

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

STATE OF FLORIDA, ex rel.,
ELMER MARSH and RICHARD
STORM, qui tam,

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

Appellants,

CASE NO. 1D06-3323

v.

THEODORE R. DORAN,
individually, DORAN, WOLFE, ROST
& ANSAY, P.A., a Law Firm
incorporated under the laws of the
State of Florida,

Appellees.

Opinion filed June 18, 2007.

An appeal from the Circuit Court for Leon County.
Janet E. Ferris, Judge.

Paul M. Meredith and N. Kate Estes, of The Meredith Law Firm, St. Augustine, for
Appellants.

Theodore R. Doran, Michael Ciocchetti, and Audrie M. Harris, of Doran, Wolfe,
Ansay, & Kundid, Daytona Beach; and David H. Burns, Tallahassee, for Appellees.

PER CURIAM.

The primary issue in this case is whether the appellees were “prevailing parties” under section 68.086(3), Florida Statutes (2002). We hold that a defendant is entitled to recover attorney's fees under section 68.086(3), which awards fees to the prevailing party, after the plaintiff takes a voluntary dismissal without prejudice. The refiling of the same suit after the voluntary dismissal does not alter the appellees' right to recover prevailing party attorney's fees incurred in defense of the first suit. Caufield v. Cantele, 837 So. 2d 371 (Fla. 2002); Alhambra Homeowners Ass'n, Inc. v. Asad, 943 So. 2d 316 (Fla. 4th DCA 2006). We find no error in the trial judge's denial of the motion for recusal.

AFFIRMED.

BARFIELD, WOLF, and VAN NORTWICK, JJ., CONCUR.