

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

BART A. HOUSTON,
Appellant,

v.

**MICHAEL McKNOUGHT-SMITH, BARBARA McKNOUGHT-SMITH, and
ROBERT J. MORAITIS, P.A.,**
Appellees.

No. 4D14-4927

[December 16, 2015]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit,
Broward County; Timothy Bailey, Judge; L.T. Case No. FMCE 02019764.

Bruce K. Herman, Fort Lauderdale, for appellant.

Nancy Little Hoffmann of Nancy Little Hoffmann, P.A., Fort Lauderdale,
for appellee Robert J. Moraitis, P.A.

PER CURIAM.

We reverse the order of the trial court ordering the former wife's attorney to pay attorney's fees to the former husband's previous attorney. The husband's previous attorney claimed that the wife's attorney had failed to remove him from the service list, requiring him to take action to compel his removal. Thus, the previous attorney claimed that he had to file a motion requesting that the wife's attorney be ordered not to serve him, and requesting attorney's fees.¹ In granting the motion and ordering the payment of fees at a non-evidentiary hearing, the court failed to make the necessary finding that the wife's attorney acted in bad faith in serving the husband's previous attorney. *See Moakley v. Smallwood*, 826 So. 2d

¹ It is unclear whether the wife's attorney could have prevented service through the electronic filing portal on an attorney that the portal had listed for service.

221, 227 (Fla. 2002).² We thus reverse the order requiring the payment of the fee.

WARNER, STEVENSON and FORST, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

² It is difficult to believe that any *Moakley* bad faith can be shown by the wife's attorney's service of two pleadings on the previous attorney (who had not withdrawn on the record). However, because there was no evidentiary hearing, all of the facts are not present. Nevertheless, it appears that professionalism has eluded these attorneys, burdening both the trial court and this court.