

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

HORACE MANN INSURANCE
COMPANY,

Appellant,

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

CASE NO. 1D09-5572

v.

ALLISON N. CHASE,
INDIVIDUALLY, AND AS CO-
PERSONAL
REPRESENTATIVE OF THE
ESTATE OF RICHARD CHASE,
DECEASED.,

Appellee.

_____ /

Opinion filed November 30, 2010.

An appeal from the Circuit Court for Duval County.
Hugh A. Carithers, Judge.

Tammy De Soto Cicchetti and Audra M. Bryant of The Cicchetti Law Firm,
Tallahassee, for Appellant.

Benjamin E. Richard, Stephen J. Pajcic, III, and William A. Bald of Pajcic &
Pajcic, P.A., Jacksonville, for Appellee.

PER CURIAM.

This appeal concerns a circuit court's decision to impose sanctions for a
party's bad-faith failure to participate in pre-trial discovery. Because the order

imposing sanctions does not meet the requirements of either rule or common law, we reverse.

Prior to trial, the circuit court concluded Appellant's counsel committed "gross discovery misconduct" and acted with "bad faith, willfulness or deliberate disregard." The court imposed sanctions against Appellant's counsel pursuant to (1) Florida Rule of Civil Procedure 1.380 (2008); and (2) its inherent power to sanction.

Sanctions were inappropriate under Rule 1.380 because the Appellees did not prevail on a motion to compel and Appellant's counsel did not fail to appear at a duly noticed deposition. See Fla. R. Civ. P. Rule 1.380 (2008). Sanctions were also inappropriate under the court's inherent power to sanction because, although the record amply supported the trial judge's conclusion, the court's written order failed to satisfy requirements set forth in Moakley v. Smallwood, 826 So. 2d 221, 223-27 (Fla. 2002). We note that sanctions may have been available under section 57.105(3), Florida Statutes (2008), but the Appellees did not timely request such relief.

Accordingly, because the circuit court's order failed to cite sufficient grounds on which to base its imposition of sanctions against Appellant's counsel, we reverse the imposition of sanctions.

REVERSED.

WEBSTER, LEWIS, AND HAWKES, JJ., CONCUR.