

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2007

**JAMES CRYSTAL LICENSES, LLC, JAMES CRYSTAL HOLDINGS,
INC., JAMES CRYSTAL ENTERPRISES, LLC and ELENA WHITBY**
a/k/a JENNIFER ROSS,
Appellants,

v.

INFINITY RADIO INC., a Delaware corporation, f/k/a CBS RADIO INC.,
Appellee.

No. 4D06-4448

[September 12, 2007]

PER CURIAM.

The appellants appeal an order awarding attorneys' fees and costs to the appellee. We recently reversed the underlying judgment in the appellants' favor, and remanded the matter back to the trial court for a new trial. *See Whitby v. Infinity Radio Inc.*, 951 So. 2d 890 (Fla. 4th DCA 2007). Accordingly, we also reverse the order appealed. *See Fraser-Watson v. Maxim Healthcare Servs.*, 849 So. 2d 1201 (Fla. 4th DCA 2003) (reversing an award of costs that was predicated on a reversed final judgment). If the trial court's reconsideration of the underlying matter results in another judgment in favor of the appellee, the court may also reconsider the propriety of awarding attorneys' fees and costs.

Reversed.

SHAHOOD, C.J., STEVENSON and HAZOURI, JJ., concur.

* * *

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Diana Lewis, Judge; L.T. Case No. 502000CA009360XXOCAF.

Robert G. Haile, Jr. of Haile, Shaw & Pfaffenberger, P.A., North Palm Beach, for appellants James Crystal Licenses, LLC, James Crystal Holdings, Inc., and James Crystal Enterprises, LLC.

David L. Gorman of David L. Gorman, P.A., North Palm Beach, for appellant Elena Whitby.

Alan Rosenthal and Natalie J. Carlos of Adorno & Yoss LLP, Miami, for appellee.

Not final until disposition of timely filed motion for rehearing.