

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

MICHELLE BERTHIAUME,)
)
 Appellant,)
)
 v.)
)
 JUSTICE ADMINISTRATIVE)
 COMMISSION,)
)
 Appellee.)
 _____)

Case No. 2D10-4485

Opinion filed July 15, 2011.

Appeal from the Circuit Court for Charlotte
County; John W. Dommerich, Judge.

Michelle Berthiaume, pro se.

Stephen M. Presnell, General Counsel, and
Christian D. Lake, Assistant General
Counsel, Tallahassee, for Appellee.

CRENSHAW, Judge.

Michelle Berthiaume served as private, court-appointed counsel to a
criminal defendant and filed a motion for attorney's fees pursuant to section 27.5304,
Florida Statutes (2009), to receive compensation for her representation. She now
challenges the summary denial of her motion, and we treat the appeal as a petition for

certiorari. See Justice Admin. Comm'n v. Peterson, 989 So. 2d 663, 665 (Fla. 2d DCA 2008). We conclude, and the Justice Administrative Commission (JAC) concedes, that the trial court departed from the essential requirements of law by summarily denying Berthiaume's motion for attorney's fees. We grant the petition, quash the trial court's order denying the motion for fees, and remand for further proceedings.

When Berthiaume filed her motion pursuant to section 27.5304(12)(a), requesting fees in excess of the statutory limits, the JAC objected to the proposed billing, and the trial court scheduled a hearing on the motion. On the day of the hearing, scheduled for 10:30 a.m., Berthiaume failed to appear by 10:45 a.m. Because of Berthiaume's failure to appear, the trial court—without further inquiry—summarily denied her motion for attorney's fees. Berthiaume's motion for rehearing offered an explanation for her absence, but it was also summarily denied by the court.

Section 27.5304(12)(b) requires the trial court to (1) hold an evidentiary hearing on a motion to exceed the fee limits and (2) enter a written order detailing the trial court's findings. Further, Florida courts have a longstanding policy of adjudication of disputes on the merits. See, e.g., Kubel v. San Marco Floor & Wall, Inc., 967 So. 2d 1063, 1064 (Fla. 2d DCA 2007) (remanding for adjudication of the lawsuit on the merits where the trial court had dismissed a negligence claim based upon a finding that plaintiff committed fraud on the court). Here the trial court departed from the essential requirements of law because it failed to make the required findings based on the merits of Berthiaume's motion.

Petition granted.

NORTHCUTT and BLACK, JJ., Concur.