

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

SARAH CATHERINE EDWARDS,)
)
 Appellant/)
 Cross-Appellee.)
v.)
)
 BRANDON SULLIVAN,)
)
 Appellee/)
 Cross-Appellant.)
_____)

Case No. 2D08-1903

Opinion filed September 18, 2009.

Appeal from the Circuit Court for
Hillsborough County;
Emily A. Peacock, Judge.

Allison M. Perry of Law Office of
Allison M. Perry, P.A., Tampa, for
Appellant/Cross-Appellee.

Lorena L. Kiely, Plant City, for
Appellee/Cross-Appellant.

KELLY, Judge.

In this paternity proceeding, the mother, Sarah Catherine Edwards,
appeals the supplemental final judgment that modifies custody of the parties' son from
the mother's primary residential care to rotating custody. The father, Brandon Sullivan,
has cross-appealed because the trial court did not include in the final judgment a

reservation of jurisdiction to address his request that the mother pay his trial attorney's fees and costs. We conclude that the trial court's determination that there had been substantial, material changes in the parties' circumstances since the entry of the final judgment of paternity is supported by the record, as is its determination that modification of custody is in the child's best interest. Accordingly, we affirm the trial court's modification of custody.

In his cross-appeal, the father contends the trial court erred in failing to include in the supplemental final judgment a reservation of jurisdiction to address his request for attorney's fees and costs. We agree. The father sought attorney's fees and costs in his supplemental counterpetition for modification, a fact noted by the court in the supplemental final judgment. The pretrial conference order in the record reflects that the trial court "reserved" the issue of attorney's fees and costs for determination after the conclusion of the trial. Accordingly, the trial court should have included a reservation of jurisdiction in the supplemental final judgment and the omission requires reversal and remand for entry of a corrected supplemental final judgment. See, e.g., May v. May, 908 So. 2d 558 (Fla. 2d DCA 2005).

We affirm the supplemental final judgment in all respects except for the trial court's omission of a reservation of jurisdiction to address the father's request for attorney's fees and costs. On remand, the trial court shall enter a corrected supplemental final judgment that includes a reservation of jurisdiction to consider the father's request for fees and costs.

Affirmed in part, reversed in part, and remanded for further proceedings consistent with this opinion.

LaROSE, J., and CASE, JAMES R., ASSOCIATE SENIOR JUDGE, Concur.