

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

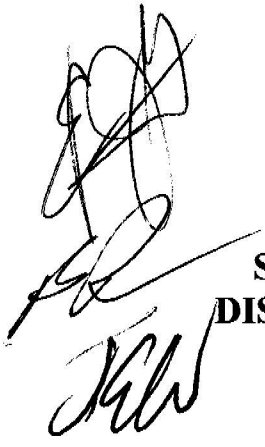
FIRST CIRCUIT

NO. 2010 CA 2294

ELENI ANTONOPOULOS

VERSUS

**SCOTT PERRILLOUX, IN HIS OFFICIAL CAPACITY AS
DISTRICT ATTORNEY FOR THE 21ST JUDICIAL DISTRICT**



Judgment Rendered: June 10, 2011

**Appealed from the
21st Judicial District Court
In and for the Parish of Tangipahoa
State of Louisiana
Case No. 2009-4263**

The Honorable Ernest G. Drake, Jr., Judge Presiding

**Patricia Parker
Assistant District Attorney
Amite, Louisiana**

**Counsel for Defendant/Appellee
Scott Perrilloux, District Attorney
for the 21st Judicial District**

**Anna Van Cleave
New Orleans, Louisiana**

**Counsel for Plaintiff/Appellant
Eleni Antonopoulos**

BEFORE: CARTER, C.J., GAIDRY AND WELCH, JJ.

GAIDRY, J.

SUMMARY DISPOSITION

The plaintiff-appellant, Eleni Antonopoulos, made a request for public records pursuant to the Louisiana Public Records Law, La. R.S. 44:1, *et seq.*, to the defendant-appellee, Scott Perrilloux, the district attorney of the 21st Judicial District Court and the custodian of the requested records. Appellant thereafter instituted a mandamus action under the authority of La. R.S. 44:35(A). By judgment signed on August 4, 2010, the trial court rendered judgment in favor of appellant, ordering the production of the requested public records, but denying the request for attorney's fees and costs in appellant's petition.

Louisiana Revised Statutes 44:35(D) provides that if the person requesting public records prevails in a suit to enforce the provisions of the Louisiana Public Records Law, "he *shall* be awarded reasonable attorney's fees and other costs of litigation." (Emphasis added.) It is undisputed that appellant prevailed on the merits in the trial court, that the judgment ordering appellee to provide the requested records was not appealed by appellee, and that that portion of the judgment is therefore final and definitive. A prevailing party in this type of action is ordinarily entitled to recover reasonable attorney's fees and other costs of litigation. *See Capital City Press v. E. Baton Rouge Parish Metro. Council*, 96-1979, p. 13 (La. 7/1/97), 696 So.2d 562, 569. The record of this matter shows that the trial court did not afford appellant a reasonable opportunity to present evidence relating to her claim for attorney's fees and costs. That portion of its judgment denying recovery of attorney's fees and costs was therefore legally erroneous and an abuse of discretion.

Appellee contends that appellant is not entitled to attorney's fees as a matter of law, on the ground that she is an attorney represented by a colleague from her own office, a nonprofit law office. *See Lamz v. Wells*, 05-1497, p. 8 (La. App. 1st Cir. 6/9/06), 938 So.2d 792, 798, and *Abels v. Ungarino and Eckert, LLC*, 06-0366, p. 7 (La. App. 1st Cir. 12/28/06), 951 So.2d 318, 322-23, *writ denied*, 07-0192 (La. 3/23/07), 951 So.2d 1106. There is nothing in the record before us that supports the contention that appellant is a self-represented attorney, as opposed to a non-attorney staff employee of her counsel's office. However, appellee will be afforded the opportunity to present evidence of that contention at a contradictory hearing in the trial court.

The trial court erred in summarily denying recovery of attorney's fees and costs to appellant. Its judgment is accordingly reversed in part and the matter is remanded for a contradictory hearing on the issues of appellant's entitlement to recovery of reasonable attorney's fees and costs of litigation and, if applicable, the amounts thereof. This summary disposition is rendered in accordance with Rules 2-16.2(A)(2) and (10) of the Uniform Rules of the Louisiana Courts of Appeal. All costs of this appeal are assessed to the defendant-appellee, Scott Perrilloux, in his capacity as the district attorney of the 21st Judicial District.

REVERSED IN PART AND REMANDED.