

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

RONALD M. MASSA AND ROBIN L. MASSA,

Appellants,

v.

Case No. 5D14-351

RICHARD MCNUTT, AS SUCCESSOR, ETC.,

Appellee.

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Opinion filed August 7, 2015

Appeal from the Circuit Court
for Sumter County,
Michelle T. Morley, Judge.

Joanna Tolbert, of Central Florida Legal
Group, PLLC, Maitland, and Richard W.
Withers, Longwood, for Appellants.

Felix M. Adams, Bushnell, for Appellee.

PER CURIAM.

SUA SPONTE ORDER FOR SANCTIONS

We write to express our concern and to take appropriate action regarding the fact that Appellants' counsel, Joanna Tolbert and Richard W. Withers, filed a frivolous notice of lis pendens and a baseless motion for extension of lis pendens in this Court. After entertaining Appellee's response to those inappropriate pleadings, this Court entered its order denying the motion for extension and striking the notice of lis pendens.

Pursuant to Florida Rule of Appellate Procedure 9.410(a), this Court ordered Appellants' counsel to show cause why sanctions should not be imposed. In their initial response, Appellants' counsel attempted to justify what they had done. In their second response, Appellants' counsel did not admit that there was no legal basis for filing either pleading; instead, they acknowledged they made a mistake and understood their filings were "not the preferred action to take." We find there was absolutely no basis in law or fact to support filing the notice of lis pendens or the motion for extension of lis pendens in this Court; thus, the action of Appellants' counsel subjects them both to sanctions.

Commendably, Appellants' counsel both apologized to the Court and to Appellee's counsel, and we took that into consideration in determining sanctions. First, Appellants' counsel shall, jointly and severally, pay the reasonable fees incurred by Appellee responding to Appellants' frivolous pleadings. The trial court shall determine the amount of those fees if counsel are unable to reach an agreement. Second, this Court imposes a \$1,000 fine on Attorney Joanna Tolbert that shall be paid to the Clerk of this Court within thirty days. Third, as this Court has sanctioned him once before in *Hagood v. Wells Fargo, N.A.*, 125 So. 3d 1012 (Fla. 5th DCA 2013), we impose a \$2,000 fine on Attorney Richard W. Withers that shall be paid to the Clerk of this Court within thirty days.

This Court reserves jurisdiction to enforce this order.

SAWAYA, TORPY, and EDWARDS, JJ., concur.