

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

THEODORE A. AVELLONE,
Appellant,

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

v.

CASE NO. 1D06-5219

SUSAN E. AVELLONE n/k/a
SUSAN E. RICE,

Appellee.

_____ /

Opinion filed July 24, 2007.

An appeal from the Circuit Court for Leon County.
John E. Crusoe, Judge.

Theodore A. Avellone, pro se, Appellant.

Joshua D. Zelman and Patricia M. Durst of Durst, Harnden & Zelman, PL,
Tallahassee, for Appellee.

PER CURIAM.

Appellee, the former wife, seeks review of the trial court's Order Awarding Attorney's Fees pursuant to Florida Rule of Appellate Procedure 9.400(c). In Avellone v. Avellone, 951 So. 2d 80 (Fla. 1st DCA 2007), we affirmed the trial

court's order denying the motion for contempt and to enforce the Marital Settlement Agreement filed by Appellant, the former husband. In accordance with our order granting Appellee's motion for appellate attorney's fees, the trial court held a hearing to determine the amount. In its order, the trial court found that fifty hours was a reasonable amount of time to spend representing Appellee on appeal and that \$200 per hour was a reasonable hourly fee, for a total reasonable fee of \$10,000. The trial court then subtracted the \$4,000 retainer paid by Appellee from the \$10,000 and ordered that Appellant pay the sum of \$6,000 to Appellee's attorney. Appellee moved for clarification and argued that the trial court's order penalized her for paying the retainer. The trial court denied the motion without explanation. This review followed.

Because we are unable to discern from the face of the trial court's order why it deducted the \$4,000 retainer and ordered that Appellant only pay \$6,000, we REVERSE the order and REMAND for further proceedings.

DAVIS, PADOVANO, and HAWKES, JJ., CONCUR.