

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 12-7055****September Term, 2012****1:11-cv-01179-RMC****Filed On: June 22, 2013**

Joseph Farah, et al.,

Appellants

v.

Esquire Magazine, et al.,

Appellees

**BEFORE:** Tatel, Brown, and Griffith, Circuit Judges

**ORDER**

Upon consideration of appellants' motion to strike and motion for referral to D.C. Bar Counsel and the Committee on Admissions and Grievances, the opposition thereto, and the reply; and appellees' cross-motion to strike and for sanctions, the opposition thereto, and the reply, it is

**ORDERED** that appellants' motion to strike and motion for referral be denied. Appellants have shown no factual or legal basis to support their contention that appellees have "lied" or made any misrepresentation to the district court or to this court, nor have they shown any basis for questioning the conduct of appellees' counsel. Indeed, the passages that appellants contend should be stricken from appellees' brief are statements that are supported by the record on appeal and are taken directly from the district court's opinion. It is

**FURTHER ORDERED** that appellees' motion to strike be granted. Pages 3 and 4 of Appellants' Reply Brief, purportedly showing "screen captures" of the blog posts, are hereby stricken, as are all references to those pages in the Reply Brief, e.g., paragraph 5 of the Summary of Argument (on page 2) and Argument I (on pages 5-6). Appellants acknowledge the "screen captures" were not filed in the district court. Therefore, they are not part of the record on appeal. See Fed. R. App. P. 10(a). This court will not consider the evidence and argument presented for the first time on appeal. See United States ex rel. Settlemire v. District of Columbia, 198 F.3d 913, 920 (D.C. Cir. 1999). It is

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**FURTHER ORDERED** that appellees' motion for sanctions be denied without prejudice.

**Per Curiam**