

FAMILY & DIVORCE CASE LAW ARCHIVE

SEPTEMBER 2019

INJUNCTION: Non-threatening emails following a break up is insufficient to show a reasonable fear of imminent violence. Schultz v. Moore, 5D18-2774 (9/27/19)

https://www.5dca.org/content/download/537745/6068809/file/182774_1260_09272019_08210160_i.pdf

INJUNCTION-STALKING: Unpleasant and uncivil messages are insufficient to cause substantial emotional distress and do not warrant an injunction for stalking. Reid v. Saunders, 1D18-1562 (9/25/19)

https://www.1dca.org/content/download/537543/6066623/file/181562_1287_09252019_09372428_i.pdf

INJUNCTION-STALKING: Evidence which had been the basis for an earlier petition for an injunction for protection, previously found to be insufficient, cannot be used in a later injunction, and in all events is stale. Reid v. Saunders, 1D18-1562 (9/25/19)

https://www.1dca.org/content/download/537543/6066623/file/181562_1287_09252019_09372428_i.pdf

PARTITION: In a partition proceeding, there must be an accounting to determine whether each co-tenant has paid his or her proportionate share of the expenses of the property, and to adjust the co-tenants' accounts accordingly. A cotenant paying the obligations of the property is entitled to a credit from the proceeds of the sale for the other cotenant's proportionate share of those expenses. Fernandez v. Marrero, 3D16-2931 (9/25/19)

https://www.3dca.flcourts.org/content/download/537566/6066915/file/162931809_09252019_10075982_i.pdf

INJUNCTION-STALKING: An injunction for stalking is warranted based on the Respondent sending profane text messages, canceling him a reservation for a cruise by impersonating the Petitioner, calling the Petitioner a "raging psycho,"

and sending an email saying “Vengeance is mine.” Auguste v. Aguado, 3D19-394 (9/25/19)

https://www.3dca.flcourts.org/content/download/537575/6067023/file/190394_809_09252019_10211716_i.pdf

CHILD SUPPORT-ADMINISTRATIVE ORDER: Final Child Support Order entered after a proposed order was sent to Father’s previous address but which he never received since he was living elsewhere, must be vacated. Joseph v. DOR, 4D19-487 (9/25/19)

https://www.4dca.org/content/download/537556/6066781/file/190487_1709_09252019_09033911_i.pdf

TERMINATION OF PARENTAL RIGHTS: Ten-month delay in entering disposition order does not justify setting aside TPR order. While an excessive delay between a non-jury trial and the entry of an order of disposition may require reversal, a delayed ruling does not, standing alone, justify setting aside the final judgment. K.G. and K.H. v. DCF, 4D19-1011 (9/25/19)

https://www.4dca.org/content/download/537557/6066793/file/191011_1257_09252019_09053608_i.pdf

CHILD SUPPORT: When calculating child support, Court must consider Wife’s income automobile expenses paid by wife’s business. A party’s gross income includes reimbursed expenses or in kind payments to the extent that they reduce living expenses.” § 61.30(2)(a)(13), Fla. Stat. (2017). Mikhail v. Mikhail, 2D18-2153 (9/20/19)

https://www.2dca.org/content/download/537359/6064868/file/182153_114_09202019_08274207_i.pdf

CHILD CUSTODY-MODIFICATION-RES JUDICATA: Shared parental responsibility and timesharing between the parties as established by a final judgment of dissolution of marriage may not thereafter be modified without findings that the modification is in the best interests of the child, notwithstanding that the child is not biologically descended from the mother. Final judgment establishing shared parental responsibility establish the mother as the parent. It is res judicata of the rights and obligations of the parties as of the time it became final. Thomas v. Joseph, 1D19-0102 (9/18/19)

https://www.1dca.org/content/download/537127/6062483/file/190102_1287_09182019_10465409_i.pdf

JUDGE-DISQUALIFICATION: Upon motion, Judge must disqualify himself in divorce case where the attorney for one of the parties had been his attorney in his own contested divorce case. Judge should, at the first practicable instance, disclose the fact that one of the parties' attorneys personally represented the trial judge in the trial judge's own marital dissolution proceeding. Becker v. Becker, 3D19-1493 (9/18/19)

https://www.3dca.flcourts.org/content/download/537054/6061595/file/191493807_09182019_10192811_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court may not terminate the parental rights of a "mother who never harmed her children (or any other child). . .based on past conduct which, in the opinions of her caseworker and the guardian ad litem, would likely cause harm to her children in the future." Q.L. v. DCF, 4D19-526 (9/18/19)

https://www.4dca.org/content/download/537075/6061845/file/190526_1709_09182019_09130038_i.pdf

DEPENDENCY-PATERNITY: Husband of biological mother is husband is presumed by law to be the child's legal father. He may not compel a DNA test payable by DCR to determine paternity in a dependency case. DCF v. D.A., 5D19-1415 (9/18/19)

https://www.5dca.org/content/download/537193/6063183/file/191415_1255_09182019_03390038_i.pdf

CHILD CUSTODY-JURISDICTION-UCCJEA: Where children lived with Husband and Wife in Florida, Wife went to Jordan with the children, then returned to establish residence with the children in Massachusetts, where she filed a motion for temporary custody, Florida has jurisdiction over the children, but must contact the Massachusetts court concerning whether Florida is the most convenient forum for exercising jurisdiction. Awad v. Noufal, 2D18-3448 (9/13/19)

https://www.2dca.org/content/download/536855/5961763/file/183448_65_09132019_08380922_i.pdf

EQUITABLE DISTRIBUTION-MARITAL GIFT PRESUMPTION: A gift of money to the Husband which is used to purchase the marital home is presumptively a marital gift. Value of the home must be evenly distributed. Erdman v. Erdman, 5D18-3043 (9/13/19)

https://www.5dca.org/content/download/536802/5961115/file/183043_1259_09132019_08252710_i.pdf

EQUITABLE DISTRIBUTION: When marital assets (i.e., the home) have appreciated passively since the filing date, the date of the final hearing generally should be used for valuation. Erdman v. Erdman, 5D18-3043 (9/13/19)

https://www.5dca.org/content/download/536802/5961115/file/183043_1259_09132019_08252710_i.pdf

TERMINATION OF PARENTAL RIGHTS: Where a parent is or will be incarcerated for a significant period of a child's minority, here, for thirteen years and until after the Child's eighteenth birthday, the child is abandoned and parental rights must be terminated. C.G. and C.G. v. R.C., 1D18-4552 (9/12/19)

https://www.1dca.org/content/download/536785/5960935/file/184552_1287_09122019_03364802_i.pdf

DEPENDENCY: Attorney for the Mother should be allowed to review the dependency file on the disappearance of another of the Father's children who is-because she disappeared-not the subject of the current termination of parental rights/adoption case. C.G. and C.G. v. R.C., 1D18-4552 (9/12/19)

https://www.1dca.org/content/download/536785/5960935/file/184552_1287_09122019_03364802_i.pdf

CHILD CUSTODY-JURISDICTION: Removal of the Child to another state for more than six months does not deprive Florida of jurisdiction. The UCCJEA does not operate to divest a court of continuing jurisdiction unless virtually all contacts have been lost with the forum state. Bock v. Vilma, 3D19-1691 (9/11/19)

https://www.3dca.flcourts.org/content/download/536632/5959041/file/191691806_09112019_10224637_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court may terminate parental rights of both parents when the Child suffered from Shaken Baby Syndrome and it could not be clearly determined which parent had abused the child. If the mother was not the abuser, she was willfully blind and failed to protect the child. J.H. v. DCF, 4D19-718 (9/11/19)

https://www.4dca.org/content/download/536619/5958879/file/190718_1257_09112019_08542958_i.pdf

EQUITABLE DISTRIBUTION: Court may award Wife all the marital assets to protect her right to meaningful financial relief where Husband is an unemployed alcoholic with a history of domestic violence who had burned the marital home to the ground and is now serving a 20-year sentence. Hardy v. Hardy, 1D17-277 (9/9/19)

https://www.1dca.org/content/download/536417/5956665/file/170277_1284_09092019_09034581_i.pdf

AUGUST 2019

INJUNCTIONS-DOMESTIC VIOLENCE: Domestic Injunction cannot be issued against grandmother for protection of the granddaughter on the grounds that the daughter claimed that she was abused by the grandmother (her mother) as a child. Incidents remote in time by as little as a year are insufficient to support entry of a new injunction, absent allegations of current violence or imminent danger. Curl v. Roberts, 1D18-1408 (8/30/19)

https://www.1dca.org/content/download/535898/5951765/file/181408_1287_08302019_09335613_i.pdf

INJUNCTION-NOTICE: Once served with the original temporary injunction, further notice is complete upon mailing to the party's last known address. Stone v. Germann, 3D18-2560 (8/28/19)

https://www.3dca.flcourts.org/content/download/535721/5949757/file/182560_809_08282019_10173539_i.pdf

CHILD CUSTODY-MODIFICATION: Court erred by relying on the parties' private agreement regarding placement of the child over the best interests of the child. A trial court is not bound by an agreement of parents regarding child support, custody, or visitation. Rather, the best interests of the child supersede any agreement between the parents and must be independently determined by the trial court. Cappola v. State, 4D18-2812 (18-2812)

https://www.4dca.org/content/download/535709/5949607/file/182812_1709_08282019_08555228_i.pdf

APPEAL-ATTORNEY'S FEES: Because the court's ruling reserved jurisdiction to determine the amount of fees, the judgment on this issue is nonfinal and therefore non-appealable. Burch v. Burch, 1D (8/21/19)

https://www.1dca.org/content/download/535374/5945699/file/182783_1286_08212019_09115361_i.pdf

CHILD CUSTODY-TIME SHARING: Requiring a young child and one of his parents to travel three out of four weekends every month by plane between North Carolina and Florida at great expense and inconvenience to both parents and the child it is not in Child's best interest. Marini v. Kellett, 5D17-1726 (8/16/19)

https://www.5dca.org/content/download/535174/5943372/file/171726_1259_08162019_08223797_i.pdf

CHILD CUSTODY-NAME CHANGE: Court abuses its discretion in ordering the child's surname to be changed from that of Mother to Father's for the announced purpose of establishing a good father-son bond and to conform to certain traditions. Marini v. Kellett, 5D17-1726 (8/16/19)

https://www.5dca.org/content/download/535174/5943372/file/171726_1259_08162019_08223797_i.pdf

CHILD SUPPORT: Child support must be based on net, not gross, income, and must take into account health insurance payments. Marini v. Kellett, 5D17-1726 (8/16/19)

https://www.5dca.org/content/download/535174/5943372/file/171726_1259_08162019_08223797_i.pdf

EQUITABLE DISTRIBUTION-PENSION: Upon the Parties' second divorce from each other, the court may not consider the duration of the first marriage in distributing the Husband's pension, particularly when the MSA from the first divorce settled all property rights in that case. Hubbard v. Berth, 5D19-503 (8/16/19)

https://www.5dca.org/content/download/535176/5943396/file/180503_1259_08162019_08290429_i.pdf

CONTEMPT: Court may not hold former husband in civil contempt for failing to pay attorney's fees and costs without making findings as to the former husband's ability to pay. Orban v. Rorrer, 3D18-1618 (8/14/19)

https://www.3dca.flcourts.org/content/download/535024/5941789/file/181618_812_08142019_10181295_i.pdf

INJUNCTION-STALKING-CYBERSTALKING: Child protection advocate cannot get an injunction against a counter protester because of his protests who objects to restrictive sex offender laws." Each party is a vocal advocate for opposite positions on sex offender laws. This is an issue currently debated within what Justice Oliver Wendell Holmes once described as the 'free trade in ideas.' . . . True, one side of this debate has far greater public support than the other, but that does not make the appellant's advocacy illegitimate." Logue v. Book, 4D18-1112 (8/14/19)

https://www.4dca.org/content/download/535000/5941489/file/181112_1709_08142019_08560880_i.pdf

CYBERSTALKING: Facebook/social media posts do not meet the statutory definition of cyberstalking because the posts are not directed at a specific person. Logue v. Book, 4D18-1112 (8/14/19)

https://www.4dca.org/content/download/535000/5941489/file/181112_1709_08142019_08560880_i.pdf

QUOTATION: "We live in times where violence occurs all too frequently and an ordinary day may turn into a horrific tragedy. . . Notwithstanding. . . , courts must also adhere to the Constitution and the laws enacted by our legislature. Logue v. Book, 4D18-1112 (8/14/19)

https://www.4dca.org/content/download/535000/5941489/file/181112_1709_08142019_08560880_i.pdf

QUOTATION: "I write to express my concern that in the day and age in which we live social media postings, such as those involved here, have led people to lash out and wreak havoc on our children, families, friends, and communities. Recently, a man was arrested for sending pipe bombs to a number of legislators allegedly as a result of social media encouragement. Indeed, international terrorists have been radicalized through social media. And, our elections have now fallen prey to manipulated social media. Perhaps thought should be given to whether the law should provide some protection for those at which social media directs its attention, and others are motivated to act." Logue v. Book, 4D18-1112 (8/14/19)

https://www.4dca.org/content/download/535000/5941489/file/181112_1709_08142019_08560880_i.pdf

ATTORNEY'S FEES: Court must consider the parties' ability to pay and need for attorney's fees any time it considers whether to award fees, regardless of whether it actually decides to award such fees. Hollonbeck v. Hollonbeck, 1D18-2066 (8/13/19)

https://www.1dca.org/content/download/534826/5940058/file/182066_1286_08132019_09574993_i.pdf

DISSOLUTION OF MARRIAGE-ATTORNEY'S FEES: Court may not deny request for attorneys fees in a divorce case without making specific findings regarding the parties' respective financial needs and abilities to pay. Financial resources are the primary factor. Allen v. Juul, 2D17-2965 (8/9/19)

https://www.2dca.org/content/download/534697/5938570/file/172965_114_08092019_08295109_i.pdf

TIME SHARING-TEMPORARY ORDER: Temporary timesharing order which gives the Father timesharing on weekends, which is when he works, is not reversed, but Court is invited to revisit its previous order in light of the parties' circumstances. Beck v. Howard, 2D18-2319 (8/9/19)

https://www.2dca.org/content/download/534703/5938648/file/182319_65_08092019_08390557_i.pdf

INJUNCTIONS-DATING VIOLENCE: Past acts of violence before the parties broke up, the Respondent's alleged history of violence towards women, and claims that Respondent has repeatedly called her names and yelled obscenities at her do not give rise to reasonable cause to believe that she is in imminent danger of becoming the victim of another act of dating violence. "[T]heir testimony suggested a relationship in which both had difficulty controlling their tempers. . .The parties' arguments eventually devolved into bickering over Di Stefano's 'glaring' at Long at their community pool and the need to avoid each other at community softball games." Di Stefano v. Long, 2D18-3180 (8/9/19)

https://www.2dca.org/content/download/534705/5938672/file/183180_39_08092019_08400947_i.pdf

CONTEMPT: When husband is prohibited from commenting about case on social media, his wife may not be held in contempt for doing so. In Re: Contempt Adjudication of Jessie L. Weiner, 2D19-1413 (8/7/19)

https://www.2dca.org/content/download/534523/5936855/file/191413_173_08072019_09240259_i.pdf

CONTEMPT-JUDGE-DISQUALIFICATION: Judge must disqualify herself in contempt case involving disrespect or criticism of the judge. In Re: Contempt Adjudication of Jessie L. Weiner, 2D19-1413 (8/7/19)

https://www.2dca.org/content/download/534523/5936855/file/191413_173_08072019_09240259_i.pdf

JULY 2019

CONTEMPT-NOTICE: Husband cannot be held in contempt for failure to respond to order sent to former counsel who had withdrawn from case over two months earlier rather than to the husband himself. Lattanzio v. Hoffman, 3D18-934 (7/31/19)

https://www.3dca.flcourts.org/content/download/534070/5932084/file/180934_812_07312019_09552605_i.pdf

DEPENDENT CHILDREN: Where the Mother's mental condition is in controversy and good cause is shown, the trial court may order a mental health evaluation. E.P.V. v. DCF, 3D19-764 (7/31/19)

https://www.3dca.flcourts.org/content/download/534076/5932156/file/190764_809_07312019_10053104_i.pdf

CONTEMPT-ATTORNEY'S FEES: When a contempt action arises in the context of a dissolution of marriage action, the trial must determine need and ability to pay before imposing attorney's fees. Manko v. Manko, 5D18-3883 (7/23/19)

https://www.5dca.org/content/download/533789/5928725/file/183883_1259_07232019_02193707_i.pdf

JUDGE-DISQUALIFICATION: A claim that a trial judge has made an error of law is not a basis for disqualification. Ripley v. Ripley, 5D19-1182 (7/23/19)

https://www.5dca.org/content/download/533794/5928785/file/191182_1254_07232019_02310258_i.pdf

INJUNCTION-STALKING: Theft of signs from the neighborhood, a "blow me" email, a sign throwing incident, chasing his neighbor who was riding a bike and yelling profanities, threatening to say bad things to the Petitioner's employer and a verbal altercation do not add up to stalking. Shannon v. Smith, 1D18-4587 (7/23/19)

https://www.1dca.org/content/download/533731/5928017/file/184587_1287_07232019_08585063_i.pdf

CHILD CUSTODY-SAME SEX COUPLE: Only the biological mother is entitled to custody of the Child when a lesbian couple breaks up. A coparenting agreement between a biological parent and a nonparent is not enforceable. A “de facto” parent in a same-sex relationship has no standing to seek time-sharing. Springer v. Springer, 2D18-2265 (7/19/19)

https://www.2dca.org/content/download/532399/5911134/file/182265_65_07192019_08323391_i.pdf

APPEAL-BELATED-TERMINATION OF PARENTAL RIGHTS: The proper procedural vehicle for seeking a belated appeal and a termination of parental rights case is petition for writ of habeas corpus filed with the trial court. H.K. v. DCF, 4D19-1916 (7/17/19)

https://www.4dca.org/content/download/532251/5909385/file/191916_1701_07172019_09142285_i.pdf

DISSOLUTION OF MARRIAGE-ATTORNEY’S FEES: Court may not award of attorney’s fees without making factual findings about need and ability to pay. Miron v. Richardson, 1D18-1221 (7/16/19)

https://www.1dca.org/content/download/532150/5908344/file/181221_1286_07162019_09553916_i.pdf (7/16/19)

RELOCATION-PROSPECTIVE-BASED ANALYSIS: Court must explain and base on evidence its determination that all statutory factors justifying relocation are neutral. A prospective-based analysis of a Child’s best interest is unsound. Discussion of the problems on the prohibition of prospective-based analysis. Miller v. Miller, 1D19-843 (7/16/19) (1st DCA 2003).

https://www.1dca.org/content/download/532157/5908428/file/190843_1287_07162019_10061247_i.pdf

ALIMONY-MODIFICATION: Court erred by decreasing alimony 85% based on Wife’s more modest life style, without the airplane, extensive travel and multiple residences of her married years. Wife “should not be penalized for attempting to ensure her financial future by limiting her expenditures.” Dunn v. Dunn, 5D18-111 (7/12/19)

https://www.5dca.org/content/download/531692/5900999/file/180111_1260_07122019_08291180_i.pdf

ANTENUPTIAL AGREEMENT: Court properly invalidated and antenuptial agreement presented to the wife less than a week before the wedding and without reasonable financial disclosures and where the day before the wedding the husband said “[n]o agreement, no wedding.” Ziegler v. Natera, 3D19-86 (7/10/19)

https://www.3dca.flcourts.org/content/download/531519/5899064/file/190086_809_07102019_10054654_i.pdf

LEX LOCI CONTRACTUS: “As the contract. . . was entered into by the parties in Venezuela, pursuant to the principle of lex loci contractus, Venezuelan law should govern. . . Nonetheless, both parties urged the application of Florida law and it appears that the trial court ratified this tacit stipulation. Thus, we conduct our analysis under Florida law.” Ziegler v. Natera, 3D19-86 (7/10/19)

https://www.3dca.flcourts.org/content/download/531519/5899064/file/190086_809_07102019_10054654_i.pdf

ATTORNEY’S FEES: As a general rule, when marital property has been equitably distributed and the parties’ incomes have been equalized through an alimony award, the trial court abuses its discretion by awarding attorney’s fees. Ingram v. Ingram, 2D18-3978 (7/10/19)

https://www.2dca.org/content/download/531565/5899622/file/183978_114_07102019_08444266_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court erred in denying Termination of Parental rights where evidence showed mother’s incapacity to care for children. DCF v. K.W., 1D19-163 (7/10/19)

https://www.1dca.org/content/download/531536/5899274/file/190163_1287_07102019_10040832_i.pdf

CHILD CUSTODY: Court may not be awarded sole parental responsibility over education and health issues on his mother for contempt where the change was neither ple nor tried by consent. Ducali v. Ducali, 1D17-1002 (7/9/19)

https://www.1dca.org/content/download/531417/5897932/file/171002_1286_07092019_10525007_i.pdf

CHILD SUPPORT-ALIMONY: Court must calculate alimony based on net income, not gross income. Jackson v. Jackson, 1D1803533 (7/9/19)

https://www.1dca.org/content/download/531446/5898283/file/183533_1286_07092019_11331648_i.pdf

ALIMONY-PERMANENT: Permanent alimony may be awarded in long term marriage only where the Court makes a written finding that no other form of alimony is fair and reasonable under the circumstances of the parties. Engle v. Engle, 2D17-620 (7/3/19)

https://www.2dca.org/content/download/531244/5895922/file/170620_114_07032019_08530068_i.pdf

APPEAL-ALIMONY: Issue of Court’s failure to make factual finding justifying award of permanent alimony need not be brought to Court’s attention by motion to modify/correct to be cognizable on appeal. Conflict certified. Engle v. Engle, 2D17-620 (7/3/19)

https://www.2dca.org/content/download/531244/5895922/file/170620_114_07032019_08530068_i.pdf

CHILD SUPPORT: Court errs in ordering child support without determining the income of the parties. Carmack v. Carmack, 2D18-1769 (7/3/19)

https://www.2dca.org/content/download/531260/5896114/file/181769_114_07032019_08592265_i.pdf

DEPENDENCY: Court may not place child upon accusations of abuse in the foster home without conducting a home study report. A.H. v. DCF, 3D19-1057 (7/3/19)

https://www.3dca.flcourts.org/content/download/531222/5895622/file/191057_807_07032019_10200163_i.pdf

JUNE 2019

EQUITABLE DISTRIBUTION: Court may not defer distribution of an unliquidated asset to an indefinite date in the future. Gudur v. Gudur, 2D16-3127 (6/28/19)

https://www.2dca.org/content/download/528048/5866545/file/163127_114_06282019_08471591_i.pdf

ALIMONY: Any award of alimony must consider Husband's living expenses. Will v. Will, 2D18-539 (6/28/19)

https://www.2dca.org/content/download/528055/5866635/file/180539_114_06282019_08525167_i.pdf

INJUNCTION-STALKING: Videotaping and photography Petitioner and saying "you're going down," "you'll get yours," and "you're all alone," made in the context of bitter litigation between the parties is insufficient to establish stalking because it is insufficient to show emotional distress in a reasonable person. Caterino v. Torello, 2D18-1712 (6/26/19)

https://www.2dca.org/content/download/527894/5864872/file/181712_39_06262019_09050619_i.pdf

ATTORNEY-DISQUALIFICATION: In dissolution of marriage case, attorney is not disqualified from representing the husband when he previously represented the Wife in an unrelated and immaterial matter and was familiar with her finances. Goff v. Goff, 2D18-3163 (6/26/19)

https://www.2dca.org/content/download/527901/5864956/file/183163_167_06262019_09061822_i.pdf

TERMINATION OF PARENTAL RIGHTS: In order to terminate parental rights, the State is required to establish by clear and convincing evidence the existence of at least one statutory ground for termination and that it is in the manifest best interest of the child and the least restrictive means to protect the child from serious harm. . .[D]uring the mother's episode of poverty, instead of reasonably assisting her. . ., the Department left the mother without viable options, essentially ensuring she would be left financially bereft and unable to fulfill the remaining demands of her case plan. . .After the mother, through her own arduous efforts, managed to remedy her poverty, . . .the Department relied upon her prior plight to avoid further reunification efforts." I.T. v. DCF, 3D18-2361 (6/26/19)

https://www.3dca.flcourts.org/content/download/527856/5864402/file/182361_812_06262019_10192707_i.pdf

QUOTATION: “We are not aware of a precise definition that tells us what a model parent is. Perhaps it is nothing more than a mythical figure. . . that good parents should seek to emulate. . . . [T]he law does not profess to require parental perfection.” I.T. v. DCF, 3D18-2361 (6/26/19)

https://www.3dca.flcourts.org/content/download/527856/5864402/file/182361_812_06262019_10192707_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court erred in denying petition to terminate parental rights where the evidence showed that the Mother suffers from a lifelong mental disorder that no treatment can render her able to safely raise the child and she is an enduring threat of harm to the child. Where the testimony on the pivotal issues is not contradicted or impeached they cannot be disregarded. GAL v. K.H. AND DCF, No. 3D19-24 (6/26/19)

https://www.3dca.flcourts.org/content/download/527858/5864426/file/190024_811_06262019_10214711_i.pdf

DEPENDENCY-STANDING: Foster Parents of child in dependency proceeding have standing and the right to 72 hours notice before a hearing on a change of placement for the child. Clingerman v. Clingerman, 5D19-1633 (6/21/19)

https://www.5dca.org/content/download/527659/5862097/file/191633_1253_06212019_08504170_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court may not enter a consent to termination of parental rights based on the Father’s failure to appear at a hearing for which he was not properly noticed. S.C., v. DCF, 2D18-4432 (6/21/19)

https://www.2dca.org/content/download/527704/5862652/file/184432_39_06212019_08250377_i.pdf

CHILD CUSTODY-SUBSTANTIAL CHANGE OF CIRCUMSTANCES: The burden on the moving party to establish a substantial change of circumstances is extraordinary. A forty-five-mile move is not a substantial change warranting modification. Hollis v. Hollis, 2D18-2293 (6/19/19)

https://www.2dca.org/content/download/527488/5860115/file/182293_39_06192019_08445413_i.pdf

PATERNITY: Putative father is not entitled to notice of proceedings where he did not timely register with the Florida Putative Fathers Registry, Howell v. Hickman, 4D19-520 (6/19/19)

https://www.4dca.org/content/download/527455/5859701/file/190520_1257_06192019_09193757_i.pdf

EQUITABLE DISTRIBUTION-MILITARY PENSION: Where marital funds are used to purchase credit for premarital years of employment, the enhanced value to the pension plan is marital. Martin v. Martin, 1D18-2546 (6/19/19)
https://www.1dca.org/content/download/527562/5860958/file/182546_1284_06202019_11331821_i.pdf

ALIMONY: Housewife for twenty years is entitled to permanent, not durational, alimony. Molina v. Perez, 3D17-1642 (6/19/19)
https://www.3dca.flcourts.org/content/download/527438/5859491/file/171642_812_06192019_10022827_i.pdf

CHILD SUPPORT: Retroactive child support can only be ordered going back two years, and must be based on income as known at the time. Holley v. DOR, No. 2D17-2407 (6/14/19)
https://www.2dca.org/content/download/527242/5857396/file/172407_114_06142019_08071115_i.pdf

ALIMONY-RETIREMENT: Husband's retirement as a truck driver 50 years, coupled with physical ailments, is a substantial change in circumstances warranting a modification of alimony. A reasonable retirement is not voluntary underemployment. Holder v. Lopez, No. 1D18-1870 (1st DCA 6/7/19)
https://www.1dca.org/content/download/526806/5852916/file/181870_1287_06072019_11374198_i.pdf

CHILD SUPPORT: Court may order retroactive child support based on a supplemental petition for modification based on the Husband's failure to exercise parenting time. The original petition for dissolution of marriage. Smith v. Smith, No. 1D18-2771 (1st DCA 6/7/19)
https://www.1dca.org/content/download/526807/5852928/file/182771_1284_06072019_11401529_i.pdf

EQUITABLE DISTRIBUTION: Absent a showing of misconduct, it is error to include assets in an equitable distribution scheme that have been diminished or dissipated during the dissolution proceedings. Griffin v. Griffin, No. 1D18-4078 (1st DCA 6/7/19)
https://www.1dca.org/content/download/526810/5852964/file/184078_1286_06072019_11461672_i.pdf

FINAL JUDGMENT: Final Judgment must identify and value all of the parties' marital assets and liabilities. Tritschler v. Tritschler, Case No. 2D18-761 (2nd DCA 6/7/19)
https://www.2dca.org/content/download/526785/5852652/file/180761_114_06072019_09070132_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court may properly terminate parental rights based on Father's continue involvement in selling drugs and failure to complete a case plan. A.F. v. A.B.-L.S., 44 Fla. L. Weekly D1441d (1st DCA 6/5/19)

https://www.1dca.org/content/download/526680/5851465/file/184930_1279_06052019_03005299_i.pdf

TERMINATION OF PARENTAL RIGHTS-JURISDICTION: Florida has jurisdiction to terminate parental rights where Florida was the home state of the child but the abuse (leaving the child in a hot car) occurred in California where the family had gone to flee Hurricane Irma. N.B. v. DCF, 44 Fla. L. Weekly D1436a (3rd DCA 6/5/19)

<https://www.3dca.flcourts.org/content/download/526666/5851295/file/3D18-2525.co.pdf>

APPEAL-TIMELINESS: Notice of Appeal is deemed timely where Appellant attempted to electronically file that there was an error in the payment processing system portal which prevented him from doing so. Clerks must accept electronic filing with or without the filing fee. Filers must be able to submit notice of appeal to the portal without any other prerequisites to successfully complete the filing. Burns v. Burns, 44 Fla. L. Weekly D1431a (4th DCA 6/5/19)

https://www.4dca.org/content/download/526600/5850471/file/190124_1711_06052019_09363369_i.pdf

EQUITABLE DISTRIBUTION-DEPLETED ASSETS: Court erred in including the value of a Corvette which had been sold during the pendency of the divorce without making a finding of improper dissipation. Fischer v. Fischer, 44 Fla. L. Weekly D1427a (4th DCA 6/5/19)

https://www.4dca.org/content/download/526594/5850399/file/181635_1708_06052019_09265271_i.pdf

ATTORNEY 'S FEES: Court must make specific factual findings in the final judgment as to the reasonable hours and reasonableness of the hourly rate in awarding attorney's fees. Fischer v. Fischer, 44 Fla. L. Weekly D1427a (4th DCA 6/5/19)

https://www.4dca.org/content/download/526594/5850399/file/181635_1708_06052019_09265271_i.pdf

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ALIMONY: Where it is anticipated but not guaranteed that the Wife, who raised the children and worked only part-time during the marriage will secure all well-paying employment, the Court should order nominal permanent alimony so that jurisdiction is preserved to increase the alimony if things don't work out. Shaw v. Shaw, 44 Fla. L. Weekly D1412a (2nd DCA 5/31/19)

https://www.2dca.org/content/download/526334/5847895/file/180331_114_05312019_08585546_i.pdf

ALIMONY: Court must make specific factual findings to justify the amount of the alimony award. Walker v. Walker, 44 Fla. L. Weekly D1410a (2nd DCA 5/31/19)

https://www.2dca.org/content/download/526332/5847871/file/174575_114_05312019_08502953_i.pdf

TIME-SHARING: Court erred in limiting the Father's timesharing because of the limited space in the Father's home. Walker v. Walker, 44 Fla. L. Weekly D1410a (2nd DCA 5/31/19)

https://www.2dca.org/content/download/526332/5847871/file/174575_114_05312019_08502953_i.pdf

TIME SHARING-MARITAL RESIDENCE: As a general rule, a trial court should award the primary residential parent exclusive use and possession of the marital residence until the youngest child reaches majority or is emancipated, or the primary residential parent remarries, unless there are special circumstances. Walker v. Walker, 44 Fla. L. Weekly D1410a (2nd DCA 5/31/19)

https://www.2dca.org/content/download/526332/5847871/file/174575_114_05312019_08502953_i.pdf

RELOCATION-MODIFICATION: A parent who is denied relocation because the trial court finds that it is not in the children's best interest but who voluntarily relocates anyway is not still entitled under the statute to have the trial court change the previously agreed upon time-sharing between the parents and their children. Having chosen to relocate prior to trial and without court permission, Former Husband did so at his peril. Hull v. Hull, 44 Fla. L. Weekly D1406a (5th DCA 5/31/19)

https://www.5dca.org/content/download/526316/5847679/file/181517_1257_05312019_08072615_i.pdf

JUDGES-DISQUALIFICATION: Court may not hold hearing on child support after Mother had filed a motion to disqualify the judge. Godin v. Owens, 44 Fla. L. Weekly D1401c (5th DCA 5/31/19)

https://www.5dca.org/content/download/526315/5847667/file/181176_1259_05312019_08053878_i.pdf

PARTITION OF HOME: Court is not required to set a date for partition of the marital home when partition was not affirmatively pled. Rivera v. Rivera, 44 Fla. L. Weekly D1391a (3rd DCA 5/29/19)

<http://3dca.flcourts.org/Opinions/3D18-1338.pdf>

CONTEMPT: Monetary fine of \$12,500 is improperly imposed as indirect contempt because it contains no purge provision nor is it possible to discern how such an amount was arrived at. Alonso v. de Zarraga, 44 Fla. L. Weekly D1390a (3rd DCA 5/29/19)

<http://3dca.flcourts.org/Opinions/3D18-1127.pdf>

ALIMONY-IMPUTED INCOME: Court erred in imputing income to the Wife immediately where Wife needed therapy to become employable full-time. Horowitz v. Horowitz, 44 Fla. L. Weekly D1382a (2nd DCA 5/29/19)

https://www.2dca.org/content/download/526059/5844851/file/182074_114_05292019_08400611_i.pdf

DISSOLUTION OF MARRIAGE-FINDINGS OF FACT: “Dissolution of marriage cases are unlike other civil litigation. The final dissolution judgment is often not the end of the litigation process. The final judgment establishes ground zero for the purpose of petitions for enforcement, modification, and contempt proceedings. Without the statutorily-required findings of fact, it is difficult, if not impossible, to review the record for evidentiary support of the judgment, to enforce a judgment, or to subsequently determine if there has been a material change in circumstances sufficient to justify a modification of that judgment.” Horowitz v. Horowitz, 44 Fla. L. Weekly minor D1382a (2nd DCA 5/29/19)

https://www.2dca.org/content/download/526059/5844851/file/182074_114_05292019_08400611_i.pdf

PARENTING PLAN: Parenting plan must describe in adequate detail the methods and technologies that the parents will use to communicate with the child. E.V. v. D.M.V.H., 44 Fla. L. Weekly D1381a (2nd DCA 5/29/19)

https://www.2dca.org/content/download/526062/5844887/file/182240_114_05292019_08413071_i.pdf

MODIFICATION-CHILD CUSTODY: Parenting plan may be modified based on the Child’s failure to thrive. Schot v. Schot, 44 Fla. L. Weekly D1367a (4th DCA 5/29/19)

https://www.4dca.org/content/download/526032/5844515/file/181607_1708_05292019_08523860_i.pdf

INJUNCTION: Where Wife’s testimony that Husband forced himself upon her and scratched her breast was uncontradicted and not found to be not credible, the court erred in denying the Petition for injunction for protection. Statements of fact cannot be wholly disregarded or arbitrarily rejected, even though given by an interested party. Taylor v. Price, 44 Fla. L. Weekly D1330a (4th DCA 5/22/19)

https://www.4dca.org/content/download/525425/5837139/file/182835_1709_05222019_09282959_i.pdf

PATERNITY: Court may not enter judgment and establish a parenting plan based solely on arguments of counsel, without testimony being presented. “In recognition of our binary, common law system of adversarialism, the argument or proffer of counsel, not rendered under oath, . . . does not constitute admissible evidence.” Pena v. Rodriguez, 44 Fla. L. Weekly D1346a (3rd DCA 5/22/19)

<http://www.3dca.flcourts.org/Opinions/3D18-0012.pdf>

EQUITABLE DISTRIBUTION-UNEQUAL DISTRIBUTION: A home purchased during the marriage and titled in one party’s name is a marital asset subject to equitable distribution. Title alone is insufficient to support an unequal

distribution of property. King v. King, 44 Fla. L. Weekly D1337a (2nd DCA 5/22/19)

https://www.2dca.org/content/download/525439/5837319/file/181179_114_05222019_09113615_i.pdf

ALIMONY: There is a presumption against alimony in a short-term marriage (under 7 years). King v. King, 44 Fla. L. Weekly D1337a (2nd DCA 5/22/19)

https://www.2dca.org/content/download/525439/5837319/file/181179_114_05222019_09113615_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court may terminate parental rights based on abandonment because of the parent's incarceration and the act which caused them to be locked up. R.L. v. DCF, 44 Fla. L. Weekly D1334a (4th DCA 5/22/19)

https://www.4dca.org/content/download/525426/5837151/file/183700_1708_05222019_09314770_i.pdf

CHILD SUPPORT-MODIFICATION: Court cannot modify child support on party's motion for contempt for nonpayment of child support. Bordonaro v. Bordonaro, 44 Fla. L. Weekly D1319d (1st DCA 5/21/19)

https://edca.1dca.org/DCADocs/2018/4091/184091_1287_05212019_10335892_i.pdf

CHILD SUPPORT-SPENDTHRIFT TRUST: Spendthrift provisions is a special needs trust are unenforceable against a valid child support and discretionary disbursements are not protected from continuing garnishment for support payments. Alexander v. Harris, 44 Fla. L. Weekly D1311d (2nd DCA 5/17/19)

https://www.2dca.org/content/download/525179/5834341/file/173218_39_05172019_08290712_i.pdf

EQUITABLE DISTRIBUTION-MODIFICATION: Reservation of jurisdiction does not authorize the Court to make a redistribution of property. Once the final judgment becomes final, the lower court does not retain the power to modify the equitable. Farid v. Rabbath, 44 Fla. L. Weekly D1307a (1st DCA 5/16/19)

https://www.1dca.org/content/download/525080/5833319/file/174173_1286_05162019_10131051_i.pdf

CONTEMPT: Husband cannot be held in contempt of court for having his significant other present at the Child's doctor appointment when the Final judgment does not prohibit that. When a final judgment or order is not sufficiently explicit or precise to put the party on notice of what the party may or may not do, it cannot support a conclusion that the party willfully or wantonly violated that order. Godwin v. Godwin, 44 Fla. L. Weekly D1296a (4th DCA 5/15/19)

https://www.4dca.org/content/download/525020/5832599/file/182228_1709_05152019_08513612_i.pdf

CHILD CUSTODY-MODIFICATION: Court cannot modify child custody provisions of the final judgment in a contempt hearing. Godwin v. Godwin, 44 Fla. L. Weekly D1296a (4th DCA 5/15/19)

https://www.4dca.org/content/download/525020/5832599/file/182228_1709_05152019_08513612_i.pdf

CHILD SUPPORT-CONTINUANCE: Court abused discretion in denying Father's request for thirty-day continuance to secure counsel to represent him in an administrative child support case. Father has a right to be represented by counsel, at his own expense, at the support hearing. Timely attempting to obtain affordable legal assistance can be good cause for a continuance. Jeancharles v. State, 44 Fla. L. Weekly D1291b (4th DCA 5/15/19)

https://www.4dca.org/content/download/525017/5832563/file/181809_1709_05152019_08462432_i.pdf

ALIMONY: Court properly denied alimony based on the Wife's significant assets and the fact that she had cohabited with her paramour for over a year and received money from him. Zubricky v. Zubricky, 44 Fla. L. Weekly D1286a (4th DCA 5/15/19)

https://www.4dca.org/content/download/525019/5832587/file/182196_1708_05152019_08501415_i.pdf

INJUNCTION-DATING VIOLENCE: An injunction against dating violence is not warranted where the Respondent was never violent with the Petitioner. The fact that the Petitioner felt in danger when the Respondent showed up at her home uninvited but did not threaten her is insufficient. Sumners v. Thompson, 44 Fla. L. Weekly D1272a (1st DCA 5/13/19)

https://www.1dca.org/content/download/524945/5831813/file/183637_1287_05132019_09040537_i.pdf

INJUNCTION-DATING VIOLENCE: A 4-year long on-again off-again casual sex relationship is a dating relationship. "Nothing in the statute requires that the parties go out on a date, at least in the traditional sense of a couple going to dinner and a movie. Rather, the statute requires only that the relationship is continuous, significant, and intimate." Sumners v. Thompson, 44 Fla. L. Weekly D1272a (1st DCA 5/13/19)

https://www.1dca.org/content/download/524945/5831813/file/183637_1287_05132019_09040537_i.pdf

INJUNCTION-STALKING: Respondent's ongoing sexual harassment at work is insufficient to warrant an injunction for stalking because the acts were not bad enough to produce substantial emotional distress in a reasonable person. It is not enough to be "weirded out" or uncomfortable. Klenk v. Ransom, 44 Fla. L. Weekly D1270a (1st DCA 5/13/19)

https://www.1dca.org/content/download/524943/5831789/file/182774_1287_05132019_09004043_i.pdf

LUMP SOME ALIMONY: Where Premarital Agreement calls for lump sum alimony at different levels depending on when “a” petition for dissolution of marriage is filed, and wife files two petitions for dissolution of marriage, the 1st of which is dismissed, the earlier petition is the relevant date for establishing lump sum alimony. Famiglio v State, 44 Fla. L. Weekly D1260d (2nd DCA 5/10/19)

https://www.2dca.org/content/download/524876/5831039/file/180467_114_05_102019_08440097_i.pdf

QUOTATION: “The tiniest words can have the greatest consequence. In this appeal. . . , the word ‘a,’ the smallest of words in the English language, could mean the difference of a million and a half dollars.” Famiglio v State, 44 Fla. L. Weekly D1260d (2nd DCA 5/10/19)

https://www.2dca.org/content/download/524876/5831039/file/180467_114_05_102019_08440097_i.pdf

DEFINITION OF “A”: “A” means “any.” “The purpose of the indefinite article is to indicate a noun that is, in some way, variable, unidentified, or unspecified. . . Linguistically, ‘a’ refers to ‘any or each’ of a type when used with a subsequent restrictive modifier. . . The word ‘a’ is ‘a function word before singular nouns when the referent is unspecified.” Famiglio v State, 44 Fla. L. Weekly D1260d (2nd DCA 5/10/19)

https://www.2dca.org/content/download/524876/5831039/file/180467_114_05_102019_08440097_i.pdf

DEFINITION-WHEN SOMETHING OCCURS: “In common parlance, predicating a condition on ‘when something occurs’ or ‘at the time something occurs,’ is normally understood to mean the first time that the something occurs. This is so because conditional statements such as these are made with a view towards the future, as a way of indicating that a consequent condition will arise from a future condition’s occurrence. And since the future cannot be known (except in hindsight), we would ordinarily read a provision. . .to align with the way we experience the passing of temporal events; that is, we would consider the future condition’s first occurrence to be the operative one, even if it is a condition that might be capable of repetition.” Famiglio v State, 44 Fla. L. Weekly D1260d (2nd DCA 5/10/19)

https://www.2dca.org/content/download/524876/5831039/file/180467_114_05_102019_08440097_i.pdf

DEFINITION-BARELY LATENT AMBIGUITY: “Although the trial court pointed out this inconsistency, it did not explicitly characterize it as a latent ambiguity. At the risk of coining a phrase, perhaps it could be more aptly described as a barely latent ambiguity.” Famiglio v State, 44 Fla. L. Weekly D1260d (2nd DCA 5/10/19)

https://www.2dca.org/content/download/524876/5831039/file/180467_114_05102019_08440097_i.pdf

DISSOLUTION OF MARRIAGE-REOPENING EVIDENCE-LIFE INSURANCE: Defendant is entitled to a rehearing and requirement the DMZ life insurance where he attempted to obtain life insurance after the entry of the final judgment and found he could not get any because of the pre-existing medical condition. Manko v. Manko, 44 Fla. L. Weekly D1249a (5th DCA 5/10/19)

https://www.5dca.org/content/download/524847/5830697/file/181445_1259_05102019_08202202_i.pdf

DEPENDENCY: Court may find dependency based on the mother and child being homeless and the mother twice having refused offer of shelter services. L.J. v. DCF, 44 Fla. L. Weekly D1224a (3rd DCA 5/8/19)

<http://3dca.flcourts.org/Opinions/3D18-2026.pdf>

EQUITABLE DISTRIBUTION: Court erred in considering as marital property a piece of land owned in the name of the Wife's parents and which was promised to the parties, but which was never conveyed. Goley v. Goley, 44 Fla. L. Weekly D1203a (1st DCA 5/6/19)

https://www.1dca.org/content/download/524560/5827597/file/180009_1284_05062019_02340457_i.pdf

PATERNITY-RELOCATION: Mother cannot be found in contempt of court for violation of standing court order by moving child to another county when the move occurred before she was served with the court's order. Dowell v. Knoras, 44 Fla. L. Weekly D1182d (2nd DCA 5/3/19)

https://www.2dca.org/content/download/524480/5826809/file/184420_39_05032019_09062241_i.pdf

INJUNCTION-STALKING: Court may not order an injunction against stalking based on the Respondent putting dog poop in Petitioner's trashcan one time, revving a car engine one time, and stepping on her driveway to avoid being hit by a bus. Stone v. McMillan, 44 Fla. L. Weekly D1171a (1st DCA 5/2/19)

https://www.1dca.org/content/download/524395/5825849/file/175332_1287_05022019_10595789_i.pdf

MODIFICATION-ALIMONY: Absent a transcript, denial of the petition for modification of alimony is affirmed. Padgett v. Padgett, 44 Fla. L. Weekly D1167b (1st DCA 5/2/19)

https://www.1dca.org/content/download/524390/5825789/file/172217_1284_05022019_10483101_i.pdf

CHILD SUPPORT-ARREARAGES: Father is entitled to a reduction of allocated child support as each child reaches maturity. MSA which refers to child support for each child is allocated child support. A hearing is required to

fix child support as each child becomes emancipated. Stout v. Stout, 44 Fla. L. Weekly D1140a (4th DCA 5/1/19)

https://www.4dca.org/content/download/524300/5824713/file/182296_1709_05012019_09192101_i.pdf

ATTORNEY'S FEES: Final judgment containing a fee provision must provide that it will be based on need and ability to pay. Du Perault v. Du Perault, 44 Fla. L. Weekly D1135a (4th DCA 5/1/19)

https://www.4dca.org/content/download/524297/5824677/file/181226_1708_05012019_09130967_i.pdf

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ATTORNEY'S FEES: Court must make written findings to support award of attorney's fees. R.M.A. v. J.A.S., 44 Fla. L. Weekly D1107a (2nd DCA 4/26/19)

https://www.2dca.org/content/download/524128/5822852/file/180478_114_04262019_08335618_i.pdf

TERMINATION OF PARENTAL RIGHTS-DEFAULT: Court may not enter a default termination of parental rights or the parent, through counsel, claimed that she could not appear in court due to car trouble. In the Interest of A.D. v. DCF, 44 Fla. L. Weekly D1104a (2nd DCA 4/26/19)

https://www.2dca.org/content/download/524139/5822984/file/184211_39_04262019_09035192_i.pdf

MARITAL SETTLEMENT AGREEMENT-MODIFICATION: The effective date of the Marital Settlement Agreement establishes the date to which a trial court should look in determining whether a substantial change in circumstances warranting a modification has occurred. Dipasquale v. Dipasquale, 44 Fla. L. Weekly D1078a (2nd DCA 4/24/19)

https://www.2dca.org/content/download/523928/5820639/file/172266_65_04242019_08330734_i.pdf

APPEALS-JURISDICTION: An order which reserved jurisdiction over child support and equitable distribution, but not over timesharing and parental responsibility, is nonappealable as a nonfinal order as to any of the issue. Browner v. Browner, 44 Fla. L. Weekly D1020c (1st DCA 4/22/19)

https://www.1dca.org/content/download/523770/5818904/file/190556_1279_04222019_09491881_i.pdf

INJUNCTION: Court may not include a finding that the Petitioner was a victim of stalking when this was not part of the parties' verbal agreement to an injunction. Emile v. Excellent, 44 Fla. L. Weekly D983c (4th DCA 4/17/19)

https://www.4dca.org/content/download/523629/5817204/file/182052_1257_04172019_09185902_i.pdf

ALIMONY-POWER OF ATTORNEY: Power of attorney allows Court to award non-dissolution alimony notwithstanding the Husband's incapacity. Levy v. Levy, 44 Fla. L. Weekly D983a (4th DCA 4/17/19)

https://www.4dca.org/content/download/523634/5817264/file/183535_1709_04172019_09421767_i.pdf

ATTORNEY'S FEES-RES JUDICATA: Previous order denying attorney's fees is a final adjudication of entitlement to those fees with res judicata effect. Pelphrey-Weigand v. Weigand, 44 Fla. L. Weekly D973a (2nd DCA 4/17/19)
https://www.2dca.org/content/download/523641/5817352/file/171503_39_04172019_08332967_i.pdf

APPEAL: Court cannot review award of alimony and child support absent a transcript, that can review the award of attorney's fees where no written factual findings are entered. Dood v. Dood, 44 Fla. L. Weekly D969b (2nd DCA 4/12/19)

https://www.2dca.org/content/download/523452/5815405/file/181046_114_04122019_08520722_i.pdf

INCOME DEDUCTION ORDER: Income Deduction Order is legally insufficient where it fails to designate how much of the order is for arrearage and how much is for current obligations. Moore v. Holton, 44 Fla. L. Weekly D969a (2nd DCA 4/12/19)

https://www.2dca.org/content/download/523453/5815417/file/182672_114_04122019_08532258_i.pdf

EQUITABLE DISTRIBUTION-CLOSELY HELD CORPORATION: Court may not give each party 50% of the closely held corporation without knowing its actual worth. Parties must present valuation evidence so the court may award assets to one or the other and devise a plan of distribution which is practical and beneficial both parties. Bowen v. Volz, 44 Fla. L. Weekly D957a (1st DCA 4/11/19)

https://www.1dca.org/content/download/523351/5814177/file/180912_1286_04112019_08590993_i.pdf

DEPENDENCY: Court may not terminate protective services absent a written motion or a written report to the court. J.B., Father of M.L.B. v. DCF, 44 Fla. L. Weekly D956b (1st DCA 4/11/19)

https://www.1dca.org/content/download/523353/5814201/file/190109_1280_04112019_09011866_i.pdf

ATTORNEY'S FEES: In awarding attorney's fees court must make factual findings about the number of hours spent and how the fee amount order was arrived at. Scire v. Hochman, 44 Fla. L. Weekly D950a (4th DCA 4/10/19)

https://www.4dca.org/content/download/523197/5812863/file/181606_1709_04102019_09144680_i.pdf

INJUNCTIONS-HEARSAY: Injunction for sexual violence cannot be entered based solely on statements paid by the child to her mother without complying with child hearsay law. Hussey v. Lara, 44 Fla. L. Weekly D940a (3rd DCA 10/10/19)

<http://3dca.flcourts.org/Opinions/3D18-0259.pdf>

TIME-SHARING-MODIFICATION: Court properly modified child custody upon finding that the Father's alcoholism was in remission. McClendon v. D'Amico, 44 Fla. L. Weekly D894b (1st DCA 4/5/19)

https://www.1dca.org/content/download/523046/5811062/file/182648_1284_04052019_09233492_i.pdf

CHILD SUPPORT: Court must consider mortgage payments as being part of child support. Johnson v. Johnson, 44 Fla. L. Weekly D890a (5th DCA 4/5/19)

https://edca.5dca.org/DCADocs/2017/4093/174093_1259_04052019_08392429_i.pdf

MSA-FRAUD: Father may not set aside MSA for fraud when the only fraud was the father lying about his income. The doctrine of unclean hands is designed to prevent courts from granting a party relief from a result the party brought about through its own voluntary acts. "Father previously testified. . . that his prior employment included: 'distribut[ing] flyers for every night club in the city' . . . ; creating an escort service that 'provid[ed] female company';. . .and starting a talent management business." Corrigan v. Vargas, 44 Fla. L. Weekly D889a (5th DCA 4/5/19)

https://edca.5dca.org/DCADocs/2018/2158/182158_1260_04052019_08491476_i.pdf

CHILD SUPPORT-MODIFICATION: Wife obtaining full-time employment as a grounds for modifying child support. An increase in the ability to pay is itself sufficient to warrant an increase in child support. Paulette v. Rosella, 44 Fla. L. Weekly D887c (5th DCA 4/5/19)

https://edca.5dca.org/DCADocs/2018/0264/180264_1260_04052019_08431484_i.pdf

EQUITABLE DISTRIBUTION: Court may not engage in a piecemeal approach to equitable distribution; only when the parties challenge the entire scheme can the court review equitable distribution. Dorsey v. Dorsey, 44 Fla. L. Weekly D875a (1st DCA 4/3/19)

https://www.1dca.org/content/download/523042/5811014/file/181297_1284_04052019_09195922_i.pdf

DISSOLUTION OF MARRIAGE-JUDGMENT-FRAUD: Wife is entitled to a hearing on her request to set aside the judgment based on fraud when the request is properly pled. Rowe-Lewis v. Lewis, 44 Fla. L. Weekly D844a (4th DCA 4/3/19)

https://www.4dca.org/content/download/522906/5809351/file/181982_1709_04032019_09240265_i.pdf

ALIMONY: Court may not deny alimony without addressing the statutory bases in detail. Rowe-Lewis v. Lewis, 44 Fla. L. Weekly D844a (4th DCA 4/3/19)

https://www.4dca.org/content/download/522906/5809351/file/181982_1709_04032019_09240265_i.pdf

MARCH 2019

NAME CHANGE-PATERNITY: Court may not order that the child's surname be changed from that of the mother to that of both parents, separated by a hyphen absent proof that the change is necessary for the welfare of the child. Unmarried mother is entitled to select the child's given name and surname. Bowman v. Hutto, 44 Fla. L. Weekly D822a (1st DCA 3/28/19)

https://www.1dca.org/content/download/521305/5789944/file/183400_1286_03282019_10581379_i.pdf

TIMESHARING-CONTEMPT: Modification of a timesharing plan is appropriate as a sanction for contempt. Andre v. Abreu, 44 Fla. L. Weekly D810a (3rd DCA 3/27/19)

<http://3dca.flcourts.org/Opinions/3D17-1747.pdf>

EQUITABLE DISTRIBUTION-DISSIPATION: Court may not include assets in an equitable distribution scheme that have been diminished or dissipated during the dissolution proceedings unless there was misconduct that dissipated a marital asset. Pearson v. Pearson, 44 Fla. L. Weekly D795a (2nd DCA 3/22/19)

https://www.2dca.org/content/download/433192/4699060/file/174012_114_03222019_08320952_i.pdf

EQUITABLE DISTRIBUTION-PENSION: FRS pension accrued during the marriage is marital property subject to equitable distribution. Pearson v. Pearson, 44 Fla. L. Weekly D795a (2nd DCA 3/22/19)

https://www.2dca.org/content/download/433192/4699060/file/174012_114_03222019_08320952_i.pdf

CONTEMPT-INDIRECT-CIVIL: Court may not make a finding that failure to pay child or was willful and therefore hold him in contempt of court, where the Father was not present at the hearing. Seaman v. Seaman, 44 Fla. L. Weekly D787b (5th DCA 3/22/19)

https://edca.5dca.org/DCADocs/2018/2080/182080_1260_03222019_08203701_i.pdf

DEPENDENCY: By placing the child with the father and terminating jurisdiction, the circuit court lacked any statutory authority to require the mother to complete a case plan. If the circuit court's intent was to require the mother to complete a case plan after having placed the child with the father, then the court could not require the mother to complete a "maintain and strengthen" case plan. N.A. v. DCF, 44 Fla. L. Weekly D778a (4th DCA 3/20/19)

https://www.4dca.org/content/download/431184/4682250/file/183374_1709_03202019_10081710_i.pdf

CONTEMPT-CHILD CUSTODY: Mother cannot be held in contempt for not forcing the child to go with the father when the child refused to get on the plane,

and the order was not specific about what to do in that event. Akre-Deschamps v. Smith, 44 Fla. L. Weekly D756a (2nd DCA 3/20/19)

https://www.2dca.org/content/download/431197/4682418/file/174837_114_03202019_08311828_i.pdf

INJUNCTION-DISSOLVING INJUNCTION: Court must dissolve injunction where the circumstances have changed such as, as here, where the Respondent has moved away, and is precluded from getting work in law enforcement because of the injunction. “[T]he theoretical possibility of future contact between the parties was by itself sufficient to conclude that the circumstances underlying the injunction remained the same. . . fails the test of reasonableness. . . [A] merely speculative fear of future violence cannot be enough to justify the never-ending existence of an injunction.” Trice v. Trice, 44 Fla. L. Weekly D754e (2nd DCA 3/20/19)

https://www.2dca.org/content/download/431193/4682370/file/173673_39_03202019_08294923_i.pdf

ALIMONY: There is a rebuttable presumption that permanent periodic alimony is appropriate after a long-term marriage. “Neither age nor a spouse’s ability to earn some income will alone rebut the presumption. Gilliland v. Gilliland, 44 Fla. L. Weekly D720a (5th DCA 3/15/19)

https://edca.5dca.org/DCADocs/2017/4100/174100_1259_03152019_08443326_i.pdf

ALIMONY-IMPUTED INCOME: Court may not include income of a full-time public school teacher to the wife where it was not based on the Wife’s recent work history, qualifications or prevailing earnings in her community. Testimony of occasional expert that the wife could maximize her income with further education is insufficient to impute income. Frerking v. Stacy, 44 Fla. L. Weekly D717a (5th DCA 3/15/19)

https://edca.5dca.org/DCADocs/2017/4100/174100_1259_03152019_08443326_i.pdf

CHILD SUPPORT: Court may not order child support based on anticipated gross income from self-employment without factoring in ordinary and necessary expenses incurred to produce that income. Mattison v. Mattison, 44 Fla. L. Weekly D665a (5th DCA 3/8/19)

https://edca.5dca.org/DCADocs/2018/0304/180304_1259_03082019_08482213_i.pdf

CHILD SUPPORT-ARREARAGE-INTEREST: Courts must award prejudgment interest on arrearages found to be due in the final judgment. Mattison v. Mattison, 44 Fla. L. Weekly D665a (5th DCA 3/8/19)

https://edca.5dca.org/DCADocs/2018/0304/180304_1259_03082019_08482213_i.pdf

CHILD SUPPORT: Collateral child support expenses must be allocated in the same percentages the child support allocation, not 50-50. Mattison v. Mattison, 44 Fla. L. Weekly D665a (5th DCA 3/8/19)

https://edca.5dca.org/DCADocs/2018/0304/180304_1259_03082019_084822_13_i.pdf

EQUITABLE DISTRIBUTION: Court may not include assets in an equitable distribution screen that have been diminished or dissipated during the dissolution proceedings, unless marital misconduct results in the depletion or dissipation. Mattison v. Mattison, 44 Fla. L. Weekly D665a (5th DCA 3/8/19)

https://edca.5dca.org/DCADocs/2018/0304/180304_1259_03082019_084822_13_i.pdf

DISSOLUTION OF MARRIAGE-JURISDICTION-DISMISSED CASE: Court has jurisdiction to enter a final judgment for dissolution of marriage based on a case which had previously been voluntarily dismissed. Carlton v. Zanazzi, 44 Fla. L. Weekly D640a (2nd DCA 3/6/19)

https://www.2dca.org/content/download/430551/4675432/file/180603_39_03062019_08514016_i.pdf

EQUITABLE DISTRIBUTION: Intentional misconduct is required to find dissipation of assets sufficient to warrant an unequal distribution. Husband's act of liquidating an IRA with substantial early withdrawal and tax penalties to pay off marital debts is not intentional misconduct. Welton v. Welton, 44 Fla. L. Weekly D636a (4th DCA 3/6/19)

https://www.4dca.org/content/download/430522/4675094/file/181516_1708_03062019_09112936_i.pdf

ATTORNEY'S FEES: Waiver of attorney's fees in MSA does not extend to waiver of right to seek attorney's fees for enforcement of the MSA. When an attorney's fees provision in a marital settlement agreement does not contain specific language waiving attorney's fees in future enforcement or modification proceedings, these fees are not waived. Laux v. Laux, 44 Fla. L. Weekly D635a (4th DCA 3/6/19)

https://www.4dca.org/content/download/430521/4675082/file/181172_1709_03062019_09094608_i.pdf

TIME-SHARING: Even if the trial court's decision not to award unsupervised timesharing is supported by competent substantial evidence, the court must provide the parent who is denied timesharing with specific steps to obtain unsupervised timesharing. A court may not delegate its responsibility to determine timesharing to a third party. Lightsey v. Davis, 44 Fla. L. Weekly D628a (4th DCA 3/6/19)

https://www.4dca.org/content/download/430526/4675142/file/182848_1708_03062019_09213276_i.pdf

INCOME DEDUCTION ORDER: Income deduction order must have a date upon which durational alimony ends. Rodriguez v. Rodriguez, 44 Fla. L. Weekly D611b (5th DCA 3/1/19)

https://edca.5dca.org/DCADocs/2017/2404/172404_1257_03012019_08451645_i.pdf

FEBRUARY 2019

RELOCATION: Court must hold a hearing upon the former Husband's objection to relocation of minor children notwithstanding that the objection failed to comply with the statute by laying out facts in support of it. "[T]he legislature requires verified facts, but it did not make them a pre-condition to a temporary hearing before relocation." Pearce v. Boudreaux, 44 Fla. L. Weekly D605a (1st DCA 2/28/19)

https://www.1dca.org/content/download/430303/4672661/file/182363_1287_02282019_09545575_i.pdf

DISSOLUTION OF MARRIAGE-VENUE: Argument that venue is improper is waived if not timely raised. Knapp v. Knapp, 44 Fla. L. Weekly D599g (1st DCA 2/28/19)

https://www.1dca.org/content/download/430298/4672601/file/172869_1287_02282019_09493463_i.pdf

STALKING: Court may not summarily deny a petition for an injunction without providing an explanation as to how the allegations are insufficient or without a hearing. McCaffrey v. Ashley, 44 Fla. L. Weekly D548c (5th DCA 2/22/19)

https://edca.5dca.org/DCADocs/2018/2304/182304_1260_02222019_09202921_i.pdf

EQUITABLE DISTRIBUTION-EQUALIZATION: Husband is entitled to certain expenses which he continued to pay after the evidentiary hearing until the entry of the final order. Adams v. Adams, 44 Fla. L. Weekly D521a (4th DCA 2/20/19)

https://www.4dca.org/content/download/429395/4661916/file/180264_1708_02202019_09083206_i.pdf

CHILD CUSTODY-RELOCATION: The parent wishing to relocate has the burden of proving by a preponderance of the evidence that relocation is in the best interest of the child. If the other parent fails to file an objection, it is presumed that the relocation is in the best interests of the child. Sanabria v. Sanabria, 44 Fla. L. Weekly D540a (3rd DCA 2/20/19)

<http://3dca.flcourts.org/Opinions/3D17-1821.pdf>

CHILD CUSTODY-RELOCATION: Relocation statute does not require that the Child must be returned to the non-violating parent when the other parent relocates without following the statute. Allende v. Veloz, 44 Fla. L. Weekly D533a (3rd DCA 2/20/19)

<http://3dca.flcourts.org/Opinions/3D18-0010.pdf>

DISSOLUTION OF MARRIAGE-DISCOVERY: Wife is entitled to production of documents by subpoena held by 3rd parties to support claim for temporary support in attorney's fees. Phillips v. Phillips, 44 Fla. L. Weekly D494a (2nd DCA 2/20/19)

https://www.2dca.org/content/download/429428/4662330/file/181025_167_02202019_08313524_i.pdf

DISSOLUTION OF MARRIAGE-LIFE INSURANCE: Husband may not be required to maintain life insurance to protect awarded child or without making the required factual findings. Grasso v. Grasso, 44 Fla. L. Weekly D488a (1st DCA 2/18/19)

https://www.1dca.org/content/download/429347/4661368/file/181479_1286_02182019_10582636_i.pdf

TERMINATION OF PARENTAL RIGHTS: A Finding of abandonment justifying termination of parental responsibility cannot be based solely on the Parent's incarceration and inability to provide for the children. However, a court may terminate an incarcerated parent's parental rights if the period of time for which the parent is expected to be incarcerated will constitute a significant portion of the child's minority. J.C. v. DCF and GAL, 44 Fla. L. Weekly D448a (4th DCA 2/13/19)

https://www.4dca.org/content/download/429164/4659377/file/182218_1257_02132019_09421506_i.pdf

CHILD SUPPORT-MODIFICATION: A party moving for modification of child support has the burden of proving the following factors: (1) a substantial change in circumstances; (2) the change was not contemplated at the time of the final judgment of dissolution; and (3) the change is sufficient, material, involuntary, and permanent in nature. Tisdale v. Tisdale, 44 Fla. L. Weekly D481a (1st DCA 2/15/19)

https://www.1dca.org/content/download/429301/4660860/file/180915_1286_02152019_10372883_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court may not enter a Final Judgment terminating parental rights based on grounds that are not pled in the petition. S.H. v. DCF, 44 Fla. L. Weekly D471e (5th DCA 2/14/19)

https://edca.5dca.org/DCADocs/2018/3554/183554_1260_02142019_09255113_i.pdf

CONTEMPT-PARENTING PLAN: Mother cannot be held in contempt for violating parenting plan (parties "shall share parental responsibility for the children consistent with Florida Statute") which is insufficiently clear and precise to put Mother on notice of what she may or may not do. Cancino v. Cancino, 44 Fla. L. Weekly D453a (3rd DCA 2/13/19)

<http://3dca.flcourts.org/Opinions/3D17-0601.pdf>

EQUITABLE DISTRIBUTION: An equity line of credit secured by a nonmarital asset does not convert that property into a marital asset. Escalona Socarras v. Bazan Vassallo, 44 Fla. L. Weekly D452a (3rd DCA 2/13/19)

<http://3dca.flcourts.org/Opinions/3D17-2579.pdf>

EQUITABLE DISTRIBUTION-MORTGAGE PAYMENTS: When a husband and wife are jointly responsible for the mortgage on real property and one spouse pays the entire mortgage during the pendency of the dissolution, as part of the judgment of dissolution, the paying spouse is entitled to credit for half the total payments made. Matthews v. Matthews, 44 Fla. L. Weekly D418a (2nd DCA 2/8/19)

https://www.2dca.org/content/download/428970/4657204/file/172834_39_02082019_08271752_i.pdf

RELOCATION: Court must consider the relocation factors of §61.13001(7) in determining the best interests of the child during the divorce case even when the statute does not apply since relocation happened before the filing of the divorce. Parris v. Butler, 44 Fla. L. Weekly D417a (2nd DCA 2/8/19)

https://www.2dca.org/content/download/428991/4657456/file/181932_39_02082019_08303208_i.pdf

DEPENDENT CHILDREN: After already having entered into a disposition as to the Mother, the Court must hold a separate disposition hearing as to the father as to who the children are adjudicated dependent later. In the Interest of E.T. v. DCF, 44 Fla. L. Weekly D401e (2nd DCA 2/6/19)

https://www.2dca.org/content/download/428865/4656065/file/182537_114_02062019_08231536_i.pdf

CHILD CUSTODY-MSA: Court must consider motion to set aside MSA based on learning about Husband engaging in subsequent domestic violence. Court may not ratify MSA without considering the best interests of the children. Pagliaro v. Pagliaro, 44 Fla. L. Weekly D390f (4th DCA 2/6/19)

https://www.4dca.org/content/download/428838/4655729/file/180702_1709_02062019_09373759_i.pdf

IMPUTED INCOME: Court, who has made a finding that a party is voluntarily unemployed or underemployed, may properly impute income to that party based upon that party's demonstrated earning capacity. Alvarez-Reyes v. Fernandez-Gil, 44 Fla. L. Weekly D387b (3rd DCA 2/6/19)

<http://3dca.flcourts.org/Opinions/3D17-2676.pdf>

CHILD CUSTODY-EXTENDED FAMILY: Extended family members may petition for temporary under Chapter 751. Court is under no obligation to determine whether the child has been abused, abandoned, or neglected, or whether the child is dependent. Case involves deportation/immigration consequences. Mendez v. Mendez, 44 Fla. L. Weekly D387a (3rd DCA 2/6/19)

<http://3dca.flcourts.org/Opinions/3D17-1742.pdf>

ALIMONY: Court erred in allocating to wife monthly income reflecting anticipated future gifts from family based on what family had given wife in the past. *Sarazin v. Sarazin*, 44 Fla. L. Weekly D365a (1st DCA 2/5/19)

https://www.1dca.org/content/download/428766/4654967/file/175237_1286_02052019_08514451_i.pdf

ALIMONY: Court may not increase alimony award beyond what was requested in Wife's petition when she was in a better financial position at the time she filed the original petition. *Lizzmore v. Lizzmore*, 44 Fla. L. Weekly D366a(1st DCA 2/4/19)

https://www.1dca.org/content/download/428742/4654686/file/171734_1284_02042019_03072669_i.pdf

INJUNCTION-STALKING: Ex-Wife is not entitled to an injunction for stalking based on the fact that the Husband's email account have been configured on the Wife's truck's On-Star system, enabling him to receive text and email notifications her location. *Hutsell v. Hutsell*, 44 Fla. L. Weekly D363a (1st DCA 2/4/19)

https://www.1dca.org/content/download/428744/4654708/file/172124_1287_02042019_03110713_i.pdf

CHILD SUPPORT-DEPENDENCY EXEMPTION: The primary custodial parent has the right to claim the exemption IRS Dependency Exemption, but the noncustodial parent can claimant under certain circumstances. *Lennon v. Lennon*, 44 Fla. L. Weekly D350a (2nd DCA 2/1/19)

https://www.2dca.org/content/download/428661/4653942/file/173416_114_02012019_08351203_i.pdf

CHILD SUPPORT: For purposes of computing child support, the Court may consider testimony that the Father made unauthorized and undocumented withdrawals from the business, but must make specific facts in order to justify an award of child support based on testimony that the Father used the business as a personal slush fund. *J.A.D. v. K.M.A.*, 44 Fla. L. Weekly D346a (2nd DCA 2/1/19)

https://www.2dca.org/content/download/428660/4653930/file/172709_114_02012019_08301444_i.pdf

DISSOLUTION OF MARRIAGE-DISCOVERY-NON-PARTY PRODUCTION: Financial documents from the company in which the Wife held a fractional ownership interest are discoverable. *Hall v. Hall*, 44 Fla. L. Weekly D338a (5th DCA 2/1/19)

https://edca.5dca.org/DCADocs/2018/3444/183444_1255_02012019_09545004_i.pdf

EQUITABLE DISTRIBUTION-WEDDING RING: Engagement and wedding rings are not to marital property. *Moody v. Newton*, 44 Fla. L. Weekly D337a (5th DCA 2/1/19)

https://edca.5dca.org/DCADocs/2017/1967/171967_1259_02012019_08201214_i.pdf

IMPUTED INCOME: When the circumstances suggest that a self-employed spouse has not accurately reported his or her income, the court may properly assign a higher income value than that claimed by the spouse. *Moody v. Newton*, 44 Fla. L. Weekly D337a (5th DCA 2/1/19)

https://edca.5dca.org/DCADocs/2017/1967/171967_1259_02012019_08201214_i.pdf

JANUARY 2019

PATERNITY-PSYCHOLOGICAL EVALUATION: Court may order a psychological evaluation of a party only where the condition subject to the examination be in controversy in the party submitting the request to have good cause. *Delgado v. Miller*, 44 Fla. L. Weekly D309a (3rd DCA 1/29/19)

<http://3dca.flcourts.org/Opinions/3D18-2500.pdf>

DISSOLUTION OF MARRIAGE-MODIFICATION-JURISDICTION: When the MSA retains jurisdiction to modify the final judgment upon a joint motion signed by both parties, the court has jurisdiction to enter an order of modification. Unambiguous language of the agreement should be interpreted according to its plain meaning. *Rector v. Rector*, 44 Fla. L. Weekly D293a (5th DCA 1/25/19)

INJUNCTION-REPEAT VIOLENCE: A uncivil text messages and attends exchange and belittling game is insufficient for an injunction for protection. “It might occasionally be helpful if the circuit courts had the power to enter an order requiring adults to act like grownups.” *Dailey v. Roth*, 44 Fla. L. Weekly D260b (1st DCA 1/22/19)

https://www.1dca.org/content/download/426804/4632313/file/173449_1287_01242019_03201034_i.pdf

DEPENDENCY: Court may not terminate jurisdiction and protective supervision without giving notice to the parents. *In the Interest of I.U. v. DCF*, 44 Fla. L. Weekly D253a 2nd DCA (1/18/19)

https://www.2dca.org/content/download/426559/4629919/file/182192_114_01182019_08274015_i.pdf

ALIMONY: In ordering permanent alimony, the Court must make a finding that no form of alimony other than permanent alimony is fair and reasonable. *Julia v. Julia*, 44 Fla. L. Weekly D242b (4th DCA 1/16/19)

https://www.4dca.org/content/download/426386/4628047/file/172261_1708_01162019_08550775_i.pdf

CHILD SUPPORT: Absent some logically established rationale to the contrary, collateral child support expenses must be allocated in the same percentage as the child support allocation. *Julia v. Julia*, 44 Fla. L. Weekly D242b (4th DCA 1/16/19)

https://www.4dca.org/content/download/426386/4628047/file/172261_1708_01162019_08550775_i.pdf

CHILD SUPPORT-MORTGAGE PAYMENTS: In awarding retroactive child support, Court must consider the Husband's mortgage payments during the dissolution's pendency. When one party pays the mortgage payment or housing expenses of another party, it is considered an in kind contribution for purposes of the child support. *Julia v. Julia*, 44 Fla. L. Weekly D242b (4th DCA 1/16/19)
https://www.4dca.org/content/download/426386/4628047/file/172261_1708_01162019_08550775_i.pdf

ALIMONY: Wife is entitled to permanent periodic alimony after a long-term marriage, and after she sacrificed a career to be the primary caregiver for the parties' children. *Griffitts v. Griffitts*, 44 Fla. L. Weekly D234a (5th DCA 1/11/19)
https://edca.5dca.org/DCADocs/2017/2509/172509_1259_01112019_08210106_i.pdf

ALIMONY: Alimony payments must be made through the state depository and income deduction. *Griffitts v. Griffitts*, 44 Fla. L. Weekly D234a (5th DCA 1/11/19)
https://edca.5dca.org/DCADocs/2017/2509/172509_1259_01112019_08210106_i.pdf

EQUITABLE DISTRIBUTION-RETIREMENT BENEFITS: To determine the amount of a retirement fund a party has accumulated during a marriage, a trial court must create a fraction where the numerator is the amount of time the employee was married while participating in the plan, and the denominator is the total time the employee has in the plan. The trial court then multiplies the plan's present value by the coverture fraction to calculate the total present value of the retirement fund which accrued during the marriage. In distributing retirement benefits, Court must factor in portion of benefits going to husband's first wife in calculating husband's monthly retirement pay before ascribing the portion to go to second wife. *Bolden v. Bolden*, 44 Fla. L. Weekly D229a (1st DCA 1/10/19)

https://www.1dca.org/content/download/425910/4590714/file/180576_1286_01102019_09300058_i.pdf

CHILD CUSTODY-DECISION-MAKING AUTHORITY: Court improperly gives Wife ultimate decision-making authority over all major decisions without specifying areas over which the wife could exercise that authority. *Clarke v. Stofft*, 44 Fla. L. Weekly D206a (4th DCA 1/9/19)

CHILD CUSTODY: There is no statutory requirement that the trial court make specific written findings supporting its decision in a custody decision. *Vinson v. Vinson*, 44 Fla. L. Weekly D189a (1st DCA 1/7/19)

https://www.1dca.org/content/download/425757/4589141/file/180040_1286_01072019_03044905_i.pdf

CHILD CUSTODY: Florida courts respect separation agreements as long as they are fair and are not tainted by fraud, overreaching or concealment, but the best interests of the child takes predominance over any agreement between the parents and must be independently determined by the trial court. Vinson v. Vinson, 44 Fla. L. Weekly D189a (1st DCA 1/7/19)

https://www.1dca.org/content/download/425757/4589141/file/180040_1286_01072019_03044905_i.pdf

FAMILY LAW GOOFINESS: “[T]he former husband challenges. . . the trial court’s. . . failure to award him sole ownership of the lawnmower, a Coke machine, and a gumball machine.” Vinson v. Vinson, 44 Fla. L. Weekly D189a (1st DCA 1/7/19)

https://www.1dca.org/content/download/425757/4589141/file/180040_1286_01072019_03044905_i.pdf

INJUNCTIONS: Court may not enter an order dissolving an injunction while he knows that a motion for disqualification is pending. Sweet v. Tucker, 44 Fla. L. Weekly D188a (1st DCA 1/7/19)

https://www.1dca.org/content/download/425759/4589165/file/180356_1287_01072019_03092412_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court may not order termination of parental rights based on unexplained nondisplaced oblique fracture of a five week old child’s left humerus. The injury may have occurred because of Mother’s attempt to treat the child for nursemaid’s elbow, i.e. that the mother caused a spiral fracture trying to fix a possibly dislocated arm. In the Interest of K.E. v. DCF, 44 Fla. L. Weekly D178a (2nd DCA 1/4/19)

https://edca.2dca.org/DCADocs/2018/1501/181501_39_01042019_08353860_i.pdf

JUDGE-DEPARTURE FROM NEUTRALITY: Judge does not depart from neutrality by asking questions to clarify testimony and to ascertain the truth. E.T. v. DCF, 44 Fla. L. Weekly D169a (4th DCA 1/2/19)

https://www.4dca.org/content/download/425537/4586378/file/182165_1257_01022019_09113186_i.pdf

DEPENDENT CHILDREN-NEGLECT: Mother can be deemed to have neglected the children by remaining in a violent relationship with her boyfriend. It is not necessary to establish that child saw or was aware of domestic violence for a finding of neglect. J.D. v. DCF, 44 Fla. L. Weekly D167a (4th DCA 1/2/19)

https://www.4dca.org/content/download/425538/4586390/file/182432_1257_01022019_09134089_i.pdf

DECEMBER 2018

CHILD SUPPORT-IMPUTED INCOME: Court may not impute monthly income without finding that unemployment is voluntary. Gay v. Gay, 44 Fla. L. Weekly D150c (1st DCA 12/31/18)

https://www.1dca.org/content/download/425518/4586127/file/181098_1287_12312018_09500083_i.pdf

ALIMONY-MODIFICATION: Husband is not entitled to modification of alimony based on the remarriage of his former spouse where the divorce decree provided that husband would pay alimony for the rest of the wife's life. If a marital settlement agreement provides for the continuing payment of alimony despite the remarriage of the recipient, then its terms will control over those in section 61.08(8). Inman v. Inman, 44 Fla. L. Weekly D127a (2nd DCA 12/28/18)

https://edca.2dca.org/DCADocs/2018/0482/180482_114_12282018_08342074_i.pdf

CHILD SUPPORT-MODIFICATION: Husband selling a restaurant and opening a less profitable coffee shop because is ready to slow down is sufficient to support a finding that he is voluntarily underemployed and to deny his motion to modify child support. Windsor v. Windsor, 44 Fla. L. Weekly D124a (1st DCA 12/28/18)

https://www.1dca.org/content/download/425487/4585791/file/180764_1287_12282018_11125586_i.pdf

CHILD CUSTODY: Court cannot ordinarily order father to undergo compulsory psychological evaluation in a custody case. Oldham v. Greene, 44 Fla. L. Weekly D103a (1st DCA 12/27/18)

INJUNCTION MODIFICATION: Court must modify injunction for protection where petitioner's school and bus stop changes. Miley v. Dunn, 44 Fla. L. Weekly D57b (2nd DCA 12/21/18)

https://edca.2dca.org/DCADocs/2017/4775/174775_39_12212018_08094754_i.pdf

ALIMONY: Failure to comply with the statute's requirement of factual findings is reversible error regardless of whether a motion for rehearing is filed. Prior case law receded from. Conflict certified. Fox v. Fox, 44 Fla. L. Weekly D27a (4th DCA 12/19/18)

https://www.4dca.org/content/download/425105/4581851/file/180914_1257_12192018_10071448_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court may not terminate parental rights based on §39.806(1)(e)(1) when the child had never been adjudicated dependent. G.M.R. v. DCF, 44 Fla. L. Weekly D20a (3rd DCA 12/19/18)

<http://3dca.flcourts.org/Opinions/3D18-1404.pdf>

JURISDICTION: Final dissolution judgment and subsequent orders entered by trial court were void where they were entered while an interlocutory appeal in the case was pending before appellate court. Llanso v. Gomez de Cordova, 44 Fla. L. Weekly D21a (3rd DCA 12/19/18)

<http://3dca.flcourts.org/Opinions/3D18-0100.pdf>

INJUNCTION: Court may not extend temporary injunction for protection against domestic violence where there had been no violence between the parties. Council v. Anderson, 44 Fla. L. Weekly D2a (1st DCA 12/18/18)

https://www.1dca.org/content/download/425016/4580798/file/174049_1287_12182018_11562283_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court may terminate parental rights when the parent engaged in conduct toward the child that demonstrates that the continuing involvement of the child and the parent-child relationship threatens the life, safety, well-being or physical, mental or emotional health of the child. A.P. v. DCF, 44 Fla. L. Weekly D1a (1st DCA 12/18/18)

https://www.1dca.org/content/download/425027/4580926/file/182937_1284_12182018_12280236_i.pdf

EQUITABLE DISTRIBUTION-CONTEMPT: Court lacks authority to enforce an equitable-distribution scheme through its powers of contempt. The Court cannot convert a general payment obligation into something enforceable by contempt by simply characterizing it as an obligation to perform a specific action. Schroll v. Schroll, 43 Fla. L. Weekly D2795a (1st DCA 12/14/18)

https://www.1dca.org/content/download/422256/4561978/file/172466_1287_12142018_10410070_i.pdf

TEMPORARY ALIMONY CHILD SUPPORT: Court must hold a hearing on the Husband's exception to Magistrate's order. Erskine v. Erskine, 43 Fla. L. Weekly D2784d (1st DCA 12/14/18)

https://www.1dca.org/content/download/422298/4562492/file/181785_1287_12142018_10471275_i.pdf

ALIMONY: A marital settlement agreement is a contract subject to the well-settled principles of contract interpretation. The Court may not go outside the plain language of the MSA when its terms are unambiguous. That when the language is ambiguous (i.e., what is "periodic income") Court should consider extrinsic parol evidence about the intent of the parties. Walsh v. Walsh, 43 Fla. L. Weekly D2779a (5th DCA 12/14/18)

https://edca.5dca.org/DCADocs/2017/1655/171655_1260_12142018_08291856_i.pdf

INJUNCTION: Respondent breaking into an unoccupied house and stealing cats is insufficient basis for injunction for protection against domestic violence. Tate v. Tate, 43 Fla. L. Weekly D2766a (2nd DCA 12/14/18)

https://edca.2dca.org/DCADocs/2017/4703/174703_39_12142018_08204631_i.pdf

EQUITABLE DISTRIBUTION: Court may not order the parties' limited liability company to be sold; the LLC is a separate legal entity and not a party to the suit. Bro v. Bro, 43 Fla. L. Weekly D2765a (2nd DCA 12/14/18)

https://edca.2dca.org/DCADocs/2018/0031/180031_39_12142018_08235382_i.pdf

DISSIPATION OF MARITAL ASSETS: Court may not include dissipated funds in his equitable distribution scheme when evidence is uncontradicted that the funds were used for normal living expenses. Bro v. Bro, 43 Fla. L. Weekly D2765a (2nd DCA 12/14/18)

https://edca.2dca.org/DCADocs/2018/0031/180031_39_12142018_08235382_i.pdf

NOVEMBER 2018

CONTEMPT: Order to show cause deficient land is not state essential facts constituting is not attached to the show cause order. Mayo v. Mayo, 43 Fla. L. Weekly D2711a (2nd DCA 12/7/18)

https://edca.2dca.org/DCADocs/2017/3140/173140_39_12072018_08424961_i.pdf

CONTEMPT: Court may not find Defendant in contempt where court failed to notify Defendant of his right to counsel, advise him of the allegation against him or indicate whether he was facing criminal or civil contempt. Mayo v. Mayo, 43 Fla. L. Weekly D2711a (2nd DCA 12/7/18)

https://edca.2dca.org/DCADocs/2017/3140/173140_39_12072018_08424961_i.pdf

PATERNITY TESTING: Court may not require a paternity test in injunction case, particularly the issue is not raised by the pleadings. Llanos v. Huerta, 43 Fla. L. Weekly D2704a (3rd DCA 12/5/18)

<http://www.3dca.flcourts.org/Opinions/3D18-1902.pdf>

EQUITABLE DISTRIBUTION: Income Deduction Order (QDRO) cannot be used to force direct payment to a nonparticipating spouse of a portion of a spouse's municipal pension benefits in order to achieve equitable distribution of marital assets. Palmateer v. Palmateer, 43 Fla. L. Weekly D2690c (2nd DCA 12/5/18)

https://edca.2dca.org/DCADocs/2018/0054/180054_39_12052018_09025552_i.pdf

ATTORNEY'S FEES-VEXATIOUS LITIGATION: Court can award attorney's fees for vexatious litigation in a divorce case. Subramanian v. Subramanian, 43 Fla. L. Weekly D2681a (4th DCA 12/5/18)

https://www.4dca.org/content/download/413650/4113171/file/173400_1257_12052018_09191341_i.pdf

ALIMONY-CONTEMPT: A second motion for contempt is not barred by a prior contempt motion where the allegations are different. Portwood v. Portwood, 43 Fla. L. Weekly D2675a (5th DCA 11/30/18)

https://edca.5dca.org/DCADocs/2017/2713/172713_1260_11302018_09184537_i.pdf

CHILD SUPPORT-APPEALS: Portion of order which directs that supplemental petition for modification of child support be referred to a magistrate for further consideration is nonfinal, nonappealable order where parties were also ordered to attend mediation prior to scheduling a hearing on the motion before the magistrate. Cammarata v. Cammarata, 43 Fla. L. Weekly D2647a (4th DCA 11/28/18)

https://www.4dca.org/content/download/413053/4107829/file/172553_1257_11282018_09394432_i.pdf

GUARDIAN AD LITEM: Court may not order the forced sale of the party's marital home to pay Guardian ad litem fees. Seligson v. Seligson, 43 Fla. L. Weekly D2637c (4th DCA 11/28/18)

https://www.4dca.org/content/download/413047/4107757/file/172411_1708_11282018_09361248_i.pdf

PARENTING PLAN: Court errors in awarding one party ultimate decision-making authority as to all issues. Giving the primary residential parent unlimited decision making authority over all matters regarding the children is incompatible with shared parental responsibility. Seligson v. Seligson, 43 Fla. L. Weekly D2637c (4th DCA 11/28/18)

https://www.4dca.org/content/download/413047/4107757/file/172411_1708_11282018_09361248_i.pdf

ALIMONY-CHILD SUPPORT: When alimony ends before child support obligation ends, the Court must adjust the child support accordingly. Seligson v. Seligson, 43 Fla. L. Weekly D2637c (4th DCA 11/28/18)

https://www.4dca.org/content/download/413047/4107757/file/172411_1708_11282018_09361248_i.pdf

RELOCATION: Court may authorize relocation and otherwise modify a parenting plan to make up for the father's lost parenting time. Saponara v. Saponara, 43 Fla. L. Weekly D2592a (4th DCA 11/21/18)

https://www.4dca.org/content/download/412810/4105262/file/180044_1257_11212018_08550622_i.pdf

FREEZING ASSETS: Assets may not be frozen on the sole basis of the argument and allegations of 1 of the attorneys. Neither a verified motion nor the statements of an attorney are evidence. Olson v. Olson, 43 Fla. L. Weekly D2527a (4th DCA 11/14/18)

https://www.4dca.org/content/download/411893/3703167/file/181569_1709_11142018_09393403_i.pdf

ALIMONY-RETROACTIVE MODIFICATION: Court erred by making modification retroactive to date of husband's amended supplemental petition for modification, rather than to date of original petition, where both original and

amended petitions cited husband's job loss as basis for modification and nothing in the record supported rejection of the request for retroactivity to date of original petition. Nuttle v. Nuttle, 43 Fla. L. Weekly D2525a (4th DCA11/14/18)

https://www.4dca.org/content/download/411892/3703158/file/1803911708_11142018_09344298_i.pdf

CHILD SUPPORT-JURISDICTION-AGE: Court has continuing jurisdiction requires support for a defendant person beyond the age of 18 when the person is mentally or physically incapacitated, or is still in high school with the expectation of graduating before the age of 19. DOR v. Vobroucek, 43 Fla. L. Weekly D2507a (2nd DCA 11/9/18)

https://edca.2dca.org/DCADocs/2017/2646/172646_39_11092018_08113811_i.pdf

TIME-SHARING: Provision of final judgment of paternity limiting father's visitation of child to either Texas or Florida is reversed where there were no factual findings that established the necessity of such geographical limitations. R.B. v. B.T., 43 Fla. L. Weekly D2506c (2nd DCA 11/9/18)

https://edca.2dca.org/DCADocs/2017/2587/172587_114_11092018_08103303_i.pdf

CHILD CUSTODY: Former wife waives any claim that the judgment was defective for not making best interests finding where the former wife failed to apprise the Court of the issue in a motion for rehearing. Vinson v. Vinson, 43 Fla. L. Weekly D2481a (1st DCA 11/7/18)

https://edca.1dca.org/DCADocs/2018/0040/180040_1286_11072018_08205402_i.pdf

EQUITABLE DISTRIBUTION: Value of 401(k) plan should be determined as of the date of the final hearing, not the date of the petition for dissolution, when, the funds had been distributed to pay household bills. Horton v. Horton, 43 Fla. L. Weekly D2468b (1st DCA 11/6/18)

https://edca.1dca.org/DCADocs/2017/5223/175223_1286_11062018_12164880_i.pdf

ATTORNEY'S FEES: Court may not order temporary attorney's fees, costs and suit money without making findings as to reasonable hourly rate and number of hours expended. Rotunda v. Rotunda, 43 Fla. L. Weekly D2463a (5th DCA 11/2/18)

https://edca.5dca.org/DCADocs/2018/0166/180166_1260_11022018_08301628_i.pdf

EQUITABLE DISTRIBUTION: Parties are entitled to credit for payments each made to reduce the debt on jointly-held marital home after the entry of the final judgment and prior to sale and closing. Blackburn v. Wissner, 43 Fla. L. Weekly D2465b (5th DCA 11/2/18)

https://edca.5dca.org/DCADocs/2017/2803/172803_1259_11022018_08205000_i.pdf

INJUNCTION: Court erred in entering an injunction against domestic violence where there was no evidence that the respondent had physically injured, had physical contact with or threaten physical injury to the petitioner. Acting irate and yelling profanities is not sufficient. Robinson v. Robinson, 43 Fla. L. Weekly D2464b (5th DCA 11/2/18)

https://edca.5dca.org/DCADocs/2018/0057/180057_1260_11022018_08262517_i.pdf

INJUNCTION: An adult parent has standing to petition for an injunction for protection against domestic violence against a former spouse on behalf of his or her minor child. The petitioner does not need to be must be an eyewitness, provide direct physical evidence, or provide an eyewitness affidavit to the sexual battery of the child to obtain an injunction for protection. Caldwell v. Caldwell, 43 Fla. L. Weekly D2462a (5th DCA 11/2/18)

https://edca.5dca.org/DCADocs/2018/0006/180006_1257_11022018_08245901_i.pdf

INJUNCTION-STALKING: Court may not enter an injunction against stalking when neither hearing nor testimony establishes that a reasonable person would experience substantial emotional distress. (knocked on the door of his house and ran, has claimed to have many pictures of him and his wife, and said she would “get the crackers on [him].” Venn v. Fowlkes, 43 Fla. L. Weekly D2455b (1st DCA 10/31/18)

https://edca.1dca.org/DCADocs/2017/0003/170003_1287_10312018_08353849_i.pdf

DISSOLUTION OF MARRIAGE: Final judgment which creates appearance that it does not reflect the judge’s independent decision making must be amended, except for the part dissolving the marriage itself. Toth v. Miller, 43 Fla. L. Weekly D2429a (2nd DCA 10/31/18)

https://edca.2dca.org/DCADocs/2015/3835/153835_114_10312018_08421086_i.pdf

ADOPTION: Where grandparents actively participated at nearly all stages of post-termination of parental rights adoption proceeding and established their interest in adopting child, grandparents were legally interested parties entitled to notice and opportunity to be heard regarding foster parents’ petition to adopt child. Berenyi v. DCF, 43 Fla. L. Weekly D2421b (3rd DCA 10/31/18)

<http://3dca.flcourts.org/Opinions/3D18-0922.pdf>

MAGISTRATE: Court may not refer case to magistrate for hearing on modification of trial support where Husband filed a timely objection. Administrative Order allowing referral of case to magistrate is null and void because it violates Rule 12.490. No matter shall be heard by a general

magistrate without the consent of all parties. Skelly v. Skelly, 43 Fla. L. Weekly D2408a (5th DCA 10/26/18)

<http://5dca.org/Opinions/Opin2018/102218/5D18-576.op.pdf>

PARENTING PLAN-MODIFICATION: Court erred in altering the mode of communication between the parties where modification occurred without any request by either party and in finding wife attempt for allowing children to be tardy where the Final Judgment did not prohibit tardiness. Preudhomme v. Bailey, 43 Fla. L. Weekly D2373a (4th DCA 10/24/18)

https://www.4dca.org/content/download/404421/3468331/file/172308_1708_10242018_08591344_i.pdf

PARENTING PLAN: Parenting plan must include a provision that either parent alone may provide consent for a child to receive mental health treatment. Lennon v. Lennon, 43 Fla. L. Weekly D2337a (2nd DCA 10/17/18)

https://edca.2dca.org/DCADocs/2017/3416/173416_114_10172018_09172417_i.pdf

CHILD SUPPORT: Husband is be entitled to credit against the retroactive obligation to extent that he can offer competent evidence of actual payments qualifying under statute. Lennon v. Lennon, 43 Fla. L. Weekly D2337a (2nd DCA 10/17/18)

https://edca.2dca.org/DCADocs/2017/3416/173416_114_10172018_09172417_i.pdf

DISSOLUTION OF MARRIAGE-APPEAL: Judgment withstands appeal if no transcript is provided. Evans v. Miller, 5D17-4090 (5th DCA 10/12/18)

<http://5dca.org/Opinions/Opin2018/100818/5D17-4090.op.pdf>

PATERNITY: The presumption of legitimacy is rebuttable. The biological father of a married woman's children has the right to bring an action to establish his parental rights as the father as long as he has manifested a substantial and continuing concern for the welfare of the children. Martinez v. Valerio, 3D17-1731 (3rd DCA 10/10/18)

<http://3dca.flcourts.org/Opinions/3D17-1731.pdf>

INJUNCTION: Court may not order child or spousal support in injunction case if not pled. Regalado Lopez v. Regalado, 3D17-1731 (3rd DCA 10/10/18)

<http://3dca.flcourts.org/Opinions/3D17-1731.pdf>

EQUITABLE DISTRIBUTION: Compelling former spouses to remain in business together creates an intolerable situation and is an abuse of discretion. Business must be valued and one side required to buy out the other. Garrison v. Garrison, 4D17-3401 (4th DCA 10/10/18)

https://www.4dca.org/content/download/403787/3462446/file/173401_1257_10102018_08074006_i.pdf

SEPTEMBER 2018

TERMINATION OF PARENTAL RIGHTS-APPEAL: Parent's appeal from disposition order terminating parental rights was untimely where not filed within 30 days of rendition of order. T.W. v. DCF, 43 Fla. L. Weekly D2235g (1st DCA 9/28/18)

https://edca.1dca.org/DCADocs/2018/2775/182775_1279_09282018_10115531_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court may not terminate Father's parental rights for failure to comply with case plan less than 12 months after the child had been placed into shelter care. Each termination case involves three questions: (1) Does a ground for termination of parental rights exist? (2) Is termination in the manifest best interest of the child? (3) Is termination the least restrictive means of protecting the child from harm?" G.F. v. DCF, 43 Fla. L. Weekly D2175a (3rd DCA 9/20/18)

<http://3dca.flcourts.org/Opinions/3D18-0292.pdf>

CHILD SUPPORT-RETROACTIVE: Florida does not permit a retroactive reduction of accrued amounts due for support, even if such an approach were in the best interests of both the child in having some amount, albeit smaller, actually paid, and the obligor parent in making a manageable payment rather than being faced with the often unattainable and unrealistic expectation to satisfy large vested arrearages. Shaarbay v. Alvarez, 43 Fla. L. Weekly D2158a (3rd DCA 9/20/18)

<http://3dca.flcourts.org/Opinions/3D17-1894.pdf>

ALIMONY: Court may not impute income to wife in determining alimony without evidence and particularized findings. Masino v. Masino, 43 Fla. L. Weekly D2147b (1st DCA 9/14/18)

https://edca.1dca.org/DCADocs/2018/0450/180450_1286_09142018_11082285_i.pdf

EQUITABLE DISTRIBUTION: Mortgage on non-marital property was a marital debt where there was no evidence that proceeds of mortgage were used for a marital purpose. Frederick v. Frederick, 43 Fla. L. Weekly D2140b (2nd DCA 9/14/18)

https://edca.2dca.org/DCADocs/2017/3668/173668_114_09142018_08541850_i.pdf

DEPENDENCY: Mother's testimony that she had been diagnosed at some unstated point in time as having anxiety and depression is insufficient to support an adjudication of dependency. Absent a sufficient nexus between a psychiatric disorder and the likelihood that a parent will substantially impair the child's physical, mental, or emotional health, an adjudication of dependency cannot stand. M.W. v. DCF, 43 Fla. L. Weekly D2138b (2nd DCA 9/14/18)

https://edca.2dca.org/DCADocs/2018/0378/180378_114_09142018_0858520_0_i.pdf

DISSOLUTION OF MARRIAGE-CONTINUANCE: Court did not abuse discretion in denying motion for continuance filed on the eve of trial in order to allow Husband to prepare an expert evaluation to rebut the court-appointed expert's report. Fry v. Fry, 43 Fla. L. Weekly D2127b (4th DCA 9/12/18)

https://www.4dca.org/content/download/402400/3450622/file/172435_1257_09122018_09280725_i.pdf

EQUITABLE DISTRIBUTION-PASSIVE APPRECIATION: Court must determine value of passive administration that accrued during the marriage by subtracting the value of the wife's nonmarital property (here, upside down because of two mortgages) from the value of the property at the time of the divorce. When a marital home constitutes nonmarital real property, but is encumbered by a mortgage that marital funds service, the value of the passive, market-driven appreciation of the property that accrues during the course of the marriage is a marital asset subject to equitable distribution. New statute effective July 1, 2018 modifies calculation of passive appreciation. Matyjaszek v. Matyjaszek, 43 Fla. L. Weekly D2125a (4th DCA 9/12/18)

COHABITATION AGREEMENT: To impose a constructive trust, there must be (1) a promise, express or implied, (2) transfer of the property and reliance thereon, (3) a confidential relationship and (4) unjust enrichment. Court did not err in failing to find a constructive trust where he found the party so claiming to not be credible. Maio v. Clarke, 43 Fla. L. Weekly D2116a (4th DCA 9/12/18)

https://www.4dca.org/content/download/402398/3450604/file/172305_1708_09122018_09170413_i.pdf

ATTORNEY'S FEES: Court may not order attorney's fees as a sanction for vexatious litigation absent a showing of need and ability to pay. Maio v. Clarke, 43 Fla. L. Weekly D2116a (4th DCA 9/12/18)

https://www.4dca.org/content/download/402398/3450604/file/172305_1708_09122018_09170413_i.pdf

RELIEF FROM JUDGMENT: One makes a proper claim for relief from judgment based on a fraudulent affidavit submitted to the trial court in a marital case and there were genuine issues of material fact as to whether the former husband's affidavit was in fact fraudulent and whether the former wife relied on the draft of the allegedly fraudulent affidavit when she entered into the marital settlement agreement. Engstrom v. Engstrom, 43 Fla. L. Weekly D2099a (3rd DCA 9/12/18)

<https://www.3dca.flcourts.org/Opinions>

EQUITABLE DISTRIBUTION: Court may not award a dissipated asset to one party without a specific finding of intentional misconduct. McKenzie v. McKenzie, 43 Fla. L. Weekly D2075a (4th DCA 9/5/18)

https://www.4dca.org/content/download/402132/3448005/file/172413_1708_09052018_09342181_i.pdf

CHILD SUPPORT: Court must use net income, not gross income when calculating child support and must consider Wife's self-employment taxes. McKenzie v. McKenzie, 43 Fla. L. Weekly D2075a (4th DCA 9/5/18)

https://www.4dca.org/content/download/402132/3448005/file/172413_1708_09052018_09342181_i.pdf

PATERNITY-CHILD SUPPORT: Where court made no findings as to how it arrived at the child support obligation, award is vacated. Foster v. Chong, 43 Fla. L. Weekly D2044a (3rd DCA 9/5/18)

<http://3dca.flcourts.org/Opinions/3D17-2807.pdf>

SHARED PARENTAL RESPONSIBILITY: Court is required to order shared parental responsibility unless it finds that shared parental responsibility would be detrimental to child. Foster v. Chong, 43 Fla. L. Weekly D2044a (3rd DCA 9/5/18)

<http://3dca.flcourts.org/Opinions/3D17-2807.pdf>

CHILD CUSTODY-MODIFICATION: Court properly supplemented in previous parenting plan, which had omitted time-sharing schedule and provisions addressing parties' communication rights with child. Swearingen v. Swearingen, 43 Fla. L. Weekly D2040b (1st DCA 9/5/18)

https://edca.1dca.org/DCADocs/2017/5011/175011_1286_09052018_09313744_i.pdf

CHILD CUSTODY-PSYCHOTHERAPIST PRIVILEGE: On request of guardian ad litem, psychotherapist/patient privilege can be waived. Garcia v. Guiles, 43 Fla. L. Weekly D2035a (1st DCA 9/5/18)

https://edca.1dca.org/DCADocs/2017/5125/175125_1284_09052018_09325749_i.pdf

AUGUST 2018

FINAL JUDGMENT: Court erred by adopting wife's proposed final judgment almost verbatim without conducting an independent analysis. Clements v. Clements, 43 Fla. L. Weekly D2024a (5th DCA 8/31/18)

<http://5dca.org/Opinions/Opin2018/082718/5D17-2015.op.pdf>

CHILD SUPPORT-JURISDICTION: Court erred in finding that it had no jurisdiction to award child support to wife because wife and child had lived continuously in Ireland for more than two years, so that Florida is not child's home state under UCCJEA. UCCJEA applies to child custody, child support. Keough v. Keough, 43 Fla. L. Weekly D2022b (5th DCA 8/31/18)

<http://5dca.org/Opinions/Opin2018/082718/5D18-1080.op.pdf>

FINAL JUDGMENT: Where the judge adopts the Wife's proposed sixty-five-page final judgment without a single alteration, it appears that the Final Judgment of Dissolution of Marriage does not reflect the Judge's independent

decision-making, and must be stricken. Toth v. Miller, 43 Fla. L. Weekly D2016c (2nd DCA 8/31/18)

https://edca.2dca.org/DCADocs/2015/3835/153835_65_08312018_08494924_i.pdf

AMENDMENT TO FORMS: Forms amend amended to provide that a party may the court reporter. In Re: Amendments to Approved Family Law Forms, 43 Fla. L. Weekly S328a (FLA 8/30/18)

DEPENDENCY TAX EXEMPTION: Court lacks authority to directly allocate dependency tax exemption, and may only order a party to execute a waiver of exemption. Spikes v. Fonville, 43 Fla. L. Weekly D2012a (1st DCA 8/30/18)

https://edca.1dca.org/DCADocs/2017/4860/174860_1286_08302018_10385987_i.pdf

TERMINATION OF PARENTAL RIGHTS: Parental rights may be terminated on the incarceration parent and his designation as a sexual predator. In the Interest of C.M.H. v. DCF, 43 Fla. L. Weekly D1993a (2nd DCA 8/29/18)

https://edca.2dca.org/DCADocs/2017/4921/174921_65_08292018_08372537_i.pdf

CONTEMPT: Contempt order which does not make a finding that the Husband had the present ability to impeach purge amount is defective. Onge v. Carriero, 43 Fla. L. Weekly D1971b (1st DCA 8/24/18)

https://edca.1dca.org/DCADocs/2017/3943/173943_1286_08242018_01432373_i.pdf

CONTEMPT: Husband may not be held in contempt of court for not paying one half of orthodontic expenses where MSA only requires him to pay one half of dental expenses. Onge v. Carriero, 43 Fla. L. Weekly D1971b (1st DCA 8/24/18)

https://edca.1dca.org/DCADocs/2017/3943/173943_1286_08242018_01432373_i.pdf

EQUITABLE DISTRIBUTION: Husband's status as primary source of income while wife pursued law degree, husband's provision of substantial care for wife's handicapped sister, fact that wife began to earn a significantly higher salary just prior to parties' separation and kept those wages in her separate bank account is not justify an unequal distribution of marital assets. Cooley v. Cooley, 43 Fla. L. Weekly D1965b (2nd DCA 8/24/18)

https://edca.2dca.org/DCADocs/2016/5614/165614_114_08242018_08191681_i.pdf

DISSOLUTION OF MARRIAGE: Court erred in entering Former Wife's proposed final judgment without ruling on Husband's objections. Fields v. Fields, 43 Fla. L. Weekly D1963a (5th DCA 8/24/18)

<http://5dca.org/Opinions/Opin2018/082018/5D17-3751.op.pdf>

DISSOLUTION OF MARRIAGE: Court erred in entering an order requiring remediation where husband did not request that relief in his motion to set aside the judgment. *Fields v. Fields*, 43 Fla. L. Weekly D1963a (5th DCA 8/24/18)
<http://5dca.org/Opinions/Opin2018/082018/5D17-3751.op.pdf>

CONTEMPT-INDIRECT: Where attorney filed motion for order of commitment and writ of bodily attachment after respondent failed to comply with order requiring payment of attorney's fees to petitioner, it was error to grant the motion without issuing show cause order and without complying with rule applicable to indirect criminal contempt proceedings. *Baratta v. Costa-Martinez*, 43 Fla. L. Weekly D1934a (3rd DCA 8/22/18)
<http://3dca.flcourts.org/Opinions/3D18-1598.pdf>

CHILD SUPPORT-ARREARAGES: Magistrate may not award child support arrearages based on child support obligation established on a temporary domestic violence injunction that had expired. *Carroll v. Goll*, 43 Fla. L. Weekly D1933a (3rd DCA 8/22/18)
<http://3dca.flcourts.org/Opinions/3D17-0128.pdf>

EQUITABLE DISTRIBUTION: Dissipated assets cannot be included in equitable distribution scheme absent a showing of misconduct. *Olivarez v. Olivarez*, 43 Fla. L. Weekly D1902b (1st DCA 8/16/18)
https://edca.1dca.org/DCADocs/2017/4050/174050_1287_08162018_11120370_i.pdf

CHILD SUPPORT: Court may not order lump sum child support. *Masnev v. Masnev*, 43 Fla. L. Weekly D1863b (4th DCA 8/15/18)

EQUITABLE DISTRIBUTION: Court improperly classified marital home acquired by wife during marriage and titled in wife's name as nonmarital property where wife used commingled funds to make down payment and pay mortgage payments. *Distefano v. Distefano*, 43 Fla. L. Weekly D1849a (2nd DCA 8/15/18)
https://edca.2dca.org/DCADocs/2017/0967/170967_114_08152018_08430751_i.pdf

CHILD SUPPORT: Child support can be adjusted based on child support actually paid for another child from another relationship, but cannot be adjusted based on anticipated support for an unborn child. *DOR v. Cockran*, 43 Fla. L. Weekly D1842b (1st DCA 8/10/18)
https://edca.1dca.org/DCADocs/2017/4604/174604_1287_08102018_11321200_i.pdf

CHILD SUPPORT: ALJ did not abuse discretion by deciding to deviate from guideline amount based on finding that father provided consistent and regular support payments for his other biological children. *DOR v. Johnson*, 43 Fla. L. Weekly D1842a (1st DCA 8/10/18)

https://edca.1dca.org/DCADocs/2017/4036/174036_1287_08102018_11290436_i.pdf

ALIMONY: Court may not enter an order of alimony without making a specific finding as to the amount of income to impute to the husband. Imputed income may be based on prior income, but must be specifically stated. Velez v. Montalvo-Velez, 43 Fla. L. Weekly D1831a (2nd DCA 8/10/18)

https://edca.2dca.org/DCADocs/2016/4794/164794_114_08102018_08343199_i.pdf

CHILD SUPPORT: Court deprives Father of Due Process by ending hearing at the end of the designated time period without allowing Father to fully cross-examine the Mother or present his own evidence. Munoz v. Munoz Salgado, 43 Fla. L. Weekly D1825a (3rd DCA 8/8/18)

<http://3dca.flcourts.org/Opinions/3D18-1006.pdf>

TERMINATION OF PARENTAL RIGHTS: Court erred by terminating parental rights where mother had substantially cured the reasons for the dependency action policy had not fully completed her psychological treatment. C.R. v. DCF, 43 Fla. L. Weekly D1811a (3rd DCA/8/18)

<http://3dca.flcourts.org/Opinions/3D18-0046.pdf>

RELOCATION: Court erred by entering a default judgment and Petition to Relocate where Mother hired an attorney did not file an objection Petition to Relocate in a timely manner. Ryan v. Ryan, 43 Fla. L. Weekly D1796b (4th DCA 8/8/18)

CONTEMPT: Notice, but not formal service of process, is sufficient in contempt hearing for failure to pay alimony. Frank v. Frank, 43 Fla. L. Weekly D1795b (4th DCA 8/8/18)

EQUITABLE DISTRIBUTION-ENFORCEMENT: Once a final judgment of dissolution of marriage is rendered, property rights are fixed and vested, and a court is without jurisdiction to modify those rights unless it specifically reserved jurisdiction to do so. Frank v. Frank, 43 Fla. L. Weekly D1795b (4th DCA 8/8/18)

INJUNCTION-DISSOLUTION: Respondent is entitled to hearing on motion seeking to dissolve injunction where petition alleged the change in circumstances. Bork v. Pare, 43 Fla. L. Weekly D1794 (2nd DCA 8/8/18)

https://edca.2dca.org/DCADocs/2017/3298/173298_39_08082018_08582421_i.pdf

TERMINATION OF PARENTAL RIGHTS: Presumption of legitimacy does not keep the putative biological father from challenging paternity of a child born to an intact marriage. Putative biological father is entitled to join paternity action. In the Interest of J.S.H. v. DCF, 43 Fla. L. Weekly D1782b (2nd DCA 8/3/18)

https://edca.2dca.org/DCADocs/2017/5072/175072_39_08032018_09093703_i.pdf

EQUITABLE DISTRIBUTION- APPRECIATION OF HOME: Where wife renovated the home which she owned before the marriage, and the funds for the renovation work from her nonmarital assets, but she had commingled those funds in a marital checking account, the appreciation of the home based on the renovations is a marital asset. However, an unequal distribution of the appreciation of the marital home is warranted. *Knecht v. Palmer*, 43 Fla. L. Weekly D1779a (5th DCA 8/3/18)

<http://5dca.org/Opinions/Opin2018/073018/5D17-553.op.pdf>

DISSOLUTION OF MARRIAGE-RETENTION OF JURISDICTION: Court may not retain jurisdiction to make further orders on property rights except for a narrow specific purpose. *Knecht v. Palmer*, 43 Fla. L. Weekly D1779a (5th DCA 8/3/18)

<http://5dca.org/Opinions/Opin2018/073018/5D17-553.op.pdf>

CHILD SUPPORT: Parents may not contract away or waive the rights of their child for support. *Standard v. DOR*, 43 Fla. L. Weekly D1771b (1st DCA 8/3/18)

https://edca.1dca.org/DCADocs/2017/2231/172231_1284_08032018_08593306_i.pdf

CHILD CUSTODY: Due Process precludes modifying timesharing and primary residence where that relief was not sought in the pleadings. *Buschor v. Barnes*, 43 Fla. L. Weekly D1775a (5th DCA 8/1/18)

<http://5dca.org/Opinions/Opin2018/073018/5D17-155.op.pdf>

ALIMONY-LIFE INSURANCE: Court erred by requiring husband to maintain life insurance to secure alimony where there were no special circumstances warranting such security. *McKnight v. McKnight*, 43 Fla. L. Weekly D1752b (1st DCA 8/1/18)

https://edca.1dca.org/DCADocs/2017/5088/175088_1286_08012018_11431823_i.pdf

INJUNCTION-STALKING: Unprofessional conduct in litigation, including telling opposing counsel “he was having her watched by means of remote drones,” is not a basis for one attorney to seek an injunction for stalking against another. *Raulerson v. Font*, 43 Fla. L. Weekly D1746a (3rd DCA 8/1/18)

<http://3dca.flcourts.org/Opinions/3D17-2370.pdf>

DICTIONARY WARS: “Harass” for injunction purposes is more demanding than the dictionary definition: “worry,” “tire out,” “vex, trouble, or annoy continually or chronically,” “plague,” “bedevil,” or “badger.” *Raulerson v. Font*, 43 Fla. L. Weekly D1746a (3rd DCA 8/1/18)

<http://3dca.flcourts.org/Opinions/3D17-2370.pdf>

INJUNCTION: Old incidents of domestic violence, coupled with two recent incidents where Respondent peeled out of a parking lot and angrily waved his

finger at his wife is insufficient to justify an injunction against domestic violence. Douglas v. Douglas, 43 Fla. L. Weekly D1711a (2nd DCA 8/1/18)
https://edca.2dca.org/DCADocs/2017/2175/172175_39_08012018_09010436_i.pdf

JULY 2018

ADOPTION-TERMINATION OF PARENTAL RIGHTS: Court did not err in appointing counsel for unmarried putative father not on the Florida Putative Father Registry in termination of parental rights/adoption case. “[W]hatever delay the presence of an opposing attorney could be said to entail, Florida law recognizes that indigent parents are entitled to court-appointed counsel in a proceeding to terminate their parental rights.” Gift Of Life Adoptions v. S.R.B., 43 Fla. L. Weekly D1698c (2nd DCA 7/27/18)
https://edca.2dca.org/DCADocs/2018/0100/180100_109_07272018_0907446_3_i.pdf

DISSOLUTION OF MARRIAGE-JURISDICTION RESIDENCY: Residency can be corroborated by a driver license, a voter’s registration card, a valid Florida identification card, or the testimony or affidavit of a third party. The residency requirement may not be established by the uncorroborated testimony of one party, nor can the requirement of corroborating evidence be waived by admission by the parties. McNeil v. Jenkins-McNeil, 43 Fla. L. Weekly D1694a (5th DCA 7/27/18)

<http://5dca.org/Opinions/Opin2018/072318/5D17-3283.op.pdf>

DISSOLUTION OF MARRIAGE-EQUITABLE DISTRIBUTION: Court erred in entering an order vehicle distribution without making a statutorily required factual findings. Vaughn v. Vaughn, 43 Fla. L. Weekly D1683a (4th DCA 7/25/18)

APPEALS-DISSOLUTION OF MARRIAGE-MODIFICATION: Portion of order modifying Final Judgment as to retirement benefits is nonfinal and nonappealable or the amount is not yet set. Marzullo v. Marzullo, 43 Fla. L. Weekly D1668a (2nd DCA 7/25/18)

https://edca.2dca.org/DCADocs/2017/3953/173953_65_07252018_09152138_i.pdf

DISSOLUTION OF MARRIAGE-DISCOVERY: Court departed from essential requirements of law in post-dissolution proceedings by ordering former husband disclose extensive personal financial information where it had not yet been determined that the information was relevant. Elkins v. Elkins, 43 Fla. L. Weekly D1617a (4th DCA 7/18/18)

https://www.4dca.org/content/download/345499/3053433/file/180625_1704_07182018_09224717_i.pdf

CHILD CUSTODY-EDUCATION: Court did not abuse discretion by granting father’s motion to authorize children’s enrollment at a private Christian school

at the father's sole cost upon finding that granting of the motion would be in the children's best interests. Lane v. State, 43 Fla. L. Weekly D1582d (3rd DCA 7/11/18)

<http://3dca.flcourts.org/Opinions/3D17-2538.pdf>

DISSOLUTION OF MARRIAGE-JURISDICTION: After denying motion for rehearing, trial court lacked jurisdiction to enter second order modifying certain provisions of an earlier order adopting general magistrate's report and recommendations absent change in circumstances. Demming v. Demming, 43 Fla. L. Weekly D1551a (1st DCA 7/9/18)

https://edca.1dca.org/DCADocs/2017/0401/170401_1279_07092018_12560805_i.pdf

INJUNCTION-REPEAT VIOLENCE: Neither approaching daughter at school and making remarks about her being "messed up" nor saying under his breath that he would kill Petitioner and his family without evidence about ability to carry out the threat, does not qualify as a violent act. Evidence was insufficient to enter injunction. Tash v. Rogers, 43 Fla. L. Weekly D1550a (1st DCA 7/9/18)

https://edca.1dca.org/DCADocs/2017/2861/172861_1287_07092018_01292740_i.pdf

JUNE 2018

PATERNITY: A biological father is entitled to rebut the common law presumption that the mother's husband is the legal father of a child born to an intact marriage, where the mother or her husband object to allowing such rebuttal, when he has manifested a substantial and continuing concern for the welfare of the child. The presumption of legitimacy is overcome when there is a clear and compelling reason based primarily on the child's best interests. Simmonds v. Perkins, 43 Fla. L. Weekly S273a (FLA 6/28/18)

<http://www.floridasupremecourt.org/decisions/2018/sc17-1963.pdf>

ATTORNEY'S FEES-INJUNCTIONS: An award of attorney's fees in an injunction case is permissible under §74.046 (repeat violence), but not under §741.30 (domestic violence). Sager v. Holgren, 43 Fla. L. Weekly D1494c (1st DCA 6/28/18)

https://edca.1dca.org/DCADocs/2017/3607/173607_1284_06282018_10100566_i.pdf

CHILD SUPPORT: Court erred in ordering Husband to pay full amount of child support arrearage where husband raise the equitable defense that one of the children actually lived with him. Moody v. Moody, 43 Fla. L. Weekly D1489b (1st DCA 6/28/18)

https://edca.1dca.org/DCADocs/2017/2477/172477_1287_06282018_09395503_i.pdf

EQUITABLE DISTRIBUTION: Court abused its discretion by refusing to reopen trial to allow wife to present evidence of accrued vacation and sick leave which were not listed on husband's financial affidavits. Lovelass v. Hutchinson, 43 Fla. L. Weekly D1476a (4th DCA 6/27/18)

https://www.4dca.org/content/download/244168/2149957/file/171905_1708_06272018_09151360_i.pdf

EQUITABLE DISTRIBUTION-PENSION: Two principal methods have evolved whereby courts distribute and divide pensions: the 'immediate offset' method and the 'deferred distribution' method." Under the immediate offset method, one spouse receives the present value of his or her interest in the other spouse's pension either in cash or as an offset to the share of marital property. Under the deferred distribution method, the court determines what the employee's benefit would be if he retired on the date of the final hearing without any early retirement penalty. The court then multiplies this dollar amount by the percentage to which the other spouse is entitled. This method yields a fixed dollar amount which the awarded spouse receives from each of the employee's pension payments after retirement. Lovelass v. Hutchinson, 43 Fla. L. Weekly D1476a (4th DCA 6/27/18)

https://www.4dca.org/content/download/244168/2149957/file/171905_1708_06272018_09151360_i.pdf

EQUITABLE DISTRIBUTION-UNEQUAL DISTRIBUTION: Court may order an unequal distribution without that relief having been specifically pled. Lovelass v. Hutchinson, 43 Fla. L. Weekly D1476a (4th DCA 6/27/18)

https://www.4dca.org/content/download/244168/2149957/file/171905_1708_06272018_09151360_i.pdf

TIME-SHARING-PROSPECTIVE MODIFICATION: Court may prospectively modify timesharing as of the time the child starts kindergarten. Court may properly determine timesharing based upon an objectively and reasonably certain future event. Rivera v. Purtall, 43 Fla. L. Weekly D1421a (5th DCA 6/22/18)

<http://5dca.org/Opinions/Opin2018/061818/5D17-2198.op.pdf>

RULES-AMENDMENT: New forms for Notice of action for Termination of Parental Rights and Stepparent Adoption Parental. Form for designation of E-mail address to allow litigant to indicate whether or not he or she is going to designate an email address. In Re Amendments to Approved Family Forms, 43 Fla. L. Weekly S268b (FLA 6/21/18)

<http://www.floridasupremecourt.org/decisions/2018/sc18-698.pdf>

RULES-AMENDMENT-INJUNCTION HEARING: Domestic violence injunction hearings must be recorded. In Re Amendments to Approved Family Forms, 43 Fla. L. Weekly S268a (FLA 6/21/18)

<http://www.floridasupremecourt.org/decisions/2018/sc18-697.pdf>

TIME-SHARING: Where husband had been granted supervised time-sharing with children, it was error to fail to set forth specific steps that husband must take in order to obtain unsupervised time-sharing. *Solomon v. State*, 43 Fla. L. Weekly D1398a (3rd DCA 6/20/18)

<http://www.3dca.flcourts.org/Opinions/3D17-1553.pdf>

ALIMONY-MODIFICATION-SUBSTANTIAL CHANGE IN

CIRCUMSTANCES: Former wife's daughter and sister's inability to continue providing for her needs is not a substantial change in circumstances. Increase in Wife's expenses and debts may be a sufficient change in circumstances to warrant a modification of alimony. *Malowny v. Malowny*, 43 Fla. L. Weekly D1390a (2nd DCA 6/20/18)

https://edca.2dca.org/DCADocs/2017/2875/172875_114_06202018_08060860_i.pdf

RELOCATION: Relocation permitted where the wife moved to Alabama without permission. "We again caution trial courts, however, that it is not proper to use a parent's cooperation against that parent. As we have previously recognized, this 'would have the deleterious effect of discouraging cooperation between parents when they agree to make temporary changes in their children's living arrangements to serve their children's best interests.'" *Ness v. Martinez*, 43 Fla. L. Weekly D1356b (1st DCA 6/13/8)

https://edca.1dca.org/DCADocs/2017/2742/172742_1286_06132018_10213569_i.pdf

NAME CHANGE: Court lacked authority to grant mother's petition for name change of minor child where she had failed to obtain consent to serve constructive notice on the father, whose identity is known but whose name is not on the birth certificate. *In Re: The Name Change of Maria Fernanda Benitez*, 43 Fla. L. Weekly D1348a (3rd DCA 6/13/18)

<http://www.3dca.flcourts.org/Opinions/3D17-1502.pdf>

HEARING-TIME LIMITS: Justice cannot be "administered arbitrarily with a stopwatch.", such as in this case where the Wife was severely restricted in time to examine witnesses, to call any of her own witnesses, or to make any argument as to the evidence presented. Summarily shortening proceedings can give rise to a due process violation when they fail to afford a party a full, fair, and meaningful opportunity to be heard. *Walters v. Petgrave*, 43 Fla. L. Weekly D1339b (4th DCA 6/13/18)

https://www.4dca.org/content/download/214960/1915747/file/180446_1709_06132018_09172465_i.pdf

DUE PROCESS: Court denied Mother's due process rights by precluding her from presenting her case-in-chief at the final hearing. *Walters v. Petgrave*, 43 Fla. L. Weekly D1339b (4th DCA 6/13/18)

https://www.4dca.org/content/download/214960/1915747/file/180446_1709_06132018_09172465_i.pdf

DISSOLUTION OF MARRIAGE-DELAY IN ENTRY OF JUDGMENT: New trials required were court failed to issue ruling for 2 ½ years following the final hearing. Johnson v. Johnson, 43 Fla. L. Weekly D1315a (2nd DCA 6/8/18)

ALIMONY: It is improper toward durational alimony rather than permanent periodic alimony for a long-term marriage. Johnson v. Johnson, 43 Fla. L. Weekly D1315a (2nd DCA 6/8/18)

https://edca.2dca.org/DCADocs/2016/4890/164890_114_06082018_08285459_i.pdf

HEARING: Mother is denied due process when court does not allow her to complete her presentation of the evidence for a modification of parenting plan. Haywood v. Bacon, 43 Fla. L. Weekly D1309b (5th DCA 6/8/18)

<http://5dca.org/Opinions/Opin2018/060418/5D17-1899.op.pdf>

APPEALS-COURT RECORDS-DEPENDENCY: Appellate court lacks jurisdiction to rule on whether the press has access to dependency proceedings where the trial court has not entered a final order, but rather only order the preparation of a transcript to review for possible redaction. C.H.-C. v. Miami Herald Publishing, 43 Fla. L. Weekly D1298a (3rd DCA 6/6/18)

<http://3dca.flcourts.org/Opinions/3D18-0645.pdf>

DISSOLUTION OF MARRIAGE-VACATING SETTLEMENT

AGREEMENT: Court erred by setting aside the settlement agreement on the grounds that the notary and parties had limited understanding of English. In order to set aside a settlement agreement the court must find that the agreement is unfair or unreasonable, and that there was either concealment or presumed lack of knowledge. Roca Rodriguez v. Roca, 43 Fla. L. Weekly D1294a (3rd DCA 6/6/18)

<http://3dca.flcourts.org/Opinions/3D17-1746.pdf>

DISSOLUTION OF MARRIAGE-SETTLEMENT AGREEMENT: Court erred by setting aside marital settlement agreement where findings of fraud, Misrepresentation and coercion were not supported by competent substantial evidence. Any misunderstanding Husband had with his own interpreter does not constitute fraud. A party to a marital settlement agreement is presumed to know what he is signing and is charged with the duty of procuring a reliable person to explain the document to him prior to signing it. Gutierrez v. Gutierrez, 43 Fla. L. Weekly D1269e(3rd DCA 6/6/18)

<http://3dca.flcourts.org/Opinions/3D17-1923.pdf>

ATTORNEY'S FEES: in entering judgment on former wife's motion for attorney's fees without calculating lodestar by determining number of hours reasonably expended and reasonable hourly rate. Garrido v. Garrido, 43 Fla. L. Weekly D1266a (4th DCA 6/6/18)

https://www.4dca.org/content/download/214445/1911521/file/172140_1708_06062018_09211262_i.pdf

ATTORNEY'S FEES: Court erred in awarding attorney's fees without making factual findings regarding reasonable hourly rate or reasonable number of hours expended. Amro v. Gazze, 43 Fla. L. Weekly D1265a (4th DCA 6/6/18)

https://www.4dca.org/content/download/214435/1911431/file/163610_1708_06062018_09325212_i.pdf

RELOCATION: Relocation statute applies to people who are, or may be, reported. There is no distinction between voluntary and involuntary parental location. Castleman v. Bicaldo, 43 Fla. L. Weekly D1256c (4th DCA 6/6/18)

https://www.4dca.org/content/download/214440/1911476/file/170827_1708_06062018_09134456_i.pdf

RELOCATION: Court may not include in final judgment of dissolution of marriage a prospective based analysis about the effects of possible deportation. Castleman v. Bicaldo, 43 Fla. L. Weekly D1256c (4th DCA 6/6/18)

https://www.4dca.org/content/download/214440/1911476/file/170827_1708_06062018_09134456_i.pdf

ALIMONY: A award of durational alimony may not exceed the length of the marriage. Castleman v. Bicaldo, 43 Fla. L. Weekly D1256c (4th DCA 6/6/18)

https://www.4dca.org/content/download/214440/1911476/file/170827_1708_06062018_09134456_i.pdf

DEPENDENCY: Court may enter a default order after mother failed to appear at arraignment where she had appeared at the shelter hearing and was advised of the arraignment date. In such cases, service of process is not required. C.J.L-M. v. DCF, 43 Fla. L. Weekly D1248a (4th DCA 6/6/18)

https://www.4dca.org/content/download/214454/1911602/file/180836_1257_06062018_09294069_i.pdf

ALIMONY-MODIFICATION: Former wife reaching the age when she could access retirement accounts without penalty may be considered a substantial change in circumstances warranting a downward modification in alimony. A substantial change of circumstances occurs even if that changes foreseeable or anticipated. "As a prerequisite to the modification of an alimony award, the notion of an 'anticipated' change in circumstances has crept into Florida law over the years. We often see it argued, as in this case, to preclude changes that were 'foreseeable' at the time of the original final judgment. The word choice of 'anticipated' has been unfortunate because it has transformed a very different concept into something that it is not. Gelber v. Brydger, 43 Fla. L. Weekly D1243a (4th DCA 6/6/18)

https://www.4dca.org/content/download/214438/1911458/file/170295_1257_06062018_09115649_i.pdf

MAY 2018

MSA: Court violates due process by modifying MSA without giving notice and opportunity to be heard on the issue. Williams v. Sapp, 43 Fla. L. Weekly D1215b (1st DCA 5/31/18)

https://edca.1dca.org/DCADocs/2017/1490/171490_1287_05312018_09433657_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court may deny petition to terminate parental rights based on the Father's 97-month term in prison. D.M. v. M.D., 43 Fla. L. Weekly D1215a (5th DCA 5/30/18)

<http://5dca.org/Opinions/Opin2018/052818/5D18-473.op.pdf>

DEPENDENCY: Court erred in finding the child defendant on the basis that she let the child in the custody of her aunt. The fact that the aunt had a prior history was DCF and discharged again in the child's presence does not establish that she is an inappropriate caregiver. C.H. v. DCF, 43 Fla. L. Weekly D1203c (3rd DCA 5/30/18)

<http://www.3dca.flcourts.org/Opinions/3D18-0291.pdf>

ADOPTION: Biological father's challenge to adoption is barred by statute of repose. Also, biological father has no standing as he had no legal parental rights to children born into an intact marriage. J.G. v. DCF, 43 Fla. L. Weekly D1201a (4th DCA 5/30/18)

EQUITABLE DISTRIBUTION: Court erred when it required former husband to make a lump-sum equalizing payment to former wife as there is no indication in record that former husband had ability to make such payment within time frame set by trial court. Kurtanovic v. Kurtanovic, 43 Fla. L. Weekly D1194a (1st DCA 5/25/18)

https://edca.1dca.org/DCADocs/2017/0202/170202_1286_05252018_11564205_i.pdf

DURATIONAL ALIMONY: Award of durational alimony is stricken where Final Judgment failed to contain sufficient factual findings of former wife's need and former husband's ability to pay to allow for meaningful appellate review.

Stricklin v. Stricklin, 43 Fla. L. Weekly D1184a (1st DCA 5/25/18)

https://edca.1dca.org/DCADocs/2016/5549/165549_1286_05252018_11544951_i.pdf

HEARING: Wife was denied due process when court ruled on motions at a hearing that had been noticed only as a scheduling conference. Carson-Grayson v. Grayson, 43 Fla. L. Weekly D1171b (5th DCA 5/25/18)

<http://5dca.org/Opinions/Opin2018/052118/5D17-2381.op.pdf>

ALIMONY: Court erred in determining amount of prospective durational alimony without considering tax consequences. Persaud v. Persaud, 43 Fla. L. Weekly D1146d (2nd DCA 5/18/18)

https://edca.2dca.org/DCADocs/2016/0568/160568_114_05182018_08200505_i.pdf

CHILD SUPPORT-RETROACTIVE: Court erred in using unpaid retroactive alimony when calculating wife's income for purpose of determining her retroactive child support obligation. *Persaud v. Persaud*, 43 Fla. L. Weekly D1146d (2nd DCA 5/18/18)

https://edca.2dca.org/DCADocs/2016/0568/160568_114_05182018_08200505_i.pdf

IMPUTED INCOME: Court properly imputed income to Wife who had worked for ten years with her claimed disabilities and had made substantial income. U.S. Census Bureau median income for full time workers must be imputed when the evidence is insufficient for the court to make an individualized determination of imputed income for the parent. *Heard v. Perales*, 43 Fla. L. Weekly D1121a (4th DCA 5/16/18)

https://www.4dca.org/content/download/202976/1805224/file/173115_1257_05162018_09334527_i.pdf

MSA: Where MSA indicated that husband had right to have house sold or to refinance house in his own name and buy wife out of the home for 50% of the equity if wife failed to refinance mortgage within six months of dissolution of marriage, Court erred by directing that the parties evenly split the proceeds of the forced sale of their home, as 50% provision applied only if husband refinanced house in his own name and bought out former wife's interest. *Sealy v. Sealy*, 43 Fla. L. Weekly D1119a (4th DCA 5/16/18)

https://www.4dca.org/content/download/202969/1805161/file/171631_1708_05162018_09221091_i.pdf

DISSOLUTION OF MARRIAGE-PATERNITY: A husband who is not the natural or adoptive parent of a child, and has not otherwise contracted for the child's care and support, has no duty to pay child support upon the dissolution of the marriage. Court must make specific findings in regards to children born or conceived during the marriage but for whom the Husband is not the father. *Davis v. Davis*, 43 Fla. L. Weekly D1118a (4th DCA 5/16/18)

https://www.4dca.org/content/download/202970/1805170/file/171644_1709_05162018_09243242_i.pdf

INJUNCTION-MOOTNESS: Injunctions against domestic violence are not rendered moot by their natural expiration because of collateral consequences, i.e. prohibition on possessing a firearm, etc. Injunctions against stalking, however, are rendered moot by their natural expiration. *Molina v. Valenzuela*, 43 Fla. L. Weekly D1115a (4th DCA 5/16/18)

https://www.4dca.org/content/download/202974/1805206/file/172379_1701_05162018_09310681_i.pdf

MSA: Hearing required to interpret ambiguous provision of FRS plan providing for wife to receive 50% of Husband's retirement. Fazio v. Fazio, 43 Fla. L. Weekly D1113a (4th DCA 5/16/18)
https://www.4dca.org/content/download/202968/1805152/file/171562_1709_05162018_09210035_i.pdf

CONTEMPT-INDIRECT: Court failed to follow requirements for indirect contempt by issuing writ of bodily attachment. Bajcar v. Bajcar, 43 Fla. L. Weekly D1092a (3d DCA 5/16/18)
<http://3dca.flcourts.org/Opinions/3D17-2726.pdf>

MARITAL SETTLEMENT AGREEMENT: A latent ambiguity exists where a contract fails to specify the rights and duties of the parties in certain situations and extrinsic evidence is necessary for the interpretation or a choice between two possible meanings. When a latent ambiguity exists, the court must hear parol evidence to interpret the writing properly. Where MSA anticipated that Husband's inheritance would be given him in a lump sum and it turns out that he got it through disbursements from a trust fund, the Court must consider parol evidence to interpret the MSA intent. When considering parol evidence concerning the parties' intent, a reasonable interpretation is preferred over one which is unreasonable, and an interpretation that leads to an absurd result or that nullifies other provisions of the contract should be avoided. Morrison v. Morrison, 43 Fla. L. Weekly D1074a (2nd DCA 5/11/18).
https://edca.2dca.org/DCADocs/2017/3309/173309_39_05112018_08303283_i.pdf

EQUITABLE DISTRIBUTION: Court erred in distributing marital value of depleted investment account to wife absent specific finding that dissipation of account resulted from intentional misconduct. Depleting an asset to pay attorney's fees in the divorce case is insufficient, without a finding of misconduct, to warrant assigning the depleted asset as part of the equitable distribution plan. Bellows v. Bellows, 43 Fla. L. Weekly D1048a (4th DCA 5/9/18)

CONTEMPT-INDIRECT-FAILURE TO PAY ALIMONY: Due process is violated when former husband is not given motion for contempt until the time of the hearing. A party must have actual notice of and time to prepare for a contested hearing. Two days notice is insufficient notice of a contempt hearing. Kane v. Kane, 43 Fla. L. Weekly D1023a (3rd DCA 5/9/18)
<http://www.3dca.flcourts.org/Opinions/3D16-2471.pdf>

APRIL 2018

CHILD CUSTODY-BEST INTERESTS: Following the death of the mother, because stepfather was not a natural parent, use of best interest of child standard to determine temporary custody was error. Biological father should have been awarded custody of child unless stepfather proved either that

father was unfit or that remaining with biological father would result in demonstrable harm to child. Morris v. Morris, 43 Fla. L. Weekly D952b (1st DCA 4/30/18)

https://edca.1dca.org/DCADocs/2016/4695/164695_1287_04302018_10074946_i.pdf

CONTEMPT: An injunction order must be obeyed until vacated or modified reversed on appeal the matter how unreasonable or erroneous. Kozel v. Kozel, 43 Fla. L. Weekly D950a (2nd DCA 4/27/18)

https://edca.2dca.org/DCADocs/2016/2511/162511_65_04272018_08245098_i.pdf

TERMINATION OF PARENTAL RIGHTS: Father is entitled to attend hearing in which court determined whether termination of parental rights was in the children's manifest best interests. R.E.B. v. DCF, 43 Fla. L. Weekly D947a (5th DCA 4/27/18)

<http://5dca.org/Opinions/Opin2018/042318/5D18-588.op.pdf>

ALIMONY-ABILITY TO PAY: Temporary order of child support and alimony leaving the Husband with \$300 per month is excessive. De la Piedra v. De la Piedra, 43 Fla. L. Weekly D940a (1st DCA 4/25/18)

https://edca.1dca.org/DCADocs/2017/3203/173203_1287_04252018_12240933_i.pdf

TIME-SHARING: Statute allowing military servicemember to designate family member to exercise time-sharing rights while the servicemember is under temporary assignment orders to relocate away from the child does not apply in instant case in which service member's assignment was a permanent change in station. Overstreet v. Overstreet, 43 Fla. L. Weekly D937c (1st DCA 4/25/18)

https://edca.1dca.org/DCADocs/2017/4463/174463_1287_04252018_02082585_i.pdf

MARITAL SETTLEMENT AGREEMENT: Court erred when it interpreted MSA addendum as unambiguously treating former husband's sale or refinance of former marital home as condition precedent to his obligation to pay former wife's equitable distribution. Agreement failed to specify when and how husband would become obligated to make equitable distribution payment to wife if sale or refinance did not occur. Kirschner v. Ramsier, 43 Fla. L. Weekly D929a (4th DCA 4/25/18)

https://www.4dca.org/content/download/202146/1797561/file/170851_1708_04252018_09263670_i.pdf

TIMESHARING: Court did not err by accepting stipulated fifty/fifty timesharing without making a specific best interests finding. Issue not preserved. Daniels v. Caparello, 43 Fla. L. Weekly D878a (1st DCA 4/20/18)

https://edca.1dca.org/DCADocs/2017/2718/172718_1284_04202018_11243930_i.pdf

CONTEMPT-TIMESHARING: Court may not modify timesharing schedule as sanction for failure to provide her physical address. Lewis v. Juliano, 43 Fla. L. Weekly D845a (4th DCA 4/18/18)

https://www.4dca.org/content/download/202043/1796665/file/172544_1709_04182018_09314554_i.pdf

TERMINATION OF PARENTAL RIGHTS: DCF is not required to offer mother case plan before turning parental rights. K.D. v. State, 43 Fla. L. Weekly D787a (1st DCA 4/13/18)

https://edca.1dca.org/DCADocs/2018/0050/180050_1284_04132018_11053047_i.pdf

CHILD CUSTODY-MODIFICATION: Due process prohibits court from granting verified emergency motion to suspend timesharing agreement where father was given only 19 hours' notice of hearing. Ferris v. State, 43 Fla. L. Weekly D752a (2nd DCA 4/6/18)

https://edca.2dca.org/DCADocs/2017/1075/171075_39_04062018_08353240_i.pdf

CHILD CUSTODY-MODIFICATION: Court may not provide relief which is not requested in the petition for modification, regardless of whether there is a substantial change of circumstances. Russell v. Russell, 43 Fla. L. Weekly D735c (1st DCA 4/5/18)

https://edca.1dca.org/DCADocs/2017/2058/172058_1286_04052018_11032398_i.pdf

MARCH 2018

CHILD SUPPORT-INCOME: Court may not factor in business losses in income calculation when evidence was conclusory. Crespo v. Lebron, 43 Fla. L. Weekly D684a (5th DCA 3/29/18)

<http://5dca.org/Opinions/Opin2018/032618/5D17-315.op.pdf>

INJUNCTION: Evidence supports injunction for protection of child and 100% parenting time after drunk father on New Year's Eve, among other things, played television loudly (wife cut the TV cord), husband got the wife out of bed by flipping the mattress, and husband threatened to send her back to Russia. Zarudny v. Zarudny, 43 Fla. L. Weekly D669b (3rd DCA 3/28/18)

<http://3dca.flcourts.org/Opinions/3D17-0451.pdf>

DEPENDENCY: Due Process violated when goal is changed from reunification to permanent guardianship without three day prior notice. A.R. v. DCF, 43 Fla. L. Weekly D609a (2nd DCA 3/16/18)

https://edca.2dca.org/DCADocs/2017/2815/172815_167_03162018_08342772_i.pdf

CHILD CUSTODY-ATTORNEY'S FEES: Final Judgment must contain factual findings justifying attorney's fees or time-sharing. *Brown v. Brown*, 43 Fla. L. Weekly D607a (2nd DCA 3/16/18)

https://edca.2dca.org/DCADocs/2016/1643/161643_114_03162018_08222280_i.pdf

CONTEMPT: Failure to include in motion for contempt that failure to appear might result in writ of bodily attachment and incarceration did not adversely affect husband's due process rights. *Carter v. Hart*, 43 Fla. L. Weekly D599 (5th DCA 3/16/18)

<http://5dca.org/Opinions/Opin2018/031218/5D17-1189.op.pdf>

ALIMONY: Although court may order both durational and permanent alimony, only permanent alimony should be ordered when there is ongoing need. *Hedden v. Hedden*, Fla. L. Weekly D598a (5th DCA 3/16/18)

<http://5dca.org/Opinions/Opin2018/031218/5D17-427.op.pdf>

ALIMONY: Courts may not base alimony on unrealized possibilities, such as anticipation of social security. *Hedden v. Hedden*, Fla. L. Weekly D598a (5th DCA 3/16/18)

<http://5dca.org/Opinions/Opin2018/031218/5D17-427.op.pdf>

TIMESHARING: Court erred in delegating authority to determine visitation to therapists and the guardian ad litem. *Subramanian v. Subramanian*, 43 Fla. L. Weekly D569a (4th DCA 3/14/18)

https://edca.4dca.org/DCADocs/2016/4263/164263_1708_03142018_09313849_i.pdf

EQUITABLE DISTRIBUTION: Promissory notes and a debt consolidation loan incurred after date of filing of petition for dissolution of marriage are not marital debts. *Subramanian v. Subramanian*, 43 Fla. L. Weekly D569a (4th DCA 3/14/18)

https://edca.4dca.org/DCADocs/2016/4263/164263_1708_03142018_09313849_i.pdf

ATTORNEY'S FEES: Error to award attorney's fees without determining need or ability to pay. *Ringenberg v. Ringenberg*, 43 Fla. L. Weekly D554b (1st DCA 3/8/18)

https://edca.1dca.org/DCADocs/2017/1577/171577_1286_03082018_10035448_i.pdf

EQUITABLE DISTRIBUTION: Court erred in including in equitable distribution scheme the value of thrift savings plan liquidated by husband without making specific finding of misconduct. *Jones v. Jones*, 43 Fla. L. Weekly D553b (1st DCA 3/8/18)

https://edca.1dca.org/DCADocs/2016/3736/163736_1287_03082018_10001275_i.pdf

INJUNCTION-STALKING: Provision of injunction for protection against stalking enjoining respondent from coming within 500 feet of petitioner/neighbor's house was overbroad, as it seemingly deprived respondent of all lawful use of his property, including his right of ingress and egress from the neighborhood. When an action has been tried by the court without a jury, the sufficiency of the evidence to support the judgment may be raised on appeal whether or not the party raising the question has made any objection thereto in the trial court or made a motion for rehearing, for new trial, or to alter or amend the judgment. *Givens v. Holmes*, 43 Fla. L. Weekly D532a (2nd DCA 3/7/18)

https://edca.2dca.org/DCADocs/2017/0444/170444_114_03072018_08292868_i.pdf

WEIRD: "This record . . . reflects that Mr. Givens lodged an objection at his earliest opportunity, albeit the judge had exited the courtroom and was not privy to the objection." *Givens v. Holmes*, 43 Fla. L. Weekly D532a (2nd DCA 3/7/18)

https://edca.2dca.org/DCADocs/2017/0444/170444_114_03072018_08292868_i.pdf

ADOPTION: Father who wants Mother's right terminated in favor of grandparent adoption is not a petitioner. *I.B. v. In Re: Adoption of Z.E.S.*, 43 Fla. L. Weekly D511d (4th DCA 3/7/18)

https://edca.4dca.org/DCADocs/2017/1730/171730_1257_03072018_10054414_i.pdf

FOREIGN DIVORCE-RELIEF FROM JUDGMENT: It would be inequitable to allow the former husband to attack the validity of the 2000 Jordanian divorce decree in 2015 after having relied on it to marry and dissolve his 2011 marriage to the former wife. *Albassam v. Klob*, 43 Fla. L. Weekly D509a (4th DCA 3/7/18)

https://edca.4dca.org/DCADocs/2017/1403/171403_1257_03072018_09244287_i.pdf

TERMINATION OF PARENTAL RIGHTS: Unless there is clear and convincing evidence of abandonment, Father's consent is required for TPR and relative adoption. Failure to pay support is not conclusive to support a finding of abandonment. *S.M.K. v. S.L.E.*, 43 Fla. L. Weekly D502a (5th DCA 3/2/18)

<http://5dca.org/Opinions/Opin2018/022618/5D17-1751.op.pdf>

FEBRUARY 2018

EQUITABLE DISTRIBUTION: Court erred in characterizing payments to be made from husband to wife for her one-half interest in amount to be received from sale of marital business as support enforceable by contempt. *Stufft v. Stufft*, 43 Fla. L. Weekly D446b (5th DCA 2/23/18)

<http://5dca.org/Opinions/Opin2018/021918/5D17-149.op.pdf>

EQUITABLE DISTRIBUTION: Property deeded to adult sons is not subject to Equitable Distribution. Perez v. Perez, 43 Fla. L. Weekly D444c (5th DCA 2/23/18)

<http://5dca.org/Opinions/Opin2018/021918/5D16-4096.op.pdf>

ALIMONY: Alimony should be based on net, not gross, income, and must be supported by specific findings on need and ability to pay. \$1750 per month in alimony is reversed. Perez v. Perez, 43 Fla. L. Weekly D444c (5th DCA 2/23/18)

<http://5dca.org/Opinions/Opin2018/021918/5D16-4096.op.pdf>

APPEAL-PATERNITY-TRANSCRIPT: Judgment affirmed in the absence of a transcript. Pitcher v. Schneider, 43 Fla. L. Weekly D442a (5th DCA 2/23/18)

<http://5dca.org/Opinions/Opin2018/021918/5D17-1937.op.pdf>

ALIMONY: Court abused its discretion by giving retroactive effect to alimony modification so as to charge wife with an obligation resulting from past overpayments by former husband, especially since former wife has suffered a stroke. Millan v. Millan, 43 Fla. L. Weekly D351a (2nd DCA 2/14/18)

https://edca.2dca.org/DCADocs/2016/2467/162467_114_02142018_0823512_2_i.pdf

MSA: Where settlement agreement provided for former wife to have sole possession of a piece of marital property until the parties' daughter finished four years of college, and for the former husband to be entitled to 50% of the net proceeds upon sale of the property by former wife, trial court erred in finding that agreement did not require former wife to sell the property after the daughter finished four years of college. Wells v. Wells, 43 Fla. L. Weekly D346a (2nd DCA 2/14/18)

https://edca.2dca.org/DCADocs/2017/0721/170721_39_02142018_08333516_i.pdf

INJUNCTION-JURISDICTION: Court has no jurisdiction to enter injunction for protection against domestic violence against non-resident who has no contacts with Florida except that his children and a brother live in Florida. Fact that party has traveled to Florida did not give rise to personal jurisdiction.

Youssef v. Zaitouni, 43 Fla. L. Weekly D345a (2nd DCA 2/14/18)

https://edca.2dca.org/DCADocs/2017/0926/170926_39_02142018_08343327_i.pdf

TERMINATION OF PARENTAL RIGHTS: Once it determined by clear and convincing evidence that child was conceived through unlawful sexual battery, trial court was required to presume that termination of father's parental rights was in best interests of child in absence of credible evidence showing otherwise. Guardian ad Litem v. C.W, 43 Fla. L. Weekly D333a (2nd DCA 2/9/19)

https://edca.2dca.org/DCADocs/2017/1807/171807_39_02092018_08495145_i.pdf

ALIMONY-CHILD SUPPORT: Court erred in using unpaid retroactive alimony when calculating wife's income for purpose of determining her retroactive child support obligation. Persaud v. Persaud, 43 Fla. L. Weekly D329a (2nd DCA 2/9/18)

https://edca.2dca.org/DCADocs/2016/0568/160568_114_02092018_08401514_i.pdf

ALIMONY: Court erred in determining amount of prospective durational alimony without considering tax consequences. Persaud v. Persaud, 43 Fla. L. Weekly D329a (2nd DCA 2/9/18)

https://edca.2dca.org/DCADocs/2016/0568/160568_114_02092018_08401514_i.pdf

INJUNCTION: Court may not enter an injunction against sexual violence when the children denied the allegations during the videotaped interview with the Child Protection Team and there were no eyewitnesses to the alleged abuse. The mother claiming that the children said the Respondent had molested them is insufficient. Keller v. Ramseyer, 43 Fla. L. Weekly D317b (5th DCA 2/9/18)

<http://5dca.org/Opinions/Opin2018/020518/5D17-635.op.pdf>

VENUE: Court erred in denying motion for change of venue to county in which parties last resided with intent to remain married. Diaz v. Vasquez, 43 Fla. L. Weekly D297c (4th DCA 2/7/18)

https://edca.4dca.org/DCADocs/2017/2969/172969_1709_02072018_09334651_i.pdf

EQUITABLE DISTRIBUTION: Court abused its discretion by using par value of stock as means of assessing value of former husband's business. Soria v. Soria, 43 Fla. L. Weekly D293a(2nd DCA 2/7/18)

https://edca.2dca.org/DCADocs/2017/1566/171566_114_02072018_08335499_i.pdf

EQUITABLE DISTRIBUTION: Court erred in valuing the balance of former husband's bank account at time dissolution petition was filed and assigning that balance to husband rather than using the diminished value of the account at time of hearing where account was diminished to pay marital expenses and there was no evidence of misconduct on part of former husband. Stewart v. Stewart, 43 Fla. L. Weekly D290a (1st DCA 2/5/18)

https://edca.2dca.org/DCADocs/2017/1566/171566_114_02072018_08335499_i.pdf

EQUITABLE DISTRIBUTION: Court erred in assigning an enhanced value of former husband's pre-marital company to him where former wife failed to

show that any enhancement resulted from marital labor. *Stewart v. Stewart*, 43 Fla. L. Weekly D290a (1st DCA 2/5/18)

https://edca.2dca.org/DCADocs/2017/1566/171566_114_02072018_08335499_i.pdf

ATTORNEY'S FEES: Award of attorney's fees cannot be based solely on disparity of income. *Burnett v. Burnett*, 43 Fla. L. Weekly D288a (1st DCA 2/5/18)

https://edca.1dca.org/DCADocs/2017/0384/170384_1286_02052018_09173225_i.pdf

ALIMONY: Court erred in ordering former husband to secure alimony with life insurance without findings regarding availability and cost of insurance, former husband's ability to pay, and special circumstances that warrant security. *Burnett v. Burnett*, 43 Fla. L. Weekly D288a (1st DCA 2/5/18)

https://edca.1dca.org/DCADocs/2017/0384/170384_1286_02052018_09173225_i.pdf

ATTORNEY'S FEES: Court erred in awarding former wife attorney's fees without findings regarding each party's need and ability to pay. *Nassirou v. Borba*, 43 Fla. L. Weekly D287a (1st DCA 2/5/18)

https://edca.1dca.org/DCADocs/2017/0132/170132_1286_02052018_09150569_i.pdf

CONTEMPT: Order holding former wife in contempt for sending former husband vitriolic text and voicemail messages and ordering former wife to pay former husband \$100,000 was a criminal contempt order rather than a civil contempt order where the fine included no purge provision. Because court failed to afford former wife requisite protections for a criminal contempt order, the order is reversed. *Ash v. Champion*, 43 Fla. L. Weekly D285c (1st DCA 2/5/18)

https://edca.1dca.org/DCADocs/2015/4165/154165_1287_02052018_08345543_i.pdf

ALIMONY: Court erred by denying award of alimony on ground that former wife was in a supportive relationship without making findings about the extent of the relationship. Only those relationships that are substantially equivalent to a remarriage warrant a reduction of alimony. *Bruce v. State*, 43 Fla. L. Weekly D284a (5th DCA 2/2/18)

<http://www.5dca.org/Opinions/Opin2018/012918/5D15-2136.op.pdf>

ALIMONY-MODIFICATION-JURISDICTION: Court has jurisdiction to modify duration of alimony where the petition was filed in same court where final judgments were executed. *Ispass v. Ispass*, 43 Fla. L. Weekly D278a (5th DCA 2/2/18)

<http://www.5dca.org/Opinions/Opin2018/012918/5D17-425.op.pdf>

CHOICE OF LAW: Court may not disregard agreement's choice of law provision without determining whether Israel's law would contravene Florida's public policy. Gal v. Gal, 43 Fla. L. Weekly D276d (5th DCA 2/2/18)

<http://www.5dca.org/Opinions/Opin2018/012918/5D17-955.op.pdf>

INJUNCTION-SEXUAL VIOLENCE: Requiring a psychosexual evaluation of respondent is overly broad where it fails to specify the time place physician's name and manner, conditions and scope of the evaluation. Curtis v. Reinhardt, 43 Fla. L. Weekly D276a (5th DCA 2/2/18)

<http://www.5dca.org/Opinions/Opin2018/012918/5D17-1024.op.pdf>

JANUARY 2018

TERMINATION OF PARENTAL RIGHTS: Neither incarceration nor inability to financially the child due to incarceration alone warrants termination of parental rights. B.F. v. DCF, 43 Fla. L. Weekly D255a (4th DCA 1/31/18)

https://edca.4dca.org/DCADocs/2017/2986/172986_1708_01312018_09311255_i.pdf

TERMINATION OF PARENTAL RIGHTS: The fact that the court made substantial changes to DCF's proposed termination order indicates that the court exercised independent judgments. D.R. v. DCF, 43 Fla. L. Weekly D253a (1st DCA 1/31/18)

https://edca.1dca.org/DCADocs/2017/2807/172807_1284_01312018_08242577_i.pdf

INJUNCTION: Court is not required to stay the hearing on a permanent injunction on the basis that going forward would jeopardize 5th Amendment right against self-incrimination in a pending criminal case. Speegle v. Rhoden, 43 Fla. L. Weekly D245a (1st DCA 1/26/18)

https://edca.1dca.org/DCADocs/2017/0596/170596_1284_01262018_12465272_i.pdf

MSA: Absent any evidence that the parties intended to endow a special meaning in the terms used in the agreement, the unambiguous language is to be given a realistic interpretation based upon the plain, everyday meaning conveyed by the words. Kirschner v. Ramsier, 43 Fla. L. Weekly D209a (4th DCA 1/24/18)

https://edca.4dca.org/DCADocs/2017/0851/170851_1708_01242018_02321113_i.pdf

PARENTING PLAN: Court may not prohibit all contact with one parent without detailed factual findings so justifying. Verrier v. Oaks, 43 Fla. L. Weekly D191a (2nd DCA 1/19/18)

https://edca.2dca.org/DCADocs/2017/1027/171027_114_01192018_08340897_i.pdf

INJUNCTION: Court may not summarily deny motion to dissolve injunction for protection against repeat violence without affording movant meaningful

opportunity to be heard. Leija v. Byrd, 43 Fla. L. Weekly D161a (1st DCA 1/17/18)

https://edca.1dca.org/DCADocs/2017/1512/171512_1287_01172018_09194570_i.pdf

INJUNCTION-STALKING: Only one incident of stalking is sufficient basis for an injunction. Stalking is by definition repeated acts. Driving by a house only one time is not stalking. Pickett v. State, 43 Fla. L. Weekly D159b (1st DCA 1/17/18)

https://edca.1dca.org/DCADocs/2017/0293/170293_1287_01172018_09184917_i.pdf

ATTORNEY'S FEES: It is permissible to award attorney's fees to Defendant in baseless dating, repeat, and sexual violence injunction proceedings. Lopez v. Hall, 43 Fla. L. Weekly S11a (FLA 1/11/18)

<http://www.floridasupremecourt.org/decisions/2018/sc16-1921.pdf>

TIMESHARING: Hearing is required to determine by extrinsic evidence the intent of parties in an ambiguous timesharing clause of MSA. Wohlberg v. Connor, 43 Fla. L. Weekly D134a (4th DCA 1/10/18)

https://edca.4dca.org/DCADocs/2017/0390/170390_1709_01102018_09345392_i.pdf

CONFLICT OF INTEREST: Court improperly disqualified attorney in divorce case on the basis that the attorney had drafted a prenuptial agreement in the absence of a sworn motion and sworn allegations supporting a conflict. Furman v. Furman, 43 Fla. L. Weekly D113a (2nd DCA 1/5/18)

https://edca.2dca.org/DCADocs/2017/2239/172239_167_01052018_08591182_i.pdf

EQUITABLE DISTRIBUTION: Court must make specific findings as to whether property is marital or not. Price v. Price, 43 Fla. L. Weekly D112a (2nd DCA 1/5/18)

https://edca.2dca.org/DCADocs/2016/5414/165414_114_01052018_08453797_i.pdf

DEPENDENCY: Court is required to make specific factual findings as to each ground in order to make a proper determination with regard to dependency. Court may not make a blanket determination that there are no grounds for dependency. Guardian Ad Litem v. K.W. and K.W., 43 Fla. L. Weekly D110a (2nd DCA 1/5/18)

https://edca.2dca.org/DCADocs/2017/0272/170272_114_01052018_08464490_i.pdf

RELIEF FROM JUDGMENT: Allegations that husband's agreement to mediated settlement agreement was result of coercion and duress constituted intrinsic fraud subject to one-year limitation for seeking relief from judgment. Robinson v. Robinson, 43 Fla. L. Weekly D102a (1st DCA 1/3/18)

https://edca.1dca.org/DCADocs/2017/0336/170336_1284_01032018_02530213_i.pdf

PATERNITY: Court erred in granting petition to disestablish paternity on basis of newly discovered evidence demonstrating that petitioner is not biological father of child without making findings that newly discovered evidence relating to paternity has come to petitioner's knowledge since initial paternity determination and that scientific test to show probability of paternity was properly conducted. DOR v. Augustin, 43 Fla. L. Weekly D93a (3rd DCA 1/3/18)

<http://www.3dca.flcourts.org/Opinions/3D16-0622.pdf>

DECEMBER 2017

INJUNCTION: Court may not deny a motion to dissolve a domestic violence injunction without affording movant a meaningful opportunity to be heard. Gaynor v. Inod, 43 Fla. L. Weekly D78d (1st DCA 12/29/17)

https://edca.1dca.org/DCADocs/2017/1426/171426_1287_12292017_08523029_i.pdf

CONTEMPT: Court erred in striking husband's alimony pleading as sanction for failure to comply with previous discovery order in absence of express finding that husband acted deliberately and willfully. Lockett v. Lockett, 43 Fla. L. Weekly D74b (2nd DCA 12/27/17)

https://edca.2dca.org/DCADocs/2016/0319/160319_DC08_12272017_081349_i.pdf

HEALTH CARE COSTS: Children's health care costs must be apportioned pro rata, not equally. Lockett v. Lockett, 43 Fla. L. Weekly D74b (2nd DCA 12/27/17)

https://edca.2dca.org/DCADocs/2016/0319/160319_DC08_12272017_081349_i.pdf

INJUNCTION-STALKING: Injunction for protection is improperly entered where the evidence established anonymous letters, something spewed on Petitioner's chair, and petitioner learning that Respondent had been tracking her and her boyfriend on social media. Petitioner must establish emotional distress. Akin v. Jacobs, 43 Fla. L. Weekly D33a (5th DCA 12/22/17)

<http://www.5dca.org/Opinions/Opin2017/121817/5D17-1246.op.pdf>

INJUNCTION: Court may not take over questioning beyond clearing up matters without forfeiting role as a neutral arbiter. (Lambert, concurring). Akin v. Jacobs, 43 Fla. L. Weekly D33a (5th DCA 12/22/17)

<http://www.5dca.org/Opinions/Opin2017/121817/5D17-1246.op.pdf>

ALIMONY: Court may not order that durational alimony be non-modifiable. Brunsman v. Brunsman, 43 Fla. L. Weekly D31a (5th DCA 12/22/17)

<http://www.5dca.org/Opinions/Opin2017/121817/5D16-2300.op.pdf>

LIFE INSURANCE: Court may not order life insurance to ensure alimony without making findings as to the cost of the insurance, the amount being required, and any special circumstances justifying the need. *Brunsmann v. Brunsmann*, 43 Fla. L. Weekly D31a (5th DCA 12/22/17)

<http://www.5dca.org/Opinions/Opin2017/121817/5D16-2300.op.pdf>

TERMINATION OF PARENTAL RIGHTS: Evidence did not support termination based on mother's refusal or failure to complete, within 3-year period immediately preceding TPR petition, available treatment for chronic use of alcohol or controlled substance. *J.K. v. DCF*, 43 Fla. L. Weekly D18a (4th DCA 12/20/17)

https://edca.4dca.org/DCADocs/2017/1381/171381_1708_12202017_09580323_i.pdf

JURISDICTION: Court that has issued child support order retains continuing, exclusive jurisdiction to modify its order where that state remains the residence of the obligor, the obligee, or the child. *Ivko v. Ger*, 43 Fla. L. Weekly D1a (3rd DCA 12/20/17)

<http://3dca.flcourts.org/Opinions/3D17-0228.pdf>

INJUNCTION-STALKING: Injunction for protection against stalking was not supported by competent, substantial evidence where, although petitioner claimed to have documentation of numerous phone calls, emails, and texts made and sent by respondent, record contained no such documentation. *Reid v. Saunders*, 42 Fla. L. Weekly D2666a (1st DCA 12/19/17)

https://edca.1dca.org/DCADocs/2016/4732/164732_1287_12192017_08215941_i.pdf

AMENDMENT-RULES: Form for contempt for failure to pay child support requires notice that inability to pay is a defense. *In Re: Amendments to Family Law Forms*, 42 Fla. L. Weekly S960a (FLA 12/14/17)

<http://www.floridasupremecourt.org/decisions/2017/sc17-1947.pdf>

INJUNCTION-STALKING: Injunction for stalking is improper where Respondent made repeated calls and texts to husband's girlfriend to try to get in touch with her husband. *Ashford-Cooper v. Ruff*, 42 Fla. L. Weekly D2636a (1st DCA 11/13/17)

https://edca.1dca.org/DCADocs/2017/0035/170035_1287_12132017_11390220_i.pdf

CONTEMPT: Where MSA gave wife exclusive possession of marital home and clearly stated that wife would reside in home with children, and no one else, husband's obligation to pay one-half of mortgage on marital home was an aspect of support enforceable by contempt. *Dufour v. Damiani*, 42 Fla. L. Weekly D2627a (4th DCA 12/13/17)

https://edca.4dca.org/DCADocs/2017/0656/170656_1709_12132017_09531727_i.pdf

CONTEMPT: Civil contempt motion may be served by US mail. DOR v. Baker, 42 Fla. L. Weekly D2623a (4th DCA 12/13/17)

https://edca.4dca.org/DCADocs/2016/3129/163129_1709_12132017_09294340_i.pdf

TERMINATION OF PARENTAL RIGHTS: Unmarried biological father is deemed to have waived and surrendered any rights in relation to child where he did not file notarized claim of paternity form with Florida Putative Father Registry. Family Creations v. N.E.M., 42 Fla. L. Weekly D2589a (2nd DCA 12/13/17)

https://edca.2dca.org/DCADocs/2016/3327/163327_DC13_12132017_081611_i.pdf

RETAINING LIEN: Court may not enforce retaining lien against husband's undifferentiated arrearage of alimony and child support held in attorney's trust account. Macci v. Jaeger and Jaeger, 42 Fla. L. Weekly D2575a (4th DCA 12/6/17)

https://edca.4dca.org/DCADocs/2016/2838/162838_1257_12062017_08572339_i.pdf

MODIFICATION: The date of the MSA, not the filing date of the final dissolution judgment, is the operative date from which to assess whether a subsequent substantial change in circumstances (retirement) justified an alimony modification has occurred. Dogoda v. Dogoda, 42 Fla. L. Weekly D2549a (2nd DCA 12/6/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/December/December%2006,%202017/2D16-4447.pdf

CHILD SUPPORT-RETROACTIVE: Court erred in awarding former wife retroactive child support for a period before former wife filed motion seeking child support. Golchin v. Farzaneh, 42 Fla. L. Weekly D2539a (5th DCA 12/1/17)

<http://www.5dca.org/Opinions/Opin2017/112717/5D17-1645.op.pdf>

NOVEMBER 2017

DISSOLUTION OF MARRIAGE: Court violated due process by converting final hearing for annulment into an evidentiary hearing without notice and conducting the final hearing in the husband's absence. Messing v. Nieradka, 42 Fla. L. Weekly D2530a (2nd DCA 11/29/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/November/November%2029,%202017/2D16-2027.pdf

ATTORNEY'S FEES: Court erred in concluding that former wife should be judicially estopped from claiming entitlement to attorney's fees and costs awarded to her in prebankruptcy dissolution of marriage proceedings on ground that wife had failed to disclose the fee award as an asset in her bankruptcy petition where wife consistently maintained that the fee award was

not an asset of bankruptcy estate and totality of circumstances does not support finding that former wife intended to make mockery of justice. Chittum v. Chittum, 42 Fla. L. Weekly D2520a (2nd DCA 11/29/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/November/November%2029,%202017/2D15-4578rh.pdf

PRENUPTIAL AGREEMENT: Prenuptial agreements regarding post-dissolution support are contracts. Gallerani v. Piquet, 42 Fla. L. Weekly D2508a (3rd DCA 11/29/17)

<http://3dca.flcourts.org/Opinions/3D16-2932.pdf>

GARNISHMENT: Court may issue a continuing writ of garnishment to an employer to enforce the order of the court for periodic payment of alimony or child support. Continuing writ of garnishment is not available to collect judgment for attorney's fees. Martinez v. Gosisting.com, Inc., 42 Fla. L. Weekly D2479a (3rd DCA 11/22/17)

<http://www.3dca.flcourts.org/Opinions/3D16-1906.pdf>

LIFE INSURANCE: Court erred in requiring wife to maintain life insurance to secure alimony without making required findings regarding need, cost and availability, and financial impact of obligation. Shimer v. Corey, 42 Fla. L. Weekly D2467a (2nd DCA 11/22/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/November/November%2022,%202017/2D15-3485.pdf

INJUNCTION-STALKING: Wife may not obtain an injunction for stalking against a woman who had been having an affair with her husband and kept coming to the house to see the husband. Injunction may only be entered when the petitioner is the person stalked. Dixon v. Sermon, 42 Fla. L. Weekly D2453a (2nd DCA 11/17/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/November/November%2017,%202017/2D16-3585.pdf

GUARDIANSHIP: Court may order mother to stay away from her own mother (guardian of the children). Court may act sua sponte in the best interests of minor children when appropriate. A.S. v. DCF, 42 Fla. L. Weekly D2425a (3rd DCA 11/15/17)

<http://www.3dca.flcourts.org/Opinions/3D17-2019.pdf>

ALIMONY: Court erred in basing alimony award on parties' respective gross incomes, rather than net incomes. Brady v. Brady, 42 Fla. L. Weekly D2412b (5th DCA 11/9/17)

<http://www.5dca.org/Opinions/Opin2017/110617/5D17-1370.op.pdf>

ATTORNEY'S FEES: Court erred in ordering \$5000 in attorney's fees without making findings as to reasonable hourly rate and reasonable number of hours expended. Brady v. Brady, 42 Fla. L. Weekly D2412b (5th DCA 11/9/17)

<http://www.5dca.org/Opinions/Opin2017/110617/5D17-1370.op.pdf>

LIFE INSURANCE: Court erred in requiring that wife maintain life insurance policy as security for her alimony obligation without making findings as to insurability, cost of proposed insurance, ability to afford insurance, and whether appropriate circumstances existed to justify ordering wife to maintain life insurance. *Brady v. Brady*, 42 Fla. L. Weekly D2412b (5th DCA 11/9/17)
<http://www.5dca.org/Opinions/Opin2017/110617/5D17-1370.op.pdf>

ALIMONY: Alimony calculations must take into account parties' payment of marital debt. *Dowling v. Dowling*, 42 Fla. L. Weekly D2376a (1st DCA 11/6/17)
https://edca.1dca.org/DCADocs/2016/2264/162264_1286_11062017_08543495_i.pdf

CHILD SUPPORT: Final Judgment must address needs of children, overall financial circumstances of parties, or any other factor in section 61.30. "A trial court has an independent duty to determine the appropriateness of child support provisions in a marital settlement agreement before incorporating them into a final judgment of dissolution." This duty exists because child support is a right that belongs to the child. Parents may not contract away or waive the rights of their child for support. *Lancaster v. Lancaster*, 42 Fla. L. Weekly D2375b (1st DCA 11/6/17)
https://edca.1dca.org/DCADocs/2017/0912/170912_1287_11062017_09042728_i.pdf

DOMESTICATION: Court lacked jurisdiction to domesticate out-of-state divorce judgment for purposes of modifying child support and child custody provisions where two of children were no longer minors, former wife and minor child resided in foreign state, and Florida was not minor child's home state. *Kessinger v. Kessinger*, 42 Fla. L. Weekly D2374a (1st DCA 11/6/17)
https://edca.1dca.org/DCADocs/2016/5593/165593_1281_11062017_09000654_i.pdf

CONTEMPT-VIOLATION OF PARENTING PLAN: Contempt is inappropriate where parties squabble about leaving the children alone for 45 minutes to go to the grocery store and the children refuse to accept carrots, hummus and apples for lunch. *Kane v. Sanders*, 42 Fla. L. Weekly D2356a (3rd DCA 11/1/17)
<http://www.3dca.flcourts.org/Opinions/3D17-0148.pdf>

INJUNCTION: Court erred in summarily denying petition for protection against cyberstalking without a hearing. *Vitale v. State*, 42 Fla. L. Weekly D2315a (4th DCA 11/1/17)
https://edca.4dca.org/DCADocs/2017/1462/171462_1709_11012017_09241276_i.pdf

ALIMONY-IMPUTED INCOME: Court erred in holding that, for purposes of awarding alimony, income should be imputed to wife based on her eligibility for Social Security retirement benefits she had not yet applied to receive, and

for declining to chose early benefits in favor of greater benefits later. Huertas del Pino v. Huertas del Pino, 42 Fla. L. Weekly D2313b (4th DCA 1/11/17)

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JUDGMENT: Appearance of impropriety arose when trial judge adopted verbatim husband's proposed final judgment, which husband submitted ex parte, without orally announcing findings or rulings during or at end of trial. Although a trial court may request that counsel for both parties submit a proposed final judgment, the court may not adopt the judgment verbatim, blindly, or without making in-court findings. West v. West, 42 Fla. L. Weekly D2294a (5th DCA 10/27/17)

<http://www.5dca.org/Opinions/Opin2017/102317/5D16-2925.op.pdf>

INJUNCTION: Court erred in denying without hearing prisoner's motion for relief from order denying his motion to dissolve injunction on basis of prisoner's failure to attend hearing on motion to dissolve where motion for relief from order alleged that prisoner did not receive order until 48 hours after its entry. Garcia v. R.A.G., 42 Fla. L. Weekly D2292a (5th DCA 10/27/17)

<http://www.5dca.org/Opinions/Opin2017/102317/5D17-718.op.pdf>

TERMINATION OF PARENTAL RIGHTS: Court may not terminate parental rights without proof that services had been provided to parent or that it would be futile to attempt to provide services. C.W. v. DCF, 42 Fla. L. Weekly D2287b (1st DCA 10/27/17)

https://edca.1dca.org/DCADocs/2017/2696/172696_1287_10272017_08390839_i.pdf

CONTEMPT-TIMESHARING: Court may not reduce father's timesharing as a sanction for contempt. Duncan v. Brickman, 42 Fla. L. Weekly D2272a (2nd DCA 10/25/17)

https://edca.1dca.org/DCADocs/2017/2696/172696_1287_10272017_08390839_i.pdf

TERMINATION OF PARENTAL RIGHTS-ADOPTION: In adoption proceeding that involves involuntary termination of parental rights under chapter 63, trial court errs when it fails to make inquiry as to whether parent would qualify for court-appointed counsel and, if so, to offer representation. M.M. v. K.P., 42 Fla. L. Weekly D2261a (2nd DCA 10/25/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/October/October%2025,%202017/2D16-4982.pdf

EQUITABLE DISTRIBUTION-PASSIVE APPRECIATION: Calculation of passive appreciation of nonmarital property requires a determination of: (1) the current fair market value of the home; (2) whether there was passive appreciation in the home's value; (3) whether the passive appreciation is a marital asset; (4) the value of the passive appreciation that accrued during the

marriage, subject to equitable distribution; and (5) how the value is allocated. Hodge v. Hodge, 42 Fla. L. Weekly D2248b (5th DCA 10/20/17)

<http://www.5dca.org/Opinions/Opin2017/101617/5D16-40.op.pdf>

CHILD SUPPORT-CONTEMPT: Court erred by denying father's motion seeking to enforce child support arrearages which involved pre-majority arrearages. Motion for contempt could not be denied on basis of either laches or equitable estoppel absent evidentiary hearing. Lovejoy v. Poole, 42 Fla. L. Weekly D2245b (5th DCA 10/20/17)

<http://www.5dca.org/Opinions/Opin2017/101617/5D16-4270.op.pdf>

CHILD CUSTODY-JURISDICTION: Court erred in denying wife's challenge to Florida court's subject matter jurisdiction over parties and their children without affording parties an evidentiary hearing given UCCJEA affidavit husband included with his filings which reflected that all of the couple's children had resided in foreign country for two years immediately prior to filing of dissolution proceeding and had lived most of their lives in foreign nations and wife's verified petition stating that neither she, nor her husband, nor any of their children had ever established residence in Florida. Scudder v. Scudder, 42 Fla. L. Weekly D2243c (2nd DCA 10/20/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/October/October%2020,%202017/2D16-5655.pdf

TIMESHARING: Court erred in requiring parties to equally split responsibility of transportation for timesharing where issue was not pled or tried by consent. Bailey v. Bailey, 42 Fla. L. Weekly D2187a (1st DCA 10/16/17)

EQUITABLE DISTRIBUTION-STOCK OPTIONS: Court must make specific findings as to whether stock options are a source of income or property subject to distribution. If a trial court decides to treat a stock option as an asset, it cannot also treat that same option as income. Child support and alimony determinations require this finding. Goodman v. State, 42 Fla. L. Weekly D2180a (2nd DCA 10/13/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/October/October%2013,%202017/2D15-2640.pdf

EQUITABLE DISTRIBUTION: When marital assets are used during the marriage to reduce the mortgage on nonmarital property, the increase in equity is a marital asset subject to equitable distribution. Husband should not be given dollar-for-dollar credit for said contributions, but rather for one half the value. Betts v. Betts, 42 Fla. L. Weekly D2178c (2nd DCA 10/13/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/October/October%2013,%202017/2D16-3090.pdf

TERMINATION OF PARENTAL RIGHTS-NOTICE: Final judgment of termination of parental rights is vacated where DCF failed to personally serve

the mother with the petition and summons. G.H. v. DCF, 42 Fla. L. Weekly D2173c (3rd DCA 10/11/17)

<http://www.3dca.flcourts.org/Opinions/3D17-1701.pdf>

CHILD SUPPORT: Court cannot reweigh the evidence considered by Administrative Law Judge. Hernandez v. DOR, 42 Fla. L. Weekly D2168a (3rd DCA 10/11/17)

<http://www.3dca.flcourts.org/Opinions/3D16-1265.pdf>

PATERNITY-DISESTABLISHMENT: Father may petition to disestablish paternity based on DNA test regardless whether the putative father was willing to acknowledge his paternity. L.G. v. State, 42 Fla. L. Weekly D2156a (4th DCA 10/11/17)

https://edca.4dca.org/DCADocs/2017/2004/172004_DC13_10112017_093744_i.pdf

CHILD CUSTODY-MODIFICATION: Court lacks authority to require specific steps to restore time-sharing or eliminate time-sharing restrictions. “Vesting authority in the courts to establish such steps appears contrary to § 61.13(3). . . And it isn’t this court’s place to undercut the statute by introducing a parallel, judicially created process or means by which dissatisfied parents can require courts to re-modify a parenting plan or time-sharing schedule.” Conflict certified. Dukes v. Griffin, 42 Fla. L. Weekly D2151b (1st DCA 10/11/17)

https://edca.1dca.org/DCADocs/2016/4883/164883_DC05_10112017_091807_i.pdf

IMPUTED INCOME: Court may not impute \$80,000 of income to former husband on assumption he could secure a job as a corporate pilot where there was no evidence that there are any corporate pilot positions available in area for which former husband is qualified and that would work with equal timesharing plan. Broga v. Broga, 42 Fla. L. Weekly D2151a (1st DCA 10/11/17)

https://edca.1dca.org/DCADocs/2016/0020/160020_DC08_10112017_091603_i.pdf

APPEAL: Judgment affirmed where record does not contain a transcript of the evidentiary hearing. Foster v. Foster, 42 Fla. L. Weekly D2120a (1st DCA 10/5/17)

https://edca.1dca.org/DCADocs/2016/3755/163755_DC05_10052017_082418_i.pdf

EQUITABLE DISTRIBUTION: Court erred in valuing parties’ money market accounts as of filing date of dissolution petition where accounts had been depleted after filing date for marital purposes and there was no finding of intentional waste or dissipation of assets by husband. Schroll v. Schroll, Fla. L. Weekly D2144a (1st DCA 10/6/17)

https://edca.1dca.org/DCADocs/2016/3590/163590_DC08_10062017_101830_i.pdf

ALIMONY: Where the Wife has a clear need for permanent alimony, but it is established that the Husband does not have the current ability to pay, Court should order a nominal award of permanent alimony in order to preserve jurisdiction to revisit this matter upon a substantial change in the parties' respective financial circumstances. Schroll v. Schroll, Fla. L. Weekly D2144a (1st DCA 10/6/17)

https://edca.1dca.org/DCADocs/2016/3590/163590_DC08_10062017_101830_i.pdf

FAMILY LAW RULES-AMENDMENT: Financial Affidavit is not required in Simplified Dissolution of Marriage. In Re: Amendments, 42 Fla. L. Weekly S834a (FLA 10/5/17)

<http://www.floridasupremecourt.org/decisions/2017/sc17-91.pdf>

SHARED PARENTAL RESPONSIBILITY: A blanket, nonspecific award of ultimate decision-making authority is unlawful where there is no competent, substantial evidence that the other parent's parenting decisions were dangerous or contrary to normal medical care. Neville v. McKibben, 42 Fla. L. Weekly D2119a (1st DCA 10/5/17)

https://edca.1dca.org/DCADocs/2016/3158/163158_DC08_10052017_082115_i.pdf

NAME CHANGE: Court may not order the Child's surname changed based solely on a finding of paternity and a desire to "carry on" the father's family name. Neville v. McKibben, 42 Fla. L. Weekly D2119a (1st DCA 10/5/17)

https://edca.1dca.org/DCADocs/2016/3158/163158_DC08_10052017_082115_i.pdf

RELIEF FROM JUDGMENT: There are no time limits for motions for relief from judgment based on fraudulent financial affidavits in marital cases. Kohl v. State, 42 Fla. L. Weekly D2108a (4th DCA 10/4/17)

https://edca.4dca.org/DCADocs/2015/3088/153088_DC13_10042017_093335_i.pdf

PATERNITY: Putative father may seek to establish paternity of a child born into an intact marriage over the married parties objection. Perkins v. Simmonds, 42 Fla. L. Weekly D2104b (4th DCA 10/4/17)

https://edca.4dca.org/DCADocs/2016/3502/163502_DC13_10042017_095328_i.pdf

PATERNITY-DISESTABLISHMENT: Individual who claimed to be biological father of dependent child who was born out of wedlock had standing, in dependency proceedings, to challenge paternity of person listed as father on child's birth certificate on basis of fraud, duress, or material mistake of fact. In the interest of Y.R-P. v. DCF, 42 Fla. L. Weekly D2093a (2nd DCA 10/4/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/October/October%2004,%202017/2D16-5598.pdf

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JUDGMENT: Court did not err by adopting mother's proposed final judgment verbatim. Lukacs v. Ice, 42 Fla. L. Weekly D2088a (1st DCA 9/29/17)

DISQUALIFICATION: A motion to disqualify should be granted where a judge makes negative comments about a party that are unnecessary to resolving the issue before it. Lukacs v. Ice, 42 Fla. L. Weekly D2088a (1st DCA 9/29/17)

PREJUDGMENT INTEREST: Court is not required to impose prejudgment interest on unpaid alimony. Kuchera v. Kuchera, 42 Fla. L. Weekly D2048a (4th DCA 9/27/17)

https://edca.4dca.org/DCADocs/2016/1375/161375_DC08_09272017_092550_i.pdf

APPEALS: Order partially ruling on petition to modify parenting schedule and child support is not a final order. Viker v. Cherry, 42 Fla. L. Weekly D2070a (1st DCA 9/27/17)

https://edca.1dca.org/DCADocs/2017/2865/172865_DA08_09272017_100853_i.pdf

MARITAL SETTLEMENT AGREEMENT: A marital settlement agreement as to child support is binding on the parties, subject to the court's review that it is in the best interests of the children. Court cannot order child support inconsistent with the Marital Settlement Agreement. Bell v. Broch, 42 Fla. L. Weekly D2045b (4th DCA 9/27/17)

https://edca.4dca.org/DCADocs/2016/3563/163563_DC08_09272017_093341_i.pdf

DEPENDENT CHILDREN: Transfer of custody of 18-month-old child from foster care to prospective adoptive parents chosen by mother was supported by competent substantial evidence that, although child was bonded to foster parents, transfer was in best interests of child. Mother's right to choose adoptive family for her child is a relevant factor. W.K. and M.K. v. DCF, 42 Fla. L. Weekly D2043a (4th DCA 9/27/17)

https://edca.4dca.org/DCADocs/2017/1549/171549_DC05_09272017_094034_i.pdf

ATTORNEY'S FEES: Court may not required a party to advance the fees charged by court-appointed guardian ad litem and guardian's attorney prior to taking guardian's deposition. Adkins v. Solongo, 42 Fla. L. Weekly D2030b (3rd DCA 9/20/17)

<http://www.3dca.flcourts.org/Opinions/3D17-0916.op.pdf>

ATTORNEY'S FEES: Parties to a marriage cannot contract away or waive temporary support and attorney's fees before a final judgment is entered. Ortiz v. Ortiz, 42 Fla. L. Weekly D2025a (3rd DCA 9/20/17)

<http://www.3dca.flcourts.org/Opinions/3D16-1772.op.pdf>

INCOME TAX EXEMPTION: Court must condition right to claim federal income tax dependency exemption without requiring that the parent be current on child support payments. *Alston v. Vazquez*, 42 Fla. L. Weekly D2021a (5th DCA 9/18/17)

<http://www.5dca.org/Opinions/Opin2017/091817/5D16-3917.op.pdf>

PARENTING CLASS: Court erred by ordering both parties to complete a cooperative parenting and divorce program together where only the wife was non-compliant. *Carson v. Carson*, 42 Fla. L. Weekly D2020b (5th DCA 9/18/17)

<http://www.5dca.org/Opinions/Opin2017/091817/5D17-56.op.pdf>

TEMPORARY SUPPORT: In ordering temporary support, court must make a specific factual determination about Wife's need and Husband's ability to pay. *Buchanan v. Buchanan*, 42 Fla. L. Weekly D2001a (1st DCA 9/13/17)

https://edca.1dca.org/DCADocs/2016/4492/164492_DC13_09132017_095316_i.pdf

ALIMONY: Bridge the gap alimony is appropriate for expenses of transitioning to single life. *Nugent v. State*, 42 Fla. L. Weekly D1996b (5th DCA 9/7/17)

<http://www.5dca.org/Opinions/Opin2017/090417/5D16-2587.op.pdf>

CHILD SUPPORT: Husband is not voluntarily underemployed where his new job allows him greater participation in child's life. Discussion. *Gillette v. Gillette*, 42 Fla. L. Weekly D1947a (4th DCA 9/6/17)

DOMESTICATION OF FOREIGN JUDGMENT: Court cannot refuse to enforce foreign judgment even if judgment violated Florida's public policy concerning child's right to child support. *Pulkkinen v. Pulkinen*, 42 Fla. L. Weekly D1938b (1st DCA 9/5/17)

https://edca.1dca.org/DCADocs/2015/4415/154415_DC13_09052017_113900_i.pdf

GUARDIANSHIP: Where the ward's right to contract has been removed by statute, the ward is not required to obtain court approval prior to exercising the right to marry, but court approval is necessary before such a marriage can be given legal effect. Ward or the intended spouse may seek court approval after marrying in order to ratify the marriage. The concept of a "void" or "voidable" marriage does not apply. *Smith v. Smith*, 42 Fla. L. Weekly S773a (FLA 8/31/17)

<http://www.floridasupremecourt.org/decisions/2017/sc16-1312.pdf>

ATTORNEY'S FEES: Argument that there was insufficient evidence to support attorney's fees award could be raised for first time on appeal. Ability to pay is one consideration. An award of attorney's fees must contain express findings regarding the number of hours reasonably expended and a

reasonable hourly rate for the type of litigation involved. Smith v. Smith, 42 Fla. L. Weekly D1922a (4th DCA 8/30/17)

https://edca.4dca.org/DCADocs/2016/2969/162969_DC08_08302017_092052_i.pdf

EQUITABLE DISTRIBUTION: Court may not value pension at \$102,000 when the evidence showed at the time of filing it was worth only \$5,500. Smith v. Smith, 42 Fla. L. Weekly D1922a (4th DCA 8/30/17)

https://edca.4dca.org/DCADocs/2016/2969/162969_DC08_08302017_092052_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court may not terminate parental rights where children have not been adjudicated dependent and no case plan had been filed with the court. Parental rights may not be terminated on the basis of on pled grounds of abandonment and threatened harm to child. T.H. and S.D. v. DCF, 42 Fla. L. Weekly D1913a (4th DCA 8/30/17)

https://edca.4dca.org/DCADocs/2017/1217/171217_DC08_08302017_094256_i.pdf

DEPENDENT CHILDREN: Foster parents lacked standing to appeal transfer of child from foster care to prospective adoptive parents chosen by the mother. W.K. and M.K. v. DCF, 42 Fla. L. Weekly D1909a (4th DCA 8/30/17)

https://edca.4dca.org/DCADocs/2017/1549/171549_DC05_08302017_094524_i.pdf

ATTORNEY'S FEES: Court may consider Wife's conduct during litigation in considering whether to award attorney's fees. Rosaler v. Rosaler, 42 Fla. L. Weekly D1904a (4th DCA 8/30/17)

https://edca.4dca.org/DCADocs/2015/1832/151832_DC05_08302017_085126_i.pdf

ALIMONY-MODIFICATION: Court erred in denying husband's petition for downward modification of alimony on ground that a stipulated settlement agreement waived his right to seek downward modification unless he became involuntarily unemployed. Kallett v. Kastriner, 42 Fla. L. Weekly D1877a (2nd DCA 8/30/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/August/August%2030,%202017/2D16-1219.pdf

ALIMONY: Court erred in dissolving lien imposed on now-deceased former husband's real property secure award of alimony where the lien was intended to serve as security for the ongoing stream of payments to the former wife. Mackoul v. Mackoul, 42 Fla. L. Weekly D1873c (1st DCA 8/28/17)

https://edca.1dca.org/DCADocs/2016/3631/163631_DC13_08282017_085531_i.pdf

INJUNCTION-STALKING: Court cannot enter an injunction against stalking where the acts in question were one continuous course of conduct (pulling a

gun on neighbors who were shooting off Fourth of July fireworks). Packal v. Johnson, 42 Fla. L. Weekly D1863b (5th DCA 8/25/17)

<http://5dca.org/Opinions/Opin2017/082117/5D16-3183.op.pdf>

EQUITABLE DISTRIBUTION: Court erred by failing to assign a value to the marital business based on personal goodwill or there was evidence of the business had tangible assets aside from the goodwill. Higgens v. Higgens, 42 Fla. L. Weekly D1853b (4th DCA 8/23/17)

https://edca.4dca.org/DCADocs/2016/0069/160069_DC08_08232017_085412_i.pdf

EQUITABLE DISTRIBUTION-DISSIPATION OF ASSETS: Court erred in including the tax refund in equitable distribution where the refund was dissipated before trial and there was no finding of misconduct. Higgens v. Higgens, 42 Fla. L. Weekly D1853b (4th DCA 8/23/17)

https://edca.4dca.org/DCADocs/2016/0069/160069_DC08_08232017_085412_i.pdf

DEPENDENT CHILDREN-REUNIFICATION: The standard for reunification will A court may deny reunification if it is not in the child's best interest even if the court does not find that reunification would endanger the child. upon compliance with a case plan is whether the safety, well-being in physical mental emotional health of the child would not be endangered and whether reunification would be in the best interest of the child. EI.N. v. DCF, 42 Fla. L. Weekly D1838b (2nd DCA 8/23/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/August/August%2023,%202017/2D17-1066.pdf

ATTORNEY'S FEES-APPEAL: Where appellate court conditionally granted former wife's motion for appellate attorney's fees and remanded for trial court to fix amount, Court improperly awarded appellate fees without considering need and ability to pay. Viscito v. Viscito, 42 Fla. L. Weekly D1829a (3rd DCA 8/23/17)

<http://3dca.flcourts.org/Opinions/3D15-0786.rh.pdf>

EQUITABLE DISTRIBUTION: Earnings from oil and gas company and drilling rights are marital assets where earnings were commingled notwithstanding that the business was acquired before the marriage. Sturms v. Sturms, 42 Fla. L. Weekly D1824d (1st DCA 8/21/17)

INJUNCTION: Court erred by dissolving injunction against domestic violence where no relevant changed circumstances were shown at the hearing. Hamane v. Elofir, 42 Fla. L. Weekly D1818b (5th DCA 8/18/17)

<http://www.5dca.org/Opinions/Opin2017/081417/5D16-4211.op.pdf>

EQUITABLE DISTRIBUTION: Court must include in the final judgment factual findings justifying an unequal allocation of marital liabilities. Disparate earning

abilities cannot, without more, justify unequal distribution of marital assets and liabilities. *Vilardi v. State*, 42 Fla. L. Weekly D1817b (5th DCA 8/18/17)

<http://www.5dca.org/Opinions/Opin2017/081417/5D16-3227.op.pdf>

GRANDPARENTS' VISITATION: Foreign state judgment awarding grandparents visitation rights is entitled to enforcement under Full Faith and Credit Clause of U.S. Constitution. *Strinko v. State*, 42 Fla. L. Weekly D1806b (3rd DCA 8/16/17)

<http://www.3dca.flcourts.org/Opinions/3D16-2432.pdf>

CHILD CUSTODY-SAME SEX RELATIONSHIP: Birth mother's constitutional right to privacy protects her decision to sever child's ties with former partner where former partner is not biological or legal parent of child. *Castellat v. Pereira*, 42 Fla. L. Weekly D1804b (3rd DCA 8/16/17)

<http://www.3dca.flcourts.org/Opinions/3D16-1855.pdf>

INCOME-BONUS: Bonus income must be included in the calculations of both child support and alimony when it is regular and continuous. *Barlow v. State*, 42 Fla. L. Weekly D1784a (2nd DCA 8/16/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/August/August%202016,%202017/2D16-1837.pdf

CHILD SUPPORT: Court erred in using child support guidelines worksheet which did not include the amount husband paid for monthly mortgage on marital home in which wife and child resided. *Bond v. State*, 42 Fla. L. Weekly D1779a (2nd DCA 8/16/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/August/August%202016,%202017/2D16-5659.pdf

APPEALS: Motion for sanctions for discovery violations is a non-final non-appealable order. *Patero v. Patero*, 42 Fla. L. Weekly D1721a (3rd DCA 8/9/17)

<http://www.3dca.flcourts.org/Opinions/3D16-2158.pdf>

ALIMONY-TERMINATION: Where former wife's need for alimony ceased when she began receiving payments from former husband's military pension, court abused discretion by failing to make termination of former husband's alimony obligation retroactive to date former wife began receiving payments from former husband's military benefits. When court modifies alimony, there is a presumption of retroactivity. *Dennis v. Dennis*, 42 Fla. L. Weekly D1717b (1st DCA 8/7/17)

https://edca.1dca.org/DCADocs/2016/3929/163929_DC08_08072017_083346_i.pdf

CHILD CUSTODY-JURISDICTION-FORUM NON CONVENIENS: Where single-sex parents are from Malaysia and England, married in Missouri, and sometimes stay in New York, dissolution of marriage and child custody determination cannot be made in Florida where their only contact was

sleeping on a friend's couch for a couple of months. Destefanis v. Tan, 42 Fla. L. Weekly D1683a (3rd DCA 8/2/17)

<http://www.3dca.flcourts.org/Opinions/3D17-1113.pdf>

JULY 2017

TERMINATION OF PARENTAL RIGHTS: Where termination of father's parental rights is reversed due to insufficient evidence, order terminating mother's parental rights must also be reversed because DCF did not establish grounds for single parent termination. A.M.B. v. State, 42 Fla. L. Weekly D1643a (1st DCA 7/26/17)

https://edca.1dca.org/DCADocs/2016/5850/165850_DC13_07262017_092947_i.pdf

ALIMONY-MODIFICATION: One may not seek to modify alimony where the change in circumstances could have been anticipated or was not involuntary. Fischer v. Fischer, 42 Fla. L. Weekly D1626b (1st DCA 7/20/17)

TERMINATION OF PARENTAL RIGHTS: Parent does not have to be competent for termination of parental rights proceedings to occur. Parental rights may be terminated on the basis of the parent's mental illness. A.M. v DCF, 42 Fla. L. Weekly D1612c (4th DCA 7/19/17)

CHILD SUPPORT: Court must allocate unreimbursed medical expenses on a percentage basis. Van Der Meulen v. State, 42 Fla. L. Weekly D1591a (2nd DCA 7/14/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/July/July%2014,%202017/2D15-5711.pdf

CHILD SUPPORT: Father who does not challenge DOR's method of calculating child support fails to preserve the issue for review. Appellate court does not accept erroneous concessions of error where the issue is not preserved. Davis v. DOR, 2D16-1658 (2nd DCA 7/14/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/July/July%2014,%202017/2D16-1658.pdf

DEPENDENT CHILDREN: Court erred by changing goal of mother's case plan from reunification to permanent guardianship without adequate evidentiary basis. S.C.P. v. State, 42 Fla. L. Weekly D1569d (3rd DCA 7/12/17)

<http://3dca.flcourts.org/Opinions/3D17-0979.pdf>

TERMINATION OF PARENTAL RIGHTS: Court erred in entering implied consent to termination of parental rights against father when he failed to appear at adjudicatory hearing and should have vacated the implied consent when the Father testified that he had been hospitalized on day of hearing. T.H. v. DCF, 42 Fla. L. Weekly D1566a (3rd DCA 7/12/17)

<http://3dca.flcourts.org/Opinions/3D17-0727.pdf>

CHILD CUSTODY: If the court finds that husband may not enjoy unsupervised timesharing, it must set forth specific requirements which, if met would re-establish unsupervised timesharing. Whissell v. State, 42 Fla. L. Weekly D1533a (4th DCA 7/12/17)

https://edca.4dca.org/DCADocs/2015/4641/154641_DC08_07122017_085112_i.pdf

INJUNCTION: Due process required Respondent an opportunity to be present and heard (Respondent was noticed and represented, but his whereabouts were unknown). Newsom v. Newsom, 42 Fla. L. Weekly D1511b (1st DCA 7/6/17)

https://edca.1dca.org/DCADocs/2016/4239/164239_DC13_07062017_085041_i.pdf

INJUNCTION: Court may not enter injunction with no evidence beyond asking former wife if she still wanted an injunction. Newsom v. Newsom, 42 Fla. L. Weekly D1511b (1st DCA 7/6/17)

https://edca.1dca.org/DCADocs/2016/4239/164239_DC13_07062017_085041_i.pdf

CHILD SUPPORT: Mother's absence from hearing does not constitute a waiver of retroactive child support. Kirtley v. DOR, 42 Fla. L. Weekly D1509c (1st DCA 7/6/17)

https://edca.1dca.org/DCADocs/2016/1379/161379_DC13_07062017_084912_i.pdf

IMPUTED INCOME: Court may not impute income on basis of financial affidavit showing a monthly deficit. Callwood v. Callwood, 42 Fla. L. Weekly D1499a (4th DCA 7/5/17)

https://edca.4dca.org/DCADocs/2016/1595/161595_DC08_07052017_092027_i.pdf

CHILD CUSTODY: Court erred by separating siblings by permitting former husband to relocate with two children to Virginia and leaving third child with former wife in Florida without finding a compelling reason for separating siblings. Sickels v. Sickels, 42 Fla. L. Weekly D1479a (5th DCA 6/30/17)

CHILD SUPPORT: Where there is split custody, court must award both parties child support, and may set-off the respective obligations of the parties and order a net child support award. Sickels v. Sickels, 42 Fla. L. Weekly D1479a (5th DCA 6/30/17)

<http://5dca.org/Opinions/Opin2017/062617/5D16-2399.op.pdf>

TRANSPORTATION COSTS: Transportation expenses should be shared by the parents in accordance with their financial means. Sickels v. Sickels, 42 Fla. L. Weekly D1479a (5th DCA 6/30/17)

<http://5dca.org/Opinions/Opin2017/062617/5D16-2399.op.pdf>

ATTORNEY'S FEES: Court must order attorney's fees regardless of fact that debt was discharged by bankruptcy. Chittim v. Chittim, 42 Fla. L. Weekly D1477a (2nd DCA 6/30/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/June/June%2030,%202017/2D15-4578.pdf

EQUITABLE DISTRIBUTION: Court erred in failing to include in final judgment written findings specifically addressing several loans former husband testified he owed to various family members and a bank. Raphael v. Raphael, 42 Fla. L. Weekly D1459a (4th DCA 6/28/17)

https://edca.4dca.org/DCADocs/2016/2433/162433_DC05_06282017_090332_i.pdf

ALIMONY-INCOME: Moving expenses are not includable in income for calculating alimony. Threadgill v. Nishimura, 42 Fla. L. Weekly D1455a (2nd DCA 6/28/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/June/June%2028,%202017/2D15-5547.pdf

DISCOVERY-DEPOSITION: Court did not depart from essential requirements of law by denying wife's request to personally attend the deposition of husband who was incarcerated, and permitting wife to appear at deposition by phone, where jail officials had indicated that wife would not be allowed to attend deposition. McMahan v. McMahan, 42 Fla. L. Weekly D1451b(1st DCA 6/27/17)

https://edca.1dca.org/DCADocs/2017/0155/170155_DC02_06272017_093318_i.pdf

EQUITABLE DISTRIBUTION: Court erred in denying husband's motions to enforce marital settlement agreement, compel mediation, and compel inventory of personal property and similar items where marital settlement agreement provided that parties would divide personal property, furnishings, and similar items between themselves or mediate the division if unable to do so. Lord v. State, 42 Fla. L. Weekly D1402a (4th DCA 6/21/17)

https://edca.4dca.org/DCADocs/2016/2290/162290_DC13_06212017_094807_i.pdf

INJUNCTION: Court may enter ex parte temporary injunction prohibiting husband in pending dissolution action from conducting specified financial transactions because it made findings that the wife was at risk of immediate and irreparable injury should the husband dissipate assets. Lerner v. State, 42 Fla. L. Weekly D1389a (4th DCA 6/21/17)

https://edca.4dca.org/DCADocs/2016/4264/164264_DC08_06212017_100550_i.pdf

NO-CONTACT ORDER: Court erred in granting former husband's ore tenus motion for no-contact order based solely on allegations set forth by counsel

where no-contact order was not requested in the pleadings, and there was no evidence in record to support order. *Martin v. Lee*, 42 Fla. L. Weekly D1387a (1st DCA 6/19/17)

https://edca.1dca.org/DCADocs/2016/2466/162466_DC05_06192017_091104_i.pdf

APPEALS: Meaningful review of amounts of child support and durational alimony awards is precluded where final judgment contained material inconsistencies and did not include necessary findings of fact. Remanded for correction and findings of fact. *Brown v. Brown*, 42 Fla. L. Weekly D1376a (5th DCA 6/16/17)

<http://www.5dca.org/Opinions/Opin2017/061217/5D16-2294.op.pdf>

COUNSEL-DISQUALIFICATION: Court erred by disqualifying wife's attorney from representing her during family law proceeding involving her former husband where it found credible attorney's testimony that no confidential information was divulged during prospective client consultation that could harm or disadvantage former husband. *Kidd v. Kidd*, 42 Fla. L. Weekly D1373b (5th DCA 6/16/17)

<http://www.5dca.org/Opinions/Opin2017/061217/5D17-137.op.pdf>

TERMINATION OF PARENTAL RIGHTS: Court may terminate parental rights based on prior termination of rights to two other children. *L.J. v. DCF*, 42 Fla. L. Weekly D1375c (5th DCA 6/15/17)

<http://www.5dca.org/Opinions/Opin2017/061217/5D17-1069.op.pdf>

STALKING: Court erred in entering injunction against stalking where there was no competent substantial evidence of stalking and no stipulation to evidence of stalking. While Respondent agreed to an order prohibiting him from contacting Bockorick, there is no indication that he agreed to having engaged in stalking, or was even aware the final judgment would contain a finding of stalking. *Burns v. Bockorick*, 42 Fla. L. Weekly D1361c (4th DCA 6/14/17)

https://edca.4dca.org/DCADocs/2016/3068/163068_DC13_06142017_084937_i.pdf

INJUNCTION: Claim that due process was violated by court's consideration of evidence regarding prior incidents of violence was not preserved for appellate review where there was no objection to the evidence. *Faddis v. State*, 42 Fla. L. Weekly D1359a (3rd DCA 6/14/17)

<http://www.3dca.flcourts.org/Opinions/3D16-0337.pdf>

DEPENDENCY: Mother is entitled to evidentiary hearing on her motion for reunification. *J.G. v. DCF*, 42 Fla. L. Weekly D1358a (3rd DCA 6/14/17)

<http://www.3dca.flcourts.org/Opinions/3D17-0697.pdf>

TIME-SHARING: Court must identify steps by which mother may regain unsupervised time-sharing. Curiale v. Curiale, 42 Fla. L. Weekly D1346a (2nd DCA 6/9/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/June/June%202009,%202017/2D16-5587.pdf

CHILD SUPPORT: DOR may use available state wage information in calculating child support where Father failed to provide income information. Gaut v. DOR, 42 Fla. L. Weekly D1341a (2nd DCA 6/9/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/June/June%202009,%202017/2D16-1619.pdf

CHILD SUPPORT: Court may not order former wife who failed to exercise time-sharing to pay child support prospectively. The former wife's responsible for child support only from the date she first failed to exercise time-sharing. Child support may be modified based on one parent's failure to exercise time-sharing. Andrews v. Andrews, 42 Fla. L. Weekly D1340b (2nd DCA 6/9/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/June/June%202009,%202017/2D16-238.pdf

ALIMONY: In determining alimony, court must consider tax consequences. Librizi v. Librizzi, 42 Fla. L. Weekly D1339b (2nd DCA 6/9/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/June/June%202009,%202017/2D15-2919.pdf

INJUNCTION: Evidence that Respondent approached petitioner from his car, cursing at her, telling her he was going to "destroy" her life and make her parents cry, demonstrates a threat by Leal to be violent towards her. Leal v. Rodriguez, 42 Fla. L. Weekly D1320a (3rd DCA 6/7/17)

<http://www.3dca.flcourts.org/Opinions/3D16-1693.pdf>

RELOCATION: Court erred by allowing the Husband to rebut its finding that the wife had met her burden of establishing relocation was in the best interest of the child through nothing more than a promise to change his future behavior. Solomon v. Solomon, 42 Fla. L. Weekly D1301a (4th DCA 6/7/17)

https://edca.4dca.org/DCADocs/2016/1365/161365_DC08_06072017_084505_i.pdf

ALIMONY: While a court may impute income to a spouse earning less than she could with the use of her best efforts, there must be competent, substantial evidence supporting the determination that the spouse could earn the imputed amount. Dottaviano v. Dottaviano, 42 Fla. L. Weekly D1289b (5th DCA 6/2/17)

<http://5dca.org/Opinions/Opin2017/052917/5D16-1322.op.pdf>

CHILD SUPPORT-MODIFICATION: Court may not modify child support retroactively to a date before the petition to modify. Birkmire v. Birkmire, 42 Fla. L. Weekly D1289a (5th DCA 6/2/17)

<http://5dca.org/Opinions/Opin2017/052917/5D15-2893.op.pdf>

MAY 2017

INJUNCTION-STALKING: Injunction for stalking reversed where there was only evidence of incident of stalking. The fact “that the parties were unable to control themselves around each other” is insufficient to sustain an injunction. One incident of violence and one incident of following is insufficient. *Kriebel v. Piedrahita*, 42 Fla. L. Weekly D1263a (4th DCA 5/31/17)

<http://5dca.org/Opinions/Opin2017/052917/5D15-2893.op.pdf>

ALIMONY-ABILITY TO PAY: When the circumstances suggest that a self-employed spouse has not accurately reported his or her income, the court may properly assign a higher income value than that claimed by the spouse. Where it was apparent from record that former husband was earning some income from his charter business, although actual amount of income earned was not established at trial because of husband’s wrongful conduct in failing to comply with wife’s discovery requests and court’s ensuing orders, it was error for trial court not to consider charter business income when making an alimony determination. *Newman v. Newman*, 42 Fla. L. Weekly D1244b (4th DCA 5/31/17)

https://edca.4dca.org/DCADocs/2015/0792/150792_DC08_05312017_083854_i.pdf

INJUNCTIONS: Evidentiary hearings for injunctions must be recorded. *Horne v. Wolfe*, 42 Fla. L. Weekly D1239a (1st DCA 5/31/17)

https://edca.1dca.org/DCADocs/2015/5065/155065_DC08_05312017_083435_i.pdf

ADOPTION: Court erred in denying adoption petition on basis that reason for adoption is to facilitate adoptee’s immigration. *Rodriguez v. In Re: The Adoption of Mariana Andrea Rodriguez*, 42 Fla. L. Weekly D1209a (3rd DCA 5/31/17)

<http://www.3dca.flcourts.org/Opinions/3D16-2191.pdf>

CHILD SUPPORT-RETROACTIVE: In calculating retroactive support, trial court erred in including weekly child care expenses for period prior to date mother began incurring those expenses. *H.R.N. v. State*, 42 Fla. L. Weekly D1202a (2nd DCA 5/26/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/May/May%2026,%202017/2D15-5659.pdf

DEPENDENT CHILDREN: Court may not modify visitation without proper notice to DCF and proof of substantial change of circumstances. *DCF v. P.I.*, 42 Fla. L. Weekly D1181b (3rd DC 5/24/17)

<http://www.3dca.flcourts.org/Opinions/3D17-0914.pdf>

GRANDPARENT VISITATION: Where grandparents were given visitation by a Colorado decree, enforceable by Full Faith and Credit Clause, they may

apply to Florida court for make-up visitation. Downs v. Ledoux-Nottingham, 42 Fla. L. Weekly D1146a (5th DCA 5/19/17)

<http://5dca.org/Opinions/Opin2017/051517/5D16-468.op.pdf>

DISSOLUTION OF MARRIAGE-JOINDER: Stepson may be impleaded in dissolution proceeding where Wife alleges dissipation of marital assets by transferring them to the stepson. Martinez v. Martinez, 42 Fla. L. Weekly D1145a (5th DCA 5/19/17)

<http://5dca.org/Opinions/Opin2017/051517/5D16-795.op.pdf>

AMENDMENTS-FAMILY RULES: Rules for Collaborative process in family law cases. In Re: Amendments to Rules, 42 Fla. L. Weekly S596a (FLA 5/18/17)

<http://www.floridasupremecourt.org/decisions/2017/sc16-1685.pdf>

CONTEMPT-CHILD SUPPORT: Payment history and ability to find a job is not evidence of ability to pay. Court may not find father in contempt for nonpayment of child support without a finding of ability to pay. Crawford v. DOR, 42 Fla. L. Weekly D1112b (1st DCA 5/16/17)

https://edca.1dca.org/DCADocs/2016/2059/162059_DC13_05162017_084824_i.pdf

CONTEMPT: Hearing officer has no authority to enter an order of contempt or to order incarceration. Crawford v. DOR, 42 Fla. L. Weekly D1112b (1st DCA 5/16/17)

https://edca.1dca.org/DCADocs/2016/2059/162059_DC13_05162017_084824_i.pdf

CHILD SUPPORT: Because no court support order was in effect and parent had not opted out of administrative proceeding, Division of Administrative Hearings has concurrent jurisdiction to establish child support obligation. DOR v. Murillo, 42 Fla. L. Weekly D1110b (1st DCA 5/16/17)

https://edca.1dca.org/DCADocs/2016/4435/164435_DC13_05162017_085348_i.pdf

EQUITABLE DISTRIBUTION: A state court may not order a veteran to indemnify a divorced spouse for the loss in the divorced spouse's portion of the veteran's retirement pay caused by the veteran's waiver of retirement pay to receive service-related disability benefits. Federal law completely preempts the states from treating waived military retirement pay as divisible. A state may treat as community property, and divide at divorce, a military veteran's retirement pay, but by statute this grant of permission exempts any amount that the Government deducts as a result of a waiver that the veteran must make in order to receive disability benefits. Howell v. Howell, No. 15-1031 (5/15/17)

https://www.supremecourt.gov/opinions/16pdf/15-1031_hejm.pdf

EQUITABLE DISTRIBUTION: Court may not include in equitable distribution funds used for attorney's fees and costs. Rosaler v. Rosaler, 42 Fla. L.

Weekly D1061a (4th DCA 5/10/17)

https://edca.4dca.org/DCADocs/2015/3261/153261_DC08_05102017_084355_i.pdf

EQUITABLE DISTRIBUTION: Husband's loan on boat and trailer must be included in Equitable Distribution scheme. Fiscina v. Fiscina, 42 Fla. L.

Weekly D1057b (4th DCA 5/10/17)

https://edca.4dca.org/DCADocs/2016/0836/160836_DC08_05102017_090258_i.pdf

INJUNCTION: Court must order DOC to allow the prisoner who seeks to dissolve and injunction to appear telephonically. Burdoo v. Plympton, 42 Fla.

L. Weekly D1052b (1st DCA 5/9/17)

https://edca.1dca.org/DCADocs/2015/2036/152036_DC13_05092017_103542_i.pdf

CHILD SUPPORT-MODIFICATION: Court abused discretion by reducing child support when Husband changed job with decreased income. Robinson v. Robinson, 42 Fla. L. Weekly D1048a (1st DCA 5/5/17)

https://edca.1dca.org/DCADocs/2016/1490/161490_DC08_05052017_090502_i.pdf

CHILD SUPPORT-INCOME DEDUCTION: Court abused discretion by ordering child support paid through State Disbursement Unit when not requested by either party. Robinson v. Robinson, 42 Fla. L. Weekly D1048a (1st DCA 5/5/17)

https://edca.1dca.org/DCADocs/2016/1490/161490_DC08_05052017_090502_i.pdf

EQUITABLE DISTRIBUTION: Court abused discretion in using balances in accounts as of date of filing of petition rather than balances in accounts as of date of final hearing where accounts had been diminished during proceedings for living expenses, and there was no evidence of misconduct on part of husband. Gotro v. Gotro, 42 Fla. L. Weekly D1045a (1st DCA 5/5/17)

https://edca.1dca.org/DCADocs/2016/1863/161863_DC13_05052017_090658_i.pdf

LIFE INSURANCE: Court may not order life insurance to secure alimony without making findings of ability to pay and special circumstances warranting life insurance. Gotro v. Gotro, 42 Fla. L. Weekly D1045a (1st DCA 5/5/17)

https://edca.1dca.org/DCADocs/2016/1863/161863_DC13_05052017_090658_i.pdf

TERMINATION OF PARENTAL RIGHTS: Where children's custodial parent died during the proceedings, father was on the verge of being released from prison, and there was no evidence that reunification would pose any specific

safety risk to children, Department of Children and Families failed to prove that no measures short of termination would have been appropriate. W.W. v. DCF, 42 Fla. L. Weekly D1042b (1st DCA 5/5/17)

https://edca.1dca.org/DCADocs/2016/4707/164707_DC13_05052017_085545_i.pdf

INJUNCTION FOR PROTECTION: Movant is entitled to a hearing on motion to dissolve injunction on grounds that he is now incarcerated, and that injunction is prohibiting his eligibility for a lower level custody and housing level and preventing participation in classes, rehabilitation programs, jobs, and transferring to certain facilities. Alston v. State, 42 Fla. L. Weekly D1040a (5th DCA 5/5/17)

<http://5dca.org/Opinions/Opin2017/050117/5D16-2947.op.pdf>

REHABILITATIVE ALIMONY: Award of rehabilitative alimony remanded for Court to make findings as to Husband's ability to pay and to recognize the presumption in favor of permanent alimony for a long-term marriage. Hua v. Tsung, 42 Fla. L. Weekly D1019a (4th DCA 5/3/17)

https://edca.4dca.org/DCADocs/2015/4213/154213_DC08_05032017_085249_i.pdf

EQUITABLE DISTRIBUTION: Court erred in failing to classify as marital asset stock which was transferred from husband's father to husband during the marriage and titled in husband's name. Hua v. Tsung, 42 Fla. L. Weekly D1019a (4th DCA 5/3/17)

https://edca.4dca.org/DCADocs/2015/4213/154213_DC08_05032017_085249_i.pdf

DISSOLUTION OF MARRIAGE: Petition for Dissolution of Marriage properly dismissed where Wife not served within 120 days. Isnord v. Isnord, 42 Fla. L. Weekly D1009a (4th DCA 5/3/17)

https://edca.4dca.org/DCADocs/2016/2093/162093_DC05_05032017_092737_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court properly denied biological father's motion to intervene in mother's termination of parental rights proceedings where mother was married to another man so that child was born into an existing marriage. M.L. v. DCF, 42 Fla. L. Weekly D999a (4th DCA 5/3/17)

https://edca.4dca.org/DCADocs/2016/4087/164087_DC05_05032017_093542_i.pdf

APRIL 2017

CHILD CUSTODY: Court may not grant wife decision-making authority without required findings. Ziruolo v. Ziruolo, 42 Fla. L. Weekly D986a (1st DCA 4/28/17)

https://edca.1dca.org/DCADocs/2016/0345/160345_DC13_04282017_102801_i.pdf

EQUITABLE DISTRIBUTION: Court may not make unequal distribution without required written findings. Ziruolo v. Ziruolo, 42 Fla. L. Weekly D986a (1st DCA 4/28/17)

https://edca.1dca.org/DCADocs/2016/0345/160345_DC13_04282017_102801_i.pdf

ALIMONY: Court must base alimony award on husband's net income, not his gross income. Hanson v. Hanson, 42 Fla. L. Weekly D977b (2nd DCA 4/28/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/April/April%2028,%202017/2D16-1463.pdf

ATTORNEY'S FEES: Court may not require husband to pay wife's attorney's fees where the final judgment equalized the parties assets and incomes. Hanson v. Hanson, 42 Fla. L. Weekly D977b (2nd DCA 4/28/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/April/April%2028,%202017/2D16-1463.pdf

PATERNITY-DISESTABLISHMENT: DNA test results performed since the initial determination of paternity satisfy the statutory requirement for newly discovered evidence. DOR v. M.J.M., 42 Fla. L. Weekly D971a (2nd DCA 4/28/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/April/April%2028,%202017/2D15-3246.pdf

EQUITABLE DISTRIBUTION: Claim on appeal that the court erred in not placing a value on the parties' marital credit card debt is abandoned if not raised in initial brief. Stephens v. Whittaker, 42 Fla. L. Weekly D961b (5th DCA 4/28/17)

<http://5dca.org/Opinions/Opin2017/042417/5D16-1631.op.pdf>

CHILD SUPPORT-MODIFICATION: Father's involuntary unemployment is a substantial change of circumstances warranting modification. Strawitch v. Strawitch, 42 Fla. L. Weekly D932a (1st DCA 4/24/17)

https://edca.1dca.org/DCADocs/2016/3230/163230_DC08_04242017_085504_i.pdf

CHILD SUPPORT-IMPUTED INCOME: Court may impute income to an incarcerated parents. Committing the acts that lead to one's incarceration is considered a voluntary act for purposes of the child support statute. Wilkerson v. Wilkerson, 42 Fla. L. Weekly D918b (5th DCA 4/21/17)

<http://5dca.org/Opinions/Opin2017/041717/5D16-1938.op.pdf>

CHILD SUPPORT-PLEADING: Where child support is not requested in the petition but is requesting the pretrial statement, the courts will accept the issue

is being tried by implied consent. Wilkerson v. Wilkerson, 42 Fla. L. Weekly D918b (5th DCA 4/21/17)

<http://5dca.org/Opinions/Opin2017/041717/5D16-1938.op.pdf>

EQUITABLE DISTRIBUTION: Court must include parties' son's student and automobile loans as marital obligations and including them in equitable distribution. Wayne v. Einspar, 42 Fla. L. Weekly D917b (5th DCA 4/21/17)

<http://5dca.org/Opinions/Opin2017/041717/5D15-3392.op.pdf>

TEMPORARY ALIMONY: Court must credit husband with temporary alimony payments made during pendency of dissolution action. Wayne v. Einspar, 42 Fla. L. Weekly D917b (5th DCA 4/21/17)

<http://5dca.org/Opinions/Opin2017/041717/5D15-3392.op.pdf>

DEPENDENCY-UNDOCUMENTED IMMIGRANT-MINOR: When a Florida court is presented with a dependency petition, the court's concern should be whether the allegations made in support of an adjudication of dependency satisfy Florida's statutory grounds for such an adjudication, not whether the juvenile hopes to obtain Special Immigrant Juvenile Status. In the Interest of B.R.C.M. v. DCF, 42 Fla. L. Weekly S472a (FLA 2017)

<http://www.floridasupremecourt.org/decisions/2017/sc16-179.pdf>

CHILD SUPPORT: Worksheet trial court used to calculate child support deviated from evidence and overstated father's net income. C.J.I.-R. v. C.M., 42 Fla. L. Weekly D883b (2nd DCA 4/19/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/April/April%2019,%202017/2D16-1577.pdf

ATTORNEY'S FEES: An award of attorney's fees without adequate findings justifying the amount of the award is reversible even where the appellant has provided an inadequate record of the trial court proceedings. The Court must make specific findings as to the hourly rate and number of hours reasonably expended in the case. Frezza v. Frezza, 42 Fla. L. Weekly D881a (2nd DCA 4/19/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/April/April%2019,%202017/2D16-1123.pdf

INJUNCTION-DISSOLUTION-CHANGE IN CIRCUMSTANCES: Court acted within its discretion in determining that Respondent's incarceration was an insufficient change in circumstances to dissolve the injunction entered 15 years before. Noe v. Noe, 42 Fla. L. Weekly D875a (1st DCA 4/13/17)

https://edca.1dca.org/DCADocs/2015/5455/155455_DC05_04132017_113500_i.pdf

ALIMONY-MODIFICATION: Court may reduce alimony where Wife voluntarily cut expenses by more than half. Regan v. Regan, 42 Fla. L. Weekly D828a (4th DCA 4/12/17)

https://edca.4dca.org/DCADocs/2015/2644/152644_DC05_04122017_085532_i.pdf

IMPUTED INCOME: Court may decline to impute income to the wife when she had not been employed outside the home for the entire marriage. *Regan v. Regan*, 42 Fla. L. Weekly D828a (4th DCA 4/12/17)

https://edca.4dca.org/DCADocs/2015/2644/152644_DC05_04122017_085532_i.pdf

EQUITABLE DISTRIBUTION: Court erred by summarily awarding residence to former husband without making required findings. *Brussot v. Brussot*, 42 Fla. L. Weekly D818a (4th DCA 4/12/17)

https://edca.4dca.org/DCADocs/2016/0834/160834_DC08_04122017_091039_i.pdf

PARENTING PLAN: Court erred in awarding sole parental responsibility without making a finding that shared parental responsibility would be detrimental to the child. *Aranda v. Padilla*, 42 Fla. L. Weekly D813a (4th DCA 4/12/17)

https://edca.4dca.org/DCADocs/2016/1350/161350_DC08_04122017_091149_i.pdf

PARENTING PLAN: Court erred in failing to consider the parties' respective financial positions in determining how to split the costs of travel for exchanging the child. *Aranda v. Padilla*, 42 Fla. L. Weekly D813a (4th DCA 4/12/17)

https://edca.4dca.org/DCADocs/2016/1350/161350_DC08_04122017_091149_i.pdf

EQUITABLE DISTRIBUTION: Error to include in valuation of wife's jewelry the value of engagement ring which husband conceded was a nonmarital asset. *Fawcett v. Gainey*, 42 Fla. L. Weekly D804c (5th DCA 4/7/17)

<http://5dca.org/Opinions/Opin2017/040317/5D16-582.op.pdf>

INJUNCTION: Court may not deny petition to deny petition to dissolve injunction without a hearing. *Palm v. Palm*, 42 Fla. L. Weekly D804a (5th DCA 4/7/17)

<http://5dca.org/Opinions/Opin2017/040317/5D16-582.op.pdf>

ALIMONY *Cook v. Cook*, 42 Fla. L. Weekly D770b (2nd DCA 4/5/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/April/April%2005,%202017/2D16-555.pdf

MARITAL SETTLEMENT AGREEMENT-ENFORCEMENT: Claim that provision of MSA that equitably distributed husband's pension plan was ambiguous and that trial court erred in failing to take parol evidence regarding parties' intent was not preserved for appeal where issue was not raised before trial court. *Sciame v. Sciame*, 42 Fla. L. Weekly D770a (2nd DCA 4/5/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/April/April%2005,%202017/2D15-5663.pdf

ALIMONY: \$600 per month permanent alimony is insufficient to meet Wife but for us basic needs even though Husband has the ability to pay more. Martinez v. Martinez, 42 Fla. L. Weekly D769a (2nd DCA 4/5/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/April/April%2005,%202017/2D15-5154.pdf

MARCH 2017

ADOPTION-STANDING: Biological son of adopting parent has no standing to challenge adoption on ground that he did not receive proper notice because he was not entitled to notice in the first place. Edwards v. Maxwell, 42 Fla. L. Weekly D742a (1st DCA 3/31/17)

https://edca.1dca.org/DCADocs/2016/2168/162168_DC13_03312017_090446_i.pdf

APPEALS-EQUITABLE DISTRIBUTION-GIFT: Proper standard of review of trial court's finding whether a spouse had a donative intent to establish interspousal gift is competent substantial evidence not preponderance of evidence. Hooker v. Hooker, 42 Fla. L. Weekly S396a (FLA 3/ 30/17)

<http://www.floridasupremecourt.org/decisions/2017/sc15-1881.pdf>

COUNTER-PETITION: Court erred in failing to consider Wife's pro se pleading entitled "Reply" as both an answer and counter-petition. Patel v. State, 42 Fla. L. Weekly D728a (3rd DCA 3/29/17)

<http://www.3dca.flcourts.org/Opinions/3D16-1370.pdf>

ATTORNEY'S FEES: Trial court erred in applying its own formula, designed to disincentivize future litigation, rather than relying on the financial condition of each spouse as set out in the relevant statute, in awarding attorney's fees and costs. Funny case. Rorrer v. Orban, 42 Fla. L. Weekly D721b (3rd DCA 3/29/17)

<http://www.3dca.flcourts.org/Opinions/3D16-0652.pdf>

CHARGING LIEN: A charging lien is an equitable right to have costs and fees due an attorney for services in the suit secured to him in the judgment or recovery in that particular suit. Charging lien may attach to assets awarded in equitable distribution. Menz & Battista v. Ramos, 42 Fla. L. Weekly D716b (4th DCA 3/29/17)

https://edca.4dca.org/DCADocs/2016/1634/161634_DC13_03292017_090617_i.pdf

PATERNITY: Where paternity had been established in a foreign court, Florida court is not authorized to order DNA testing. DOR v. Silva, 42 Fla. L. Weekly D694a (5th DCA 3/24/17)

<http://www.5dca.org/Opinions/Opin2017/032017/5D16-2470.op.pdf>

INEQUITABLE CONDUCT: Court has the inherent authority under the inequitable conduct doctrine to award attorney fees as a sanction where one party has exhibited egregious conduct or acted in bad faith but the him former wife's refusal to accede to the former husband's request for increased timesharing out of court does not constitute bad faith. Myrick v. Myrick, 42 Fla. L. Weekly D692a (2nd DCA 3/24/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/March/March%2024,%202017/2D15-3181.pdf

FAMILY LAW RULES OF PROCEDURE-AMENDMENT: Extensive amendments to Family Law Rules of Procedure. Fam.L.R.P. are now stand-alone from rules of civil procedure. Amendment, 42 Fla. L. Weekly S319a (FLA 3/16/17)

<http://www.floridasupremecourt.org/decisions/2017/sc16-978.pdf>

ATTORNEYS-DISQUALIFICATION: Where Father's attorney in a guardianship case had shared confidential information with the children's attorney prior to being hired by Defendant, he must be disqualified. Lopez v. Flores, 42 Fla. L. Weekly D630a (3rd DCA 3/15/17)

EQUITABLE DISTRIBUTION: Court erred in distributing marital assets and liabilities without including value of items in final judgment. Pierre v. Jonassaint, 42 Fla. L. Weekly D628a (3rd DCA 3/15/17)

<http://www.3dca.flcourts.org/Opinions/3D15-0948.pdf>

EQUITABLE DISTRIBUTION: Passive appreciation of value of property is the loan-to-value ratio computed at the time of the marriage is multiplied by the current fair market value, then the current mortgage is subtracted. Viscito v. Viscito, 42 Fla. L. Weekly D627c (3rd DCA 3/15/17)

<http://www.3dca.flcourts.org/Opinions/3D15-0786.rh.pdf>

MARRIAGE-FOREIGN DOMESTIC UNION: A domestic union is not a marriage under Israeli law. Cohen v. Shushan, 42 Fla. L. Weekly D601a (2nd DCA 3/15/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/March/March%2015,%202017/2D15-4629.pdf

DICTIONARY WARS-ONLY: “[A]s a matter of statutory construction, the term “only,” although capable of varying meanings depending on the context of its use as an adverb or an adjective, ordinarily imposes some limiting function over the term or phrase it modifies.” Cohen v. Shushan, 42 Fla. L. Weekly D601a (2nd DCA 3/15/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/March/March%2015,%202017/2D15-4629.pdf

QUOTATION: “[M]arriage, under the law, is not simply a bundle of rights and privileges; it is also a status. While we sense from the case before us that the line, as it were, between the statuses of reputed spouses and married couples

in Israel has drawn closer over time, perhaps to a point of near proximity, even near equivalency, nevertheless. . . that line remains firmly entrenched. For better or for worse, under Israeli law marriage is a different legal relationship than a reputed spouse relationship. To borrow from another ceremonious phrase, the two have not become one.” Cohen v. Shushan, 42 Fla. L. Weekly D601a (2nd DCA 3/15/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/March/March%2015,%202017/2D15-4629.pdf

PATERNITY: Court may not enter a final judgment after default without an evidentiary hearing regarding the allegations of excusable neglect, nor without making findings regarding the best interest of the child and including a method by which the mother could establish timesharing with the child. Gonzalez v. Hewitt, 42 Fla. L. Weekly D582b (5th DCA 3/10/17)

<http://www.5dca.org/Opinions/Opin2017/030617/5D16-1346.op.pdf>

CHILD CUSTODY: Court erred in giving former husband ultimate decision-making authority without specifying areas over which he can exercise that authority. McClure v. Beck, 42 Fla. L. Weekly D557a (4th DCA 3/8/17)

https://edca.4dca.org/DCADocs/2015/3173/153173_DC08_03082017_093458_i.pdf

EQUITABLE DISTRIBUTION: Court erred in failing to classify as marital or nonmarital debt a parent PLUS loan husband incurred on behalf of parties’ daughter for her education and to distribute this debt accordingly. Conlin v. Conlin, 42 Fla. L. Weekly D501a (2nd DCA 3/1/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/March/March%2001,%202017/2D16-1442.pdf

FEBRUARY 2017

CONTEMPT: Court may not order automatic future contempt and incarceration without hearing; to do so violates Due Process. Pattison v. Pattison, 42 Fla. L. Weekly D489b (1st DCA 2/24/17)

https://edca.1dca.org/DCADocs/2016/0615/160615_DC08_02242017_092813_i.pdf

QUOTATION: “Finally, the former husband claims that the trial judge’s ‘compulsion’ to assist the. . . litigants went astray . . . Using golf parlance, he ruminates whether the trial judge has ‘wander[ed] hopeless into the rough along the fairway’ by perhaps ‘nudg[ing] the ball back onto the fairway to speed play for the judge’s own preference.’ Oddly. . . [he focused] on perceived slights. . . for which he claims entitlement to a do-over. In golf lingo, this claim is a whiff. . . for which no mulligan. . . is allowed. Pattison v. Pattison, 42 Fla. L. Weekly D489b (1st DCA 2/24/17)

https://edca.1dca.org/DCADocs/2016/0615/160615_DC08_02242017_092813_i.pdf

EQUITABLE DISTRIBUTION: Where husband and his sister each owned half interest in parcel prior to parties' marriage, and after parties were married husband acquired sister's half interest using marital funds, trial court erred in finding that entire parcel, including half interest owned by husband prior to marriage, was a marital asset. Landrum v. Landrum, 42 Fla. L. Weekly D489a (1st DCA 2/24/17)

https://edca.1dca.org/DCADocs/2016/0291/160291_DC08_02242017_092543_i.pdf

CONTEMPT: Court may not find husband in contempt for failing to pay alimony without finding that he had the present ability to pay. Brown v. Brown, 42 Fla. L. Weekly D484b (5th DCA 2/24/17)

<http://5dca.org/Opinions/Opin2017/022017/5D16-737.op.pdf>

INJUNCTION-MODIFICATION: Party moving to modify or dissolve a temporary injunction does not need to establish changed circumstances. Denial of a motion to modify or dissolve a temporary injunction is an abuse of discretion where a party can demonstrate clear legal error or misapprehension of facts on part of trial court. Planned Parenthood is a physician's practice; Court's finding to the contrary is not supported by evidence. Planned Parenthood v. MMB Properties, 42 Fla. L. Weekly S204a (FLA 2/23/17)

<http://www.floridasupremecourt.org/decisions/2017/sc15-1655.pdf>

CHILD SUPPORT-INCOME: Court must include in its calculation of Wife's gross monthly income the value of mortgage payments made by Husband as in kind contributions. Schalfstall v. Schalfstall, 42 Fla. L. Weekly D467b (3rd DCA 2/22/17)

<http://www.3dca.flcourts.org/Opinions/3D16-1756.pdf>

COUNSEL DISQUALIFICATION: Order disqualifying wife's counsel from representing her in pending divorce proceedings after counsel failed to appear for deposition was overbroad. Riddle v. Riddle, 42 Fla. L. Weekly D445a 4th DCA 2/22/17)

https://edca.4dca.org/DCADocs/2016/3805/163805_DC03_02222017_094204_i.pdf

DISSOLUTION OF MARRIAGE: It is an abuse of discretion to deny motion for continuance of final hearing where Wife established a need to complete a forensic accounting of husband's business. Ramadon v. Ramadon, 42 Fla. L. Weekly D432a (2nd DCA 2/17/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/February/February%2017,%202017/2D14-5843.pdf

ABORTION: Mandatory Delay Law, which imposes a 24 hour waiting period on women will seeking to terminate their pregnancies is likely an unconstitutional infringement on the right to privacy under Florida Constitution,

Article 1, §23. Temporary Injunction against the law was properly entered. Gainesville Women's Care v. State, 42 Fla. L. Weekly S183a (FLA 2/16/17)
<http://www.floridasupremecourt.org/decisions/2017/sc16-381.pdf>

APPEALS-TIMELINESS: "Billable hours, client pressures, and law school debt escalate attorney stress; so too with figuring out filing deadlines. What seems simple often isn't, and what seems complex typically is. Take this court's order of December 27, 2016, which said that the "answer brief shall be filed within 15 days of the date of this order." Fifteen calendar days from the order was January 11, 2017, but the Guardian Ad Litem (GAL) waited until January 17, 2017, to file its answer brief. . .Because this Court's order specified that filing was to occur by a date certain, the GAL's brief was untimely and subject to being stricken." C.M v. DCF, 42 Fla. L. Weekly D428a (1st DCA 2/16/17)

https://edca.1dca.org/DCADocs/2016/4711/164711_NOND_02162017_093616_i.pdf

CHILD SUPPORT: Calculus of child support must take account of the cost of health insurance and deduct monthly premium payments from the monthly income. Ryans v. Bell, 42 Fla. L. Weekly D384a (2nd DCA 2/10/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/February/February%2010,%202017/2D15-3933.pdf

INJUNCTION: Injunction against domestic violence is not warranted where the petition alleged only a single incident of domestic violence 4 years earlier and attempts to contact petitioner by phone and Facebook. Zapiola v. Kordecki, 42 Fla. L. Weekly (2nd DCA 2/10/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/February/February%2010,%202017/2D16-820.pdf

TERMINATION OF PARENTAL RIGHTS: Termination of parental rights is appropriate where there is uncontested evidence that the inference suffered 14 fractures the 14 different bones in separate incidents and parents gave conflict thing explanations. S.P.R. v. DCF, 42 Fla. L. Weekly D375a (2nd DCA 2/10/17)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/February/February%2010,%202017/2D16-3011.pdf

ALIMONY-IMPUTED INCOME: Final Judgment was defective for failing to impute interest on retirement account, awarding attorney's fees without findings as to hourly rate, number of hours reasonably expended, and appropriateness of reduction or enhancement factors, requiring Husband to maintain life insurance without factual findings on availability, cost, ability to pay, and special circumstances. Duke v. Duke, 42 Fla. L. Weekly D372e (5th DCA 2/10/17)

<http://5dca.org/Opinions/Opin2017/020617/5D16-120.op.pdf>

CHILD SUPPORT-RETROACTIVE: Former wife lacked standing to seek retroactive child support for the first time over three years after child's 18th birthday with no showing that child was otherwise legally dependent under section 743.07(2) or that such support was otherwise agreed to by parties. Garcia-Lawson v. Lawson, 42 Fla. L. Weekly D343b (4th DCA 2/8/17)
https://edca.4dca.org/DCADocs/2016/0401/160401_DC08_02082017_085818_i.pdf

EQUITABLE DISTRIBUTION: Court erred in including in post-judgment QDRO a provision awarding former husband an equitable lien upon wife's equitable distribution interest in former husband's retirement benefits as a remedy for former wife's failure to make an equalization payment. Garcia Lawson v. Lawson, 42 Fla. L. Weekly D348a (4th DCA 2/8/17)
https://edca.4dca.org/DCADocs/2016/0401/160401_DC08_02082017_085818_i.pdf

SETTLEMENT AGREEMENT: Court erred in requiring husband to pay past-due rent to wife for period during which he resided in home despite settlement agreement providing that wife would have exclusive use and possession of home where claim for past-due rent was not raised in pleadings or tried by consent. Hudson v. Hudson, 42 Fla. L. Weekly D324a (1st DCA 2/7/17)
https://edca.1dca.org/DCADocs/2016/0364/160364_DC08_02072017_081536_i.pdf

APPEALS-CONTEMPT-INDIRECT: Although indirect criminal contempt proceeding was given a misdemeanor case number, it was a circuit court case because it arose from a family circuit court matter. Appeal should have been to the DCA, not to the Circuit Court. Johnson v. State, 42 Fla. L. Weekly D315c (5th DCA 2/3/17)
<http://5dca.org/Opinions/Opin2017/013017/5D16-2756.op.pdf>

MODIFICATION: Trial court violated wife's due process rights by significantly modifying her timesharing with children when the only matter scheduled to be addressed at hearing was location for timesharing exchange. Barsis v. Barsis, 42 Fla. L. Weekly D315b (5th DCA 2/3/17)
<http://5dca.org/Opinions/Opin2017/013017/5D16-2768.op.pdf>

TIME SHARING: Court erred in vesting therapist with the decision-making authority as to time -sharing, and mother in selection of replacement therapist. Munoz v. Munoz, 42 Fla. L. Weekly D306a (2nd DCA 2/3/17).
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2017/February/February%2003,%202017/2D16-1604.pdf

TERMINATION OF PARENTAL RIGHTS: Putative father who did not register with the Florida Putative Fathers Registry is not entitled to notice of termination proceedings. A.A.F. v. D.C.F., 42 Fla. L. Weekly D285a (4th DCA 2/1/17)

https://edca.4dca.org/DCADocs/2016/2970/162970_DC05_02012017_091107_i.pdf

JANUARY 2017

CHILD SUPPORT-GROSS UP: Court may use “gross-up method” only when time-sharing schedule provides for at least 20 percent of the overnights of the year. Knight v. Knight, 42 Fla. L. Weekly D282a (1st DCA 1/31/17)

https://edca.1dca.org/DCADocs/2016/2382/162382_DC13_01312017_081624_i.pdf

CHILD SUPPORT-RETROACTIVE: Child support should be applied retroactively from the time Father stopped exercising parenting time. Knight v. Knight, 42 Fla. L. Weekly D282a (1st DCA 1/31/17)

https://edca.1dca.org/DCADocs/2016/2382/162382_DC13_01312017_081624_i.pdf

DEPENDENT CHILDREN: Court may not adjudicate children dependent based on father’s arrests on drug-related charges without evidence of the circumstances of the arrest or harm to the children. M.S. v. DCF, 42 Fla. L. Weekly D283b (5th DCA 1/30/17)

<http://5dca.org/Opinions/Opin2017/013017/5D16-3860.op.pdf>

PATERNITY: Attorney’s fees are allowed for appeals defending a paternity case. Conflict certified, prior precedent receded from. Beckford v. State, 42 Fla. L. Weekly D280a (4th DCA 1/27/17)

https://edca.4dca.org/DCADocs/2016/0947/160947_1711_01272017_102134_i.pdf

DISSOLUTION OF MARRIAGE-BANK RECORDS: Bank records are not admissible solely because they were disclosed pursuant to rule 12.285. Washburn v. State, 42 Fla. L. Weekly D243a (4th DCA 1/25/17)

https://edca.4dca.org/DCADocs/2016/1299/161299_DC08_01252017_091743_i.pdf

DEPENDENT CHILDREN: Court did not err in denying the motion of the parents whose parental rights had not yet been terminated to transfer custody from pre-adoptive foster parents to the child’s grandparent. E.Q. v. State, 42 Fla. L. Weekly D225a (3rd DCA 1/25/17)

<http://www.3dca.flcourts.org/Opinions/3D16-2108.pdf>

EQUITABLE DISTRIBUTION-MARITAL HOME: Court did not err in awarding Wife exclusive use of the marital home with a 50-50 split upon remarriage, rather than awarding sole possession of the home to the Wife. Morgan v. Morgan, 42 Fla. L. Weekly D186a (4th DCA 1/18/17)

https://edca.4dca.org/DCADocs/2015/1607/151607_DC13_01182017_083529_i.pdf

ALIMONY: Wife waived claim for alimony by agreeing to possession of the marital home instead of alimony. Morgan v. Morgan, 42 Fla. L. Weekly D186a (4th DCA 1/18/17)

https://edca.4dca.org/DCADocs/2015/1607/151607_DC13_01182017_083529_i.pdf

DEPENDENT CHILDREN: Child who was abused by her father and brother in Guatemala but cared for by a sister in Florida is not dependent [Unstated: Because child is not dependent, she will be deported]. M.P.L. v. DCF, 42 Fla. L. Weekly D180a (4th DCA 1/18/17)

https://edca.4dca.org/DCADocs/2016/1932/161932_DC05_01182017_090201_i.pdf

ALIMONY: court may not award permanent alimony without considering all statutory factors. Court cannot order Husband to maintain life insurance as security for alimony without findings as to cost and availability showing of need or stating the amount of insurance. Jimenez v. Jimenez, 42 Fla. L. Weekly D177a (4th DCA 1/18/17)

https://edca.4dca.org/DCADocs/2015/3333/153333_DC13_01182017_084601_i.pdf

RELOCATION: Provision allowing former husband to relocate to anywhere in the cuning United States without approval from former wife does not comply with statutory requirements. Horn v. Horn, 42 Fla. L. Weekly D175a (1st DCA 1/17/17)

https://edca.1dca.org/DCADocs/2016/1619/161619_DC08_01172017_091422_i.pdf

ATTORNEY'S FEES: Former wife is entitled to attorney's fees under marital settlement agreement where she prevailed on the only significant issues. Larkin v. Larkin, 42 Fla. L. Weekly D167a (5th DCA 1/13/17)

<http://5dca.org/Opinions/Opin2017/010917/5D16-1455.op.pdf>

VENUE-DOMESTICATION OF FOREIGN DECREE: Proper venue for former husband's petition to register foreign decree order in Florida was the county where the former wife resided with the child. Nunez-Miller v. Miller, 42 Fla. L. Weekly D162a (5th DCA 1/13/17)

<http://5dca.org/Opinions/Opin2017/010917/5D16-356.op.pdf>

SERVICE OF PROCESS: Substituted service of process is ineffective where Plaintiff failed to mail a copy of process to Defendant by certified mail, failed to file a return receipt, and failed to file its counsel's affidavit of compliance. Green Emerald Homes v. PNC Bank, 42 Fla. L. Weekly D161a (5th DCA 1/13/17)

<http://5dca.org/Opinions/Opin2017/010917/5D16-1189.op.pdf>

REOPENING OF CASE: Court did not abuse discretion by denying former wife buttressed motion to reopen case to receive new evidence that her

employment had been terminated. Loftis v. Loftis, 42 Fla. L. Weekly D160a (5th DCA 1/13/17)

<http://5dca.org/Opinions/Opin2017/010917/5D16-1428.op.pdf>

INJUNCTIONS-STALKING: Court erred in entering injunction against stalking where petitioner failed to prove at least 2 incidents of harassment. But dialing is not harassment. Carter v. Malken, 42 Fla. L. Weekly D120a (4th DCA 1/4/17).

https://edca.4dca.org/DCADocs/2016/0021/160021_DC13_01042017_083936_i.pdf

NAME CHANGE: Court cannot deny a name change mailing on the basis that petitioner had prior convictions or was a judgment debtor. In re: Zimmer, 42 Fla. L. Weekly D112a (4th DCA 1/4/17)

DECEMBER 2016

CHILD CUSTODY-MODIFICATION: Court erred in modifying child custody where father did not allege nor did court find that there was a substantial change in circumstances. Riddle v. Riddle, 42 Fla. L. Weekly D90e (4th DCA 12/30/16)

https://edca.4dca.org/DCADocs/2016/2803/162803_DC13_12302016_100631_i.pdf

EQUITABLE DISTRIBUTION: Court must value assets and make findings justifying an unequal distribution of marital assets and liabilities in a supplemental final judgment. Navarro v. Navarro, 42 Fla. L. Weekly D88a (1st DCA 12/30/16)

https://edca.1dca.org/DCADocs/2015/4201/154201_DC08_12302016_082825_i.pdf

PATERNITY-DUE PROCESS: Where trial court entered an “Order Scheduling Uncontested Final Hearing or in the Alternative Setting Status Conference,” and order specifically stated that if an answer was filed, the hearing would serve as a status conference, and the mother had filed an answer, it was a violation of mother’s due process rights to hold final hearing. Pinnock v. Whyte, 42 Fla. L. Weekly D78a (3rd DCA 12/28/16)

<http://3dca.flcourts.org/Opinions/3D15-1042.pdf>

FEDERAL TAX DEPENDENCY EXEMPTION: Court does not have power to allocate the Federal Tax Dependency Exemption directly, but can only require the custodial parent to transfer the exemption to the non-parent through the execution of a waiver. The transfer of the dependency exemption is conditioned on that parent being current with child support payments. *Pinnock v. Whyte*, 42 Fla. L. Weekly D78a (3rd DCA 12/28/16)

<http://3dca.flcourts.org/Opinions/3D15-1042.pdf>

DEPENDENT CHILDREN: Orphaned children from El Salvador threatened with murder by the Mara Salvatrucha gang if deported cannot be adjudicated dependent. *W.B.A. v. DCF*, 42 Fla. L. Weekly D75a (3rd DCA 12/28/16)

<http://3dca.flcourts.org/Opinions/3D16-1448.pdf>

LUMP SUM ALIMONY: Lump sum alimony may be awarded either for spousal support or as part of an equitable distribution of marital property. Court erred in awarding former wife marital home as lump sum alimony without finding that the award was necessary for support or as an equitable distribution. *Gardiner v. Gardiner*, 42 Fla. L. Weekly D69a (2nd DCA 12/28/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/December/December%2028,%202016/2D15-2621.pdf

DISSOLUTION OF MARRIAGE-APPEALS: Order finding wife entitled to attorney's fees is not appealable with the amount of fees has not been determined. *Raton v. State*, 42 Fla. L. Weekly D61b (5th DCA 12/22/16)

<http://5dca.org/Opinions/Opin2016/121916/5D15-4184.op.pdf>

CONTEMPT: Court did not abuse discretion by failing to hold wife in contempt for changing therapist where the new therapist is more conveniently located. *Raton v. State*, 42 Fla. L. Weekly D61b (5th DCA 12/22/16)

<http://5dca.org/Opinions/Opin2016/121916/5D15-4184.op.pdf>

EQUITABLE DISTRIBUTION-PASSIVE APPRECIATION: Formula: (Loan-to-Value Ratio at Time of Marriage X Current FMV) – Total Current Mortgage =

Appreciation Value. *Viscito v. Viscito*, 42 Fla. L. Weekly D43a (3rd DCA 12/21/16)

<http://www.3dca.flcourts.org/Opinions/3D15-0786.pdf>

ALIMONY: Court did not abuse discretion in denying alimony to husband who was voluntarily unemployed and whose gambling debts hurt his family's position and lifestyle. *Viscito v. Viscito*, 42 Fla. L. Weekly D43a (3rd DCA 12/21/16)

<http://www.3dca.flcourts.org/Opinions/3D15-0786.pdf>

EQUITABLE DISTRIBUTION: Jointly titled marital home later transferred to an irrevocable trust for the benefit of the Wife and her descendants is not marital property subject to equitable distribution. *Nelson v. Nelson*, 41 Fla. L. Weekly D2786a (2nd DCA 12/16/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/December/December%2016,%202016/2D15-4585.pdf

TIME-SHARING: Court abused its discretion by awarding mother decision-making authority without a showing that shared parental responsibility would be detrimental to the child. *Cranney v. Cranney*, 41 Fla. L. Weekly D2753a (2nd DCA 12/14/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/December/December%2014,%202016/2D15-5240.pdf

JUDGE-DISQUALIFICATION: Motion to disqualify Judge in divorce case which alleged that the judge engaged in ex parte communications with opposing party before entering a final judgment nearly identical to the party's proposed final judgment was sufficient to demonstrate a reasonably prudent person would be in fear of not receiving a fair and impartial hearing. *Isan v. Isan*, 41 Fla. L. Weekly D2705a (5th DCA 12/6/16)

<http://www.5dca.org/Opinions/Opin2016/120516/5D16-941.op.pdf>

CHILD CUSTODY-FOREIGN DECREE: Court erred in suspending father's Texas-ordered timesharing without communicating with the foreign court

making a record that communication. Earney v. Qiloan, 41 Fla. L. Weekly D2738b (5th DCA 12/9/16)

<http://www.5dca.org/Opinions/Opin2016/120516/5D16-941.op.pdf>

CHILD CUSTODY-MODIFICATION: Court erred by entering ex parte emergency motion modifying temporary timesharing without notice to father, nor doing so on basis of unsworn guardian ad litem report. Bahl v. Bahl, 41 Fla. L. Weekly D2727b (2nd DCA 12/9/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/December/December%2009,%202016/2D16-2459.pdf

CHILD SUPPORT-CONTEMPT: Court erred by finding that the Father had ability to pay based on his assets. The law does not require liquidation of capital assets to satisfy support obligations. Nation v. Boling, 41 Fla. L. Weekly D2725c (1st DCA 12/8/16)

https://edca.1dca.org/DCADocs/2016/0829/160829_DC13_12082016_104953_i.pdf

COMPETENCY OF DEFENDANT: Court erred by denying defense counsel's request for competency hearing where there were reasonable grounds to question defendant's competence. Moore v. State, 41 Fla. L. Weekly D2702a (1st DCA 12/5/16)

https://edca.1dca.org/DCADocs/2015/4848/154848_DC13_12052016_085108_i.pdf

CHILD CUSTODY: Court may properly include in final judgment a provision prohibiting Father from discussing any religious matters during visitation with children where evidence supported that the father's actions motivated by religious views were harmful to the children. Koch v. Koch, 41 Fla. L. Weekly D2701c (1st DCA 12/5/16)

https://edca.1dca.org/DCADocs/2016/0478/160478_DC05_12052016_094524_i.pdf

ALIMONY: Court must not consider former wife's voluntary support of her grandchildren from another relationship as part of her need for alimony. Harris v. Harris, 41 Fla. L. Weekly D2698a (5th DCA 12/2/16)

<http://5dca.org/Opinions/Opin2016/112816/5D15-3993.op.pdf>

EQUITABLE DISTRIBUTION: Court must not consider one half the marital portion of the appreciation in value of the former wife's house as an asset of the former husband where the former wife was awarded sole ownership of the house. Harris v. Harris, 41 Fla. L. Weekly D2698a (5th DCA 12/2/16)

<http://5dca.org/Opinions/Opin2016/112816/5D15-3993.op.pdf>

ALIMONY-OVERPAYMENT: Former husband's motion to terminate alimony and finding that wife received overpayments must be made by supplemental petition, not by motion. Clark v. Clark, 41 Fla. L. Weekly D2687a (1st DCA 12/1/16)

https://edca.1dca.org/DCADocs/2016/2241/162241_DC13_12012016_090054_i.pdf

NOVEMBER 2016

CONTEMPT-CHILD SUPPORT: Father may not be held in contempt for failing to pay child support where no evidence was adduced to the essential issues at the hearing in the case. Alfred v. State, 41 Fla. L. Weekly D2672a (4th DCA 11/30/16)

https://edca.4dca.org/DCADocs/2015/4247/154247_DC13_11302016_085509_i.pdf

DISSOLUTION OF MARRIAGE-MODIFICATION-DUE PROCESS: Court violated due process rights by denying wife the opportunity present evidence of substantial change of circumstances for modification of Final Judgment. Sawaya v. Thompson, 41 Fla. L. Weekly D2665b (4th DCA 11/30/16)

https://edca.4dca.org/DCADocs/2015/0841/150841_DC13_11302016_084211_i.pdf

ABORTION-MINORS: Court did not abuse its discretion by deciding that the minor had failed to demonstrate that waiver of parental notification is in her best interests. Generalized fear of telling her parents is insufficient. In Re: Jane Doe 16-A, 41 Fla. L. Weekly D2655b (1st DCA 11/28/16)

https://edca.1dca.org/DCADocs/2016/5264/165264_DC05_11282016_050318_i.pdf

DEPENDENCY: “A finding of dependency is not a termination, but an opportunity to restore and hopefully repair a family in need of assistance.” L.C.R. v. DCF, 41 Fla. L. Weekly D2639b (3rd DCA 11/23/16)

<http://www.3dca.flcourts.org/Opinions/3D16-1647.pdf>

ALIMONY: Absent a showing of the depletion of marital assets, a party’s adultery is not a valid reason to deny permanent alimony in a 20 year marriage. Keyser v. Keyser, 41 Fla. L. Weekly D2619d (1st DCA 11/21/16)

https://edca.1dca.org/DCADocs/2016/0274/160274_DC08_11212016_015514_i.pdf

DISSOLUTION OF MARRIAGE: Court must address the parties’ responsibility for healthcare expenses for minor children that are not covered by health insurance. Murphy v. Murphy, 41 Fla. L. Weekly D2618a (5th DCA 11/18/16)

<http://5dca.org/Opinions/Opin2016/111416/5D16-189.op.pdf>

APPEALS: In a civil case, where there is neither a transcript nor a stipulated statement of the record no issues not apparent on the face of the record may be considered. Murphy v. Murphy, 41 Fla. L. Weekly D2618a (5th DCA 11/18/16)

<http://5dca.org/Opinions/Opin2016/111416/5D16-189.op.pdf>

RELOCATION: Order allowing relocation is proper notwithstanding lack of strict compliance with service requirements, where opponent to relocation had notice and failed to object. Henderson-Bullard v. Lockard, 41 Fla. L. Weekly D2613a (5th DCA 11/18/16)

<http://5dca.org/Opinions/Opin2016/111416/5D16-1679.op.pdf>

CONTEMPT: Husband was denied due process when trial court found him in indirect civil contempt for failure to comply with court order to disclose all his assets without proper notice in time to prepare a defense. Baldwin v. Baldwin, 41 Fla. L. Weekly D2611b (5th DCA 11/18/16)

41 Fla. L. Weekly D2611a (5th DCA 11/18/16)

<http://5dca.org/Opinions/Opin2016/111416/5D16-1055.op.pdf>

ALIMONY: Court may not modify alimony on the basis of the wife's increased income when that increase was anticipated at the time of the entry of the final judgment. Golson v. Golson, 41 Fla. L. Weekly D2607a (5th DCA 11/18/16)

<http://5dca.org/Opinions/Opin2016/111416/5D16-904.op.pdf>

INJUNCTIONS: Post-dissolution injunction against former wife, enjoining her from being within 100 feet of her minor children at extracurricular and sporting events, was improperly entered without notice in violation of wife's due process rights where none of the motions heard requested injunctive relief.

Gear v. Gear, 41 Fla. L. Weekly D2596a (2nd DCA 11/18/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/November/November%2018,%202016/2D16-1653.pdf

VISITATION: Court may not place restriction on supervised visitation solely in the hands of child's therapist, with whom the mother has no contact. Witt-Bahls v. Bahls, 41 Fla. L. Weekly D2570a (4th DCA 11/16/16)

TERMINATION OF PARENTAL RIGHTS: When one murdered child is found buried in the backyard, parental rights to the remaining children may be terminated as to both parents. B.S. v. DCF, 41 Fla. L. Weekly D2568a (4th DCA 11/16/16)

https://edca.4dca.org/DCADocs/2015/4806/154806_DC05_11162016_085748_i.pdf

DEPENDENT CHILDREN: After finding that one child had suffered abuse and adjudicating that child dependent, trial court abused discretion by failing to

recognize the nexus between the severe abuse of that child and the substantial risk of significant harm to his siblings, and failing to adjudicate the siblings to be dependent children. In the Interest of Guardian ad Litem v. C.H., 41 Fla. L. Weekly D2562c (2nd DCA 11/16/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/November/November%2016,%202016/2D16-2200.pdf

CHILD CUSTODY-LACHES: Father who was incarcerated for 10 years is not barred by laches from challenging temporary custody order giving his child to the maternal grandmother. Laches requires more than delay; it requires undue prejudice to the party against whom the claim is asserted. Tata v. Tata, 41 Fla. L. Weekly D2526a (4th DCA 11/9/16)

https://edca.4dca.org/DCADocs/2016/2420/162420_DC05_11092016_094003_i.pdf

INJUNCTIONS: Motion to terminate/vacate judgment of injunction which alleged facts demonstrating changed circumstances such that the continuation of the injunction would serve no valid purpose was legally sufficient. Peaslee v. Perrine, 41 Fla. L. Weekly D2522c (1st DCA 11/9/16)

https://edca.1dca.org/DCADocs/2015/4059/154059_DC13_11092016_083945_i.pdf

DEPENDENT CHILDREN: Court may declare child dependent as to mother for not attending the child's injuries but a 2nd non-injured child may not be declared dependent. adjudication as to second child. M.C. v. DCF, 41 Fla. L. Weekly D2507a (3rd DCA 11/9/16)

<http://www.3dca.flcourts.org/Opinions/3D16-1114.pdf>

DOMESTIC VIOLENCE INJUNCTIONS: One incident 18 months earlier and general testimony about the Respondent's bad character is insufficient to warrant the domestic violence injunction. Battaglia v. Thompson, 41 Fla. L. Weekly D2501b (2nd DCA 11/9/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/November/November%2009,%202016/2D15-3906.pdf

CHILD SUPPORT-PATERNITY: Putative Father may not contest paternity in DOR action where paternity has already been established by affidavit.

Putative Father must file a separate civil action to contest paternity. Anderson v. DOR, 41 Fla. L. Weekly D2488a (1st DCA 11/9/16)

https://edca.1dca.org/DCADocs/2015/5707/155707_DC05_11092016_085147_i.pdf

GUARDIAN AD LITEM: Although court has discretion to appoint a guardian ad litem for child and legal counsel for child, the guardian ad litem and the legal counsel cannot be the same person. Lopez v. Perez, 41 Fla. L. Weekly D2458a (3rd DCA 11/2/16)

<http://www.3dca.flcourts.org/Opinions/3D16-1013.pdf>

CONTEMPT: Contempt order including a purge amount must identify the assets available to pay the purge. Tivoli v. DOR, 41 Fla. L. Weekly D2453b (4th DCA 11/2/16)

https://edca.4dca.org/DCADocs/2016/0807/160807_DC13_11022016_093713_i.pdf

PLEADING: Court may not modify child support where it is not properly pled. Catchall “any and all relief” is not properly pled. Voorhees v. Voorhees, 41 Fla. L. Weekly D2452b (4th DCA 11/2/16)

https://edca.4dca.org/DCADocs/2015/1608/151608_DC08_11022016_090738_i.pdf

DEPENDENT CHILDREN-NEGLECT: Children may be declared defendant based on them living in a home with an ongoing rat infestation. R.M. v. DCF, 41 Fla. L. Weekly D2451c (4th DCA 11/2/16)

https://edca.4dca.org/DCADocs/2016/1156/161156_DC08_11022016_093952_i.pdf

OCTOBER 2016

DEPENDENT CHILDREN: Court may not adjudicated child dependent based on the father's failure to substantially comply the case plan for older children who were earlier adjudicated dependent. In the Interest of V.L. v. DCF, 41 Fla. L. Weekly D2434a (2nd DCA 10/28/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/October/October%2028,%202016/2D16-1862.pdf

PATERNITY-CHILD CUSTODY-CHILD SUPPORT: New trial is required where there was a twenty-two-month delay between trial and entry of final judgment modifying timesharing, parental responsibility, and child support, final judgment was a nearly verbatim recitation of judgment proposed and furnished ex parte by mother, and final judgment was entered immediately prior to trial judge's retirement. Stanfield v. Marquis, 41 Fla. L. Weekly D2420a (5th DCA 10/28/16)

<http://5dca.org/Opinions/Opin2016/102416/5D15-381.op.pdf>

CHILD CUSTODY-JURISDICTION: Florida is the home state of the child was born in Florida and lived in Florida until the mother moved to New York when the child was less than 2 weeks old. Baker v. Tunney, 41 Fla. L. Weekly D2383a (5th DCA 10/21/16)

DEPENDENT CHILDREN: Court erred in terminating jurisdiction over minor child without proper notice to the father. **In the Interest of D.O. v. DCF**, 41 Fla. L. Weekly D2381b (2nd DCA 10/21/16)

EQUITABLE DISTRIBUTION-SPECIAL EQUITY: Trial court erred in awarding former wife special equity in marital home and beachfront condominium and in failing to follow procedures set forth in equitable distribution statute. Mere recitation that wife should receive special equity based on her contribution of nonmarital funds for down payment was not adequate. As of 2008, special equity is abolished and all claims formerly identified as special equity must be asserted as either a claim for unequal distribution of marital property or enhancement in value of nonmarital

property. Terkeurst v. Terkeurst, 41 Fla. L. Weekly D2346a (2nd DCA 10/14/16)

ALIMONY: Permanent alimony is rebuttably presumed for a long-term marriage. Error to order durational alimony. Berger v. Berger, 41 Fla. L. Weekly D2326a (4th DCA 10/13/16)

TIME-SHARING: No abuse of discretion in awarding 45 minutes per day of videoconferencing time with father. Saucier v. Nowak, 41 Fla. L. Weekly D2339a (5th DCA 10/10/16)

CHILD SUPPORT-DOR: DOR's proceeding should have terminated after Father served DOR with a copy of a filed circuit court petition addressing support obligations. DOR must halt an administrative support proceeding if the parent from whom support is sought files a petition to have the matter heard in circuit court and serves DOR with a copy of the petition within 20 days after being served notice of the administrative support proceeding. Johnson v. DOR, 41 Fla. L. Weekly D2290c (1st DCA 10/7/16)

CHILD CUSTODY-MODIFICATION-ALIENATION: Allegation that former wife attempted to undermine his relationship with the child is insufficient to demonstrate as substantial and material changes circumstances warranting a modification of time-sharing. Korkmaz v. Korkmaz, 41 Fla. L. Weekly D2250b (1st DCA 10/4/16)

CHILD SUPPORT : Court may not hold parties equally responsible for payment of all non-covered medical expenses where the party's income was substantially different and there is no logically established rationale supporting a different allocation. Lupola v. Lupola, 41 Fla. L. Weekly D2249b (1st DCA 10/4/16)

SEPTEMBER 2016

ALIMONY: Court erred in failing to award wife permanent alimony where the marriage was long-term, there is a presumption in favor of permanent alimony, and the husband did not present sufficient evidence to overcome the

presumption. Court erred in basing its findings on the Wife's most recent financial affidavit rather than on her standard of living during the marriage.

Clemens v. Clemens, 41 Fla. L. Weekly D2239d, (5th DCA 9/30/16)

TERMINATION OF PARENTAL RESPONSIBILITY: Court properly terminated parental rights upon finding that it would be harmful to the child to continue the relationship with the incarcerated mother. J.W. v. DCF, 41 Fla. L. Weekly D2231a (2nd DCA 9/28/16)

ATTORNEY'S FEES: Attorney's fees are dischargeable in bankruptcy. Guerra v. State, 41 Fla. L. Weekly D2229a (2nd DCA 9/28/16)

DEPENDENCY: Order placing children in permanent guardianship is deficient without specific findings of necessity or evidentiary basis. In the Interest of C.A. v. DCF, 41 Fla. L. Weekly D2219a (2nd DCA 9/28/16)

DEPENDENT CHILDREN-UNDOCUMENTED IMMIGRANTS: A Child over 18 cannot be adjudicated dependent, and thus appeal is moot. Child is not entitled to Special Immigrant Juvenile Status Appeal is moot. O.I.C.L v. State, 41 Fla. L. Weekly S405a (FLA 9/22/16)

<http://www.floridasupremecourt.org/decisions/2016/sc15-1570.pdf>

TERMINATION OF PARENTAL RIGHTS: Parental rights of one parent should not be terminated unless the rights of both are. Z.R. v. DCF, 41 Fla. L. Weekly D2178a (3rd DCA 9/21/16)

<http://www.3dca.flcourts.org/Opinions/3D16-0833.pdf>

IMPUTED INCOME: Husband should be imputed income based on his voluntary unemployment. Although fired from his previous job, he may know efforts to seek comparable employment. Koscher v. Koscher, 41 Fla. L. Weekly D2161a (4th DCA 9/21/16)

https://edca.4dca.org/DCADocs/2015/2432/152432_DC08_09212016_100935_i.pdf

PATERNITY: A child born to an intact marriage cannot be the subject of a paternity proceeding brought by a biological father. Flynn v. McCraney, 41 Fla. L. Weekly D2159b (1st DCA 9/19/16)

https://edca.1dca.org/DCADocs/2015/5802/155802_DC05_09192016_113002_i.pdf

CONTEMPT: Former husband cannot be held in indirect civil contempt for failing to pay child support where the notice did not contain warning language that if he did not appear at the hearing he could be arrested. Brown v. Blanton-Browne, 41 Fla. L. Weekly D2156a (1st DCA 9/19/16)

https://edca.1dca.org/DCADocs/2016/0679/160679_DC03_09192016_113207_i.pdf

INJUNCTIONS-STALKING: Respondent is denied due process when court entered a permanent injunction against stalking without allowing defendant to present evidence or witness testimony. Ceelen v. Grant, 41 Fla. L. Weekly D2152b (2nd DCA 9/16/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/September/September%2016,%202016/2D15-1696.pdf will

DIVORCE-DUE PROCESS-INCARCERATED PARTY: Where former husband was incarcerated, was permitted to appear at the final hearing by telephone but DOC did not bring him to the phone, Court may not proceed with the hearing without him. Anderson v. Anderson, 41 Fla. L. Weekly D2147a (5th DCA 9/16/16)

<http://5dca.org/Opinions/Opin2016/091216/5D16-888.op.pdf>

EQUITABLE DISTRIBUTION: Husband is allowed credit for partial distribution of marital assets for payment of wife's expert witness prior to entry of the final judgment. Lostaglio v. Lostaglio, 41 Fla. L. Weekly D2146a (5th DCA 9/16/16)

<http://5dca.org/Opinions/Opin2016/091216/5D14-3494.op.pdf>

ALIMONY: Court may award durational alimony for period of ten years commencing on date of final judgment, but must be reconsidered where the Court failed to account for wife's additional post-judgment expenses in form of taxes and insurance and failed to impute any income to the wife. *Lostaglio v. Lostaglio*, 41 Fla. L. Weekly D2146a (5th DCA 9/16/16)

<http://5dca.org/Opinions/Opin2016/091216/5D14-3494.op.pdf>

ALIMONY: Court may consider adultery in awarding alimony only if there is a dissipation of marital assets. *Lostaglio v. Lostaglio*, 41 Fla. L. Weekly D2146a (5th DCA 9/16/16)

<http://5dca.org/Opinions/Opin2016/091216/5D14-3494.op.pdf>

CHILD SUPPORT: Child support should be calculated from the date the former husband moved out of the marital residence, not the date of the filing of the petition for dissolution of marriage. *Liguouri v. Ligouri*, 41 Fla. L. Weekly D2116a (2nd DCA 9/9/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/September/September%2009,%202016/2D14-5844.pdf

MEDICAL EXPENSES: Final Judgment must include a provision for payment of uncovered medical expenses of the children. *Liguouri v. Ligouri*, 41 Fla. L. Weekly D2116a (2nd DCA 9/9/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/September/September%2009,%202016/2D14-5844.pdf

PARENTING PLAN: The parenting plan may differ from that proposed by the parties. *Liguouri v. Ligouri*, 41 Fla. L. Weekly D2116a (2nd DCA 9/9/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/September/September%2009,%202016/2D14-5844.pdf

PATERNITY: Putative son's petition for paternity is properly dismissed as barred by statute of limitations where it was filed more than four years after the Petitioner had attained majority. Amendment to the statute limiting the statute of limitations to paternity determinations in probate proceedings does

not apply retroactively. *Rose v. Sonson*, 41 Fla. L. Weekly D2091a (3rd DCA 9/7/16)

<http://www.3dca.flcourts.org/Opinions/3D15-0371.pdf>

ALIMONY: Court did not abuse discretion in awarding temporary alimony, given wife's need and husband's ability to pay. See Dissent. *Trainor v. Trainor*, 41 Fla. L. Weekly D2069a (4th DCA 9/7/16)

<http://4dca.org/opinions/Sept.%202016/09-07-16/4D16-852.op%20&%20dis.pdf>

ALIMONY: Court may not order bridge-the-gap alimony concurrently with durational alimony, and the final judgment must list the statutory factors in making an award of alimony. *Brezault v. Brezault*, 41 Fla. L. Weekly D2067a (4th DCA 9/7/16)

<http://4dca.org/opinions/Sept.%202016/09-07-16/4D15-2788.op.pdf>

PATERNITY: Where the child was born out of wedlock, the mother later married, the mother and the new husband filed an "Acknowledgment of Paternity," the husband was the child's legal father, provided the Acknowledgment was not fraudulent. The former boyfriend, who biologically is the father, cannot claim paternity. But if the Husband knew he was not the Father, there was fraud, and the boyfriend may claim paternity. *A.D.A. v. D.M.F.*, 41 Fla. L. Weekly D2061a (4th DCA 9/7/16)

<http://4dca.org/opinions/Sept.%202016/09-07-16/4D15-575.rehg.pdf>

ALIMONY: In calculating alimony award, trial court erred in deducting from husband's income a temporary alimony award which was in place only until final hearing. *Bork v. Bork*, 41 Fla. L. Weekly D2058b (1st DCA 9/6/16)

https://edca.1dca.org/DCADocs/2015/4384/154384_DC08_09062016_064450_i.pdf

ATTORNEY'S FEES: Argument of counsel about needed ability to pay attorney's fees is not a proper basis for an award. *Cherry v. Viker*, 41 Fla. L. Weekly D2057a (1st DCA 9/6/16)

https://edca.1dca.org/DCADocs/2016/0689/160689_DC13_09062016_071759_i.pdf

TERMINATION OF PARENTAL RIGHTS: Court is not required to consider a permanent guardianship rather than adoption in order to preserve the parent-child bond and allow the parent to have continued contact with the child, after the grounds for termination of parental rights have been established and the court has determined that reunification with the parent would be harmful to the child. Permanent guardianship shall be considered only after reunification and adoption are not available options. The focus is the State's actions prior to filing the petition, rather than on the consideration of what remains of the bond between parent and child. S.M. v D.C.F., 41 Fla. L. Weekly S362a (FLA 9/1/16)

<http://www.floridasupremecourt.org/decisions/2016/sc15-2127.pdf>

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PATERNITY: Court improperly ordered therapeutic consultation with parties' child. Therapeutic consultation amounted to a compulsory psychological evaluation of the child. Medina v. Haddad, 41 Fla. L. Weekly D2033a (3rd DCA 8/31/16)

<http://www.3dca.flcourts.org/Opinions/3D15-2280.pdf>

DEPENDENCY: Court has continuing jurisdiction over the child when he is in temporary custody in Puerto Rico. DCF v. M.N., 41 Fla. L. Weekly D2028b (3rd DCA 8/31/16)

<http://www.3dca.flcourts.org/Opinions/3D16-1111.pdf>

INJUNCTION-STALKING: Error to enter injunction based upon neighbor waited in his car while Petitioner's wife was outside waiting for the Petitioner. No evidence of maliciousness nor that the conduct cause a reasonable person to feel fear. Klemple v. Gagliano, 41 Fla. L. Weekly D2009a (4th DCA 8/31/16)

<http://4dca.org/opinions/Aug%202016/08-31-16/4D15-4761.op.pdf>

EQUITABLE DISSOLUTION: Credit awarded to wife for tax payments made on real estate commissions that were divided in equitable distribution was excessive where trial court had already allowed wife credit for the same taxes through reduction in value of bank accounts based on wife's use of funds to pay taxes. Sweeney v. Sweeney, 41 Fla. L. Weekly D1997a (2nd DCA 8/31/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/August/August%2031,%202016/2D15-2677.pdf

EQUITABLE DISTRIBUTION: Property separately acquired by the husband , transferred to the wife, then re-transferred to the husband by quitclaim, remains the husband's personal property. By terms of the prenuptial agreement is not subject to equitable distribution. Colino v. Colino, 41 Fla. L. Weekly D1990b (5th DCA 8/26/16)

<http://5dca.org/Opinions/Opin2016/082216/5D15-2567.op.pdf>

ALIMONY: The parties' relative financial position following a criminal distribution should be considered in the award of alimony. Colino v. Colino, 41 Fla. L. Weekly D1990b (5th DCA 8/26/16)

<http://5dca.org/Opinions/Opin2016/082216/5D15-2567.op.pdf>

EQUITABLE DISTRIBUTION: Court may not make parties equally responsible for credit card debts without designating which spouse responsible for payment of them. Ridings v. Ridings, 41 Fla. L. Weekly D1968b (4th DCA 8/24/16)

<http://4dca.org/opinions/Aug%202016/08-24-16/4D15-4103.op.pdf>

ATTORNEY'S FEES: Error to award attorney's fees incurred by father in opposing mother's supplemental modification petition on the ground that the mother's actions were selfish and not in the best interest of the child. Rogers v. Wiggins, 41 Fla. L. Weekly D1947a (2nd DCA 8/24/16)

INJUNCTION-DOMESTIC VIOLENCE: Court erred in granting an injunction based on a series of text messages which frightened Petitioner without

making a finding that it was objectively reasonable for Petitioner to believe she was in danger of imminent harm. Mitchell v. Mitchell, 41 Fla. L. Weekly D1960a (4th DCA 8/24/16)

<http://4dca.org/opinions/Aug%202016/08-24-16/4D15-864.op.pdf>

SERVICE OF PROCESS: Evidence did not establish that father was properly served in Nicaragua where name on delivery receipt differed from name of father, and case manager did not directly and clearly testify that she heard father admit to receiving notice. Case manager's testimony that father admitted that he had been served to one person who told case manager who then testified was inadmissible hearsay. Trial court erred in continuing to hear argument on service issue after having father's counsel removed from courtroom for being disruptive. J.C.O. v. DCF, 41 Fla. L. Weekly D1958a (3rd DCA 8/24/16)

<http://www.3dca.flcourts.org/Opinions/3D16-0320.pdf>

ALIMONY : Court must state the evidentiary basis for the amount of alimony awarded. Shaver v. Shaver, 41 Fla. L. Weekly D1945a (2nd DCA 8/24/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/August/August%2024,%202016/2D15-991.pdf

CHILD CUSTODY-TIMESHARING: Where mediation agreement provided for father to have timesharing with child one weekend a month with parties to agree on weekend during which father will exercise timesharing with thirty days' notice, and for timesharing to occur on the third weekend of the month if the parties are unable to agree, trial court erroneously interpreted mediation agreement to require thirty days' notice for father to exercise timesharing on third weekend of month Steele v. Prince, 41 Fla. L. Weekly D1939b (1st DCA 8/22/16)

https://edca.1dca.org/DCADocs/2016/0074/160074_DC13_08222016_120212_i.pdf

DISSOLUTION OF MARRIAGE-DISCOVERY: Court may not order wife to submit to psychological evaluation without making findings that her mental health was controversy. Further, any order psychological evaluation must identify the length of the examination type of testing. Manubens v. Manubens, 41 Fla. L. Weekly D1933a (5th DCA 8/19/16)

<http://www.5dca.org/Opinions/Opin2016/081516/5D15-4081.op.pdf>

ALIMONY: Where appellate court remanded to trial court for reconsideration of amount of alimony, trial court exceeded scope of mandate by entering amended judgment that changed type of alimony awarded from permanent to durational. Ketcher v. Ketcher, 41 Fla. L. Weekly D1929b (1st DCA 8/18/16)

https://edca.1dca.org/DCADocs/2015/4769/154769_DC08_08182016_021918_i.pdf

INJUNCTION-REPEAT VIOLENCE: Court erred in denying petition for an injunction. Past separate acts of stalking classify as acts of violence warranting issuance of an injunction. Austin v. Echemendia, 41 Fla. L. Weekly D1912a (4th DCA 8/17/16)

<http://www.4dca.org/opinions/Aug%202016/08-17-16/4D15-4607.op.pdf>

LIFE INSURANCE: Court may not require the husband to obtain life insurance as security for alimony without making findings as to the cost of insurance and any special circumstances justifying the need. Palmer v. Palmer, 41 Fla. L. Weekly D1869a (5th DCA 8/12/16)

<http://www.5dca.org/Opinions/Opin2016/080816/5D15-892.op.pdf>

ADOPTION-ABANDONMENT: Court erred in finding that the mother abandoned children when the father and his wife alienated the children from the mother and limited her opportunity for contact with them. N.A.G. v. J.L.G., 41 Fla. L. Weekly D1884a (2nd DCA 8/12/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/August/August%2012,%202016/2D16-1441.pdf

CHILD SUPPORT-MODIFICATION: Trial court lacked jurisdiction to modify former husband's child support obligation based on continued need due to child's mental or physical incapacitation where counter-petition seeking modification was filed after child had reached age of majority. Loza v. Marin, 41 Fla. L. Weekly D1877a (2nd DCA 8/12/16)

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/August/August%2012,%202016/2D15-3235.pdf

EQUITABLE DISTRIBUTION: Court errs in assessing rental income to wife without considering expenses, including mortgage payment. Nguyen v. Nguyen, 41 Fla. L. Weekly D1865b (1st DCA 8/11/16)

https://edca.1dca.org/DCADocs/2015/4451/154451_DC08_08112016_122107_i.pdf

ALIMONY-MODIFICATION: Court may reduce alimony obligation to zero and is not required to award nominal alimony in order to preserve jurisdiction where jurisdiction is otherwise preserved by the Final Judgment. Donovan v. Donovan, 41 Fla. L. Weekly D1825a (1st DCA 8/9/16)

https://edca.1dca.org/DCADocs/2015/3885/153885_DC05_08092016_082529_i.pdf

ATTORNEY'S FEES: After court has determined to award attorney's fees to wife based on significant disparity in non-marital assets, court may not properly deny fees accrued after the wife's rejection of a settlement offer. Conflict certified. Palmer v. Palmer, 41 Fla. L. Weekly D1824b (1st DCA 8/9/16) will

https://edca.1dca.org/DCADocs/2015/3325/153325_DC13_08092016_081701_i.pdf

ATTORNEY'S FEES: Award of attorney's fees to wife reversed where trial court failed to make required findings relating to reasonableness of award. Chandler v. Kibbey, 41 Fla. L. Weekly D1824a (1st DCA 8/9/16)

https://edca.1dca.org/DCADocs/2015/3038/153038_DC08_08092016_081330_i.pdf

CHILD COURT-DEVIATION: Court is required to start from the guideline range child support may vary based on standard of living and needs of the child as well as other factors. The burden of proof is on the parent who seeks a variance. Gross v. Zimmerman, 41 Fla. L. Weekly D1836a (4th DCA 8/10/16)

<http://4dca.org/opinions/Aug%202016/08-10-16/4D14-745.op.WR%20dissent.pdf>

CHILD SUPPORT-EXTRACURRICULAR ACTIVITIES: Court may not order the Father to pay for all extracurricular activities where there is no evidence as to what they are and potential activities are open ended. Gross v. Zimmerman, 41 Fla. L. Weekly D1836a (4th DCA 8/10/16)

<http://4dca.org/opinions/Aug%202016/08-10-16/4D14-745.op.WR%20dissent.pdf>

CHILD SUPPORT-LIFE INSURANCE: Life insurance may not be awarded to secure child support where there is no showing as to the necessity of such. Gross v. Zimmerman, 41 Fla. L. Weekly D1836a (4th DCA 8/10/16)

<http://4dca.org/opinions/Aug%202016/08-10-16/4D14-745.op.WR%20dissent.pdf>

ATTORNEY'S FEES-CHILD SUPPORT: Where the litigation history showed an effort to harass the father, unnecessary fees incurred, and not overly complicated issues, and award of attorney's fees may be limited. Child support "should not be a complicated affair [and] should be done expeditiously and relatively inexpensively." Gross v. Zimmerman, 41 Fla. L. Weekly D1836a (4th DCA 8/10/16)

<http://4dca.org/opinions/Aug%202016/08-10-16/4D14-745.op.WR%20dissent.pdf>

MATERNITY-VENUE: Venue in paternity actions by statute may lie where either the petitioner or respondent reside. Beckford v. Drogan, 41 Fla. L. Weekly D1835b (4th DCA 8/10/16)

<http://4dca.org/opinions/Aug%202016/08-10-16/4D16-947.op.pdf>