

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2010

**S & I INVESTMENTS, ILENE RICHMOND, AND STEPANIE
RICHMOND,**
Appellants,

v.

PAYLESS FLEA MARKET, INC.,
Appellee.

No. 4D08-4257

[June 30, 2010]

PER CURIAM.

In *S & I Investments v. Payless Flea Market, Inc.*, --- So.3d ---, 2010 WL 2292016 (Fla. 4th DCA June 9, 2010), involving a dispute between landlord and tenant, this Court reversed, directing entry of judgment in favor of landlord. Landlord now appeals the trial court's order awarding attorney's fees and costs to tenant, arguing this Court's recent decision in the underlying appeal mandates reversal. We agree and reverse.

"Where a court awards prevailing party attorney's fees and the underlying judgment is vacated, the attorney's fee judgment must also be vacated." *Viets v. Am. Recruiters Enters, Inc.*, 922 So.2d 1090, 1096 (Fla. 4th DCA 2006); *see also Marty v. Bainter*, 727 So.2d 1124, 1125 (Fla. 1st DCA 1999). Because we reversed the final judgment in favor of tenant, we must also reverse the award of attorney's fees and costs predicated thereon.

Reversed.

FARMER, DAMOORGIAN and LEVINE, JJ., concur.

* * *

Appeal from the Circuit Court for the Seventeenth Judicial Circuit;
Broward County, Ronald J. Rothschild, Judge; L.T. Case No. 04-14172
(08) and 05-17836 (08).

Eric L. Stettin of Kuvin & Stettin, LLC., Weston, for appellant Ilene Richmond.

Robin Lea Hanger and C. Ryan Reetz of Squire, Sanders & Dempsey, L.L.P. Miami, for appellant Stephanie Richmond.

Stephen Rakusin of The Rakusin Law Firm, A Professional Association, Fort Lauderdale, for appellee.

Not final until disposition of timely filed motion for rehearing.