

Third District Court of Appeal

State of Florida, January Term, A.D. 2011

Opinion filed May 25, 2011.

Not final until disposition of timely filed motion for rehearing.

No. 3D08-3117

Lower Tribunal No. 04-20680

Jose Luis Maynoldi and Olga Maynoldi, individually and as legal guardians of Gabriel Maynoldi,
Appellants,

vs.

Archibishop Coleman F. Carroll High School, Inc., a nonprofit Florida corporation, and Archdiocese of Miami, Inc., a nonprofit Florida corporation, et al.,
Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Gerard J. O'Brien, Jr., Senior, Judge.

Deehl & Carlson, David L. Deehl and Michele K. Feinzig, for appellants/cross-appellees.

Gaebe, Mullen, Antonelli & Dimatteo, Michael a. Mullen and Anne C. Sullivan; Carlton Fields, Wendy F. Lumish, Alina Alonso and David L. Luck, for appellees/cross-appellants.

Before RAMIREZ, C.J., and WELLS and CORTIÑAS, JJ.

WELLS, Judge.

Jose Luis Maynoldi and Olga Maynoldi, individually and as legal guardians of Gabriel Maynoldi, appeal from an order denying their motion for attorneys' fees and costs under Florida Rule of Civil Procedure 1.380(c) based on Archbishop Coleman F. Carroll High School, Inc. and Archdiocese of Miami, Inc.'s denial of certain requests for admission. While, under appropriate circumstances, a party requesting admissions is entitled to the reasonable expenses incurred in proving the truth of a denied request for admission—even where, as here, final judgment was entered in the opposing party's favor on the underlying complaint—we find no abuse of discretion in the trial court's determination that there is no basis for awarding Rule 1.380(c) expenses in this case. See Fla. R. Civ. P. 1.380(c) ("The court shall issue such an order at the time a party requesting the admissions proves the genuineness of the document or the truth of the matter, upon motion by the requesting party, unless it finds that . . . (3) there was other good reason for the failure to admit."); Arena Parking, Inc. v. Lon Worth Crow Ins. Agency, 768 So. 2d 1107, 1113 (Fla. 3d DCA 2000) (recognizing that the trial court has the discretion to deny Rule 1.380(c) expenses where it finds that one of the exceptions contained within the rule applies, and holding that the expenses incurred "as a result of the opposing party's failure to admit requests for admissions may not be

assessed against the opposing party for denying a request to admit a hotly contested, central issue to the case”). We also note that, even where Rule 1.380(c) expenses must be awarded, “an award of attorney’s fees as a part of those expenses is discretionary.” Chadwick v. Corbin, 476 So. 2d 1366, 1368 (Fla. 1st DCA 1985); see also Shaw v. State ex rel Butterworth, 616 So. 2d 1094, 1096 (Fla. 4th DCA 1993) (finding that an assessment of attorney’s fees is not mandatory under Rule 1.380(c)).

Accordingly, the order on appeal is, in all respects, affirmed.