

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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Andrew Richard Wood,  
*Appellant-Respondent,*

v.

Jacqueline Sue Wood,  
*Appellee-Petitioner.*

December 1, 2021

Court of Appeals Case No.  
20A-DC-1561

Appeal from the Owen Circuit Court

The Honorable Catherine Stafford,  
Special Judge

Trial Court Cause No.  
60C02-1801-DC-4

**Shepard, Senior Judge.**

## Statement of the Case

[1] Andrew Richard Wood (“Andy”) and Jacqueline Sue Wood’s (“Jacci”) marriage was ended by a Decree of Dissolution and Settlement Agreement. A term of the Decree was the establishment of an irrevocable trust for the benefit

of their three children. The court approved the formation of the trust, but the parties could not agree to its terms. This appeal derives from the trial court's order after hearings held to resolve their disputes. Finding no trial court error, we affirm.

## Issues

[2] Jacci raises the following potentially dispositive issue:

I. Should this appeal be dismissed due to untimely filing of the notice of appeal?

Jacci also raises the following restated issue:

II. Should this Court consider evidence presented during Andy's offer of proof and the offer of proof within the offer of proof?

Andy presents the following restated issues:

III. Did the trial court abuse its discretion by finding that counsel had no good ground to support the claims in his motion to continue and sanctioning him under Indiana Trial Rule 11?

IV. Did the trial court err by awarding costs for misconduct based on Andy's counsel's failure to perform his obligations under the Decree?

## Facts and Procedural History

[3] After Andy and Jacci's marriage was dissolved, they attempted to form the trust per the following relevant terms of the Decree: 1) the parties were to transfer their interest in certain real properties to an irrevocable trust; 2) Andy's attorney was to prepare the necessary documents to create the trust and transfer ownership of the parcels; 3) Andy was allowed to refinance those properties but only to remove Jacci's responsibilities, if any, on the indebtedness and to draw out equity for the sole purpose of making the equalization payment; and 4) Andy was to receive a life estate and all income from the properties in his lifetime and the responsibility for all expenses related to the parcels, including mortgages, taxes and insurance. *See Appellant's App. Vol. II, pp. 27-28.*

[4] Jacci's counsel sought a rule to show cause in January 2019, alleging inadequacies in the proof that the properties had been transferred to the trust. Andy's counsel provided copies of a trust, but Jacci believed the trust did not comply with the terms of the Decree in several ways. In February 2019, Andy filed six other verified petitions for rule to show cause. On May 16, 2019, through a mediation agreement, the parties resolved all six of Andy's petitions. That left the resolution of the terms of the irrevocable trust as the only remaining controversy. A term of the mediation agreement was that the parties "work together through their attorneys" to draft a trust "consistent with the provision of the Decree." *Id.* at 67.

[5] Although it appears that Jacci may have argued for her appointment as trustee during mediation, it also appears that she had abandoned that position. She did not file motions or pleadings asking the court to be appointed as trustee and the Decree did not contain a provision about who would be trustee. *See id.* at 21-34.

[6] On September 11, 2019, Andy's counsel moved to continue a hearing set for September 16<sup>th</sup> on Jacci's January 2019 petition for rule to show cause. In the verified motion, Andy's counsel averred in pertinent part,

1. This matter is set for Hearing on trust related issues on September 16, 2019 at 9:30 a.m. with 2.5 hours allotted. The divorce settlement calls for a trust to be created with marital property. The beneficiaries of the trust are [Andy] and the three children of the marriage.
2. [Jacci] has represented that she seeks co-trusteeship of the trust with [Andy]. Her request is unsupported by the terms of the agreement.
3. [Andy] opposes her attempt to serve as co-trustee of the trust.
4. To serve as trustee, [Jacci] must be suitable as a fiduciary.
5. Fiduciaries must meet the highest standards of conduct in law.
6. [Andy] is prepared to present evidence of multiple breaches of the parties [sic] agreement by [Jacci], manipulation of the parties [sic] agreement by [Jacci], and termination by an employer due to abuse of children and failure to follow rules.
7. In addition to these facts, [Andy] is prepared to present evidence of criminal activity by [Jacci] in which he is the victim.

*Id.* at 71.

[7] Counsel conferred telephonically and Andy's counsel sent a letter to Jacci's counsel on September 16, 2019, seeking clarification on a number of issues including his belief that Jacci sought to be a co-trustee. The motion to continue was denied, but the hearing set for September 16<sup>th</sup> was continued on the morning of the hearing.

[8] Meanwhile, in reply, Jacci's counsel clarified in a letter dated September 23, 2019, that,

We have not pled that Jacci should be the co-trustee of the irrevocable trust, because the Decree does not provide for that. That proposal was part of the negotiations at mediation and between you and [another attorney in the firm]. However, we do not agree that Andy should be, or can be, the sole trustee of the trust for the same reason.

Ex. Vol. I, p. 31. As Jacci had argued, the Decree did not contain a provision about who would be the trustee. *See* Appellant's App. Vol. II, pp. 21-34.

[9] A hearing on the trust instrument issues occurred on October 30, 2019. Counsel for Andy confirmed that he would not be presenting evidence in support of his allegations in his motion to continue, contesting Jacci's suitability as a fiduciary because "I don't think it's relevant" because "counsel has made it clear that [Jacci] is not seeking to become the trustee of the trust." Tr. Vol. II, p. 19. Jacci's counsel requested that Andy's counsel remove the allegations concerning her suitability as a fiduciary from the September 11 motion; specifically paragraphs two through seven, concerning allegations questioning Jacci's suitability to serve as trustee. Counsel stated that in exchange she would

not pursue sanctions. Andy's counsel refused saying, the statements "were true when I wrote them, they are true today." *Id.* at 23. He claimed that he should be given latitude to defend his statements, being surprised that he had to do so. The trial court disagreed with him, and Jacci's counsel presented evidence in contradiction of the statements Andy had made in the motion and presented evidence of the legal fees she had incurred enforcing the terms of the Decree.

[10] The trial court entered its "Order Regarding Irrevocable Trust" on November 27, 2019, appearing on the Chronological Case Summary ("CCS") on December 2, 2019, showing that eleven provisions of the proposed trust instrument were in contradiction with the Decree while two were not. The court ordered Andy's counsel to "redraft the trust instrument in line with this Order, omitting and redrafting language to exclude the provisions that contradict the terms of the Decree" as shown in the chart assembled by the court. *Id.* at 84.

[11] In addition to the instructions to redraft, the court held as follows:

16. The Court strikes paragraphs 6 and 7 of Husband's Motion to Continue, which was filed on September 11, 2019. There was not good ground to support the statements in the pleadings and they should not have been signed by Husband's Counsel under TR 11.

17. The Court may make an award of attorney fees.  
"[M]isconduct that directly results in additional litigation expenses may be properly taken into account in the trial court's decision to award attorney's fees." [*Hanson v. Spolnik*], 685 N.E.2d 685 N.E.2d 71, 80 (Ind. Ct. App. 1997), [*trans. denied*]. [*Mitchell v. Mitchell*], 875 N.E.2d 320, 325 (Ind. Ct. App. 2007).

18. Husband's persistence in proposing trust language that clearly violates the terms of the Decree represent [sic] misconduct that merits an award of attorney fees. The court enters a judgment against Husband in the amount of two thousand dollars (\$2,000), payable to Mallor Grodner LLP, which shall be paid within sixty (60) days.

*Id.*

[12] Andy filed a motion to correct error on January 2, 2020. Jaci filed a statement in opposition and a separate motion to strike the affidavits of Andy and Erich Teuton, a Detective with the Owen County Sheriff's Department. The hearing on the motions was held via Zoom on May 29, 2020. During the hearing, the court granted Jaci's motion to strike, but allowed Andy's counsel to make an offer of proof and then an offer of proof within the offer of proof.

[13] The court took the matter under advisement but did not rule on the motion within thirty days. On July 24, 2020, the court notified the parties that "Per T.R. 56, this Motion to Correct Error is deemed denied." *Id.* at 16. Andy filed his notice of appeal on August 24, 2020, and this appeal ensued.

## Discussion and Decision

### I. Timeliness of Appeal

[14] Jaci says this appeal should be dismissed because Andy failed to timely file his Notice of Appeal. This Court's motions panel denied Jaci's request by an order issued on October 2, 2020. We begin with the established premise that we may revisit prior rulings of our motions panel. *See D.C., Jr. v. C.A.*, 5 N.E.3d 473, 475 (Ind. Ct. App. 2014). The decision to overrule the motions panel is

not taken lightly, however. We will do so only where appropriate under our inherent authority to reconsider any decision while an appeal is before us. *See id.* Because this argument is potentially dispositive, we address it first.

[15] The court entered its “Order Regarding Irrevocable Trust” on November 27, 2019 and it appeared on the CCS on December 2, 2019. Appellant’s App. Vol. II, pp. 14, 81-85. This order contains the court’s decision to strike paragraphs 6 and 7 of Andy’s motion to continue and the award of attorney’s fees against him. On January 2, 2020, Andy filed a motion to correct error, to which Jacci filed a statement in opposition on January 13, 2020. Jacci also moved to strike two affidavits that were attached as exhibits.

[16] The hearing to address the pending motions was held via Zoom on May 29, 2020. First, the court granted Jacci’s motion to strike but allowed Andy to preserve the record by making offers of proof. Next, the trial court heard argument of counsel on the motion to correct error, taking the matter under advisement. The court did not rule on the motion within thirty days. However, on July 24, 2020, the court’s CCS reflected the following entry: “Per T.R. 56, this Motion to Correct Error is deemed denied,” and an automated e-notification was issued to the parties the next day. *Id.* at 16. Andy filed his notice of appeal on August 24, 2020, and briefing ensued in due course.

[17] On September 8, 2020, Jacci moved to dismiss the appeal, alleging that Andy’s notice of appeal was untimely because it was filed nearly two months after



Andy's motion to correct error was deemed denied by operation of Indiana Trial Rule 53.3(A). Andy responded on October 2, 2020 arguing that,

The issue before this Court, in deciding whether Appellant's appeal should be dismissed for failure to file a timely appeal, is whether the Appellant may rely upon the word of the trial court that it would issue a ruling within 90 days. Because Appellant took the trial court at its word and did not file his appeal after 30 days (when Trial Rule 53.3(A) deemed his motion denied), Appellee now seek [sic] to entirely preclude his appeal. This is not justice and should not be permitted. Even if his rights were forfeited, Appellant's appeal should not be dismissed because extraordinarily compelling reasons allow his forfeited rights to an appeal to be restored.

Verified Response To Motion To Dismiss at \*1-\*2 (October 2, 2020). Andy reasserted his position that the trial court had informed the parties that it would have a decision in 90 days throughout his response. *See id.* at \*2, \*3, \*5, \*7 (“The trial court explicitly stated at the conclusion of the hearing that the court would rule on the motion, and that it would do so within 90 days.”); (“Appellant here should not lose his right to appeal his case because his counsel took the trial court at its word and declined to file an appeal where the court stated that it would enter a ruling within 90 days.”); (“Appellant was entitled to rely upon the statement of the trial court that it would rule upon the motion to correct error within 90 days, such that Trial Rule 53.3. is inapplicable here[.]”).

[18] When Andy made these representations to the motions panel, the transcript had yet to be completed. *See* Appellant's App. Vol. II, p. 17 (“Notice of Completion of Transcript” filed 10/29/2020). The transcript of the hearing reflects that the trial court informed the parties that “I will be taking this under advisement, I'll

be issuing an order as quickly as I can.” Tr. Vol. I, p. 143. The trial court further stated that, “I will try to get an order out within probably two weeks.” *Id.* at 143-44.

[19] Thus, it seems Andy misinformed the motions panel and concedes as much in his reply brief, stating that he “did not intend to misrepresent the record.” *See* Reply Br. p. 6. Although it looks as if the matter ends here and his appeal should be dismissed, Andy also maintained in his response that “extraordinarily compelling reasons” existed such that his forfeited right to appeal should be restored. Verified Response To Motion To Dismiss at \*5-\*7 (October 2, 2020). We explore that argument next.

[20] Indiana Appellate Rule 9(A) informs us that a party initiates an appeal by filing a Notice of Appeal within 30 days after the entry of a final judgment, as noted in the CCS. Rule 9 further instructs, as is pertinent here, that if a timely motion to correct error is filed, the Notice of Appeal must be filed within thirty days after the motion is deemed denied under Trial Rule 53.3. Here, despite the July 24, 2020 CCS entry’s notification citing the incorrect trial rule, the motion was deemed denied by June 29, 2020, and the Notice of Appeal was filed on August 24, 2020. Rule 9(A)(5) provides in pertinent part that forfeiture of the appeal results if the Notice of Appeal is not timely filed.

[21] As our Supreme Court observed in *In re Adoption of O.R.*, 16 N.E.3d 965, 971 (Ind. 2014), “although a party forfeits its right to appeal based on an untimely filing of the Notice of Appeal, this untimely filing is not a jurisdictional defect

depriving the appellate courts of authority to entertain the appeal.” The Court acknowledged that there might be circumstances involving “extraordinarily compelling reasons” why the forfeited appeal should be restored. *Id.* In that case, the extraordinarily compelling reason involved the “constitutional dimension of the parent-child relationship.” *Id.* at 972.

[22] Andy recites three reasons we should deviate from the result of forfeiture under Rule 9 to restore his appeal. Of those reasons, we find the second—the circumstances brought about by the Coronavirus pandemic—to be convincing in addition to a reason we identify *sua sponte*.

[23] Andy filed his motion to correct error on January 2, 2020, and within days the court set the matter for hearing on April 3, 2020. The hearing was continued due to public health concerns. Owen County Courts had submitted a petition for approval of a transition plan to resume regular court services to the Indiana Supreme Court. *See Petition For Relief Pursuant [sic] Indiana [Administrative] Rule 17* (<https://in.gov/courts/files/covid19-2020-0316-ar-17-owen-petition.pdf>), filed March 16, 2020. The Owen County Courts’ plan was granted in part by the Supreme Court by order filed on May 18, 2020, tolling deadlines through April 16, 2020. *See In The Matter of the Petition of the Court of Owen County for Administrative Rule 17 Emergency Relief*, Case No. 20S-CB-120 (March 18, 2020) (<https://courts.in.gov/courts/files/order-ar17-20S-CB-120.pdf>). On May 29, 2020, our Supreme Court issued an order addressing the COVID-19 virus, authorizing trial courts to toll “all laws, rules, and procedures setting time limits . . . in all other civil and criminal matters before Indiana trial courts” through

August 14, 2020. *See Matter of Admin. Rule 17 Emergency Relief for Ind. Trial Cts. Relating to the 2019 Novel Coronavirus (COVID-19)*, 145 N.E.3d 787 (Ind. 2020).

On May 29, 2020, the hearing in this matter occurred via Zoom.

[24] Although Andy does not make this argument, we note that on May 29<sup>th</sup> the Owen Circuit Courts filed a petition seeking approval of their transition plan for resumption of normal operations appropriate to the novel 2019 Coronavirus public health emergency. The Supreme Court’s June 9, 2020 Order Approving Expansion of Operations Plan, extended the tolling of deadlines per the Owen Circuit Courts’ plan to August 14, 2020. *See In the Matter of the Petition of the Owen Circuit Courts for Administrative Rule 17 Emergency Relief*, Case No. 20S-CB-120 (June 9, 2020) (<https://www.in.gov/courts/files/covid19-2020-0529-owen-transition.pdf>). Under this timeline, Andy’s Notice of Appeal was timely filed and the appeal may proceed.

[25] We also find that Andy’s argument concerning an extraordinarily compelling reason likewise would have allowed the matter to proceed. However, that analysis is unnecessary given the Supreme Court’s order extending the tolling of deadlines in the Owen Circuit Courts and elsewhere for the same reasons.

[26] Next, we must address the flurry of motions pertaining to the substance of the appeal.<sup>1</sup> Andy has filed a motion requesting permission to file an amended

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<sup>1</sup> The Appellant’s Appendix includes no less than seven rule to show cause motions, a motion for mediation with a corresponding motion in opposition, a motion to correct error with a corresponding motion to strike

brief. That request has been held in abeyance by the motions panel for the writing panel's consideration. Jacci filed a motion to strike certain portions of Andy's amended brief. Andy responded to Jacci's motion, contending that the portions of the brief at issue were necessary to our determination of the issue on appeal; namely, whether Andy's counsel's motion to continue violated Rule 11. A decision on Jacci's motion to strike and Andy's response was held in abeyance for this panel's consideration. We more fully address these arguments in the next section.

## II. Andy's Offer of Proof

[27] Next, Jacci asserts that we should not consider Andy's offer of proof or his offer of proof within the offer of proof. This argument is also the subject of Jacci's motion to strike certain portions of Andy's Amended Brief. More specifically, she argues that Andy's affidavit and Owen County Sheriff's Department Detective Eric Teuton's affidavit evidence should not be considered in this appeal because the trial court granted Jacci's motion to strike, and Andy is not challenging the trial court's exclusion of the evidence on appeal. Andy replies that while he did not "specifically articulate a challenge" to the trial court's

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and statement in opposition to the motion to correct error, and a motion to quash non-party discovery and corresponding opposition to that motion. On appeal, the parties have filed a motion to dismiss appeal and a corresponding response. Andy filed a request to file an amended brief and Jacci has filed a motion to strike portions of Andy's original brief.

By separate orders issued on the same date of this decision, we grant Andy's request to file an amended brief, and deny Jacci's motion to strike.

decision to strike the evidence on appeal, he “intrinsicly and implicitly” challenged the decision. Reply Br. at 9.

[28] Andy’s counsel offered two affidavits in support of his motion to correct error. Andy’s affidavit recited the information he had supplied to his counsel in support of the allegations of paragraph 6 of the motion to continue; namely, that Jacci had been terminated from “an employer due to abuse of children and failure to follow rules.” Appellant’s App. Vol. II, pp. 71, 97-99. Detective Teuton’s affidavit included statements to support the allegations in paragraph 7; namely that Jacci had engaged in criminal activity and that Andy was the victim of that criminal activity. *Id.* at 71, 102-04. He attempts to use this evidence to support his argument that the trial court improperly imposed the Rule 11 sanction—striking two paragraphs from his motion to continue—against his trial counsel.

[29] At the hearing on the motion to correct error, Andy’s counsel stated that the parties had redrafted and signed a trust instrument and that the judgment had been paid, each according to the terms of the November 27, 2019 order. Tr. Vol. I, p. 101. In his motion to correct error, Andy’s counsel contested the allegations of misconduct leading to the \$2,000 judgment and the Rule 11 sanction. To support his argument on the sanction, he made an offer of proof, having witnesses testify at that hearing. As for the judgment, he argued that the court’s order was not supported by the caselaw cited in the order.

[30] The court allowed the parties to argue Jacci's motion to strike first. Jacci's counsel argued that because the affidavits were not "newly discovered evidence" under Trial Rule 59, they should be struck. She further argued that Andy's counsel chose not to offer evidence in support of paragraphs 6 and 7 at the October 30<sup>th</sup> hearing because they were no longer relevant. The court agreed, granting Jacci's motion to strike the affidavits.

[31] Next, the parties argued Andy's motion to correct error. Jacci's counsel again argued that the testimony was not newly discovered evidence nor was it relevant. The trial court agreed but allowed Andy's counsel to make an offer of proof. During the testimony of each of the witnesses, Jacci's counsel moved to exclude the testimony because it was not newly discovered. The trial court sustained the objections but allowed an offer of proof within an offer of proof. At the conclusion of the hearing, the court took the matter under advisement and the motion was later deemed denied.

[32] Instead of arguing that the court erred by excluding the evidence, Andy says that the evidence supports his argument that the court abused its discretion by finding a violation of Rule 11 and striking the paragraphs from the motion to continue as a sanction. In *AKJ Industries, Inc. v. Mercantile National Bank*, 779 N.E.2d 543, 545 (Ind. Ct. App. 2002), *trans. denied*, we held that "[o]nce evidence is stricken from the record, it may not be used to further support a party's legal argument." In a footnote, we observed that "it might be proper for this court to examine stricken evidence in a case where a party is arguing a trial court erred in granting a motion to strike." *Id.* at n.1. Under the holding of

*AKJ*, the evidence may not be considered in the way Andy proposes and his argument must fail. We will not consider the evidence.

### III. Rule 11 and Abuse of Discretion

[33] Next, we address Andy's argument that the trial court abused its discretion by finding that he had no good ground to support the claims in his motion to continue and sanctioning him for the finding by striking paragraphs six and seven from his motion to continue.

[34] Under Rule 11(A), a motion or pleading filed by a party represented by counsel, must be signed by the attorney, constituting in pertinent part,

a certificate by him that he has read the pleadings; that to the best of his knowledge, information, and belief, there is good ground to support it; and that it is not interposed for delay.

*Brazier v. Maple Lane Apartments I, LLC*, 45 N.E.3d 442, 457 (Ind. Ct. App. 2015) (quoting Indiana Trial Rule 11(A)). Trial courts have discretion to impose sanctions under Rule 11 when a verified pleading or motion contains information the attorney knows to be false. *Brazier*, 45 N.E.3d at 457 (citing *Zweibel v. Zweibel*, 689 N.E.2d 746, 750 (Ind. Ct. App. 1997)). An abuse of discretion occurs when the court's decision is against the logic and effect of the facts of the case. *Zweibel*, 689 N.E.2d at 750.

[35] During mediation which concluded on May 16<sup>th</sup>, Jacci had requested to serve as a trustee. However, she filed no pleadings or motions with the court making that request. Those were the facts available at the time Andy's counsel filed his



September 11<sup>th</sup> motion to continue. While the motion pended and before the October 30<sup>th</sup> hearing, Jacci's counsel communicated with Andy's counsel, clarifying in writing that she had not pleaded that Jacci should be a trustee because the Decree did not provide for that. At the hearing, Jacci's counsel requested that Andy's counsel withdraw paragraphs 6 and 7 from the motion to continue because having the "statements left in the record could be harmful to her." Tr. Vol. I, p. 20.

[36] Jacci worked as an adult and juvenile probation officer in the Owen County Circuit Court. Paragraph 6 alleged that Andy had information of Jacci's "termination by an employer due to abuse of children and failure to follow rules." Appellant's App. Vol. II, p. 71. Paragraph 7 alleged that Andy had information concerning Jacci's "criminal activity" "in which he is the victim." *Id.* Jacci's counsel asserted that she would not pursue sanctions under her oral motion under Rule 11 if the paragraphs were omitted. Andy's counsel refused to withdraw those paragraphs from his motion, stating that the paragraphs "were true when I wrote them, they are true today." Tr. Vol. I, p. 23.

[37] The evidence that was not stricken and is most favorable to the court's ruling revealed that a special prosecutor had declined to file charges against Jacci. The fraud allegations Andy lodged involved Jacci's use of a family BMV login she had created during the marriage to pay for the daughter's vehicle's registration with a credit card issued solely in Jacci's name. Andy had given title of the vehicle to the daughter, but though the title had been transferred to

her, the daughter had yet to register it at the BMV in her name. At the time of Jacci's actions, the license plates were expired or due to expire.

[38] Next, Andy alleged Jacci's termination from employment was due to abuse of children and failure to follow rules. The evidence at the hearing revealed that Jacci was not employed by the high school but was a volunteer high school assistant swim coach. After attending her daughter's high school cross country race, she was later accused by the mother of another runner of calling that girl a derogatory name during the race. The parents met with school officials at the same school where Jacci volunteered. Jacci was later notified by school officials that it would be best if Jacci "would step back a little bit and not actually be assistant [swim] coach.[,]" i.e., resign. Tr. p. 50. The other girl had decided to swim for the school that year.

[39] Andy maintained that Jacci's behavior involving the vehicle registration constituted criminal activity of which he was the victim and that Jacci was employed by the high school and terminated for child abuse and failure to follow the rules. The trial court found that "there was not good ground to support the statements in the pleadings and they should not have been signed by [Andy's] counsel under TR 11." Appellant's App. Vol. II, p. 84. Although Andy argued in support of his contentions at the time they were signed, he further argued that they remained true, refusing to remove the no longer relevant paragraphs from his motion. We conclude the trial court did not abuse its discretion in determining that Andy's challenges to Jacci's integrity were not relevant, as the issue of Jacci's suitability to serve as trustee was not an issue,

and the statements were scandalous and harmful to Jacci. As stated above, we cannot consider the evidence presented in reply in Andy's offer of proof and offer of proof within the offer of proof. The court's decision to strike those paragraphs, which Andy's counsel had steadfastly refused to withdraw, was well within its discretion under Rule 11(A).

#### **IV. Award of Costs For Misconduct**

[40] Next, Andy challenges the court's \$2,000 judgment against him as a penalty for his "persistence in proposing trust language that clearly violates the terms of the Decree," finding that behavior to constitute misconduct meriting an award of attorney fees. *Id.* at 84. Andy argues that the proposed trust language does not "expressly violate the terms of the Decree." Appellant's Br. p. 26. He further contends that "the mere proposal of trust language does not rise to the level of 'misconduct' under Indiana law," challenging that the caselaw cited supports the court's award. Reply Br. p. 13.

[41] We begin with the premise that the court need not give its reasons for its decision to award attorney's fees. *Thompson v. Thompson*, 811 N.E.2d 888, 928 (Ind. Ct. App. 2004). Here, the trial court explained the award. We review the court's decision to award attorney's fees in connection with a dissolution decree for an abuse of discretion. *Id.* at 927. Misconduct resulting in further litigation expenses may be considered in a court's decision to award fees. *Id.* at 928.

[42] The Decree was entered on August 21, 2018, providing that Andy's attorney was responsible for preparing the trust instrument and documents necessary for

the transfer of ownership of the properties to the trust. *See* Appellant's App. Vol. II, p. 27. In November 2018, Andy presented Jacci with a proposed trust document that Jacci deemed to be lacking in several ways because they were in conflict with the terms of the Decree, especially with respect to the transfer of the properties to the trust. Jacci filed a motion for rule to show cause in January 2019, arguing her position that the instrument was in conflict with the Decree. During mediation concluding mid-May, the parties agreed to work together through their attorneys to draft a trust instrument that complied with the terms of the Decree. The instrument that Andy subsequently proposed was later found by the trial court, after the October 30<sup>th</sup> hearing, to include eleven provisions that were in conflict with the terms of the Decree while two were not.

[43] A trial court may order a party to pay a reasonable amount for the attorney's fees to the other party or her attorney incurred to defend a post-dissolution proceeding. *See* Ind. Code § 31-15-10-1 (1997); *Bessolo v. Rosario*, 966 N.E.2d 725, 733 (Ind. Ct. App. 2012). Jacci's attorney submitted a verified affidavit setting forth the fees she had incurred beginning January of 2020 to enforce the Decree. *See* Ex. Vol. I, p. 33. Those fees totaled \$4,425.00. *Id.* The trial court was well within its discretion and statutory authority to enter this judgment for attorney's fees, which was less than half the amount in evidence. We find no abuse of discretion in the court's award.

## Conclusion

[44] Based on the foregoing, we affirm the trial court's judgment.

[45] Affirmed.

Bradford, C.J., and Bailey, J., concur.