

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 14-1498**

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PATRICK COLLINS, INC., d/b/a Elegant Angel,

Plaintiff - Appellee,

v.

DAVID OSBURN, f/k/a Doe #1, f/k/a Sealed Defendant,

Defendant - Appellant.

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Appeal from the United States District Court for the District of Maryland, at Greenbelt. Paul W. Grimm, District Judge. (8:12-cv-01294-PWG)

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Submitted: January 27, 2015

Decided: March 4, 2015

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Before NIEMEYER, KEENAN, and FLOYD, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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John C. Lowe, JOHN LOWE, P.C., Bethesda, Maryland, for Appellant. William F. C. Marlow, Jr., MARLOW & WYATT, Towson, Maryland; Ira M. Siegel, LAW OFFICES OF IRA M. SIEGEL, Beverly Hills, California, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Osburn appeals the district court's order granting Patrick Collins, Inc.'s ("Collins") motion to voluntarily dismiss its action pursuant to Fed. R. Civ. P. 41(a)(2) and denying Osburn's motion for summary judgment and request for attorney fees and costs. Osburn also appeals the district court's order denying Osburn's motion for reconsideration, which, in part, sought sanctions under Fed. R. Civ. P. 11. Underlying the district court's orders was its finding that Collins had a reasonable factual basis for filing the underlying complaint and did not file the complaint in bad faith.

We review for abuse of discretion a district court's order denying attorney fees and costs and denying sanctions under Fed. R. Civ. P. 11. Am. Reliable Ins. Co. v. Stillwell, 336 F.3d 311, 321 (4th Cir. 2003). "Because determination of bad faith is a finding of fact underlying the district court's discretionary decision to award fees, we will review that finding under a clearly erroneous standard." Hyatt v. Shalala, 6 F.3d 250, 255 (4th Cir. 1993). Having reviewed the entire record, we conclude that the district court did not clearly err when it found that Collins did not act in bad faith in filing its complaint. Accordingly, we affirm the district court's order granting Collins's motion to voluntarily dismiss pursuant

to Fed. R. Civ. P. 41(a)(2) and denying Osburn's motion for summary judgment and request for attorney fees and costs.

Furthermore, where a party seeks sanctions under Rule 11, the moving party's "motion for sanctions must be made separately from any other motion." Fed. R. Civ. P. 11(c)(2). Osburn's argument for Rule 11 sanctions was not made by separate motion. Therefore, the district court did not err in denying sanctions pursuant to Fed. R. Civ. P. 11. Cohen v. Am. Sec. Ins. Co., 735 F.3d 601, 607 n.3 (7th Cir. 2013). Accordingly, we affirm the district court's order denying Osburn's motion for reconsideration.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED