

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

THE FLORIDA STATE
UNIVERSITY, BOARD OF
TRUSTEES,

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

Appellant,

CASE NO. 1D12-2949

v.

BRENDA MONK,

Appellee.

Opinion filed May 10, 2013.

An appeal from the Circuit Court for Leon County.
Kevin Carroll, Judge.

Brian C. Keri, Tallahassee, for Appellant.

Brant Hargrove, Tallahassee, for Appellee.

PER CURIAM.

We affirm the trial court's denial of appellant's motion for attorney's fees pursuant to section 57.105, Florida Statutes (2009), finding no abuse of discretion. However, the trial court did not have discretion to deny the recovery of costs by

appellant, as the prevailing party, under section 57.041, Florida Statutes (2009). Campbell v. State, Dep't of Legal Affairs, 38 Fla. L. Weekly D596 (Fla. 1st DCA Mar. 8, 2013). Accordingly, we reverse and remand for the taxation of costs in appellant's favor.

AFFIRMED in part; REVERSED in part; and REMANDED for further proceedings.

PADOVANO, THOMAS, and SWANSON, JJ., CONCUR.