

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

STATE OF FLORIDA,
DEPARTMENT OF
TRANSPORTATION,

Appellant,

CASE NO. 1D04-0153

v.

DAVID P. WARRINER, et al.,

Appellee.

Opinion filed February 2, 2005.

An appeal from an order of the Circuit Court for Bay County.
Glenn L. Hess, Judge.

Pamela S. Leslie, General Counsel; Gregory G. Costas, Assistant General Counsel,
Tallahassee, for appellant.

Barbara Hobbs and Carolyn Cummings, of Cummings, Hobbs & Wallace, P.A.,
Tallahassee, for appellee.

WOLF, C.J.

Appellant, State of Florida, Department of Transportation (DOT), challenges
an order awarding attorney's fees. DOT asserts that the trial court erred in regard to

its determination of entitlement to fees as well as the amount awarded. We find no error as to the trial court's determination as to entitlement. We decline to address DOT's issue concerning lack of notice prior to the court determining the amount of fees, as this issue was never presented to the trial court. The attorney's fee award is affirmed.

KAHN and POLSTON, JJ., CONCUR.