

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 07-10280
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT December 16, 2008 THOMAS K. KAHN CLERK
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D. C. Docket No. 04-60068-CV-JEM

SCOTT HIRSCH,

Plaintiff-Appellee,

versus

NOVA SOUTHEASTERN UNIVERSITY, INC.,
a Florida not for profit corporation,
a.k.a. Nova Southeastern Health
Professions Division, College of
Dental Medicine,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

(December 16, 2008)

Before TJOFLAT, DUBINA and BLACK, Circuit Judges.

PER CURIAM:

As the prevailing party in this action, Nova Southeastern University, Inc. (Nova) appeals the district court's denial of its request for attorneys' fees under the American with Disabilities Act (ADA), 42 U.S.C. § 12205, and the Rehabilitation Act, 29 U.S.C. § 794a(b). Nova contends the district court abused its discretion in denying Nova's motion for attorneys' fees because: (1) Scott Hirsch litigated his claims in bad faith, and (2) Hirsch's claims were frivolous and unreasonable *ab initio*.

We have thoroughly reviewed the record and the briefs in this case and find no abuse of discretion by the district court. We affirm for the reasons set forth in the magistrate judge's well-reasoned order of March 3, 2006.¹

AFFIRMED.

¹ The magistrate judge's order only addresses Nova's request for attorneys' fees under the Rehabilitation Act. The ADA's provision for attorneys' fees is nearly identical to the Rehabilitation Act's provision; accordingly, the magistrate judge's analysis applies equally to Nova's request for attorneys' fees under the ADA.