

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA.

RB III ASSOCIATES INC.,

Appellant,

v.

KENNETH ANDERSON,
JEANNINE ANDERSON, and
VANCE CARPENTER,

Appellees.

APPELLATE DIVISION (CIVIL)

Case No.: 502009AP000020XXXXMB

L.T. No.: 502007CC011112XXXXMB

DIVISION 'AY'

Standing

Opinion filed: *January 22, 2010*

Appeal from the County Court in and for Palm Beach County,

For Appellant: Justin D. Jacobson, Esq., Jacobson, Sobo & Moselle, Post Office Box
19359, Plantation, FL 33318-0359

For Appellees: Donald J. Freeman, Esq. & Toni M. O'Brien, Esq., Freeman & Jones,
LLC, 1400 Centrepark Blvd. Suite 950, West Palm Beach, FL 33401

James A. Bond, Esq., P.O. Box 2038 Stuart, FL 34995

REVERSED and REMANDED.

Plaintiff, RB III Associates, Inc. ("RB III"), appeals an April 10, 2009 order entering monetary sanctions in the amount of \$500 against its law firm for failing to timely file its second amended complaint after being directed to do so within fifteen days of the lower court's order.

In this case, it does not appear from the record that the firm was given adequate notice and an opportunity to be heard and to present witnesses or other evidence in the case against him. *See Moakley v. Smallwood*, 826 So. 2d 221 (Fla. 2002) (while a trial court has the inherent authority to impose sanctions in the form of attorney's fee against an attorney for bad faith conduct, the authority carries with it the obligation to use restraint as guided by the

circumstances and degree of the alleged bad conduct and to provide due process in the form of notice and an opportunity to be heard -- including the opportunity to present witnesses and other evidence). Furthermore, the trial court's order does not make any factual findings nor does it state the basis for the award of personal sanctions against the firm. *Id*; see also *Schniderman v. Fitness Innovations and Technologies, Inc.*, 994 So. 2d 508 (Fla. 4th DCA 2008). Therefore, we reverse and remand for the trial court to comply with the *Moakley* requirements.

ROSENBERG, GARRISON and FRENCH, JJ., concur.