

662 So.2d 1275  
District Court of Appeal of Florida,  
Fourth District.

NORTH AMERICAN VAN LINES,  
INC., a foreign corporation, Appellant,

v.

FERGUSON TRANSPORTATION, INC. f/k/a  
Murray Van & Storage, Inc., and Award Winning  
Murray Van and Storage, Inc.; Advance Relocation  
& Storage of Florida, Inc., a Florida corporation; T.  
James Molloy and William Grochowski, Appellees.

No. 92-1842. | Sept. 20, 1995.  
| Rehearing, Rehearing En Banc  
and Certification Denied Dec. 1, 1995.

Following appellate affirmance of compensatory damages against defendant in amount of \$1,300,000, and reversal of \$13,000,000 in punitive damages, [639 So.2d 32](#), the Circuit Court, Palm Beach County, [Edward H. Fine, J.](#), denied motion to tax appellate costs. On motion for review, the District Court of Appeal, Ramirez Juan, Jr., Associate Judge, held that defendant was “prevailing party” on prior appeal, and was therefore entitled to appellate costs.

Reversed and remanded.

West Headnotes (1)

[1] **Costs**

 [Prevailing or Successful Party](#)

Appellant was “prevailing party” entitled to recover appellate costs where award of compensatory damages against appellant in amount of \$1,300,000 was affirmed, but award of punitive damages in amount of \$13,000,000 was reversed; in concluding that appellant prevailed on significant issues litigated on appeal, court was not taking strictly numerical approach, but also could not ignore numbers. [West's F.S.A. R.App.P.Rule 9.400\(a\)](#).

[2 Cases that cite this headnote](#)

**Attorneys and Law Firms**

\*[1276 Marjorie Gadarian Graham](#) of Marjorie Gadarian Graham, P.A., Palm Beach Gardens, and [Mark E. Haddad](#) of Sidley & Austin, Washington, DC, for appellant.

[Edna L. Caruso](#) of Caruso, Burlington, Bohn & Compiani, P.A., and Jack Scarola of Searcy, Denney, Scarola, Barnhart & Shipley, P.A., West Palm Beach, for appellee-Ferguson Transportation, Inc.

**ON MOTION FOR REVIEW OF ORDER  
DENYING MOTION TO TAX APPELLATE COSTS**

[RAMIREZ, JUAN, Jr.](#), Associate Judge.

Appellant, North American Van Lines, Inc., appealed from an adverse judgment after a jury verdict in the amount of \$1,300,000 in compensatory damages and \$13,000,000 in punitive damages. This court, in a prior opinion, affirmed the compensatory damages and reversed the punitive damages. <sup>1</sup> The appellant's subsequent motion to tax appellate costs was denied. We reverse.

It would seem clear at first glance that the appellant is the “prevailing party” under [Florida Rule of Appellate Procedure 9.400\(a\)](#). Its liability was reduced from \$14,300,000 to \$1,300,000. The confusion stems from [Moritz v. Hoyt, 604 So.2d 807, 810 \(Fla.1992\)](#), which states that the prevailing party is the one which “has in fact prevailed on the significant issues tried before court.” In the present case, the trial court seems to have focused on the fact that appellee prevailed at the trial level by obtaining its compensatory damages. But at stake are the appellate costs and in our view the appellant prevailed on the significant issues litigated on appeal. In reaching this conclusion, we are not taking a strictly numerical approach, but we also cannot totally ignore them.

In [Overseas Equipment Co. v. Aceros Arquitectonicos, 376 So.2d 475 \(Fla. 3d DCA 1979\)](#), the court reached the same conclusion when it reversed \$50,000 in punitive damages and affirmed \$20,000 in compensatory damages. We do not think that [Moritz](#) modifies this precedent.

REVERSED AND REMANDED.

[GUNTHER](#), C.J., and [STONE](#), J., concur.

**All Citations**

662 So.2d 1275, 20 Fla. L. Weekly D2155

**Footnotes**

[1](#) [North Am. Van Lines, Inc. v. Ferguson Transp., Inc.](#), 639 So.2d 32 (Fla. 4th DCA 1994).

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