

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

MELINDA SCOTT,

Appellant,

v.

WISE COUNTY DEPARTMENT OF  
SOCIAL SERVICES, *et al.*,

Appellees.

**4<sup>th</sup> Cir. Case No. 21-2006**

**Va. W.D. Case No. 2:20-cv-14**

**APPELLEE JOSHUA MOON'S  
REPLY IN FURTHER SUPPORT OF  
MOTION FOR AWARD OF FEES**

NOW COMES Joshua Moon, by and through undersigned counsel, and replies to the Appellant's "REPLY TO APPELLEE JOSHUA MOON'S MOTION FOR ATTORNEY'S FEES." In further support of his underlying Motion for fees, Mr. Moon states as follows:

- 1) The Appellant makes much of the fact that she was not informed of Mr. Moon's Motion for an Award of Fees in advance of its filing. But Local Rule 27(a) makes clear that there is only a requirement to inform opposing parties of the intent to make a Motion in cases where all parties are represented by counsel. And it is unsurprising that in this case, undersigned counsel elected not to inform a *pro se* party of the instant motion, especially

in light of the behavior Ms. Scott has demonstrated to date in both this Court and the District Court, to include threats of violence against Mr. Moon.

2) This Court should consider the scandalous filing Ms. Scott presented to this Court for purposes of opposing an award of fees as further evidence of her malicious course of conduct in this litigation and as further indicia that this appeal was filed frivolously and not in good faith. However, this Court should not consider Ms. Scott's filing to the extent that it purports to cite to outside-the-record and/or unsworn "evidence" that is irrelevant to the determination of this case and impossible for Mr. Moon to address in the appellate context.<sup>1</sup>

3) Although lengthy, Ms. Scott's brief is difficult to decipher. When tangents relating to unsworn and inadmissible claims are left aside, her brief appears to boil down to an assertion that it would be unjust to award fees to her opponent. On that point, Mr. Moon rests on his earlier briefing in this Court and the District Court, and points out that Ms. Scott has sued him repeatedly for the same conduct and that Ms. Scott prosecuted this appeal following a determination by the District Court that it was taken in bad faith. Viewed against the hard reality of Ms. Scott's years-long campaign of fruitless and

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<sup>1</sup> Mr. Moon has separately filed a Motion to Strike either the Appellant's entire opposition brief, or those parts of it which are scandalous and improper.

resource-wasting litigation against Mr. Moon, an award of fees can hardly be anything other than a just resolution.

WHEREFORE, Mr. Moon again requests that this Court award him his attorney's fees spent litigating this frivolous appeal.

Respectfully submitted this the 24<sup>th</sup> day of November, 2021,

JOSHUA MOON

**By Counsel:**

/s/Matthew D. Hardin

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**Certificate of Service**

I hereby certify that I will file a true and correct copy of the foregoing document with the Court's CM/ECF system, which will electronically serve counsel of record. I will also deposit a true and correct copy of the foregoing document into the U.S. Mail, with First Class postage prepaid, directed to:

Melinda Scott  
2014PMB87  
Post Office Box 1133  
Richmond, VA 23218

Dated: November 24, 2021

/s/Matthew D. Hardin  
Matthew D. Hardin  
*Counsel for Joshua Moon*

**Certificate of Compliance**

I hereby certify, pursuant to Fed. R. App. P. 32 (g), that this Motion complies with the type volume limitation. It is, exclusive of the items listed in Fed. R. App. P. 32 (f), 404 words in length. I have relied upon Microsoft Word's word processor to establish that count.

Dated: November 24, 2021

/s/Matthew D. Hardin  
Matthew D. Hardin  
*Counsel for Joshua Moon*