

# Third District Court of Appeal

## State of Florida

Opinion filed March 4, 2020.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D19-1671  
Lower Tribunal No. 18-12991

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**June Zhou,**  
Appellant,

vs.

**In Re: The Marriage of: Yuwen Chen and Yan Liu,**  
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, George A. Sarduy, Judge.

June Zhou (Boca Raton), for appellant.

Ferdie and Lones, Chartered, and Ainslee R. Ferdie and Stuart A. Lones, for appellee.

Before FERNANDEZ, LOGUE, and SCALES, JJ.

LOGUE, J.

Attorney June Zhou appeals the portion of the trial court's sanctions order that, among other things, requires her to pay \$1,856.25 to her opposing counsel. We reverse that portion of the order.

The trial court entered the sanction because Zhou failed to appear for a scheduled divorce trial. She sent in her place another lawyer who argued a motion to continue the trial that Zhou had filed a few days earlier. In the motion for continuance, Zhou contended a scheduling conflict had arisen in which Zhou was scheduled to appear at the same time for another client in a federal immigration proceeding. The amount of the sanction reflected the court's determination of the costs of the attorney's fees incurred by Zhou's opposing counsel.

In Moakley v. Smallwood, 826 So. 2d 221 (Fla. 2002), the Florida Supreme Court recognized the trial court's "limited inherent authority to impose attorneys' fees against an attorney for bad faith conduct in the course of litigation." Id. at 225. While recognizing that inherent authority, however, the Supreme Court held that the decision it was reviewing "must be quashed because the trial court did not make an express finding of bad faith, and did not provide the attorney notice and an opportunity to be heard before imposing the attorneys' fees." Moakley, 826 So. 2d at 227.

Here, like Moakley, the order on review contains neither an express finding of bad faith nor the requisite "high degree of specificity in the factual findings," id.

at 227, which presumably would have focused on how the trial court determined that Zhou's scheduling conflict rose to the level of bad faith. The order was also imposed without the notice and an opportunity to be heard – “including the opportunity to present witnesses and other evidence” – that Moakley expressly requires. Id. Based on the Supreme Court's decision in Moakley, we are constrained to quash the portion of the order under review entering the \$1,856.25 sanction. In so holding, we do not quash the remaining parts of the order.

Reversed in part.