

In The News

Akerman Partner Andrew Gold Predicts Florida Case Could Redefine Construction Defect Damages

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In *Vuletic Group LLC v. Malkin*, now pending before Florida’s Fourth District Court of Appeal, a key issue is whether damages for construction defects should be measured based on the cost of repair at the time of trial or at the date of breach. The contractor relies on the Third District’s recent and controversial decision in *Bandklayder Development LLC v. Sabga*, which ruled that damages must be calculated as of the date of breach — resulting in the homeowner receiving no funds to actually make the repairs due to outdated cost estimates. In a *Law360* article authored by Commercial Litigation Partner [Andrew Gold](#), he argues this approach is a misapplication of Florida law, contradicting long-standing precedent that awards cost-of-repair damages unless doing so would cause economic waste. A ruling in favor of the contractor in *Vuletic* could fundamentally alter the landscape of construction defect litigation in Florida, stripping owners and developers of meaningful remedies when dealing with defective work.

Andrew wrote, “Should the Fourth District Court of Appeal overturn the trial court in *Vuletic* and apply the reasoning of *Bandklayder*, Florida will experience a seismic shift in construction defect damages, effectively leaving homeowners and developers with an incomplete remedy — a finding that a contractor delivered a defective product, but not awarding the owner a sufficient sum to fix those

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very same defects and obtain the defect-free building for which it contracted.”

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