind on the mortgage payments due on her house. At the time, Pace-Knapp owed the mortgage company \$125,000. In an attempt to avoid foreclosure, Pace-Knapp filed for bankruptcy.

Right before the trustee sale scheduled in June 2001, Dick Pelascini, a real estate broker with Windermere/Bellevue Commons Inc. (Windermere), contacted Pace-Knapp. Pelascini told Pace-Knapp that he and a friend in the mortgage business were willing to "help her out of her situation." Pace-Knapp said that she was not interested in selling her home. Shortly thereafter, Thomas Boboth, the president of Pacific Shoreline Mortgage, also contacted Pace-Knapp about helping her "save her home." Pace-Knapp told Boboth she was not interested.

² The unchallenged facts are more fully set forth in Pace-Knapp, 2008 WL 699279. We only repeat the facts as necessary.

The bankruptcy court dismissed Pace-Knapp's petition for bankruptcy. After Pace-Knapp again filed for bankruptcy, the bankruptcy court entered an order of dismissal on October 22 prohibiting Pace-Knapp from filing another bankruptcy petition. The mortgage company then commenced a new foreclosure action.

Pelascini and Boboth convinced Pace-Knapp to sell her house to them with the understanding that she had a two-year option to purchase the home and could remain in the house and pay rent. The evening before the trustee's sale, Pace-Knapp went to the Windermere real estate office to sign a number of documents, including a purchase and sale agreement, a residential lease agreement, and a two-year option to purchase the property. The Pelascinis paid \$164,000 to purchase the house. Pace-Knapp received \$7,353 at closing.

Pace-Knapp lived in the house for two and a half years. She paid rent of \$1,400 a month the first year and \$1,550 a month the second year. The Pelascinis refused to renew the lease for a third year and brought an action to evict Pace-Knapp from the house.

In February 2005, Pace-Knapp filed a lawsuit against the Pelascinis and Windermere. The complaint alleged fraud, fraud in the inducement, violation of the CPA, chapter 19.86 RCW, breach of fiduciary duty, unconscionability, and negligent and intentional infliction of emotional distress. Pace-Knapp sought rescission, damages, and attorney fees. On summary judgment, the trial court dismissed the claims against Windermere and the breach of fiduciary duty claim against the Pelascinis.

Following an eight-day bench trial, the court ruled that while Pace-Knapp did not prove unconscionability, infliction of emotional distress, or fraud in the execution, she prevailed on her claims for fraud in the inducement and violation of the CPA. The court ordered rescission of the purchase and sale agreement and ordered the Pelascinis to reimburse Pace-Knapp for the rental payments.³ The court also awarded attorney fees under the CPA.⁴

On appeal, we reversed the finding of fraud in the inducement and the order of rescission but held that the unchallenged findings of fact supported the trial court's determination that the Pelascinis violated the CPA. Pace-Knapp v. Pelascini, 143 Wn. App. 1037, 2008 WL 699279. We affirmed "to the extent of the CPA award and remand[ed] for the determination of damages and the amount of attorney fees," including attorney fees on appeal. Pace-Knapp, 2008 WL 699279, at *5. The opinion states, in pertinent part:

Here, Pace-Knapp was injured because she lost the equity in her home. There are, potentially, other damages to which she is entitled as well. Accordingly, attorney fees were proper because each element of the CPA was met.

Pace-Knapp, 2008 WL 699279, at *4.

The Pelascinis filed a petition for review in the supreme court. The supreme court denied the petition, awarded Pace-Knapp attorney fees, and ordered Pace-Knapp to submit an affidavit documenting fees.⁵ Pace-Knapp's attorney did not file an affidavit in support of an attorney fee request.

³ The court also required Pace-Knapp to reimburse the Pelascinis for refurbishing and other costs.

⁴ The court entered extensive findings of fact and conclusions of law and a judgment in favor of Pace-Knapp. The Pelascinis filed an appeal of the final judgment before the trial court ruled on the request for attorney fees.

⁵ See Pace-Knapp v. Pelascini, 165 Wn.2d 1010, 198 P.3d 512 (2008).

On remand, Pace-Knapp requested damages for the lost equity in her home of \$62,100; refund of the rental payments of \$53,363; excessive rent of \$7,500; the \$4,013 she spent to prevent eviction; and treble damages under the CPA of \$30,000. Pace-Knapp also requested an award of prejudgment interest and attorney fees. Pace-Knapp's attorney filed a declaration in support of the request for attorney fees and attached detailed records for the time spent on the litigation.

The Pelascinis challenged the request for damages and attorney fees on several grounds. The Pelascinis argued that Pace-Knapp was only entitled to \$47,700 in lost equity, she was not entitled to an award for excessive rent or a refund of all of the rental payments, and was only entitled to \$10,000 in treble damages. The Pelascinis claimed Pace-Knapp was not entitled to a lodestar multiplier of 15 percent. The Pelascinis also argued that the attorney fee request included fees for duplicative or unproductive work, fees for work that was not contemporaneously recorded, and fees for unsuccessful claims.

Following a hearing on damages and attorney fees, the court entered "Additional Findings Re: Damages to Plaintiff Vila Pace-Knapp and Findings Regarding the Award of Attorney Fees and Costs to Plaintiff."

The court awarded Pace-Knapp \$109,526 in damages. The court determined Pace-Knapp was entitled to \$54,747 in damages for the lost equity in the house. Starting with the unchallenged finding that the fair market value of the house was at least \$226,100, the court deducted the amount the Pelascinis paid for the property and the money Pace-Knapp received at the time of the sale to calculate the lost equity

damages. The trial court awarded Pace-Knapp prejudgment interest on the lost equity damages from the date of the sale of the house to the date of the judgment in the amount of \$43,579. The trial court awarded Pace-Knapp \$1,200 in excess rental payments and treble damages under the CPA of \$10,000. The court also awarded an additional \$16,020 in prejudgment interest based on the total amount of damages awarded.

As to the attorney fee request, the court found that the attorney fees were “reasonable and necessarily incurred in order to prevail upon a claim under the Consumer Protection Act, RCW 19.86.” Because “all of the facts adduced at trial were necessary in order to prove her CPA claim,” the court rejected the Pelascinis’ request to segregate. The court also rejected the arguments that the attorney fee records were not contemporaneous, and that the request included nonproductive and duplicative work.

The court awarded Pace-Knapp \$134,425 in attorney fees including a lodestar multiplier of 15 percent. As directed by this court, the court determined the amount of attorney fees Pace-Knapp was entitled to as the prevailing party in the appeal. The court also awarded approximately \$5,400 in attorney fees for responding to the petition for review.

The court entered judgment of \$109,526 against the Pelascinis, including prejudgment interest of \$43,579, plus interest owed to the date of judgment of \$16,020, and attorney fees and costs totaling \$134,425.

ANALYSIS

On appeal, the Pelascinis challenge the attorney fee award on a number of grounds and contend the trial court erred in awarding prejudgment interest.

A. Attorney Fees

The Pelascinis contend the trial court erred 1) in awarding attorney fees based on documentation that was not contemporaneously recorded, 2) by failing to segregate work on unsuccessful claims, and 3) by failing to discount the amount awarded for duplicative and otherwise unproductive work.

The trial court's attorney fee award will not be overturned absent a manifest abuse of discretion. Mahler v. Szucs, 135 Wn.2d 398, 435, 957 P.2d 632 (1998). A trial court abuses its discretion if the decision is manifestly unreasonable or based on untenable grounds. Mayer v. Sto Indus., Inc., 156 Wn.2d 677, 684, 132 P.3d 115 (2006). A successful plaintiff in a CPA action is entitled to recover reasonable attorney fees and costs. RCW 19.86.090. The court uses the lodestar method in determining the reasonableness of attorney fees under the CPA. Wash. State Physicians Ins. Exch. & Ass'n v. Fisons Corp., 122 Wn.2d 299, 334, 858 P.2d 1054 (1993). The lodestar fee is calculated by multiplying a reasonable hourly rate by the number of hours reasonably expended to establish the CPA course of action and exclude wasteful or duplicative hours and any hours spent on unsuccessful claims or theories, then adjusting up or not based on the contingent nature of the case. Mahler, 135 Wn.2d at 434. The party requesting fees bears the burden of proving the reasonableness of the fees. Mahler, 135 Wn.2d at 433-34.

1. Contemporaneous Time Records

Citing to a declaration submitted by Pace-Knapp's attorney, the Pelascinis claim Pace-Knapp is not entitled to attorney fees because not all of the attorney's time was contemporaneously recorded. The attorney seeking fees must provide "reasonable documentation of work performed to calculate the number of hours." Fisons, 122 Wn.2d at 335. The court in Mahler stated that in determining the lodestar amount, the attorney requesting fees must provide "contemporaneous records documenting the hours worked." Mahler, 135 Wn.2d at 434. As we said in Bowers v. Transamerica Title Insurance Co., 100 Wn.2d 581, 597, 675 P.2d 193 (1983), such documentation need not be "exhaustive or in minute detail, but must inform the court, in addition to the number of hours worked, of the type of work performed." Mahler, 135 Wn.2d at 434.

On April 13, 2009, Pace-Knapp's attorney submitted a motion for attorney fees and costs and a declaration in support of the motion. Based on the contingent fee agreement, Pace-Knapp requested a multiplier on the attorney fees. The declaration describes the attorney's experience in predatory lending and fraud cases and justification for the rates charged in the contingency fee case. Attached to the declaration are approximately 20 pages documenting the attorney and paralegal time spent on the case by year, date, the task performed, and the time spent. But the motion for attorney fees notes that the request:

[I]s based in part upon contemporaneous time records and upon those which had to be recreated after the fact due to the intensity and overwhelming nature of preparing the case for trial and trying the case. These time records do not reflect every minute spent on the case and exclude time for minor tasks or for which time was either not recorded or which could not be reasonably approximated.

In response, the Pelascinis' primary argument was that the attorney fee request

did not properly segregate the time spent on the CPA claim from the time spent on unsuccessful claims. The Pelascinis also argued that the attorney was not entitled to a multiplier. In passing, the Pelascinis noted that Pace-Knapp's attorney did not provide "requisite" contemporaneous records documenting hours.

In the attorney's declaration submitted in reply, Pace-Knapp's attorney explained that all time was recorded at the time the work was done either at the time performed or

close to the time it was completed. The declaration states, in pertinent part:

4. I have spent a great deal of time in this case responding to the frivolous and ridiculous pleadings filed by the Defendants. I truthfully reported that not every single minute of the attorneys [sic] time reported in the fee application was recorded contemporaneously. My attorney time, and that of my legal assistant and law clerk were recorded contemporaneously and recreated because it was a physical impossibility for all such work to be recorded immediately after it was completed.

5. I conducted and/or participated in at least eight depositions in this case. Since I did not immediately return to my computer to enter my time following depositions at remote locations or which were completed at the end of a work day, the time could not be recorded contemporaneously. Since I conducted trial of this case, including work performed while the trial was on-going, and before and after court days, it was a physical impossibility to be recording attorney work performed during courtroom activities. The same was true regarding any work performed relating to a motion. Simply put most attorney and staff time which involved office work was documented contemporaneously, and some work which was not done in the office, such as depositions, courtroom work and work performed off-site, was documented after the fact and could not be described as being done “contemporaneously.”

The trial court did not abuse its discretion in awarding Pace-Knapp attorney fees based on the documentation provided for the work performed.⁶

2. Segregation of Unsuccessful Claims

The Pelascinis claim the court abused its discretion in failing to segregate time spent on unsuccessful legal theories and claims from the CPA claim.

A court must segregate the time spent on unsuccessful claims even if the claims are interrelated or overlap unless the court finds that a reasonable segregation of successful and unsuccessful claims cannot be made. Hume v. Am. Disposal Co., 124

⁶ The Pelascinis argue that the business records exception to the hearsay rule requires that the records be made at or near the time of the act. Because the Pelascinis raise this argument for the first time in their reply brief and did not raise this issue below, they cannot raise it now. RAP 2.5; Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992). Nonetheless, the business records exception to the hearsay rule does not apply because the time records presented by Pace-Knapp’s attorney were based on personal knowledge and were not hearsay. ER 801(c).

Wn.2d 656, 672-73, 880 P.2d 988 (1994). But the court is not required to artificially segregate time in a case where the causes of action “all relate to the same fact pattern, but allege different bases for recovery.” Ethridge v. Hwang, 105 Wn. App 447, 461, 20 P.3d 958 (2001).

Below, the Pelascinis argued that the trial court should segregate time spent on the unsuccessful claims from the time spent on the CPA claim by taking into account the number of pages related to the CPA claim in the briefing on summary judgment, and only award fees for 31 hours instead of 284 hours. Pace-Knapp argued that the court should not artificially segregate the time spent on each claim because all of the claims in the case related to the same set of facts and no reasonable segregation could be made.

The trial court found that the time spent on the unsuccessful claims could not be segregated because the pertinent facts related to the unsuccessful claims were also necessary to establish the CPA claim. The court ruled, in pertinent part:

[T]he attorneys fees requested by counsel for Ms. Pace-Knapp were reasonable and necessarily incurred in order to prevail upon a claim under the Consumer Protection Act, RCW 19.86, *et seq.* (“CPA”). The language in the CPA permits a prevailing party to recover his or her “costs of suit” and that does not mean the cost of prevailing on a claim. Rather, it means that the reasonably incurred attorneys fees are recoverable by Ms. Pace-Knapp under the CPA because all of the facts adduced at trial were necessary in order to prove her CPA claim.

Relying on Travis v. Washington Horse Breeders Ass’n, Inc., 111 Wn.2d 396, 759 P.2d 418 (1988), the Pelascinis argue the trial court erred in failing to segregate. In Travis, after the buyers purchased a colt at auction, they discovered the horse had a heart murmur. The buyers sued the sellers for express and implied warranty of

merchantability, mutual mistake, implied warranty of fitness for a particular purpose, and violation of the CPA. Travis, 111 Wn.2d at 398-99. A jury returned a verdict for the buyers on each claim. The trial court awarded attorney fees under the CPA on the grounds that the claims overlapped and were intertwined. Travis, 111 Wn.2d at 399. The court held that an attorney fee award under the CPA “should only represent the reasonable amount of time and effort expended which should have been expended for the *actions* of [the defendant] which constituted a [CPA] violation.” Travis, 111 Wn.2d at 410 (quoting Nordstrom, Inc. v. Tampourlos, 107 Wn.2d 735, 744, 733 P.2d 208 (1987)).

While a number of fundamental facts are essential to every aspect of the lawsuit, the law pertaining to warranties, a CPA violation, and mutual mistake is not the same Thus, the court must separate the time spent on those theories essential to the CPA and the time spent on legal theories relating to the other causes of action.

Travis, 111 Wn.2d at 411. The supreme court concluded that because only some of the basic facts were interrelated and that the law regarding warranty, mutual mistake, and violation of the CPA was clearly distinct, the trial court erred in failing to segregate. Travis, 111 Wn.2d at 411.

Here, although Pace-Knapp alleged a number of legal causes of action, unlike in Travis, all the claims were based on the Pelascinis’ real estate foreclosure scheme to purchase Pace-Knapp’s house, making it necessary to prove the same set of facts to prevail on the CPA claim.

The other case the Pelascinis rely on, Kastanis v. Educational Employees Credit Union, 122 Wn.2d 483, 859 P.2d 26 (1993), is also distinguishable. In Kastanis, the

plaintiff's marital status discrimination claim was unrelated to the unsuccessful claims of wrongful discharge, sex discrimination, and intentional infliction of emotional distress, and the trial court made no finding that it could not segregate. Kastanis, 122 Wn.2d at 501-02. On appeal, the court held that because the claims were unrelated, the court should award only the fees reasonably attributable to the recovery. Kastanis, 122 Wn.2d at 502.

This case is more like Mayer and Ethridge. In Mayer, the court held that the trial court did not abuse its discretion in awarding attorney fees under the CPA for successful and unsuccessful claims based on "the trial court's clear explanation that the CPA work could not be segregated from the [Washington Product Liability Act] work," and because the evidence relied on to prove the products liability claim was necessary to prove the CPA claim. Mayer, 156 Wn.2d at 693.

Likewise, in Ethridge, this court upheld an award of attorney fees where Ethridge was successful on her CPA claim as well as claims of tortious interference and violation of the Mobile Home Landlord-Tenant Act because, although the causes of action alleged different claims for recovery, all related to the same fact pattern. Ethridge, 105 Wn. App. at 461.

As in Mayer and Ethridge, Pace-Knapp alleged different claims for recovery based on the same facts concerning the real estate foreclosure scheme and the purchase of her house. The record shows the trial court considered the issue of segregation and found that it could not segregate successful and unsuccessful claims because all the same facts were necessary to prove the CPA claim. The trial court did

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not abuse its discretion in determining that time spent on the unsuccessful claims from the CPA claim could not reasonably be segregated.

3. Duplicative and Unproductive Work

The Pelascinis contend the trial court abused its discretion in failing to discount the fees awarded for duplicative and unproductive work. The Pelascinis argued below and now argue on appeal that Pace-Knapp is not entitled to attorney fees for: 1) 4.9 hours spent evaluating the case, 2) 8.1 hours researching unlawful detainer issues, 3) 6.3 hours drafting findings of fact and conclusions of law that the trial court did not use, 4) 2.2 hours spent filing a motion for fees on appeal, and 5) 9.1 hours responding to Windermere's successful summary judgment motion. Pace-Knapp concedes that the trial court erred in awarding fees for the time spent responding to the Pelascinis' petition for review to the supreme court.⁷

As a general rule, the reasonableness of attorney fees is a factual question and the trial court has broad discretion in fixing attorney fees. Schmidt v. Cornerstone Inv., Inc., 115 Wn.2d 148, 169, 795 P.2d 1143 (1990). In evaluating a fee request, the court should discount any wasteful, duplicative, or otherwise unproductive efforts. Mahler, 135 Wn.2d at 434. The trial judge is in the best position to determine the hours to be included in the lodestar calculation. Pham v. Seattle City Light, 159 Wn.2d 527, 540, 151 P.3d 976 (2007). We do not decide whether we would have awarded a different amount but rather, whether the trial court abused its discretion. Pham, 159 Wn.2d at 540.

Here, the trial court rejected the Pelascinis' arguments as to duplicative or unproductive work. The record supports the court's decision. The record shows that

⁷ Because Pace-Knapp's attorney did not file a request for attorney fees as ordered by the supreme court, we accept her concession.

meeting with the prior attorneys as well as doing research on the unlawful detainer issues was a necessary step before agreeing to represent Pace-Knapp. The record also shows that the trial court ordered both parties to prepare proposed findings and conclusions and the court did not use either of the proposed findings and conclusions. And because the time Pace-Knapp spent on the motion for fees filed in this court served as the basis for Pace-Knapp's request for fees at the trial level, the court did not abuse its discretion in declining to deduct that time.⁸

B. Prejudgment Interest

The Pelascinis argue that because the parties disputed the fair market value of the house at trial, the court erred in awarding prejudgment interest on lost equity damages from the date of the sale of the house until entry of the judgment. The Pelascinis assert that the claim for lost equity damages was not liquidated until the court entered findings at trial determining the fair market value of the house.

An award of prejudgment interest is appropriate when a party retains funds rightfully belonging to another party and denies that party the use value of the money withheld. Crest Inc. v. Costco Wholesale Corp., 128 Wn. App. 760, 775, 115 P.3d 349 (2005). “[T]he law assumes that one who retains money owed to another should be charged interest on it.” Lakes v. von der Mehden, 117 Wn. App. 212, 217, 70 P.3d 154 (2003). Interest accrues from the time of the loss. Prier v. Refrigeration Eng'g Co., 74 Wn.2d 25, 34, 442 P.2d 621 (1968).

A court may award prejudgment interest where a claim is liquidated, meaning

⁸ The Pelascinis also argue that Pace-Knapp should be awarded fees only for a portion of the response to Windermere's summary judgment. But because the Pelascinis did not designate the summary judgment motions as part of the record for review, we are unable to address this argument. Dash Point Vill. Assoc. v Exxon Corp., 86 Wn. App. 596, 611-12, 937 P.2d 1148 (1997).

“the evidence furnishes data which, if believed, makes it possible to compute the amounts with exactness, without reliance on opinion or discretion.” Prier, 74 Wn.2d at 32. If the determination of the measure of damages does not require the exercise of discretion, the claim is liquidated. Egerer v. CSR W., L.L.C., 116 Wn. App. 645, 653, 67 P.3d 1128 (2003). By contrast, a claim is unliquidated only “where the exact amount of the sum to be allowed cannot be definitely fixed from the facts proved, disputed or undisputed, but must in the last analysis depend upon the opinion or discretion of the judge or jury as to whether a larger or a smaller amount should be allowed.” Prier, 74 Wn.2d at 33 (emphasis omitted). However, “[t]he fact that a claim is disputed does not render the claim unliquidated, so long as it may be determined by reference to an objective source such as fair market value.” Egerer, 116 Wn. App. at 653.

Here, while the fair market value of the house was disputed at trial, on appeal we held that Pace-Knapp was entitled to damages, including lost equity damages for violation of the CPA. Accordingly, on remand, the measure of damages was not in dispute. The court calculated lost equity damages using the unchallenged finding establishing the fair market value of the house at the time of the sale and deducting the amount the Pelascinis paid and the amount Pace-Knapp received, resulting in lost equity damages of \$57,747. The court awarded prejudgment interest on the lost equity damages from the date of sale to entry of the judgment, in the amount of \$43,579. Because the court was able to calculate Pace-Knapp’s lost equity damages with exactness, the court did not err in awarding prejudgment interest on lost equity damages. Because interest accrues from the time of loss, the trial court also did not err

in deciding that Pace-Knapp is entitled to prejudgment interest from the date of the sale until entry of the judgment.

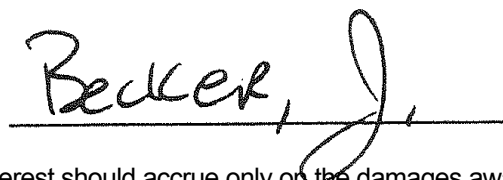
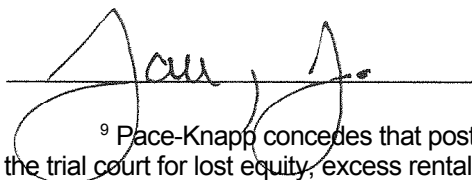
The Pelascinis also contend the trial court erred in awarding duplicative prejudgment interest. The court found that Pace-Knapp's lost equity damages totaled \$54,747. The court awarded prejudgment interest on the lost equity damages from October 25, 2002 to the date of entry of the judgment on June 12, 2009, at a rate of 12 percent per year, totaling \$43,579. The court also awarded prejudgment interest on the total damages awarded, including the prejudgment interest already awarded, from "the date of the Court of Appeal's ruling, March 17, 2008, through the date of entry of the Judgment," June 12, 2009. Pace-Knapp concedes that the trial court erred in awarding duplicative prejudgment interest. We accept Pace-Knapp's concession as well taken. On remand, the court shall correct the prejudgment interest calculation.⁹

CONCLUSION

We remand for the sole purpose of correcting the calculation of prejudgment interest and deducting the fees related to Pace-Knapp's response to the petition for review in the supreme court. In all other respects, we affirm.



WE CONCUR:



⁹ Pace-Knapp concedes that postjudgment interest should accrue only on the damages awarded by the trial court for lost equity, excess rental payment, and treble damages under the CPA.

