

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

DAVE ARONBERG, as State Attorney of
Palm Beach County, Florida,

Appellant,

v.

CASE NO.: 50-2019-CA-014681-AG

CA FLORIDA HOLDINGS, LLC,
Publisher of *THE PALM BEACH POST*,

Appellee.

/

NOTICE OF APPEAL

NOTICE IS GIVEN that Appellant, DAVE ARONBERG, as State Attorney of Palm Beach County, Florida, appeals to the Fourth District Court of Appeal, the Final Order of this Court rendered January 31, 2023. The nature of the Final Order is the denial of Mr. Aronberg's Amended Motion for Attorneys' Fees under Florida Statutes Section 57.105. See Exhibit "A" attached hereto.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of March, 2023, a copy of the foregoing was electronically filed with the Florida E-File Portal for e-service on the parties of record herein.

JACOBS SCHOLZ & WYLER, LLC

/s/ Douglas A. Wyler

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EXHIBIT “A”

NOT A CERTIFIED COPY

EXHIBIT “A”

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY,
FLORIDA

CA FLORIDA HOLDINGS, LLC,
Publisher of *THE PALM BEACH POST*,

CASE NO.: 50-2019-CA-014681-AG

Plaintiff,

v.

DAVE ARONBERG, as State Attorney of
Palm Beach County, Florida; SHARON R.
BOCK, as Clerk and Comptroller of Palm
Beach County, Florida,

Defendants.

**ORDER DENYING THE AMENDED MOTION FOR
ATTORNEYS' FEES UNDER FLORIDA STATUTES SECTION 57.105**

THIS CAUSE having come before the Court on September 6 and 8, 2022 on State Attorney Dave Aronberg's November 9, 2020 Amended Motion for Attorneys' Fees Under Florida Statutes Section 57.105, and the Court having reviewed the Amended Motion, the evidence presented, and arguments of counsel, and being otherwise fully and duly advised in the premises, it is hereby,

ORDERED AND ADJUDGED as follows:

1. State Attorney Dave Aronberg's November 9, 2020 Amended Motion for Attorneys' Fees under Florida Statutes Section 57.105 (the "Amended Motion") is hereby **DENIED**.

2. Under Florida Statutes Section 57.105, a court may award reasonable attorneys' fees only if "the court finds that the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial:

(a) Was not supported by the material facts necessary to establish the claim or defense; or

(b) Would not be supported by the application of then-existing law to those material facts.” Fla. Stat. § 57.105(1).

3. The Court heard the testimony of the parties and finds the testimony of Mr. Aronberg reliable and credible, and resolves the conflicts in the testimony in favor of Mr. Aronberg; **however**, the “Amended Motion” is the only motion for fees that was set for hearing, and for reasons stated below Mr. Aronberg’s motion is denied - solely on procedural grounds.

4. The Amended Motion did not comply with the strict “safe harbor” notice provision of section 57.105(4), which requires the motion to be served on the non-moving party at least 21 days before it is filed.

5. The Court must deny the Amended Motion. *See MC Liberty Express, Inc.*, 252 So. 3d at 403 (“[I]n order to have properly complied with section 57.105, [the filing party] must have first served the proposed motion upon the party it sought to sanction”; “The primary purpose of section 57.105’s safe harbor provision is to provide the recipient of the motion with notice and the opportunity to withdraw or abandon a frivolous claim before sanctions are sought.”).

6. Accordingly, the July 1, 2020 Motion for Attorneys’ Fees is **DENIED**.

DONE AND ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida



502019CA014681XXXXMB 01/31/2023
Luis Delgado
Circuit Judge

cc: All counsel of record