

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

SANDRA EPPERSON RICH,

Appellant,

v.

JOHN D. RICH; ARNOLD R. RICH; BANNUM, INC.; KENTUCKY
MANAGEMENT GROUP, INC.; and 656 R/E VENTURE, INC.,

Appellees.

No. 2D19-2721

August 31, 2022

Appeal pursuant to Fla. R. App. P. 9.130 from the Circuit Court for
Pinellas County; Christopher LaBruzzo, Judge.

David A. Maney of Maney, Damsker & Jones, P.A., Tampa, for
Appellant.

Michael J. Park of Park, Ossian, Barnaky & Park, P.A., Clearwater,
for Appellee John D. Rich.

No appearance for remaining Appellees.

KELLY, Judge.

Sandra Epperson Rich (the Former Wife) appeals the trial court's nonfinal order awarding John D. Rich (the Former Husband) \$126,220.61 in attorney's fees and costs and denying her amended motion for attorney's fees and costs in this dissolution of marriage proceeding. The trial court based its ruling on "the Former Wife's inequitable conduct regarding her meritless defenses to the establishment and enforcement of the parties' Antenuptial Agreement" and the Former Wife's "inequitable conduct regarding documents she allegedly procured from a dumpster on the private property of the Third-Party Defendants and their accountant." Given our disposition of the parties' related appeal from the final judgment of dissolution,¹ we reverse.

In *Rich v. Rich*, 337 So. 3d 138 (Fla. 2d DCA 2022), this court concluded that the trial court's findings regarding the interpretation of the antenuptial agreement and the admissibility of the "dumpster documents" were erroneous and that a new trial was required. *Id.* at 147–49. Thus, because many of the findings on which the trial court based its attorney's fee award to the Former Husband will be

¹ *Rich v. Rich*, 337 So. 3d 138 (Fla. 2d DCA 2022).

revisited on retrial, we reverse the fee award to the Former Husband and remand for reconsideration.

We also reverse the denial of the Former Wife's amended motion for attorney's fees under section 61.16, Florida Statutes (2018), and *Rosen v. Rosen*, 696 So. 2d 697 (Fla. 1997). Upon remand, the court shall consider the relative financial positions and conduct of the parties during the proceedings, including the Former Husband's delay tactics, litigiousness, and failure to comply with many orders of the court. *See Kelly v. Kelly*, 925 So. 2d 364, 370 (Fla. 5th DCA 2006) (holding that the former wife was entitled to costs and attorney's fees caused by the bad faith of the former husband, including his obstructive tactics and his delay in paying sums due the former wife throughout the proceedings).

Reversed and remanded with directions.

MORRIS, C.J., and SMITH, J., Concur.

Opinion subject to revision prior to official publication.