

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LINDA W. STEELE,	§	
	§	No. 409, 1999
Petitioner Below,	§	
Appellant,	§	Court Below—Family Court
	§	of the State of Delaware in
v.	§	and for New Castle County
	§	in C.A. No. 99-07987.
RICHARD R. STEELE, JR.,	§	
	§	
Respondent Below,	§	
Appellee.	§	

Submitted: April 4, 2000

Decided: May 3, 2000

Before **VEASEY**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

ORDER

This 3^d day of May 2000, upon consideration of the briefs of the parties, it appears to the Court that:

(1) The appellant, Linda W. Steele (“Wife”), filed a Petition for an Order of Protection from Abuse on June 8, 1999. After a hearing in the Family Court, an Order was entered finding that appellee (“Husband”), Richard R. Steele, Jr., “committed an act or repeated acts of domestic violence against the [Wife].”

(2) On July 27, 1999, the Wife filed a motion seeking an award of attorney's fees and costs. On August 4, 1999, the Husband filed a response and a counter-motion seeking an award of attorney's fees and costs. On August 6, 1999, the Family Court entered an Order requiring the Husband to pay the Wife \$1,370 on account of fees and costs. On the same day, the Family Court entered another Order requiring the Wife to pay the Husband \$1,000 on account of attorney's fees and costs.

(3) Family Court Rule 7(b)(2) allows the non-moving party 10 days to respond to a motion. The Order against the Wife was entered two days after the filing of the Husband's response and counter-claim. The Wife had not filed a response to the Husband's counter-claim for attorney's fees.

(4) In this appeal, the Wife contends that the Family Court committed either legal error or abused its discretion in awarding attorney's fees to the Husband.

(5) We have concluded that the Family Court should not have entered an award of attorney's fees in favor to the Husband without affording the Wife an opportunity to reply.

NOW, THEREFORE, IT IS HEREBY ORDERED that the award of attorney's fees in favor of the Husband is VACATED. This matter is REMANDED to the Family Court for the filing of a response by the Wife prior to an adjudication. Jurisdiction is not retained.

BY THE COURT:

/s/Randy J. Holland
Justice