



**In the Missouri Court of Appeals
Eastern District
DIVISION TWO**

NATHAN T. COOLING,)	No. ED102627
)	
Respondent,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	
)	
DEPT OF SOCIAL SERVICES, FAMILY SUPPORT DIVISION,)	Honorable Michael F. Stelzer
)	
Appellant.)	Filed: March 15, 2016

The State of Missouri, Department of Social Services, Family Support Division (the “Division”) appeals the judgment of the circuit court reversing the decision of the Director of the Department of Social Services (the “Director”). The Director denied Nathan T. Cooling’s (“Cooling”) application for attorney’s fees after he prevailed in the underlying administrative agency actions. The circuit court awarded Cooling attorney’s fees in the amount of \$24,100, pursuant to Section 536.087, RSMo 2000.¹ On appeal, the Division argues that Cooling is not eligible for the awarded attorney’s fees because: (1) Cooling did not prevail in an adversary proceeding in a contested case where the Division was represented by counsel; (2) the Division was substantially justified in taking the underlying agency actions; and (3) Cooling failed to present competent and substantial evidence of special factors in Section 536.085 justifying the award.

**REVERSED THE DIRECTOR’S DECISION
REVERSED THE CIRCUIT COURT’S JUDGMENT AS TO THE AMOUNT AWARDED
AND REMANDED FOR RECALCULATION.**

Division Two Holds:

- (1) We deny the Division’s Points I and II, and reverse the Director’s decision denying Cooling’s application for attorney’s fees.

¹ All further statutory references are to RSMo 2000 as supplemented, unless otherwise noted.

(2) We grant the Division's Point III. We reverse the circuit court's judgment as to the amount awarded and remand for recalculation of the award of attorney's fees in accordance with this opinion.

Opinion by: Angela T. Quigless, J.

Philip M. Hess, P.J. and Gary M. Gaertner, Jr., J., Concur.

Attorneys for Appellant: Siobahn Akers

Attorneys for Respondent: Thomas E. Bauer and Susan Smith Frederick

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.