

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

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

WILLIAM KEMPTON,

Appellant,

v.

Case No. 5D18-1021

LAWRENCE MCCOMB, GREGORY DAVIS
AND MARIANNE CARTER,

Appellees.

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Opinion filed March 15, 2019

Appeal from the Circuit Court
for Brevard County,
Charles J. Roberts, Judge.

Matthew G. Struble and Christine D.
Skubala, of Struble, P.A., Ft. Lauderdale,
for Appellant.

Angela C. Flowers, of Kubicki Draper, P.A.,
Ocala, for Appellee, Lawrence McComb.

David C. Knapp and James A. Coleman, of
James A. Coleman, P.A., Orlando, for
Appellee, Marianne Carter.

No Appearance for Appellee, Gregory
Davis.

PER CURIAM.

William Kempton appeals the trial court's order awarding attorney's fees and costs
to Lawrence McComb, pursuant to section 768.79, Florida Statutes (2015), and Florida

Rule of Civil Procedure 1.442. The award of attorney's fees and costs was based on the trial court's entry of a final judgment in favor of Mr. McComb after applying section 768.36, Florida Statutes (2015), to completely bar recovery by Mr. Kempton. We recently reversed the final judgment in favor of Mr. McComb with directions to enter a final judgment awarding damages to Mr. Kempton in accordance with the jury's apportionment of fault. See Kempton v. McComb, 44 Fla. L. Weekly D611 (Fla. 5th DCA Mar. 1, 2019).

Given our reversal of the final judgment, we must reverse the trial court's order awarding attorney's fees and costs in Mr. McComb's favor. See Hodge v. Cichon, 79 So. 3d 950 (Fla. 5th DCA 2012) (reversing order granting attorney's fees pursuant to section 768.79 where appellate court reversed trial court's order granting final summary judgment in favor of appellees); City of Hollywood v. Witt, 939 So. 2d 315, 319 (Fla. 4th DCA 2006) ("[W]here an award of attorney's fees is dependent upon the judgment obtained, the reversal of the underlying judgment necessitates the reversal of the fee award.").

REVERSED.

EVANDER, C.J., ORFINGER and SASSO, JJ., concur.