

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM A.D., 2004

STACEY GOLIGHTLY,	**	
Appellant,	**	
vs.	**	CASE NOS. 3D03-1183 3D03-1697
RICHARD THOMAS GOLIGHTLY, JR.,	**	LOWER
Appellee.	**	TRIBUNAL NO. 98-21683

Opinion filed December 8, 2004.

Appeals from the Circuit Court for Miami-Dade County, Rosa I. Rodriguez, Judge.

Iris N. Sachs, for appellant.

Mary Raymond, for appellee.

Before COPE, SHEVIN and SHEPHERD, JJ.

PER CURIAM.

We reverse the order denying the former wife's attorney's fees motion. There is no record support for the trial court's conclusion that the former wife's defense to the former husband's motion to modify custody "was raised mainly to

frustrate or stall" the proceedings, Rosen v. Rosen, 696 So. 2d 697, 700 (Fla. 1997); Nash v. Nash, 624 So. 2d 370, 372 (Fla. 3d DCA 1993); the trial court denied the former husband's motion after a full hearing. As the transcript of the fee motion hearing demonstrates, the former wife's actions following the court's denial of the modification motion were based on well-founded reasons. Therefore, we reverse and remand for the trial court to determine the fee issue based on need and ability to pay. Rosen.

We also reverse the guardian ad litem fee award, and remand for a determination based on the parties' need and ability to pay. See Meloan v. Coverdale, 525 So. 2d 935, 938 (Fla. 3d DCA 1988).

Reversed and remanded.