Domestic Violence Case Summaries
Civil Cases

Including July 2016 – September 2016 Cases
Presented by the Publications Committee of the
Florida Court Education Council

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October 2016

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***Weimorts v. Shockley*, 47 So. 3d 386 (Fla. 1st DCA 2010)** 146
***Hill v. Fields*, 813 So. 2d 212 (Fla. 2d DCA 2002)** 147

***Ceelen v. Grant*, __ So. 3d __, 2016 WL 4944103 (Fla. 2d DCA 2016)**
A couple lived together for seven years before breaking up. The girlfriend filed a petition for protection against stalking after the boyfriend forced her out of their home and made more than 200 harassing and threatening phone calls and text messages to her and her family. The circuit court entered an ex parte temporary injunction and then held an evidentiary hearing on the petition. At the hearing the boyfriend tried to introduce copies of the texts, claiming they were well meaning, and tried to call a witness, but the court refused to admit his evidence, holding that "it was irrelevant in light of the sheer number of calls." The boyfriend appealed, and the appellate court reversed and remanded, holding that he was not afforded due process.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/September/September%2016,%202016/2D15-1696.pdf

***Klemple v. Gagliano*, __ So. 3d __, 2016 WL 4539610 (Fla. 4th DCA 2016)**
Neighbors filed petitions for injunctions for protection against stalking against each other, and the court issued both injunctions. One neighbor appealed, stating that the evidence was insufficient to establish that he followed or harassed the other neighbor. The appellate court reversed, noting that there was not competent, substantial evidence to support the injunction. The behavior described during the hearing did not constitute following or harassment as described in the statute. Further, the evidence that was admitted was based on hearsay and speculation.
http://www.4dca.org/opinions/Aug%202016/08-31-16/4D15-4761.op.pdf

***Mitchell v. Mitchell*, __ So. 3d __, 2016 WL 4445936 (Fla. 4th DCA 2016)**
The trial court issued a final judgment of injunction for protection against domestic violence based upon several text messages that the petitioner provided and the court admitted into evidence. The respondent appealed, stating that the text messages were incomplete and missing portions of the conversation. He also claimed that the trial court applied the incorrect standard and that the evidence did not support the injunction. The appellate court agreed and reversed, stating that the petitioner did not have an objective fear of imminent harm.
http://www.4dca.org/opinions/Aug%202016/08-24-16/4D15-864.op.pdf

***Austin v. Echemendia*, __ So. 3d __, 2016 WL 4382557 (Fla. 4th DCA 2016)**
The petitioner sought an injunction for protection against repeat violence. She testified that the respondent choked her multiple times and threatened to kill her, choked her on another occasion and threw her to the ground, called her 28 times on one occasion and about 30-40 times during the month, left pictures of her house, texted her, followed her when she was with co-workers, and threatened to slash her tires. The petitioner also testified that the respondent blocked her from leaving work with her car, banged on her car doors, and threatened her. The court denied the injunction, stating that there was no physical violence, but that the petitioner could re-file under a different form of petition, such as stalking. The petitioner appealed, and the appellate court reversed, stating that she had clearly established two incidents of violence, as the statute required, when she testified about the two choking incidents, and that the trial court "overlooked the fact that stalking can constitute an act of repeat violence under the statute."
http://www.4dca.org/opinions/Aug%202016/08-17-16/4D15-4607.op.pdf

***Department of Children and Families v. J.D.*, __ So. 3d __, 2016 WL 4180212 (Fla. 5th DCA 2016)**
After the mother's boyfriend allegedly raped her seven-year-old child, DCF sought temporary and permanent injunctive relief prohibiting him from having contact with the child. But the trial court dismissed the case , holding that it did not have jurisdiction "because there was not an open dependency case." DCF appealed, and the appellate court reversed, holding that the circuit court had jurisdiction under section 39.504, Florida Statutes, and noting that while a circuit court's jurisdiction attaches when a petition for an injunction to prevent child abuse is filed, "an open dependency case is not required to entertain and issue section 39.504 injunctions."
http://www.5dca.org/Opinions/Opin2016/080116/5D16-1739.op.pdf

***Hall v. Lopez*, __ So. 3d __, 2016 WL 4036093 (Fla. 1st DCA 2016)**
The appellee was awarded a temporary injunction for protection against repeat violence, and the appellant filed a motion for attorney's fees and sanctions against the appellee and her attorney. The appellee voluntarily dismissed the action, and the trial court then held a hearing and denied appellant's motion for attorney's fees under section 57.105, Florida Statutes. The appellant appealed, and the appellate court reversed, noting that while section 784.046, Florida Statutes, does not authorize an award of attorney's fees, fees are allowed pursuant to section 57.105, Florida Statutes, in civil cases. The court stated that "[g]iven the absence of a statutory provision providing that an award of attorney's fees pursuant to section 57.105 is not permissible in a Chapter 784 (or Chapter 741) proceeding, and in light of the language in section 57.105 that its provisions apply to civil proceedings/actions and are supplemental to other sanctions/remedies," an award of attorney's fees is allowed. But it certified conflict with the Fifth District and the Third District.
https://edca.1dca.org/DCADocs/2015/0531/150531_DC13_07282016_083529_i.pdf

***Chizh v. Chizh*, __ So. 3d __, 2016 WL 3747112 (Fla. 4th DCA 2016)**
The trial court summarily denied a petition for an injunction against domestic violence. The appellate court reversed and remanded with instructions that the trial court either enter an order explaining how the petition was insufficient or hold a hearing on the petition.
http://www.4dca.org/opinions/July%202016/07-13-16/4D16-1176.op.pdf

Abuse of Discretion

***Richards v. Crowder*, 191 So. 3d 524 (Fla. 4th DCA 2016)**
A petitioner got an injunction for protection against stalking against a former boyfriend. The former boyfriend then hired an attorney and filed a motion for relief from the judgment, alleging that he had low-to-average intelligence and that his verbal and comprehension deficits left him unable to understand the temporary injunction imposed before the final injunction or the notice of evidentiary hearing that he received. The trial court denied the motion, and the boyfriend appealed. The appellate court reversed, stating that the trial court abused its discretion by not allowing the boyfriend a hearing on his motion. The court also noted that "Florida courts have recognized that illness or psychological conditions, as well as difficulties with reading and comprehending, can form the basis of a finding of excusable neglect warranting relief from judgment."
http://www.4dca.org/opinions/May%202016/05-10-16/4D15-4034.op.pdf

***Nettles v. Hoyos*, 138 So. 3d 593 (Fla. 5th DCA 2014)**
A female police officer filed a petition for an injunction for protection against stalking against a male police officer. The respondent attempted to engage in discovery, but the petitioner filed a motion for a protective order, and the court granted the motion and quashed all of the respondent's discovery requests. The respondent then filed a petition for writ of certiorari. The appellate court granted the petition and held that the trial court could not completely deny the respondent the opportunity to conduct discovery. The court also noted that the court must balance the need to expedite the hearing with the parties' due process rights, and that while the trial court had discretion to limit the time frame and nature of discovery on a case-by-case basis, it abused its discretion under the circumstances.
http://www.5dca.org/Opinions/Opin2014/050514/5D14-683.op.pdf

***Barbieri v. Muller*, 124 So. 3d 320 (Fla. 5th DCA 2013)**
The petitioner appealed the order dissolving her permanent injunction for domestic violence protection against her former boyfriend. The appellate court reversed because the petitioner correctly argued "that the trial court abused its discretion in dissolving the injunction by reweighing the evidence supporting the initial injunction rather than finding a change in circumstances since the injunction was issued."
http://www.5dca.org/Opinions/Opin2013/093013/5D13-1605.op.pdf

***Smith v. Smith*, 964 So. 2d 217 (Fla. 2d DCA 2007)**
The husband appealed the entry of a permanent injunction against domestic violence, claiming that his due process rights were violated when he was not allowed to testify or call witnesses prior to the entry of the final order. Initially, the trial court held a 45-minute hearing at which the wife presented testimony and evidence; the husband was prepared and had witnesses ready to testify, but the hearing was continued. At the subsequent hearing, the wife again was given the opportunity to testify and call witnesses. During the cross-examination of the wife, the court unexpectedly halted the proceedings and entered the injunction. Again, the husband had his witnesses ready to testify, but the only time he actually spoke was when he was asked about visitation. While the wife argued that the court had broad authority to control its docket and that the husband's trial strategy "wasted his allocation of time," the district court found the trial court abused its discretion in not allowing the husband adequate time to present his case. Due process should be afforded to both sides, and in the instant case the record reflected that the husband did not receive the opportunity to be heard. The district court reversed and vacated the permanent injunction.
http://www.2dca.org/opinion/August%2024,%202007/2d06-3353.pdf

***Bierlin v. Lucibella*, 955 So. 2d 1206 (Fla. 4th DCA 2007)**
An alleged stalker appealed the denial of motions for attorney's fees in a repeat violence case. The appellee had filed suit against the appellant, alleging that the appellant had directed mail and other published material to his house over a period of six months. The appellant filed several motions to dismiss the injunction for failure to state a cause of action. After the fourth amended complaint, the court dismissed the case for failure to state a cause of action and noncompliance with pleading requirements, and the appellant sought attorney's fees. The trial court denied the appellant's motion because it found the appellee's complaints not to be completely frivolous. On appeal, the court found that the trial court abused its discretion in denying attorney's fees because the case involved more than dismissal for failure to state a cause of action; "it involved a dismissal for failure to state a case of action after four nearly identical attempts to do so and without presenting a justiciable issue of fact or law." The court reversed the denial of the attorney's fees and remanded.

***Schmitz v. Schmitz*, 890 So. 2d 1248 (Fla. 4th DCA 2005)**
The petitioner sought judicial review of the trial court's final order permitting the testimony of a court psychologist at a hearing for a temporary injunction against domestic violence. The Fourth District reversed and remanded, finding the court had erred as doing so denied the petitioner due process and was an abuse of discretion. The psychologist's testimony, based on her 35-page single-spaced report submitted the day before the hearing, recommended the child be removed from the mother's custody. The district court held that the extraordinary circumstances required to find an emergency warranting a transfer of custody were not present.

Amendment of Petition

***Vaught v. Vaught*, 189 So. 3d 332 (Fla. 4th DCA 2016)**
The wife filed a petition for protection against domestic violence, alleging stalking and destruction of personal property. The trial court advised her that the allegations were not sufficient for a temporary injunction, so she filed a supplemental affidavit in support of the petition, alleging acts of physical abuse by her husband. The court then granted the temporary injunction and set a hearing. The husband appeared pro se and claimed he had received the additional affidavit only a few days before and requested a continuance. The court denied the request and ultimately granted the petition, and the husband appealed on due process grounds. The appellate court reversed, stating that the trial court erred in denying the husband's motion for a continuance because the notice of hearing on the new and supplemental allegations was provided only three business days before the final hearing.
http://www.4dca.org/opinions/April%202016/04-20-16/4D14-3699.op.pdf

***Simpson v. City of Miami*, 700 So. 2d 87 (Fla. 3d DCA 1997)**
A murder was committed by a person who was the subject of a domestic violence injunction, who had been placed in a police cruiser by a law enforcement officer dispatched to the victim's home after the victim called the police department, and was then released after he promised the officer he would leave the victim alone. The victim's family filed a wrongful death action, which the trial court dismissed with prejudice. The appellate court reversed, stating that if the officer's act of securing the domestic violence injunction violator constituted an arrest, "the officer had *no* discretion under sovereign immunity principles to release" him, but rather the violator must be "*held in custody until brought before the court.*" On remand, the plaintiff was given leave to amend her complaint to allege an arrest.

Appellate Review

***Colin v. Colin*, 146 So. 3d 112 (Fla. 5th DCA 2014)**
The husband appealed the entry of an injunction for domestic violence against him and the amount of child support he was ordered to pay. The appellate court found that there was sufficient evidence to support the injunction and affirmed. It also noted that two issues, including child support, were not preserved for their consideration, and stated that a party cannot appeal "inadequate findings in a dissolution case unless the alleged defect was brought to the trial court's attention in a motion for rehearing."
http://www.5dca.org/Opinions/Opin2014/082514/5D13-3314.op.pdf

***Pryor v. Pryor*, 141 So. 3d 1279 (Fla. 1st DCA 2014)**
The respondent appealed an order that extended a temporary injunction for protection against domestic violence which, even as extended, had expired by the time of the court's review. The court vacated the original order and the temporary injunction and dismissed the appeal due to the "collateral legal consequences that flow from" domestic violence injunctions. The court noted that while the statute does allow the court to issue a continuance for good cause, the court may not issue a series of temporary injunctions in lieu of a permanent injunction.
https://edca.1dca.org/DCADocs/2013/6070/136070_DA08_07222014_084641_i.pdf

***S.E.R. v. J.R.*, 803 So. 2d 861 (Fla. 4th DCA 2002)**
Petitioners, a child and grandmother, sought certiorari review of the circuit court's order denying their motion to dismiss underlying domestic violence injunction proceedings. In those proceedings, the circuit court below entered a temporary award of custody. Petitioners moved to dismiss the injunction proceedings based on the pendency of a dependency case in another county, in which a contradictory custody order was entered. Petitioners argued, and respondent agreed, that precedence is given to the custody order in the dependency case. However, the district court dismissed the petition, holding that the petitioners failed to establish that the circuit court's denial of their motion to dismiss underlying domestic violence proceedings caused them irreparable harm, as required for certiorari review. The test for irreparable harm is set forth in *Bared & Co., Inc. v. McGuire*, 670 So. 2d 153, 156 (Fla. 4th DCA 1996).

***Wehbe v. Uejbe*, 744 So. 2d 572 (Fla. 3d DCA 1999)**
In a case in which the appellant and appellee were half-brothers who each filed for an injunction for protection against domestic violence against the other, the district court held that the issue of whether it was error for the trial court judicial notice of testimony presented in the appellee's case without making such testimony a part of the record not preserved for appellate review because it was never raised as an objection before the trial court. There was also no abuse of discretion by the trial court in denying the oral motion for disqualification and request for a new trial when raised at the conclusion of the hearing. The concurring opinion noted that a motion for disqualification is not properly used to express disagreement with the trial court's rulings.

Attorney's Fees

***Hall v. Lopez*, __ So. 3d __, 2016 WL 4036093 (Fla. 1st DCA 2016)**
The appellee was awarded a temporary injunction for protection against repeat violence, and the appellant filed a motion for attorney's fees and sanctions against the appellee and her attorney. The appellee voluntarily dismissed the action, and the trial court then held a hearing and denied appellant's motion for attorney's fees under section 57.105, Florida Statutes. The appellant appealed, and the appellate court reversed, noting that while section 784.046, Florida Statutes, does not authorize an award of attorney's fees, fees are allowed pursuant to section 57.105, Florida Statutes, in civil cases. The court stated that "[g]iven the absence of a statutory provision providing that an award of attorney's fees pursuant to section 57.105 is not permissible in a Chapter 784 (or Chapter 741) proceeding, and in light of the language in section 57.105 that its provisions apply to civil proceedings/actions and are supplemental to other sanctions/remedies," an award of attorney's fees is allowed. But it certified conflict with the Fifth District and the Third District.
https://edca.1dca.org/DCADocs/2015/0531/150531_DC13_07282016_083529_i.pdf

***Fernandez v. Wright*, 111 So. 3d 229 (Fla. 2d DCA 2013)**
The mother filed a petition for modification of child support, and the father filed a motion requesting attorney's fees, additional time sharing, and enforcement of the previous court order. The mother had previously filed three petitions for an injunction for protection against domestic violence that were not a part of this family law case. The court ordered a modification to the parenting plan and awarded the father attorney's fees for the family law case and the domestic violence cases, and the mother appealed. The appellate court held that the trial court abused its discretion in awarding attorney's fees to the father for work related to the domestic violence petitions because the domestic violence statute does not allow an award of attorney's fees in domestic violence cases.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2013/April/April%2010,%202013/2D12-849.pdf

***Dudley v. Schmidt*, 963 So. 2d 297 (Fla. 5th DCA 2007)**
The appellant appealed the trial court's ruling denying him attorney's fees in a repeat violence case in which the appellee allegedly used false statements to obtain a temporary injunction. The district court affirmed, holding that there was no basis for the imposition of attorney's fees in repeat violence injunction cases.

***Bierlin v. Lucibella*, 955 So. 2d 1206 (Fla. 4th DCA 2007)**
An alleged stalker appealed the denial of motions for attorney's fees in a repeat violence case. The appellee had filed suit against the appellant, alleging that the appellant had directed mail and other published material to his house over a period of six months. The appellant filed several motions to dismiss the injunction for failure to state a cause of action. After the fourth amended complaint, the court dismissed the case for failure to state a cause of action and noncompliance with pleading requirements, and the appellant sought attorney's fees. The trial court denied the appellant's motion because it found the appellee's complaints not to be completely frivolous. On appeal, the court found that the trial court abused its discretion in denying attorney's fees because the case involved more than dismissal for failure to state a cause of action; "it involved a dismissal for failure to state a case of action after four nearly identical attempts to do so and without presenting a justiciable issue of fact or law." The court reversed the denial of the attorney's fees and remanded.

***Geiger v. Schrader*, 926 So. 2d 432 (Fla. 1st DCA 2006)**
The appellate court further dismissed this appeal from an order modifying a visitation schedule in an injunction for protection against domestic violence with the minor child, because the injunction had already expired. There is no provision for award of attorney's fees in a section 741.30, Florida Statutes, proceeding. *See Lewis v. Lewis*, 689 So. 2d 1271 (Fla.1st DCA 1977). Therefore, the district court dismissed the cross-appeal as well.

***Cisneros v. Cisneros*, 831 So. 2d 257 (Fla. 3d DCA 2002)**
Regardless of the fact that the domestic violence injunction against the respondent was reversed by the Third District on appeal, no attorney's fees could be awarded based on section 57.105, Florida Statutes (frivolous or bad-faith lawsuit), for either the trial level or appellate level proceedings.

***Lewis v. Lewis*, 689 So. 2d 1271 (Fla. 1st DCA 1997)**
It was error to enter a permanent injunction and award the wife temporary custody of the children without providing an adequate hearing as required by the domestic violence statute and Family Law Rules of Procedure. The law requires custody to be addressed at the permanent injunction hearing on the same basis as provided in chapter 61, Florida Statutes. The domestic violence statute requires a full evidentiary hearing prior to issuing a permanent injunction. The trial court erred in not allowing testimony from witnesses who were present or cross-examination of the parties. The wife's request for appellate attorney's fees was denied. Neither the domestic violence statute nor rule 9.400, Florida Rules of Appellate Procedure, provides authority for granting attorney's fees. Section 61.16(1), Florida Statutes, providing for attorney's fees for maintaining or defending proceedings under chapter 61, does not apply to chapter 741, Florida Statutes, proceedings as domestic violence proceedings are independent of dissolution of marriage proceedings. Note: the court stated, "[W]e are not unaware that many of the public policy reasons for granting attorney's fees in a chapter 61 proceeding exist in a domestic violence proceeding. This is a matter, however, that should be dealt with by the Legislature rather than the courts."

***Baumgartner v. Baumgartner*, 693 So. 2d 84 (Fla. 2d DCA 1997)**
It was an error to award attorney's fees in an action to obtain an injunction for protection against domestic violence pursuant to section 741.30, Florida Statutes. There is no statutory authority for an award of attorney's fees in a chapter 741 proceeding. "[T]he statute clearly contemplates a streamlined *pro se* proceeding."

Conditions Court May Order

***Smith v. Wiker*, 192 So. 3d 603 (Fla. 2d DCA 2016)**
A petitioner got a stalking injunction against a neighbor that included a provision that "[t]he Respondent may travel on his driveway to enter and leave his property but may not linger on his driveway. The Respondent is permitted to continue to live in his home but shall have no contact w/the Petitioner." The injunction also required the respondent to remove the cameras bordering the petitioner's property within ten days and allowed the respondent to be on his driveway for that ten-day period in order to comply with the injunction. The appellate court affirmed the injunction, but reversed the portion of the order that required the respondent to stay off of his own driveway. The court ruled that this provision was overbroad because it included both behavior that could constitute stalking, and legal behavior that should have been permitted.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/May/May%2025,%202016/2D14-3341.pdf

***Thoma v. O'Neal*, 180 So. 3d 1157 (Fla. 4th DCA 2015)**
The petitioner, an employee of an abortion clinic, was issued a stalking injunction against the respondent after the latter made derogatory comments towards her, followed her in his car after work, and circulated a flyer concerning the petitioner in the petitioner's former neighborhood. The respondent appealed, claiming that the definition of stalking "specifically excludes constitutionally protected activity such as protesting, and . . . there was no evidence of a 'course of conduct,' since there was only testimony regarding one incident of alleged following." But the appellate court noted that "[b]oth arguments are premised on the contention the flyer [the respondent] developed and distributed to the Victim's home was protected speech. We disagree that the flyer being sent to the Victim's home was protected speech and agree with the trial court that sending the flyer to the Victim's home was an incident of harassing behavior." The respondent also challenged, as overly broad and infringing on his First Amendment rights, conditions the trial court had imposed as part of the injunction, but the appellate court noted that that issue was moot because the injunction had expired.

http://www.4dca.org/opinions/Dec.%202015/12-09-15/4D14-3459.op.pdf

***Martinez v. Izquierdo*, 166 So. 3d 947 (Fla. 4th DCA 2015)**
The respondent appealed an injunction for protection against domestic violence with minor child. The appellate court upheld the injunction because there was sufficient evidence that the petitioner "had an objectively reasonable cause to believe that she was in imminent danger of becoming the victim of an act of domestic violence." But the court reversed the provision of the injunction that required the respondent to surrender his ammunition and firearms under section 790.233(1), Florida Statutes, since he is a law enforcement officer.
http://www.4dca.org/opinions/June%202015/06-17-15/4D14-4501.op.pdf

***Touchet v. Jones*, 135 So. 3d 323 (Fla. 5th DCA 2013)**
A petitioner filed for an injunction against domestic violence against her partner in a same-sex relationship, alleging that the respondent had physically attacked her. The respondent filed a reciprocal petition for protection against domestic violence against her partner, and the court heard the two petitions simultaneously. The trial court granted the initial petition and found an overwhelming amount of evidence in favor of the initial petitioner. The trial court then ordered the respondent to complete a certified batterers' intervention program and to undergo evaluations for both substance abuse and mental health, and also ordered the petitioner to obtain psychological evaluations for herself and her son to specifically address the issue of why the petitioner kept going back to the respondent. The petitioner filed a motion for stay pending appeal, and the trial court denied the motion. The trial court then issued an order of contempt threatening to incarcerate the petitioner if she did not comply with the order within 30 days. The petitioner appealed the part of the order that required her to obtain the psychological evaluations and argued that the trial court erred by including this in the order. The appellate court agreed. Although section 741.30(6)(a), Florida Statutes, allows the court to order a respondent to participate and pay for treatment, intervention, or counseling services, there was no authority under the statute to order the petitioner to undergo an evaluation. The court also noted that the statute is designed to protect victims of domestic violence, and "[r]equiring a victim of domestic violence to undergo a psychological evaluation would impose a substantial financial and emotional burden on the victim and would have a chilling effect on victims of domestic violence seeking the protection of the courts." Therefore, the court reversed the portion of the order requiring the petitioner to get the evaluations.
http://www.5dca.org/Opinions/Opin2013/081213/5D12-4088.op.pdf

***McCall v. Martin*, 34 So. 3d 121 (Fla. 4th DCA 2010)**
The father was convicted of domestic violence against his wife and sentenced to prison. However, the court declined to make any provision in the final judgment of dissolution of marriage for the father's share of child support, stating he would have no monthly income while incarcerated. The appellate court reversed, stating that the father's criminal conviction and resulting incarceration were not valid reasons to deny setting an amount of support attributable to him based on imputed income. The court held that income should have been imputed to the father so that the arrearages can accumulate until he is able to earn an income.
http://www.4dca.org/opinions/Apr%202010/04-21-10/4D08-3912.op.pdf

***Chacoa v. Mahon*, 970 So. 2d 909 (Fla. 1st DCA 2007)**
The petitioner in a domestic violence permanent injunction case sought review of the portion of the court's order that required her to attend a batterers' intervention course. As a result of the plain language of section 741.30, Florida Statutes (2007), which does not authorize a court to order petitioners to a batterers' intervention program, the district court vacated that portion of the court's order and remanded with directions to have it stricken from the final order of protection.
http://opinions.1dca.org/written/opinions2007/12-26-07/07-3139.pdf

***Langner v. Cox*, 826 So. 2d 475 (Fla. 1st DCA 2002)**
The respondent appealed the final judgment in this repeat violence action in which he was prohibited from using or possessing firearms or ammunition. The district court held that the court can order the

respondent to surrender firearms if a permanent injunction for repeat violence is entered and the court finds it necessary to protect the petitioner, but that the trial court must allow the presentation of evidence, as part of the hearing for final judgment, in determining whether surrender of the firearms is necessary.

***Roman v. Lopez*, 811 So. 2d 840 (Fla. 3d DCA 2002)**
The petitioner in a domestic violence injunction case was ordered to attend parenting classes and appealed. Section 61.13(4)(c)(2), Florida Statutes, in conjunction with section 741.30(6)(a)(3), Florida Statutes, grants the court the authority to order the custodial parent to attend parenting classes, so the district court affirmed.

Confidentiality

***In re Amendments to Florida Rules of Judicial Admin.*, 132 So. 3d 1114 (Fla. 2014)**
The Florida Supreme Court's Steering Committee on Families and Children in the Court proposed amendments to rule 2.545(d), Florida Rules of Judicial Administration, which were approved by the supreme court. The changes added a stalking injunction to the definition of "family case" and made other changes "to ensure that all of the necessary parties, attorneys, and judges involved in a family case receive proper notification of related family cases." The Steering Committee also proposed five new Family Law Rules of Procedure, which were also approved. The new rules provide for coordination of related family cases and hearings and require courts to assign related family cases to a single judge unless it is deemed impractical. They also govern judges' and parties' access to and review of confidential files in related cases and provide that confidentiality of a case or issue is not waived by coordination or joint hearings. The supreme court also noted its support for the unified family court model.
http://www.floridasupremecourt.org/decisions/2014/sc12-2007.pdf

***In re Amendments to Florida Rule of Judicial Administration 2.420 and the Florida Rules of Appellate Procedure*, 31 So. 3d 756 (Fla. 2010)**
The supreme court amended rule 2.420, Florida Rules of Judicial Administration, and various rules of appellate procedure to provide comprehensive procedures for identifying and segregating confidential information in court records, sealing and unsealing court records, and reviewing orders issued under rule 2.420 (Public Access to Judicial Branch Records). The revisions clarified which records are confidential and may not be released except as provided, including the provision that keeps the petitioner's address confidential in domestic violence cases.
http://www.floridasupremecourt.org/decisions/2010/sc07-2050.pdf

Contempt (Violation of Injunction)

***Hawxhurst v. State*, 159 So. 3d 1012 (Fla. 3d DCA 2015)**
Although primarily a criminal case revolving around a charge of possession of cocaine, the court noted that section 901.15(6), Florida Statutes, authorizes law enforcement to perform an arrest without a warrant when there is probable cause to believe that the person has committed a criminal act which violates an injunction for protection against domestic violence.
http://www.3dca.flcourts.org/Opinions/3D13-0527.pdf

***Sauriol v. Sauriol*, 79 So. 3d 204 (Fla. 2d DCA 2012)**
The respondent appealed an order holding him in contempt for sending an email to his wife in violation of a domestic violence injunction. The court reversed the order because it was not a proper order of civil contempt, but rather punished the respondent as a criminal contempt order would do. Civil contempt orders are used to coerce the respondent into compliance, or to compensate the petitioner.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/February/February%2010,%202012/2D09-4346.pdf

***Costanzo v. Costanzo*, 941 So. 2d 1211 (Fla. 3d DCA 2006)**
The appellant brother appealed the circuit court's order that denied his renewed motion for dissolution of the injunction issued to the appellee sister. Additionally, the trial court granted the sister's motion to show cause why the brother should not be held in contempt for violating the injunction. On appeal, the brother argued that his sister was never entitled to a domestic violence injunction because she does not fall within one of the categories of protected persons since they had not lived together for several years. Relying on a case with a similar contention by an appellant, which held that a sibling can be granted a permanent injunction despite not having lived with the other sibling for 40 years, the district court rejected the brother's argument and found that the sister could be afforded the protections of a domestic violence injunction. *See Rosenthal v. Roth*, 816 So. 2d 667 (Fla. 3d DCA 2002). Moreover, the brother argued that the sister failed to assert sufficient allegations of violence in the petition. The appellate court disagreed and held that the brother's verbal threats of physical harm and the act of placing her in a headlock were sufficient to satisfy the statute. In regard to the motion to show cause, the brother's admissions at the trial level were sufficient to find he violated the injunction. Therefore, the district court affirmed the circuit court's ruling, and the permanent injunction remained in effect. The court reiterated that, although to obtain an extension of a domestic violence injunction the movant must present evidence of a continuing reasonable fear, here the sister had not moved to extend the injunction; rather, the brother had sought to dissolve it.

***Tide v. State*, 804 So. 2d 412 (Fla. 4th DCA 2001)**
When a respondent is charged with indirect criminal contempt for a violation of a repeat violence injunction, the court may not shift the burden to the respondent to prove his innocence. The court held that to do so is a violation of the respondent's due process rights (relying on *Feltner v. Columbia Pictures Television*, *Inc.,* 789 So. 2d 453 (Fla. 4th DCA 2001)).

***Schmidt v. Hunter*, 788 So. 2d 322 (Fla. 2d DCA 2001)**
The defendant claimed that polygraph examination results were incorrectly admitted at a contempt hearing for violation of a domestic violence injunction. The final hearing was not reported, and the defendant had presented "a facially sufficient claim of error that cannot be refuted by the record"; therefore, the adjudication of contempt was in accordance with *Blalock v. Rice*, 707 So. 2d 738, 739 (Fla. 2d DCA 1997), and Florida Rules of Criminal Procedure.

Costs

***Hasey v. Metzger*, 72 So. 3d 817 (Fla. 4th DCA 2011)**
The appellant timely appealed the summary denial of his motion for costs after the appellee's voluntary dismissal of her petition for an injunction against domestic violence. The appellate court reversed and remanded for the trial court to hold an evidentiary hearing on the appellant's motion for costs.
http://www.4dca.org/opinions/Nov%202011/11-02-11/4D10-3356.op.pdf

***Harrison v. Francisco*, 844 So. 2d 239 (Fla. 2d DCA 2004)**
The trial court erred in summarily denying the respondent's motion for taxation of costs following the petitioner's voluntary dismissal of a petition for an injunction for protection against domestic violence. The district court held that although an award of costs is left to the discretion of the trial court, the trial court must determine in a hearing, after argument and the presentation of evidence by both sides, which expenses would have been reasonably necessary for an actual trial. The case was reversed and remanded for an evidentiary hearing on the motion for costs.

Dependency

***S.S. v. Department of Children and Families*, 81 So. 3d 618 (Fla. 1st DCA 2012)**
An order of dependency based on a finding of substantial risk impending harm to the children was reversed where there was no showing that domestic violence occurred when the children were home, or that they were aware of the violence. The evidence of abuse of alcohol and illegal substances was also found to be unsubstantiated and insufficient to prove that the mother's ability to care for her children or maintain employment was impaired, especially when the children appeared to be cared for and there was no testimony that they suffered physical, mental, or emotional harm because of the mother's alcohol and drug use.
http://opinions.1dca.org/written/opinions2012/03-09-2012/11-5977.pdf

***J.F. v. Department of Children and Families*, 64 So. 3d 199 (Fla. 4th DCA 2011)**
The district court affirmed the trial court's dependency adjudication of appellant's child after the trial court found that appellant had neglected the child through domestic violence. Appellant did not provide the portion of the trial transcript at which the issue of domestic violence was litigated, but contended that the order itself showed that the court erred. According to the order, several instances of domestic violence between the mother and the father occurred in the presence of the child, which can constitute evidence of neglect.
http://www.4dca.org/opinions/July%202011/07-06-11/4D11-249.op.pdf

***C.K. v. Department of Children and Families*, 65 So. 3d 1179 (Fla. 5th DCA 2011)**
The district court affirmed the trial court's final judgment terminating appellant's (the mother's) parental rights to the child, who was originally sheltered at age fourteen months following allegations of substance abuse and domestic violence. The child was adjudicated dependent in October of 2009 and a case plan was entered with a goal of reunification. Although the mother failed to complete her case plan, the father, while residing with his grandparents, was reunited with the child in August 2010 following his substantial compliance with the case plan, which included substance abuse counseling. One month later, the child was returned to shelter following an incident of domestic violence between the father and the paternal great grandmother in the child's presence. The Department sought termination of parental rights, alleging that both parents had failed to substantially comply with the case plan. It argued that neither parent had a stable home or source of income, neither contributed to the child's support, and both continued to use drugs. The father lived in a homeless shelter when he was not living on the streets. The mother had no stable residence and had almost no contact with the child. The mother failed to appear at the hearing, but she participated by telephone. The trial court made various findings, all of which were supported by clear and convincing evidence. The mother's tasks under the case plan consisted of substance abuse counseling, a parenting class, a bio-psychological assessment and follow-up, stable income and housing, and a co-dependency program. The mother's compliance was negligible. Of primary concern was her lack of visitation with the child and continued drug use. The district court concluded that there was no merit to the mother's argument that there was insufficient evidence to terminate her parental rights.
http://www.5dca.org/Opinions/Opin2011/071811/5D11-482.op.pdf

***C.R. v. Department of Children and Families*, 45 So. 3d 988 (Fla. 3d DCA 2010)**
The district court reversed the trial court's order adjudicating the appellant's child dependent based on prior domestic violence between the appellant and the child's mother. After an incident during which police were called, the parents separated. The trial court issued a permanent injunction for protection against domestic violence and ordered the appellant to have no contact with the child's mother. In a later hearing, the trial court determined that the parents' history of domestic violence supported a finding that a present threat of harm existed and was likely to cause the child mental and emotional harm. The father appealed, asserting that the prior acts of violence did not demonstrate a risk of present or future harm because the parents were separated and had no contact, pursuant to court order. There was no evidence of any other reason why placing the child with her father would endanger her. The district court held that the evidence did not support the trial court's conclusion that the father posed a risk of harm to the child.
http://www.3dca.flcourts.org/Opinions/3D10-1746.pdf

***In re J.D.*, 42 So. 3d 938 (Fla. 2d DCA 2010)**
The district court reversed an order adjudicating a child dependent. The mother claimed that the trial court failed to set forth the required factual findings in support of its determination of dependency and that the evidence presented at the hearing was legally insufficient to sustain the determination. The district court agreed, stating that "the only evidence of domestic violence was the child protective investigator's opinion as to the cause of the scratching and bruising on the Mother's neck and chest. . . . No evidence was presented that the child saw or heard any alleged violence or was otherwise in the presence of such violence. Neither was evidence presented that the child has been impacted, or could reasonably be impacted, by any alleged violence."
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/August/August%2027,%202010/2D10-1717.pdf

***Department of Children and Families v. T.T.*, 42 So. 3d 962 (Fla. 5th DCA 2010)**
Two children were removed from their home and placed with their paternal grandparents due to domestic violence between their mother and her paramour. After more than a year, the children were placed in guardianship with the paternal grandparents, and the mother had two more children. The mother and father moved to different states and both eventually requested reunification with their children. Pursuant to their requests, the trial court directed DCF to obtain orders of compliance with the Interstate Compact for the Placement of Children (ICPC) for home studies on both parents. At a hearing on the mother's motion for holiday visitation, the trial court learned that DCF did not timely submit the ICPC orders to the other states' compact administrators. Nevertheless, over objections by DCF and the guardian ad litem about the incomplete ICPC approval procedure and the lack of any current information about the mother's housing or financial ability to support four children, the trial court ordered reunification with the mother, dismissed the dependency proceeding, and terminated the trial court's jurisdiction. The appellate court reversed because the orders did not comply with the ICPC, section 409.401, Florida Statutes (2009). The district court stated that "a trial court cannot send children to a receiving state unless it has complied with 'each and every requirement set forth' in Article III of the ICPC. . . . The ICPC requires that the receiving state evaluate the placement before the child is placed and then monitor the placement to protect the child." The case was remanded for the trial court to comply with the ICPC and consider the father's unification request.
http://www.5dca.org/Opinions/Opin2010/083010/5D09-4652.op.pdf

***R.N. v. Department of Children and Families*, 25 So. 3d 697 (Fla. 5th DCA 2010)**
The trial court entered an order adjudicating the children dependent and accepting the case plan agreed to by the parents and DCF in mediation. A new domestic violence incident occurred, and DCF filed an expedited motion for modification of visitation, during which the trial court added tasks to the case plan, including participation in a batterers' intervention program. The father sought certiorari review, claiming that the amendment violated his procedural due process rights. The appellate court denied the petition. It noted that although rule 8.420, Florida Rules of Juvenile Procedure, contemplates an evidentiary basis to support a case plan amendment, it does not require that specific prior notice of a possible amendment be given. In this case, the trial court's actions complied with both section 39.6013, Florida Statutes, and rule 8.420, Florida Rules of Juvenile Procedure. "The trial court determined, after a duly noticed evidentiary hearing, that there was a demonstrated need to amend the case plan based on circumstances that arose after its approval of the initial plan. The amendment was deemed necessary for the protection of the children. . . . Substantial, competent evidence supported the trial court's decision. The father had notice and an opportunity to be heard on the new allegations and was aware that DCF was seeking a restriction on his visitation rights as well as any other relief necessary and reasonable to protect the children. There was no denial of the father's procedural due process rights."
http://www.5dca.org/Opinions/Opin2010/011810/5D09-1777.op.pdf

***C.W. v. Department of Children and Families*, 10 So. 3d 136 (Fla. 1st DCA 2009)**
The mother appealed the trial court's order adjudicating the child dependent. The appellate court reversed because the trial court's findings, even if supported by competent, substantial evidence, did not meet the requirements to support the adjudication. In ruling the three-month-old child dependent, the trial

court relied in large part on an expert's testimony that a child can be harmed by witnessing domestic violence. The court then concluded that general factors concerning the effect of domestic violence upon children constituted evidence that this child was harmed. The appellate court, however, noted that the trial court made no findings that the child was aware of the incident or was physically or mentally harmed, and "the record contain[ed] no evidence that the child comprehended the incident, sustained any physical or mental injury, or was cognizant in any way of the parents' poor behavior toward one another. Although the trial court found the parents showed wanton disregard for the child's presence during the incident, it did not find that this could reasonably have resulted in injury to the child. Nor did the court explain how the parents' 'minimization' of the incident, the mother's past history of being subjected to domestic violence, or the parents' conflicting statements about what occurred during the incident 'created an atmosphere for the child that has harmful consequences to the child,' sufficient to support a dependency finding."
http://opinions.1dca.org/written/opinions2009/03-25-2009/08-1866.pdf

***C.M. v. Department of Children and Families*, 6 So. 3d 728 (Fla. 4th DCA 2009)**
The father appealed an order adjudicating his seven-year-old child dependent. The appellate court reversed because the adjudication was based on a finding that the child suffered mental harm from witnessing a domestic violence incident, which it found was not supported by competent, substantial evidence. The only evidence of harm to the child came from a child advocate's hearsay testimony.
http://www.4dca.org/opinions/Apr%202009/04-15-09/4D08-3929.op.pdf

***D.E. v. Department of Children and Families*, 979 So. 2d 1186 (Fla. 4th DCA 2008)**
A father and mother engaged in a domestic violence dispute in front of their child which resulted in another child sustaining a broken arm. Although their child wasn't injured physically and the event seemed to be a one-time occurrence, the appellate court upheld the adjudication of dependency. The court reiterated that domestic violence in the presence of a child can support a finding of dependency or a continuance of dependency. The appellate court was also reluctant to substitute its judgment for that of the trial court since the trial court had broad discretion in dependency cases and had the opportunity to observe the witnesses and their testimony firsthand.
http://www.4dca.org/Apr%202008/04-23-08/4D07-4228.opC042208.pdf

***In re L.C.*, 947 So. 2d 1240 (Fla. 2d DCA 2007),** and **947 So. 2d 1247 (Fla. 2d DCA 2007)**
A mother and father appealed the circuit court's adjudication of their minor children as dependent as to both of them. The circuit court based its finding of dependency on the fact that "the mother and the father engaged in domestic violence in the presence of the children" and that this placed the children at risk of abuse and neglect. The district court found that of the alleged incidents, all but one occurred before the birth of the children. Including a shooting incident dating back to 1997, all these incidents were too remote in time and did not involve the children, thus failing to support an adjudication of dependency. The court also reviewed the incident of violence that occurred after the children's births wherein the father sought a domestic violence injunction against the mother for an incident in which hot coffee was tossed on him while he was driving. The trial court did not find credible the father's claim that the incident did not occur in front of the children (he stated he checked the wrong box on a form). Nevertheless, the appellate court found that the incident could not support the dependency adjudication since it was based on hearsay and did not meet the requirements of any exception. Because the father's previously filed injunction was DCF's only evidence as to his involvement in any domestic violence, and he had filed the petition as the victim, the district court reversed the adjudication of dependency as to the father. With respect to the mother, DCF argued that the mother failed to protect the children when she allowed them to be around a father with violent tendencies and that violence occurred in front of the children. DCF failed to meet its burden of proof here as well; therefore, the adjudication of dependency as to the mother was also reversed.

***M.M. v. Department of Children and Families*, 946 So. 2d 1287 (Fla. 4th DCA 2007)**
A mother appealed an adjudication of dependency as to her child for failure to protect the child. The court found that the mother's failure to follow through with a restraining order against the father after the father

had displayed violent behavior resulted in the mother's willfully putting the child in danger. Further, the mother prohibited the father from having contact with the child only after the father was arrested for two separate acts of violence against her. One incident involved the father's restraining the mother in the garage after an argument about the divorce, and the other involved his breaking into the house while drunk. The appellate court found that the acts involving violence were committed outside the presence of the minor and were therefore insufficient. The court reversed and remanded the order adjudicating the child dependent because it ultimately found that the mother's failure to extend the temporary injunction further by not attending the hearing did not constitute imminent harm to the minor.

***In re K.V.*, 939 So. 2d 200 (Fla. 2d DCA 2006)**
The father appealed the circuit court order declaring his child dependent as to him after a domestic violence incident in the paternal grandparents' home, where he and the child were residing at the time. The appellant was arrested after an incident involving domestic violence against the grandmother. While the trial court found credible hearsay evidence that the domestic violence occurred in the presence of the minor child, no evidence was present to indicate that the child was aware of such violence. The court relied on *In re K.B.*, 937 So. 2d 709 (Fla. 2d DCA 2006), which stated that mere physical proximity does not constitute "presence" and that the child must have an awareness of the violence for it to constitute abuse. Additionally, what the child witnesses must result in some physical, mental, or sexual injury to the child. Since no evidence was presented that the domestic violence resulted in any harm due to an awareness of the domestic violence, the adjudication of dependency was reversed.

***C.C. v. Department of Children and Families*, 946 So. 2d 548 (Fla. 5th DCA 2006)**
The appellant father argued that the circuit court erred in adjudicating his minor daughter dependent as to him because no competent evidence existed that he committed any act of violence in front of her. Under section 39.01(30)(i), Florida Statutes (2005), a child could be adjudicated dependent if a court found that the child saw or was aware that the violence was occurring. The trial court drafted a memorandum stating that the violence had occurred in the presence of the minor daughter; however, the final order deleted the key words "in front of his young child." After review, the transcript did not indicate any evidence that the domestic violence occurred in front of the minor child. The court reversed the order, but allowed DCF to present additional evidence of prospective abuse on remand (not just correct the discrepancy).

***In re K.B.*, 937 So. 2d 709 (Fla. 2d DCA 2006)**
A father appealed an order of the trial court declaring his two children dependent based on evidence that he and the mother got into an altercation in which he knocked her down several times, punched her in the chest, and kicked her in the legs in front of the children. Although the district court upheld the trial court's finding that domestic violence occurred in the presence of the children, there was no evidence the children suffered physical or mental injury as a result of witnessing the altercation, or that the father posed any current threat of harm to them. In order for the harm resulting from witnessing domestic violence to constitute abuse under chapter 39, Florida Statutes, the harm must pose a current threat to the child based on current circumstances. The mother testified that this was the only time the father had hit her, that they ended their relationship and were currently involved in other relationships, and that the situation that gave rise to the domestic violence no longer existed. Additionally, no evidence was presented that the father had ever engaged in inappropriate behavior toward children. The appellate court found that there was insufficient evidence that the children needed protection from the father. Accordingly, the trial court's finding of dependency was reversed.

***Morcroft v. J.H.*, 935 So. 2d 588 (Fla. 5th DCA 2006)**
The guardian ad litem appealed the trial court's refusal to find the children dependent as to the father in a case in which the father had engaged in a vicious assault on the mother in the presence of the children, and the mother suffered a fractured skull and was hospitalized. After the incident the mother obtained a permanent injunction against the father, which the mother argued should result in the dismissal of the dependency action. The trial court declined to find the children dependent as to the father because DCF had not presented expert testimony as is required in a case where no physical harm is proven, DCF had failed to establish a "cycle" of domestic violence in front of the children, and an injunction with a no-

contact order was in place. The district court reversed and remanded, holding that no expert "is required to bolster evidence regarding the detrimental effect of witnessing domestic violence on children in order to support a finding of dependency." A sufficiently horrific single act of domestic violence is sufficient, and the existence of a permanent injunction is insufficient protection because it appears "to be 'temporary,' regarding the custody of the children."

***T.S. v. Department of Children and Families*, 944 So. 2d 1049 (Fla. 4th DCA 2006)**
A father appealed an order that determined his three children were at imminent risk of being abused, abandoned, and neglected, and withheld adjudication of dependency. The trial court based its finding on ongoing domestic violence between the parties, citing specifically the mother's two applications for domestic violence injunctions and an incident in which the father had kicked or thrown a chair at the mother's door and was combative when the police arrived. The district court reversed and remanded, noting that neither of the mother's petitions for domestic violence injunctions had resulted in issuance of restraining orders, and the allegations of domestic violence had not been substantiated. Evidence of one incident in which the father kicked a door did not support a finding that domestic violence had occurred. Since the record did not contain evidence establishing an ongoing pattern of domestic violence to support a finding of prospective harm and dependency as to the children, the trial court erred by declaring the children dependent.

***D.R. v. Department of Children and Family Services*, 898 So. 2d 254 (Fla. 3d DCA 2005)**
The district court affirmed an adjudication of dependency, finding that the child was adversely affected by instances of domestic violence between the parents when the child was present in the house. Although there was insufficient evidence that the child actually witnessed the altercations, the evidence that the child sometimes tried to reconcile the parents after the disputes was sufficient to prove that the child was aware of the domestic disputes, and this knowledge had an adverse effect on the child.

***T.R. v. Department of Children and Family Services*, 864 So. 2d 1278 (Fla. 5th DCA 2004)**
The district court affirmed the dependency adjudication based on a holding that it is not necessary for a child to witness violence in order to be harmed by it, as children may be affected and aware that violence is occurring without having to see it occur.

***D.W.G. v. Department of Children and Family Services*, 833 So. 2d 238 (Fla. 4th DCA 2002)**
The district court affirmed a dependency adjudication based on, inter alia, a holding that it is not necessary for a child to witness violence in order to be harmed by it, as children may be affected and aware that the violence is occurring without seeing it occur.

***Y.G. v. Department of Children and Family Services*, 830 So. 2d 212 (Fla. 5th DCA 2002)**
The appellate court affirmed the adjudication of dependency but remanded for entry of written findings consistent with the trial court's oral announcement. The district court provided specifically, "The children's health was in danger of being significantly impaired by the acts of domestic violence that took place in the children's presence and by the mother's refusal to end her troubled relationship with the paramour."

***D.D. v. Department of Children and Family Services*, 773 So. 2d 615 (Fla. 5th DCA 2000)**
The father appealed a trial court order finding his five-year-old child dependent. The appellate court found that evidence that the child witnessed the father's abuse of the mother, together with evidence indicating that the parents would likely resume their relationship in the future and resume the cycle of domestic violence in the presence of the child, established prospective neglect sufficient to support a finding of dependency, even in the absence of medical or other expert testimony. Pursuant to section 39.01(46), Florida Statutes (now section 39.01(44)), defining neglect, the court can make a finding that the child is living in an environment that causes mental, physical, or emotional impairment. Moreover, if there is no reasonable prospect that the parents can improve their behavior, the court can make a finding of dependency. The court affirmed the trial court order.

Disqualification and Recusal of Judge

***Tindle v. Tindle*, 761 So. 2d 424 (Fla. 5th DCA 2000)**
The district court held that the trial court erred in not granting the husband's motion for recusal when the trial judge showed strong disapproval of calling children as witnesses of domestic violence occurring in their presence, which the husband intended to do for purposes of determining custody issues.

***Wehbe v. Uejbe*, 744 So. 2d 572 (Fla. 3d DCA 1999)**
In a case in which the appellant and appellee were half-brothers who each filed for an injunction for protection against domestic violence against the other, the Third District held that the issue of whether it was error for the trial court to take judicial notice of testimony presented in the appellee's case without making such testimony a part of the record was not preserved for appellate review because it was never raised as an objection before the trial court. There was also no abuse of discretion by the trial court in denying the oral motion for disqualification and request for a new trial when raised at the conclusion of the hearing. The concurring opinion noted that a motion for disqualification is not properly used to express disagreement with the trial court's rulings.

Dissolution of Marriage

***Department of Children and Families v. D.B.D.*, 42 So. 3d 916 (Fla. 4th DCA 2010)**
The district court affirmed the trial court's order dissolving a temporary ex parte injunction against a father and dismissing suspension of the father's parental time-sharing. The mother was a DCF attorney. DCF filed a motion for injunction under section 39.504, Florida Statutes, which was heard before a judge unfamiliar with the family's acrimonious divorce proceedings. The father, also an attorney, received notice two hours before the hearing but was not allowed to appear by phone and was unable to attend. In addition to the mother, two lawyers and three DCF representatives were present. None of the attorneys made the judge aware of ongoing proceedings in family court, mentioned the mother's emergency motion to suspend visitation, or brought up the mother's previous attempt to secure an injunction on behalf of the children. The DCF attorney convinced the judge to enter an injunction that remained in effect until further order of the court, without holding any further hearing. However, section 39.504(2), Florida Statutes, provides that if a judge issues an immediate injunction, the court must hold a hearing "on the next day of judicial business" to dissolve, continue, or modify the injunction. The family court judge ordered the transfer of the injunction case to the family court because of the longstanding dissolution case pending there and held a hearing, after which the judge found that DCF had filed the injunction petition before a dependency judge in bad faith, bypassing the proceeding pending in the family court, and dismissed the injunction. The appellate court affirmed.
http://www.4dca.org/opinions/Aug%202010/08-25-10/4D09-4862.op.pdf

***Grigsby v. Grigsby*, 39 So. 3d 453 (Fla. 2d DCA 2010)**
The mother appealed from a nonfinal order awarding sole parental responsibility for her four minor children to their father and suspending her time-sharing with the children. The district court reversed the trial court's order on narrow grounds and stated that, on remand, the trial court must set forth specific steps for the mother to reestablish time-sharing, and it must provide guidance concerning what proof of parental rehabilitation it is seeking from the mother. During a dissolution of marriage action, the trial court held an evidentiary hearing during which evidence established that the mother refused to encourage the children to participate in scheduled time-sharing and refused to allow the father to see the children at other times. The mother refused to comply with the court's temporary order regarding time-sharing. Instead, she reported to DCF that the father was sexually abusing the children. DCF determined this report to be unfounded. Evidence also showed that the mother filed police reports alleging criminal activity by the father. All of these complaints were determined to be unfounded. The mother refused to cooperate with a court-appointed parenting coordinator and filed complaints against licenses of psychologists and social workers appointed by the court. These complaints were also determined to be unfounded. The trial court found that the mother had "actively interfered with the love and emotional ties

that previously existed between the Father and the children" and characterized the mother's actions as the worst case of parental alienation that it had ever seen. The trial court assigned sole parental responsibility for all four children to the father and suspended the mother's time-sharing. The trial court designated suspension of the mother's time-sharing as temporary but did not set forth what steps the mother could take to reestablish time-sharing. Instead, the court ordered that the father, after consultation with "professionals," could determine when the mother's time-sharing would be reinstated.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/July/July%2007,%202010/2D09-5255.pdf

***Coe v. Coe*, 39 So. 3d 542 (Fla. 2d DCA 2010)**
The petitioner appealed a final judgment of injunction for protection against domestic violence entered in favor of his former wife. The parties were also involved in a divorce and custody dispute being heard by the same judge. The appellate court reversed the order granting the petition because it was entered based on evidence from the custody hearing that was not a part of the injunction hearing record. "In essence, the court's decision was based on impermissible extrajudicial knowledge." The appellate court noted that there is "considerable merit in having the judge assigned to a dissolution proceeding also handle claims of domestic violence that arise during the pendency of those proceedings. It is likely that a judge handling a dissolution will have a better sense of whether a domestic violence injunction is actually necessary, whether the petition has been filed for genuine reasons or primarily as a tactic within the divorce, and whether matters that could be resolved in one case or the other are better decided in the dissolution proceeding." But it also warned that trial judges assigned to dissolution proceedings who also handle interrelated petitions for domestic violence must exercise care in ensuring that their rulings are supported by an adequate record.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/July/July%2016,%202010/2D09-92rh.pdf

***McCall v. Martin*, 34 So. 3d 121 (Fla. 4th DCA 2010)**
The father was convicted of domestic violence against his wife and sentenced to prison. However, the court declined to make any provision in the final judgment of dissolution of marriage for the father's share of child support, stating he would have no monthly income while incarcerated. The appellate court reversed, stating that the father's criminal conviction and resulting incarceration were not valid reasons to deny setting an amount of support attributable to him based on imputed income. The court held that income should have been imputed to the father so that the arrearages can accumulate until he is able to earn an income.
http://www.4dca.org/opinions/Apr%202010/04-21-10/4D08-3912.op.pdf

***Schock v. Schock*, 979 So. 2d 1201 (Fla. 4th DCA 2008)**
The petitioner father appealed the vacating by the family court of temporary ex parte domestic violence injunctions against the respondent mother and her boyfriend. In the midst of dissolution of marriage proceedings, the petitioner father had filed for injunctions against the mother, citing neglect, and against her live-in boyfriend, citing that he had inappropriately touched the parties' two-year-old minor child. The duty judge entered temporary injunctions against the mother and the boyfriend. In addition, the father was granted temporary custody of the minor child. The following day, the respondent mother filed an Emergency Motion for Return of Child and Change of Custody in the dissolution case, which the dissolution judge granted. In turn, both orders entered by the duty judge were vacated by the dissolution judge, who stated that the allegations did not satisfy the requirements of section 784.046, Florida Statutes. The district court held that the trial court erred in vacating the temporary injunctions without a hearing. The temporary injunctions were thus reinstated and remanded to the trial court to conduct a hearing on the respondent's motion.
http://www.4dca.org/Apr%202008/04-23-08/4D07-3682.opC042208.pdf

***Steckler v. Steckler*, 921 So. 2d 740 (Fla. 5th DCA 2006)**
The appellant moved to North Dakota after her Florida divorce and obtained an injunction for protection against domestic violence against her former husband. The Florida trial court granted a motion to enforce

visitation filed by the former husband after the North Dakota court modified his visitation in the injunction. The former wife appealed, arguing that the trial court erred in failing to afford North Dakota's domestic violence protective order full faith and credit, and that the federal statute preempts the Florida statute, which grants state courts exclusive and continuing jurisdiction over its child custody decisions. The district court ruled that a foreign state's domestic violence protective order is entitled to full faith and credit when the former spouse is given reasonable notice and an opportunity to be heard. However, since the protective order affected Florida's initial custody determination, the order is also governed in part by the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). Generally, the state that made the initial custody determination has exclusive, continuing jurisdiction over these decisions; however, "in emergency situations, the UCCJEA permits other states to obtain temporary emergency jurisdiction to protect a child. . . . Since North Dakota modified Florida's initial custody determination in the form of a domestic violence protective order designed to protect both the former wife and the children, . . . the North Dakota court acted within the temporary emergency jurisdiction of the UCCJEA." The Florida court, however, had not relinquished jurisdiction. "[O]nce the trial judge learned of North Dakota's domestic violence protective order, he should have contacted the North Dakota judge to resolve any jurisdictional conflicts." The trial court's order as to the determination of jurisdiction was affirmed, but the case was remanded with instructions for the trial judge to contact the North Dakota judge to resolve any conflicts between the North Dakota protective order and the Florida child custody order.

***Pope v. Pope*, 901 So. 2d 352 (Fla. 1st DCA 2005)**
The extension of a six-month temporary injunction without a full evidentiary hearing and over the objection of the respondent violates the due process requirements of section 741.30, Florida Statutes. Extending the temporary injunction because the parties had a pending divorce, and refusing to allow the respondent to testify because the court was not issuing a permanent injunction, is not what was contemplated by the Florida statute and is fundamental error.

***Rinas v. Rinas*, 847 So. 2d 555 (Fla. 5th DCA 2003)**
The district court found it improper for a trial court to award custody, child support, and alimony to the petitioner's mother and sister in a domestic violence action in which the petitioner was a minor child filing by and through her mother as "next friend." The Fifth District held that the trial court did not have jurisdiction to award custody, child support, and alimony absent a dissolution of marriage proceeding as section 741.30, Florida Statutes (1997), does not authorize such awards. The Fifth District found that the trial court erred in not granting the father's motion to vacate the awards *ab initio* as the requirement to file an appeal within 30 days does not apply when a final judgment is void at the onset.

***Farr v. Farr*, 840 So. 2d 1166 (Fla. 2d DCA 2003)**
The trial court erred in dismissing an injunction against domestic violence in a final judgment dissolving the parties' marriage when the petitioner did not move to vacate the injunction and the parties were not noticed that the matter would be considered, thus not receiving due process on the issue. Additionally, the court struck the trial court's order setting a motion for rehearing, as the court had lost jurisdiction on the matter when the wife filed an appeal.

***White v. Cannon*, 778 So. 2d 467 (Fla. 3d DCA 2001)**
The trial court erred in dismissing a temporary injunction for protection against domestic violence at a hearing on the husband's emergency motion for visitation by claiming that whether or not a restraining order should or should not be granted must be determined by the court in the parties' dissolution of marriage. The matter may be handled by one circuit judge; however, section 741.30, Florida Statutes, and the requirements of due process must be observed. The decision of the trial court was reversed.

***Knipf v. Knipf*, 777 So. 2d 437 (Fla. 1st DCA 2001)**
The dismissal of a request for an injunction against domestic violence solely on the basis that there was a pending divorce action between the parties was contrary to section 741.30, Florida Statutes (1999), and constituted error. The decision of the trial court was reversed.

***Belmont v. Belmont*, 761 So. 2d 406 (Fla. 2d DCA 2000)**
The district court held that the trial court hearing the dissolution case erred in requiring the husband to pay attorney's fees incurred by the wife in a separately filed domestic violence injunction case.

***Shaw-Messer v. Messer*, 755 So. 2d 776 (Fla. 5th DCA 2000)**
The district court held that the trial court erred in not conducting an evidentiary hearing on the issuance of an injunction for protection against domestic violence filed by the wife against the husband and in entering a mutual injunction in the dissolution action, under chapter 61, Florida Statutes, without any testimony that the husband had committed any conduct deserving such action. In reversing the lower court's ruling and remanding the case for further action, the Fifth District clearly maintained that section 741.30, Florida Statutes, not chapter 61, Florida Statutes, was the appropriate vehicle for a domestic violence injunction.

***Cleary v. Cleary*, 711 So. 2d 1302 (Fla. 2d DCA 1998)**
When the parties are involved in both an injunction and a dissolution case, matters governed by chapter 61, Florida Statutes, are controlled by the judge hearing the dissolution case, without regard to whether the family court action was filed before or after the injunction case.

Due Process

***Ceelen v. Grant*, __ So. 3d __, 2016 WL 4944103 (Fla. 2d DCA 2016)**
A couple lived together for seven years before breaking up. The girlfriend filed a petition for protection against stalking after the boyfriend forced her out of their home and made more than 200 harassing and threatening phone calls and text messages to her and her family. The circuit court entered an ex parte temporary injunction and then held an evidentiary hearing on the petition. At the hearing the boyfriend tried to introduce copies of the texts, claiming they were well meaning, and tried to call a witness, but the court refused to admit his evidence, holding that "it was irrelevant in light of the sheer number of calls." The boyfriend appealed, and the appellate court reversed and remanded, holding that he was not afforded due process.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/September/September%2016,%202016/2D15-1696.pdf

***Chizh v. Chizh*, __ So. 3d __, 2016 WL 3747112 (Fla. 4th DCA 2016)**
The trial court summarily denied a petition for an injunction against domestic violence. The appellate court reversed and remanded with instructions that the trial court either enter an order explaining how the petition was insufficient or hold a hearing on the petition.
http://www.4dca.org/opinions/July%202016/07-13-16/4D16-1176.op.pdf

***David v. Schack*, 192 So. 3d 625 (Fla. 4th DCA 2016)**
The petitioner got an injunction against stalking, and the respondent appealed. The appellate court reversed because there was not competent and substantial evidence to support the stalking injunction since the petitioner did not show that respondent's behavior (banging on her door and leaving her a letter and a check) caused substantial emotional distress, and only described one incident rather than the requisite two. The court also noted that even if the evidence presented was sufficient, they would have still reversed because the trial court did not give the appellant a full hearing or an opportunity to present his case to satisfy due process.
http://www.4dca.org/opinions/May%202016/05-25-16/4D15-1973.op.pdf

***Vaught v. Vaught*, 189 So. 3d 322 (Fla. 4th DCA 2016)**
The wife filed a petition for protection against domestic violence, alleging stalking and destruction of personal property. The trial court advised her that the allegations were not sufficient for a temporary injunction, so she filed a supplemental affidavit in support of the petition, alleging acts of physical abuse by her husband. The court then granted the temporary injunction and set a hearing. The husband

appeared pro se and claimed he had received the additional affidavit only a few days before and requested a continuance. The court denied the request and ultimately granted the petition, and the husband appealed on due process grounds. The appellate court reversed, stating that the trial court erred in denying the husband's motion for a continuance because the notice of hearing on the new and supplemental allegations was provided only three business days before the final hearing.
http://www.4dca.org/opinions/April%202016/04-20-16/4D14-3699.op.pdf

***Butler v. Cabassa*, 186 So. 3d 1114 (Fla. 4th DCA 2016)**
The trial court issued an injunction for protection against domestic violence that did not provide for a change in timesharing with the minor child. Without notice to the appellant or any pleadings to amend the judgment, the trial court then sua sponte entered an amended judgment that awarded 100% timesharing to the appellee. The appellant appealed because the order was issued without notice or a chance to be heard. At the hearing on the appellant's motion to vacate, "the trial court stated that the amended judgment merely corrected a 'clerical error.'" But the transcript of the hearing that led to the original judgment shows that custody was not argued or ruled on at that hearing. The appellate court reversed because "the trial court erred in summarily denying appellant's motion to vacate the amended final judgment."
http://www.4dca.org/opinions/Mar%202016/03-09-16/4D15-2984.op.pdf

***Woolley v. Nelsen*, 183 So. 3d 476 (Fla. 2d DCA 2016)**
The appellant filed a motion to dissolve a dating violence injunction against him, based on his incarceration for convictions on unrelated charges. The court denied the motion without a hearing. The appellate court reversed and held that due process required a hearing since, based on the allegations in his motion, the defendant might be entitled to relief.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/January/January%2020,%202016/2D15-1684.pdf

***Forssell v. Forssell*, 188 So. 3d 880 (Fla. 4th DCA 2016)**
The father appealed a non-final order denying the parties' joint request to vacate and dissolve the final judgment for protection against domestic violence the mother had obtained against him. The appellate court reversed the order denying the motion to vacate and dissolved the injunction, remanding for a hearing, because the lower court did not grant the father an opportunity to be heard.
http://www.4dca.org/opinions/Jan.%202016/01-06-16/4D15-702.op.pdf

***Bennett v. Abdo*, 167 So. 3d 522 (Fla. 5th DCA 2015)**
An inmate moved for modification of an injunction for protection against domestic violence, alleging that the injunction was impacting his ability to participate in a work-release program. The trial court summarily denied the motion without a hearing or explanation. The appellate court reversed, holding that the motion was legally sufficient and the inmate had a right to be heard.
http://www.5dca.org/Opinions/Opin2015/062915/5D14-3565.op.pdf

***Havenner v. Hutchinson*, 162 So. 3d 1113 (Fla. 1st DCA 2015)**
An incarcerated inmate appealed the denial of his motion for modification of a repeat violence injunction issued against him. The court reversed, holding that the appellant's "due process rights were violated when the lower court denied his motion after he, through no fault of his own, failed to appear at the hearing." The appellant was supposed to appear telephonically, but the Department of Corrections does not permit a party to initiate a call — it must be initiated by institutional staff — and the trial court "failed to issue an order directed to [DOC] requiring Appellant to appear telephonically at a specified time and date."
https://edca.1dca.org/DCADocs/2014/3429/143429_DC13_04172015_092530_i.pdf

***Putzig v. Bresk*, 183 So. 3d 1046 (Fla. 4th DCA 2015)**
The trial court granted an injunction for protection against dating violence against the appellant. She appealed, arguing that "the trial court violated her due process rights by not affording her the opportunity

to present evidence, call witnesses, or cross-examine the appellee." The appellate court agreed and reversed and remanded for a full evidentiary hearing.
http://www.4dca.org/opinions/April%202015/04-15-15/4D14-554.op.pdf

***Snead v. Ansley*, 160 So. 3d 952 (Fla. 1st DCA 2015)**
The appellate court reversed and remanded the injunction for protection against repeat violence. The injunction was granted in error because the "appellant was not given a full opportunity to present evidence in opposition to the petition."
https://edca.1dca.org/DCADocs/2014/2846/142846_DC13_04152015_065758_i.pdf

***In re A.B.*, 186 So. 3d 544 (Fla. 2d DCA 2015)**
The ex-wife petitioned the court for a domestic violence injunction against the ex-husband. The court ordered an injunction for protection against sexual violence, and the ex-husband appealed, claiming that the court committed reversible error by allowing a video of the victim to be admitted as evidence and that his due process rights were violated when the court failed to allow him to view the video. The appellate court agreed with the ex-husband and reversed, noting that the video-taped interview was not admissible under section 92.53, Florida Statutes, since the court did not conduct the interview itself or appointed a special master. Since the child did not testify at the hearing but was available and there was no corroborative evidence, the video was also not admissible under the statement of a child victim exception to the hearsay rule found in section 90.803(23), Florida Statutes. The court also noted that the father's due process rights were violated since he did not have an opportunity to view the video.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2015/March/March%2006,%202015/2D14-1020.pdf

***Parrish v. Parrish*, 161 So. 3d 501 (Fla. 2d DCA 2014)**
The trial court denied the wife's third petition for a temporary injunction for protection against domestic violence against her husband because it believed the new petition raised allegations that had been resolved by the wife's voluntary dismissal of a previous injunction. The wife appealed, and the court held that she was denied due process and remanded the case for a hearing, noting that an incident was included in the third petition that could not have been considered in the initial proceedings.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2014/August/August%2001,%202014/2D13-4639.pdf

***Barfield v. Kay*, 140 So. 3d 703 (Fla. 5th DCA 2014)**
The appellate court reversed the summary denial of a motion to vacate or modify an injunction for protection against repeat violence and stated that due process required a hearing.
http://www.5dca.org/Opinions/Opin2014/060914/5D14-716.op.pdf

***Baker v. Pucket*, 139 So. 3d 954 (Fla. 4th DCA 2014)**
The trial court denied without a hearing the respondent's motion to vacate a permanent injunction against domestic violence that was entered in 2011. The respondent alleged that she has not had any contact with the appellee, nor does she plan to, and that the injunction was preventing her from participating in a work release program while incarcerated. The appellate court reversed, holding that the respondent's motion was legally sufficient and that she was entitled to an evidentiary hearing to provide due process.
http://www.4dca.org/opinions/June%202014/06-04-14/4D13-2393.op.pdf

***Nettles v. Hoyos*, 138 So. 3d 593 (Fla. 5th DCA 2014)**
A female police officer filed a petition for an injunction for protection against stalking against a male police officer. The respondent attempted to engage in discovery, but the petitioner filed a motion for a protective order, and the court granted the motion and quashed all of the respondent's discovery requests. The respondent then filed a petition for writ of certiorari. The appellate court granted the petition and held that the trial court could not completely deny the respondent the opportunity to conduct discovery. The court also noted that the court must balance the need to expedite the hearing with the parties' due process

rights, and that while the trial court had discretion to limit the time frame and nature of discovery on a case-by-case basis, it abused its discretion under the circumstances.
http://www.5dca.org/Opinions/Opin2014/050514/5D14-683.op.pdf

***Sanchez v. Marin*, 138 So. 3d 1165 (Fla. 3d DCA 2014)**
The appellate court vacated an order of protection from domestic violence and an order denying a motion for rehearing. The trial court had entered the order for protection based on verbal threats and a fire that occurred. However, the original petition did not include the facts that formed the basis for the order, and the respondent's due process rights were violated when the court let the petitioner raise material allegations for the first time during the final hearing without allowing the respondent proper time to prepare. The case was remanded for a new final hearing.
http://www.3dca.flcourts.org/Opinions/3D13-1780.pdf

***Hunter v. Booker*, 133 So. 3d 623 (Fla. 1st DCA 2014)**
The petitioner filed a petition for protection against domestic violence and was granted a temporary injunction ex parte which gave her 100% of the time-sharing for her son. At the subsequent hearing, the court denied the injunction but established a time-sharing plan, even though the respondent did not request time-sharing and there no was no pending action to establish parental responsibility or visitation. The petitioner appealed, and the appellate court held that the trial court lacked the statutory authority to establish a temporary parenting plan since the court dismissed the temporary injunction and denied the permanent injunction. The court noted that Florida statutes authorize the court to establish a temporary parenting plan only when the court issues an injunction, not when it dissolves or denies it. The court also stated that the trial court's order violated the petitioner's right to due process and departed from the essential requirements of law because the mother's pleading had not presented the issue of shared custody and the father had not requested custody of the child. Even if it had been proper for the trial court to order time-sharing, the judge failed to consider the criteria set out in section 61.13, Florida Statutes, for developing a time-sharing plan.

***Garrett v. Pratt*, 128 So. 3d 928 (Fla. 5th DCA 2013)**
An inmate in Florida's correctional system appealed the trial court's order denying his motion to modify or dissolve a domestic violence injunction. The inmate had filed a motion to appear telephonically, and although the court did not rule on this motion, the clerk's notice of hearing noted that the inmate would appear telephonically. When the inmate failed to call in for the scheduled hearing, the trial court denied his motion to modify or dissolve the injunction. By rule the Department of Corrections requires staff to place calls to the court when an inmate must participate in a hearing telephonically, but that did not occur in this case. Since the inmate was denied his chance to appear through no fault of his own, the appellate court reversed and remanded the case for further proceedings.
http://www.5dca.org/Opinions/Opin2013/121613/5D13-3101.op.pdf

***McNulty ex rel. G.M. v. Douglas ex rel. K.D.*, 111 So. 3d 231 (Fla. 2d DCA 2013)**
A father petitioned for an injunction against a minor boy for protection against dating violence on behalf of his minor daughter. The court granted the injunction and the father of the minor boy appealed. The appellate court reversed and remanded the case for a full hearing because the trial court did not allow the minor boy to call witnesses or cross-examine the petitioner and therefore he was not allowed due process.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2013/April/April%2010,%202013/2D11-4191.pdf

***Johns v. Johns*, 101 So. 3d 377 (Fla. 1st DCA 2012)**
The trial court entered an injunction for protection against domestic violence in favor of a mother's adult son and the mother appealed. Neither party was represented by counsel. Although the son was allowed to testify about the allegations and present witnesses, the mother was allowed only a limited chance to present evidence. Because the trial court entered the injunction without first conducting a full evidentiary

hearing, the mother was deprived of her fundamental constitutional right to procedural due process, and the appellate court reversed the decision.
http://opinions.1dca.org/written/opinions2012/10-10-2012/11-5586.pdf

***Lotridge v. Lobasso*, 101 So. 3d 402 (Fla. 4th DCA 2012)**
The appellant moved to vacate, modify, or dissolve a final injunction for protection against repeat violence and alleged changed circumstances and also argued that the injunction had served its purpose. The circuit court denied the motion without a hearing, but the appellate court reversed and remanded for a hearing on the appellant's motion so he could have "a meaningful opportunity to be heard."
http://www.4dca.org/opinions/Nov%202012/11-21-12/4D11-4391.op.pdf

***Goodwin v. Whitley*, 103 So. 3d 932 (Fla. 1st DCA 2012)**
The appellant appealed a circuit court order that denied his motion to dissolve an injunction against repeat violence. Section 784.06(11), Florida Statutes (2007), provides that a party to an injunction may file a motion to modify or dissolve an injunction at any time. The appellant filed his motion and claimed that he wanted to regain his ability to own guns. He also stated that he had never violated the injunction and posed no danger to the appellee. However, the appellee testified that she felt that she still needed the protection. The court denied the motion without offering the appellant a chance to cross-examine the appellee, testify, or present argument to the court. Because the appellant was not given an opportunity to be heard on his motion, the appellate court reversed and remanded the case for a full evidentiary hearing.
http://opinions.1dca.org/written/opinions2012/11-13-2012/11-6528.pdf

***Lee v. Lee*, 93 So. 3d 516 (Fla. 2d DCA 2012)**
A petitioner filed a motion for an extension of an injunction for protection against domestic violence. An ex parte order was entered that extended the injunction, and then a hearing was held on the motion. Despite the respondent's opposition to the motion, the trial court entered an order permanently extending the injunction without hearing any evidence, and the respondent appealed. The appellate court reversed, quoting *Giallanza v. Giallanza*, 787 So. 2d 162, 164 (Fla. 2d DCA 2001): "[When moving for an extension of a preexisting injunction, the petitioner must establish either that additional domestic violence has occurred or that, at the time the petition for extension is filed, he or she has a continuing reasonable fear of being in imminent danger of becoming the victim of domestic violence." Since the trial court failed to hear any evidence or make any findings that additional domestic violence had occurred or that the petitioner had a continuing reasonable fear of being in imminent danger, the appellate court held that the ex parte order temporarily extending the injunction for protection against domestic violence could not be permanently extended against the respondent, in absence of the required findings and in absence of opportunity for the respondent to be heard in opposition to the motion.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/July/July%2027,%202012/2D10-6087.pdf

***Ramirez v. Teutsch*, 134 So. 3d 995 (Fla. 1st DCA 2012)**
A respondent appealed an order denying his motion to dissolve a domestic violence injunction in favor of his former wife. In his motion, the respondent alleged that circumstances between the parties had changed since the injunction was entered. Specifically, he alleged that the parties had interacted without violence for several years, that he now lived 341 miles away from his former wife, and that the parties' only interaction related to time-sharing exchanges of their child, which were scheduled to end shortly. In light of these allegations, the trial court erred in summarily denying the motion to dissolve the injunction. The appellate court remanded the case for an evidentiary hearing.
http://opinions.1dca.org/written/opinions2012/05-18-2012/10-5888.pdf

***Barile v. Gayheart*, 80 So. 3d 1085 (Fla. 2d DCA 2012)**
The petitioner requested an injunction against repeat violence against her former employer, to whom she was not related. After an evidentiary hearing, the trial court entered an injunction against domestic violence and the respondent appealed, claiming that the trial court erred in sua sponte issuing an injunction against domestic violence when the petitioner sought an injunction against repeat violence. The

notice for the hearing informed the respondent that he would be defending himself against a charge of repeat violence; however, without notice, the trial court switched issues to one which the respondent was not expecting and for which he was unprepared. Because the hearing went forward on the petitioner's petition as amended on the spot by the trial court, the respondent was denied due process and the injunction entered was reversed and vacated.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/February/February%2017,%202012/2D10-3816.pdf

***Niederkorn v. Trivino*, 68 So. 3d 991 (Fla. 5th DCA 2011)**
The district court reversed a final judgment denying appellant's petition for an injunction against dating violence and remanded for a full evidentiary hearing. Appellant and appellee each filed a petition for protection against dating violence arising out of the same incident. At the trial on the merits of both parties' claims, appellant advised the court that he had no objection to the entry of appellee's injunction against him. Appellee, however, objected to an injunction being entered against her, and the case proceeded to an evidentiary hearing. During the hearing, appellant did not have the opportunity to cross-examine witnesses. The district court recognized that a court may preside over numerous hearings on a typical domestic violence hearing day. As a result, trial courts tend to move hearings along quickly, risking a denial of fundamental due process. The district court held that appellant was entitled to direct examination of witnesses, cross-examination of witnesses, and the presentation of any other evidence and remanded for a full evidentiary hearing.
http://www.5dca.org/Opinions/Opin2011/082911/5D10-3009.op.pdf

***Furry v. Rickles*, 68 So. 3d 389 (Fla. 1st DCA 2011)**
The district court reversed, on due process grounds, a final judgment of injunction for protection against domestic violence. The district court stated that the trial court entered the injunction without conducting a full evidentiary hearing pursuant to section 741.30(5), Florida Statutes (2010), which was a due process violation. The trial court "began the hearing by informing the parties that they had a limited time to present their cases. The court then conducted all questioning of the parties and virtually all questioning of other witnesses. The court was aware the attorneys might wish to conduct direct/cross examination as it made two comments dismissing any request based on time constraints. The court also dismissed Appellant's request for a 'quick hearing'; denied his request to present the relevant noncumulative testimony of a pertinent witness; and did not allow him to 'object to,' or cross-examine, the opposing party's expert witness." The district court stated that, "[w]hile the [trial] court might have remained unconvinced had it heard additional evidence, it still should have provided Appellant the opportunity to fully present his case. Because Appellant was denied a reasonable opportunity to present his case and because time constraints are not an excuse for a trial court's failure to conduct a full hearing," the district court reversed and remanded for a new hearing.
http://opinions.1dca.org/written/opinions2011/08-31-2011/10-5945.pdf

***L.C. v. A.M.C.*, 67 So. 3d 1181 (Fla. 2d DCA 2011)**
The district court reversed a final judgment of injunction for protection against domestic violence which prohibited appellant from having any contact with his granddaughter. The district court held that appellant did not receive reasonable notice of the hearing on the petition for the injunction. The district court stated that the record contained no indication that the granddaughter was in danger because of appellant and certainly not imminent danger. The court noted that appellant acted diligently to obtain counsel after he was served with the notice, and he promptly sought rehearing after the injunction was entered. The district court reversed and remanded for further proceedings.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/August/August%2019,%202011/2D10-2669rh.pdf

***Barker v. Rodriguez*, 82 So. 3d 1018 (Fla. 4th DCA 2011)**
The district court affirmed the trial court's entry of a final judgment of injunction for protection against domestic violence toward the minor child, which also gave temporary custody of the child to the mother. The appellant claimed that by failing to hear his case, the trial court deprived him of due process.

However, the final judgment showed both parties were present at the final hearing. The district court stated that the record, which did not include a transcript, was insufficient to show that either the appellant was denied an opportunity to present evidence, the judgment was unsupported by competent substantial evidence, or the judgment was erroneous on its face.
http://www.4dca.org/opinions/Aug%202011/08-17-11/4D10-2617.op.pdf

***Cox v. Deacon*, 82 So. 3d 827 (Fla. 4th DCA 2011)**
The appellant filed a motion to dissolve a final judgment of injunction for protection against domestic violence and claimed that he did not have notice and an opportunity to be heard on the motion. The trial court denied the motion, and the appellate court affirmed because the record showed that the respondent was given notice of the final hearing and was handed a copy of the final judgment in court, for which he signed a receipt. The appellant also argued that the permanent injunction was improper because it was for a period of more than a year. The appellate court stated: "Although at one time there was a statutory provision that limited permanent injunctions to a period of one year, that provision was removed by the legislature in 1997. The current statute as amended provides for an injunction to 'remain in effect until modified or dissolved.'"
http://www.4dca.org/opinions/Apr%202011/04-06-11/4D09-4993.op.pdf

***Monteiro v. Monteiro*, 55 So. 3d 686 (Fla. 3d DCA 2011)**
The husband petitioned for a writ of certiorari to quash the trial court's order which mandated the in-camera examination of the minor children of the marriage, outside the presence of the parties and their counsel, at a final domestic violence injunction hearing. The original proceeding consisted of an action for dissolution of marriage. However, four domestic violence petition actions were consolidated with the case. The domestic violence actions involved one petition filed on behalf of the wife and three on behalf of the three minor children. The trial court's order stated that the court would conduct an in-camera interview "of at least the two oldest Minor Children, privately and outside the presence of counsel and outside the presence of the parties, before the testimony of any and all other witnesses." The court further ordered that it reserved the right to determine whether an in-camera interview of the youngest child would be conducted, also privately and outside the presence of counsel and the parties.

The husband argued that the trial court's order violated his due process rights because an interview of the minor children without the presence of counsel or the parties deprived him of a meaningful opportunity to be heard. The appellate court disagreed and noted that the husband did not show "how the trial court departed from the essential requirements of the law. The husband has not cited to any authority which requires that the trial court submit the minor children to cross-examination by the husband's counsel in the domestic violence action. Moreover, he has cited to no authority which requires the trial court to have the husband or his counsel present during any in-camera examination of the children in a domestic violence case. Consequently, there can be no departure from the essential requirements of law because the trial court did not violate any established principles of law when it entered the subject order." The court also noted that rule 12.407, Florida Family Law Rules of Procedure, and case law supported the trial court's decision. "[T]he children's interests are of the utmost importance in domestic and sexual violence cases," and pursuant to section 92.55, Florida Statutes, the trial court has discretion to determine how the best interests of the children are to be protected. "The trial court thus acted well within its discretion and consistent with its obligation to act in the children's best interests."
http://www.3dca.flcourts.org/Opinions/3D10-1602.pdf

***Raymonvil v. Lewis*, 46 So. 3d 139 (Fla. 5th DCA 2010)**
The district court reversed an order denying the appellant's motion for modification of an injunction for protection against domestic violence. The trial court entered the injunction in July 2006 and it was to remain in effect until further order. In his motion filed in February 2010, the appellant alleged that circumstances had changed since entry of the injunction. He alleged that he had not had contact with the appellee, he was presently incarcerated, and the injunction was affecting his ability to participate in a work-release program. The appellant further claimed he had stipulated to entry of the injunction based on an agreement that the injunction would expire after one year. The trial court denied the motion without

affording the appellant the opportunity for a hearing, and gave no reasons for the denial. The district court held that the trial court's summary denial of the appellant's motion violated due process requirements and the court must give him a meaningful opportunity to be heard.http://www.5dca.org/Opinions/Opin2010/101810/5D10-827.op.pdf

***Department of Children and Families v. D.B.D.*, 42 So. 3d 916 (Fla. 4th DCA 2010)**
The district court affirmed the trial court's order dissolving a temporary ex parte injunction against a father and dismissing suspension of the father's parental time-sharing. The mother was a DCF attorney. DCF filed a motion for injunction under section 39.504, Florida Statutes, which was heard before a judge unfamiliar with the family's acrimonious divorce proceedings. The father, also an attorney, received notice two hours before the hearing but was not allowed to appear by phone and was unable to attend. In addition to the mother, two lawyers and three DCF representatives were present. None of the attorneys made the judge aware of ongoing proceedings in family court, mentioned the mother's emergency motion to suspend visitation, or brought up the mother's previous attempt to secure an injunction on behalf of the children. The DCF attorney convinced the judge to enter an injunction that remained in effect until further order of the court, without holding any further hearing. However, section 39.504(2), Florida Statutes, provides that if a judge issues an immediate injunction, the court must hold a hearing "on the next day of judicial business" to dissolve, continue, or modify the injunction. The family court judge ordered the transfer of the injunction case to the family court because of the longstanding dissolution case pending there and held a hearing, after which the judge found that DCF had filed the injunction petition before a dependency judge in bad faith, bypassing the proceeding pending in the family court, and dismissed the injunction. The appellate court affirmed.
http://www.4dca.org/opinions/Aug%202010/08-25-10/4D09-4862.op.pdf

***Colarusso v. Lupetin*, 28 So. 3d 238 (Fla. 4th DCA 2010)**
The trial court denied the appellant's motion to dissolve a permanent injunction for domestic violence entered in January 2005 in favor of his then girlfriend. The appellate court reversed because "the summary denial of a motion to vacate a protective injunction violated due process requirements." The court also noted that "[c]ase law has not clearly set forth the applicable legal standard for determining whether a domestic violence injunction should be vacated or modified. Some cases seem to require the movant to allege and prove a change in circumstances. . . . However, other cases have focused on the 'at any time' language in the statutory text, finding that the trial court should have held an evidentiary hearing to allow the movant to present evidence regarding the initial procurement of the injunction." In this case, the trial court "gave no reasons for its summary denial. Even assuming that appellant was required to allege a change in circumstances in order to state a legally sufficient motion, appellant alleged in his motion that there was a change in circumstances because the injunction had served its purpose; he had not attempted to contact his ex-girlfriend for years; he was incarcerated on unrelated charges; and the injunction was impacting his ability to participate in certain prison work programs. Because appellant's motion was legally sufficient, the trial court should have afforded appellant a meaningful opportunity to be heard rather than summarily denying his motion."
http://www.4dca.org/opinions/Mar%202010/03-03-10/4D08-4152.op.pdf

***R.N. v. Department of Children and Families*, 25 So. 3d 697 (Fla. 5th DCA 2010)**
The trial court entered an order adjudicating the children dependent and accepting the case plan agreed to by the parents and DCF in mediation. A new domestic violence incident occurred, and DCF filed an expedited motion for modification of visitation, during which the trial court added tasks to the case plan, including participation in a batterers' intervention program. The father sought certiorari review, claiming that the amendment violated his procedural due process rights. The appellate court denied the petition. It noted that although rule 8.420, Florida Rules of Juvenile Procedure, contemplates an evidentiary basis to support a case plan amendment, it does not require that specific prior notice of a possible amendment be given. In this case, the trial court's actions complied with both section 39.6013, Florida Statutes, and rule 8.420, Florida Rules of Juvenile Procedure. "The trial court determined, after a duly noticed evidentiary hearing, that there was a demonstrated need to amend the case plan based on circumstances that arose after its approval of the initial plan. The amendment was deemed necessary for the protection of the

children. . . . Substantial, competent evidence supported the trial court's decision. The father had notice and an opportunity to be heard on the new allegations and was aware that DCF was seeking a restriction on his visitation rights as well as any other relief necessary and reasonable to protect the children. There was no denial of the father's procedural due process rights."
http://www.5dca.org/Opinions/Opin2010/011810/5D09-1777.op.pdf

***Quarterman v. Pinkley*, 11 So. 3d 467 (Fla. 1st DCA 2009)**
A reversal of damages award is required when, although evidence supported the issuance of an injunction for repeat violence, the respondent was given neither notice that a claim for damages would be heard nor an opportunity to present her own case.

***Eddins v. Eddins*, 996 So. 2d 253 (Fla. 1st DCA 2008)**
Eddins appealed a non-final order denying his sworn motion to vacate and set aside an injunction to protect his former wife from domestic violence because he was denied a meaningful opportunity to participate in the hearing. The former wife did not contest the motion to vacate and set aside. The appellate court reversed the circuit court's order denying the motion to vacate and set aside and remanded the case to the trial court "with instructions to afford Mr. Eddins a meaningful opportunity to be heard on his uncontested motion."
http://opinions.1dca.org/written/opinions2008/12-12-08/07-4652.pdf

***Schock v. Schock*, 979 So. 2d 1201 (Fla. 4th DCA 2008)**
The petitioner father appealed the vacating by the family court of temporary ex parte domestic violence injunctions against the respondent mother and her boyfriend. In the midst of dissolution of marriage proceedings, the petitioner father had filed for injunctions against the mother, citing neglect, and against her live-in boyfriend, citing that he had inappropriately touched the parties' two-year-old minor child. The duty judge entered temporary injunctions against the mother and the boyfriend. In addition, the father was granted temporary custody of the minor child. The following day, the respondent mother filed an Emergency Motion for Return of Child and Change of Custody in the dissolution case, which the dissolution judge granted. In turn, both orders entered by the duty judge were vacated by the dissolution judge, who stated that the allegations did not satisfy the requirements of section 784.046, Florida Statutes. The district court held that the trial court erred in vacating the temporary injunctions without a hearing. The temporary injunctions were thus reinstated and remanded to the trial court to conduct a hearing on the respondent's motion.
http://www.4dca.org/Apr%202008/04-23-08/4D07-3682.opC042208.pdf

***Shocki v. Aresty*, 994 So. 2d 1131 (Fla. 3d DCA 2008)**
The appellant neighbor appealed entry of a final injunction against repeat violence in favor of the appellee neighbor, who stated he was a victim of assault, battery, and stalking. In the original petition, the appellee alleged several assaults, including an offensive banging on the appellee's bedroom wall, using a hammer to bang on the appellee's barbeque grill, and additional verbal threats. After his ex parte petition was denied, the appellee moved for an emergency hearing for protective relief due to an alleged further act of violence by the appellant which included intentional damage to the appellee's wife's vehicle. At trial, the court heard testimony that these neighbors had a long-standing acrimonious relationship as evidenced by their various verbal confrontations. During the appellee's closing (over objection), the appellee described his discovery of two dead birds in his walkway the morning of the hearing and stated that he was warned by the appellant that his wife should be careful. The court entered a five-year injunction against the appellant based solely on the findings of stalking. The district court agreed with the trial court that assault and battery had not occurred, and noted that the trial court's finding of stalking was based on "new" evidence that was prejudicial in nature. The appellant was entitled to notice of those allegations prior to the hearing in order to present a defense. The district court suggested that parties with similar condominium disputes should explore other options for resolution before bringing their claims to a repeat violence court and that many issues that arise in condominium disputes do not warrant injunctive relief. But it also noted that, but for the due process issues presented by the appellant, this dispute may ultimately require judicial intervention. Accordingly, the injunction was reversed and remanded with

directions to allow the appellee to amend his petition to address the alleged acts of stalking and statutory violence and to seek a new trial on such an amended petition.

***Betterman v. Kukelhan*, 977 So. 2d 702 (Fla. 4th DCA 2008)**
A former boyfriend appealed the denial of his motion to vacate a permanent injunction for domestic violence entered against him. The trial judge originally denied a temporary injunction and set the matter for hearing, at which the boyfriend denied allegations but did not object to the entry of the permanent injunction. When he realized the injunction would require him to surrender his concealed weapons permit, the boyfriend petitioned the court to request that the injunction be dissolved or that he be allowed to retain the permit. After an initial denial of the motion by the judge who denied the temporary injunction, the boyfriend filed the same motion before the judge who entered the final order of injunction. That motion also was denied, with a memorandum stating that the motion already had been denied by another judge. The boyfriend argued that such a summary denial of his motion to vacate violated due process requirements. The district court held that a motion to modify or dissolve may be brought at any time, and that a moving party should be allowed to present evidence in support of such a motion. Given that the boyfriend agreed to the entry of the injunction and did not present any evidence at the initial hearing, the district court reversed the order denying the motion to dissolve the injunction and remanded the case back to the trial court for a hearing on the motion.
http://www.4dca.org/Mar2008/03-19-08/4D07-3173.op.pdf

***Storm v. Decker*, 971 So. 2d 165 (Fla. 5th DCA 2007)**
The appellant in a repeat violence case appealed entry of a final order of repeat violence injunction, arguing that he was denied due process when the trial court went forward with the final hearing even though a timely and proper motion for continuance was filed. Upon being served just three days before the final hearing, the appellant (from Miami-Dade County) retained counsel in Orlando, Florida, to represent him. Given the short notice and the minimal time to properly prepare, counsel filed a motion for continuance with the court. Furthermore, counsel for the appellant called the appellee's attorney to discuss a possible agreement on the motion; the call was not returned. Phone calls to the courthouse to obtain a ruling on the motion were futile, as were attempts to appear by phone on the day of the hearing to argue the motion. The trial court judge's judicial assistant refused to coordinate a telephonic hearing, and the trial court ultimately denied the motion and proceeded with the final hearing without the appellant and his attorney. Given the short notice after service on the appellant and the lack of emergency or prejudice as to the appellee, the district court found that the motion should have been granted to allow the appellant and his attorney to be present. At the very least, the trial court should have set aside entry of the permanent injunction and rescheduled a new hearing upon knowledge of the appellant's diligent efforts to request a continuance. The district court reversed the final injunction and remanded for rehearing.

***Tejeda-Soto v. Raimondi*, 968 So. 2d 635 (Fla. 2d DCA 2007)**
The appellant couple, neighbors of the appellees, appealed the entry of repeat violence permanent injunctions entered against them, arguing that they were not given the opportunity to properly present their case. At trial, the court simply heard opening statements from both sides before interrupting to state that this was a situation in which a permanent injunction was appropriate. The court heard from no witnesses and admitted no evidence. The district court found that the appellants were denied procedural due process when they were not allowed to present evidence and provide witness testimony. The final judgments were reversed, and the cases were remanded for full evidentiary hearings. Additionally, the appellants' counsel was not permitted to present a motion to dismiss based on the insufficiency of the petition. The district court stated that the appellants should be allowed to make that argument on remand.
http://www.2dca.org/opinion/October%2026,%202007/2D06-3107.pdf

***Smith v. Smith*, 964 So. 2d 217 (Fla. 2d DCA 2007)**
The husband appealed the entry of a permanent injunction against domestic violence, claiming that his due process rights were violated when he was not allowed to testify or call witnesses prior to the entry of the final order. Initially, the trial court held a 45-minute hearing at which the wife presented testimony and

evidence; the husband was prepared and had witnesses ready to testify, but the hearing was continued. At the subsequent hearing, the wife again was given the opportunity to testify and call witnesses. During the cross-examination of the wife, the court unexpectedly halted the proceedings and entered the injunction. Again, the husband had his witnesses ready to testify, but the only time he actually spoke was when he was asked about visitation. While the wife argued that the court had broad authority to control its docket and that the husband's trial strategy "wasted his allocation of time," the district court found the trial court abused its discretion in not allowing the husband adequate time to present his case. Due process should be afforded to both sides, and in the instant case the record reflected that the husband did not receive the opportunity to be heard. The district court reversed and vacated the permanent injunction. http://www.2dca.org/opinion/August%2024,%202007/2d06-3353.pdf

***Ohrn v. Wright*, 963 So. 2d 298 (Fla. 5th DCA 2007)**
The appellant appealed the entry of a permanent injunction against repeat violence on the basis that the trial court failed to swear witnesses and that she was precluded from presenting a witness to testify. The district court of appeal found that these actions constituted a due process violation. In order for a court to hold a "full" permanent injunction hearing, the court must allow each side to prove or disprove the allegations in the petition by allowing them sufficient time to present witnesses with relevant information. In addition, each witness should be sworn, and cross-examination should be allowed. While the district court understood the pressure on domestic violence trial courts to hear the heavy volume of cases in a time-efficient manner, it reversed and remanded and reminded the trial courts to be cognizant of fundamental due process requirements.

***Clement v. Ziemer*, 953 So. 2d 700 (Fla. 5th DCA 2007)**
The appellant neighbor appealed the trial court's order of a final injunction against repeat violence resulting from appellee neighbor's petition. The parties were in a dispute over an easement on the appellee's property that gives the appellant access to a lake. Among the multiple acts that the appellee cited in her initial petition, the appellant allegedly cut down trees on the easement, drove past the appellee's home several times, and "terrorized" the neighborhood. Upon review of the transcript of the hearing by the district court, the court determined that the hearing was disorganized and one-sided. While the appellee was allowed ample time to put on her case, the appellant's attorney was cut short in attempts to respond to allegations, and many of his objections were simply ignored. Even after the appellant's attorney mentioned the lack of opportunity to put on his case, the court cut him off and cautioned him not to start "playing games like that with me." The appellant argued that he was denied procedural due process because the judge hearing his case was not impartial and because he was not allowed to present his case in defense of these allegations; the district court agreed with the appellant. Aside from finding that the appellant did not receive due process, the court found that the appellee was not even entitled to an injunction, for she did not prove two acts of violence supported by competent, substantial evidence as required by the statute to qualify for a repeat violence injunction. In the instant case, there were no overt acts stated that would indicate the appellant's ability to carry out the alleged threats. Therefore, the court reversed and remanded with instructions to vacate.

***Smith v. Crider*, 932 So. 2d 393 (Fla. 2d DCA 2006)**
The appellant, the mother, challenged the order denying her motion to dissolve an ex parte temporary domestic violence injunction that modified a final judgment of dissolution of marriage by awarding immediate temporary custody of the children to the father and prohibiting her from removing them from the jurisdiction. Both parties were present at the evidentiary hearing, and the respondent presented evidence on her motion to dissolve the injunction. Although the petitioner did not present any evidence, the trial court denied the motion to dissolve the injunction. The district court reversed, finding that a temporary injunction is an extraordinary remedy that should be granted sparingly. Rule 1.610(a)(2), Florida Rules of Civil Procedure, requires every temporary injunction entered without notice to be endorsed with the date and hour of entry and to define the injury, state findings why the injury may be irreparable, and give reasons why the order was granted without notice. In this case "the rubber-stamping of the motion for injunction is in violation of the rule and calls into question the subsequent enforceability of such an 'order.'" A trial court may enter an ex parte order and temporarily modify a custody order only

in emergency situations when a child is threatened with physical harm or is about to be improperly removed from the jurisdiction. Due process requires prompt notice to the opposing party and an opportunity for that party to be heard. The burden is on the petitioner to present evidence supporting the entry of such an order. Accordingly, the order denying the motion to dissolve was reversed, and the order prohibiting the removal of the children from the jurisdiction vacated. The case was remanded with directions to conduct an evidentiary hearing on the motion for temporary injunction.

***Blaylock v. Zeller*, 932 So. 2d 479 (Fla. 5th DCA 2006)**
The trial court entered a final repeat violence injunction against the respondent and ordered her not to possess or use firearms or ammunition. At the final hearing on the petition, the respondent agreed to most of the conditions in the injunction. On appeal, she argued that she was denied due process because she did not have the opportunity to cross-examine or present witnesses, and that the trial court erred in prohibiting her from possessing or using firearms when no sworn testimony was presented that she was a danger. The record showed that both parties were given the opportunity to present their case and the respondent did not present witnesses or cross-examine the petitioner. The final injunction was affirmed, but the court found that since the petitioner did not make such a request, the firearms prohibition should be removed because the issue was not presented nor discussed during the hearing.

***In re K.H.*, 928 So. 2d 1291 (Fla. 2d DCA 2006)**
The trial court terminated a father's visitation and placed his children in long-term care with their paternal grandfather because the father did not complete the required domestic violence classes. The court placed the burden on the parents to show that long-term custody with the grandfather was not in the best interest of the children in order to change custody. The father challenged the decision because he was not able to be present at the hearing. The district court reversed, holding that the trial court violated the father's right to due process by not taking evidence of his fitness.

***Traughber v. Traughber*, 941 So. 2d 388 (Fla. 2d DCA 2006)**
The trial court entered a final domestic violence injunction against the appellant, who was served with notice of the final hearing the night before. The respondent notified the court by telephone that he was unable to secure counsel or be present at the hearing due to insufficient notice. In spite of this, the court conducted a hearing and entered a permanent injunction against the respondent, and the respondent appealed. Although the respondent did not appear at the hearing and ask for a continuance, move for a rehearing under rule 1.530, Florida Rules of Civil Procedure, or move to modify or dismiss the final injunction under section 741.30(6)(c), Florida Statutes, he was "still entitled to appeal the sufficiency of the notice he received." A temporary domestic violence injunction was already in effect that could be continued and extended pending final hearing. A mechanism was already in place to protect the petitioner while the respondent's entitlement to reasonable notice was addressed. The district court reversed the entry of the permanent injunction and reinstated the temporary injunction pending further action by the trial court.

***Robinson v. Villarejo*, 920 So. 2d 206 (Fla. 4th DCA 2006)**
The question of whether notice of a final hearing that resulted in the entry of a final judgment of injunction was received by the respondent or his attorney was important enough to justify an evidentiary hearing. The trial court had summarily denied a motion for rehearing wherein the respondent claimed lack of notice of the hearing. The court was provided with a printout from the sheriff's office website reflecting that the respondent had not been served, and nothing in the record refuted the claim of lack of service. The district court reversed and remanded for an evidentiary hearing on the claim of lack of notice.

***Hoffman v. Duke*, 918 So. 2d 422 (Fla. 2d DCA 2006)**
In May 2001, the trial court entered a final judgment of injunction against repeat violence against the appellant. The injunction was extended in May 2002. In November 2003, the appellant filed a motion for relief, which was denied by the trial court as legally insufficient. In May 2004, the appellant filed a motion to dismiss the injunction that was also denied as legally insufficient. A motion for reconsideration was then filed in July 2004 by the appellant, alleging she was denied due process. The motion was denied

and this appeal followed. The appellant argued that the 2001 injunction was issued without evidentiary support and sought reversal and remand to allow her the opportunity to challenge the issuance of the initial injunction. The district court found no error in denying the motion for reconsideration of the motion to dismiss the injunction when it was apparent that the movant's sole assertion was that prior court rulings, which were not before the district court for review, were incorrect.

***Shakes v. Whitelocke*, 922 So. 2d 1076 (Fla. 5th DCA 2006)**
The trial court erred as a matter of law when it entered an amended injunction order upon motion of the father without prior notice to the mother, who had previously sought and received an injunction for protection against domestic violence. A court cannot amend an injunction when the non-moving party was not given notice or a hearing giving her an opportunity to be heard. The amended order was entered ex parte and in violation of rules 12.610(c)(1)(B) and 12.610(c)(6), Florida Family Law Rules of Procedure. Accordingly, the trial court's amended injunction was stricken.

***Adili v. Adili*, 913 So. 2d 1240 (Fla. 4th DCA 2005)**
The wife requested and obtained an ex parte temporary injunction based on the allegation that her husband threatened to kill her if she filed for divorce. She was awarded exclusive use and possession of the Florida home. The husband contested the injunction, claiming that the wife lived in North Carolina, she had not seen him for months, and there was no imminent danger to the wife. At the hearing, the trial court entered a permanent injunction in the wife's favor without allowing the husband to present any witnesses. The district court reversed, finding that the respondent was denied his fundamental due process right to be heard.

***Pope v. Pope*, 901 So. 2d 352 (Fla. 1st DCA 2005)**
The extension of a six-month temporary injunction without a full evidentiary hearing and over the objection of the respondent violates the due process requirements of section 741.30, Florida Statutes. Extending the temporary injunction because the parties had a pending divorce, and refusing to allow the respondent to testify because the court was not issuing a permanent injunction, is not what was contemplated by the Florida statute and is fundamental error.

***Samanka v. Brookhouser*, 899 So. 2d 1190 (Fla. 2d DCA 2005)**
The non-moving party must be given a hearing before an injunction may be amended. Although a trial court need not set a date for a permanent injunction to expire under section 741.30(6)(b), Florida Statutes, if the court receives a motion to extend the injunction, it must set a hearing and give notice of the hearing date before it can modify the injunction. Because the respondent was not afforded an opportunity to challenge the allegations that formed the basis of the modification, she was denied due process, and the extension of a two-year permanent injunction for an indefinite period of time was improper.

***Schmitz v. Schmitz*, 890 So. 2d 1248 (Fla. 4th DCA 2005)**
The petitioner sought judicial review of the trial court's final order permitting the testimony of a court psychologist at a hearing for a temporary injunction against domestic violence. The district court reversed and remanded, finding the court had erred as doing so denied the petitioner due process and was an abuse of discretion. The psychologist's testimony, based on her 35-page single-spaced report, submitted the day before the hearing, recommended the child be removed from the mother's custody. The district court held that the extraordinary circumstances required to find an emergency warranting a transfer of custody were not present.

***Swanson v. Swanson*, 888 So. 2d 117 (Fla. 4th DCA 2004)**
At a hearing to address child support issues, the court suspended the former husband's child support obligation and sua sponte ordered the former wife to provide the former husband bi-annual progress reports and pictures of the child. The former wife appealed, claiming the court's actions were an abuse of discretion because the former husband had failed to establish a change of circumstances that would warrant modification of child support, and the requirement to provide progress reports and pictures

conflicted with no-contact orders. The appellate court agreed, and reversed the modification order and remanded for the trial court to address the issue of health *care* coverage for the child required by statute, as every child support order must address health care coverage for the child when it is reasonably available.

***In re J.P.*, 875 So. 2d 715 (Fla. 2d DCA 2004)**
Section 39.402, Florida Statutes, requires a full evidentiary hearing, particularly when removal of children is ordered. Section 39.402(5)(b)(1), Florida Statutes, mandates written notice be given to parents or legal custodians to inform them of their opportunity to be heard and to present evidence at the shelter hearing. The Second District held that the trial court erroneously denied the appellant his right to due process by finding probable cause for shelter of the children based on written submissions from the sheriff's office after denying the appellant's request to be heard.

***Pierce v. Tello*, 868 So. 2d 1253 (Fla. 4th DCA 2004)**
The Fourth District reversed the trial court because the trial judge entered an ex parte order suspending all contact between the appellant and his daughter after the appellant's hair sample had tested positive for cocaine and metabolites. The Fourth District held that the lab report sent directly to the judge is an ex parte communication, and the court must provide a copy to each party and allow each side to be heard before suspending visitation based on the report. In addition, the appellant sought a writ of mandamus to quash the information charging him with violating an injunction, as the written injunction omitted the three-month limit set by the judge, which would have long expired. However, the district court found it had no jurisdiction over the state attorney prosecuting the alleged violation, and therefore denied the writ.

Evidence

***Mitchell v. Mitchell*, __ So. 3d __, 2016 WL 4445936 (Fla. 4th DCA 2016)**
The trial court issued a final judgment of injunction for protection against domestic violence based upon several text messages that the petitioner provided and the court admitted into evidence. The respondent appealed, stating that the text messages were incomplete and missing portions of the conversation. He also claimed that the trial court applied the incorrect standard and that the evidence did not support the injunction. The appellate court agreed and reversed, stating that the petitioner did not have an objective fear of imminent harm.
http://www.4dca.org/opinions/Aug%202016/08-24-16/4D15-864.op.pdf

***David v. Schack*, 192 So. 3d 625 (Fla. 4th DCA 2016)**
The petitioner got an injunction against stalking, and the respondent appealed. The appellate court reversed because there was not competent and substantial evidence to support the stalking injunction since the petitioner did not show that respondent's behavior (banging on her door and leaving her a letter and a check) caused substantial emotional distress, and only described one incident rather than the requisite two. The court also noted that even if the evidence presented was sufficient, they would have still reversed because the trial court did not give the appellant a full hearing or an opportunity to present his case to satisfy due process.
http://www.4dca.org/opinions/May%202016/05-25-16/4D15-1973.op.pdf

***J.G. v. E.B.*, 185 So. 3d 1293 (Fla. 5th DCA 2016)**
A grandfather appealed a final judgment of injunction for protection against domestic violence issued against him based on allegations of sexual misconduct against his grandson. There were no witnesses other than the child. Counsel for the mother attempted to introduce statements made by the child to the mother, but the respondent's counsel objected on hearsay grounds. The mother's counsel did not raise the section 90.803(23), Florida Statutes, hearsay exception based on the statement of a child victim. Nor were the child's statements examined as required under that statute. The trial court ruled the child's statements to his mother inadmissible and sustained several other objections to most of the other

evidence submitted, yet still granted the permanent injunction. The appellate court reversed, finding no other evidence to support the ruling.
http://www.5dca.org/Opinions/Opin2016/022216/5D15-2367.op.pdf

***Leaphart v. James*, 185 So. 3d 683 (Fla. 2d DCA 2016)**
The respondent appealed after an injunction for protection against domestic violence was entered against him that had been brought by his ex-girlfriend. The respondent's attorney requested a continuance due to his schedule conflict with another case, but the court did not rule on the motion and went forward with the hearing with the respondent appearing pro se. The petitioner testified that her house and car were vandalized and that neighbors had seen "a black man" commit the acts. She also testified that the respondent had hit her in the lip once almost two years before the petition was filed. The respondent denied committing any of the alleged acts. The appellate court reversed the order, stating that there was insufficient evidence that the respondent committed the acts of vandalism, and that the petitioner did not have reasonable cause to believe she was in imminent danger of becoming a victim of domestic violence since the "busted" lip incident had happened about 20 months earlier. The court noted that the petitioner's testimony about her neighbors' comments was hearsay, and that the trial court violated the respondent's due process rights by not granting his motion for a continuance so his attorney could be present.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/February/February%2010,%202016/2D14-1407.pdf

***Roach v. Brower*, 180 So. 3d 1142 (Fla. 2d DCA 2015)**
The respondent appealed an injunction for protection against stalking that prohibited her from contacting the petitioner. Since there was no evidence that the conduct in question caused the petitioner substantial emotional distress as required under section 784.048(1)(a), Florida Statutes, the court reversed.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2015/December/December%2009,%202015/2D15-493.pdf

***Mantell v. Rocke*, 179 So. 3d 511 (Fla. 1st DCA 2015)**
The respondent appealed a final judgment of injunction for protection against domestic violence against him. Since the petitioner had not introduced any evidence or testimony to support her petition for injunction, the appellate court reversed.
https://edca.1dca.org/DCADocs/2015/1403/151403_DC13_11242015_105034_i.pdf

***Richards v. Gonzalez*, 178 So. 3d 451 (Fla. 3d DCA 2015)**
The petitioner was granted a four-year injunction for protection against stalking after a neighbor harassed her on several occasions. The neighbor appealed. Due to the substantial discrepancies between the testimony and the allegations in the petition, as well as the general lack of evidence, the court reversed the injunction. The court also noted that "(c)ourts apply a reasonable person standard, not a subjective standard, to determine whether an incident causes substantial emotional distress."
http://www.3dca.flcourts.org/Opinions/3D14-3046.pdf

***In re A.B.*, 186 So. 3d 544 (Fla. 2d DCA 2015)**
The ex-wife petitioned the court for a domestic violence injunction against the ex-husband. The court ordered an injunction for protection against sexual violence, and the ex-husband appealed, claiming that the court committed reversible error by allowing a video of the victim to be admitted as evidence and that his due process rights were violated when the court failed to allow him to view the video. The appellate court agreed with the ex-husband and reversed, noting that the video-taped interview was not admissible under section 92.53, Florida Statutes, since the court did not conduct the interview itself or appointed a special master. Since the child did not testify at the hearing but was available and there was no corroborative evidence, the video was also not admissible under the statement of a child victim exception to the hearsay rule found in section 90.803(23), Florida Statutes. The court also noted that the father's due process rights were violated since he did not have an opportunity to view the video.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2015/March/March%2006,%202015/2D14-1020.pdf

***Pashtenko v. Pashtenko*, 148 So. 3d 545 (Fla. 2d DCA 2014)**
The trial court denied the wife's petition for protection against stalking against her husband, and she appealed. The appellate court reversed, stating that the trial court's findings demonstrated that it considered "evidence other than verified pleadings or affidavits. Specifically, the trial court looked beyond the petition to infer that there was no probable cause evidence to arrest or request charges. The trial court thereby implied that because there was no arrest or charges filed, [the wife] failed to present the 'strong and clear' evidence necessary to issue the injunction." The trial court also cited to the wrong statutes.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2014/October/October%2015,%202014/2D13-4683.pdf

***Selph v. Selph*, 144 So. 3d 676 (Fla. 4th DCA 2014)**
The husband appealed an order that entered a domestic violence injunction against him. "[T]he wife testified that the husband's dog 'attacked' her after the husband told the dog to 'get him.'" However, the wife did not call the police or seek medical attention, and she waited five months before filing the petition for injunction. She also claimed that the husband threatened her immigration status, made her work long hours at his business with little pay, and forced her to move out of the house. The appellate court held that the evidence was not legally sufficient to support a finding of an assault, battery, false imprisonment, or a criminal offense resulting in physical injury, as required for a domestic violence injunction, and reversed the injunction.
http://www.4dca.org/opinions/Aug%202014/08-13-14/4D13-2488.op.pdf

***Nettles v. Hoyos*, 138 So. 3d 593 (Fla. 5th DCA 2014)**
A female police officer filed a petition for an injunction for protection against stalking against a male police officer. The respondent attempted to engage in discovery, but the petitioner filed a motion for a protective order, and the court granted the motion and quashed all of the respondent's discovery requests. The respondent then filed a petition for writ of certiorari. The appellate court granted the petition and held that the trial court could not completely deny the respondent the opportunity to conduct discovery. The court also noted that the court must balance the need to expedite the hearing with the parties' due process rights, and that while the trial court had discretion to limit the time frame and nature of discovery on a case-by-case basis, it abused its discretion under the circumstances.
http://www.5dca.org/Opinions/Opin2014/050514/5D14-683.op.pdf

***Williams v. Gonder*, 133 So. 3d 657 (Fla. 1st DCA 2014)**
A petitioner was granted an injunction for repeat violence based on two alleged incidents of vehicle vandalism, and the respondent appealed. The appellate court reversed and stated that keying a car did not constitute violence. And in any case, there was no competent substantial evidence that the respondent committed a second act at all, as required by statute.
http://opinions.1dca.org/written/opinions2014/03-18-2014/13-4382.pdf

***Touhey v. Seda*, 133 So. 3d 1203 (Fla. 2d DCA 2014)**
The petitioner was granted an injunction for protection against stalking issued against a business acquaintance and the respondent appealed. The court held that the record did not contain sufficient evidence to support the injunction. The respondent had a legitimate reason to contact the petitioner, the respondent's behavior was not malicious, and a reasonable person would not have suffered substantial emotional distress from the respondent's behavior.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2014/March/March%2012,%202014/2D12-6338.pdf

***Jeffries v. Jeffries*, 133 So. 3d 1243 (Fla. 1st DCA 2014)**
The respondent appealed a permanent injunction for protection against domestic violence entered against him, on the grounds that he did not receive a fair trial and the injunction was not supported by competent substantial evidence. But the court affirmed, stating that it could not second guess the trial court: "It was the responsibility of the trial court to determine the credibility of the witnesses and to resolve

the conflicts in the evidence with a transcript of the hearing. . . . The fact that there was conflicting testimony that would have supported the denial of the petition is of no significance on appeal." The court also noted that if circumstances have changed since the injunction was entered, the respondent could file a motion to modify or dissolve the injunction.
http://opinions.1dca.org/written/opinions2014/03-24-2014/13-4757.pdf

***Stone v. Stone*, 128 So. 3d 239 (Fla. 4th DCA 2013)**
The former husband appealed an injunction for protection against domestic violence and argued that the court erred because the former wife failed to prove that she was in danger of impending violence, or that actual domestic violence occurred. The petition for injunction alleged that "the former husband grabbed the former wife's arms, forced her onto the bed, and made unwanted sexual advances [and he] stopped when he understood that his advances were unwelcome." During the hearing the former wife introduced photos of the bruises on her arms, but also admitted that she may have gotten the bruises from carrying boxes. The former husband claimed that if he did cause the bruises, "they came from 'playing around'" near the pool and were not intentional. The appellate court held that the evidence did not show that the former husband intended to cause harmful or offensive contact or to touch the former wife against her will. The court also found that the former husband's texts and calls did not threaten violence or make the former wife believe she was in danger, and therefore did not constitute domestic violence. Although the injunction had expired, the appellate court ordered the lower court to vacate it.
http://www.4dca.org/opinions/Dec%202013/12-11-13/4D12-4164.op.pdf

***Arnold v. Santana*, 122 So. 3d 512 (Fla. 1st DCA 2013)**
The wife filed a petition for an injunction against domestic violence and claimed that her husband was harassing and stalking her. The trial court granted the petition, but the appellate court reversed, stating that there was no competent, substantial evidence to support a finding that the wife's fear of imminent violence was objectively reasonable.
http://opinions.1dca.org/written/opinions2013/10-07-2013/13-1112.pdf

***Tobin v. Tobin*, 117 So. 3d 893 (Fla. 4th DCA 2013)**
A wife refused to make pretrial disclosures and attend a video deposition in a dissolution action due to her fear of domestic violence from her husband and disclosing her address and other information. She had obtained an injunction for protection against domestic violence. The trial court struck her pleadings as a sanction for the discovery violations, and the appellate court reversed. The appellate court ruled that an evidentiary hearing was necessary to give the wife an opportunity to show the extreme fear she cited as the reason for refusing to comply with the discovery requests. The court also noted that striking a party's pleadings is the severest of penalties and should be exercised only under extreme circumstances.
http://www.4dca.org/opinions/July%202013/07-24-13/4D12-2613.op.pdf

***Brilhart v. Brilhart ex rel. S.L.B.*, 116 So. 3d 617 (Fla. 2d DCA 2013)**
The mother appealed a final judgment of injunction for protection against domestic violence which had been issued to prevent contact between her and her 14-year-old daughter. The parents had been divorced for several years, and the injunction was brought by the child's father. The daughter had sent a letter to her father saying that her mother was abusing her, and the father filed the petition for an injunction on the daughter's behalf. The child did not testify at the hearing, and the only evidence offered to support the petition was the father's vague testimony based upon the letter, and a doctor's statement that, based upon his meeting with the child, he had concerns for the child's safety. The court accepted the doctor's testimony even though the mother was never provided an opportunity to properly explore the basis of the doctor's alleged expertise. The mother denied the abuse, and the letter was not admitted into evidence. The mother argued that there was not competent, substantial evidence to support the trial court's decision to issue the injunction. The appellate court agreed and reversed the order, stating that the father's testimony, which was based upon the daughter's alleged hearsay statements and his unsubstantiated fear, and the doctor's testimony, which was based on the father's hearsay statements, did not amount to competent, substantial evidence supporting the issuance of the injunction. The court also noted that the doctor was never properly qualified as an expert in domestic violence.

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2013/July/July%2003,%202013/2D12-3339.pdf

***Disston v. Hanson*, 116 So. 3d 612 (Fla. 5th DCA 2013)**
The respondent appealed a domestic violence injunction against him in favor of his former live-in girlfriend. Because there was competent substantial evidence presented to support the injunction, the appellate court affirmed the lower court's decision. The appellate court also noted that even though the evidence was in sharp contrast, the credibility of the witnesses was within the trial court's exclusive purview and it could not reweigh the evidence.
http://www.5dca.org/Opinions/Opin2013/062413/5D12-4026.op.pdf

***Rudel v. Rudel*, 111 So. 3d 285 (Fla. 4th DCA 2013)**
The wife, a German citizen, petitioned for dissolution of marriage and for an injunction for protection against domestic violence. The court granted the ex parte temporary injunction, but later dismissed the petition for injunction against domestic violence and the wife appealed. The appellate court reversed as to the domestic violence injunction and noted that the wife gave uncontradicted testimony regarding acts of domestic violence and also provided corroborating witness testimony. Although the dissolution of marriage petition was correctly dismissed due to jurisdictional issues, the appellate court held that the wife did present sufficient evidence to support an injunction, and remanded the case for a new hearing because the husband did not have the opportunity to present evidence on the domestic violence issue since his challenge to jurisdiction was still outstanding.
http://www.4dca.org/opinions/April%202013/04-17-13/4D11-2616.op.pdf

***Johns v. Penzotti*, 100 So. 3d 212 (Fla. 2d DCA 2012)**
The appellant appealed the trial court's final judgment of injunction for protection against repeat violence entered against him. Because the requisite instances of violence or stalking were not established at the hearing, the appellate court reversed. Section 784.046, Florida Statutes (2011), provides that a person may obtain protection against repeat violence when two or more incidents of violence have occurred.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/October/Oct%2031,%202012/2D11-4527.pdf

***Waddell v. Delorenzo*, 105 So. 3d 591 (Fla. 5th DCA 2012)**
The appellant appealed from the entry of a final judgment of injunction for protection against repeat violence, which prohibited him from having any contact with his neighbor. During the hearing, the appellee did not testify to a single act of violence against him; however, the trial judge still issued the injunction. Because the petitioner's evidence was legally insufficient to support the entry of a repeat violence injunction, the appellate court reversed.
http://www.5dca.org/Opinions/Opin2012/122412/5D12-2100.op.pdf

***Morris v. Mascia*, 97 So. 3d 278 (Fla. 5th DCA 2012)**
The respondent appealed a permanent injunction for protection against domestic violence entered against him, and the appellate court reversed because the petitioner failed to prove the elements necessary for the entry of a domestic violence injunction. The petitioner filed the petition against his wife's uncle. Since the petitioner and the uncle had never lived in the same dwelling unit, the court held that the petitioner did not have standing to seek the injunction against the respondent.
http://www.5dca.org/Opinions/Opin2012/090312/5D11-2643.op.pdf

***Lee v. Lee*, 93 So. 3d 516 (Fla. 2d DCA 2012)**
A petitioner filed a motion for an extension of an injunction for protection against domestic violence. An ex parte order was entered that extended the injunction, and then a hearing was held on the motion. Despite the respondent's opposition to the motion, the trial court entered an order permanently extending the injunction without hearing any evidence, and the respondent appealed. The appellate court reversed, quoting *Giallanza v. Giallanza*, 787 So. 2d 162, 164 (Fla. 2d DCA 2001): "When moving for an extension of a preexisting injunction, the petitioner must establish either that additional domestic violence has

occurred or that, at the time the petition for extension is filed, he or she has a continuing reasonable fear of being in imminent danger of becoming the victim of domestic violence." Since the trial court failed to hear any evidence or make any findings that additional domestic violence had occurred or that the petitioner had a "continuing reasonable fear of being in imminent danger," the appellate court held that the ex parte order temporarily extending the injunction for protection against domestic violence could not be permanently extended against the respondent, in the absence of the required findings and an opportunity for the respondent to be heard in opposition to the motion.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/July/July%2027,%202012/2D10-6087.pdf

***Strogis v. Mutty*, 91 So. 3d 259 (Fla. 5th DCA 2012)**
The respondent appealed a final judgment of injunction for protection against repeat violence-no hostile contact. She asserted that the trial court erred by denying her motion to dismiss the petition because the petition failed to meet the legal requirements of section 784.046(4)(a), Florida Statutes. She also argued that there was not competent, substantial evidence in the record to establish the predicate two acts of violence. The facts underlying this proceeding involve long-standing animosity between the two parties and both acts of violence alleged during the hearing involved brief shoving or punching at crowded off-campus parties. The evidence offered at the hearing as to whether the contact was intentional or which of the two young women was the aggressor was in complete conflict. The appellate court found no merit in the appellant's claim of reversible error based on the legal insufficiency of the petition, and that the testimony was legally sufficient to support the trial court's decision, and affirmed the lower court's decision.
http://www.5dca.org/Opinions/Opin2012/062512/5D11-3392.op.pdf

***Williams v. Williams*, 89 So. 3d 301 (Fla. 5th DCA 2012)**
The respondent appealed a final judgment of injunction for protection against domestic violence. The appellate court reversed and remanded the case for dismissal because "the trial court never made a finding of domestic violence-and because petitioner did not present evidence that could support a finding that she had been a victim of domestic violence or was in imminent danger of becoming a victim of domestic violence."
http://www.5dca.org/Opinions/Opin2012/060412/5D11-217.op.pdf

***Giddens v. Tlsty*, 87 So. 3d 843 (Fla. 1st DCA 2012)**
The appellant appealed a final injunction for protection against repeat violence. "The trial court made no findings of fact and therefore did not explicitly find two incidents of violence or stalking" as required by section 784.046(1)(b), Florida Statutes. Because the final injunction was not supported by competent, substantial evidence, the appellate court reversed.
http://opinions.1dca.org/written/opinions2012/05-23-2012/11-2941.pdf

***In re N.F.*, 82 So. 3d 1188 (Fla. 2d DCA 2012)**
A mother's parental rights were terminated, and the appellate court reversed. She had missed a hearing and a visitation and had been arrested for domestic violence against her boyfriend. The appellate court noted that her single act of domestic violence (pushing her boyfriend) was not a failure to "substantially comply" with her DCF case plan when there was no allegation that the child witnessed or was harmed by the incident, especially when all contact between the mother and her daughter was cut off by the court prior to the incident. In addition, the case manager testified in court that the mother had completed all of her assigned tasks and could not offer or identify any facts that supported the allegation of child abandonment by the mother. The appellate court stated that DCF's position, on which the trial court based termination, "amounted to nothing more than parroted statutory phrases and bald incantations of buzz words. Such conclusory assertions, devoid of factual support, were not competent substantial evidence—let alone clear and convincing evidence—of anything."
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/March/March%2016,%202012/2D11-2320.pdf

***C.S., ex rel. D.A.S. v. T.S.P., ex rel. A.M.P.*, 82 So. 3d 1132 (Fla. 2d DCA 2012)**
A former boyfriend's single act of sitting on the petitioner's front porch and running away when the petitioner's mother pulled up to the house was not a sufficient act of stalking even though the petitioner testified she felt as if she was being stalked and was "in constant fear knowing that he could be anywhere . . . waiting . . . to grab [her] and potentially do physical harm to [her]." The appellate court reversed the circuit court decision that granted a permanent injunction for protection against dating violence because neither the allegations nor evidence supported the petitioner's entitlement to an injunction. There was no evidence that the former boyfriend/respondent had ever been violent or threatening toward her.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/March/March%2007,%202012/2D10-4451.pdf

***S.S. v. Department of Children and Families*, 81 So. 3d 618 (Fla. 1st DCA 2012)**
An order of dependency based on a finding of substantial risk of impending harm to the children was reversed where there was no showing that domestic violence occurred when the children were home, or that they were aware of the violence. The evidence of abuse of alcohol and illegal substances was found to be unsubstantiated and insufficient to prove that the mother's ability to care for her children or maintain employment was impaired, especially when the children appeared to be cared for and there was no testimony that they suffered physical, mental, or emotional harm because of the mother's alcohol and drug use.
http://opinions.1dca.org/written/opinions2012/03-09-2012/11-5977.pdf

***Achurra v. Achurra*, 80 So. 3d 1080 (Fla. 1st DCA 2012)**
The wife filed a petition for an injunction for protection from domestic violence against her husband. The trial court issued an ex parte temporary injunction and scheduled an evidentiary hearing, and the husband filed a response denying the material allegations in the petition. During the hearing, the wife's counsel asked the court to take judicial notice of a previous dissolution of marriage proceeding to avoid presenting redundant testimony. The circuit judge stated that he had retained his notes of the dissolution proceeding and announced his intent to review the other file and to allow the transcript from the earlier proceeding to be filed in the injunction case. The respondent neither objected to the request to take judicial notice nor complained of a lack of prior notice. At the close of the domestic violence hearing, the court ordered that the temporary injunction would remain in effect until all pertinent investigations were concluded, but made no oral findings of fact to support his ruling. Subsequently, a different circuit judge issued a final judgment of injunction against domestic violence, and the husband appealed, claiming that the final judgment was not supported by competent, substantial evidence.

The appellate court noted that the petitioner had the initial burden to prove entitlement to relief, and in this case she presented no evidence at the petition hearing. The record also showed no proof that the trial court ever received and considered a copy of the transcript from the dissolution proceedings of which it agreed to take judicial notice. The court stated that "[j]ust as the petitioner has the right to allege and prove the grounds for injunctive protection at a full and fair evidentiary hearing, the respondent is entitled to a fair hearing and protection from the effects of a final judgment of injunction that lacks any evidentiary support." Since the record was deficient of any proof to support the petitioner's allegations, the court reversed.
http://opinions.1dca.org/written/opinions2012/02-17-2012/11-2126.pdf

***D.M. v. Department of Children and Families*, 79 So. 3d 136 (Fla. 3d DCA 2012)**
The trial court terminated the parental rights of both parents and the parents appealed. The appellate court found that there was substantial, competent evidence to support the order terminating the father's rights. The father denied his behavior was domestic violence and experts testified that the father had difficulty accepting his role in the children's abuse. Therefore, the court found that substantial harm to the children could occur if the father's rights were not terminated.
http://www.3dca.flcourts.org/Opinions/3D11-1578.pdf

***Deale v. Deale*, 68 So. 3d 432 (Fla. 5th DCA 2011)**
The district court affirmed a trial court's order dismissing a temporary injunction for protection against domestic violence. The appellant (husband) claimed that the trial court erred by finding that there was insufficient evidence to warrant the issuance of an injunction for protection against domestic violence by the appellee (wife). The trial court entered a temporary injunction for protection against domestic violence, but at the hearing was not persuaded that the law supported issuing a permanent injunction. Although the district court agreed that the appellant had offered evidence in the trial court to support his allegations, the district court stated that it was not in a position to substitute its judgment for the trial court's, and affirmed the dismissal.
http://www.5dca.org/Opinions/Opin2011/090511/5D10-2820.op.pdf

***S.C. v. A.D.*, 67 So. 3d 346 (Fla. 2d DCA 2011)**
The district court reversed an injunction for protection against domestic violence against the appellant (the former boyfriend of the petitioner's mother), stating that the record did not support a finding that the appellee/petitioner was in imminent danger of becoming the victim of an act of domestic violence. In 2004, a family altercation resulted in criminal charges against the appellant and the issuance of two injunctions, one in favor of the appellee and one in favor of her mother. In 2008, for reasons not explained in the record, the trial court dismissed the injunction issued in favor of the mother but kept in effect the injunction for protection of the daughter, up to the date of the hearing that resulted in entry of the more recent injunction at issue in the appeal. Subsequently, the mother and the appellant separated and the appellant went to Iraq. When the daughter discovered that the appellant had returned to Florida, she filed a new petition for injunction. The daughter's reasons for the new petition were: (1) her incorrect assumption that the existing injunction for her protection was no longer in effect; (2) her incorrect assumption that the appellant was not allowed to contact his son; and (3) that she did not want the appellant to involve her in his attempt to see his son, something he had not attempted to do. The trial court, noting confusion regarding the existing injunction's status, issued a new injunction, acknowledging that it was "duplicative." The trial court noted that the appellant had been found guilty of a misdemeanor battery arising out of the 2004 altercation and indicated that its decision was based in part on that fact. Finding no competent, substantial evidence in the record to support the issuance of the new domestic violence injunction, the district court reversed. The district court stated that the case had been "driven by misinformation" and that there was no legal support for the issuance of the duplicative injunction.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/July/July%2015,%202011/2D10-953.pdf

***Horne v. Endres*, 61 So. 3d 428 (Fla. 1st DCA 2011)**
The district court reversed a no-contact order stating that neither section 784.046(2), Florida Statutes (2009), nor any other statute authorized a no-contact order, and "even courts of general jurisdiction are without plenary power to enjoin citizens to remain on good behavior." The district court stated that the order appeared to recognize that proof of the parties' interactions fell short of a showing that would warrant an injunction against repeat violence under section 784.046(2), Florida Statutes (2009). The district court stated that the appellee did not prove a single instance of "violence" within the meaning of section 784.046(1)(a). The first incident occurred in a shopping center parking lot. As appellant, a sheriff's sergeant, started to leave, his truck came close to the appellee, and she "hit his truck while pushing forward to prevent from being run over." The appellant then stopped, jumped out of his truck, and yelled at her, "Don't you ever hit my _____ truck" and yelled to her ex-husband "Keep your dog on a leash." The second incident occurred in the office of the middle school the parties' sons attended. The appellant, in uniform, told the appellee "you're going to have charges coming your way," and "you don't know who you're messing with." The trial court found that, given the first incident, the appellee's "fear and resulting emotional distress stemming from [the incident at the school] were reasonable." But the district court stated that the trial court made no findings that the appellant threatened to do the appellee violence or that he intentionally touched or harmed her during the first incident. As to the second incident, the district court stated that the appellant's harsh statements "were not accompanied by any act that would create a reasonable fear that violence was imminent, and neither statement threatens violence, even implicitly."

The district court held that, absent proof of statutory prerequisites, it could not affirm the order as being, in effect, an injunction against repeat violence.
http://opinions.1dca.org/written/opinions2011/04-15-2011/10-4038.pdf

***Titsch v. Buzin*, 59 So. 3d 265 (Fla. 2d DCA 2011)**
The district court reversed an injunction against repeat violence, stating that the record did not support a finding of two incidents of violence as required by section 784.046(2), Florida Statutes (2009). The appellee's petition for injunctive relief alleged two incidents of violence. The first involved a confrontation in his driveway during which the appellant allegedly threatened to kill him and tried to run him down with his SUV. In the second alleged incident, the appellant stopped his car at the appellee's home, exited the vehicle, and made a hand gesture imitating a gun and verbally threatened to kill him. The district court stated that "[e]ven if the first alleged incident is one of violence, the second falls outside the statutory scope. *See Santiago v. Towle*, 917 So.2d 909, 910-11 (Fla. 5th DCA 2005), holding that hand gestures and obscenities alone were insufficient" to constitute violence. The district court stated that there was not competent, substantial evidence that appellant, in the second alleged incident, made an overt act indicating ability to carry out the threat or that would justify a reasonable belief by appellee that violence was imminent. Because the alleged second incident was not an act of violence under the statute, the district court reversed the judgment of injunction.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/April/April%2013,%202011/2D10-354.pdf

***Power v. Boyle*, 60 So. 3d 496 (Fla. 1st DCA 2011)**
These consolidated cases involved permanent injunctions against repeat violence between arguing neighbors. The trial court granted temporary injunctions and entered four separate permanent injunctions. In explaining its decision to enter the injunctions, the trial court recognized that "this case does not fall within the purview of our most ordinary uses of [§ 784.046]," but the court reasoned that an injunction is necessary "to keep the peace" between the parties and that the circumstances of this case "fall within the broader purview of the statute" because of the harassing nature of the incidents. The respondents argued that the evidence presented at the hearing was legally insufficient to support the injunctions. The appellate court noted that two incidents of violence or stalking were required for an injunction under section 784.046, and the incidents must be supported by competent substantial evidence. In this case, the incidents described by the petitioners were legally insufficient because they did not rise to the level of violence or stalking under section 748.046, and as to one of the respondents, did not even establish the existence of two incidents as required by the statute. The appellate court therefore reversed and remanded the case for the trial court to vacate the injunctions.
http://opinions.1dca.org/written/opinions2011/04-21-2011/10-6437.pdf

***Parrish v. Price*, 71 So. 3d 132 (Fla. 2d DCA 2011)**
The respondent appealed two temporary injunctions against domestic violence entered against him ex parte that were obtained by his former wife on behalf of the parties' two adolescent children. At the hearing, the respondent moved to dissolve the temporary injunctions, arguing that the petitioner's petitions contained insufficient allegations and were based on hearsay. The court denied his motion and proceeded with the hearing. The petitioner presented her case, but by then the scheduled hearing time had been used up. The court extended the temporary injunctions until further order and scheduled another hearing for two weeks later in order for the respondent to present his case. Before the date of the scheduled hearing, however, the respondent appealed the nonfinal temporary injunctions pursuant to rule 9.130(a)(3)(B), Florida Rules of Appellate Procedure, also claiming the petitioner had no standing to petition for the injunctions because section 741.30, Florida Statutes, does not specifically provide for a parent to seek an injunction on behalf of a minor child.

The court held that the petitioner was authorized to petition for the injunctions on behalf of the children. "Section 741.30 clearly contemplates that children are among those who may invoke the statute's protection from domestic violence, [and rule 1.210(b), Florida Rules of Civil Procedure,] applicable to all civil cases, provides that a minor cannot sue on his or her own behalf. Rather, suit must be instituted by

an appointed representative or a 'next friend,' such as a parent. . . . Thus, a child's only vehicle for seeking protection under the domestic violence statute is through a petition filed by a next friend or representative." The court also held that the allegations were sufficient to support the temporary injunctions; however, it offered no opinion on whether permanent injunctions were warranted." The petitions were based almost entirely on hearsay statements the children supposedly made to [the petitioner]. . . . At the renewed hearing on the permanent injunctions, the court may consider taking testimony from one or both of the children in order to assess the accuracy of the allegations and to determine whether [the respondent] engaged in violence against his children."
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/June/June%2010,%202011/2D10-3484.pdf

***C.K. v. B.B. ex rel. T.S.*, 65 So. 3d 99 (Fla. 2d DCA 2011)**
The mother challenged the trial court's final judgment of injunction for protection against domestic violence entered against her and in favor of the father who filed on behalf of the parties' eight-year-old daughter. At the hearing on the petition, although the father alleged that the child was in danger because of drug use by the mother's boyfriend and the mother's neglect, he presented no evidence regarding the boyfriend's drug use, verbal abuse, and no evidence of the mother failing to supervise the child. There was some evidence that the mother's behavior was erratic, but the mother's behavior did not provide the reasonable cause necessary to believe that the child was in imminent danger of becoming a victim of domestic violence. Because the record did not establish that the child was the victim of domestic violence or was in imminent danger of becoming a victim of domestic violence at the hands of the mother, the appellate court reversed.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/June/June%2024,%202011/2D10-5175.pdf

***Singletary v. Greever*, 62 So. 3d 700 (Fla. 2d DCA 2011)**
The district court reversed an injunction against repeat violence, stating that the record did not support a finding of two incidents of violence as required by section 784.046(2), Florida Statutes (2009). The appellee's petition for injunctive relief alleged two incidents of violence. The first involved an incident outside her house in which the appellant was asked to leave because the appellee "did not like him." The district court stated that there was no evidence that appellant had any contact with the appellee or made any threats against her. The second incident occurred at a credit union where the appellant, in a conversation with a third party, allegedly made a veiled gun threat against the appellee. The district court stated that "the incident at the credit union did not involve a threat of violence that amounted to an assault because there was no overt act demonstrating that the violence was imminent" and that "the repeat violence was not supported by competent, substantial evidence," and thus reversed and remanded for the trial court to vacate the injunction.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/June/June%2010,%202011/2D10-931.pdf

***Moriggia v. Moriggia*, 62 So. 3d 1151 (Fla. 2d DCA 2011)**
The respondent challenged a final judgment of injunction for protection against domestic violence with minor children after notice. Because there was no evidence that the petitioner was either the victim of domestic violence or had reasonable cause to believe he was in imminent danger of becoming a victim of domestic violence, the appellate court reversed. There was no evidentiary support for the proposition that the respondent had been physically abusive toward the petitioner or the conclusion that the petitioner had reasonable cause to believe that he would be the victim of domestic violence. In fact, the only testimony at the hearing about physical abuse between the two parties was that the petitioner abused the respondent.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/May/May%2027,%202011/2D10-3594.pdf

***Randolph v. Rich*, 58 So. 3d 290 (Fla. 1st DCA 2011)**
The appellant appealed the final judgment of injunction for protection against domestic violence entered against him based on the petition of his former wife. The appellate court reversed, stating: "In order for the trial court to issue an injunction for protection against domestic violence, the party seeking the injunction must establish that he or she has an objectively reasonable fear that he or she is in 'imminent danger of becoming the victim of any act of domestic violence.' . . . In evaluating these issues, the trial court must consider the behavior of the party against whom the injunction is sought in the context of the current threats and the parties' relationship and its history." The court also noted that "the law requires more than general relationship problems and uncivil behavior to support the issuance of an injunction. . . . Rather, the law requires that the party seeking the injunction must present sufficient evidence to establish the objective reasonableness of his or her fear that the danger of violence is 'imminent.'" Although the testimony revealed much bad behavior, the evidence did not rise to the statutory standard and the appellate court reversed because the petition was legally insufficient to support the injunction.
http://opinions.1dca.org/written/opinions2011/02-16-2011/10-5711.pdf

***Murphy v. Reynolds*, 55 So. 3d 716 (Fla. 1st DCA 2011)**
The respondent appealed a final injunction for protection against repeat violence that had already expired. However, the court held that the case was not moot, because the collateral legal consequences flowing from the injunction outlasted the injunction itself. The petitioner set out to prove cyberstalking as grounds for the injunction, alleging that the respondent "sent her an offensive email, hacked into her email accounts, deleted all of her emails, and changed her email signature block to include disparaging remarks." The petitioner did not, however, introduce competent substantial evidence identifying the respondent as the perpetrator of those acts. Because the trial court's finding that the respondent committed repeat violence against the petitioner lacked competent substantial evidence, the appellate court reversed the trial court's decision.
http://opinions.1dca.org/written/opinions2011/03-03-2011/09-5867.pdf

***Monteiro v. Monteiro*, 55 So. 3d 686 (Fla. 3d DCA 2011)**
The husband petitioned for a writ of certiorari to quash the trial court's order which mandated the in-camera examination of the minor children of the marriage, outside the presence of the parties and their counsel, at a final domestic violence injunction hearing. The original proceeding consisted of an action for dissolution of marriage. However, four domestic violence petition actions were consolidated with the case. The domestic violence actions involved one petition filed on behalf of the wife and three on behalf of the three minor children. The trial court's order stated that the court would conduct an in-camera interview "of at least the two oldest Minor Children, privately and outside the presence of counsel and outside the presence of the parties, before the testimony of any and all other witnesses." The court further ordered that it reserved the right to determine whether an in-camera interview of the youngest child would be conducted, also privately and outside the presence of counsel and the parties.

The husband argued that the trial court's order violated his due process rights because an interview of the minor children without the presence of counsel or the parties deprived him of a meaningful opportunity to be heard. The appellate court disagreed and noted that the husband did not show "how the trial court departed from the essential requirements of the law. The husband has not cited to any authority which requires that the trial court submit the minor children to cross-examination by the husband's counsel in the domestic violence action. Moreover, he has cited to no authority which requires the trial court to have the husband or his counsel present during any in-camera examination of the children in a domestic violence case. Consequently, there can be no departure from the essential requirements of law because the trial court did not violate any established principles of law when it entered the subject order." The court also noted that rule 12.407, Florida Family Law Rules of Procedure, and case law supported the trial court's decision. "[T]he children's interests are of the utmost importance in domestic and sexual violence cases," and pursuant to section 92.55, Florida Statutes, the trial court has discretion to determine how the best interests of the children are to be protected. "The trial court thus acted well within its discretion and consistent with its obligation to act in the children's best interests."
http://www.3dca.flcourts.org/Opinions/3D10-1602.pdf

***Sanchez v. Sanchez*, 48 So. 3d 199 (Fla. 2d DCA 2010)**
The district court reversed a final judgment granting an injunction for protection against domestic violence. The wife "gave unsubstantiated, hearsay testimony relating to only one statutory factor, i.e., harm to a family member (the parties' daughter) [and] offered no reason to believe that she herself was in imminent danger of becoming a victim of domestic violence." As the trial court did not issue an injunction for the daughter's protection, the district court did not address whether the evidence was sufficient to warrant such an injunction.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/December/December%2001,%202010/2D08-4673.pdf

***Schiffman v. Schiffman*, 47 So. 3d 925 (Fla. 3d DCA 2010)**
The district court reversed the trial court's order dismissing a breach of contract action. The trial court's dismissal was based on a sua sponte determination that no justiciable issues existed and that the matter should be resolved in domestic violence court. In a subsequent order denying rehearing, the trial court justified its dismissal on three grounds: first, that the underlying complaint failed to state a proper cause of action; second, that the settlement agreement at issue was never ratified or adopted by a court; and third, that a previous dismissal for lack of prosecution barred consideration of the instant action under principles of res judicata. The district court reversed, holding that none of these grounds warranted dismissal and, at a minimum, the underlying complaint alleged a cognizable claim for breach of contract.
http://www.3dca.flcourts.org/Opinions/3D09-2326.pdf

***Gill v. Gill*, 50 So. 3d 772 (Fla. 2d DCA 2010)**
The district court reversed a final judgment and vacated an injunction because the evidence failed to show that the appellee (former wife) was the victim of domestic violence or that she had an objectively reasonable fear that she was in imminent danger of becoming the victim of domestic violence. In her petition for injunction for protection against domestic violence, the former wife alleged that the appellant (former husband) had pushed her during an argument in February 2008 and that they had a yelling match outside her house during a custody exchange in April 2009, at which time he drove his car into her. She did not allege any acts of violence or threatened violence between the parties at any time between February 2008 and April 2009, and at the time of filing of the petition the parties were living separately, and she had a domestic violence injunction entered against her and in favor of the former husband. The former wife also alleged in her petition that the former husband had beaten and punched the parties' minor child in October 2008, November 2008, and April 2009. However, the former wife did not seek an injunction for protection against domestic violence in favor of the minor child.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/December/December%2029,%202010/2D09-2746.pdf

***Fuccio v. Durso*, 48 So. 3d 1011 (Fla. 5th DCA 2010)**
The district court reversed an order of permanent injunction for protection against domestic violence entered by the trial court against the appellee's great nephew. In order to obtain such an injunction, the controlling statute, section 741.28, Florida Statutes (2008), requires proof that the parties are residing or have resided together in the same single dwelling unit. Although the appellee asserted that the parties had resided together in the same single dwelling unit, the undisputed testimony established that the parties had never lived together. Nevertheless, the trial court granted the petition.

On appeal, the appellee conceded that it was improper for the trial court to enter a domestic violence injunction since the parties had never lived together, but agreed that the district court should "affirm the injunction as being a matter within the trial court's equitable jurisdiction, under section 784.046 of the Florida Statutes (2008), which authorizes injunctions for protection against repeat violence." The district court concluded that, although the evidence may have supported the issuance of an injunction for protection against repeat violence under section 784.046, that alone did not support affirmance because the appellant never got notice that an injunction was being sought under section 784.046. When the issue was raised in the trial court, counsel for appellee did not seek to amend the petition to request an

injunction under section 784.046 or request a continuance to file an appropriate pleading. Therefore, the district court reversed.
http://www.5dca.org/Opinions/Opin2010/112910/5D10-95.op.pdf

***Fuccio v. Durso*, 48 So. 3d 1013 (Fla. 5th DCA 2010)**
The facts and legal arguments were identical to the case above. However, the parties were different.
http://www.5dca.org/Opinions/Opin2010/112910/5D10-96.op.pdf

***Polanco v. Cordeiro*, 67 So. 3d 235 (Fla. 2d DCA 2010)**
The respondent appealed a final judgment of injunction against repeat violence entered in favor of the petitioner. At the hearing on the petition, the petitioner testified that the respondent harassed and stalked her, but could not describe specific instances that fell within the statutory definition of repeat violence or stalking. The court noted that the trial judge's findings that the parties were very emotional and hostile toward each other were insufficient to support an injunction against repeat violence as provided for in section 784.046(2), Florida Statutes. Because the petitioner failed to prove any acts of violence or stalking, the court reversed the trial court's decision.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/September/September%2022,%202010/2D09-2998.pdf

***Coe v. Coe*, 39 So. 3d 542 (Fla. 2d DCA 2010)**
The petitioner appealed a final judgment of injunction for protection against domestic violence entered in favor of his former wife. The parties were also involved in a divorce and custody dispute being heard by the same judge. The appellate court reversed the order granting the petition because it was entered based on evidence from the custody hearing that was not a part of the injunction hearing record. "In essence, the court's decision was based on impermissible extrajudicial knowledge." The appellate court noted that there is "considerable merit in having the judge assigned to a dissolution proceeding also handle claims of domestic violence that arise during the pendency of those proceedings. It is likely that a judge handling a dissolution will have a better sense of whether a domestic violence injunction is actually necessary, whether the petition has been filed for genuine reasons or primarily as a tactic within the divorce, and whether matters that could be resolved in one case or the other are better decided in the dissolution proceeding." But it also warned that trial judges assigned to dissolution proceedings who also handle interrelated petitions for domestic violence must exercise care in ensuring that their rulings are supported by an adequate record.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/July/July%2016,%202010/2D09-92rh.pdf

***Jones v. Jones*, 32 So. 3d 772 (Fla. 2d DCA 2010)**
The respondent appealed an order granting a final injunction for protection against domestic violence. Because the petitioner did not present competent, substantial evidence to support a finding that she possessed an objectively reasonable fear of imminent domestic violence, the appellate court reversed. The respondent "had sought items to which he was ensured access under the divorce decree. Viewed in the context of the parties' relationship, [the respondent's] appearance at [the petitioner's] place of employment-following his . . . custody visit-could not reasonably be interpreted as a threat of violence."
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/April/April%2030,%202010/2D09-351.pdf

***T.O. v. Department of Children and Families*, 21 So. 3d 173 (Fla. 4th DCA 2009)**
The mother and father contested the termination of their parental rights and argued that the trial court improperly admitted the child's hearsay evidence because the child did not testify at trial. "[T]he trial court conducted a hearsay hearing prior to trial, as required by the statute, and determined that the child's hearsay statements were reliable and from trustworthy sources. The parties expected [the child] to testify at trial to meet the second requirement of section 90.803(23). When she refused to testify about her parents, neither party objected or asked the court to find the child unavailable as a witness." The appellate court agreed that the testimony should not have been admitted, but held that "the error was not

fundamental because there was sufficient corroborating evidence to support the admission of this evidence. . . . Section 90.803(23), Florida Statutes (2008), allows for the admission of child victim hearsay statements where the statements describe an act of child abuse or neglect. Before these statements are admissible, the trial court must conduct a hearing and make a preliminary determination that they come from a trustworthy source and are reliable. § 90.803(23), Fla. Stat. (2008). Then, the child must either testify at trial or be declared unavailable as a witness. . . . If the child is unavailable, the hearsay statements are admissible only if the trial court determines that there is other corroborating evidence of the abuse or neglect." Also, because there was competent, substantial evidence to support the trial court's order terminating the parents' rights to the children under section 39.806(1)(c), Florida Statutes, to support the trial court's order, the court affirmed.
http://www.4dca.org/opinions/Nov%202009/11-18-09/4D09-686%20&%2009-687.op.pdf

***C.W. v. Department of Children and Families*, 10 So. 3d 136 (Fla. 1st DCA 2009)**
The mother appealed the trial court's order adjudicating the child dependent. The appellate court reversed because the trial court's findings, even if supported by competent, substantial evidence, did not meet the requirements to support the adjudication. In ruling the three-month-old child dependent, the trial court relied in large part on an expert's testimony that a child can be harmed by witnessing domestic violence. The court then concluded that general factors concerning the effect of domestic violence upon children constituted evidence that this child was harmed. The appellate court, however, noted that the trial court made no findings that the child was aware of the incident or was physically or mentally harmed, and "the record contain[ed] no evidence that the child comprehended the incident, sustained any physical or mental injury, or was cognizant in any way of the parents' poor behavior toward one another. Although the trial court found the parents showed wanton disregard for the child's presence during the incident, it did not find that this could reasonably have resulted in injury to the child. Nor did the court explain how the parents' 'minimization' of the incident, the mother's past history of being subjected to domestic violence, or the parents' conflicting statements about what occurred during the incident 'created an atmosphere for the child that has harmful consequences to the child,' sufficient to support a dependency finding."
http://opinions.1dca.org/written/opinions2009/03-25-2009/08-1866.pdf

***C.M. v. Department of Children and Families*, 6 So. 3d 728 (Fla. 4th DCA 2009)**
The father appealed an order adjudicating his seven-year-old child dependent. The appellate court reversed because the adjudication was based on a finding that the child suffered mental harm from witnessing a domestic violence incident, which it found was not supported by competent, substantial evidence. The only evidence of harm to the child came from a child advocate's hearsay testimony.
http://www.4dca.org/opinions/Apr%202009/04-15-09/4D08-3929.op.pdf

***Tacy v. Sedlar*, 15 So. 3d 24 (Fla. 2d DCA 2009)**
The respondent appealed an order modifying a final judgment of injunction for protection against domestic violence that added the parties' teenage daughter as a protected party and ordered the respondent to have no contact whatsoever with the child. "The preexisting injunction . . . did not include a determination concerning the parties' child and [the petitioner] did not seek to modify the final judgment of injunction for reasons related to her own protection." The appellate court reversed because the evidence did not support the order. The petitioner established no conduct on the respondent's part that demonstrated domestic violence as related to the child. In fact, the petitioner testified that she was not scared of the respondent; she simply did not want him to have any involvement with the child.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2009/May/May%2008,%202009/2D08-3101.pdf

***In re G.C.*, 6 So. 3d 643 (Fla. 2d DCA 2009)**
The appellate court reversed a termination of parental rights decision because DCF did not prove a ground for termination by clear and convincing evidence. Although not the primary issue, the court determined that the alleged domestic violence in this case did not support termination of parental rights under section 39.806(1)(c), Florida Statutes. "[T]he children were not adjudicated dependent based on

the alleged domestic violence [and] DCF did not establish that the alleged domestic violence harmed the children because the children were not present when the alleged domestic violence occurred and there was no evidence that they were otherwise aware of it." The court further determined that termination under section 39.806(1)(c), Florida Statutes, was not appropriate because DCF did not demonstrate a nexus or predictive relationship between the past domestic violence and future harm to the children. The court also noted that there was no testimony that stated that the alleged domestic violence could not be remedied by the provision of services.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2009/February/February%2025,%202009/2D08-1409%20%20-1416.pdf

***Acevedo v. Williams*, 985 So. 2d 669 (Fla. 1st DCA 2008)**
The mother of a 17-year-old girl petitioned for an injunction against dating violence against the girl's 18-year-old paramour. The court granted the injunction; however, the appellate court held that the trial court erred. The 17-year-old consented to the relationship, their sexual relationship did not constitute sexual battery pursuant to statute, and the record contained no evidence on which the trial court could have concluded that the girl was a victim of any sort of dating violence as defined in section 784.046, Florida Statutes (2007).
http://opinions.1dca.org/written/opinions2008/06-30-08/08-0370.pdf

***Ambrefe v. Ambrefe*, 993 So. 2d 98 (Fla. 2d DCA 2008)**
The trial court issued a domestic violence injunction, even though it did not find evidence of imminent danger. The appellate court found that the trial court abused its discretion in entering the injunction when the requisite evidence was lacking, and vacated the injunction.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2008/October/October%2015,%202008/2D08-433.pdf

***Tejeda-Soto v. Raimondi*, 968 So. 2d 635 (Fla. 2d DCA 2007)**
The appellant couple, neighbors of the appellees, appealed the entry of repeat violence permanent injunctions entered against them, arguing that they were not given the opportunity to properly present their case. At trial, the court simply heard opening statements from both sides before interrupting to state that this was a situation in which a permanent injunction was appropriate. The court heard from no witnesses and admitted no evidence. The district court found that the appellants were denied procedural due process when they were not allowed to present evidence and provide witness testimony. The final judgments were reversed, and the cases were remanded for full evidentiary hearings. Additionally, the appellants' counsel was not permitted to present a motion to dismiss based on the insufficiency of the petition. The district court stated that the appellants should be allowed to make that argument on remand.
http://www.2dca.org/opinion/October%2026,%202007/2D06-3107.pdf

***Morrell v. Chadick*, 965 So. 2d 1277 (Fla. 2d DCA 2007)**
The appellant, the former supervisor of the appellee, appealed the final order for protection against sexual violence entered against him, citing insufficient evidence. During the majority of the appellee's year-long employment, the parties were engaged in a sexual relationship that allegedly ended a month *after* her resignation. The appellee filed a petition for protection against sexual violence two months after ending the relationship, alleging that she was harassed and forced to have sex against her will while employed and that she submitted to the appellant's demands because she feared losing her job, and that the appellant continued to contact her at her home, work, and cellular phone numbers and threatened to blackmail her. At trial, the appellant moved to dismiss because the petition was insufficient under the sexual violence statute; the appellee had failed to cite specific instances when she was pressured to have sex or the appellant was physically violent toward her but testified that the main impetus for her filing was the appellant's phone calls, none of which contained any threats of violence or requests for sex, and which went unanswered. The appellant argued that the two had been involved in a consensual sexual relationship. The court denied the motion to dismiss, citing that the petition stated a case for stalking, and granted the injunction. The record and the final judgment were contradictory in that the basis for the injunction (stalking) was not an enumerated basis under the relevant statute for sexual violence.

Therefore, the appellate court reversed, stating: "The trial court apparently astutely recognized the flaw in [appellee's] allegations of sexual violence and orally stated that the evidence of [appellant's] numerous telephone calls supported a finding of stalking. However, [appellee] had filed a petition for injunction for protection against sexual violence, and the statutory definition of 'sexual violence' contained in section 784.046(1)(c) does not include stalking. [Appellee] did not amend her pleadings, and this issue was not tried by consent. Moreover, the trial court entered the final judgment on the standard form used for injunctions for protection against sexual violence, and the final judgment did not include any findings regarding stalking. Absent amendment of the pleadings or trial by consent, the trial court cannot enter an injunction on grounds of violence different from the ground alleged by the petitioner. . . . Dismissal of the petition without prejudice for [appellee] to refile or amend her petition was the appropriate remedy."

***Smith v. Smith*, 964 So. 2d 217 (Fla. 2d DCA 2007)**
The husband appealed the entry of a permanent injunction against domestic violence, claiming that his due process rights were violated when he was not allowed to testify or call witnesses prior to the entry of the final order. Initially, the trial court held a 45-minute hearing at which the wife presented testimony and evidence; the husband was prepared and had witnesses ready to testify, but the hearing was continued. At the subsequent hearing, the wife again was given the opportunity to testify and call witnesses. During the cross-examination of the wife, the court unexpectedly halted the proceedings and entered the injunction. Again, the husband had his witnesses ready to testify, but the only time he actually spoke was when he was asked about visitation. While the wife argued that the court had broad authority to control its docket and that the husband's trial strategy "wasted his allocation of time," the district court found the trial court abused its discretion in not allowing the husband adequate time to present his case. Due process should be afforded to both sides, and in the instant case the record reflected that the husband did not receive the opportunity to be heard. The district court reversed and vacated the permanent injunction.
http://www.2dca.org/opinion/August%2024,%202007/2d06-3353.pdf

***Ohrn v. Wright*, 963 So. 2d 298 (Fla. 5th DCA 2007)**
The appellant appealed the entry of a permanent injunction against repeat violence on the basis that the trial court failed to swear witnesses and that she was precluded from presenting a witness to testify. The district court of appeal found that these actions constituted a due process violation. In order for a court to hold a "full" permanent injunction hearing, the court must allow each side to prove or disprove the allegations in the petition by allowing them sufficient time to present witnesses with relevant information. In addition, each witness should be sworn, and cross-examination should be allowed. While the district court understood the pressure on domestic violence trial courts to hear the heavy volume of cases in a time-efficient manner, it reversed and remanded and reminded the trial courts to be cognizant of fundamental due process requirements.

***Seffernick v. Meriwether ex rel. Meriwether*, 960 So. 2d 851 (Fla. 2d DCA 2007)**
The mother appealed entry of a nine-month injunction against her on behalf of the parties' 15-month-old child. The father took the child after an apparent suicide attempt by the mother that occurred in front of the child, and the mother tried to take him back. The father called the police and the mother agreed to be taken to the hospital, where she was Baker-acted. The trial court entered the permanent injunction. On appeal, the court found that these actions did not meet the statutory definition of domestic violence and reversed. No evidence was presented that the child was in "imminent danger" since the mother was in the hospital when the petition was filed. While the district court understood that the trial court was in a difficult position, it stated that the domestic violence proceeding was not the proper forum to address the child's safety. The father could have initiated a paternity action or sought custody. The court also mentioned the fact that until those proceedings were underway, the father was, "by law, a stranger to the child." The district court held that the permanent injunction was entered in error by the trial court.
http://www.2dca.org/opinion/July%2006,%202007/2D06-4585.pdf

***In re L.C.*, 947 So. 2d 1240 (Fla. 2d DCA 2007),** and **947 So. 2d 1247 (Fla. 2d DCA 2007)**
A mother and father appealed the circuit court's adjudication of their minor children as dependent as to both of them. The circuit court based its finding of dependency on the fact that "the mother and the father

engaged in domestic violence in the presence of the children" and that this placed the children at risk of abuse and neglect. The district court found that of the alleged incidents, all but one occurred before the birth of the children. Including a shooting incident dating back to 1997, all these incidents were too remote in time and did not involve the children, thus failing to support an adjudication of dependency. The court also reviewed the incident of violence that occurred after the children's births wherein the father sought a domestic violence injunction against the mother for an incident in which hot coffee was tossed on him while he was driving. The trial court did not find credible the father's claim that the incident did not occur in front of the children (he stated he checked the wrong box on a form). Nevertheless, the appellate court found that the incident could not support the dependency adjudication since it was based on hearsay and did not meet the requirements of any exception. Because the father's previously filed injunction was DCF's only evidence as to his involvement in any domestic violence, and he had filed the petition as the victim, the district court reversed the adjudication of dependency as to the father. With respect to the mother, DCF argued that the mother failed to protect the children when she allowed them to be around a father with violent tendencies and that violence occurred in front of the children. DCF failed to meet its burden of proof here as well; therefore, the adjudication of dependency as to the mother was also reversed.

***Clement v. Ziemer*, 953 So. 2d 700 (Fla. 5th DCA 2007)**

The appellant neighbor appealed the trial court's order of a final injunction against repeat violence resulting from appellee neighbor's petition. The parties were in a dispute over an easement on the appellee's property that gives the appellant access to a lake. Among the multiple acts that the appellee cited in her initial petition, the appellant allegedly cut down trees on the easement, drove past the appellee's home several times, and "terrorized" the neighborhood. Upon review of the transcript of the hearing by the district court, the court determined that the hearing was disorganized and one-sided. While the appellee was allowed ample time to put on her case, the appellant's attorney was cut short in attempts to respond to allegations, and many of his objections were simply ignored. Even after the appellant's attorney mentioned the lack of opportunity to put on his case, the court cut him off and cautioned him not to start "playing games like that with me." The appellant argued that he was denied procedural due process because the judge hearing his case was not impartial and because he was not allowed to present his case in defense of these allegations; the district court agreed with the appellant. Aside from finding that the appellant did not receive due process, the court found that the appellee was not even entitled to an injunction, for she did not prove two acts of violence supported by competent, substantial evidence as required by the statute to qualify for a repeat violence injunction. In the instant case, there were no overt acts stated that would indicate the appellant's ability to carry out the alleged threats. Therefore, the court reversed and remanded with instructions to vacate.

***Buchan v. Hibbard*, 940 So. 2d 533 (Fla. 2d DCA 2006)**

The appellant (former husband) appealed an order granting the motion of the appellee (present husband) to dissolve an injunction protecting the appellant and his minor son from domestic violence. The trial court had granted the injunction when the appellant testified that the appellee shot him in the neck when the appellant was dropping off his son at the former wife's house. The appellate court affirmed without discussion the dissolving of the injunction as to the appellant father, but reversed as to the son. At the hearing to dissolve the injunction the appellee argued that the injunction had been improperly issued because there was no evidence the son had been, or had reasonable to cause to think he would be, the victim of domestic violence. The circuit court granted the motion to dissolve the injunction without letting the son testify, holding that it lacked jurisdiction to issue the injunction because the proper way to resolve the matter was in the dissolution proceeding. The appellate court disagreed, stating that "an injunction may be sought regardless of whether any other cause of action is currently pending between the parties." The appellate court further held that the original petition alleged, and the appellant testified regarding, "facts that show [the] son had reasonable cause to believe that he was in imminent danger of becoming a victim of domestic violence pursuant to section 741.30(1)(a). Domestic violence is defined as 'any assault, [etc.], resulting in physical injury or death of one family or household member by another family or household member'" and the son is a household member because his mother is married to the

appellant and he has lived with the appellant in the same single dwelling unit. It was also improper for the circuit court to dissolve the injunction without allowing the son to testify.

***In re K.V.*, 939 So. 2d 200 (Fla. 2d DCA 2006)**
The father appealed the circuit court order declaring his child dependent as to him after a domestic violence incident in the paternal grandparents' home, where he and the child were residing at the time. The appellant was arrested after an incident involving domestic violence against the grandmother. While the trial court found credible hearsay evidence that the domestic violence occurred in the presence of the minor child, no evidence was present to indicate that the child was aware of such violence. The court relied on *In re K.B.*, 937 So. 2d 709 (Fla. 2d DCA 2006), which stated that mere physical proximity does not constitute "presence" and that the child must have an awareness of the violence for it to constitute abuse. Additionally, what the child witnesses must result in some physical, mental, or sexual injury to the child. Since no evidence was presented that the domestic violence resulted in any harm due to an awareness of the domestic violence, the adjudication of dependency was reversed.

***C.C. v. Department of Children and Families*, 946 So. 2d 548 (Fla. 5th DCA 2006)**
The appellant father argued that the circuit court erred in adjudicating his minor daughter dependent as to him because no competent evidence existed that he committed any act of violence in front of her. Under section 39.01(30)(i), Florida Statutes (2005), a child could be adjudicated dependent if a court found that the child saw or was aware that the violence was occurring. The trial court drafted a memorandum stating that the violence had occurred in the presence of the minor daughter; however, the final order deleted the key words "in front of his young child." After review, the transcript did not indicate any evidence that the domestic violence occurred in front of the minor child. The court reversed the order, but allowed DCF to present additional evidence of prospective abuse on remand (not just correct the discrepancy).

***Jackson v. Echols*, 937 So. 2d 1247 (Fla. 3d DCA 2006)**
The district court affirmed an order for a permanent injunction against domestic violence where the appellant contended the court abused its discretion by issuing the injunction when the parties no longer resided together. Even though the hearing was recorded pursuant to Florida law, the transcript was unavailable on appeal, and the statement of evidence was neither timely submitted nor stipulated to. Without the benefit of the transcript, the court looked to whether the petition, on its face, satisfied the requirements for a permanent injunction. The appellant contended that the petition was insufficient because it stated that the violence occurred when the parties were no longer residing together and that the relationship between the parties was that of an "ex live-in" boyfriend/girlfriend. The district court affirmed, finding that (1) without the transcript or statement of evidence, the court must presume that the trial court acted within its broad discretion; (2) an "ex live-in" boyfriend/girlfriend relationship satisfies the requirement that the parties must have resided together "as if a family" under the domestic violence statute; and (3) violence between the parties need not have occurred while the parties were living together to satisfy the requirement for a permanent injunction against domestic violence.

***In re K.B.*, 937 So. 2d 709 (Fla. 2d DCA 2006)**
A father appealed an order of the trial court declaring his two children dependent as to him based on evidence that he and the mother got into an altercation in which he knocked her down several times, punched her in the chest, and kicked her in the legs in front of the children. Although the district court upheld the trial court's finding that domestic violence occurred in the presence of the children, there was no evidence the children suffered physical or mental injury as a result of witnessing the altercation, or that the father posed any current threat of harm to them. In order for the harm resulting from witnessing domestic violence to constitute abuse under chapter 39, Florida Statutes, the harm must pose a current threat to the child based on current circumstances. The mother testified that this was the only time the father had hit her, that they ended their relationship and were currently involved in other relationships, and that the situation that gave rise to the domestic violence no longer existed. Additionally, no evidence was presented that the father had ever engaged in inappropriate behavior toward children. The appellate court found that there was insufficient evidence that the children needed protection from the father. Accordingly, the trial court's finding of dependency was reversed.

***Morcroft v. J.H.*, 935 So. 2d 588 (Fla. 5th DCA 2006)**
The guardian ad litem appealed the trial court's refusal to find the children dependent as to the father in a case in which the father had engaged in a vicious assault on the mother in the presence of the children, and the mother suffered a fractured skull and was hospitalized. After the incident the mother obtained a permanent injunction against the father, which the mother argued should result in the dismissal of the dependency action. The trial court declined to find the children dependent as to the father because DCF had not presented expert testimony as is required in a case where no physical harm is proven, DCF had failed to establish a "cycle" of domestic violence in front of the children, and an injunction with a no-contact order was in place. The district court reversed and remanded, holding that no expert "is required to bolster evidence regarding the detrimental effect of witnessing domestic violence on children in order to support a finding of dependency." A sufficiently horrific single act of domestic violence is sufficient, and the existence of a permanent injunction is insufficient protection because it appears "to be 'temporary,' regarding the custody of the children."

***T.S. v. Department of Children and Families*, 944 So. 2d 1049 (Fla. 4th DCA 2006)**
A father appealed an order that determined his three children were at imminent risk of being abused, abandoned, and neglected, and withheld adjudication of dependency. The trial court based its finding on ongoing domestic violence between the parties, citing specifically the mother's two applications for domestic violence injunctions and an incident in which the father had kicked or thrown a chair at the mother's door and was combative when the police arrived. The district court reversed and remanded, noting that neither of the mother's petitions for domestic violence injunctions had resulted in issuance of restraining orders, and the allegations of domestic violence had not been substantiated. Evidence of one incident in which the father kicked a door did not support a finding that domestic violence had occurred. Since the record did not contain evidence establishing an ongoing pattern of domestic violence to support a finding of prospective harm and dependency as to the children, the trial court erred by declaring the children dependent.

***Terrell v. Thompson*, 935 So. 2d 592 (Fla. 1st DCA 2006)**
The district court reversed the trial court's entry of a final judgment of injunction for protection against repeat violence against the appellant . . . "because competent, substantial evidence [did] not support the finding of even a single act of violence perpetrated by the appellant. Section 784.046, Florida Statutes, requires two incidents of violence or stalking committed by the respondent to support an entry of a repeat violence injunction." The court further explained that "verbal threats without an overt act creating a well-founded fear that violence was imminent were insufficient to qualify as assault" for purposes of entering a repeat violence injunction.

***Blaylock v. Zeller*, 932 So. 2d 479 (Fla. 5th DCA 2006)**
The trial court entered a final repeat violence injunction against the respondent and ordered her not to possess or use firearms or ammunition. At the final hearing on the petition, the respondent agreed to most of the conditions in the injunction. On appeal, she argued that she was denied due process because she did not have the opportunity to cross-examine or present witnesses, and that the trial court erred in prohibiting her from possessing or using firearms when no sworn testimony was presented that she was a danger. The record showed that both parties were given the opportunity to present their case and the respondent did not present witnesses or cross-examine the petitioner. The final injunction was affirmed, but the court found that since the petitioner did not make such a request, the firearms prohibition should be removed because the issue was not presented nor discussed during the hearing.

***Sorin v. Cole*, 929 So. 2d 1092 (Fla. 4th DCA 2006)**
"Mere shouting and obscene hand gestures, without an overt act that places the victim in fear, does not constitute the type of violence required for [a repeat violence] injunction." The appellate court found merit in the appellant's argument that the petition for protection against repeat violence was deficient because it did not allege two incidents of violence as required by section 784.046, Florida Statutes. The petitioner asserted in the petition that she had a falling out with the respondent and that the respondent told her that she would be back for more because she was not finished with her. The court found that although the

respondent's comments may have placed the petitioner in fear, "there was no overt act, ability to carry out the threat, or justifiable threat of imminent harm." In addition, the respondent argued that the injunction was erroneously entered without an evidentiary hearing. The record showed there was a hearing and the respondent failed to appear.

***D.P. v. Department of Children and Family Services*, 930 So. 2d 798 (Fla. 3d DCA 2006)**
After three years of investigation by DCF, the mother's parental rights were terminated after a domestic violence incident between her and her mother, the child's grandmother. While the mother had been mostly compliant with the case plan, she continued to have alcohol abuse problems, which led DCF to take custody of the child. The trial court held that due to the domestic violence and substance abuse, the mother could not provide and care for the child. The district court reversed, holding that substance abuse is not enough to terminate parental rights and that the child was not present during the domestic violence incident with the grandmother; therefore there was no nexus between the conduct and the harm to the child.

***In re K.H.*, 928 So. 2d 1291 (Fla. 2d DCA 2006)**
The trial court terminated a father's visitation and placed his children in long-term care with their paternal grandfather because the father did not complete the required domestic violence classes. The court placed the burden on the parents to show that long-term custody with the grandfather was not in the best interest of the children in order to change custody. The father challenged the decision because he was not able to be present at the hearing. The district court reversed, holding that the trial court violated the father's right to due process by not taking evidence of his fitness.

***Lopez v. Lopez*, 922 So. 2d 408 (Fla. 4th DCA 2006)**
For a domestic violence injunction, the petitioner must establish that he or she is either a victim of domestic violence as defined by section 741.28, Florida Statutes, or has reasonable cause to believe he or she is in imminent danger of becoming a victim of an act of domestic violence. The definition of "domestic violence" includes stalking, which is defined under section 784.048(2), Florida Statutes, as the willful, malicious, and repeated following, harassing, or cyberstalking of another person. The district court found that there was ample evidence of stalking to justify the issuance of an injunction when the appellant repeatedly called his former wife at work, yelling profanities and causing her to lose her job; threatened to show up at her friend's job and also caused him to be fired; threatened his wife that if he could not be in her life, nobody else could; and showed up at her house screaming and knocking on doors and windows. However, the trial court erred in finding the need for and ordering temporary child support, as it was not requested in the petition. The district court affirmed the entry of the injunction but reversed and remanded as to the award of child support.

***Sharp v. Sharp*, 923 So. 2d 1283 (Fla. 4th DCA 2006)**
The appellant mother challenged a nonfinal order of a denial of a petition for injunction against domestic violence, which she filed on behalf of her minor child against the child's father. The trial court's finding was affirmed by the district court because, although the child was suffering from emotional problems that could have resulted from the father's behavior, there was insufficient evidence that the child was a victim or was in imminent danger of becoming a victim of domestic violence as required by section 741.30(6)(a), Florida. Statutes. The mother was not precluded from seeking other remedies through modification or a dependency proceeding against the father.

***Buckley v. Belott*, 918 So. 2d 379 (Fla. 1st DCA 2005)**
The appellant appealed an order granting a permanent injunction for protection against dating violence because, although the hearing was recorded, the recording was defective and a transcript could not be prepared. The appellant's earlier motion for reversal for a new hearing was initially denied because the appellant had not first attempted to obtain a statement of the evidence in accordance with rule 9.200(b)(4), Florida Rules of Appellate Procedure, to serve as substitute for the transcript. When the statement was obtained, it was not approved because the judge had no recollection of the hearing, and the appellant renewed his motion. The district court reversed and remanded for a hearing de novo.

***Santiago v. Towle*, 917 So. 2d 909 (Fla. 5th DCA 2005)**
The trial court entered a permanent injunction for protection against repeat violence based on evidence from three separate incidents involving neighbors in a dispute over a fence. The appellate court reversed, finding that the record did not support a finding of two incidents of violence or stalking as required by the applicable statute. While the activity that involved the throwing of liquid could qualify as "violence" if proven, no evidence was presented to support that claim. The second incident, which involved a hand gesture and obscenities, was not violence as defined by statute, and the third incident, in which the neighbor said he had a gun and was not afraid to use it, would "not constitute an act of violence, unless there is an overt act indicating an ability to carry out the threat or justifying a belief that violence was imminent."

***In re D.A.D. II*, 903 So. 2d 1034 (Fla. 2d DCA 2005)**
Evidence of a father's participation in a murder-for-hire plot to kill his brother-in-law, coupled with the father's chronic drug abuse, alcoholism, lengthy criminal history, chronic abuse, and domestic violence, constituted "egregious conduct" and was sufficient evidence of the father's unfitness as a parent. The father's acts of domestic violence, directed at both children and the mother in the presence of the children, was abuse to the children.

***Wade v. Hirschman*, 903 So. 2d 928 (Fla. 2005)**
Unless a different standard is provided in the final judgment, a non-custodial party seeking modification of child custody must prove (1) a substantial, material change in circumstances, and (2) that a change of custody is in the child's best interests. The supreme court resolved a conflict among district courts, holding that the moving party need not show detriment to the child were custody not to be changed.

***Young v. Smith*, 901 So. 2d 372 (Fla. 2d DCA 2005)**
Under section 741.30(1)(a), Florida Statutes, a petitioner is required to establish either that he or she has been, or has a reasonable belief that he or she is in danger of becoming, the victim of an act of domestic violence. The petitioner must present a prima facie case for the issuance of the injunction. Harassing phone calls by the respondent are insufficient evidence of violence for issuing a permanent domestic violence injunction when no testimony was presented as to a history of violence or any reasonable cause to believe that danger is imminent.

***D.R. v. Department of Children and Family Services*, 898 So. 2d 254 (Fla. 3d DCA 2005)**
The district court affirmed an adjudication of dependency, finding that the child was adversely affected by instances of domestic violence between the parents when the child was present in the house. Although there was insufficient evidence that the child actually witnessed the altercations, the evidence that the child sometimes tried to reconcile the parents after the disputes was sufficient to prove that the child was aware of the domestic disputes, and this knowledge had an adverse effect on the child.

***Harrison v. Francisco*, 884 So. 2d 239 (Fla. 2d DCA 2004)**
The trial court erred in summarily denying the respondent's motion for taxation of costs following the petitioner's voluntary dismissal of a petition for an injunction for protection against domestic violence. The district court held that although an award of costs is left to the discretion of the trial court, the trial court must determine in a hearing, after argument and the presentation of evidence by both sides, which expenses would have been reasonably necessary for an actual trial. The case was reversed and remanded for an evidentiary hearing on the motion for costs.

***Monacelli v. Gonzalez*, 883 So. 2d 361 (Fla. 4th DCA 2004)**
The wife appealed the trial court's award of custody of the parties' four minor children to the husband, who was on felony probation for domestic violence against the wife. The district court affirmed the trial court's decision, finding that such a conviction does not create an absolute bar against being the primary residential parent but rather a rebuttable presumption that may be, and here was, overcome.

***Doyle v. Owens*, 881 So. 2d 717 (Fla. 1st DCA 2004)**
A statutory presumption against unsupervised visitation is created with a third degree felony conviction involving domestic violence. This rebuttable presumption of detriment to the child could not be overcome here, regardless of the fact that the father took courses in anger management, parenting, and CPR; worked full time; and complied with all court orders. And even if the presumption had been overcome, the trial court was still required to arrange for visitation "as will best protect the child" because the order under review "determined that shared parental responsibility was detrimental to the child." The trial court erred in awarding unsupervised visitation as no evidence was presented that such visits were safe, appropriate, and would best protect the child from harm. The case was reversed and remanded.

***T.R. v. Department of Children and Families*, 864 So. 2d 1278 (Fla. 5th DCA 2004)**
The district court affirmed the dependency adjudication based on a holding that it is not necessary for a child to witness violence in order to be harmed by it, as children may be affected and aware that violence is occurring without having to see it occur.

***Werner v. Scharlop*, 867 So. 2d 1172 (Fla. 4th DCA 2004)**
The trial court entered a final order of injunction. The district court affirmed the trial court's ruling because the injunction was supported by sufficient evidence. The district court held that the appellant's continuous calls, letters, and e-mails to the victim "caused or created 'substantial emotional distress,' which is all that is required when the injunction is predicated upon repeated acts of stalking."

***Delopa v. Cohen*, 873 So. 2d 530 (Fla. 4th DCA 2004)**
The district court reversed the issuance of a permanent injunction based on repeat violence when the petitioner's sworn testimony about threatening phone calls was not sufficient evidence to prove stalking. Incidents of violence or stalking must be supported by competent substantial evidence in order to support an order for an injunction.

***Perez v. Siegel*, 857 So. 2d 353 (Fla. 3d DCA 2003)**
The trial court, although refusing to enter a permanent injunction, erred in issuing a five and a half-month temporary injunction for protection against repeat violence when the petitioner failed to allege or prove two separate acts of violence. The district court found that the respondent's screaming at the petitioner did not constitute an assault, and the respondent's threat to kill the petitioner was not an assault without the respondent's apparent ability to do so or the petitioner's belief that violence was imminent. The case was reversed, and the injunction was vacated.

***Price v. City of Boynton Beach*, 847 So. 2d 1051 (Fla. 4th DCA 2003)**
It was reversible error to issue a temporary injunction for protection against repeat violence when the injunction was based on hearsay evidence. The district court reversed the temporary injunction issued by the trial court and held that: (1) the deposition quoted by the trial court in the injunction failed to meet the requirements of hearsay exception for former testimony; (2) testimony by a witness that a worker's compensation mediator expressed concerns about the appellant's threats was inadmissible hearsay; and (3) the trial court erred in admitting a letter from the appellant's workers' compensation counsel when there was no sign that counsel's harmful statement was within the scope of her agency.

***LaMarr v. Lang*, 796 So. 2d 1208 (Fla. 5th DCA 2001)**
The district court reversed a lower court's decision to enter a permanent injunction for repeat violence against the respondent because the court erred in admitting certain evidence regarding the respondent's character and previous criminal convictions. At the original hearing, the court allowed the petitioner's attorney to "(1) show that LaMarr had been arrested for violating an earlier injunction not involving Lang; (2) introduce a letter that Mr. LaMarr wrote to an old girlfriend apologizing for an incident that apparently led to charges being filed against him; and (3) question LaMarr regarding prior injunctions filed against him by other people." The district court held that it was improper for the lower court to admit this evidence pursuant to the *Williams* Rule regarding collateral evidence. Relying on *Pastor v. State*, 792 So. 2d 627

(Fla. 4th DCA 2001), the court commented that collateral crimes evidence is not admissible when its relevance goes only to prove a respondent's propensity.

Extension and Duration of Injunctions

***Dietz v. Dietz*, 127 So. 3d 1279 (Fla. 1st DCA 2013)**
A temporary injunction was entered ex parte against the respondent, and six days later a full evidentiary hearing was held, during which the court heard testimony from the respondent, his mother, and his sister. The judge ordered the temporary injunction to continue for six months but stated that he had made "no final determination as to the sufficiency of the evidence presented at the hearing." The court further ordered the parties to return in six months for a status conference. The appellate court reversed the decision and noted that while section 741.30, Florida Statutes, does allow the trial court to extend a temporary injunction for good cause, it "does not provide for the issuance of a series of temporary injunctions in lieu of a permanent injunction. . . . Extending the temporary injunction is not authorized unless a continuance is authorized."
http://opinions.1dca.org/written/opinions2013/12-17-2013/13-2098.pdf

***Kirton v. McKissick*, 120 So. 3d 193 (Fla. 5th DCA 2013)**
The appellant appealed an amended final judgment that granted an extension of an injunction for protection against repeat violence. He claimed that the trial court abused its discretion in determining that the appellee's continuing fear of violence by the appellant was reasonable. The trial court held an evidentiary hearing on the motion and granted the extension, even though the appellant argued that he had not committed any additional acts of violence against the appellee during the initial injunction period. The appellate court affirmed the decision and noted that the trial court's analysis "is not limited to determining whether the respondent committed additional acts of violence during the pendency of the initial injunction. Rather, the appropriate analysis focuses on whether the petitioner's professed continuing fear of future violence is reasonable under the circumstances."
http://www.5dca.org/Opinions/Opin2013/081913/5D13-1180.op.pdf

***Lee v. Lee*, 93 So. 3d 516 (Fla. 2d DCA 2012)**
A petitioner filed a motion for an extension of an injunction for protection against domestic violence. An ex parte order was entered that extended the injunction, and then a hearing was held on the motion. Despite the respondent's opposition to the motion, the trial court entered an order permanently extending the injunction without hearing any evidence, and the respondent appealed. The appellate court reversed, quoting *Giallanza v. Giallanza*, 787 So. 2d 162, 164 (Fla. 2d DCA 2001): "When moving for an extension of a preexisting injunction, the petitioner must establish either that additional domestic violence has occurred or that, at the time the petition for extension is filed, he or she has a continuing reasonable fear of being in imminent danger of becoming the victim of domestic violence." Since the trial court failed to hear any evidence or make any findings that additional domestic violence had occurred or that the petitioner had a "continuing reasonable fear of being in imminent danger," the appellate court held that the ex parte order temporarily extending the injunction for protection against domestic violence could not be permanently extended against the respondent, in the absence of the required findings and an opportunity for the respondent to be heard in opposition to the motion.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/July/July%2027,%202012/2D10-6087.pdf

***Parrish v. Price*, 71 So. 3d 132 (Fla. 2d DCA 2011)**
The respondent appealed two temporary injunctions against domestic violence entered against him ex parte that were obtained by his former wife on behalf of the parties' two adolescent children. At the hearing, the respondent moved to dissolve the temporary injunctions, arguing that the petitioner's petitions contained insufficient allegations and were based on hearsay. The court denied his motion and proceeded with the hearing. The petitioner presented her case, but by then the scheduled hearing time had been used up. The court extended the temporary injunctions until further order and scheduled

another hearing for two weeks later in order for the respondent to present his case. Before the date of the scheduled hearing, however, the respondent appealed the nonfinal temporary injunctions pursuant to rule 9.130(a)(3)(B), Florida Rules of Appellate Procedure, also claiming the petitioner had no standing to petition for the injunctions because section 741.30, Florida Statutes, does not specifically provide for a parent to seek an injunction on behalf of a minor child.

The court held that the petitioner was authorized to petition for the injunctions on behalf of the children. "Section 741.30 clearly contemplates that children are among those who may invoke the statute's protection from domestic violence, [and rule 1.210(b), Florida Rules of Civil Procedure,] applicable to all civil cases, provides that a minor cannot sue on his or her own behalf. Rather, suit must be instituted by an appointed representative or a 'next friend,' such as a parent . . . Thus, a child's only vehicle for seeking protection under the domestic violence statute is through a petition filed by a next friend or representative." The court also held that the allegations were sufficient to support the temporary injunctions; however, it offered no opinion on whether permanent injunctions were warranted." The petitions were based almost entirely on hearsay statements the children supposedly made to [the petitioner]. . . . At the renewed hearing on the permanent injunctions, the court may consider taking testimony from one or both of the children in order to assess the accuracy of the allegations and to determine whether [the respondent] engaged in violence against his children."
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/June/June%2010,%202011/2D10-3484.pdf

***Weimorts v. Shockley*, 47 So. 3d 386 (Fla. 1st DCA 2010)**
The district court reversed the trial court's order extending a temporary injunction for protection against dating violence, entered the same day the trial court denied the defendant's motion to dismiss for improper venue. The district court stated that, because section 784.046, Florida Statutes, provides for a protective injunction against dating violence but does not contain a special venue provision, the trial court was required to apply the general venue provision in section 47.011, Florida Statutes, which states "[a]ctions shall be brought only in the county where the defendant resides, where the cause of action accrued, or where the property in litigation is located."

The district court stated that because the respondent resided in Walton County, any cause of action accrued in Walton County, and the third option allowing venue where the property in litigation is located was not applicable. Thus, venue lay only in Walton County. The trial court erred in refusing to transfer venue from Okaloosa County, the residence of the petitioner, to Walton County. The district court noted that the legislature added to section 741.30, Florida Statutes, a special venue provision ((1)(j)), which allows a petition to be filed in the circuit where the petitioner resides. However, there is no indication that this special venue provision applies outside of chapter 741. The district court recognized that, pursuant to instructions to form 12.980(n), Florida Family Law Rules of Procedure, a petitioner filing a petition for prohibition against dating violence is to file the petition in the circuit where he or she lives. However, these instructions cannot contradict section 47.011, Florida Statutes.
http://opinions.1dca.org/written/opinions2010/11-17-2010/10-2660.pdf

***Pope v. Pope*, 901 So. 2d 352 (Fla. 1st DCA 2005)**
The extension of a six-month temporary injunction without a full evidentiary hearing and over the objection of the respondent violates the due process requirements of section 741.30, Florida Statutes. Extending the temporary injunction because the parties had a pending divorce, and refusing to allow the respondent to testify because the court was not issuing a permanent injunction, is not what was contemplated by the Florida statute and is fundamental error.

***Sheehan v. Sheehan*, 853 So. 2d 523 (Fla. 5th DCA 2003)**
The petitioner was granted a temporary injunction for six months. Thereafter, she made a timely motion to the court for an extension of the injunction because she was still in fear of the respondent. The trial court denied the motion because the petitioner did not allege any new act of violence since the entry of the temporary injunction. The district court held that although section 741.30(6)(b), Florida Statutes, does not

specifically require any allegation of a new act of domestic violence, the moving party must prove to the trial court that a continuing, reasonable fear exists.

***Miguez v. Miguez*, 824 So. 2d 258 (Fla. 3d DCA 2002)**
The appellate court affirmed the trial court's decision granting the petitioner a second domestic violence injunction five days before the expiration of the petitioner's previous one-year injunction. The district court held that the seven-year duration of the second injunction was not defective and could only be challenged as an abuse of discretion. *See Goodell v. Goodell*, 421 So. 2d 736 (Fla. 4th DCA 1982). As there was no record of the proceeding to determine if there had been an abuse of discretion, the court affirmed the trial court's decision.

***Glenn v. Newman*, 780 So. 2d 334 (Fla. 3d DCA 2001)**
Based on careful review of the record, the court could not conclude that the trial judge abused her discretion when she declined to extend indefinitely the appellant's petition for injunction for protection against repeat violence. The decision of the trial court was affirmed.

***Ribel v. Ribel*, 766 So. 2d 1185 (Fla. 4th DCA 2000)**
The trial court did not err in extending the temporary injunction for two weeks and rescheduling the hearing by entering an order without motion of notice of hearing, based solely on the ex parte communication between the wife's attorney and the judge's office. The petitioner had not "demonstrated how an order resetting the noticed hearing on a petition for temporary injunction for protection presents the possibility of any harm, let alone irreparable harm." The petition for writ of certiorari was dismissed.

***Patterson v. Simonik*, 709 So. 2d 189 (Fla. 3d DCA 1998)**
For the court to determine that a permanent injunction for protection against domestic or repeat violence should be extended, no new violence is necessary. The court may consider the circumstances that led to the imposition of the original injunction, as well as subsequent events that may cause the petitioner to have continued reasonable fear that violence is likely to reoccur in the future.

***Goodell v. Goodell*, 421 So. 2d 736 (Fla. 4th DCA 1982)**
The district court affirmed the trial court's finding of contempt against the wife for violation of the injunction contained in the final judgment of dissolution of marriage. She had claimed that the injunction was void ab initio because it was perpetual. The district court held that the injunction was properly entered, valid, and enforceable, and not overbroad despite the absence of a time limit. An injunction can be entered for as long as the court feels protection is necessary until modification is needed.

Family Law Rules and Forms

***In re Amendments to the Florida Supreme Court Approved Family Law Forms*, __ So. 3d __, 2015 WL 7295134 (Fla. 2015)**
The court previously amended the family law forms to reflect the implementation of e-service and e-filing. After considering the comments and input from the advisory workgroup, the court further amended the forms by adding the following language to the instructions sections of the forms: "If you elect to participate in electronic service, which means serving or receiving pleadings by electronic mail (e-mail), or through the Florida Courts E–Filing Portal, you must review Florida Rule of Judicial Administration 2.516. You may find this rule at www.flcourts.org through the link to the Rules of Judicial Administration provided under either Family Law Forms: Getting Started, or Rules of Court in the A–Z Topical Index."
http://www.floridasupremecourt.org/decisions/2015/sc15-44b.pdf

***In re Family Law Forms*, 162 So. 3d 964 (Fla. 2015)**
The supreme court amended Florida Supreme Court Approved Family Law Form 12.980(n), Petition for an Injunction for Protection Against Dating Violence and instructions, effective immediately, to reflect the statutory language in section 784.046(2)(b), Florida Statutes. That section "provides that a person who is

either 'the victim of dating violence and has reasonable cause to believe he or she is in imminent danger of becoming the victim of another act of dating violence' or 'has reasonable cause to believe he or she is in imminent danger of becoming the victim of an act of dating violence,' has standing to file a petition for an injunction for protection against dating violence." The court also amended the instructions and the wording of the form to better explain that "a parent or legal guardian has standing to petition for an injunction for protection against dating violence on behalf of a minor living at home. If the person against whom the injunction is sought is also a parent or legal guardian, the petitioning parent or legal guardian must have been 'an eyewitness to, or have direct physical evidence or affidavits from eyewitnesses of, the specific facts and circumstances that form the basis upon which relief is sought.' § 784.046(4)(a)1., Fla. Stat. (2014). If the person against whom the injunction is sought is not a parent, stepparent, or legal guardian of the minor, the petitioner must '[h]ave a reasonable cause to believe that the minor child is a victim of . . . dating violence to form the basis upon which relief is sought.'"
http://www.floridasupremecourt.org/decisions/2015/sc15-339.pdf

***In re Amendments to Florida Supreme Court Approved Family Law Forms*, 173 So. 3d 19 (Fla. 2015)**
Several forms were amended to include language and instructions explaining e-service and e-filing, including but not limited to the petition and final judgment for an injunction for protection against domestic violence, the order setting hearing on petition for injunction for protection against domestic violence, repeat violence, dating violence, sexual violence, and stalking without issuance of an interim temporary injunction, and the temporary injunction for protection against domestic violence with and without minor children.
http://www.floridasupremecourt.org/decisions/2015/sc15-44.pdf

***In re Amendments to Florida Supreme Court Approved Family Law Forms*, 142 So. 3d 856 (Fla. 2014)**
The court amended Florida Supreme Court Approved Family Law Form 12.980(b)(1) to better explain the findings that the trial court should make when it denies an ex parte temporary injunction and sets a hearing on the petition for an injunction. The court also amended Form 12.980(u) by deleting the provision that required a respondent to participate in treatment, intervention, or counseling services at the respondent's expense.
http://www.floridasupremecourt.org/decisions/2014/SC13-305.pdf

***In re Amendments to Florida Rules of Judicial Admin.*, 132 So. 3d 1114 (Fla. 2014)**
The Florida Supreme Court's Steering Committee on Families and Children in the Court proposed amendments to rule 2.545(d), Florida Rules of Judicial Administration, which were approved by the supreme court. The changes added a stalking injunction to the definition of "family case" and made other changes "to ensure that all of the necessary parties, attorneys, and judges involved in a family case receive proper notification of related family cases." The Steering Committee also proposed five new Family Law Rules of Procedure, which were also approved. The new rules provide for coordination of related family cases and hearings and require courts to assign related family cases to a single judge unless it is deemed impractical. They also govern judges' and parties' access to and review of confidential files in related cases and provide that confidentiality of a case or issue is not waived by coordination or joint hearings. The supreme court also noted its support for the unified family court model.
http://www.floridasupremecourt.org/decisions/2014/sc12-2007.pdf

***In re Amendments to Florida Family Law Rules of Procedure*, 126 So. 3d 228 (Fla. 2013)**
Rule 12.610, form 12.900(h), and form 12.928, Florida Family Law Rules of Procedure, were amended in response to the enactment of section 784.0485, Florida Statutes, which established a cause of action for an injunction for protection against stalking.
http://www.floridasupremecourt.org/decisions/2013/sc12-1205.pdf

***In re Amendments to Florida Supreme Court Approved Family Law Forms*, 113 So. 3d 781 (Fla. 2013)**
The supreme court reviewed the Florida Supreme Court Approved Family Law Forms and determined that new forms and amendments to several existing forms were needed due to recent legislation relating to injunctions for protection against stalking. The existing forms were amended to: "(1) add the term "stalking" to the forms' respective titles, bodies, footers, and instructions, where appropriate; (2) add language to the instructions to form 12.980(g) regarding what information to include in a supplemental affidavit in support of a petition for injunction for protection against stalking; (3) add a blank textbox to the supplemental affidavit in support of a petition for injunction for protection against stalking for the petitioner to describe the alleged stalking; and (4) renumber several forms." New forms were also adopted: 12.980(t) (Petition for Injunction for Protection Against Stalking), 12.980(u) (Temporary Injunction for Protection Against Stalking), and 12.980(v) (Final Judgment for Protection Against Stalking). The new forms may be used immediately.
http://www.floridasupremecourt.org/decisions/2013/sc13-305.pdf

***In re Amendments to Florida Family Law Rules of Procedure*, 95 So. 3d 126 (Fla. 2012)**
In response to newly passed legislation, the supreme court approved changes to the family law rules that amended references to injunctions for domestic, repeat, dating, and sexual violence, to include stalking, effective October 1, 2012, the same effective date for the cause of action for an injunction for protection against stalking.
http://www.floridasupremecourt.org/decisions/2012/sc12-1205.pdf

***In re Amendments to Florida Supreme Court Approved Family Law Forms*, 93 So. 3d 194 (Fla. 2012)**
The supreme court amended 24 forms regarding domestic, repeat, dating, and sexual violence. "[T]he amendments do the following: (1) revise language in notices of hearing to comply with Florida Rule of Judicial Administration 2.540 (Requests for Accommodations by Persons with Disabilities); (2) remove unnecessary or unauthorized requests for personal information, such as place of marriage, and place of birth or gender of a minor; (3) add language to forms used in proceedings for temporary injunctions to expressly advise litigants that failure to appear at the final hearing may result in the issuance of a permanent injunction; (4) add language in the petition for temporary injunction forms making a specific prayer for entry of a temporary injunction; (5) update language relating to health and dental insurance, where applicable, to reflect current statutory requirements; and (6) revise the method of payment sections, where applicable, to add the central depository within each circuit as an entity able to accept court-ordered payments."
http://www.floridasupremecourt.org/decisions/2012/sc12-510.pdf

Injunctions

***Banks v. McFarland*, 148 So. 3d 162 (Fla. 1st DCA 2014)**
A neighbor appealed when a temporary injunction against repeat violence was issued against him. The appellate court reversed the decision and held that the threatening statements, unaccompanied by overt acts that would create a well-founded fear that violence was imminent, were insufficient to support the injunction.
https://edca.1dca.org/DCADocs/2013/5825/135825_DC13_10132014_100213_i.pdf

***Selph v. Selph*, 144 So. 3d 676 (Fla. 4th DCA 2014)**
The husband appealed an order that entered a domestic violence injunction against him. "[T]he wife testified that the husband's dog 'attacked' her after the husband told the dog to 'get him.'" However, the wife did not call the police or seek medical attention, and she waited five months before filing the petition for injunction. She also claimed that the husband threatened her immigration status, made her work long hours at his business with little pay, and forced her to move out of the house. The appellate court held that the evidence was not legally sufficient to support a finding of an assault, battery, false imprisonment,

or a criminal offense resulting in physical injury, as required for a domestic violence injunction, and reversed the injunction.
http://www.4dca.org/opinions/Aug%202014/08-13-14/4D13-2488.op.pdf

***Alderman v. Thomas*, 141 So. 3d 668 (Fla. 2d DCA 2014)**
The petitioner appealed a final judgment of injunction for protection against dating violence. Although she presented evidence that dating violence had occurred in the past, she did not prove that she had reasonable cause to believe she was in imminent danger of becoming the victim of another act of dating violence. Therefore, the court reversed the final judgment of injunction.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2014/June/June%2020,%202014/2D13-898.pdf

***Toubail v. White*, 141 So. 3d 649 (Fla. 4th DCA 2014)**
The respondent appealed an injunction against dating violence, and the appellate court reversed because the petitioner failed to prove – or even testify – that she had a reasonable fear of imminent harm.
http://www.4dca.org/opinions/June%202014/06-18-14/4D13-2548.op.pdf

***Barfield v. Kay*, 140 So. 3d 703 (Fla. 5th DCA 2014)**
The appellate court reversed the summary denial of a motion to vacate or modify an injunction for protection against repeat violence and stated that due process required a hearing.
http://www.5dca.org/Opinions/Opin2014/060914/5D14-716.op.pdf

***Baker v. Pucket*, 139 So. 3d 954 (Fla. 4th DCA 2014)**
The trial court denied without a hearing the respondent's motion to vacate a permanent injunction against domestic violence that was entered in 2011. The respondent alleged that she has not had any contact with the appellee, nor does she plan to, and that the injunction was preventing her from participating in a work release program while incarcerated. The appellate court reversed, holding that the respondent's motion was legally sufficient and that she was entitled to an evidentiary hearing to provide due process.
http://www.4dca.org/opinions/June%202014/06-04-14/4D13-2393.op.pdf

***McCord v. Cassady ex rel. Cassady*, 138 So. 3d 1135 (Fla. 1st DCA 2014)**
A parent petitioned for an injunction against repeat violence against another minor child, which the court granted. The appellate court reversed and stated that there was no evidence of an act of violence or stalking within six months as required by statute. The court also noted that a stipulated no-contact order created by the court could not be treated as an injunction for protection against repeat violence.
http://opinions.1dca.org/written/opinions2014/05-14-2014/12-5936.pdf

***Williams v. Gonder*, 133 So. 3d 657 (Fla. 1st DCA 2014)**
A petitioner was granted an injunction for repeat violence based on two alleged incidents of vehicle vandalism, and the respondent appealed. The appellate court reversed and stated that keying a car did not constitute violence. And in any case, there was no competent substantial evidence that the respondent committed a second act at all, as required by statute.
http://opinions.1dca.org/written/opinions2014/03-18-2014/13-4382.pdf

***Cannon v. Thomas ex rel. Jewett*, 133 So. 3d 634 (Fla. 1st DCA 2014)**
After her daughter was severely beaten by another child, a mother was granted an injunction for repeat violence on behalf of her child against the other child. The appellate court reversed since there was no evidence that the aggressive student committed the requisite two acts of violence. The court also noted that a threatening Facebook message from the attacker the night before the attack did not constitute assault under section 784.011, Florida Statutes, since the child did not believe violence was imminent. A concurring opinion urges the legislature to consider creating an injunction that would apply to school-related violence.
http://opinions.1dca.org/written/opinions2014/03-12-2014/13-2040.pdf

***Schutt v. Alfred*, 130 So. 3d 772 (Fla. 3d DCA 2014)**
The respondent appealed a permanent injunction for protection against dating violence issued against her. During the hearing, testimony revealed that the petitioner and the respondent had not been in a dating relationship since November of 2011. However, section 784.046(2), Florida Statutes, states that for an injunction against dating violence, two individuals must have had a dating relationship within the past six months. The statute does not provide dating violence relief to those who may have experienced violence in a "casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context." The court vacated the permanent injunction without prejudice to the petitioner filing a timely petition for an injunction for protection against stalking.
http://www.3dca.flcourts.org/Opinions/3D13-1389.pdf

***In re Amendments to Florida Family Law Rules of Procedure*, 1216 So. 3d 228 (Fla. 2013)**
Rule 12.610, form 12.900(h), and form 12.928, Florida Family Law Rules of Procedure, were amended in response to the enactment of section 784.0485, Florida Statutes, which established a cause of action for an injunction for protection against stalking.
http://www.floridasupremecourt.org/decisions/2013/sc12-1205.pdf

***Stone v. Stone*, 128 So. 3d 239 (Fla. 4th DCA 2013)**
The former husband appealed an injunction for protection against domestic violence and argued that the court erred because the former wife failed to prove that she was in danger of impending violence, or that actual domestic violence occurred. The petition for injunction alleged that "the former husband grabbed the former wife's arms, forced her onto the bed, and made unwanted sexual advances [and he] stopped when he understood that his advances were unwelcome." During the hearing the former wife introduced photos of the bruises on her arms, but also admitted that she may have gotten the bruises from carrying boxes. The former husband claimed that if he did cause the bruises, "they came from 'playing around'" near the pool and were not intentional. The appellate court held that the evidence did not show that the former husband intended to cause harmful or offensive contact or to touch the former wife against her will. The court also found that the former husband's texts and calls did not threaten violence or make the former wife believe she was in danger, and therefore did not constitute domestic violence. Although the injunction had expired, the appellate court ordered the lower court to vacate it.
http://www.4dca.org/opinions/Dec%202013/12-11-13/4D12-4164.op.pdf

***Arnold v. Santana*, 122 So. 3d 512 (Fla. 1st DCA 2013)**
The wife filed a petition for an injunction against domestic violence and claimed that her husband was harassing and stalking her. The trial court granted the petition, but the appellate court reversed, stating that there was no competent, substantial evidence to support a finding that the wife's fear of imminent violence was objectively reasonable.
http://opinions.1dca.org/written/opinions2013/10-07-2013/13-1112.pdf

***Weisberg v. Albert*, 123 So. 3d 663 (Fla. 4th DCA 2013)**
A former son-in-law filed a petition for an injunction for protection against domestic violence without minor children against his former father-in-law. The circuit court granted the petition, but the appellate court reversed, holding that there was insufficient evidence that the former son-in-law was in imminent danger of becoming a victim of domestic violence based on one verbal altercation he had with his former father-in-law.
http://www.4dca.org/opinions/Oct%202013/10-16-13/4D12-2723.op.pdf

***Barbieri v. Muller*, 124 So. 3d 320 (Fla. 5th DCA 2013)**
The petitioner appealed the order dissolving her permanent injunction for domestic violence protection against her former boyfriend. The appellate court reversed because the petitioner correctly argued "that the trial court abused its discretion in dissolving the injunction by reweighing the evidence supporting the initial injunction rather than finding a change in circumstances since the injunction was issued."
http://www.5dca.org/Opinions/Opin2013/093013/5D13-1605.op.pdf

***Kirton v. McKissick*, 120 So. 3d 193 (Fla. 5th DCA 2013)**
The appellant appealed an amended final judgment that granted an extension of an injunction for protection against repeat violence. He claimed that the trial court abused its discretion in determining that the appellee's continuing fear of violence by the appellant was reasonable. The trial court held an evidentiary hearing on the motion and granted the extension, even though the appellant argued that he had not committed any additional acts of violence against the appellee during the initial injunction period. The appellate court affirmed the decision and noted that the trial court's analysis "is not limited to determining whether the respondent committed additional acts of violence during the pendency of the initial injunction. Rather, the appropriate analysis focuses on whether the petitioner's professed continuing fear of future violence is reasonable under the circumstances."
http://www.5dca.org/Opinions/Opin2013/081913/5D13-1180.op.pdf

***Touchet v. Jones*, 135 So. 3d 323 (Fla. 5th DCA 2013)**
A petitioner filed for an injunction against domestic violence against her partner in a same-sex relationship, alleging that the respondent had physically attacked her. The respondent filed a reciprocal petition for protection against domestic violence against her partner, and the court heard the two petitions simultaneously. The trial court granted the initial petition and found an overwhelming amount of evidence in favor of the initial petitioner. The trial court then ordered the respondent to complete a certified batterers' intervention program and to undergo evaluations for both substance abuse and mental health, and also ordered the petitioner to obtain psychological evaluations for herself and her son to specifically address the issue of why the petitioner kept going back to the respondent. The petitioner filed a motion for stay pending appeal, and the trial court denied the motion. The trial court then issued an order of contempt threatening to incarcerate the petitioner if she did not comply with the order within 30 days. The petitioner appealed the part of the order that required her to obtain the psychological evaluations and argued that the trial court erred by including this in the order. The appellate court agreed. Although section 741.30(6)(a), Florida Statutes, allows the court to order a respondent to participate and pay for treatment, intervention, or counseling services, there was no authority under the statute to order the petitioner to undergo an evaluation. The court also noted that the statute is designed to protect victims of domestic violence, and "[r]equiring a victim of domestic violence to undergo a psychological evaluation would impose a substantial financial and emotional burden on the victim and would have a chilling effect on victims of domestic violence seeking the protection of the courts." Therefore, the court reversed the portion of the order requiring the petitioner to get the evaluations.
http://www.5dca.org/Opinions/Opin2013/081213/5D12-4088.op.pdf

***Brilhart v. Brilhart ex rel. S.L.B.*, 116 So. 3d 617 (Fla. 2d DCA 2013)**
The mother appealed a final judgment of injunction for protection against domestic violence which had been issued to prevent contact between her and her 14-year-old daughter. The parents had been divorced for several years, and the injunction was brought by the child's father. The daughter had sent a letter to her father saying that her mother was abusing her, and the father filed the petition for an injunction on the daughter's behalf. The child did not testify at the hearing, and the only evidence offered to support the petition was the father's vague testimony based upon the letter, and a doctor's statement that, based upon his meeting with the child, he had concerns for the child's safety. The court accepted the doctor's testimony even though the mother was never provided an opportunity to properly explore the basis of the doctor's alleged expertise. The mother denied the abuse, and the letter was not admitted into evidence. The mother argued that there was not competent, substantial evidence to support the trial court's decision to issue the injunction. The appellate court agreed and reversed the order, stating that the father's testimony, which was based upon the daughter's alleged hearsay statements and his unsubstantiated fear, and the doctor's testimony, which was based on the father's hearsay statements, did not amount to competent, substantial evidence supporting the issuance of the injunction. The court also noted that the doctor was never properly qualified as an expert in domestic violence.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2013/July/July%2003,%202013/2D12-3339.pdf

***Disston v. Hanson*, 116 So. 3d 612 (Fla. 5th DCA 2013)**
The respondent appealed a domestic violence injunction against him in favor of his former live-in girlfriend. Because there was competent substantial evidence presented to support the injunction, the appellate court affirmed the lower court's decision. The appellate court also noted that even though the evidence was in sharp contrast, the credibility of the witnesses was within the trial court's exclusive purview and it could not reweigh the evidence.
http://www.5dca.org/Opinions/Opin2013/062413/5D12-4026.op.pdf

***Baker v. Baker*, 112 So. 3d 734 (Fla. 2d DCA 2013)**
The former husband filed a motion to dissolve an injunction for protection against domestic violence, and following a hearing, the trial court denied the motion. The appellate court noted that in order to dissolve the injunction, the former husband had to show a change in circumstances. Since the time the injunction was ordered, the former husband was incarcerated on a 30- year sentence, and the court held that the incarceration had substantially changed the situation and the injunction no longer served a valid purpose. Therefore, the injunction was dissolved.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2013/May/May%2008,%202013/2D12-464.pdf

***Goudy v. Duquette*, 112 So. 3d 716 (Fla. 2d DCA 2013)**
A dance team coach obtained an injunction for protection against repeat violence against a dancer's parent and the parent appealed. The court held that most of the alleged incidents involved contact that served legitimate purposes and were "not sufficient to cause a reasonable person emotional distress." Since there was no "repeated harassment or malicious following there was no proof of stalking, and without stalking there was no proof of repeat violence," and the court reversed the injunction.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2013/May/May%2008,%202013/2D12-1593.pdf

***Curtis v. Curtis*, 113 So. 3d 993 (Fla. 5th DCA 2013)**
The wife filed a petition for an injunction for protection against domestic violence against her husband. The petition contained a sworn statement about a violent incident and also contained a copy of the husband's arrest report. The court denied the petition without a hearing and handwrote on the order "the petitioner is protected by conditions of release" from the pending criminal action. The wife filed a motion for rehearing, but the trial court denied the motion and ruled that the petitioner could not reasonably fear that she was in danger since the respondent currently had conditions of release more restrictive than what an injunction could provide, including electronic monitoring. The wife appealed and argued that the trial court erred by denying her petition without conducting a hearing, and the appellate court agreed and reversed. The appellate court noted that the trial court should have held a hearing, and also erred by deciding that the husband's bond conditions were sufficient to fully protect the wife. Criminal bond conditions are not the same as the conditions which can be imposed under the domestic violence injunction statute, and do not award the petitioner exclusive use of the parties' home or temporary support, or order the respondent to participate in treatment, intervention, counseling services, or a batterers' intervention program. The court also noted that since the wife was not a party to the criminal proceeding, she might not receive timely notice of any dismissal or changes in the husband's bond conditions.
http://www.5dca.org/Opinions/Opin2013/040813/5D12-1537.op.pdf

***McNulty ex rel. G.M. v. Douglas ex rel. K.D.*, 111 So. 3d 231 (Fla. 2d DCA 2013)**
A father petitioned for an injunction against a minor boy for protection against dating violence on behalf of his minor daughter. The court granted the injunction and the father of the minor boy appealed. The appellate court reversed and remanded the case for a full hearing because the trial court did not allow the minor boy to call witnesses or cross-examine the petitioner and therefore was not allowed due process.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2013/April/April%2010,%202013/2D11-4191.pdf

***Rudel v. Rudel*, 111 So. 3d 285 (Fla. 4th DCA 2013)**
The wife, a German citizen, petitioned for dissolution of marriage and for an injunction for protection against domestic violence. The court granted the ex parte temporary injunction, but later dismissed the petition for injunction against domestic violence and the wife appealed. The appellate court reversed as to the domestic violence injunction and noted that the wife gave uncontradicted testimony regarding acts of domestic violence and also provided corroborating witness testimony. Although the dissolution of marriage petition was correctly dismissed due to jurisdictional issues, the appellate court held that the wife did present sufficient evidence to support an injunction, and remanded the case for a new hearing because the husband did not have the opportunity to present evidence on the domestic violence issue since his challenge to jurisdiction was still outstanding.
http://www.4dca.org/opinions/April%202013/04-17-13/4D11-2616.op.pdf

***Johns v. Penzotti*, 100 So. 3d 212 (Fla. 2d DCA 2012)**
The appellant appealed the trial court's final judgment of injunction for protection against repeat violence entered against him. Because the requisite instances of violence or stalking were not established at the hearing, the appellate court reversed. Section 784.046, Florida Statutes (2011), provides that a person may obtain protection against repeat violence when two or more incidents of violence have occurred.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/October/Oct%2031,%202012/2D11-4527.pdf

***Hernandez v. Silverman*, 100 So. 3d 272 (Fla. 4th DCA 2012)**
The appellant filed a petition for an injunction against domestic violence against her ex-fiancé. However, at the evidentiary hearing, the trial court determined that the allegations were insufficient and denied the petition without conducting a full evidentiary hearing. The appellate court reversed and remanded the case for a full evidentiary hearing. The court also noted that the allegations were pled with sufficient specificity and, depending on the evidence produced during the hearing, sufficient grounds could have existed to grant the injunction.
http://www.4dca.org/opinions/Nov%202012/11-14-12/4D12-1600.op.pdf

***Reyes v. Reyes*, 104 So. 3d 1206 (Fla. 5th DCA 2012)**
The father appealed the trial court's order that denied his motion to modify or dissolve his domestic violence injunction. In 2004, the trial court entered an injunction in favor of the mother. The father's motion to modify the injunction challenged the original injunction and made several other claims, but failed to allege any change in circumstances and the trial court denied the motion. The appellate court held that "for a movant to be entitled to obtain relief on a motion to modify or dissolve a domestic violence injunction, the movant must prove a change in circumstances." Because the father's motion failed to allege any change in circumstances, the court affirmed the lower court's decision.
http://www.5dca.org/Opinions/Opin2012/121012/5D11-4082.op.pdf

***Strogis v. Mutty*, 91 So. 3d 259 (Fla. 5th DCA 2012)**
The respondent appealed a final judgment of injunction for protection against repeat violence-no hostile contact. She asserted that the trial court erred by denying her motion to dismiss the petition because the petition failed to meet the legal requirements of section 784.046(4)(a), Florida Statutes. She also argued that there was not competent, substantial evidence in the record to establish the predicate two acts of violence. The facts underlying this proceeding involve long-standing animosity between the two parties and both acts of violence alleged during the hearing involved brief shoving or punching at crowded off-campus parties. The evidence offered at the hearing as to whether the contact was intentional or which of the two young women was the aggressor was in complete conflict. The appellate court found no merit in the appellant's claim of reversible error based on the legal insufficiency of the petition, and that the testimony was legally sufficient to support the trial court's decision, and affirmed the lower court's decision.
http://www.5dca.org/Opinions/Opin2012/062512/5D11-3392.op.pdf

***Williams v. Williams*, 89 So. 3d 301 (Fla. 5th DCA 2012)**
The respondent appealed a final judgment of injunction for protection against domestic violence. The appellate court reversed and remanded the case for dismissal because "the trial court never made a finding of domestic violence-and because petitioner did not present evidence that could support a finding that she had been a victim of domestic violence or was in imminent danger of becoming a victim of domestic violence."
http://www.5dca.org/Opinions/Opin2012/060412/5D11-217.op.pdf

***Giddens v. Tlsty*, 87 So. 3d 843 (Fla. 1st DCA 2012)**
The appellant appealed a final injunction for protection against repeat violence. "The trial court made no findings of fact and therefore did not explicitly find two incidents of violence or stalking" as required by section 784.046(1)(b), Florida Statutes. Because the final injunction was not supported by competent, substantial evidence, the appellate court reversed.
http://opinions.1dca.org/written/opinions2012/05-23-2012/11-2941.pdf

***Ramirez v. Teutsch*, 134 So. 3d 995 (Fla. 1st DCA 2012)**
A respondent appealed an order denying his motion to dissolve a domestic violence injunction in favor of his former wife. In his motion, the respondent alleged that circumstances between the parties had changed since the injunction was entered. Specifically, he alleged that the parties had interacted without violence for several years, that he now lived 341 miles away from his former wife, and that the parties' only interaction related to time-sharing exchanges of their child, which were scheduled to end shortly. In light of these allegations, the trial court erred in summarily denying the motion to dissolve the injunction. The appellate court remanded the case for an evidentiary hearing.
http://opinions.1dca.org/written/opinions2012/05-18-2012/10-5888.pdf

***C.S., ex rel. D.A.S. v. T.S.P., ex rel. A.M.P.*, 82 So. 3d 1132 (Fla. 2d DCA 2012)**
A former boyfriend's single act of sitting on the petitioner's front porch and running away when the petitioner's mother pulled up to the house was not a sufficient act of stalking even though the petitioner testified she felt as if she was being stalked and was "in constant fear knowing that he could be anywhere . . . waiting . . . to grab [her] and potentially do physical harm to [her]." The appellate court reversed the circuit court decision that granted a permanent injunction for protection against dating violence because neither the allegations nor evidence supported the petitioner's entitlement to an injunction. There was no evidence that the former boyfriend/respondent had ever been violent or threatening toward her.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/March/March%2007,%202012/2D10-4451.pdf

***Berthiaume v. B.S. by and through A.K.*, 85 So. 3d 1117 (Fla. 1st DCA 2012)**
A mother's sworn petition for an injunction for protection against sexual violence filed on behalf of her minor child was sufficient to support an injunction where she alleged specific facts of sexual violence by the respondent against the minor victim to show reasonable cause to believe the minor was a victim of sexual violence by the respondent, and she was cooperating with law enforcement. Unlike the hearsay exception requirements of section 90.803(23), Florida Statutes, requiring a judicial determination of the child's reliability and actual testimony of the child or other corroborative evidence if the child is unavailable, section 784.046, Florida Statutes, requires only a sworn petition of the parent or guardian based on a reasonable belief that the child is a victim of sexual violence, and cooperation of the parent or guardian with law enforcement.
http://opinions.1dca.org/written/opinions2012/03-12-2012/11-4858.pdf

***Barile v. Gayheart*, 80 So. 3d 1085 (Fla. 2d DCA 2012)**
The petitioner requested an injunction against repeat violence against her former employer, to whom she was not related. After an evidentiary hearing, the trial court entered an injunction against domestic violence and the respondent appealed, claiming that the trial court erred in sua sponte issuing an injunction against domestic violence when the petitioner sought an injunction against repeat violence. The notice for the hearing informed the respondent that he would be defending himself against a charge of

repeat violence; however, without notice, the trial court switched issues to one which the respondent was not expecting and for which he was unprepared. Because the hearing went forward on the petitioner's petition as amended on the spot by the trial court, the respondent was denied due process and the injunction entered was reversed and vacated.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/February/February%2017,%202012/2D10-3816.pdf

***Achurra v. Achurra*, 80 So. 3d 1080 (Fla. 1st DCA 2012)**
The wife filed a petition for an injunction for protection from domestic violence against her husband. The trial court issued an ex parte temporary injunction and scheduled an evidentiary hearing, and the husband filed a response denying the material allegations in the petition. During the hearing, the wife's counsel asked the court to take judicial notice of a previous dissolution of marriage proceeding to avoid presenting redundant testimony. The circuit judge stated that he had retained his notes of the dissolution proceeding and announced his intent to review the other file and to allow the transcript from the earlier proceeding to be filed in the injunction case. The respondent neither objected to the request to take judicial notice nor complained of a lack of prior notice. At the close of the domestic violence hearing, the court ordered that the temporary injunction would remain in effect until all pertinent investigations were concluded, but made no oral findings of fact to support his ruling. Subsequently, a different circuit judge issued a final judgment of injunction against domestic violence, and the husband appealed, claiming that the final judgment was not supported by competent, substantial evidence.

The appellate court noted that the petitioner had the initial burden to prove entitlement to relief, and in this case she presented no evidence at the petition hearing. The record also showed no proof that the trial court ever received and considered a copy of the transcript from the dissolution proceedings of which it agreed to take judicial notice. The court stated that "[j]ust as the petitioner has the right to allege and prove the grounds for injunctive protection at a full and fair evidentiary hearing, the respondent is entitled to a fair hearing and protection from the effects of a final judgment of injunction that lacks any evidentiary support." Since the record was deficient of any proof to support the petitioner's allegations, the court reversed.
http://opinions.1dca.org/written/opinions2012/02-17-2012/11-2126.pdf

***Horne v. Endres*, 61 So. 3d 428 (Fla. 1st DCA 2011)**
The district court reversed a no-contact order stating that neither section 784.046(2), Florida Statutes (2009), nor any other statute authorized a no-contact order, and "even courts of general jurisdiction are without plenary power to enjoin citizens to remain on good behavior." The district court stated that the order appeared to recognize that proof of the parties' interactions fell short of a showing that would warrant an injunction against repeat violence under section 784.046(2), Florida Statutes (2009). The district court stated that the appellee did not prove a single instance of "violence" within the meaning of section 784.046(1)(a). The first incident occurred in a shopping center parking lot. As appellant, a sheriff's sergeant, started to leave, his truck came close to the appellee, and she "hit his truck while pushing forward to prevent from being run over." The appellant then stopped, jumped out of his truck, and yelled at her, "Don't you ever hit my _____ truck" and yelled to her ex-husband "Keep your dog on a leash." The second incident occurred in the office of the middle school the parties' sons attended. The appellant, in uniform, told the appellee "you're going to have charges coming your way," and "you don't know who you're messing with." The trial court found that, given the first incident, the appellee's "fear and resulting emotional distress stemming from [the incident at the school] were reasonable." But the district court stated that the trial court made no findings that the appellant threatened to do the appellee violence or that he intentionally touched or harmed her during the first incident. As to the second incident, the district court stated that the appellant's harsh statements "were not accompanied by any act that would create a reasonable fear that violence was imminent, and neither statement threatens violence, even implicitly." The district court held that, absent proof of statutory prerequisites, it could not affirm the order as being, in effect, an injunction against repeat violence.
http://opinions.1dca.org/written/opinions2011/04-15-2011/10-4038.pdf

***Titsch v. Buzin*, 59 So. 3d 265 (Fla. 2d DCA 2011)**
The district court reversed an injunction against repeat violence, stating that the record did not support a finding of two incidents of violence as required by section 784.046(2), Florida Statutes (2009). The appellee's petition for injunctive relief alleged two incidents of violence. The first involved a confrontation in his driveway during which the appellant allegedly threatened to kill him and tried to run him down with his SUV. In the second alleged incident, the appellant stopped his car at the appellee's home, exited the vehicle, and made a hand gesture imitating a gun and verbally threatened to kill him. The district court stated that "[e]ven if the first alleged incident is one of violence, the second falls outside the statutory scope. *See Santiago v. Towle*, 917 So.2d 909, 910-11 (Fla. 5th DCA 2005), holding that hand gestures and obscenities alone were insufficient" to constitute violence. The district court stated that there was not competent, substantial evidence that appellant, in the second alleged incident, made an overt act indicating ability to carry out the threat or that would justify a reasonable belief by appellee that violence was imminent. Because the alleged second incident was not an act of violence under the statute, the district court reversed the judgment of injunction.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/April/April%2013,%202011/2D10-354.pdf

***Parrish v. Price*, 71 So. 3d 132 (Fla. 2d DCA 2011)**
The respondent appealed two temporary injunctions against domestic violence entered against him ex parte that were obtained by his former wife on behalf of the parties' two adolescent children. At the hearing, the respondent moved to dissolve the temporary injunctions, arguing that the petitioner's petitions contained insufficient allegations and were based on hearsay. The court denied his motion and proceeded with the hearing. The petitioner presented her case, but by then the scheduled hearing time had been used up. The court extended the temporary injunctions until further order and scheduled another hearing for two weeks later in order for the respondent to present his case. Before the date of the scheduled hearing, however, the respondent appealed the nonfinal temporary injunctions pursuant to rule 9.130(a)(3)(B), Florida Rules of Appellate Procedure, also claiming the petitioner had no standing to petition for the injunctions because section 741.30, Florida Statutes, does not specifically provide for a parent to seek an injunction on behalf of a minor child.

The court held that the petitioner was authorized to petition for the injunctions on behalf of the children. "Section 741.30 clearly contemplates that children are among those who may invoke the statute's protection from domestic violence, [and rule 1.210(b), Florida Rules of Civil Procedure,] applicable to all civil cases, provides that a minor cannot sue on his or her own behalf. Rather, suit must be instituted by an appointed representative or a 'next friend,' such as a parent. . . . Thus, a child's only vehicle for seeking protection under the domestic violence statute is through a petition filed by a next friend or representative." The court also held that the allegations were sufficient to support the temporary injunctions; however, it offered no opinion on whether permanent injunctions were warranted." The petitions were based almost entirely on hearsay statements the children supposedly made to [the petitioner]. . . . At the renewed hearing on the permanent injunctions, the court may consider taking testimony from one or both of the children in order to assess the accuracy of the allegations and to determine whether [the respondent] engaged in violence against his children."
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/June/June%2010,%202011/2D10-3484.pdf

***C.K. v. B.B. ex rel. T.S.*, 65 So. 3d 99 (Fla. 2d DCA 2011)**
The mother challenged the trial court's final judgment of injunction for protection against domestic violence entered against her and in favor of the father who filed on behalf of the parties' eight-year-old daughter. At the hearing on the petition, although the father alleged that the child was in danger because of drug use by the mother's boyfriend and the mother's neglect, he presented no evidence regarding the boyfriend's drug use, verbal abuse, and no evidence of the mother failing to supervise the child. There was some evidence that the mother's behavior was erratic, but the mother's behavior did not provide the reasonable cause necessary to believe that the child was in imminent danger of becoming a victim of domestic violence. Because the record did not establish that the child was the victim of domestic violence

or was in imminent danger of becoming a victim of domestic violence at the hands of the mother, the appellate court reversed.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/June/June%2024,%202011/2D10-5175.pdf

***Singletary v. Greever*, 62 So. 3d 700 (Fla. 2d DCA 2011)**
The district court reversed an injunction against repeat violence, stating that the record did not support a finding of two incidents of violence as required by section 784.046(2), Florida Statutes (2009). The appellee's petition for injunctive relief alleged two incidents of violence. The first involved an incident outside her house in which the appellant was asked to leave because the appellee "did not like him." The district court stated that there was no evidence that appellant had any contact with the appellee or made any threats against her. The second incident occurred at a credit union where the appellant, in a conversation with a third party, allegedly made a veiled gun threat against the appellee. The district court stated that "the incident at the credit union did not involve a threat of violence that amounted to an assault because there was no overt act demonstrating that the violence was imminent" and that "the repeat violence was not supported by competent, substantial evidence," and thus reversed and remanded for the trial court to vacate the injunction.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/June/June%2010,%202011/2D10-931.pdf

***Fleshman v. Fleshman*, 50 So. 3d 797 (Fla. 2d DCA 2011)**
The district court reversed an order granting a one-year domestic violation injunction to prevent a father from having contact with his adult son. The father and son had never lived together in the same dwelling as required by the applicable domestic violence statute.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/January/January%2014,%202011/2D09-2205.pdf

International Custody

***Wigley v. Hares*, 82 So. 3d 827 (Fla. 4th DCA 2011)**
The district court affirmed the trial court's denial of the appellant's (the father's) petition for the return of his minor child to St. Kitts pursuant to the Hague Convention on the Civil Aspects of International Child Abduction, the terms of which have been codified in 42 U.S.C. § 11601 et seq. The district court explained that, when a child has been wrongfully removed from his or her home country, the court must order the child's return unless the party removing the child can show at least one of a few narrow exceptions set forth in the statute. In the present case, the trial court found that the child had become settled in his environment in Florida, within the meaning of the Convention, and that return of the child would constitute a grave risk to him, and that therefore he should not be returned. The district court concluded that the evidence was insufficient to support the defense to removal that was based on the child being settled in his environment. However, the district court affirmed the trial court's further conclusion that removal would put the child at grave risk of harm. The district court stated: "[W]ere we the finders of fact we might not have found the evidence provided by the mother clear and convincing of a grave risk of harm to the child within the meaning of the act." However, the trial court believed the mother's testimony that the father had made threats to kill the child, and "[t]hat would in and of itself constitute a grave risk of harm, as even the Convention commentators would agree." The district court further stated: "On a cold record, we cannot second guess the trial court."
http://www.4dca.org/opinions/July%202011/07-27-11/4D10-3213.op.pdf

Judicial Conduct

***In re Eriksson*, 36 So. 3d 580 (Fla. 2010)**
The Judicial Qualifications Commission (JQC) "filed an Amended Notice of Formal Charges alleging that Judge Eriksson employed an over-technical and rigid approach in conducting the proceedings seeking domestic violence injunctions in violation of the Code of Judicial Conduct." His conduct "penalized pro se petitioners for being unfamiliar with the judicial system. First, Judge Eriksson dismissed injunction petitions because petitioners did not know they were allowed to testify in connection with their own cases and at least implied that some independent witness was necessary. . . . After the petitioners failed to produce independent witnesses, Judge Eriksson dismissed the petitions. This occurred even though each petitioner could have testified in his or her own case. Additionally, cases had statements under oath already in the files. Judge Eriksson assert[ed] that no statute or prior case required him to inform petitioners of their rights. Instead, Judge Eriksson claimed he was unable to inform them of their rights because this would be assuming an adversarial role. Judge Eriksson eventually did assist some petitioners by asking them if they would like to testify, but only after dismissing a number of injunctions for failing to produce any independent, separate evidence. . . .

"Judge Eriksson also dismissed a number of petitions that, in his opinion, relied on hearsay evidence. . . . Inconsistent with Judge Eriksson's assertion that he must remain neutral, Judge Eriksson refused to allow police reports to be used by petitioners as evidence because he, without any objection raised by the opposing party, deemed the reports hearsay. Judge Eriksson refused to insert himself into the controversy when petitioners did not know they had a right to testify on their behalf, but had no problem with rejecting potential hearsay evidence sua sponte." The supreme court held that the JQC's finding that Judge Eriksson violated the Code of Judicial Conduct was supported by clear and convincing evidence and ordered Judge Eriksson to appear for a public reprimand.
http://www.floridasupremecourt.org/decisions/2010/sc07-1648.pdf

***In re Bell*, 23 So. 3d 81 (Fla. 2009)**
The Investigative Panel of the JQC charged Judge Bell with conduct alleged to violate Canons 1, 2A, 3B(1), and 3B(2) of the Code of Judicial Conduct. "[A] former husband appeared before him as a defendant in a domestic violence battery case. After reading the probable cause affidavit, Judge Bell found that probable cause existed for the former husband's domestic battery charge. Moreover, Judge Bell found that the probable cause affidavit contained facts sufficient to establish probable cause that the former wife had also committed an act of domestic battery in attempting to force the former husband from her home. Despite [the deputy's] findings and law enforcement's determination to arrest only the former husband, and in the absence of a complaint from the former husband, the . . . County Sheriff's Office, or the State Attorney's Office, Judge Bell ordered sua sponte for the former wife, who was present in court as a victim of domestic violence, to be taken into custody. In accord with Judge Bell's order, the former wife was arrested, incarcerated overnight, and ordered to appear the next day for first appearance." Judge Bell had a personal relationship with the former couple, and the former husband was an attorney who regularly appeared before Judge Bell. Judge Bell also "stated that he believed he acted lawfully in his orders as to the former wife. Yet [he] admitted that he would not have had the former wife arrested or taken any other action if she had not been in the courtroom that day. Judge Bell also acknowledged that his actions had the potential appearance of impropriety," and that he violated Canons 1, 2A, 3B(1), and 3B(2) of the Code of Judicial Conduct. The court approved the JQC's recommendation for sanctions.
http://www.floridasupremecourt.org/decisions/2009/sc09-782.pdf

Jurisdiction

***Department of Children and Families v. J.D.*, __ So. 3d __, 2016 WL 4180212 (Fla. 5th DCA 2016)**
After the mother's boyfriend allegedly raped her seven-year-old child, DCF sought temporary and permanent injunctive relief prohibiting him from having contact with the child. But the trial court dismissed the case , holding that it did not have jurisdiction "because there was not an open dependency case." DCF appealed, and the appellate court reversed, holding that the circuit court had jurisdiction under section 39.504, Florida Statutes, and noting that while a circuit court's jurisdiction attaches when a

petition for an injunction to prevent child abuse is filed, "an open dependency case is not required to entertain and issue section 39.504 injunctions."
http://www.5dca.org/Opinions/Opin2016/080116/5D16-1739.op.pdf

***Department of Children and Families v. Y.C.*, 82 So. 3d 1139 (Fla. 3d DCA 2012)**
DCF previously found that the respondent's complaints warranted no intervention by the department, so on her own the respondent filed a petition against herself and the children's father. The guardian ad litem then asked the court to order DCF to file a case plan and provide services. The trial court ordered the case plan and services but failed to set forth any factual findings as to exposure to domestic violence or failure to protect the children and failed to hold an adjudicatory hearing following the father's objection. Without a valid dependency determination by the court, either based on an admission or by an adjudicatory hearing, and an order including "findings of facts specifying the act or acts causing dependency, by whom committed, and facts on which the findings are based," the trial court exceeded its jurisdiction to order DCF to provide a case plan and services.
http://www.3dca.flcourts.org/Opinions/3D11-1899.pdf

***Department of Children and Families v. T.T.*, 42 So. 3d 962 (Fla. 5th DCA 2010)**
Two children were removed from their home and placed with their paternal grandparents due to domestic violence between their mother and her paramour. After more than a year, the children were placed in guardianship with the paternal grandparents, and the mother had two more children. The mother and father moved to different states and both eventually requested reunification with their children. Pursuant to their requests, the trial court directed DCF to obtain orders of compliance with the Interstate Compact for the Placement of Children (ICPC) for home studies on both parents. At a hearing on the mother's motion for holiday visitation, the trial court learned that DCF did not timely submit the ICPC orders to the other states' compact administrators. Nevertheless, over objections by DCF and the guardian ad litem about the incomplete ICPC approval procedure and the lack of any current information about the mother's housing or financial ability to support four children, the trial court ordered reunification with the mother, dismissed the dependency proceeding, and terminated the trial court's jurisdiction. The appellate court reversed because the orders did not comply with the ICPC, section 409.401, Florida Statutes (2009). The district court stated that "a trial court cannot send children to a receiving state unless it has complied with 'each and every requirement set forth' in Article III of the ICPC. . . . The ICPC requires that the receiving state evaluate the placement before the child is placed and then monitor the placement to protect the child." The case was remanded for the trial court to comply with the ICPC and consider the father's unification request.
http://www.5dca.org/Opinions/Opin2010/083010/5D09-4652.op.pdf

***Becker v. Johnson*, 937 So. 2d 1128 (Fla. 1st DCA 2006)**
On appeal, the court reversed and vacated a final judgment of injunction against the appellant, who argued that the trial court had an insufficient factual basis on which to exercise its personal long-arm jurisdiction. The appellant was a Maryland resident who left voice and text messages on the petitioner-wife's phone while the petitioner sought refuge in Florida. The wife filed her petition for an injunction in Florida circuit court alleging that the appellant had left threatening messages on her cell phone. Upon being personally served in Maryland with the petition, the appellant filed a motion to dismiss based on lack of personal jurisdiction and subject matter jurisdiction. The trial court held that the phone calls made to Florida while the petitioner was seeking refuge in this state satisfied the "minimum contacts" prong to trigger long-arm jurisdiction and denied the appellant's motion, even though the appellant argued that he was calling a Maryland number and had no knowledge the petitioner was residing in Florida. On appeal, the court held that the appellant had not "*purposefully established* 'minimum contacts'" within Florida because he was calling a Maryland number, and despite the petitioner's assertions that the appellant should have known the petitioner would have fled to Florida, she had not filed an affidavit in response to the appellant's affidavit that he was unaware that the petitioner had come to the forum state.

***Steckler v. Steckler*, 921 So. 2d 740 (Fla. 5th DCA 2006)**
The appellant moved to North Dakota after her Florida divorce and obtained an injunction for protection against domestic violence against her former husband. The Florida trial court granted a motion to enforce visitation filed by the former husband after the North Dakota court modified his visitation in the injunction. The former wife appealed, arguing that the trial court erred in failing to afford North Dakota's domestic violence protective order full faith and credit, and that the federal statute preempts the Florida statute, which grants state courts exclusive and continuing jurisdiction over its child custody decisions. The district court ruled that a foreign state's domestic violence protective order is entitled to full faith and credit when the former spouse is given reasonable notice and an opportunity to be heard. However, since the protective order affected Florida's initial custody determination, the order is also governed in part by the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). Generally, the state that made the initial custody determination has exclusive, continuing jurisdiction over these decisions; however, "in emergency situations, the UCCJEA permits other states to obtain temporary emergency jurisdiction to protect a child. . . . Since North Dakota modified Florida's initial custody determination in the form of a domestic violence protective order designed to protect both the former wife and the children, . . . the North Dakota court acted within the temporary emergency jurisdiction of the UCCJEA." The Florida court, however, had not relinquished jurisdiction. "[O]nce the trial judge learned of North Dakota's domestic violence protective order, he should have contacted the North Dakota judge to resolve any jurisdictional conflicts." The trial court's order as to the determination of jurisdiction was affirmed, but the case was remanded with instructions for the trial judge to contact the North Dakota judge to resolve any conflicts between the North Dakota protective order and the Florida child custody order.

***Bond v. Bond*, 917 So. 2d 268 (Fla. 5th DCA 2005)**
The trial court erroneously declined to exercise jurisdiction when a father, on behalf of his minor children, filed petitions for injunction for protection against domestic violence against the children's grandparents. The trial court had issued a temporary hearing, but at the commencement of the hearing to decide the next course as to the injunction, the court terminated the hearing without allowing the petitioner to demonstrate that the cases were properly within the court's jurisdiction, because it did not see how the parties came within the applicable statute since they did not currently reside together. The petitioner's response that the parties "used to" live together should have been sufficient for the court to allow the petition for domestic violence to continue. Instead, the trial judge abruptly dismissed the petitions. The district court reversed and remanded to afford the petitioner the opportunity to demonstrate that the cases were properly within section 741.30(1)(e), Florida Statutes, under which a domestic violence injunction may be sought by "family or household members," which includes "persons who are presently residing together as a family or who have resided together in the past as if a family."

***Poliandro v. Springer*, 899 So. 2d 441 (Fla. 4th DCA 2005)**
When a court's decision to allow a sister state to exercise jurisdiction is based on conversations the judge had with a judge of the sister state, "the court **must** allow the parties to be present during the conversation and set forth specific findings regarding the basis for concluding that jurisdiction in a sister state is appropriate." The Florida court failed to follow proper procedures when it allowed an Alabama court to exercise jurisdiction over the child custody action that resulted from an award of temporary custody to the mother in a final judgment of permanent injunction. The mother's motion to transfer the subsequent custody action filed by the father for forum non conveniens, without providing the court any supporting affidavits, was improperly granted.

***Pierce v. Tello*, 868 So. 2d 1253 (Fla. 4th DCA 2004)**
The Fourth District reversed the trial court because the trial judge entered an ex parte order suspending all contact between the appellant and his daughter after the appellant's hair sample had tested positive for cocaine and metabolites. The Fourth District held that the lab report sent directly to the judge is an ex parte communication, and the court must provide a copy to each party and allow each side to be heard before suspending visitation based on the report. In addition, the appellant sought a writ of mandamus to quash the information charging him with violating an injunction, as the written injunction omitted the three-

month limit set by the judge, which would have long expired. However, the district court found it had no jurisdiction over the state attorney prosecuting the alleged violation, and therefore denied the writ.

***Ellis v. Jenkins ex rel. R.J.*, 800 So. 2d 742 (Fla. 5th DCA 2001)**
The respondent moved to vacate a repeat injunction against him protecting the petitioner, a minor child. The motion to vacate was denied, and the respondent appealed on the ground that the court lacked subject matter jurisdiction under section 784.046, Florida Statutes. The original injunction was issued by stipulation, and the respondent was represented by counsel at the hearing. In that stipulation, the respondent waived his right to an evidentiary hearing with regard to the allegations made by the minor. The court held that the motion to vacate had been properly denied because of the stipulation and the fact that the trial court had jurisdiction over the case because section 784.046, Florida Statutes, includes provisions against stalking and repeat violence.

***Velez v. Selmar*, 781 So. 2d 1197 (Fla. 3d DCA 2001)**
The district court held that it was error for the trial court to enter a final judgment of injunction for protection against repeat violence and a supplemental order to the permanent injunction when the trial court was without jurisdiction. The case was reversed.

***Abuchaibe v. Abuchaibe*, 751 So. 2d 1257 (Fla. 3d DCA 2000)**
The district court held that Florida courts had no jurisdiction over a child for the purpose of making a custody determination under section 61.1308(1)(b), Florida Statutes, (now section 61.514(1)(b)1, Florida Statutes) when the child did not have any significant connection with the state of Florida. The child was born in Florida and later moved to Colombia. He had lived about half of his thirty-three months in Florida and about half in Colombia. The father is a dual citizen of the U.S. and Colombia, where he resides. The mother is a Colombian citizen and has resided in the U.S. while attempting to qualify for residency. The child was present in Florida visiting his mother for six days prior to the mother's filing an injunction. The father commenced formal proceedings in Colombia to determine custody of the child sometime after the final order of the Florida court in November 1998, awarding custody to the mother. Service of process on the mother for the Colombian proceedings was attempted, though unsuccessfully, through the Colombian Consulate in Miami. In December 1998, the mother filed for dissolution of marriage, seeking permanent custody of the child. The mother subsequently dismissed her dissolution petition while the issue of jurisdiction was being considered by the family court. The domestic violence trial court later held the father in contempt for his failure to return the child to the mother, despite the father's argument that the Colombian law prevented him from removing the child from the country while custody proceedings were pending. The district court reversed the trial court's custody order, finding that the court erred in asserting jurisdiction. The district court held that there was no showing of significant connections between the child and the state of Florida. Further, the district court reversed the contempt order since the father was barred from removing the child from Colombia by Colombian law.

***Moldoff v. Schneider*, 743 So. 2d 1210 (Fla. 4th DCA 1999)**
When the appellee filed an injunction for protection against repeat violence against the maternal grandfather of his minor children, who in turn filed his own injunction against the appellee, the district court held that the trial court erred by expressly naming the maternal grandmother as an enjoined party, despite the fact that she was not under the court's jurisdiction.

***Baumgartner v. Baumgartner*, 691 So. 2d 488 (Fla. 2d DCA 1997)**
The parties were German citizens who had a pending divorce and custody action in Germany. They came to Florida on separate vacations. While in Florida they had an altercation, and the husband was arrested. The wife was awarded a temporary injunction. Thereafter, the court entered a permanent injunction, awarding custody of the children to the wife and ordering the surrender of the children's passports pending resolution of a hearing in the German courts. However, prior to the Florida court's order, the German court had ordered that the wife immediately return the children to Germany. The appellate court reversed and held that a domestic violence injunction may not grant custody of the children, who are subjects of a foreign custody order, or impound their passports. Rather, a hearing was required to

determine the husband's rights to custody of the children and return of the children's passports under the German order.

***H.K. by and through Colton v. Vocelle*, 667 So. 2d 892 (Fla. 4th DCA 1996)**
It was error to dismiss a 15-year-old high school student's petition for a repeat violence injunction against a 17-year-old classmate. The repeat violence statute applies to juveniles, and the circuit court has jurisdiction over matters involving juveniles.

***Blackwood v. Anderson*, 664 So. 2d 37 (Fla. 5th DCA 1995)**
The petitioner obtained an ex parte domestic violence injunction against the respondent but failed to appear at the final hearing. The court granted the respondent (the father) custody of the children and reset the final hearing. The order awarding custody to the father was quashed because the father did not properly plead for custody and the mother was not sufficiently notified of the custody issue. Note: see Judge Antoon's concurring opinion for an interesting discussion on jurisdiction and the frustration trial judges can experience in dealing with domestic violence injunction cases.

Marital Home and Marital Property

***Montemarano v. Montemarano*, 792 So. 2d 573 (Fla. 4th DCA 2001)**
The district court held that in a domestic violence case, when the petitioner did not seek exclusive use and possession of the marital home, it was error to include in an injunction order a requirement that the respondent vacate the premises. Due process requires that a party have proper notice of a hearing and the opportunity to be heard before an order is entered requiring the party to vacate the marital home.

Modification and Dismissal of Injunctions

***Moriarty v. Moriarty*, 192 So. 3d 680 (Fla. 4th DCA 2016)**
The court denied the appellant's motion to dissolve an injunction against him because it "did not allege any change in circumstances and merely attempted to challenge the initial procurement of the injunction." The motion failed to establish any reversible error.
http://www.4dca.org/opinions/June%202016/06-01-16/4D15-2990.op.pdf

***Jacquot v. Jacquot*, 183 So. 3d 1158 (Fla. 5th DCA 2015)**
The appellant had filed a motion for relief from an injunction against domestic violence, which the trial court denied without a hearing, holding that the motion was moot because the injunction has previously expired. On appeal, however, the appellate court noted that "the expiration of an injunction for protection against domestic violence is one of the recognized exceptions to the dismissal of a moot case" and reversed. Injunctions for protections against domestic violence are exempt from "the usual rule of mootness because of the collateral legal consequences that may flow from the injunction."
http://www.5dca.org/Opinions/Opin2015/122815/5D15-3641.op.pdf

***Champion v. Zuilkowski*, 182 So. 3d 689 (Fla. 5th DCA 2015)**
The appellant appealed an order that summarily denied his motion to dissolve a permanent injunction against domestic violence. Because the appellant sufficiently alleged changed circumstances, the court reversed and remanded for an evidentiary hearing upon proper service of process on the petitioner.
http://www.5dca.org/Opinions/Opin2015/120715/5D15-676.op.pdf

***Bennett v. Abdo*, 167 So. 3d 522 (Fla. 5th DCA 2015)**
An inmate moved for modification of an injunction for protection against domestic violence, alleging that the injunction was impacting his ability to participate in a work-release program. The trial court summarily

denied the motion without a hearing or explanation. The appellate court reversed, holding that the motion was legally sufficient and the inmate had a right to be heard.
http://www.5dca.org/Opinions/Opin2015/062915/5D14-3565.op.pdf

***Jeffries v. Jeffries*, 133 So. 3d 1243 (Fla. 1st DCA 2014)**
The respondent appealed a permanent injunction for protection against domestic violence entered against him, on the grounds that he did not receive a fair trial and the injunction was not supported by competent substantial evidence. But the court affirmed, stating that it could not second guess the trial court: "It was the responsibility of the trial court to determine the credibility of the witnesses and to resolve the conflicts in the evidence with a transcript of the hearing. . . . The fact that there was conflicting testimony that would have supported the denial of the petition is of no significance on appeal." The court also noted that if circumstances have changed since the injunction was entered, the respondent could file a motion to modify or dissolve the injunction.
http://opinions.1dca.org/written/opinions2014/03-24-2014/13-4757.pdf

***Garrett v. Pratt*, 128 So. 3d 928 (Fla. 5th DCA 2013)**
An inmate in Florida's correctional system appealed the trial court's order denying his motion to modify or dissolve a domestic violence injunction. The inmate had filed a motion to appear telephonically, and although the court did not rule on this motion, the clerk's notice of hearing noted that the inmate would appear telephonically. When the inmate failed to call in for the scheduled hearing, the trial court denied his motion to modify or dissolve the injunction. By rule the Department of Corrections requires staff to place calls to the court when an inmate must participate in a hearing telephonically, but that did not occur in this case. Since the inmate was denied his chance to appear through no fault of his own, the appellate court reversed and remanded the case for further proceedings.
http://www.5dca.org/Opinions/Opin2013/121613/5D13-3101.op.pdf

***Rudel v. Rudel*, 111 So. 3d 285 (Fla. 4th DCA 2013)**
The wife, a German citizen, petitioned for dissolution of marriage and for an injunction for protection against domestic violence. The court granted the ex parte temporary injunction, but later dismissed the petition for injunction against domestic violence and the wife appealed. The appellate court reversed as to the domestic violence injunction and noted that the wife gave uncontradicted testimony regarding acts of domestic violence and also provided corroborating witness testimony. Although the dissolution of marriage petition was correctly dismissed due to jurisdictional issues, the appellate court held that the wife did present sufficient evidence to support an injunction, and remanded the case for a new hearing because the husband did not have the opportunity to present evidence on the domestic violence issue since his challenge to jurisdiction was still outstanding.
http://www.4dca.org/opinions/April%202013/04-17-13/4D11-2616.op.pdf

***Reyes v. Reyes*, 104 So. 3d 1206 (Fla. 5th DCA 2012)**
The father appealed the trial court's order that denied his motion to modify or dissolve his domestic violence injunction. In 2004, the trial court entered an injunction in favor of the mother. The father's motion to modify the injunction challenged the original injunction and made several other claims, but failed to allege any change in circumstances and the trial court denied the motion. The appellate court held that "for a movant to be entitled to obtain relief on a motion to modify or dissolve a domestic violence injunction, the movant must prove a change in circumstances." Because the father's motion failed to allege any change in circumstances, the court affirmed the lower court's decision.
http://www.5dca.org/Opinions/Opin2012/121012/5D11-4082.op.pdf

***Raymonvil v. Lewis*, 46 So. 3d 139 (Fla. 5th DCA 2010)**
The district court reversed an order denying the appellant's motion for modification of an injunction for protection against domestic violence. The trial court entered the injunction in July 2006 and it was to remain in effect until further order. In his motion filed in February 2010, the appellant alleged that circumstances had changed since entry of the injunction. He alleged that he had not had contact with the appellee, he was presently incarcerated, and the injunction was affecting his ability to participate in a

work-release program. The appellant further claimed he had stipulated to entry of the injunction based on an agreement that the injunction would expire after one year. The trial court denied the motion without affording the appellant the opportunity for a hearing, and gave no reasons for the denial. The district court held that the trial court's summary denial of the appellant's motion violated due process requirements and the court must give him a meaningful opportunity to be heard.
http://www.5dca.org/Opinions/Opin2010/101810/5D10-827.op.pdf

***Polanco v. Cordeiro*, 67 So. 3d 235 (Fla. 2d DCA 2010)**
The respondent appealed a final judgment of injunction against repeat violence entered in favor of the petitioner. At the hearing on the petition, the petitioner testified that the respondent harassed and stalked her, but could not describe specific instances that fell within the statutory definition of repeat violence or stalking. The court noted that the trial judge's findings that the parties were very emotional and hostile toward each other were insufficient to support an injunction against repeat violence as provided for in section 784.046(2), Florida Statutes. Because the petitioner failed to prove any acts of violence or stalking, the court reversed the trial court's decision.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/September/September%2022,%202010/2D09-2998.pdf

***Department of Children and Families v. D.B.D.*, 42 So. 3d 916 (Fla. 4th DCA 2010)**
The district court affirmed the trial court's order dissolving a temporary ex parte injunction against a father and dismissing suspension of the father's parental time-sharing. The mother was a DCF attorney. DCF filed a motion for injunction under section 39.504, Florida Statutes, which was heard before a judge unfamiliar with the family's acrimonious divorce proceedings. The father, also an attorney, received notice two hours before the hearing but was not allowed to appear by phone and was unable to attend. In addition to the mother, two lawyers and three DCF representatives were present. None of the attorneys made the judge aware of ongoing proceedings in family court, mentioned the mother's emergency motion to suspend visitation, or brought up the mother's previous attempt to secure an injunction on behalf of the children. The DCF attorney convinced the judge to enter an injunction that remained in effect until further order of the court, without holding any further hearing. However, section 39.504(2), Florida Statutes, provides that if a judge issues an immediate injunction, the court must hold a hearing "on the next day of judicial business" to dissolve, continue, or modify the injunction. The family court judge ordered the transfer of the injunction case to the family court because of the longstanding dissolution case pending there and held a hearing, after which the judge found that DCF had filed the injunction petition before a dependency judge in bad faith, bypassing the proceeding pending in the family court, and dismissed the injunction. The appellate court affirmed.
http://www.4dca.org/opinions/Aug%202010/08-25-10/4D09-4862.op.pdf

***Coe v. Coe*, 39 So. 3d 542 (Fla. 2d DCA 2010)**
The petitioner appealed a final judgment of injunction for protection against domestic violence entered in favor of his former wife. The parties were also involved in a divorce and custody dispute being heard by the same judge. The appellate court reversed the order granting the petition because it was entered based on evidence from the custody hearing that was not a part of the injunction hearing record. "In essence, the court's decision was based on impermissible extrajudicial knowledge." The appellate court noted that there is "considerable merit in having the judge assigned to a dissolution proceeding also handle claims of domestic violence that arise during the pendency of those proceedings. It is likely that a judge handling a dissolution will have a better sense of whether a domestic violence injunction is actually necessary, whether the petition has been filed for genuine reasons or primarily as a tactic within the divorce, and whether matters that could be resolved in one case or the other are better decided in the dissolution proceeding." But it also warned that trial judges assigned to dissolution proceedings who also handle interrelated petitions for domestic violence must exercise care in ensuring that their rulings are supported by an adequate record.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/July/July%2016,%202010/2D09-92rh.pdf

***McCall v. Martin*, 34 So. 3d 121 (Fla. 4th DCA 2010)**
The father was convicted of domestic violence against his wife and sentenced to prison. However, the court declined to make any provision in the final judgment of dissolution of marriage for the father's share of child support, stating he would have no monthly income while incarcerated. The appellate court reversed, stating that the father's criminal conviction and resulting incarceration were not valid reasons to deny setting an amount of support attributable to him based on imputed income. The court held that income should have been imputed to the father so that the arrearages can accumulate until he is able to earn an income.
http://www.4dca.org/opinions/Apr%202010/04-21-10/4D08-3912.op.pdf

***Colarusso v. Lupetin*, 28 So. 3d 238 (Fla. 4th DCA 2010)**
The trial court denied the appellant's motion to dissolve a permanent injunction for domestic violence entered in January 2005 in favor of his then girlfriend. The appellate court reversed because "the summary denial of a motion to vacate a protective injunction violated due process requirements." The court also noted that "[c]ase law has not clearly set forth the applicable legal standard for determining whether a domestic violence injunction should be vacated or modified. Some cases seem to require the movant to allege and prove a change in circumstances. . . . However, other cases have focused on the 'at any time' language in the statutory text, finding that the trial court should have held an evidentiary hearing to allow the movant to present evidence regarding the initial procurement of the injunction." In this case, the trial court "gave no reasons for its summary denial. Even assuming that appellant was required to allege a change in circumstances in order to state a legally sufficient motion, appellant alleged in his motion that there was a change in circumstances because the injunction had served its purpose; he had not attempted to contact his ex-girlfriend for years; he was incarcerated on unrelated charges; and the injunction was impacting his ability to participate in certain prison work programs. Because appellant's motion was legally sufficient, the trial court should have afforded appellant a meaningful opportunity to be heard rather than summarily denying his motion."
http://www.4dca.org/opinions/Mar%202010/03-03-10/4D08-4152.op.pdf

***Tacy v. Sedlar*, 15 So. 3d 24 (Fla. 2d DCA 2009)**
The respondent appealed an order modifying a final judgment of injunction for protection against domestic violence that added the parties' teenage daughter as a protected party and ordered the respondent to have no contact whatsoever with the child. "The preexisting injunction . . . did not include a determination concerning the parties' child and [the petitioner] did not seek to modify the final judgment of injunction for reasons related to her own protection." The appellate court reversed because the evidence did not support the order. The petitioner established no conduct on the respondent's part that demonstrated domestic violence as related to the child. In fact, the petitioner testified that she was not scared of the respondent; she simply did not want him to have any involvement with the child.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2009/May/May%2008,%202009/2D08-3101.pdf

***Smith v. Melcher*, 975 So. 2d 500 (Fla. 2d DCA 2008)**
An alleged stalker appealed the entry of a permanent injunction against repeat violence in favor of the appellee. The appellee stated that she had been a victim of repeat violence based on two acts committed by the appellant on two different days. At trial, the appellee testified that on the first date, the appellant made harassing statements that were directed at her. The second incident occurred while the appellee and her children were in an enclosed area of a restaurant; she saw the appellant circling the restaurant shaking his head and pointing at her. The police were summoned to the scene, and at trial, testimony was presented that the appellant came close to becoming disorderly when questioned by the officer. Based on these two incidents, the trial court found just cause to enter the injunction. On appeal, the court found, without discussion, that there was sufficient evidence to support the trial court's finding that the first act constituted harassment as defined by the statute. However, the district court did not find that the second act was supported by competent substantial evidence to rise to the level of a "repeat" act of violence. Nor did the trial court find that this was an assault, because the appellant had no apparent ability to cause harm from his car while the appellee was inside the restaurant. Moreover, the appellant's interaction with

the police officer, intimidating as it may have been for the appellee to witness, did not constitute a threat to her. Since two acts of violence are necessary to obtain an injunction for protection against repeat violence and the record only supported that one had occurred, the district court reversed and remanded with instructions to vacate the injunction.

***Morrell v. Chadick*, 965 So. 2d 1277 (Fla. 2d DCA 2007)**
The appellant, the former supervisor of the appellee, appealed the final order for protection against sexual violence entered against him, citing insufficient evidence. During the majority of the appellee's year-long employment, the parties were engaged in a sexual relationship that allegedly ended a month *after* her resignation. The appellee filed a petition for protection against sexual violence two months after ending the relationship, alleging that she was harassed and forced to have sex against her will while employed and that she submitted to the appellant's demands because she feared losing her job, and that the appellant continued to contact her at her home, work, and cellular phone numbers and threatened to blackmail her. At trial, the appellant moved to dismiss because the petition was insufficient under the sexual violence statute; the appellee had failed to cite specific instances when she was pressured to have sex or the appellant was physically violent toward her but testified that the main impetus for her filing was the appellant's phone calls, none of which contained any threats of violence or requests for sex, and which went unanswered. The appellant argued that the two had been involved in a consensual sexual relationship. The court denied the motion to dismiss, citing that the petition stated a case for stalking, and granted the injunction. The record and the final judgment were contradictory in that the basis for the injunction (stalking) was not an enumerated basis under the relevant statute for sexual violence. Therefore, the appellate court reversed, stating: "The trial court apparently astutely recognized the flaw in [appellee's] allegations of sexual violence and orally stated that the evidence of [appellant's] numerous telephone calls supported a finding of stalking. However, [appellee] had filed a petition for injunction for protection against sexual violence, and the statutory definition of 'sexual violence' contained in section 784.046(1)(c) does not include stalking. [Appellee] did not amend her pleadings, and this issue was not tried by consent. Moreover, the trial court entered the final judgment on the standard form used for injunctions for protection against sexual violence, and the final judgment did not include any findings regarding stalking. Absent amendment of the pleadings or trial by consent, the trial court cannot enter an injunction on grounds of violence different from the ground alleged by the petitioner. . . . Dismissal of the petition without prejudice for [appellee] to refile or amend her petition was the appropriate remedy."

***Samanka v. Brookhouser*, 899 So. 2d 1190 (Fla. 2d DCA 2005)**
The non-moving party must be given a hearing before an injunction may be amended. Although a trial court need not set a date for a permanent injunction to expire under section 741.30(6)(b), Florida Statutes, if the court receives a motion to extend the injunction, it must set a hearing and give notice of the hearing date before it can modify the injunction. Because the respondent was not afforded an opportunity to challenge the allegations that formed the basis of the modification, she was denied due process, and the extension of a two-year permanent injunction for an indefinite period of time was improper.

***Harrison v. Francisco*, 884 So. 2d 239 (Fla. 2d DCA 2004)**
The trial court erred in summarily denying the respondent's motion for taxation of costs following the petitioner's voluntary dismissal of a petition for an injunction for protection against domestic violence. The district court held that although an award of costs is left to the discretion of the trial court, the trial court must determine in a hearing, after argument and the presentation of evidence by both sides, which expenses would have been reasonably necessary for an actual trial. The case was reversed and remanded for an evidentiary hearing on the motion for costs.

***Sumner v. Sumner*, 862 So. 2d 93 (Fla. 2d DCA 2003)**
The district court held, inter alia, that the trial court committed reversible error by entering an order dismissing the wife's petition for a permanent injunction for protection against domestic violence at the end of its hearing on the petition for dissolution of marriage. Due process required a hearing on the issue,

and the court erred when it dismissed the petition based solely on its observations at the final hearing of dissolution of marriage.

***York v. McCarron*, 842 So. 2d 281 (Fla. 1st DCA 2003)**
The district court reversed the trial court's denial of the appellant's motion to dissolve the permanent injunction against repeat violence, as either party may move at any time to modify or dissolve an injunction under section 784.046(7)(c), Florida Statutes. The court held that the trial court erred in not allowing the presentation of evidence "regarding the initial procurement of the injunction at a hearing."

***Tobkin v. State*, 777 So. 2d 1160 (Fla. 4th DCA 2001)**
The petitioner's voluntary dismissal of an action for injunction for protection against domestic violence and an action for dissolution of marriage "divested the trial judge of authority to continue with further proceedings on the wife's attorney's motion to withdraw, the husband's motion to disqualify the wife's counsel, and the enforcement of the previously-ordered requirement of counseling and attendance at the spouse batterers' program. No permanent injunction requiring counseling or attendance at the [program] was ever entered." However, "a voluntary dismissal does not divest the court of jurisdiction to conclude ancillary matters involved in the case such as outstanding and unresolved motions for attorney's fees and costs and similar issues."

***Knipf v. Knipf*, 777 So. 2d 437 (Fla. 1st DCA 2001)**
The dismissal of a request for an injunction against domestic violence solely on the basis that there was a pending divorce action between the parties was contrary to section 741.30, Florida Statutes (1999), and constituted error. The decision of the trial court was reversed.

***Mayotte v. Mayotte*, 753 So. 2d 609 (Fla. 5th DCA 2000)**
The district court held that it was error for the trial court to modify a permanent injunction for protection against domestic violence without a motion for modification, a hearing, and notice to the opposing party.

***Simonik v. Patterson*, 752 So. 2d 692 (Fla. 3d DCA 2000)**
The district court held that it was not error for the trial court, after conducting a hearing, to deny the respondent's motion to modify an injunction for protection against repeat violence to allow him to possess firearms, in the absence of evidence that circumstances had changed since the injunction was entered.

***Madan v. Madan*, 729 So. 2d 416 (Fla. 3d DCA 1999)**
injunction, holding that the trial judge should have allowed the respondent to present evidence of false allegations by the petitioner at the initial injunction hearing. Pursuant to section 741.30(6)(b) (now section 741.30(6)(c)), Florida Statutes, either party may move *at any time* to dissolve an injunction. In this case, the appellate court interpreted this statute to permit what would appear to amount to a de novo rehearing *at any time*, to reopen the case with proof of falsehoods in the petitioner's initial procurement of the injunction.

Mutual Injunctions

***DeMaio v. Starr*, 791 So. 2d 1116 (Fla. 4th DCA 2000)**
The trial court erred in entering a mutual restraining order without proper pleading by the petitioner and without testimony and over the respondent's objection. "Upon proper pleading and a hearing in compliance with [the Florida Rules of Civil Procedure], when notice is not given or upon mutual agreement, a mutual restraining order may be appropriate." But in this case there was not proper pleading, a hearing, or mutual agreement, so the decision of the trial court was reversed.

***Martin v. Hickey*, 733 So. 2d 600 (Fla. 3d DCA 1999)**
The district court held that the trial court erred in entering a domestic violence injunction on behalf of the appellee after the appellant had obtained an injunction against him, amounting in effect to mutual

restraining orders, as the second injunction was not "independently supported by the pertinent evidentiary requirements."

***Hixson v. Hixson*, 698 So. 2d 639 (Fla. 4th DCA 1997)**
The trial court erred in issuing mutual orders of protection. Section 741.30(1)(h) (now section 741.30(1)(i)), Florida Statutes, prohibits courts from issuing mutual injunctions. The prohibition against such orders does not preclude the trial court from issuing separate injunctions when each party has filed a separate petition and is entitled to an injunction under the law.

***Brooks v. Barrett*, 694 So. 2d 38 (Fla. 1st DCA 1997)**
The wife filed a petition for an injunction, and the husband answered and petitioned for dissolution of marriage, also seeking an injunction against the wife. The parties orally agreed to settle the matter by the entry of a mutual injunction for protection against domestic violence. Thereafter, each party was charged with violating the mutual injunction. The trial court dismissed the criminal charge against the wife, finding that the mutual injunction was unenforceable because prohibited by section 741.30(1)(h) (now section 741.30(1)(i)), Florida Statutes. Thereafter, the court sua sponte entered an amended injunction against the husband. The appellate court reversed, finding that it was error to amend the injunction without giving the husband an opportunity to be heard.

Parenting Agreement

***Orta v. Suarez*, 66 So. 3d 988 (Fla. 3d DCA 2011)**
The district court reversed that portion of a final judgment of dissolution of marriage that denied a mother's petition to relocate from Florida to California with the parties' minor child. In a 28-page opinion, the district court analyzed facts and law, concluding that the mother carried the burden of demonstrating that the relocation was in the child's best interest. Among the factors considered was the trial court's finding that the father was not a "batterer" but had "engaged in emotional abuse . . . ***not rising to the level of domestic violence***."
http://www.3dca.flcourts.org/Opinions/3D10-1675.pdf

Parental Time-Sharing (formerly Custody and Visitation)

***Hunter v. Booker*, 133 So. 3d 623 (Fla. 1st DCA 2014)**
The petitioner filed a petition for protection against domestic violence and was granted a temporary injunction ex parte which gave her 100% of the time-sharing for her son. At the subsequent hearing, the court denied the injunction but established a time-sharing plan, even though the respondent did not request time-sharing and there no was no pending action to establish parental responsibility or visitation. The petitioner appealed, and the appellate court held that the trial court lacked the statutory authority to establish a temporary parenting plan since the court dismissed the temporary injunction and denied the permanent injunction. The court noted that Florida statutes authorize the court to establish a temporary parenting plan only when the court issues an injunction, not when it dissolves or denies it. The court also stated that the trial court's order violated the petitioner's right to due process and departed from the essential requirements of law because the mother's pleading had not presented the issue of shared custody and the father had not requested custody of the child. Even if it had been proper for the trial court to order time-sharing, the judge failed to consider the criteria set out in section 61.13, Florida Statutes, for developing a time-sharing plan.

***Department of Children and Families v. D.B.D.*, 42 So. 3d 916 (Fla. 4th DCA 2010)**
The district court affirmed the trial court's order dissolving a temporary ex parte injunction against a father and dismissing suspension of the father's parental time-sharing. The mother was a DCF attorney. DCF filed a motion for injunction under section 39.504, Florida Statutes, which was heard before a judge unfamiliar with the family's acrimonious divorce proceedings. The father, also an attorney, received notice

two hours before the hearing but was not allowed to appear by phone and was unable to attend. In addition to the mother, two lawyers and three DCF representatives were present. None of the attorneys made the judge aware of ongoing proceedings in family court, mentioned the mother's emergency motion to suspend visitation, or brought up the mother's previous attempt to secure an injunction on behalf of the children. The DCF attorney convinced the judge to enter an injunction that remained in effect until further order of the court, without holding any further hearing. However, section 39.504(2), Florida Statutes, provides that if a judge issues an immediate injunction, the court must hold a hearing "on the next day of judicial business" to dissolve, continue, or modify the injunction. The family court judge ordered the transfer of the injunction case to the family court because of the longstanding dissolution case pending there and held a hearing, after which the judge found that DCF had filed the injunction petition before a dependency judge in bad faith, bypassing the proceeding pending in the family court, and dismissed the injunction. The appellate court affirmed.
http://www.4dca.org/opinions/Aug%202010/08-25-10/4D09-4862.op.pdf

***Grigsby v. Grigsby*, 39 So. 3d 453 (Fla. 2d DCA 2010)**
The mother appealed from a nonfinal order awarding sole parental responsibility for her four minor children to their father and suspending her time-sharing with the children. The district court reversed the trial court's order on narrow grounds and stated that, on remand, the trial court must set forth specific steps for the mother to reestablish time-sharing, and it must provide guidance concerning what proof of parental rehabilitation it is seeking from the mother. During a dissolution of marriage action, the trial court held an evidentiary hearing during which evidence established that the mother refused to encourage the children to participate in scheduled time-sharing and refused to allow the father to see the children at other times. The mother refused to comply with the court's temporary order regarding time-sharing. Instead, she reported to DCF that the father was sexually abusing the children. DCF determined this report to be unfounded. Evidence also showed that the mother filed police reports alleging criminal activity by the father. All of these complaints were determined to be unfounded. The mother refused to cooperate with a court-appointed parenting coordinator and filed complaints against licenses of psychologists and social workers appointed by the court. These complaints were also determined to be unfounded. The trial court found that the mother had "actively interfered with the love and emotional ties that previously existed between the Father and the children" and characterized the mother's actions as the worst case of parental alienation that it had ever seen. The trial court assigned sole parental responsibility for all four children to the father and suspended the mother's time-sharing. The trial court designated suspension of the mother's time-sharing as temporary but did not set forth what steps the mother could take to reestablish time-sharing. Instead, the court ordered that the father, after consultation with "professionals," could determine when the mother's time-sharing would be reinstated.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/July/July%2007,%202010/2D09-5255.pdf

***Department of Children and Families v. T.T.*, 42 So. 3d 962 (Fla. 5th DCA 2010)**
Two children were removed from their home and placed with their paternal grandparents due to domestic violence between their mother and her paramour. After more than a year, the children were placed in guardianship with the paternal grandparents, and the mother had two more children. The mother and father moved to different states and both eventually requested reunification with their children. Pursuant to their requests, the trial court directed DCF to obtain orders of compliance with the Interstate Compact for the Placement of Children (ICPC) for home studies on both parents. At a hearing on the mother's motion for holiday visitation, the trial court learned that DCF did not timely submit the ICPC orders to the other states' compact administrators. Nevertheless, over objections by DCF and the guardian ad litem about the incomplete ICPC approval procedure and the lack of any current information about the mother's housing or financial ability to support four children, the trial court ordered reunification with the mother, dismissed the dependency proceeding, and terminated the trial court's jurisdiction. The appellate court reversed because the orders did not comply with the ICPC, section 409.401, Florida Statutes (2009). The district court stated that "a trial court cannot send children to a receiving state unless it has complied with 'each and every requirement set forth' in Article III of the ICPC. . . . The ICPC requires that the receiving state evaluate the placement before the child is placed and then monitor the placement to protect the

child." The case was remanded for the trial court to comply with the ICPC and consider the father's unification request.
http://www.5dca.org/Opinions/Opin2010/083010/5D09-4652.op.pdf

***Weiss v. Weiss*, 34 So. 3d 250 (Fla. 2d DCA 2010)**
The respondent appealed a final judgment of injunction for protection against domestic violence that his former wife obtained for their minor daughter. The order was entered on two unusual theories - that the respondent was using bad Yiddish words around the child, who did not completely understand the words, and that he was stalking his daughter during timesharing. Shortly before the final hearing on the petition, the couple obtained a final judgment of dissolution based on a settlement agreement. The final judgment of injunction contained provisions altering the visitation rights under the final judgment of dissolution. The petitioner conceded error. The court declined to address the merits of the issues on appeal and ordered the trial court to vacate the final judgment of injunction against domestic violence.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/May/May%2014,%202010/2D09-2094.pdf

***Seffernick v. Meriwether ex rel. Meriwether*, 960 So. 2d 851 (Fla. 2d DCA 2007)**
The mother appealed entry of a nine-month injunction against her on behalf of the parties' 15-month-old child. The father took the child after an apparent suicide attempt by the mother that occurred in front of the child, and the mother tried to take him back. The father called the police and the mother agreed to be taken to the hospital, where she was Baker-acted. The trial court entered the permanent injunction. On appeal, the court found that these actions did not meet the statutory definition of domestic violence and reversed. No evidence was presented that the child was in "imminent danger" since the mother was in the hospital when the petition was filed. While the district court understood that the trial court was in a difficult position, it stated that the domestic violence proceeding was not the proper forum to address the child's safety. The father could have initiated a paternity action or sought custody. The court also mentioned the fact that until those proceedings were underway, the father was, "by law, a stranger to the child." The district court held that the permanent injunction was entered in error by the trial court.
http://www.2dca.org/opinion/July%2006,%202007/2D06-4585.pdf

***Geiger v. Schrader*, 926 So. 2d 432 (Fla. 1st DCA 2006)**
The appellate court dismissed this appeal from an order modifying a visitation schedule in an injunction for protection against domestic violence with the minor child, because the injunction had already expired. There is no provision for an award of attorney's fees in a section 741.30, Florida Statutes, proceeding. *See Lewis v. Lewis*, 689 So. 2d 1271 (Fla.1st DCA 1977). Therefore the district court dismissed the cross-appeal as well.

***Spano v. B.B. by and through Bruce*, 922 So. 2d 227 (Fla. 3d DCA 2005)**
In a custody proceeding in the family court, a temporary injunction was granted that in effect suspended the appellant's visitation rights with her minor child. She appealed that order, arguing that because the domestic violence proceeding may "have the effect of limiting or halting visitation rights established by a preexisting custody agreement, the domestic violence petition should be transferred from the domestic violence division to the family division of the circuit court." Because the interim order granting the temporary injunction was not an appealable order, the district court treated the appeal as a petition for writ of certiorari, which it denied without prejudice to the appellant filing a motion to transfer the domestic violence petition to the family division in accordance with the circuit's administrative order. As the concurring opinion stated, "domestic violence proceedings should not be the primary forum in which custody and visitation issues are litigated."

***Wade v. Hirschman*, 903 So. 2d 928 (Fla. 2005)**
Unless a different standard is provided in the final judgment, a non-custodial party seeking modification of child custody must prove (1) a substantial, material change in circumstances, and (2) that a change of custody is in the child's best interests. The supreme court resolved a conflict among district courts, holding that the moving party need not show detriment to the child were custody not to be changed.

***Poliandro v. Springer*, 899 So. 2d 441 (Fla. 4th DCA 2005)**
When a court's decision to allow a sister state to exercise jurisdiction is based on conversations the judge had with a judge of the sister state, "the court **must** allow the parties to be present during the conversation and set forth specific findings regarding the basis for concluding that jurisdiction in a sister state is appropriate." The Florida court failed to follow proper procedures when it allowed an Alabama court to exercise jurisdiction over the child custody action that resulted from an award of temporary custody to the mother in a final judgment of permanent injunction. The mother's motion to transfer the subsequent custody action filed by the father for forum non conveniens, without providing the court any supporting affidavits, was improperly granted.

***Monacelli v. Gonzalez*, 883 So. 2d 361 (Fla. 4th DCA 2004)**
The wife appealed the trial court's award of custody of the parties' four minor children to the husband, who was on felony probation for domestic violence against the wife. The district court affirmed the trial court's decision, finding that such a conviction does not create an absolute bar against being the primary residential parent but rather a rebuttable presumption that may be, and here was, overcome.

***Doyle v. Owens*, 881 So. 2d 717 (Fla. 1st DCA 2004)**
A statutory presumption against unsupervised visitation is created with a third degree felony conviction involving domestic violence. This rebuttable presumption of detriment to the child could not be overcome here, regardless of the fact that the father took courses in anger management, parenting, and CPR; worked full time; and complied with all court orders. And even if the presumption had been overcome, the trial court was still required to arrange for visitation "as will best protect the child" because the order under review "determined that shared parental responsibility was detrimental to the child." The trial court erred in awarding unsupervised visitation as no evidence was presented that such visits were safe, appropriate, and would best protect the child from harm. The case was reversed and remanded.

***Rinas v. Rinas*, 847 So. 2d 555 (Fla. 5th DCA 2003)**
The district court found it improper for a trial court to award custody, child support, and alimony to the petitioner's mother and sister in a domestic violence action in which the petitioner was a minor child filing by and through her mother as "next friend." The Fifth District held that the trial court did not have jurisdiction to award custody, child support, and alimony absent a dissolution of marriage proceeding as section 741.30, Florida Statutes (1997), does not authorize such awards. The district court found that the trial court erred in not granting the father's motion to vacate the awards *ab initio* as the requirement to file an appeal within 30 days does not apply when a final judgment is void at the onset.

***D.W.G. v. Department of Children and Families*, 833 So. 2d 238 (Fla. 4th DCA 2002)**
The district court affirmed a dependency adjudication based on, inter alia, a holding that it is not necessary for a child to witness violence in order to be harmed by it, as children may be affected and aware that the violence is occurring without seeing it occur.

***Ryan v. Ryan*, 784 So. 2d 1215 (Fla. 2d DCA 2001)**
The district court has held that it was error for the trial court to grant an injunction for protection against domestic violence in favor of the petitioner (former husband), which injunction also awarded temporary custody of the parties' minor children to the former husband and denied the former wife any contact with the children for one year. "[T]he former wife's right to due process was denied when her rights of custody and visitation were terminated based on pleadings which did not request such relief and did not give her notice that the court could take such an action. The former husband did not mark appropriate boxes on the face of the petition to indicate he was seeking temporary exclusive custody or to determine visitation rights, nor did the former husband, in the narrative portion of the petition, seek temporary exclusive custody of the children, or the exclusion of visitation by the former wife. Additionally, the husband did not file the Uniform Child Custody Jurisdiction Act Affidavit (UCCJA), despite the petition form's clearly stating the affidavit was required if the petitioner was requesting the court to determine issues of temporary custody. § 741.30(3)(d), Fla. Stat. Finally, the best interests of the children were not addressed at the hearing for the injunction.

***Andrade v. Dantas*, 776 So. 2d 1080 (Fla. 3d DCA 2001)**
The trial court erred in granting a temporary order denying the father the right to overnight visitation with his 22-month-old child. The appellate court stated: "[T]here is nothing about 'overnight visitation' which permits its treatment as an exception to the doctrine that both parents of children of any age must be treated equally." There was a lack of competent substantial evidence that would prevent more extensive visitation between the father and the child; thus, there was no basis to deny it. The decision of the trial court was reversed.

***Semple v. Semple*, 763 So. 2d 484 (Fla. 4th DCA 2000)**
The Fourth District held that the trial court violated the husband's right to due process when it entered a permanent injunction for protection against domestic violence against him and awarded temporary custody of the parties' child to the mother without affording the husband a full evidentiary hearing in accordance with section 741.30(5), Florida Statutes. It was error for the trial court to deny the respondent the opportunity to conduct a full cross-examination of the petitioner, after cutting it short "because of the number of cases being heard that day" and suggesting instead that a full evidentiary hearing could take place once the parties filed for dissolution of marriage. The district court also found that it was error for the trial court to make a determination as to visitation without first ruling on who would serve as the temporary custodial parent.

***O'Neill v. Stone*, 721 So. 2d 393 (Fla. 2d DCA 1998)**
A relocation issue arose in a domestic violence injunction proceeding involving unmarried parents, when no paternity judgment had been obtained. The parties appeared before a general master, who issued a report recommending that custody, visitation, and support be awarded as part of a domestic violence injunction. Prior to the trial court entering an order adopting the report, the petitioner left the state with the minor child. At a hearing at which the petitioner was not present, the trial court granted a motion filed by the respondent to transfer custody to him and ordered law enforcement to pick up the minor child. The petitioner then filed a motion to set aside this order. The district court held that the trial court abused its discretion by ordering the petitioner to return to Florida with the child when it failed to conduct a full hearing and take testimony to consider the statutory factors regarding relocation. Note: the dicta in this opinion contain strong language to the effect that it is contrary to the intent of the legislature for domestic violence injunction proceedings to be the primary forum for custody, visitation, and child support issues to be addressed.

***Ford v. Ford*, 700 So. 2d 191 (Fla. 4th DCA 1997)**
The trial court abused its discretion in awarding custody to the husband when it made no determination regarding the credibility of either party, failed to apply section 61.13, Florida Statutes, and entered a final judgment devoid of all but the most "minimal mention" of the husband's established pattern of domestic violence. The court noted that the record from the six-day trial was replete with testimony regarding domestic violence, which was the "central focus" of the case. The final judgment stated, "The Court has considered everything that each side has accused the other side of as well as all the good things that each side has presented about themselves." The district court found that failure to give the domestic violence evidence the proper consideration and weight mandated reversal of the custody award to the father and restoration of custody to the mother. Note: the 1997 amendment to section 61.13(2)(b)2 (now section 61.13(2)(c)2)), Florida Statutes, mandates the court's consideration of the existence of any child abuse or spousal abuse as evidence of detriment to the child.

***Young v. Young*, 698 So. 2d 314 (Fla. 3d DCA 1997)**
The restriction prohibiting either party from removing children from the county without prior court order or written agreement of the parties is premature, when neither party sought to relocate, and the court has made no findings to support such a residential restriction.

***Baumgartner v. Baumgartner*, 691 So. 2d 488 (Fla. 2d DCA 1997)**
The parties were German citizens who had a pending divorce and custody action in Germany. They came to Florida on separate vacations. While in Florida they had an altercation, and the husband was arrested.

The wife was awarded a temporary injunction. Thereafter, the court entered a permanent injunction, awarding custody of the children to the wife and ordering the surrender of the children's passports pending resolution of a hearing in the German courts. However, prior to the Florida court's order, the German court had ordered that the wife immediately return the children to Germany. The appellate court reversed and held that a domestic violence injunction may not grant custody of the children, who are subjects of a foreign custody order, or impound their passports. Rather, a hearing was required to determine the husband's rights to custody of the children and return of the children's passports under the German order.

***Lewis v. Lewis*, 689 So. 2d 1271 (Fla. 1st DCA 1997)**
It was error to enter a permanent injunction and award the wife temporary custody of the children without providing an adequate hearing as required by the domestic violence statute and Family Law Rules of Procedure. The law requires custody to be addressed at the permanent injunction hearing on the same basis as provided in chapter 61, Florida Statutes. The domestic violence statute requires a full evidentiary hearing prior to issuing a permanent injunction. The trial court erred in not allowing testimony from witnesses who were present or cross-examination of the parties. The wife's request for appellate attorney's fees was denied. Neither the domestic violence statute nor rule 9.400, Florida Rules of Appellate Procedure, provides authority for granting attorney's fees. Section 61.16(1), Florida Statutes, providing for attorney's fees for maintaining or defending proceedings under chapter 61, Florida Statutes, does not apply to chapter 741, Florida Statutes, proceedings as domestic violence proceedings are independent of dissolution of marriage proceedings. Note: the court stated, "[W]e are not unaware that many of the public policy reasons for granting attorney's fees in a chapter 61, Florida Statutes, proceeding exist in a domestic violence proceeding. This is a matter, however, that should be dealt with by the Legislature rather than the courts."

Paternity

***Taylor v. Taylor*, 831 So. 2d 240 (Fla. 2d DCA 2002)**
The trial court's sua sponte consolidation of the petition for a domestic violence injunction with the petitioner's paternity action did not confer on the trial court the authority to prohibit the respondent from having contact with the petitioner or the minor children or to award the petitioner exclusive use and occupancy of the residence. The district court quashed the part of the order that enjoined the respondent from having contact with the petitioner or the minor children and awarding the petitioner the exclusive use and occupancy of the residence.

Permanent Injunction

***Spaulding v. Shane*, 150 So. 3d 852 (Fla. 2d DCA 2014)**
The court denied a motion to dissolve a permanent injunction for protection against domestic violence filed by a prisoner serving a 40-year term who had no contact with the victim for over ten years. The appellate court reversed, noting the prison term constituted a change in circumstances that showed that "the scenario underlying the injunction no longer exists."
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2014/November/November%2005,%202014/2D12-1963.pdf

***Baker v. Pucket*, 139 So. 3d 954 (Fla. 4th DCA 2014)**
The trial court denied without a hearing the respondent's motion to vacate a permanent injunction against domestic violence that was entered in 2011. The respondent alleged that she has not had any contact with the appellee, nor does she plan to, and that the injunction was preventing her from participating in a work release program while incarcerated. The appellate court reversed, holding that the respondent's motion was legally sufficient and that she was entitled to an evidentiary hearing to provide due process.
http://www.4dca.org/opinions/June%202014/06-04-14/4D13-2393.op.pdf

***Jeffries v. Jeffries*, 133 So. 3d 1243 (Fla. 1st DCA 2014)**
The respondent appealed a permanent injunction for protection against domestic violence entered against him, on the grounds that he did not receive a fair trial and the injunction was not supported by competent substantial evidence. But the court affirmed, stating that it could not second guess the trial court: "It was the responsibility of the trial court to determine the credibility of the witnesses and to resolve the conflicts in the evidence with a transcript of the hearing. . . . The fact that there was conflicting testimony that would have supported the denial of the petition is of no significance on appeal." The court also noted that if circumstances have changed since the injunction was entered, the respondent could file a motion to modify or dissolve the injunction.
http://opinions.1dca.org/written/opinions2014/03-24-2014/13-4757.pdf

***Schutt v. Alfred*, 130 So. 3d 772 (Fla. 3d DCA 2014)**
The respondent appealed a permanent injunction for protection against dating violence issued against her. During the hearing, testimony revealed that the petitioner and the respondent had not been in a dating relationship since November of 2011. However, section 784.046(2), Florida Statutes, states that for an injunction against dating violence, two individuals must have had a dating relationship within the past six months. The statute does not provide dating violence relief to those who may have experienced violence in a "casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context." The court vacated the permanent injunction without prejudice to the petitioner filing a timely petition for an injunction for protection against stalking.
http://www.3dca.flcourts.org/Opinions/3D13-1389.pdf

***Niederkorn v. Trivino*, 68 So. 3d 991 (Fla. 5th DCA 2011)**
The district court reversed a final judgment denying appellant's petition for an injunction against dating violence and remanded for a full evidentiary hearing. Appellant and appellee each filed a petition for protection against dating violence arising out of the same incident. At the trial on the merits of both parties' claims, appellant advised the court that he had no objection to the entry of appellee's injunction against him. Appellee, however, objected to an injunction being entered against her, and the case proceeded to an evidentiary hearing. During the hearing, appellant did not have the opportunity to cross-examine witnesses. The district court recognized that a court may preside over numerous hearings on a typical domestic violence hearing day. As a result, trial courts tend to move hearings along quickly, risking a denial of fundamental due process. The district court held that appellant was entitled to direct examination of witnesses, cross-examination of witnesses, and the presentation of any other evidence and remanded for a full evidentiary hearing.
http://www.5dca.org/Opinions/Opin2011/082911/5D10-3009.op.pdf

***G.C. v. R.S.*, 71 So. 3d 164 (Fla. 1st DCA 2011)**
The father appealed a final judgment of injunction for protection against domestic violence. The petition for injunction was filed by his former wife on behalf of their minor child after the father administered a single spank on the child's buttocks in response to the child's disrespectful and defiant behavior. The district court held that a spouse has standing to seek an injunction against domestic violence against a former spouse on behalf of the parties' children. However, the court also noted that the common law recognized a parent's right to discipline his or her child in a reasonable manner, and that "[i]n both civil and criminal child abuse proceedings, a parent's right to administer reasonable and non-excessive corporal punishment to discipline their children is legislatively recognized." The court held that under established Florida law this single spank constituted reasonable and non-excessive parental corporal discipline and, as a matter of law, was not domestic violence. The court also stated that reasonable parental discipline is available as a defense against a petition for an injunction against domestic violence and reversed the final judgment.
http://opinions.1dca.org/written/opinions2011/09-16-2011/11-2710.pdf

***Furry v. Rickles*, 68 So. 3d 389 (Fla. 1st DCA 2011)**
The district court reversed, on due process grounds, a final judgment of injunction for protection against domestic violence. The district court stated that the trial court entered the injunction without conducting a

full evidentiary hearing pursuant to section 741.30(5), Florida Statutes (2010), which was a due process violation. The trial court "began the hearing by informing the parties that they had a limited time to present their cases. The court then conducted all questioning of the parties and virtually all questioning of other witnesses. The court was aware the attorneys might wish to conduct direct/cross examination as it made two comments dismissing any request based on time constraints. The court also dismissed Appellant's request for a 'quick hearing'; denied his request to present the relevant noncumulative testimony of a pertinent witness; and did not allow him to 'object to,' or cross-examine, the opposing party's expert witness." The district court stated that, "[w]hile the [trial] court might have remained unconvinced had it heard additional evidence, it still should have provided Appellant the opportunity to fully present his case. Because Appellant was denied a reasonable opportunity to present his case and because time constraints are not an excuse for a trial court's failure to conduct a full hearing," the district court reversed and remanded for a new hearing.
http://opinions.1dca.org/written/opinions2011/08-31-2011/10-5945.pdf

***L.C. v. A.M.C.*, 67 So. 3d 1181 (Fla. 2d DCA 2011)**
The district court reversed a final judgment of injunction for protection against domestic violence which prohibited appellant from having any contact with his granddaughter. The district court held that appellant did not receive reasonable notice of the hearing on the petition for the injunction. The district court stated that the record contained no indication that the granddaughter was in danger because of appellant and certainly not imminent danger. The court noted that appellant acted diligently to obtain counsel after he was served with the notice, and he promptly sought rehearing after the injunction was entered. The district court reversed and remanded for further proceedings.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/August/August%2019,%202011/2D10-2669rh.pdf

***Barker v. Rodriguez*, 82 So. 3d 1018 (Fla. 4th DCA 2011)**
The district court affirmed the trial court's entry of a final judgment of injunction for protection against domestic violence toward the minor child, which also gave temporary custody of the child to the mother. The appellant claimed that by failing to hear his case, the trial court deprived him of due process. However, the final judgment showed both parties were present at the final hearing. The district court stated that the record, which did not include a transcript, was insufficient to show that either the appellant was denied an opportunity to present evidence, the judgment was unsupported by competent substantial evidence, or the judgment was erroneous on its face.
http://www.4dca.org/opinions/Aug%202011/08-17-11/4D10-2617.op.pdf

***S.C. v. A.D.*, 67 So. 3d 346 (Fla. 2d DCA 2011)**
The district court reversed an injunction for protection against domestic violence against the appellant (the former boyfriend of the petitioner's mother), stating that the record did not support a finding that the appellee/petitioner was in imminent danger of becoming the victim of an act of domestic violence. In 2004, a family altercation resulted in criminal charges against the appellant and the issuance of two injunctions, one in favor of the appellee and one in favor of her mother. In 2008, for reasons not explained in the record, the trial court dismissed the injunction issued in favor of the mother but kept in effect the injunction for protection of the daughter, up to the date of the hearing that resulted in entry of the more recent injunction at issue in the appeal. Subsequently, the mother and the appellant separated and the appellant went to Iraq. When the daughter discovered that the appellant had returned to Florida, she filed a new petition for injunction. The daughter's reasons for the new petition were: (1) her incorrect assumption that the existing injunction for her protection was no longer in effect; (2) her incorrect assumption that the appellant was not allowed to contact his son; and (3) that she did not want the appellant to involve her in his attempt to see his son, something he had not attempted to do. The trial court, noting confusion regarding the existing injunction's status, issued a new injunction, acknowledging that it was "duplicative." The trial court noted that the appellant had been found guilty of a misdemeanor battery arising out of the 2004 altercation and indicated that its decision was based in part on that fact. Finding no competent, substantial evidence in the record to support the issuance of the new domestic

violence injunction, the district court reversed. The district court stated that the case had been "driven by misinformation" and that there was no legal support for the issuance of the duplicative injunction.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/July/July%2015,%202011/2D10-953.pdf

***Power v. Boyle*, 60 So. 3d 496 (Fla. 1st DCA 2011)**
These consolidated cases involved permanent injunctions against repeat violence between arguing neighbors. The trial court granted temporary injunctions and entered four separate permanent injunctions. In explaining its decision to enter the injunctions, the trial court recognized that "this case does not fall within the purview of our most ordinary uses of [§ 784.046]," but the court reasoned that an injunction is necessary "to keep the peace" between the parties and that the circumstances of this case "fall within the broader purview of the statute" because of the harassing nature of the incidents. The respondents argued that the evidence presented at the hearing was legally insufficient to support the injunctions. The appellate court noted that two incidents of violence or stalking were required for an injunction under section 784.046, and the incidents must be supported by competent substantial evidence. In this case, the incidents described by the petitioners were legally insufficient because they did not rise to the level of violence or stalking under section 784.046, and as to one of the respondents, did not even establish the existence of two incidents as required by the statute. The appellate court therefore reversed and remanded the case for the trial court to vacate the injunctions.
http://opinions.1dca.org/written/opinions2011/04-21-2011/10-6437.pdf

***Cox v. Deacon*, 82 So. 3d 827 (Fla. 4th DCA 2011)**
The appellant filed a motion to dissolve a final judgment of injunction for protection against domestic violence and claimed that he did not have notice and an opportunity to be heard on the motion. The trial court denied the motion, and the appellate court affirmed because the record showed that the respondent was given notice of the final hearing and was handed a copy of the final judgment in court, for which he signed a receipt. The appellant also argued that the permanent injunction was improper because it was for a period of more than a year. The appellate court stated: "Although at one time there was a statutory provision that limited permanent injunctions to a period of one year, that provision was removed by the legislature in 1997. The current statute as amended provides for an injunction to 'remain in effect until modified or dissolved.'"
http://www.4dca.org/opinions/Apr%202011/04-06-11/4D09-4993.op.pdf

***Alkhoury v. Alkhoury*, 54 So. 3d 641 (Fla. 1st DCA 2011)**
The trial court granted a motion filed by the former husband to dissolve a permanent injunction against domestic violence. The appellate court reversed, and noted that "[a]lthough section 741.30(10), Florida Statutes, provides that either party may move for modification or dissolution of a domestic violence injunction at any time, the statute does not directly speak to the burden of proof upon the movant. As a general rule, permanent injunctions, which remain indefinitely in effect, may be modified by a court of competent jurisdiction 'whenever changed circumstances make it equitable to do so'.... The requirement to show changed circumstances applies equally to modification or dissolution of a protective injunction. . . . Also, . . . a party seeking an extension of a domestic violence injunction 'must present evidence from which a trial court can determine that a continuing fear exists and that such fear is reasonable, based on all the circumstances.'" Because the circumstances that gave rise to the injunction had not changed, the court reversed the trial court's ruling.
http://opinions.1dca.org/written/opinions2011/03-02-2011/10-5498.pdf

***C.R. v. Department of Children and Families*, 45 So. 3d 988 (Fla. 3d DCA 2010)**
The district court reversed the trial court's order adjudicating appellant's child dependent based on prior domestic violence between appellant and the child's mother. After an incident during which police were called, the parents separated. The trial court issued a permanent injunction for protection against domestic violence and ordered appellant to have no contact with the child's mother. In a later hearing, the trial court determined that the parents' history of domestic violence supported a finding that a present threat of harm existed and was likely to cause the child mental and emotional harm. The father appealed,

asserting that the prior acts of violence did not demonstrate a risk of present or future harm because the parents were separated and had no contact, pursuant to court order. There was no evidence of any other reason why placing the child with her father would endanger her. The district court held that the evidence did not support the trial court's conclusion that the father posed a risk of harm to the child.
http://www.3dca.flcourts.org/Opinions/3D10-1746.pdf

***Olin v. Roberts*, 42 So. 3d 841 (Fla. 1st DCA 2010)**
The appellant appealed a final judgment of injunction for protection against domestic violence. The district court affirmed the judgment, holding that the appellee presented sufficient evidence that he was a victim of battery and assault. The court clarified that "domestic violence" does not include "stalking by law enforcement" or "stalking by use and threat of court." It was alleged that one party frequently called law enforcement officers to complain about the other party merely for harassment purposes. The district court held that "'harassment' does not include filing reports and complaints to law enforcement agencies as a matter of law under section 784.048(1)(b), Florida Statutes, because constitutionally protected activities such as petitioning the government for redress are exempt from the definition. 'A report to an arm of government, concerning a matter within the purview of the agency's responsibilities, serves a 'legitimate purpose' within the meaning of section 784.048(1)(a), Florida Statutes, regardless of the subjective motivation of the reporter.' . . . Because reporting a violation of law or an existing injunction, even with malicious intent towards the supposed violator, does not constitute harassment, it also cannot qualify as stalking for purposes of section 784.048, or domestic violence under section 741.28, Florida Statutes." The district court stated that, although "[a]buse of court processes and filing false reports with law enforcement are serious matters, . . . the statutorily created actions for injunction against violence are not the proper remedies. . . . Unfounded reports to authorities . . . , even if repeated or for malicious purposes, do not support the entry of an injunction against domestic or other violence."
http://opinions.1dca.org/written/opinions2010/07-30-2010/09-3675.pdf

***Coe v. Coe*, 39 So. 3d 542 (Fla. 2d DCA 2010)**
The petitioner appealed a final judgment of injunction for protection against domestic violence entered in favor of his former wife. The parties were also involved in a divorce and custody dispute being heard by the same judge. The appellate court reversed the order granting the petition because it was entered based on evidence from the custody hearing that was not a part of the injunction hearing record. "In essence, the court's decision was based on impermissible extrajudicial knowledge." The appellate court noted that there is "considerable merit in having the judge assigned to a dissolution proceeding also handle claims of domestic violence that arise during the pendency of those proceedings. It is likely that a judge handling a dissolution will have a better sense of whether a domestic violence injunction is actually necessary, whether the petition has been filed for genuine reasons or primarily as a tactic within the divorce, and whether matters that could be resolved in one case or the other are better decided in the dissolution proceeding." But it also warned that trial judges assigned to dissolution proceedings who also handle interrelated petitions for domestic violence must exercise care in ensuring that their rulings are supported by an adequate record.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/July/July%2016,%202010/2D09-92rh.pdf

***Jones v. Jones*, 32 So. 3d 772 (Fla. 2d DCA 2010)**
The respondent appealed an order granting a final injunction for protection against domestic violence. Because the petitioner did not present competent, substantial evidence to support a finding that she possessed an objectively reasonable fear of imminent domestic violence, the appellate court reversed. The respondent "had sought items to which he was ensured access under the divorce decree. Viewed in the context of the parties' relationship, [the respondent's] appearance at [the petitioner's] place of employment-following his . . . custody visit-could not reasonably be interpreted as a threat of violence."
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/April/April%2030,%202010/2D09-351.pdf

***Weiss v. Weiss*, 34 So. 3d 250 (Fla. 2d DCA 2010)**
The respondent appealed a final judgment of injunction for protection against domestic violence that his former wife obtained for their minor daughter. The order was entered on two unusual theories - that the respondent was using bad Yiddish words around the child, who did not completely understand the words, and that he was stalking his daughter during timesharing. Shortly before the final hearing on the petition, the couple obtained a final judgment of dissolution based on a settlement agreement. The final judgment of injunction contained provisions altering the visitation rights under the final judgment of dissolution. The petitioner conceded error. The court declined to address the merits of the issues on appeal and ordered the trial court to vacate the final judgment of injunction against domestic violence.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/May/May%2014,%202010/2D09-2094.pdf

***Malchan v. Howard*, 29 So. 3d 453 (Fla. 4th DCA 2010)**
The respondent appealed an injunction entered against him for protection against domestic violence because the injunction was based on a disputed event that occurred three years earlier. The petitioner alleged that in 2005, the respondent punched a wall in their home, pushed the petitioner into a wall, tried to choke her, and told her that he was going to kill her. There were no allegations of recent violence or threats of violence. The trial court granted the injunction and ordered the respondent to attend a 13-week anger management program. The appellate court noted that an order imposing a permanent injunction will be affirmed absent a showing of abuse of discretion, but it reversed the trial court because the petitioner "failed to present sufficient evidence that she had a reasonable fear of imminent danger of domestic violence. Her only basis for requesting the injunction was a disputed incident three years before and a subjective fear that her anticipated request for child support might cause [the respondent] to become angry." The appellate court also recognized that the respondent's current behavior consisted of civility between the parties in determining visitation and child support issues. Therefore, the facts did not support an objective reasonable fear of imminent violence. The appellate court reversed and remanded the case to the trial court to vacate the injunction.
http://www.4dca.org/opinions/Mar%202010/03-10-10/4D08-3584.op.pdf

***Sagaro v. Diaz*, 11 So. 3d 403 (Fla. 3d DCA 2009)**
A father appealed an order denying his petition, on behalf of his minor daughters, for a permanent injunction for protection against domestic violence. The appellate court affirmed because "the claims of evidentiary error were not properly preserved in the trial court [and did] not constitute fundamental error."
http://www.3dca.flcourts.org/Opinions/3D08-2593.pdf

***Lukacs v. Luton*, 982 So. 2d 1217 (Fla. 1st DCA 2008)**
The appellant argued that the trial court erred in entering a repeat violence permanent injunction against him because the petitioner failed to show *repeated* acts of harassment that would constitute stalking. The petitioner filed a petition for injunction based on the appellant's alleged pattern of stalking. While working as a waitress, the petitioner was approached by the appellant, whom she did not know, who informed her that he knew where she lived and that he might rape her, knew the roads on which she had driven the previous night, and knew what she was wearing in her home that same night. The trial court was satisfied that the petitioner had met her burden of proof that the appellant had stalked her and entered an injunction against repeat violence. The district court reviewed this appeal by taking into account the statutory definitions of repeat violence and stalking as well as interpreting the legislative intent of the statute. Section 784.046(1)(b), Florida Statutes, defines repeat violence as "two incidents of violence *or stalking* committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed at the petitioner. . . . (emphasis added)." While the respondent argued that this phrase means that the petitioner must show that she has been the victim of two incidents of stalking to qualify for an injunction, the district court held that the statute could not be reasonably read in that manner. Had the legislature intended to require two acts of stalking, it could have done so by having the statute read "*or two acts* of stalking." Conversely, in order for the court to agree with the appellant's position, it would have to assume that the legislature had intended that petitioners seeking injunctions against repeat violence under the "stalking" prong of the statute would have to be victims of stalking by

the same person more than once. This is contrary to prior decisions that hold that persons can commit only one act of stalking through multiple acts. Additionally, the district court found that the legislative intent was not for a stalking victim to show that multiple stalking had occurred, but rather that there had been a repeated pattern of behavior where a person willfully, maliciously, and repeatedly followed or harassed another person. The court affirmed the trial court's ruling because the facts showed that an act of stalking had occurred and that was sufficient under the statute to obtain a permanent injunction against repeat violence.
http://opinions.1dca.org/written/opinions2008/05-27-08/07-1312.pdf

***Moore v. Pattin*, 983 So. 2d 663 (Fla. 4th DCA 2008)**
The respondent father appealed entry of a permanent injunction against domestic violence in favor of his daughter, arguing that the disciplini
ng of his child by repeated spankings was constitutionally and statutorily protected. The minor child's mother sought the injunction after the child reported repeated incidents in which the appellant would force her to remove her clothes and then spank her with a belt and shoe. At trial, the mother explained that the child had sustained a history of sexual abuse at the hands of the mother's previous husband and that the appellant's methods of discipline had humiliated the child. The appellant admitted that he disciplined his daughter in that manner after she earned a bad grade or misbehaved. Despite no evidence of marks left on the minor child, the trial court found that a battery had been committed and entered a permanent injunction, ordered parenting classes and supervised visitation with the child upon completion of the classes. The father's appeal relied heavily on the notion of privacy regarding a parent's right to discipline his or her child how he or she deems fit. The district court examined how the legislature defined corporal punishment to determine whether this instance specifically was too harsh and constituted a battery. Under the definition of harm, if corporal punishment is likely to result in the physical, mental, or emotional injury of the child, it is excessively harsh. § 39.01(31)(a)4 (now section 39.01(32)(a)4), Florida Statutes. Coupling the severe nature of the discipline with the daughter's history of sexual abuse and her emotional reaction to the unwanted touching by the appellant, the district court upheld the entry of the permanent injunction.
http://www.4dca.org/May%202008/05-28-08/4D07-4850.opC052708.pdf

***Betterman v. Kukelhan*, 977 So. 2d 702 (Fla. 4th DCA 2008)**
A former boyfriend appealed the denial of his motion to vacate a permanent injunction for domestic violence entered against him. The trial judge originally denied a temporary injunction and set the matter for hearing, at which the boyfriend denied allegations but did not object to the entry of the permanent injunction. When he realized the injunction would require him to surrender his concealed weapons permit, the boyfriend petitioned the court to request that the injunction be dissolved or that he be allowed to retain the permit. After an initial denial of the motion by the judge who denied the temporary injunction, the boyfriend filed the same motion before the judge who entered the final order of injunction. That motion also was denied, with a memorandum stating that the motion already had been denied by another judge. The boyfriend argued that such a summary denial of his motion to vacate violated due process requirements. The district court held that a motion to modify or dissolve may be brought at any time, and that a moving party should be allowed to present evidence in support of such a motion. Given that the boyfriend agreed to the entry of the injunction and did not present any evidence at the initial hearing, the district court reversed the order denying the motion to dissolve the injunction and remanded the case back to the trial court for a hearing on the motion.
http://www.4dca.org/Mar2008/03-19-08/4D07-3173.op.pdf

***Smith v. Melcher*, 975 So. 2d 500 (Fla. 2d DCA 2008)**
An alleged stalker appealed the entry of a permanent injunction against repeat violence in favor of the appellee. The appellee stated that she had been a victim of repeat violence based on two acts committed by the appellant on two different days. At trial, the appellee testified that on the first date, the appellant made harassing statements that were directed at her. The second incident occurred while the appellee and her children were in an enclosed area of a restaurant; she saw the appellant circling the restaurant and shaking his head and pointing at her. The police were summoned to the scene, and at trial testimony

was presented that the appellant came close to becoming disorderly when questioned by the officer. Based on these two incidents, the trial court found just cause to enter the injunction. On appeal, the court found, without discussion, that there was sufficient evidence to support the trial court's finding that the first act constituted harassment as defined by the statute. However, the district court did not find that the second act was supported by competent substantial evidence to rise to the level of a "repeat" act of violence. Nor did the trial court find that this was an assault, because the appellant had no apparent ability to cause harm from his car while the appellee was inside the restaurant. Moreover, the appellant's interaction with the police officer, intimidating as it may have been for the appellee to witness, did not constitute a threat to her. Since two acts of violence are necessary to obtain an injunction for protection against repeat violence and the record only supported that one had occurred, the district court reversed and remanded with instructions to vacate the injunction.

***Storm v. Decker*, 971 So. 2d 165 (Fla. 5th DCA 2007)**
The appellant in a repeat violence case appealed entry of a final order of repeat violence injunction, arguing that he was denied due process when the trial court went forward with the final hearing even though a timely and proper motion for continuance was filed. Upon being served just three days before the final hearing, the appellant (from Miami-Dade County) retained counsel in Orlando, Florida, to represent him. Given the short notice and the minimal time to properly prepare, counsel filed a motion for continuance with the court. Furthermore, counsel for the appellant called the appellee's attorney to discuss a possible agreement on the motion; the call was not returned. Phone calls to the courthouse to obtain a ruling on the motion were futile, as were attempts to appear by phone on the day of the hearing to argue the motion. The trial court judge's judicial assistant refused to coordinate a telephonic hearing, and the trial court ultimately denied the motion and proceeded with the final hearing without the appellant and his attorney. Given the short notice after service on the appellant and the lack of emergency or prejudice as to the appellee, the district court found that the motion should have been granted to allow the appellant and his attorney to be present. At the very least, the trial court should have set aside entry of the permanent injunction and rescheduled a new hearing upon knowledge of the appellant's diligent efforts to request a continuance. The district court reversed the final injunction and remanded for rehearing.

***Chacoa v. Mahon*, 970 So. 2d 909 (Fla. 1st DCA 2007)**
The petitioner in a domestic violence permanent injunction case sought review of the portion of the court's order that required her to attend a batterers' intervention course. As a result of the plain language of section 741.30, Florida Statutes (2007), which does not authorize a court to order petitioners to a batterers' intervention program, the district court vacated that portion of the court's order and remanded with directions to have it stricken from the final order of protection.
http://opinions.1dca.org/written/opinions2007/12-26-07/07-3139.pdf

***Tejeda-Soto v. Raimondi*, 968 So. 2d 635 (Fla. 2d DCA 2007)**
The appellant couple, neighbors of the appellees, appealed the entry of repeat violence permanent injunctions entered against them, arguing that they were not given the opportunity to properly present their case. At trial, the court simply heard opening statements from both sides before interrupting to state that this was a situation in which a permanent injunction was appropriate. The court heard from no witnesses and admitted no evidence. The district court found that the appellants were denied procedural due process when they were not allowed to present evidence and provide witness testimony. The final judgments were reversed, and the cases were remanded for full evidentiary hearings. Additionally, the appellants' counsel was not permitted to present a motion to dismiss based on the insufficiency of the petition. The district court stated that the appellants should be allowed to make that argument on remand.
http://www.2dca.org/opinion/October%2026,%202007/2D06-3107.pdf

***Morrell v. Chadick*, 965 So. 2d 1277 (Fla. 2d DCA 2007)**
The appellant, the former supervisor of the appellee, appealed the final order for protection against sexual violence entered against him, citing insufficient evidence. During the majority of the appellee's year-long employment, the parties were engaged in a sexual relationship that allegedly ended a month *after* her

resignation. The appellee filed a petition for protection against sexual violence two months after ending the relationship, alleging that she was harassed and forced to have sex against her will while employed and that she submitted to the appellant's demands because she feared losing her job, and that the appellant continued to contact her at her home, work, and cellular phone numbers and threatened to blackmail her. At trial, the appellant moved to dismiss because the petition was insufficient under the sexual violence statute; the appellee had failed to cite specific instances when she was pressured to have sex or the appellant was physically violent toward her but testified that the main impetus for her filing was the appellant's phone calls, none of which contained any threats of violence or requests for sex, and which went unanswered. The appellant argued that the two had been involved in a consensual sexual relationship. The court denied the motion to dismiss, citing that the petition stated a case for stalking, and granted the injunction. The record and the final judgment were contradictory in that the basis for the injunction (stalking) was not an enumerated basis under the relevant statute for sexual violence. Therefore, the appellate court reversed, stating: "The trial court apparently astutely recognized the flaw in [appellee's] allegations of sexual violence and orally stated that the evidence of [appellant's] numerous telephone calls supported a finding of stalking. However, [appellee] had filed a petition for injunction for protection against sexual violence, and the statutory definition of 'sexual violence' contained in section 784.046(1)(c) does not include stalking. [Appellee] did not amend her pleadings, and this issue was not tried by consent. Moreover, the trial court entered the final judgment on the standard form used for injunctions for protection against sexual violence, and the final judgment did not include any findings regarding stalking. Absent amendment of the pleadings or trial by consent, the trial court cannot enter an injunction on grounds of violence different from the ground alleged by the petitioner. . . . Dismissal of the petition without prejudice for [appellee] to refile or amend her petition was the appropriate remedy."

***Smith v. Smith*, 964 So. 2d 217 (Fla. 2d DCA 2007)**
The husband appealed the entry of a permanent injunction against domestic violence, claiming that his due process rights were violated when he was not allowed to testify or call witnesses prior to the entry of the final order. Initially, the trial court held a 45-minute hearing at which the wife presented testimony and evidence; the husband was prepared and had witnesses ready to testify, but the hearing was continued. At the subsequent hearing, the wife again was given the opportunity to testify and call witnesses. During the cross-examination of the wife, the court unexpectedly halted the proceedings and entered the injunction. Again, the husband had his witnesses ready to testify, but the only time he actually spoke was when he was asked about visitation. While the wife argued that the court had broad authority to control its docket and that the husband's trial strategy "wasted his allocation of time," the district court found the trial court abused its discretion in not allowing the husband adequate time to present his case. Due process should be afforded to both sides, and in the instant case the record reflected that the husband did not receive the opportunity to be heard. The district court reversed and vacated the permanent injunction.
http://www.2dca.org/opinion/August%2024,%202007/2d06-3353.pdf

***Ohrn v. Wright*, 963 So. 2d 298 (Fla. 5th DCA 2007)**
The appellant appealed the entry of a permanent injunction against repeat violence on the basis that the trial court failed to swear witnesses and that she was precluded from presenting a witness to testify. The district court of appeal found that these actions constituted a due process violation. In order for a court to hold a "full" permanent injunction hearing, the court must allow each side to prove or disprove the allegations in the petition by allowing them sufficient time to present witnesses with relevant information. In addition, each witness should be sworn, and cross-examination should be allowed. While the district court understood the pressure on domestic violence trial courts to hear the heavy volume of cases in a time-efficient manner, it reversed and remanded and reminded the trial courts to be cognizant of fundamental due process requirements.

***Seffernick v. Meriwether ex rel. Meriwether*, 960 So. 2d 851 (Fla. 2d DCA 2007)**
The mother appealed entry of a nine-month injunction against her on behalf of the parties' 15-month-old child. The father took the child after an apparent suicide attempt by the mother that occurred in front of the child, and the mother tried to take him back. The father called the police and the mother agreed to be taken to the hospital, where she was Baker-acted. The trial court entered the permanent injunction. On

appeal, the court found that these actions did not meet the statutory definition of domestic violence and reversed. No evidence was presented that the child was in "imminent danger" since the mother was in the hospital when the petition was filed. While the district court understood that the trial court was in a difficult position, it stated that the domestic violence proceeding was not the proper forum to address the child's safety. The father could have initiated a paternity action or sought custody. The court also mentioned the fact that until those proceedings were underway, the father was, "by law, a stranger to the child." The district court held that the permanent injunction was entered in error by the trial court.
http://www.2dca.org/opinion/July%2006,%202007/2D06-4585.pdf

***Slack v. Kling*, 959 So. 2d 425 (Fla. 2d DCA 2007)**
An alleged stalker appealed the entry of a permanent injunction against repeat violence on the ground that there was no evidence establishing the acts necessary to satisfy the statutory criteria for an injunction. At the trial, the appellee testified about two calls he received from the appellant that "served no legitimate purpose." The appellee testified that the appellant left two messages stating that if the appellee did not stay away from the appellant's wife, the appellant "would make an 'arrangement.'" The district court found that nothing in the record rose to the level of harassment that would cause a reasonable person substantial emotional distress. Additionally, the acts described did not exhibit "a course of conduct involving a series of acts over a period of time" to establish stalking. Therefore, the district court found that the trial court erred in granting the injunction and reversed its decision.

***Oettmeier v. Oettmeier*, 960 So. 2d 902 (Fla. 2d DCA 2007)**
The husband appealed entry of a permanent injunction granted in favor of his wife "[b]ecause the evidence presented failed to show that [the wife] had an objectively reasonable cause to believe that she was in imminent danger of becoming the victim of an act of domestic violence." After the husband had moved out of the house, the wife found a gun (which turned out to be a BB gun) in the closet that she believed the husband had purchased to harm her. That, in conjunction with discovering that her husband had returned to the house and "broken in" with the help of a locksmith, prompted her to file for a temporary injunction. Her petition stated that he left angry messages and notes at her home, had spit on her face and pushed her away when she attempted to show affection nine months earlier, was a heavy drinker, and had insisted that he would make her life miserable if she would not buy him out. No allegations were made that the husband ever physically harmed or verbally threatened to harm the wife. At the hearing, the wife reiterated the allegations and added that the husband at some time during the relationship requested that she commit suicide with him. The trial court entered the injunction based on the wife's fear of imminent harm. The appellate court held that the incidents described by the wife did not support a reasonable fear that domestic violence was imminent. The court stated that "if fear alone is the 'reasonable cause' alleged to support the injunction, then not only must the danger feared be imminent but the rationale for the fear must be objectively reasonable as well." Without objective reasonableness, the wife's belief was just unsubstantiated speculation. The court found that the facts alleged in this case summed up the course of a relationship that eventually deteriorated, but they did not set forth the basis for a permanent injunction. The district court reversed and entered an order to vacate the permanent injunction.
http://www.2dca.org/opinion/July%2006,%202007/2D06-4585.pdf

***Jackson v. Echols*, 937 So. 2d 1247 (Fla. 3d DCA 2006)**
The district court affirmed an order for a permanent injunction against domestic violence where the appellant contended the court abused its discretion by issuing the injunction when the parties no longer resided together. Even though the hearing was recorded pursuant to Florida law, the transcript was unavailable on appeal, and the statement of evidence was neither timely submitted nor stipulated to. Without the benefit of the transcript, the court looked to whether the petition, on its face, satisfied the requirements for a permanent injunction. The appellant contended that the petition was insufficient because it stated that the violence occurred when the parties were no longer residing together and that the relationship between the parties was that of an "ex live-in" boyfriend/girlfriend. The district court affirmed, finding that (1) without the transcript or statement of evidence, the court must presume that the trial court acted within its broad discretion; (2) an "ex live-in" boyfriend/girlfriend relationship satisfies the

requirement that the parties must have resided together "as if a family" under the domestic violence statute; and (3) violence between the parties need not have occurred while the parties were living together to satisfy the requirement for a permanent injunction against domestic violence.

***Morcroft v. J.H.*, 935 So. 2d 588 (Fla. 5th DCA 2006)**
The guardian ad liter appealed the trial court's refusal to find the children dependent as to the father in a case in which the father had engaged in a vicious assault on the mother in the presence of the children, and the mother suffered a fractured skull and was hospitalized. After the incident the mother obtained a permanent injunction against the father, which the mother argued should result in the dismissal of the dependency action. The trial court declined to find the children dependent as to the father because DCF had not presented expert testimony as is required in a case where no physical harm is proven, DCF had failed to establish a "cycle" of domestic violence in front of the children, and an injunction with a no-contact order was in place. The district court reversed and remanded, holding that no expert "is required to bolster evidence regarding the detrimental effect of witnessing domestic violence on children in order to support a finding of dependency." A sufficiently horrific single act of domestic violence is sufficient, and the existence of a permanent injunction is insufficient protection because it appears "to be 'temporary,' regarding the custody of the children."

***Santiago v. Towle*, 917 So. 2d 909 (Fla. 5th DCA 2005)**
The trial court entered a permanent injunction for protection against repeat violence based on evidence from three separate incidents involving neighbors in a dispute over a fence. The appellate court reversed, finding that the record did not support a finding of two incidents of violence or stalking as required by the applicable statute. While the activity that involved the throwing of liquid could qualify as "violence" if proven, no evidence was presented to support that claim. The second incident, which involved a hand gesture and obscenities, was not violence as defined by statute, and the third incident, in which the neighbor said he had a gun and was not afraid to use it, would "not constitute an act of violence, unless there is an overt act indicating an ability to carry out the threat or justifying a belief that violence was imminent."

Procedure for Granting Injunction

***Niederkorn v. Trivino*, 68 So. 3d 991 (Fla. 5th DCA 2011)**
The district court reversed a final judgment denying appellant's petition for an injunction against dating violence and remanded for a full evidentiary hearing. Appellant and appellee each filed a petition for protection against dating violence arising out of the same incident. At the trial on the merits of both parties' claims, appellant advised the court that he had no objection to the entry of appellee's injunction against him. Appellee, however, objected to an injunction being entered against her, and the case proceeded to an evidentiary hearing. During the hearing, appellant did not have the opportunity to cross-examine witnesses. The district court recognized that a court may preside over numerous hearings on a typical domestic violence hearing day. As a result, trial courts tend to move hearings along quickly, risking a denial of fundamental due process. The district court held that appellant was entitled to direct examination of witnesses, cross-examination of witnesses, and the presentation of any other evidence and remanded for a full evidentiary hearing.
http://www.5dca.org/Opinions/Opin2011/082911/5D10-3009.op.pdf

***Furry v. Rickles*, 68 So. 3d 389 (Fla. 1st DCA 2011)**
The district court reversed, on due process grounds, a final judgment of injunction for protection against domestic violence. The district court stated that the trial court entered the injunction without conducting a full evidentiary hearing pursuant to section 741.30(5), Florida Statutes (2010), which was a due process violation. The trial court "began the hearing by informing the parties that they had a limited time to present their cases. The court then conducted all questioning of the parties and virtually all questioning of other witnesses. The court was aware the attorneys might wish to conduct direct/cross examination as it made two comments dismissing any request based on time constraints. The court also dismissed Appellant's

request for a 'quick hearing'; denied his request to present the relevant noncumulative testimony of a pertinent witness; and did not allow him to 'object to,' or cross-examine, the opposing party's expert witness." The district court stated that, "[w]hile the [trial] court might have remained unconvinced had it heard additional evidence, it still should have provided Appellant the opportunity to fully present his case. Because Appellant was denied a reasonable opportunity to present his case and because time constraints are not an excuse for a trial court's failure to conduct a full hearing," the district court reversed and remanded for a new hearing.
http://opinions.1dca.org/written/opinions2011/08-31-2011/10-5945.pdf

***L.C. v. A.M.C.*, 67 So. 3d 1181 (Fla. 2d DCA 2011)**
The district court reversed a final judgment of injunction for protection against domestic violence which prohibited appellant from having any contact with his granddaughter. The district court held that appellant did not receive reasonable notice of the hearing on the petition for the injunction. The district court stated that the record contained no indication that the granddaughter was in danger because of appellant and certainly not imminent danger. The court noted that appellant acted diligently to obtain counsel after he was served with the notice, and he promptly sought rehearing after the injunction was entered. The district court reversed and remanded for further proceedings.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/August/August%2019,%202011/2D10-2669rh.pdf

***Barker v. Rodriguez*, 82 So. 3d 1018 (Fla. 4th DCA 2011)**
The district court affirmed the trial court's entry of a final judgment of injunction for protection against domestic violence toward the minor child, which also gave temporary custody of the child to the mother. The appellant claimed that by failing to hear his case, the trial court deprived him of due process. However, the final judgment showed both parties were present at the final hearing. The district court stated that the record, which did not include a transcript, was insufficient to show that either the appellant was denied an opportunity to present evidence, the judgment was unsupported by competent substantial evidence, or the judgment was erroneous on its face.
http://www.4dca.org/opinions/Aug%202011/08-17-11/4D10-2617.op.pdf

***Shocki v. Aresty*, 994 So. 2d 1131 (Fla. 3d DCA 2008)**
The appellant neighbor appealed entry of a final injunction against repeat violence in favor of the appellee neighbor, who stated he was a victim of assault, battery, and stalking. In the original petition, the appellee alleged several assaults, including an offensive banging on the appellee's bedroom wall, using a hammer to bang on the appellee's barbeque grill, and additional verbal threats. After his ex parte petition was denied, the appellee moved for an emergency hearing for protective relief due to an alleged further act of violence by the appellant which included intentional damage to the appellee's wife's vehicle. At trial, the court heard testimony that these neighbors had a long-standing acrimonious relationship as evidenced by their various verbal confrontations. During the appellee's closing (over objection), the appellee described his discovery of two dead birds in his walkway the morning of the hearing and stated that he was warned by the appellant that his wife should be careful. The court entered a five-year injunction against the appellant based solely on the findings of stalking. The district court agreed with the trial court that assault and battery had not occurred, and noted that the trial court's finding of stalking was based on "new" evidence that was prejudicial in nature. The appellant was entitled to notice of those allegations prior to the hearing in order to present a defense. The district court suggested that parties with similar condominium disputes should explore other options for resolution before bringing their claims to a repeat violence court and that many issues that arise in condominium disputes do not warrant injunctive relief. But it also noted that, but for the due process issues presented by the appellant, this dispute may ultimately require judicial intervention. Accordingly, the injunction was reversed and remanded with directions to allow the appellee to amend his petition to address the alleged acts of stalking and statutory violence and to seek a new trial on such an amended petition.

***Smith v. Melcher*, 975 So. 2d 500 (Fla. 2d DCA 2008)**
An alleged stalker appealed the entry of a permanent injunction against repeat violence in favor of the appellee. The appellee stated that she had been a victim of repeat violence based on two acts committed by the appellant on two different days. At trial, the appellee testified that on the first date, the appellant made harassing statements that were directed at her. The second incident occurred while the appellee and her children were in an enclosed area of a restaurant; she saw the appellant circling the restaurant and shaking his head and pointing at her. The police were summoned to the scene, and at trial testimony was presented that the appellant came close to becoming disorderly when questioned by the officer. Based on these two incidents, the trial court found just cause to enter the injunction. On appeal, the court found, without discussion, that there was sufficient evidence to support the trial court's finding that the first act constituted harassment as defined by the statute. However, the district court did not find that the second act was supported by competent substantial evidence to rise to the level of a "repeat" act of violence. Nor did the trial court find that this was an assault, because the appellant had no apparent ability to cause harm from his car while the appellee was inside the restaurant. Moreover, the appellant's interaction with the police officer, intimidating as it may have been for the appellee to witness, did not constitute a threat to her. Since two acts of violence are necessary to obtain an injunction for protection against repeat violence and the record only supported that one had occurred, the district court reversed and remanded with instructions to vacate the injunction.

***Storm v. Decker*, 971 So. 2d 165 (Fla. 5th DCA 2007)**
The appellant in a repeat violence case appealed entry of a final order of repeat violence injunction, arguing that he was denied due process when the trial court went forward with the final hearing even though a timely and proper motion for continuance was filed. Upon being served just three days before the final hearing, the appellant (from Miami-Dade County) retained counsel in Orlando, Florida, to represent him. Given the short notice and the minimal time to properly prepare, counsel filed a motion for continuance with the court. Furthermore, counsel for the appellant called the appellee's attorney to discuss a possible agreement on the motion; the call was not returned. Phone calls to the courthouse to obtain a ruling on the motion were futile, as were attempts to appear by phone on the day of the hearing to argue the motion. The trial court judge's judicial assistant refused to coordinate a telephonic hearing, and the trial court ultimately denied the motion and proceeded with the final hearing without the appellant and his attorney. Given the short notice after service on the appellant and the lack of emergency or prejudice as to the appellee, the district court found that the motion should have been granted to allow the appellant and his attorney to be present. At the very least, the trial court should have set aside entry of the permanent injunction and rescheduled a new hearing upon knowledge of the appellant's diligent efforts to request a continuance. The district court reversed the final injunction and remanded for rehearing.

***Tejeda-Soto v. Raimondi*, 968 So. 2d 635 (Fla. 2d DCA 2007)**
The appellant couple, neighbors of the appellees, appealed the entry of repeat violence permanent injunctions entered against them, arguing that they were not given the opportunity to properly present their case. At trial, the court simply heard opening statements from both sides before interrupting to state that this was a situation in which a permanent injunction was appropriate. The court heard from no witnesses and admitted no evidence. The district court found that the appellants were denied procedural due process when they were not allowed to present evidence and provide witness testimony. The final judgments were reversed, and the cases were remanded for full evidentiary hearings. Additionally, the appellants' counsel was not permitted to present a motion to dismiss based on the insufficiency of the petition. The district court stated that the appellants should be allowed to make that argument on remand.
http://www.2dca.org/opinion/October%2026,%202007/2D06-3107.pdf

***Morrell v. Chadick*, 965 So. 2d 1277 (Fla. 2d DCA 2007)**
The appellant, the former supervisor of the appellee, appealed the final order for protection against sexual violence entered against him, citing insufficient evidence. During the majority of the appellee's year-long employment, the parties were engaged in a sexual relationship that allegedly ended a month *after* her resignation. The appellee filed a petition for protection against sexual violence two months after ending

the relationship, alleging that she was harassed and forced to have sex against her will while employed and that she submitted to the appellant's demands because she feared losing her job, and that the appellant continued to contact her at her home, work, and cellular phone numbers and threatened to blackmail her. At trial, the appellant moved to dismiss because the petition was insufficient under the sexual violence statute; the appellee had failed to cite specific instances when she was pressured to have sex or the appellant was physically violent toward her but testified that the main impetus for her filing was the appellant's phone calls, none of which contained any threats of violence or requests for sex, and which went unanswered. The appellant argued that the two had been involved in a consensual sexual relationship. The court denied the motion to dismiss, citing that the petition stated a case for stalking, and granted the injunction. The record and the final judgment were contradictory in that the basis for the injunction (stalking) was not an enumerated basis under the relevant statute for sexual violence. Therefore, the appellate court reversed, stating: "The trial court apparently astutely recognized the flaw in [appellee's] allegations of sexual violence and orally stated that the evidence of [appellant's] numerous telephone calls supported a finding of stalking. However, [appellee] had filed a petition for injunction for protection against sexual violence, and the statutory definition of 'sexual violence' contained in section 784.046(1)(c) does not include stalking. [Appellee] did not amend her pleadings, and this issue was not tried by consent. Moreover, the trial court entered the final judgment on the standard form used for injunctions for protection against sexual violence, and the final judgment did not include any findings regarding stalking. Absent amendment of the pleadings or trial by consent, the trial court cannot enter an injunction on grounds of violence different from the ground alleged by the petitioner. . . . Dismissal of the petition without prejudice for [appellee] to refile or amend her petition was the appropriate remedy."

***Smith v. Smith*, 964 So. 2d 217 (Fla. 2d DCA 2007)**
The husband appealed the entry of a permanent injunction against domestic violence, claiming that his due process rights were violated when he was not allowed to testify or call witnesses prior to the entry of the final order. Initially, the trial court held a 45-minute hearing at which the wife presented testimony and evidence; the husband was prepared and had witnesses ready to testify, but the hearing was continued. At the subsequent hearing, the wife again was given the opportunity to testify and call witnesses. During the cross-examination of the wife, the court unexpectedly halted the proceedings and entered the injunction. Again, the husband had his witnesses ready to testify, but the only time he actually spoke was when he was asked about visitation. While the wife argued that the court had broad authority to control its docket and that the husband's trial strategy "wasted his allocation of time," the district court found the trial court abused its discretion in not allowing the husband adequate time to present his case. Due process should be afforded to both sides, and in the instant case the record reflected that the husband did not receive the opportunity to be heard. The district court reversed and vacated the permanent injunction. http://www.2dca.org/opinion/August%2024,%202007/2d06-3353.pdf

***Ohrn v. Wright*, 963 So. 2d 298 (Fla. 5th DCA 2007)**
The appellant appealed the entry of a permanent injunction against repeat violence on the basis that the trial court failed to swear witnesses and that she was precluded from presenting a witness to testify. The district court of appeal found that these actions constituted a due process violation. In order for a court to hold a "full" permanent injunction hearing, the court must allow each side to prove or disprove the allegations in the petition by allowing them sufficient time to present witnesses with relevant information. In addition, each witness should be sworn, and cross-examination should be allowed. While the district court understood the pressure on domestic violence trial courts to hear the heavy volume of cases in a time-efficient manner, it reversed and remanded and reminded the trial courts to be cognizant of fundamental due process requirements.

***Young v. Smith*, 901 So. 2d 372 (Fla. 2d DCA 2005)**
Under section 741.30(1)(a), Florida Statutes, a petitioner is required to establish either that he or she has been, or has a reasonable belief that he or she is in danger of becoming, the victim of an act of domestic violence. The petitioner must present a prima facie case for the issuance of the injunction. Harassing phone calls by the respondent are insufficient evidence of violence for issuing a permanent domestic

violence injunction when no testimony was presented as to a history of violence or any reasonable cause to believe that danger is imminent.

***Guida v. Guida*, 870 So. 2d 222 (Fla. 2d DCA 2004)**
The district court held that the trial court erred, among other things, in issuing an injunction for protection against domestic violence against the appellant within the final judgment of dissolution of marriage. An injunction for protection against domestic violence must be issued as a separate order under chapter 741, Florida Statutes, and must include service of process, proper pleadings, and sufficient evidence to support an injunction or waiver.

***Farr v. Farr*, 840 So. 2d 1166 (Fla. 2d DCA 2003)**
The trial court erred in dismissing an injunction against domestic violence in a final judgment dissolving the parties' marriage when the petitioner did not move to vacate the injunction and the parties were not noticed that the matter would be considered, thus not receiving due process on the issue. Additionally, the court struck the trial court's order setting a motion for rehearing, as the court had lost jurisdiction on the matter when the wife filed an appeal.

***Orth v. Orndorff*, 835 So. 2d 1283 (Fla. 2d DCA 2003)**
The trial court's sua sponte entry of a permanent injunction against the petitioner when granting her petition for an injunction against the respondent, who had not requested an injunction, was in direct contravention of sections 741.30(1)(i), (4), and (6)(a), Florida Statutes. The order was reversed.

***Lee v. Delia*, 827 So. 2d 368 (Fla. 2d DCA 2002)**
The trial court erred in denying the respondent's postjudgment motions to vacate the final injunction when there was a stipulation to enter the final injunction and the final injunction was inconsistent with the terms of the stipulation. The denial of the postjudgment motions to vacate was reversed, and the case was remanded to the trial court to hold a hearing on the merits of one of the motions.

***Vargas v. Vargas*, 816 So. 2d 238 (Fla. 2d DCA 2002)**
The wife appealed from a nonfinal order issued on her husband's motion, without notice to her, that temporarily enjoined her and her husband from removing their children from the jurisdiction of the circuit court and required her to relinquish the children's passports to her attorney or to her husband. The Second District reversed because the trial court failed to conform to the requirements of rule 1.610, Florida Rules of Civil Procedure. "The party seeking a temporary injunction without notice must file a verified pleading or affidavit that alleges specific facts showing immediate and irreparable harm and must detail any efforts made to give notice or state why notice should not be required. . . . [T]his does not preclude the husband from reapplying for injunctive relief in accordance with the requirements of rule 1.610."

***Cervieri v. Cervieri*, 814 So. 2d 528 (Fla. 4th DCA 2002)**
The trial court erred in modifying a temporary injunction when the petitioner did not receive prior notice of the respondent's motion for modification of the injunction, in which she sought custody of the minor child. The lack of notice that the motion would be heard at the final hearing denied the petitioner due process, including the opportunity to be heard. The appellant/petitioner had petitioned for and received a domestic violence injunction for protection against his wife, exclusive possession of the parties' home, and temporary custody of the minor child. Prior to the final hearing and without noticing the petitioner, the respondent filed a pro se request to modify the injunction, alleging that she had been a victim of domestic violence and requesting custody of the minor child. At the final hearing, the trial court granted the respondent's motion and modified the injunction to prohibit violence by the petitioner against the respondent, and awarded custody of the minor child to the respondent despite the petitioner's request for a continuance, and the appellate court reversed and remanded for a hearing on the issues.

***Wooten v. Jackson*, 812 So. 2d 609 (Fla. 1st DCA 2002)**
It was error for the trial court to issue the permanent injunction against the respondent/appellant, thereby denying the respondent/appellant his constitutional right to due process of law. Parties before the court on a permanent injunction hearing must be permitted to present evidence on the issue of entitlement to the injunction.

***Melton v. Melton*, 811 So. 2d 862 (Fla. 5th DCA 2002)**
The petitioner obtained a temporary injunction against domestic violence against the respondent. She later received a permanent injunction, alleging that the respondent violated the terms of the injunction. Neither respondent nor his counsel was properly noticed of the hearing. The respondent then filed an ex parte motion to quash the injunction. The trial court turned the ex parte hearing into a full evidentiary hearing. The Fifth District held that the conversion of the ex parte hearing into a full evidentiary hearing violated due process, and therefore the injunction was vacated and the case remanded for a full hearing.

***Sanchez v. State*, 785 So. 2d 672 (Fla. 4th DCA 2001)**
This case involved two consolidated petitions for writs of certiorari. The district court granted both and quashed the trial court's orders that denied one petitioner's request for injunction and dismissed the other's ex parte injunction. It was error for the trial court to deny summarily a facially sufficient petition for an ex parte injunction against domestic violence without a hearing and without explanation. Section 741.30(5)(a), Florida Statutes, requires that a denial of a petition for an ex parte temporary injunction be "by written order noting the legal grounds for denial." The trial court provided as its sole reason for denying the petition only that the petitioner "failed to allege facts sufficient to support the entry of an injunction against domestic or repeat violence," but did not specify how the allegations were insufficient. Additionally, the denial of that petitioner's facially sufficient petition without a hearing was a departure from the essential requirements of law. Rule 12.610(b)(3), Florida Family Law Rules of Procedure, requires that when a petition for an ex parte temporary injunction against domestic or repeat violence is denied, the petitioner be given the opportunity to argue his or her case. In the second case, the district court held that it was error for the trial judge to summarily dismiss an ex parte injunction for protection against domestic violence issued by a duty judge the previous day and to cancel the hearing that had been set by the duty judge. After an ex parte temporary injunction is entered, section 741.30(5)(c), Florida Statutes, requires that a full hearing be set on the matter. Section 741.30(5)(b), Florida Statutes, requires that when a petition for injunction is denied because there is "no appearance of an immediate and present danger of domestic violence, the court must set a full hearing on the petition . . . with notice at the earliest possible time." When a trial court denies a petition for or dismisses an injunction based on a finding of insufficient allegations, it must give a specific basis for that finding.

***Cisneros v. Cisneros*, 782 So. 2d 547 (Fla. 3d DCA 2001)**
The district court held that the trial court erred by entering a permanent domestic violence injunction without affording the appellant the opportunity for a full evidentiary hearing, in accordance with rule 12.610(c)(1)(B), Florida Family Law Rules of Procedure.

***Jenkins v. Wessel*, 780 So. 2d 1006 (Fla. 4th DCA 2001)**
The trial court erred in ruling that the respondent waived his Fifth Amendment right against self-incrimination when testifying about a second alleged incident of violence and refusing to testify about the initial incident two days earlier for the purpose of demonstrating that there was repeat violence. Thus, the trial court also erred in entering a permanent injunction since there was no proof of repeat violence. The decision of the trial court was reversed.

***Semple v. Semple*, 763 So. 2d 484 (Fla. 4th DCA 2000)**
The Fourth District held that the trial court violated the husband's right to due process when it entered a permanent injunction for protection against domestic violence against him and awarded temporary custody of the parties' child to the mother without affording the husband a full evidentiary hearing in accordance with section 741.30(5), Florida Statutes. It was error for the trial court to deny the respondent the opportunity to conduct a full cross-examination of the petitioner, after cutting it short "because of the

number of cases being heard that day" and suggesting instead that a full evidentiary hearing could take place once the parties filed for dissolution of marriage. The district court also found that it was error for the trial court to make a determination as to visitation without first ruling on who would serve as the temporary custodial parent.

***Shaw-Messer v. Messer*, 755 So. 2d 776 (Fla. 5th DCA 2000)**
The Fifth District held that the trial court erred in not conducting an evidentiary hearing on the issuance of an injunction for protection against domestic violence filed by the wife against the husband and in entering a mutual injunction in the dissolution action, under chapter 61, Florida Statutes, without any testimony that the husband had committed any conduct deserving such action. In reversing the lower court's ruling and remanding the case for further action, the district court clearly maintained that section 741.30, Florida Statutes, not chapter 61, Florida Statutes, was the appropriate vehicle for a domestic violence injunction.

***Spurgiesz v. Graves*, 750 So. 2d 771 (Fla. 5th DCA 2000)**
The district court held that it was error for the trial court to enter a permanent injunction for protection against domestic violence without affording the respondent the right to a full evidentiary hearing.

***Segui v. Nester*, 745 So. 2d 591 (Fla. 5th DCA 1999)**
The district court held that it was error for the trial court to dismiss a petition for injunction against repeat violence without providing an evidentiary hearing.

***Oravec v. Sharp*, 743 So. 2d 1174 (Fla. 1st DCA 1999)**
The district court held that the trial court erred in entering a permanent injunction for protection against domestic violence when the entry of the order was inconsistent with the judge's statement that he intended only to extend the temporary injunction for 90 days, and the court denied the respondent the opportunity to present evidence in opposition to the entry of the injunction.

***Utley v. Baez-Camacho*, 743 So. 2d 613 (Fla. 5th DCA 1999)**
The district court held that the trial court erred in entering a permanent injunction for protection against repeat violence when the court did not conduct an evidentiary hearing on the merits of the case.

***Miller v. Miller*, 691 So. 2d 528 (Fla. 4th DCA 1997)**
It was error to extend an ex parte temporary injunction for six months, prohibiting the husband from visiting his home and limiting his visitation with his child, without affording an evidentiary hearing.

***Snyder v. Snyder*, 685 So. 2d 1320 (Fla. 2d DCA 1996)**
The trial court amended a domestic violence injunction and granted the paternal grandmother temporary custody of the child without motion, notice, or hearing afforded to the parties. The custody order was reversed, and the court stated that the fact that the wife had obtained a hearing on a motion to dissolve the child custody order was not sufficient to satisfy due process requirements.

Stalking

***Austin v. Echemendia*, __ So. 3d __, 2016 WL 4382557 (Fla. 4th DCA 2016)**
The petitioner sought an injunction for protection against repeat violence. She testified that the respondent choked her multiple times and threatened to kill her, choked her on another occasion and threw her to the ground, called her 28 times on one occasion and about 30-40 times during the month, left pictures of her house, texted her, followed her when she was with co-workers, and threatened to slash her tires. The petitioner also testified that the respondent blocked her from leaving work with her car, banged on her car doors, and threatened her. The court denied the injunction, stating that there was no physical violence, but that the petitioner could re-file under a different form of petition, such as stalking. The petitioner appealed, and the appellate court reversed, stating that she had clearly established two

incidents of violence, as the statute required, when she testified about the two choking incidents, and that the trial court "overlooked the fact that stalking can constitute an act of repeat violence under the statute."
http://www.4dca.org/opinions/Aug%202016/08-17-16/4D15-4607.op.pdf

***Klemple v. Gagliano*, __ So. 3d __, 2016 WL 4539610 (Fla. 4th DCA 2016)**
Neighbors filed petitions for injunctions for protection against stalking against each other, and the court issued both injunctions. One neighbor appealed, stating that the evidence was insufficient to establish that he followed or harassed the other neighbor. The appellate court reversed, noting that there was not competent, substantial evidence to support the injunction. The behavior described during the hearing did not constitute following or harassment as described in the statute. Further, the evidence that was admitted was based on hearsay and speculation.
http://www.4dca.org/opinions/Aug%202016/08-31-16/4D15-4761.op.pdf

***Fye v. Bennett*, 193 So. 3d 994 (Fla. 4th DCA 2016)**
The former wife filed a petition for injunction against stalking, alleging that her relationship with her former husband had deteriorated, that she had to fire him from her company, and that he then began to make threatening phone calls and harassing her and her employees at various job sites. The trial court denied the petition without a hearing, holding that she failed to allege specific facts and circumstances to establish that she was a victim of stalking, and she appealed. The appellate court reversed and remanded, noting that the respondent had entered a plea of guilty to two counts of making threatening phone calls and had been sentenced to six months of probation. As a condition of his probation, the respondent had agreed to cooperate with the entry of a permanent injunction against stalking. Because of that plea agreement and the petitioner's allegations, the petition was facially sufficient.
http://www.4dca.org/opinions/May%202016/05-25-16/4D16-44.op.pdf

***David v. Schack*, 192 So. 3d 625 (Fla. 4th DCA 2016)**
The petitioner got an injunction against stalking, and the respondent appealed. The appellate court reversed because there was not competent and substantial evidence to support the stalking injunction since the petitioner did not show that respondent's behavior (banging on her door and leaving her a letter and a check) caused substantial emotional distress, and only described one incident rather than the requisite two. The court also noted that even if the evidence presented was sufficient, they would have still reversed because the trial court did not give the appellant a full hearing or an opportunity to present his case to satisfy due process.
http://www.4dca.org/opinions/May%202016/05-25-16/4D15-1973.op.pdf

***Smith v. Wiker*, 192 So. 3d 603 (Fla. 2d DCA 2016)**
A petitioner got a stalking injunction against a neighbor that included a provision that "[t]he Respondent may travel on his driveway to enter and leave his property but may not linger on his driveway. The Respondent is permitted to continue to live in his home but shall have no contact w/the Petitioner." The injunction also required the respondent to remove the cameras bordering the petitioner's property within ten days and allowed the respondent to be on his driveway for that ten-day period in order to comply with the injunction. The appellate court affirmed the injunction, but reversed the portion of the order that required the respondent to stay off of his own driveway. The court ruled that this provision was overbroad because it included both behavior that could constitute stalking, and legal behavior that should have been permitted.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/May/May%2025,%202016/2D14-3341.pdf

***Richards v. Crowder*, 191 So. 3d 524 (Fla. 4th DCA 2016)**
A petitioner got an injunction for protection against stalking against a former boyfriend. The former boyfriend then hired an attorney and filed a motion for relief from the judgment, alleging that he had low-to-average intelligence and that his verbal and comprehension deficits left him unable to understand the temporary injunction imposed before the final injunction or the notice of evidentiary hearing that he received. The trial court denied the motion, and the boyfriend appealed. The appellate court reversed,

stating that the trial court abused its discretion by not allowing the boyfriend a hearing on his motion. The court also noted that "Florida courts have recognized that illness or psychological conditions, as well as difficulties with reading and comprehending, can form the basis of a finding of excusable neglect warranting relief from judgment."
http://www.4dca.org/opinions/May%202016/05-10-16/4D15-4034.op.pdf

***Scott v. Blum*, 191 So. 3d 502 (Fla. 2d DCA 2016)**
Blum claimed that Scott sent out over 2,200 emails that negatively affected Blum's business, and the court entered an order prohibiting Scott from cyberstalking. Scott appealed, claiming that Blum failed to meet his burden of proof and that the order hindered his free speech. The appellate court did not discuss the First Amendment issue because it reversed on a finding that Blum failed to meet his evidentiary burden. It held that while the emails may have caused Blum some emotional distress or embarrassment, they did not meet the definition of cyberstalking.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/April/April%2029,%202016/2D15-3412.pdf

***David v. Textor*, 189 So. 3d 871 (Fla. 4th DCA 2016)**
The appellant appealed a non-final order denying his motion to dissolve an ex parte injunction against cyberstalking. Both parties have companies that produce holograms used in the music industry, and an argument and lawsuit arose regarding the right to show a hologram during a Music Awards show. The trial court granted the amended petition for protection that prohibited the appellee from communicating with the appellant or posting any information about him online, and ordering that he remove any materials he already had posted from the websites. The order was based on various texts, emails, posts, and a fear of violence. The appellant claimed that the texts and posts were merely the result of a heated argument and didn't constitute cyberstalking, and were also a violation of his First Amendment rights. The appellate court agreed and reversed the order that granted the injunction. The court also noted that "[w]hether a communication causes substantial emotional distress should be narrowly construed and is governed by the reasonable person standard." The court stated that the communications served a legitimate purpose and should not have caused, and apparently did not cause, substantial emotional distress and therefore did not constitute cyberstalking.
http://www.4dca.org/opinions/Jan.%202016/01-06-16/4D14-4352.op.pdf

***Thoma v. O'Neal*, 180 So. 3d 1157 (Fla. 4th DCA 2015)**
The petitioner, an employee of an abortion clinic, was issued a stalking injunction against the respondent after the latter made derogatory comments towards her, followed her in his car after work, and circulated a flyer concerning the petitioner in the petitioner's former neighborhood. The respondent appealed, claiming that the definition of stalking "specifically excludes constitutionally protected activity such as protesting, and . . . there was no evidence of a 'course of conduct,' since there was only testimony regarding one incident of alleged following." But the appellate court noted that "[b]oth arguments are premised on the contention the flyer [the respondent] developed and distributed to the Victim's home was protected speech. We disagree that the flyer being sent to the Victim's home was protected speech and agree with the trial court that sending the flyer to the Victim's home was an incident of harassing behavior." The respondent also challenged, as overly broad and infringing on his First Amendment rights, conditions the trial court had imposed as part of the injunction, but the appellate court noted that that issue was moot because the injunction had expired.
http://www.4dca.org/opinions/Dec.%202015/12-09-15/4D14-3459.op.pdf

***Roach v. Brower*, 180 So. 3d 1142 (Fla. 2d DCA 2015)**
The respondent appealed an injunction for protection against stalking that prohibited her from contacting the petitioner. Since there was no evidence that the conduct in question caused the petitioner substantial emotional distress as required under section 784.048(1)(a), Florida Statutes, the court reversed.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2015/December/December%2009,%202015/2D15-493.pdf

***Neptune v. Lanoue*, 178 So. 3d 520 (Fla. 4th DCA 2015)**
The respondent claimed that the petitioner, a police officer, cut him off in traffic, so he followed the police officer into the neighborhood where they both lived and complained to the officer about his driving. The officer then stopped the respondent from leaving and gave him a ticket for driving without a seatbelt, which the respondent claimed was unfounded. The respondent then sent several letters to the officer's boss, other public officials, and to the officer's home address, complaining about his mistreatment, and also posted the officer's picture on the internet with a complaint. The officer petitioned for an injunction against stalking, which was issued and prohibited the respondent from coming within 500 feet of the officer's residence, posting anything on the internet regarding the officer, or defacing or destroying the officer's personal property. While the appellate court upheld the injunction, it also stated that the injunction was overly broad since the First Amendment protects the respondent's right to criticize public officials, and it struck the provision that interfered with the respondent's freedom of speech.
http://www.4dca.org/opinions/Nov.%202015/11-4-15/4D14-3133%20op.pdf

***Lippens v. Powers*, 179 So. 3d 374 (Fla. 5th DCA 2015)**
The respondent appealed from an injunction for protection against stalking which prohibited her from seeing her daughter. The petitioner and respondent were a same-sex couple married in Vermont and raised their daughter together until they separated. The respondent visited the child until the petitioner began prohibiting visitation. The respondent then tried to text and contact the child, asking for visitation. Since none of the messages were threatening and they served a legitimate purpose of arranging visitation, and since they did not cause emotional distress, the court reversed and vacated the injunction.
http://www.5dca.org/Opinions/Opin2015/102615/5D14-4362.op.pdf

***Richards v. Gonzalez*, 178 So. 3d 451 (Fla. 3d DCA 2015)**
The petitioner was granted a four-year injunction for protection against stalking after a neighbor harassed her on several occasions. The neighbor appealed. Due to the substantial discrepancies between the testimony and the allegations in the petition, as well as the general lack of evidence, the court reversed the injunction. The court also noted that "(c)ourts apply a reasonable person standard, not a subjective standard, to determine whether an incident causes substantial emotional distress."
http://www.3dca.flcourts.org/Opinions/3D14-3046.pdf

***Plummer v. Forget*, 164 So. 3d 109 (Fla. 5th DCA 2015)**
The respondent appealed an order of protection against stalking entered on behalf of his former girlfriend. The appellate court reversed and found that the incidents described by the victim would not have caused a reasonable person to suffer substantial emotional distress.
http://www.5dca.org/Opinions/Opin2015/050415/5D14-3669.op.pdf

***Robertson v. Robertson*, 164 So. 3d 87 (Fla. 4th DCA 2015)**
A former wife received an injunction for protection against stalking against her former husband, and the former husband appealed. The court affirmed the injunction and found that there was sufficient evidence to show that the former husband's conduct constituted stalking. On three occasions he had gone to the former wife's house at night, walked around her property, and shined a flashlight into the windows.
http://www.4dca.org/opinions/May%202015/05-06-15/4D13-4716.op.pdf

***Leach v. Kersey*, 162 So. 3d 1104 (Fla. 2d DCA 2015)**
The wife appealed a final judgment of injunction for protection against stalking entered against her and in favor of a woman with whom her husband had an 18-month affair, and the appellate court reversed. The wife had contacted the appellee by phone and through Facebook to tell the appellee to stay away from her husband. The appellate court noted that those actions could not be said to have served "no legitimate purpose" and would not cause a reasonable person to suffer substantial emotional distress. The wife also made on a public blog one post about the appellee's involvement in the affair, which was the basis for the granting of the injunction. But the appellate court stated that "even if the blog posting served no legitimate purpose and would cause substantial emotional distress to a reasonable person, this would only

constitute one incident of stalking," whereas two incidents are required for obtaining an injunction against stalking.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2015/April/April%2017,%202015/2D14-1812.pdf

***Horowitz v. Horowitz*, 160 So. 3d 530 (Fla. 2d DCA 2015)**
The wife was granted an injunction for protection against domestic violence. The appellate court reversed and held that the husband's two posts on his own social media webpage did not amount to cyberstalking, and that the wife failed to establish that she had reasonable cause to believe she was in imminent danger of becoming a victim of domestic violence. The wife believed the husband's posts showed that he had hacked her Facebook account or had been spying on her, and she testified that someone had installed a keylogger on her computer that kept track of her computer use. However, there was no evidence that it was her husband that installed the keylogger. The court noted that the husband's posts did not meet the statutory definition of cyberstalking because they were not "directed at a specific person"; they were posted to the husband's page and the wife "was not 'tagged' or mentioned, nor were the posts directed to her in any obvious way." The court also noted that although the wife's claim that the husband hacked into her Facebook account was disconcerting, such action alone would not amount to cyberstalking because it was not an electronic communication.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2015/April/April%2001,%202015/2D13-3871.pdf

***Laserinko v. Gerhardt*, 154 So. 3d 520 (Fla. 5th DCA 2015)**
Over a period of four months, the respondent repeatedly emailed and sent gifts to the petitioner, followed by a long letter that, due to the content, prompted her to file for an injunction against stalking, which was granted by the court. The respondent appealed, and the appellate court reversed the ruling. Although the court found that the letter would have caused a reasonable person to suffer the "substantial emotional distress" required by statute, there was no second incident of stalking.
http://www.5dca.org/Opinions/Opin2015/011215/5D14-2181.op.pdf

***Pashtenko v. Pashtenko*, 148 So. 3d 545 (Fla. 2d DCA 2014)**
The trial court denied the wife's petition for protection against stalking against her husband, and she appealed. The appellate court reversed, stating that the trial court's findings demonstrated that it considered "evidence other than verified pleadings or affidavits. Specifically, the trial court looked beyond the petition to infer that there was no probable cause evidence to arrest or request charges. The trial court thereby implied that because there was no arrest or charges filed, [the wife] failed to present the 'strong and clear' evidence necessary to issue the injunction." The trial court also cited to the wrong statutes.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2014/October/October%2015,%202014/2D13-4683.pdf

***Wyandt v. Voccio*, 148 So. 3d 543 (Fla. 2d DCA 2014)**
A business owner filed a petition for protection against stalking violence against a neighboring business owner, which was granted by the court, and the neighbor appealed. Although there was evidence of verbal arguing, the court held that the evidence did not support the issuance of the injunction because there was no proof of two incidents of stalking as required by the statute.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2014/October/October%2015,%202014/2D13-2778.pdf

***Branson v. Rodriguez-Linares*, 143 So. 3d 1070 (Fla. 2d DCA 2014)**
The respondent appealed a final judgment of injunction for protection against domestic violence that was issued to protect the petitioner from cyberstalking. Although the respondent did not verbally threaten the petitioner, the trial court found that he did stalk her with about 300 emails during a 1½-month period. The respondent claimed that his actions did not constitute violence under the statute; however, the court found that "the statute plainly permits the entry of an injunction for a person who is the victim of "stalking."

Thus, the court held that proof of recent stalking can be sufficient to establish the act of "violence" required for the issuance of a section 741.30(1)(a) domestic violence injunction. "If such an act of violence is sufficiently established and if it is between 'family or household member[s]' as defined in section 741.28(3), the petitioner is not also required to demonstrate reasonable cause to believe that he or she is in imminent danger of becoming the victim of any future act of domestic violence." The court also noted that "some of the offenses delineated in the statute, such as assault, battery, kidnapping, false imprisonment, aggravated stalking, and stalking, do not need to result in physical injury or death to qualify as acts of domestic violence."
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2014/July/July%2025,%202014/2D12-3827.pdf

***Nettles v. Hoyos*, 138 So. 3d 593 (Fla. 5th DCA 2014)**
A female police officer filed a petition for an injunction for protection against stalking against a male police officer. The respondent attempted to engage in discovery, but the petitioner filed a motion for a protective order, and the court granted the motion and quashed all of the respondent's discovery requests. The respondent then filed a petition for writ of certiorari. The appellate court granted the petition and held that the trial court could not completely deny the respondent the opportunity to conduct discovery. The court also noted that the court must balance the need to expedite the hearing with the parties' due process rights, and that while the trial court had discretion to limit the time frame and nature of discovery on a case-by-case basis, it abused its discretion under the circumstances.
http://www.5dca.org/Opinions/Opin2014/050514/5D14-683.op.pdf

***Touhey v. Seda*, 133 So. 3d 1203 (Fla. 2d DCA 2014)**
The petitioner was granted an injunction for protection against stalking issued against a business acquaintance and the respondent appealed. The court held that the record did not contain sufficient evidence to support the injunction. The respondent had a legitimate reason to contact the petitioner, the respondent's behavior was not malicious, and a reasonable person would not have suffered substantial emotional distress from the respondent's behavior.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2014/March/March%2012,%202014/2D12-6338.pdf

***In re Amendments to Florida Rules of Judicial Admin.*, 132 So. 3d 1114 (Fla. 2014)**
The Florida Supreme Court's Steering Committee on Families and Children in the Court proposed amendments to rule 2.545(d), Florida Rules of Judicial Administration, which were approved by the supreme court. The changes added a stalking injunction to the definition of "family case" and made other changes "to ensure that all of the necessary parties, attorneys, and judges involved in a family case receive proper notification of related family cases." The Steering Committee also proposed five new Family Law Rules of Procedure, which were also approved. The new rules provide for coordination of related family cases and hearings and require courts to assign related family cases to a single judge unless it is deemed impractical. They also govern judges' and parties' access to and review of confidential files in related cases and provide that confidentiality of a case or issue is not waived by coordination or joint hearings. The supreme court also noted its support for the unified family court model.
http://www.floridasupremecourt.org/decisions/2014/sc12-2007.pdf

***In re Amendments to Florida Family Law Rules of Procedure*, 126 So. 3d 228 (Fla. 2013)**
Rule 12.610, form 12.900(h), and form 12.928, Florida Family Law Rules of Procedure, were amended in response to the enactment of section 784.0485, Florida Statutes, which established a cause of action for an injunction for protection against stalking.
http://www.floridasupremecourt.org/decisions/2013/sc12-1205.pdf

***Young v. Young*, 96 So. 3d 478 (Fla. 1st DCA 2012)**
The respondent appealed the trial court's issuance of a domestic violence injunction against her for cyberstalking the petitioner by using his password to read his email and then changing the password so he couldn't access his account. The court found that although the evidence showed that she did engage

in improper behavior, it did not constitute domestic violence since there was no malicious harassment that threatened imminent violence, and therefore reversed.
http://opinions.1dca.org/written/opinions2012/09-11-2012/11-6098.pdf

***Polanco v. Cordeiro*, 67 So. 3d 235 (Fla. 2d DCA 2010)**
The respondent appealed a final judgment of injunction against repeat violence entered in favor of the petitioner. At the hearing on the petition, the petitioner testified that the respondent harassed and stalked her, but could not describe specific instances that fell within the statutory definition of repeat violence or stalking. The court noted that the trial judge's findings that the parties were very emotional and hostile toward each other were insufficient to support an injunction against repeat violence as provided for in section 784.046(2), Florida Statutes. Because the petitioner failed to prove any acts of violence or stalking, the court reversed the trial court's decision.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/September/September%2022,%202010/2D09-2998.pdf

***Olin v. Roberts*, 42 So. 3d 841 (Fla. 1st DCA 2010)**
The appellant appealed a final judgment of injunction for protection against domestic violence. The district court affirmed the judgment, holding that the appellee presented sufficient evidence that he was a victim of battery and assault. The court clarified that "domestic violence" does not include "stalking by law enforcement" or "stalking by use and threat of court." It was alleged that one party frequently called law enforcement officers to complain about the other party merely for harassment purposes. The district court held that "'harassment' does not include filing reports and complaints to law enforcement agencies as a matter of law under section 784.048(1)(b), Florida Statutes, because constitutionally protected activities such as petitioning the government for redress are exempt from the definition. 'A report to an arm of government, concerning a matter within the purview of the agency's responsibilities, serves a 'legitimate purpose' within the meaning of section 784.048(1)(a), Florida Statutes, regardless of the subjective motivation of the reporter.' . . . Because reporting a violation of law or an existing injunction, even with malicious intent towards the supposed violator, does not constitute harassment, it also cannot qualify as stalking for purposes of section 784.048, or domestic violence under section 741.28, Florida Statutes." The district court stated that, although "[a]buse of court processes and filing false reports with law enforcement are serious matters, . . . the statutorily created actions for injunction against violence are not the proper remedies. . . . Unfounded reports to authorities . . . , even if repeated or for malicious purposes, do not support the entry of an injunction against domestic or other violence."
http://opinions.1dca.org/written/opinions2010/07-30-2010/09-3675.pdf

***Weiss v. Weiss*, 34 So. 3d 250 (Fla. 2d DCA 2010)**
The respondent appealed a final judgment of injunction for protection against domestic violence that his former wife obtained for their minor daughter. The order was entered on two unusual theories - that the respondent was using bad Yiddish words around the child, who did not completely understand the words, and that he was stalking his daughter during timesharing. Shortly before the final hearing on the petition, the couple obtained a final judgment of dissolution based on a settlement agreement. The final judgment of injunction contained provisions altering the visitation rights under the final judgment of dissolution. The petitioner conceded error. The court declined to address the merits of the issues on appeal and ordered the trial court to vacate the final judgment of injunction against domestic violence.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/May/May%2014,%202010/2D09-2094.pdf

***Lukacs v. Luton*, 982 So. 2d 1217 (Fla. 1st DCA 2008)**
The appellant argued that the trial court erred in entering a repeat violence permanent injunction against him because the petitioner failed to show *repeated* acts of harassment that would constitute stalking. The petitioner filed a petition for injunction based on the appellant's alleged pattern of stalking. While working as a waitress, the petitioner was approached by the appellant, whom she did not know, who informed her that he knew where she lived and that he might rape her, knew the roads on which she had driven the previous night, and knew what she was wearing in her home that same night. The trial court was satisfied

that the petitioner had met her burden of proof that the appellant had stalked her and entered an injunction against repeat violence. The district court reviewed this appeal by taking into account the statutory definitions of repeat violence and stalking as well as interpreting the legislative intent of the statute. Section 784.046(1)(b), Florida Statutes, defines repeat violence as "two incidents of violence *or stalking* committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed at the petitioner. . . . (emphasis added)." While the respondent argued that this phrase means that the petitioner must show that she has been the victim of two incidents of stalking to qualify for an injunction, the district court held that the statute could not be reasonably read in that manner. Had the legislature intended to require two acts of stalking, it could have done so by having the statute read "*or two acts* of stalking." Conversely, in order for the court to agree with the appellant's position, it would have to assume that the legislature had intended that petitioners seeking injunctions against repeat violence under the "stalking" prong of the statute would have to be victims of stalking by the same person more than once. This is contrary to prior decisions that hold that persons can commit only one act of stalking through multiple acts. Additionally, the district court found that the legislative intent was not for a stalking victim to show that multiple stalking had occurred, but rather that there had been a repeated pattern of behavior where a person willfully, maliciously, and repeatedly followed or harassed another person. The court affirmed the trial court's ruling because the facts showed that an act of stalking had occurred and that was sufficient under the statute to obtain a permanent injunction against repeat violence.
http://opinions.1dca.org/written/opinions2008/05-27-08/07-1312.pdf

***Smith v. Melcher*, 975 So. 2d 500 (Fla. 2d DCA 2008)**
An alleged stalker appealed the entry of a permanent injunction against repeat violence in favor of the appellee. The appellee stated that she had been a victim of repeat violence based on two acts committed by the appellant on two different days. At trial, the appellee testified that on the first date, the appellant made harassing statements that were directed at her. The second incident occurred while the appellee and her children were in an enclosed area of a restaurant; she saw the appellant circling the restaurant and shaking his head and pointing at her. The police were summoned to the scene, and at trial testimony was presented that the appellant came close to becoming disorderly when questioned by the officer. Based on these two incidents, the trial court found just cause to enter the injunction. On appeal, the court found, without discussion, that there was sufficient evidence to support the trial court's finding that the first act constituted harassment as defined by the statute. However, the district court did not find that the second act was supported by competent substantial evidence to rise to the level of a "repeat" act of violence. Nor did the trial court find that this was an assault, because the appellant had no apparent ability to cause harm from his car while the appellee was inside the restaurant. Moreover, the appellant's interaction with the police officer, intimidating as it may have been for the appellee to witness, did not constitute a threat to her. Since two acts of violence are necessary to obtain an injunction for protection against repeat violence and the record only supported that one had occurred, the district court reversed and remanded with instructions to vacate the injunction.

***Morrell v. Chadick*, 965 So. 2d 1277 (Fla. 2d DCA 2007)**
The appellant, the former supervisor of the appellee, appealed the final order for protection against sexual violence entered against him, citing insufficient evidence. During the majority of the appellee's year-long employment, the parties were engaged in a sexual relationship that allegedly ended a month *after* her resignation. The appellee filed a petition for protection against sexual violence two months after ending the relationship, alleging that she was harassed and forced to have sex against her will while employed and that she submitted to the appellant's demands because she feared losing her job, and that the appellant continued to contact her at her home, work, and cellular phone numbers and threatened to blackmail her. At trial, the appellant moved to dismiss because the petition was insufficient under the sexual violence statute; the appellee had failed to cite specific instances when she was pressured to have sex or the appellant was physically violent toward her but testified that the main impetus for her filing was the appellant's phone calls, none of which contained any threats of violence or requests for sex, and which went unanswered. The appellant argued that the two had been involved in a consensual sexual relationship. The court denied the motion to dismiss, citing that the petition stated a case for stalking, and

granted the injunction. The record and the final judgment were contradictory in that the basis for the injunction (stalking) was not an enumerated basis under the relevant statute for sexual violence. Therefore, the appellate court reversed, stating: "The trial court apparently astutely recognized the flaw in [appellee's] allegations of sexual violence and orally stated that the evidence of [appellant's] numerous telephone calls supported a finding of stalking. However, [appellee] had filed a petition for injunction for protection against sexual violence, and the statutory definition of 'sexual violence' contained in section 784.046(1)(c) does not include stalking. [Appellee] did not amend her pleadings, and this issue was not tried by consent. Moreover, the trial court entered the final judgment on the standard form used for injunctions for protection against sexual violence, and the final judgment did not include any findings regarding stalking. Absent amendment of the pleadings or trial by consent, the trial court cannot enter an injunction on grounds of violence different from the ground alleged by the petitioner. . . . Dismissal of the petition without prejudice for [appellee] to refile or amend her petition was the appropriate remedy."

***Bierlin v. Lucibella*, 955 So. 2d 1206 (Fla. 4th DCA 2007)**
An alleged stalker appealed the denial of motions for attorney's fees in a repeat violence case. The appellee had filed suit against the appellant, alleging that the appellant had directed mail and other published material to his house over a period of six months. The appellant filed several motions to dismiss the injunction for failure to state a cause of action. After the fourth amended complaint, the court dismissed the case for failure to state a cause of action and noncompliance with pleading requirements, and the appellant sought attorney's fees. The trial court denied the appellant's motion because it found the appellee's complaints not to be completely frivolous. On appeal, the court found that the trial court abused its discretion in denying attorney's fees because the case involved more than dismissal for failure to state a cause of action; "it involved a dismissal for failure to state a case of action after four nearly identical attempts to do so and without presenting a justiciable issue of fact or law." The court reversed the denial of the attorney's fees and remanded.

***Slack v. Kling*, 959 So. 2d 425 (Fla. 2d DCA 2007)**
An alleged stalker appealed the entry of a permanent injunction against repeat violence on the ground that there was no evidence establishing the acts necessary to satisfy the statutory criteria for an injunction. At the trial, the appellee testified about two calls he received from the appellant that "served no legitimate purpose." The appellee testified that the appellant left two messages stating that if the appellee did not stay away from the appellant's wife, the appellant "would make an 'arrangement.'" The district court found that nothing in the record rose to the level of harassment that would cause a reasonable person substantial emotional distress. Additionally, the acts described did not exhibit "a course of conduct involving a series of acts over a period of time" to establish stalking. Therefore, the district court found that the trial court erred in granting the injunction and reversed its decision.

***Lopez v. Lopez*, 922 So. 2d 408 (Fla. 4th DCA 2006)**
For a domestic violence injunction, the petitioner must establish that he or she is either a victim of domestic violence as defined by section 741.28, Florida Statutes, or has reasonable cause to believe he or she is in imminent danger of becoming a victim of an act of domestic violence. The definition of "domestic violence" includes stalking, which is defined under section 784.048(2), Florida Statutes, as the willful, malicious, and repeated following, harassing, or cyberstalking of another person. The district court found that there was ample evidence of stalking to justify the issuance of an injunction when the appellant repeatedly called his former wife at work, yelling profanities and causing her to lose her job; threatened to show up at her friend's job and also caused him to be fired; threatened his wife that if he could not be in her life, nobody else could; and showed up at her house screaming and knocking on doors and windows. However, the trial court erred in finding the need for and ordering temporary child support, as it was not requested in the petition. The district court affirmed the entry of the injunction but reversed and remanded as to the award of child support.

***Ortola v. Alfonso*, 917 So. 2d 252 (Fla. 3d DCA 2005)**
The district court affirmed the trial court's issuance of a repeat violence injunction when one neighbor sought an injunction against another. The trial court properly found that one incident of sexual assault had

occurred when one neighbor fondled and groped the other. The appellant's actions of returning to the victim's home the next day, after being told not to, and remaining after being told to leave, satisfied the statutory requirements for stalking, and the issuance of the injunction was proper. Repeat violence, as defined by section 784.046(1)(b), Florida Statutes, means "two incidents of violence or stalking committed by the respondent, one of which must have occurred within 6 months of the filing of the petition." It was clear to the court that a battery or sexual assault occurred, constituting the first incident. The appellant's "course of conduct" of returning to the victim's home after being told not to and refusing to leave constituted a "continuity of purpose" under the stalking statute.

***Werner v. Scharlop*, 867 So. 2d 1172 (Fla. 4th DCA 2004)**
The trial court entered a final order of injunction. The district court affirmed the trial court's ruling because the injunction was supported by sufficient evidence. The district court held that the appellant's continuous calls, letters, and e-mails to the victim "caused or created 'substantial emotional distress,' which is all that is required when the injunction is predicated upon repeated acts of stalking."

***Delopa v. Cohen*, 873 So. 2d 530 (Fla. 4th DCA 2004)**
The district court reversed the issuance of a permanent injunction based on repeat violence when the petitioner's sworn testimony about threatening phone calls was not sufficient evidence to prove stalking. Incidents of violence or stalking must be supported by competent substantial evidence in order to support an order for an injunction.

***Huch v. Marrs*, 858 So. 2d 1202 (Fla. 3d DCA 2003)**
The district court affirmed the trial court's issuance of a final judgment of injunction for protection against repeat violence based on a finding of stalking. The district court found that the respondent's repeated, uninvited appearances at the petitioner's home, workplace, and social activities, and the fact that the respondent followed the petitioner from Texas to Florida, constituted stalking.

***D.L.D. v. State*, 815 So. 2d 746 (Fla. 5th DCA 2002)**
The district court affirmed the lower court's decision to adjudicate the appellant delinquent based on a finding that he had committed aggravated stalking with a credible threat. The Fifth District agreed with the First District in *McMath v. Biernacki*, 776 So. 2d 1039 (Fla. 1st DCA 2001), that, in deciding whether an incident or series of incidents create substantial emotional distress, distress should be judged on an objective, not subjective, standard. "Even if a subjective standard were applicable, a person need not be reduced to tears or hysteria in order to be considered 'substantially emotionally distressed.'"

***Goosen v. Walker*, 714 So. 2d 1149 (Fla. 4th DCA 1998)**
Repeated videotaping of a neighbor constituted stalking for purposes of the issuance of an injunction under chapter 784 and is not constitutionally protected conduct under the First Amendment.

***Biggs v. Elliot*, 707 So. 2d 1202 (Fla. 4th DCA 1998)**
The trial court held that following and repeatedly telephoning the victim constituted stalking under the domestic violence statute so as to permit the issuance of an injunction. The district court held that this was a question of fact for the trier of fact and not clearly erroneous. The stalking statute is not unconstitutionally vague or overbroad.

Standing

***G.C. v. R.S.*, 71 So. 3d 164 (Fla. 1st DCA 2011)**
The father appealed a final judgment of injunction for protection against domestic violence. The petition for injunction was filed by his former wife on behalf of their minor child after the father administered a single spank on the child's buttocks in response to the child's disrespectful and defiant behavior. The district court held that a spouse has standing to seek an injunction against domestic violence against a former spouse on behalf of the parties' children. However, the court also noted that the common law

recognized a parent's right to discipline his or her child in a reasonable manner, and that "[i]n both civil and criminal child abuse proceedings, a parent's right to administer reasonable and non-excessive corporal punishment to discipline their children is legislatively recognized." The court held that under established Florida law this single spank constituted reasonable and non-excessive parental corporal discipline and, as a matter of law, was not domestic violence. The court also stated that reasonable parental discipline is available as a defense against a petition for an injunction against domestic violence and reversed the final judgment.
http://opinions.1dca.org/written/opinions2011/09-16-2011/11-2710.pdf

***Costanzo v. Costanzo*, 941 So. 2d 1211 (Fla. 3d DCA 2006)**
The appellant brother appealed the circuit court's order that denied his renewed motion for dissolution of the injunction issued to the appellee sister. Additionally, the trial court granted the sister's motion to show cause why the brother should not be held in contempt for violating the injunction. On appeal, the brother argued that his sister was never entitled to a domestic violence injunction because she does not fall within one of the categories of protected persons since they had not lived together for several years. Relying on a case with a similar contention by an appellant, which held that a sibling can be granted a permanent injunction despite not having lived with the other sibling for 40 years, the district court rejected the brother's argument and found that the sister could be afforded the protections of a domestic violence injunction. *See Rosenthal v. Roth*, 816 So. 2d 667 (Fla. 3d DCA 2002). Moreover, the brother argued that the sister failed to assert sufficient allegations of violence in the petition. The appellate court disagreed and held that the brother's verbal threats of physical harm and the act of placing her in a headlock were sufficient to satisfy the statute. In regard to the motion to show cause, the brother's admissions at the trial level were sufficient to find he violated the injunction. Therefore, the district court affirmed the circuit court's ruling, and the permanent injunction remained in effect. The court reiterated that, although to obtain an extension of a domestic violence injunction the movant must present evidence of a continuing reasonable fear, here the sister had not moved to extend the injunction; rather, the brother had sought to dissolve it.

***Peterman v. Meeker*, 855 So. 2d 690 (Fla. 2d DCA 2003)**
Section 741.30, Florida Statutes, permitting family or household members to obtain an injunction prohibiting domestic violence, applies to same sex couples, even though they cannot marry. The trial court denied the respondent's motion to dismiss the petition for an injunction based on the argument that section 741.30, Florida Statutes, does not apply to same-sex couples. The district court affirmed the trial court's decision and found that the statute was intended to protect intimate partners and was not intended to exclude those who seek protection from someone of the same gender.

***Slovenski v. Wright*, 849 So. 2d 349 (Fla. 2d DCA 2003)**
Wright filed a domestic violence petition against her former boyfriend (Slovenski). The trial court dismissed Wright's petition because she lacked standing as the parties never lived together as a family. In the very next case that day, the trial court heard a repeat violence petition filed by Wright's new boyfriend (Cohen) against Slovenski. At the conclusion of the case, the trial court changed its decision in the Wright matter and granted her petition for a domestic violence injunction. The district court reversed and remanded the lower court's decision with instructions to enter an order denying Wright's petition, holding that (1) Wright lacked standing to bring an action since the parties' relationship had been romantic in nature with overnight stays but the parties lived in separate residences, and (2) no new evidence was presented in Cohen's case that would provide a legal basis for the court to reverse its judgment in the petitioner's action and award a new trial.

***Rosenthal v. Roth*, 816 So. 2d 667 (Fla. 3d DCA 2002)**
The petitioner and respondent were brother and sister. The petitioner sought injunctive relief from domestic violence and was granted the injunction. The respondent challenged the injunction on the grounds that he and the petitioner had not resided in the same home for more than 40 years, thus preventing the case from being "domestic" in nature. The petitioner contended that the statutory language in sections 741.28(1) and (2), Florida Statutes, was unambiguous and because the petitioner and the

respondent were related by blood, the injunctive relief was valid. The respondent agreed that the language was unambiguous but cited a single exception to normal plain meaning, set forth in *Specialty Restaurants Corp. v. City of Miami*, 501 So. 2d 101 (Fla. 3d DCA 1987), which states plain meaning should be avoided when it leads to an absurd conclusion. The respondent contended that the issuance of the injunction was an absurd conclusion. The district court affirmed the injunction, holding that if such animosity still existed after a 40-year separation, then protective relief was appropriate, and a plain meaning interpretation of the statute was appropriate.

***Partlowe v. Gomez*, 801 So. 2d 968 (Fla. 2d DCA 2001)**
The petitioner, the maternal grandfather who had temporary custody of the grandchild, petitioned the court for a domestic violence injunction against the child's father. Because the grandfather and father did not reside together or share the child in common, as required for an injunction under section 741.28, Florida Statutes, the trial court dismissed the petition and vacated the initial ex parte injunction. The district court affirmed.

***Kokoris v. Zipnick*, 738 So. 2d 369 (Fla. 4th DCA 1999)**
The respondent was the maternal aunt of twins whose mother had a temporary order as their primary residential parent. When the mother was hospitalized during the divorce proceedings, the aunt took care of the girls but refused the father contact with them. After a week of the girls being in the aunt's care, the father therefore sought and obtained a court order shifting primary residence of the girls to him, and after an altercation with the aunt shortly thereafter, he obtained a domestic violence injunction issued against the aunt on behalf of himself and the girls. The aunt moved to dissolve the injunction. The trial court dissolved it as to the father as he had never resided with the girls' aunt, but denied the motion to dissolve the injunction as to the girls, and the aunt appealed. The district court affirmed, finding that under the circumstances, one week of the girls living with the aunt as their "substitute parent" satisfied the statutory requirement, for the issuance of an injunction, that the parties had resided in the same dwelling unit.

***Andrews v. Byrd*, 700 So. 2d 1250 (Fla. 1st DCA 1997)**
The entry of a domestic violence injunction under chapter 741, Florida Statutes, was affirmed, despite the claim that the respondent did not qualify as a "family or household member," since the issue was not raised until after the injunction was entered.

***Sharpe v. Sharpe*, 695 So. 2d 1302 (Fla. 5th DCA 1997)**
It was error to enter a domestic violence injunction against the petitioner's brother-in-law, because the petitioner did not allege that she and her brother-in-law ever resided together, as required by the domestic violence statute. The district court noted that on the one hand section 741.28(2), Florida Statutes, defined "family or household member" as "spouses, former spouses, persons related by blood or marriage, persons who are presently residing or have resided together in the past as if a family, and persons who have a child in common regardless of whether they have been married or have resided together at any time," and the legislature had recently amended section 741.30(1)(e), Florida Statutes, "to eliminate the requirement that one related to the offender by blood or marriage must have resided with such offender in the same household." However, the court also noted that the legislature had not amended the definition under section 741.28, Florida Statutes, of "domestic violence," which was defined as "any assault o*f one family or household member by another who is or was residing in the same single dwelling unit.*" The district court stated: "Even though we might assume that by amending subsection (e), the legislature *intended* to also amend the definition of 'domestic violence,' it is not our place to amend clear and unambiguous statutory language."

***H.K. by and through Colton v. Vocelle*, 667 So. 2d 892 (Fla. 4th DCA 1996)**
It was error to dismiss a 15-year-old high school student's petition for a repeat violence injunction against a 17-year-old classmate. The repeat violence statute applies to juveniles, and the circuit court has jurisdiction over matters involving juveniles.

Successive Petitions or Injunctions

***Miguez v. Miguez*, 824 So. 2d 258 (Fla. 3d DCA 2002)**
The appellate court affirmed the trial court's decision granting the petitioner a second domestic violence injunction five days before the expiration of the petitioner's previous one-year injunction. The district court held that the seven-year duration of the second injunction was not defective and could only be challenged as an abuse of discretion. *See Goodell v. Goodell*, 421 So. 2d 736 (Fla. 4th DCA 1982). As there was no record of the proceeding to determine if there had been an abuse of discretion, the court affirmed the trial court's decision.

***Heck v. Heck*, 714 So. 2d 1200 (Fla. 4th DCA 1998)**
Based on findings of elder abuse, an injunction requiring the son to vacate the house titled jointly in his name and his mother's name, to turn over to his mother exclusive use of an automobile registered in his name, and to pay his mother sums toward past-due household expenses was not barred by a prior ruling in which a different judge denied an injunction for which different circumstances existed at the time. The court also held that a party "may not appeal a nonappealable ruling simply because it is contained within an order that also contains an appealable order."

Sufficiency of Allegations and Evidence

***Klemple v. Gagliano*, __ So. 3d __, 2016 WL 4539610 (Fla. 4th DCA 2016)**
Neighbors filed petitions for injunctions for protection against stalking against each other, and the court issued both injunctions. One neighbor appealed, stating that the evidence was insufficient to establish that he followed or harassed the other neighbor. The appellate court reversed, noting that there was not competent, substantial evidence to support the injunction. The behavior described during the hearing did not constitute following or harassment as described in the statute. Further, the evidence that was admitted was based on hearsay and speculation.
http://www.4dca.org/opinions/Aug%202016/08-31-16/4D15-4761.op.pdf

***Fye v. Bennett*, 193 So. 3d 994 (Fla. 4th DCA 2016)**
The former wife filed a petition for injunction against stalking, alleging that her relationship with her former husband had deteriorated, that she had to fire him from her company, and that he then began to make threatening phone calls and harassing her and her employees at various job sites. The trial court denied the petition without a hearing, holding that she failed to allege specific facts and circumstances to establish that she was a victim of stalking, and she appealed. The appellate court reversed and remanded, noting that the respondent had entered a plea of guilty to two counts of making threatening phone calls and had been sentenced to six months of probation. As a condition of his probation, the respondent had agreed to cooperate with the entry of a permanent injunction against stalking. Because of that plea agreement and the petitioner's allegations, the petition was facially sufficient.
http://www.4dca.org/opinions/May%202016/05-25-16/4D16-44.op.pdf

***Wills v. Jones*, __ So. 3d __, 2016 WL 1660617 (Fla. 1st DCA 2016)**
The trial court entered a one-year injunction against domestic violence in favor of a mentally ill woman against her parents, and the parents appealed. The parents had been taking care of their adult daughter's mental health needs most of her life, and claimed that their daughter filed the petition as a response to the recent Baker Act proceeding that they initiated against her. The daughter testified that she felt intimidated and harassed by her parents' constant involvement with her service providers and that they were too involved in her life. A case manager testified that the daughter did not need a guardian, and that some of her behaviors were a result of the parents' behaviors. The parents testified regarding their daughter's illness and outlined their attempts to help her during various episodes manifested by her mental illness. After the hearing, the trial court was concerned about the parents' confrontations with the daughter's health care providers and other overt conduct, and issued the injunction. The appellate court reversed, noting that petitioning the court for relief in a Baker Act proceeding, even if done maliciously

(which wasn't the case here), did not support the injunction order, nor did it constitute harassment because the parents' actions had a legitimate purpose — obtaining mental health services for their daughter. The parents' other behavior also did not rise to the level necessary to establish a legal basis for an injunction against domestic violence. The court noted that "there are other remedies short of an injunction against domestic violence to deal with obstreperous intermeddlers such as trespass warnings; the medical prescription pad should include such remedies with the domestic injunction statute remaining available for the egregious cases."
https://edca.1dca.org/DCADocs/2015/2911/152911_1287_05022016_093651_i.pdf

***Floyd v. Gray*, 174 So. 3d 1034 (Fla. 1st DCA 2015)**
The mother filed a petition for an injunction against dating violence on behalf of her daughter, who was the victim of threatened and actual violence by the defendant. The court entered a two-year protective injunction, prohibiting the defendant from having any contact with or committing any violence against the daughter, and the defendant appealed, claiming that he did not have a dating relationship with the girl. The appellate court found that the victim's testimony demonstrated a dating relationship, even though the parties were 14 years old and their relationship was different from an adult relationship, and upheld the injunction.
https://edca.1dca.org/DCADocs/2014/4475/144475_DC05_08142015_122625_i.pdf

***Corrie v. Keul*, 160 So. 3d 97 (Fla. 1st DCA 2015)**
The trial court entered an order for protection against repeat violence and the respondent appealed. The appellate court reversed, stating that shouting and obscene hand gestures, without an overt act that caused fear and showed that the appellant would or could follow through on the threats, were not sufficient to support an injunction.
https://edca.1dca.org/DCADocs/2014/1146/141146_DC13_03162015_024320_i.pdf

***Hair v. Hair*, 159 So. 3d 984 (Fla. 4th DCA 2015)**
The petitioner failed to present sufficient evidence that she was a victim of domestic violence or was in imminent danger, and the court reversed. The court also noted that it is not a valid basis for an injunction just because a child does not want to visit with her parent, or because the appellant violated an order that was entered as part of a domestic relations case.
http://www.4dca.org/opinions/March%202015/03-18-15/4D13-2063.op.pdf

***Bristow v. Bristow*, 159 So. 3d 961 (Fla. 5th DCA 2015)**
The appellant filed a petition for protection against domestic violence which was denied, and he appealed. The appellate court ruled that the appellant failed to state a cause of action and affirmed the dismissal. The appellant's petition included extremely vague allegations and he failed to show that he had reasonable cause to believe he was in imminent danger.
http://www.5dca.org/Opinions/Opin2015/030915/5D15-248.op.pdf

***McDonough v. Carver*, 159 So. 3d 926 (Fla. 2d DCA 2015)**
Male and female next-door neighbors obtained injunctions for protection against repeat violence against one another and both appealed. The cases were consolidated. The appellate court held that there was sufficient evidence to support the injunction entered against the male due to multiple occurrences of stalking and harassment, but not against the female.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2015/March/March%2006,%202015/2D13-5401.pdf

***Phillips v. Hughes*, 151 So. 3d 60 (Fla. 2d DCA 2014)**
The trial court entered an injunction for protection against domestic violence for a mother against the father of a child in common, and the father appealed. The appellate court reversed, holding that the mother failed to present sufficient evidence of an objectively reasonable fear that violence was imminent. There had been no actual violence between the parties and no evidence that danger was imminent.

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2014/November/November%2007,%202014/2D13-1238.pdf

***Phillips v. Phillips*, 151 So. 3d 58 (Fla. 2d DCA 2014)**
The trial court entered an injunction for a wife against her estranged husband, and the husband appealed, claiming that the wife had no reasonable cause to believe she was in imminent danger. The appellate court agreed with the husband and reversed, stating that the evidence was legally insufficient. There had been no violence or threat of violence, and the couple had been separated for four months before the wife filed the petition.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2014/November/November%2007,%202014/2D13-1233.pdf

***Brewer v. Chastain*, 149 So. 3d 740 (Fla. 5th DCA 2014)**
After reviewing the record, the appellate court held that there was insufficient evidence to support an injunction against repeat violence.
http://www.5dca.org/Opinions/Opin2014/102714/5D14-1764.op.pdf

***Banks v. McFarland*, 148 So. 3d 162 (Fla. 1st DCA 2014)**
A neighbor appealed when a temporary injunction against repeat violence was issued against him. The appellate court reversed the decision and held that the threatening statements, unaccompanied by overt acts that would create a well-founded fear that violence was imminent, were insufficient to support the injunction.
https://edca.1dca.org/DCADocs/2013/5825/135825_DC13_10132014_100213_i.pdf

***Alderman v. Thomas*, 141 So. 3d 668 (Fla. 2d DCA 2014)**
The petitioner appealed a final judgment of injunction for protection against dating violence. Although she presented evidence that dating violence had occurred in the past, she did not prove that she had reasonable cause to believe she was in imminent danger of becoming the victim of another act of dating violence. Therefore, the court reversed the final judgment of injunction.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2014/June/June%2020,%202014/2D13-898.pdf

***Toubail v. White*, 141 So. 3d 649 (Fla. 4th DCA 2014)**
The respondent appealed an injunction against dating violence, and the appellate court reversed because the petitioner failed to prove – or even testify – that she had a reasonable fear of imminent harm.
http://www.4dca.org/opinions/June%202014/06-18-14/4D13-2548.op.pdf

***Kunkel v. Stanford ex rel. C.S.*, 137 So. 3d 608 (Fla. 4th DCA 2014)**
A grandfather appealed an injunction ordered against him on behalf of his granddaughter. While testimony supported that the relationship between the two was strained, there was no evidence or finding by the court that the granddaughter was a victim of domestic violence, or that she was in imminent danger of domestic violence. The appellate court reversed because the evidence was insufficient to support the injunction order.
http://www.4dca.org/opinions/May%202014/05-07-14/4D13-285.op.pdf

***Arnold v. Santana*, 122 So. 3d 512 (Fla. 1st DCA 2013)**
The wife filed a petition for an injunction against domestic violence and claimed that her husband was harassing and stalking her. The trial court granted the petition, but the appellate court reversed, stating that there was no competent, substantial evidence to support a finding that the wife's fear of imminent violence was objectively reasonable.
http://opinions.1dca.org/written/opinions2013/10-07-2013/13-1112.pdf

***Weisberg v. Albert*, 123 So. 3d 663 (Fla. 4th DCA 2013)**
A former son-in-law filed a petition for an injunction for protection against domestic violence without minor children against his former father-in-law. The circuit court granted the petition, but the appellate court reversed, holding that there was insufficient evidence that the former son-in-law was in imminent danger of becoming a victim of domestic violence based on one verbal altercation he had with his former father-in-law.
http://www.4dca.org/opinions/Oct%202013/10-16-13/4D12-2723.op.pdf

***Brilhart v. Brilhart ex rel. S.L.B.*, 116 So. 3d 617 (Fla. 2d DCA 2013)**
The mother appealed a final judgment of injunction for protection against domestic violence which had been issued to prevent contact between her and her 14-year-old daughter. The parents had been divorced for several years, and the injunction was brought by the child's father. The daughter had sent a letter to her father saying that her mother was abusing her, and the father filed the petition for an injunction on the daughter's behalf. The child did not testify at the hearing, and the only evidence offered to support the petition was the father's vague testimony based upon the letter, and a doctor's statement that, based upon his meeting with the child, he had concerns for the child's safety. The court accepted the doctor's testimony even though the mother was never provided an opportunity to properly explore the basis of the doctor's alleged expertise. The mother denied the abuse, and the letter was not admitted into evidence. The mother argued that there was not competent, substantial evidence to support the trial court's decision to issue the injunction. The appellate court agreed and reversed the order, stating that the father's testimony, which was based upon the daughter's alleged hearsay statements and his unsubstantiated fear, and the doctor's testimony, which was based on the father's hearsay statements, did not amount to competent, substantial evidence supporting the issuance of the injunction. The court also noted that the doctor was never properly qualified as an expert in domestic violence.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2013/July/July%2003,%202013/2D12-3339.pdf

***Goudy v. Duquette*, 112 So. 3d 716 (Fla. 2d DCA 2013)**
A dance team coach obtained an injunction for protection against repeat violence against a dancer's parent and the parent appealed. The court held that most of the alleged incidents involved contact that served legitimate purposes and were "not sufficient to cause a reasonable person emotional distress." Since there was no "repeated harassment or malicious following there was no proof of stalking, and without stalking there was no proof of repeat violence," and the court reversed the injunction.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2013/May/May%2008,%202013/2D12-1593.pdf

***Bacchus v. Bacchus*, 108 So. 3d 712 (Fla. 5th DCA 2013)**
The husband appealed an order that extended a temporary injunction against domestic violence for one year. The court reversed and noted that the purpose of extending a temporary injunction is to preserve the status quo until a final evidentiary hearing can be held. In this case, the temporary injunction was extended in lieu of a full hearing on a permanent injunction, which is not authorized by the Florida Statutes. The court also noted that there was not enough evidence presented to support issuing a permanent injunction, however, since the wife was limited by the court in her ability to present evidence, the case was remanded for a full hearing.
http://www.5dca.org/Opinions/Opin2013/022513/5D12-1939.op.pdf

***Hernandez v. Silverman*, 100 So. 3d 272 (Fla. 4th DCA 2012)**
The appellant filed a petition for an injunction against domestic violence against her ex-fiancé. However, at the evidentiary hearing, the trial court determined that the allegations were insufficient and denied the petition without conducting a full evidentiary hearing. The appellate court reversed and remanded the case for a full evidentiary hearing. The court also noted that the allegations were pled with sufficient specificity and, depending on the evidence produced during the hearing, sufficient grounds could have existed to grant the injunction.
http://www.4dca.org/opinions/Nov%202012/11-14-12/4D12-1600.op.pdf

***Waddell v. Delorenzo*, 105 So. 3d 591 (Fla. 5th DCA 2012)**
The appellant appealed from the entry of a final judgment of injunction for protection against repeat violence, which prohibited him from having any contact with his neighbor. During the hearing, the appellee did not testify to a single act of violence against him; however, the trial judge still issued the injunction. Because the petitioner's evidence was legally insufficient to support the entry of a repeat violence injunction, the appellate court reversed.
http://www.5dca.org/Opinions/Opin2012/122412/5D12-2100.op.pdf

***Strogis v. Mutty*, 91 So. 3d 259 (Fla. 5th DCA 2012)**
The respondent appealed a final judgment of injunction for protection against repeat violence-no hostile contact. She asserted that the trial court erred by denying her motion to dismiss the petition because the petition failed to meet the legal requirements of section 784.046(4)(a), Florida Statutes. She also argued that there was not competent, substantial evidence in the record to establish the predicate two acts of violence. The facts underlying this proceeding involve long-standing animosity between the two parties and both acts of violence alleged during the hearing involved brief shoving or punching at crowded off-campus parties. The evidence offered at the hearing as to whether the contact was intentional or which of the two young women was the aggressor was in complete conflict. The appellate court found no merit in the appellant's claim of reversible error based on the legal insufficiency of the petition, and that the testimony was legally sufficient to support the trial court's decision, and affirmed the lower court's decision.
http://www.5dca.org/Opinions/Opin2012/062512/5D11-3392.op.pdf

***Williams v. Williams*, 89 So. 3d 301 (Fla. 5th DCA 2012)**
The respondent appealed a final judgment of injunction for protection against domestic violence. The appellate court reversed and remanded the case for dismissal because "the trial court never made a finding of domestic violence-and because petitioner did not present evidence that could support a finding that she had been a victim of domestic violence or was in imminent danger of becoming a victim of domestic violence."
http://www.5dca.org/Opinions/Opin2012/060412/5D11-217.op.pdf

***Giddens v. Tlsty*, 87 So. 3d 843 (Fla. 1st DCA 2012)**
The appellant appealed a final injunction for protection against repeat violence. "The trial court made no findings of fact and therefore did not explicitly find two incidents of violence or stalking" as required by section 784.046(1)(b), Florida Statutes. Because the final injunction was not supported by competent, substantial evidence, the appellate court reversed.
http://opinions.1dca.org/written/opinions2012/05-23-2012/11-2941.pdf

***In re N.F.*, 82 So. 3d 1188 (Fla. 2d DCA 2012)**
A mother's parental rights were terminated, and the appellate court reversed. She had missed a hearing and a visitation and had been arrested for domestic violence against her boyfriend. The appellate court noted that her single act of domestic violence (pushing her boyfriend) was not a failure to "substantially comply" with her DCF case plan when there was no allegation that the child witnessed or was harmed by the incident, especially when all contact between the mother and her daughter was cut off by the court prior to the incident. In addition, the case manager testified in court that the mother had completed all of her assigned tasks and could not offer or identify any facts that supported the allegation of child abandonment by the mother. The appellate court stated that DCF's position, on which the trial court based termination, "amounted to nothing more than parroted statutory phrases and bald incantations of buzz words. Such conclusory assertions, devoid of factual support, were not competent substantial evidence—let alone clear and convincing evidence—of anything."
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/March/March%2016,%202012/2D11-2320.pdf

***C.S., ex rel. D.A.S. v. T.S.P., ex rel. A.M.P.*, 82 So. 3d 1132 (Fla. 2d DCA 2012)**
A former boyfriend's single act of sitting on the petitioner's front porch and running away when the petitioner's mother pulled up to the house was not a sufficient act of stalking even though the petitioner testified she felt as if she was being stalked and was "in constant fear knowing that he could be anywhere . . . waiting . . . to grab [her] and potentially do physical harm to [her]." The appellate court reversed the circuit court decision that granted a permanent injunction for protection against dating violence because neither the allegations nor evidence supported petitioner's entitlement to an injunction. There was no evidence that the former boyfriend/respondent had ever been violent or threatening toward her.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/March/March%2007,%202012/2D10-4451.pdf

***S.S. v. Department of Children and Families*, 81 So. 3d 618 (Fla. 1st DCA 2012)**
An order of dependency based on a finding of substantial risk of impending harm to the children was reversed where there was no showing that domestic violence occurred when the children were home, or that they were aware of the violence. The evidence of abuse of alcohol and illegal substances was found to be unsubstantiated and insufficient to prove that the mother's ability to care for her children or maintain employment was impaired, especially when the children appeared to be cared for and there was no testimony that they suffered physical, mental, or emotional harm because of the mother's alcohol and drug use.
http://opinions.1dca.org/written/opinions2012/03-09-2012/11-5977.pdf

***Achurra v. Achurra*, 80 So. 3d 1080 (Fla. 1st DCA 2012)**
The wife filed a petition for an injunction for protection from domestic violence against her husband. The trial court issued an ex parte temporary injunction and scheduled an evidentiary hearing, and the husband filed a response denying the material allegations in the petition. During the hearing, the wife's counsel asked the court to take judicial notice of a previous dissolution of marriage proceeding to avoid presenting redundant testimony. The circuit judge stated that he had retained his notes of the dissolution proceeding and announced his intent to review the other file and to allow the transcript from the earlier proceeding to be filed in the injunction case. The respondent neither objected to the request to take judicial notice nor complained of a lack of prior notice. At the close of the domestic violence hearing, the court ordered that the temporary injunction would remain in effect until all pertinent investigations were concluded, but made no oral findings of fact to support his ruling. Subsequently, a different circuit judge issued a final judgment of injunction against domestic violence, and the husband appealed, claiming that the final judgment was not supported by competent, substantial evidence.

The appellate court noted that the petitioner had the initial burden to prove entitlement to relief, and in this case she presented no evidence at the petition hearing. The record also showed no proof that the trial court ever received and considered a copy of the transcript from the dissolution proceedings of which it agreed to take judicial notice. The court stated that "[j]ust as the petitioner has the right to allege and prove the grounds for injunctive protection at a full and fair evidentiary hearing, the respondent is entitled to a fair hearing and protection from the effects of a final judgment of injunction that lacks any evidentiary support." Since the record was deficient of any proof to support the petitioner's allegations, the court reversed.
http://opinions.1dca.org/written/opinions2012/02-17-2012/11-2126.pdf

***S.C. v. A.D.*, 67 So. 3d 346 (Fla. 2d DCA 2011)**
The district court reversed an injunction for protection against domestic violence against the appellant (the former boyfriend of the petitioner's mother), stating that the record did not support a finding that the appellee/petitioner was in imminent danger of becoming the victim of an act of domestic violence. In 2004, a family altercation resulted in criminal charges against the appellant and the issuance of two injunctions, one in favor of the appellee and one in favor of her mother. In 2008, for reasons not explained in the record, the trial court dismissed the injunction issued in favor of the mother but kept in effect the injunction for protection of the daughter, up to the date of the hearing that resulted in entry of the more recent injunction at issue in the appeal. Subsequently, the mother and the appellant separated and the

appellant went to Iraq. When the daughter discovered that the appellant had returned to Florida, she filed a new petition for injunction. The daughter's reasons for the new petition were: (1) her incorrect assumption that the existing injunction for her protection was no longer in effect; (2) her incorrect assumption that the appellant was not allowed to contact his son; and (3) that she did not want the appellant to involve her in his attempt to see his son, something he had not attempted to do. The trial court, noting confusion regarding the existing injunction's status, issued a new injunction, acknowledging that it was "duplicative." The trial court noted that the appellant had been found guilty of a misdemeanor battery arising out of the 2004 altercation and indicated that its decision was based in part on that fact. Finding no competent, substantial evidence in the record to support the issuance of the new domestic violence injunction, the district court reversed. The district court stated that the case had been "driven by misinformation" and that there was no legal support for the issuance of the duplicative injunction.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/July/July%2015,%202011/2D10-953.pdf

***Horne v. Endres*, 61 So. 3d 428 (Fla. 1st DCA 2011)**
The district court reversed a no-contact order stating that neither section 784.046(2), Florida Statutes (2009), nor any other statute authorized a no-contact order, and "even courts of general jurisdiction are without plenary power to enjoin citizens to remain on good behavior." The district court stated that the order appeared to recognize that proof of the parties' interactions fell short of a showing that would warrant an injunction against repeat violence under section 784.046(2), Florida Statutes (2009). The district court stated that the appellee did not prove a single instance of "violence" within the meaning of section 784.046(1)(a). The first incident occurred in a shopping center parking lot. As appellant, a sheriff's sergeant, started to leave, his truck came close to the appellee, and she "hit his truck while pushing forward to prevent from being run over." The appellant then stopped, jumped out of his truck, and yelled at her, "Don't you ever hit my _____ truck" and yelled to her ex-husband "Keep your dog on a leash." The second incident occurred in the office of the middle school the parties' sons attended. The appellant, in uniform, told the appellee "you're going to have charges coming your way," and "you don't know who you're messing with." The trial court found that, given the first incident, the appellee's "fear and resulting emotional distress stemming from [the incident at the school] were reasonable." But the district court stated that the trial court made no findings that the appellant threatened to do the appellee violence or that he intentionally touched or harmed her during the first incident. As to the second incident, the district court stated that the appellant's harsh statements "were not accompanied by any act that would create a reasonable fear that violence was imminent, and neither statement threatens violence, even implicitly." The district court held that, absent proof of statutory prerequisites, it could not affirm the order as being, in effect, an injunction against repeat violence.
http://opinions.1dca.org/written/opinions2011/04-15-2011/10-4038.pdf

***Power v. Boyle*, 60 So. 3d 496 (Fla. 1st DCA 2011)**
These consolidated cases involved permanent injunctions against repeat violence between arguing neighbors. The trial court granted temporary injunctions and entered four separate permanent injunctions. In explaining its decision to enter the injunctions, the trial court recognized that "this case does not fall within the purview of our most ordinary uses of [§ 784.046]," but the court reasoned that an injunction is necessary "to keep the peace" between the parties and that the circumstances of this case "fall within the broader purview of the statute" because of the harassing nature of the incidents. The respondents argued that the evidence presented at the hearing was legally insufficient to support the injunctions. The appellate court noted that two incidents of violence or stalking were required for an injunction under section 784.046, and the incidents must be supported by competent substantial evidence. In this case, the incidents described by the petitioners were legally insufficient because they did not rise to the level of violence or stalking under section 784.046, and as to one of the respondents, did not even establish the existence of two incidents as required by the statute. The appellate court therefore reversed and remanded the case for the trial court to vacate the injunctions.
http://opinions.1dca.org/written/opinions2011/04-21-2011/10-6437.pdf

***Singletary v. Greever*, 62 So. 3d 700 (Fla. 2d DCA 2011)**
The district court reversed an injunction against repeat violence, stating that the record did not support a finding of two incidents of violence as required by section 784.046(2), Florida Statutes (2009). The appellee's petition for injunctive relief alleged two incidents of violence. The first involved an incident outside her house in which the appellant was asked to leave because the appellee "did not like him." The district court stated that there was no evidence that appellant had any contact with the appellee or made any threats against her. The second incident occurred at a credit union where the appellant, in a conversation with a third party, allegedly made a veiled gun threat against the appellee. The district court stated that "the incident at the credit union did not involve a threat of violence that amounted to an assault because there was no overt act demonstrating that the violence was imminent" and that "the repeat violence was not supported by competent, substantial evidence," and thus reversed and remanded for the trial court to vacate the injunction.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2011/June/June%2010,%202011/2D10-931.pdf

***Randolph v. Rich*, 58 So. 3d 290 (Fla. 1st DCA 2011)**
The appellant appealed the final judgment of injunction for protection against domestic violence entered against him based on the petition of his former wife. The appellate court reversed, stating: "In order for the trial court to issue an injunction for protection against domestic violence, the party seeking the injunction must establish that he or she has an objectively reasonable fear that he or she is in 'imminent danger of becoming the victim of any act of domestic violence.' . . . In evaluating these issues, the trial court must consider the behavior of the party against whom the injunction is sought in the context of the current threats and the parties' relationship and its history." The court also noted that "the law requires more than general relationship problems and uncivil behavior to support the issuance of an injunction. . . . Rather, the law requires that the party seeking the injunction must present sufficient evidence to establish the objective reasonableness of his or her fear that the danger of violence is 'imminent.'" Although the testimony revealed much bad behavior, the evidence did not rise to the statutory standard and the appellate court reversed because the petition was legally insufficient to support the injunction.
http://opinions.1dca.org/written/opinions2011/02-16-2011/10-5711.pdf

***Schiffman v. Schiffman*, 47 So. 3d 925 (Fla. 3d DCA 2010)**
The district court reversed the trial court's order dismissing a breach of contract action. The trial court's dismissal was based on a sua sponte determination that no justiciable issues existed and that the matter should be resolved in domestic violence court. In a subsequent order denying rehearing, the trial court justified its dismissal on three grounds: first, that the underlying complaint failed to state a proper cause of action; second, that the settlement agreement at issue was never ratified or adopted by a court; and third, that a previous dismissal for lack of prosecution barred consideration of the instant action under principles of res judicata. The district court reversed, holding that none of these grounds warranted dismissal and, at a minimum, the underlying complaint alleged a cognizable claim for breach of contract.
http://www.3dca.flcourts.org/Opinions/3D09-2326.pdf

***Polanco v. Cordeiro*, 67 So. 3d 235 (Fla. 2d DCA 2010)**
The respondent appealed a final judgment of injunction against repeat violence entered in favor of the petitioner. At the hearing on the petition, the petitioner testified that the respondent harassed and stalked her, but could not describe specific instances that fell within the statutory definition of repeat violence or stalking. The court noted that the trial judge's findings that the parties were very emotional and hostile toward each other were insufficient to support an injunction against repeat violence as provided for in section 784.046(2), Florida Statutes. Because the petitioner failed to prove any acts of violence or stalking, the court reversed the trial court's decision.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/September/September%2022,%202010/2D09-2998.pdf

***Jones v. Jones*, 32 So. 3d 772 (Fla. 2d DCA 2010)**
The respondent appealed an order granting a final injunction for protection against domestic violence. Because the petitioner did not present competent, substantial evidence to support a finding that she possessed an objectively reasonable fear of imminent domestic violence, the appellate court reversed. The respondent "had sought items to which he was ensured access under the divorce decree. Viewed in the context of the parties' relationship, [the respondent's] appearance at [the petitioner's] place of employment-following his . . . custody visit-could not reasonably be interpreted as a threat of violence."
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/April/April%2030,%202010/2D09-351.pdf

***Muse v. Muse ex rel. Muse*, 27 So. 3d 232 (Fla. 2d DCA 2010)**
The respondent appealed from a final judgment of injunction for protection against domestic violence with minor children. The appellate court held that the trial court's record did not contain any evidence that would have permitted the requisite finding that the minor children were "in imminent danger of becoming a victim of domestic violence." The petitioner "did not present any sworn testimony or evidence, and the unsworn assertions that provided the basis for his motion can only be characterized as his subjective fear that "something bad might happen" to his children because of [the respondent's] alleged relationships with third parties. His subjective fear is insufficient to warrant the entry of an injunction under section 741.30," Florida Statutes.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2010/February/February%2017,%202010/2D08-3372.pdf

***Malchan v. Howard*, 29 So. 3d 453 (Fla. 4th DCA 2010)**
The respondent appealed an injunction entered against him for protection against domestic violence because the injunction was based on a disputed event that occurred three years earlier. The petitioner alleged that in 2005, the respondent punched a wall in their home, pushed the petitioner into a wall, tried to choke her, and told her that he was going to kill her. There were no allegations of recent violence or threats of violence. The trial court granted the injunction and ordered the respondent to attend a 13-week anger management program. The appellate court noted that an order imposing a permanent injunction will be affirmed absent a showing of abuse of discretion, but it reversed the trial court because the petitioner "failed to present sufficient evidence that she had a reasonable fear of imminent danger of domestic violence. Her only basis for requesting the injunction was a disputed incident three years before and a subjective fear that her anticipated request for child support might cause [the respondent] to become angry." The appellate court also recognized that the respondent's current behavior consisted of civility between the parties in determining visitation and child support issues. Therefore, the facts did not support an objective reasonable fear of imminent violence. The appellate court reversed and remanded the case to the trial court to vacate the injunction.
http://www.4dca.org/opinions/Mar%202010/03-10-10/4D08-3584.op.pdf

***Reiss v. Reiss*, 17 So. 3d 849 (Fla. 3d DCA 2009)**
After an evidentiary hearing, the trial court concluded that it did not have just cause to issue an injunction because the evidence was insufficient under section 741.30, Florida Statutes. The Third District noted that the record revealed two "very different" accounts of the incidents alleged, and that the trial court had to weigh evidence, determine credibility, and resolve conflicts in the evidence. Because there was ample support in the record for the trial court's decision, the district court did not find that the trial court abused discretion. The district court pointed to cases holding that the trial court has broad discretion in ruling on injunctions and that a trial court's ruling will not be overturned unless there is abuse of discretion.
http://www.3dca.flcourts.org/Opinions/3D08-2847.pdf

***Smith v. Melcher*, 975 So. 2d 500 (Fla. 2d DCA 2008)**
An alleged stalker appealed the entry of a permanent injunction against repeat violence in favor of the appellee. The appellee stated that she had been a victim of repeat violence based on two acts committed by the appellant on two different days. At trial, the appellee testified that on the first date, the appellant made harassing statements that were directed at her. The second incident occurred while the appellee

and her children were in an enclosed area of a restaurant; she saw the appellant circling the restaurant and shaking his head and pointing at her. The police were summoned to the scene, and at trial testimony was presented that the appellant came close to becoming disorderly when questioned by the officer. Based on these two incidents, the trial court found just cause to enter the injunction. On appeal, the court found, without discussion, that there was sufficient evidence to support the trial court's finding that the first act constituted harassment as defined by the statute. However, the district court did not find that the second act was supported by competent substantial evidence to rise to the level of a "repeat" act of violence. Nor did the trial court find that this was an assault, because the appellant had no apparent ability to cause harm from his car while the appellee was inside the restaurant. Moreover, the appellant's interaction with the police officer, intimidating as it may have been for the appellee to witness, did not constitute a threat to her. Since two acts of violence are necessary to obtain an injunction for protection against repeat violence and the record only supported that one had occurred, the district court reversed and remanded with instructions to vacate the injunction.

***Tejeda-Soto v. Raimondi*, 968 So. 2d 635 (Fla. 2d DCA 2007)**
The appellant couple, neighbors of the appellees, appealed the entry of repeat violence permanent injunctions entered against them, arguing that they were not given the opportunity to properly present their case. At trial, the court simply heard opening statements from both sides before interrupting to state that this was a situation in which a permanent injunction was appropriate. The court heard from no witnesses and admitted no evidence. The district court found that the appellants were denied procedural due process when they were not allowed to present evidence and provide witness testimony. The final judgments were reversed, and the cases were remanded for full evidentiary hearings. Additionally, the appellants' counsel was not permitted to present a motion to dismiss based on the insufficiency of the petition. The district court stated that the appellants should be allowed to make that argument on remand.
http://www.2dca.org/opinion/October%2026,%202007/2D06-3107.pdf

***Morrell v. Chadick*, 965 So. 2d 1277 (Fla. 2d DCA 2007)**
The appellant, the former supervisor of the appellee, appealed the final order for protection against sexual violence entered against him, citing insufficient evidence. During the majority of the appellee's year-long employment, the parties were engaged in a sexual relationship that allegedly ended a month *after* her resignation. The appellee filed a petition for protection against sexual violence two months after ending the relationship, alleging that she was harassed and forced to have sex against her will while employed and that she submitted to the appellant's demands because she feared losing her job, and that the appellant continued to contact her at her home, work, and cellular phone numbers and threatened to blackmail her. At trial, the appellant moved to dismiss because the petition was insufficient under the sexual violence statute; the appellee had failed to cite specific instances when she was pressured to have sex or the appellant was physically violent toward her but testified that the main impetus for her filing was the appellant's phone calls, none of which contained any threats of violence or requests for sex, and which went unanswered. The appellant argued that the two had been involved in a consensual sexual relationship. The court denied the motion to dismiss, citing that the petition stated a case for stalking, and granted the injunction. The record and the final judgment were contradictory in that the basis for the injunction (stalking) was not an enumerated basis under the relevant statute for sexual violence. Therefore, the appellate court reversed, stating: "The trial court apparently astutely recognized the flaw in [appellee's] allegations of sexual violence and orally stated that the evidence of [appellant's] numerous telephone calls supported a finding of stalking. However, [appellee] had filed a petition for injunction for protection against sexual violence, and the statutory definition of 'sexual violence' contained in section 784.046(1)(c) does not include stalking. [Appellee] did not amend her pleadings, and this issue was not tried by consent. Moreover, the trial court entered the final judgment on the standard form used for injunctions for protection against sexual violence, and the final judgment did not include any findings regarding stalking. Absent amendment of the pleadings or trial by consent, the trial court cannot enter an injunction on grounds of violence different from the ground alleged by the petitioner. . . . Dismissal of the petition without prejudice for [appellee] to refile or amend her petition was the appropriate remedy."

***Seffernick v. Meriwether ex rel. Meriwether*, 960 So. 2d 851 (Fla. 2d DCA 2007)**
The mother appealed entry of a nine-month injunction against her on behalf of the parties' 15-month-old child. The father took the child after an apparent suicide attempt by the mother that occurred in front of the child, and the mother tried to take him back. The father called the police and the mother agreed to be taken to the hospital, where she was Baker-acted. The trial court entered the permanent injunction. On appeal, the court found that these actions did not meet the statutory definition of domestic violence and reversed. No evidence was presented that the child was in "imminent danger" since the mother was in the hospital when the petition was filed. While the district court understood that the trial court was in a difficult position, it stated that the domestic violence proceeding was not the proper forum to address the child's safety. The father could have initiated a paternity action or sought custody. The court also mentioned the fact that until those proceedings were underway, the father was, "by law, a stranger to the child." The district court held that the permanent injunction was entered in error by the trial court.
http://www.2dca.org/opinion/July%2006,%202007/2D06-4585.pdf

***Slack v. Kling*, 959 So. 2d 425 (Fla. 2d DCA 2007)**
An alleged stalker appealed the entry of a permanent injunction against repeat violence on the ground that there was no evidence establishing the acts necessary to satisfy the statutory criteria for an injunction. At the trial, the appellee testified about two calls he received from the appellant that "served no legitimate purpose." The appellee testified that the appellant left two messages stating that if the appellee did not stay away from the appellant's wife, the appellant "would make an 'arrangement.'" The district court found that nothing in the record rose to the level of harassment that would cause a reasonable person substantial emotional distress. Additionally, the acts described did not exhibit "a course of conduct involving a series of acts over a period of time" to establish stalking. Therefore, the district court found that the trial court erred in granting the injunction and reversed its decision.

***Oettmeier v. Oettmeier*, 960 So. 2d 902 (Fla. 2d DCA 2007)**
The husband appealed entry of a permanent injunction granted in favor of his wife "[b]ecause the evidence presented failed to show that [the wife] had an objectively reasonable cause to believe that she was in imminent danger of becoming the victim of an act of domestic violence." After the husband had moved out of the house, the wife found a gun (which turned out to be a BB gun) in the closet that she believed the husband had purchased to harm her. That, in conjunction with discovering that her husband had returned to the house and "broken in" with the help of a locksmith, prompted her to file for a temporary injunction. Her petition stated that he left angry messages and notes at her home, had spit on her face and pushed her away when she attempted to show affection nine months earlier, was a heavy drinker, and had insisted that he would make her life miserable if she would not buy him out. No allegations were made that the husband ever physically harmed or verbally threatened to harm the wife. At the hearing, the wife reiterated the allegations and added that the husband at some time during the relationship requested that she commit suicide with him. The trial court entered the injunction based on the wife's fear of imminent harm. The appellate court held that the incidents described by the wife did not support a reasonable fear that domestic violence was imminent. The court stated that "if fear alone is the 'reasonable cause' alleged to support the injunction, then not only must the danger feared be imminent but the rationale for the fear must be objectively reasonable as well." Without objective reasonableness, the wife's belief was just unsubstantiated speculation. The court found that the facts alleged in this case summed up the course of a relationship that eventually deteriorated, but they did not set forth the basis for a permanent injunction. The district court reversed and entered an order to vacate the permanent injunction.
http://www.2dca.org/opinion/July%2006,%202007/2D06-4585.pdf

***Costanzo v. Costanzo*, 941 So. 2d 1211 (Fla. 3d DCA 2006)**
The appellant brother appealed the circuit court's order that denied his renewed motion for dissolution of the injunction issued to the appellee sister. Additionally, the trial court granted the sister's motion to show cause why the brother should not be held in contempt for violating the injunction. On appeal, the brother argued that his sister was never entitled to a domestic violence injunction because she does not fall within one of the categories of protected persons since they had not lived together for several years. Relying on

a case with a similar contention by an appellant, which held that a sibling can be granted a permanent injunction despite not having lived with the other sibling for 40 years, the district court rejected the brother's argument and found that the sister could be afforded the protections of a domestic violence injunction. *See* *Rosenthal v. Roth*, 816 So. 2d 667 (Fla. 3d DCA 2002). Moreover, the brother argued that the sister failed to assert sufficient allegations of violence in the petition. The appellate court disagreed and held that the brother's verbal threats of physical harm and the act of placing her in a headlock were sufficient to satisfy the statute. In regard to the motion to show cause, the brother's admissions at the trial level were sufficient to find he violated the injunction. Therefore, the district court affirmed the circuit court's ruling, and the permanent injunction remained in effect. The court reiterated that, although to obtain an extension of a domestic violence injunction the movant must present evidence of a continuing reasonable fear, here the sister had not moved to extend the injunction; rather, the brother had sought to dissolve it.

***Spano v. BB by and through Bruce*, 947 So. 2d 635 (Fla. 3d DCA 2007)**
A 16-year-old sought a domestic violence injunction against her mother, and the trial court granted such relief. The appellate court, in an opinion with no recitation of the facts, reversed the trial court, stating that the minor had no reasonable basis to believe that she was in imminent danger. The district court further cautioned that "domestic violence proceedings should not be allowed to become the primary forum in which custody, visitation and support issues are litigated." Those matters should be handled by the family courts.

***In re L.C.*, 947 So. 2d 1240 (Fla. 2d DCA 2007),** and **947 So. 2d 1247 (Fla. 2d DCA 2007)**
A mother and father appealed the circuit court's adjudication of their minor children as dependent as to both of them. The circuit court based its finding of dependency on the fact that "the mother and the father engaged in domestic violence in the presence of the children" and that this placed the children at risk of abuse and neglect. The district court found that of the alleged incidents, all but one occurred before the birth of the children. Including a shooting incident dating back to 1997, all these incidents were too remote in time and did not involve the children, thus failing to support an adjudication of dependency. The court also reviewed the incident of violence that occurred after the children's births wherein the father sought a domestic violence injunction against the mother for an incident in which hot coffee was tossed on him while he was driving. The trial court did not find credible the father's claim that the incident did not occur in front of the children (he stated he checked the wrong box on a form). Nevertheless, the appellate court found that the incident could not support the dependency adjudication since it was based on hearsay and did not meet the requirements of any exception. Because the father's previously filed injunction was DCF's only evidence as to his involvement in any domestic violence, and he had filed the petition as the victim, the district court reversed the adjudication of dependency as to the father. With respect to the mother, DCF argued that the mother failed to protect the children when she allowed them to be around a father with violent tendencies and that violence occurred in front of the children. DCF failed to meet its burden of proof here as well; therefore, the adjudication of dependency as to the mother was also reversed.

***M.M. v. Department of Children and Families*, 946 So. 2d 1287 (Fla. 4th DCA 2007)**
A mother appealed an adjudication of dependency of her child as to her for failure to protect the child. The court found that the mother's failure to follow through with a restraining order against the father after the father had displayed violent behavior resulted in the mother's willfully putting the child in danger. Further, the mother prohibited the father from having contact with the child only after the father was arrested for two separate acts of violence against her. One incident involved him restraining her in the garage after an argument about divorce, and the other involved his breaking into the house while drunk. The appellate court found that the acts involving violence were committed outside the presence of the minor and were therefore insufficient. It reversed and remanded the order adjudicating the child dependent because it found that the mother's failure to extend the temporary injunction by not attending the hearing did not constitute imminent harm to the minor.

***Clement v. Ziemer*, 953 So. 2d 700 (Fla. 5th DCA 2007)**
The appellant neighbor appealed the trial court's order of a final injunction against repeat violence resulting from appellee neighbor's petition. The parties were in a dispute over an easement on the appellee's property that gives the appellant access to a lake. Among the multiple acts that the appellee cited in her initial petition, the appellant allegedly cut down trees on the easement, drove past the appellee's home several times, and "terrorized" the neighborhood. Upon review of the transcript of the hearing by the district court, the court determined that the hearing was disorganized and one-sided. While the appellee was allowed ample time to put on her case, the appellant's attorney was cut short in attempts to respond to allegations, and many of his objections were simply ignored. Even after the appellant's attorney mentioned the lack of opportunity to put on his case, the court cut him off and cautioned him not to start "playing games like that with me." The appellant argued that he was denied procedural due process because the judge hearing his case was not impartial and because he was not allowed to present his case in defense of these allegations; the district court agreed with the appellant. Aside from finding that the appellant did not receive due process, the court found that the appellee was not even entitled to an injunction, for she did not prove two acts of violence supported by competent, substantial evidence as required by the statute to qualify for a repeat violence injunction. In the instant case, there were no overt acts stated that would indicate the appellant's ability to carry out the alleged threats. Therefore, the court reversed and remanded with instructions to vacate.

***Jackson v. Echols*, 937 So. 2d 1247 (Fla. 3d DCA 2006)**
The district court affirmed an order for a permanent injunction against domestic violence where the appellant contended the court abused its discretion by issuing the injunction when the parties no longer resided together. Even though the hearing was recorded pursuant to Florida law, the transcript was unavailable on appeal, and the statement of evidence was neither timely submitted nor stipulated to. Without the benefit of the transcript, the court looked to whether the petition, on its face, satisfied the requirements for a permanent injunction. The appellant contended that the petition was insufficient because it stated that the violence occurred when the parties were no longer residing together and that the relationship between the parties was that of an "ex live-in" boyfriend/girlfriend. The district court affirmed, finding that (1) without the transcript or statement of evidence, the court must presume that the trial court acted within its broad discretion; (2) an "ex live-in" boyfriend/girlfriend relationship satisfies the requirement that the parties must have resided together "as if a family" under the domestic violence statute; and (3) violence between the parties need not have occurred while the parties were living together to satisfy the requirement for a permanent injunction against domestic violence.

***In re K.B.*, 937 So. 2d 709 (Fla. 2d DCA 2006)**
A father appealed an order of the trial court declaring his two children dependent as to him based on evidence that he and the mother got into an altercation in which he knocked her down several times, punched her in the chest, and kicked her in the legs in front of the children. Although the district court upheld the trial court's finding that domestic violence occurred in the presence of the children, there was no evidence the children suffered physical or mental injury as a result of witnessing the altercation, or that the father posed any current threat of harm to them. In order for the harm resulting from witnessing domestic violence to constitute abuse under chapter 39, Florida Statutes, the harm must pose a current threat to the child based on current circumstances. The mother testified that this was the only time the father had hit her, that they ended their relationship and were currently involved in other relationships, and that the situation that gave rise to the domestic violence no longer existed. Additionally, no evidence was presented that the father had ever engaged in inappropriate behavior toward children. The appellate court found that there was insufficient evidence that the children needed protection from the father. Accordingly, the trial court's finding of dependency was reversed.

***T.S. v. Department of Children and Families*, 944 So. 2d 1049 (Fla. 4th DCA 2006)**
A father appealed an order that determined his three children were at imminent risk of being abused, abandoned, and neglected, and withheld adjudication of dependency. The trial court based its finding on ongoing domestic violence between the parties, citing specifically the mother's two applications for domestic violence injunctions and an incident in which the father had kicked or thrown a chair at the

mother's door and was combative when the police arrived. The district court reversed and remanded, noting that neither of the mother's petitions for domestic violence injunctions had resulted in issuance of restraining orders, and the allegations of domestic violence had not been substantiated. Evidence of one incident in which the father kicked a door did not support a finding that domestic violence had occurred. Since the record did not contain evidence establishing an ongoing pattern of domestic violence to support a finding of prospective harm and dependency as to the children, the trial court erred by declaring the children dependent.

***Sorin v. Cole*, 929 So. 2d 1092 (Fla. 4th DCA 2006)**
"Mere shouting and obscene hand gestures, without an overt act that places the victim in fear, does not constitute the type of violence required for [a repeat violence] injunction." The appellate court found merit in the appellant's argument that the petition for protection against repeat violence was deficient because it did not allege two incidents of violence as required by section 784.046, Florida Statutes. The petitioner asserted in the petition that she had a falling out with the respondent and that the respondent told her that she would be back for more because she was not finished with her. The court found that although the respondent's comments may have placed the petitioner in fear, "there was no overt act, ability to carry out the threat, or justifiable threat of imminent harm." In addition, the respondent argued that the injunction was erroneously entered without an evidentiary hearing. The record showed there was a hearing and the respondent failed to appear.

***D.P. v. Department of Children and Family Services*, 930 So. 2d 798 (Fla. 3d DCA 2006)**
After three years of investigation by DCF, the mother's parental rights were terminated after a domestic violence incident between her and her mother, the child's grandmother. While the mother had been mostly compliant with the case plan, she continued to have alcohol abuse problems, which led DCF to take custody of the child. The trial court held that due to the domestic violence and substance abuse, the mother could not provide and care for the child. The district court reversed, holding that substance abuse is not enough to terminate parental rights and that the child was not present during the domestic violence incident with the grandmother; therefore there was no nexus between the conduct and the harm to the child.

***Sharp v. Sharp*, 923 So. 2d 1283 (Fla. 4th DCA 2006)**
The appellant mother challenged a nonfinal order of a denial of a petition for injunction against domestic violence, which she filed on behalf of her minor child against the child's father. The trial court's finding was affirmed by the district court because, although the child was suffering from emotional problems that could have resulted from the father's behavior, there was insufficient evidence that the child was a victim or was in imminent danger of becoming a victim of domestic violence as required by section 741.30(6)(a), Florida Statutes. The mother was not precluded from seeking other remedies through modification or a dependency proceeding against the father.

***Santiago v. Towle*, 917 So. 2d 909 (Fla. 5th DCA 2005)**
The trial court entered a permanent injunction for protection against repeat violence based on evidence from three separate incidents involving neighbors in a dispute over a fence. The appellate court reversed, finding that the record did not support a finding of two incidents of violence or stalking as required by the applicable statute. While the activity that involved the throwing of liquid could qualify as "violence" if proven, no evidence was presented to support that claim. The second incident, which involved a hand gesture and obscenities, was not violence as defined by statute, and the third incident, in which the neighbor said he had a gun and was not afraid to use it, would "not constitute an act of violence, unless there is an overt act indicating an ability to carry out the threat or justifying a belief that violence was imminent."

***Bond v. Bond*, 917 So. 2d 268 (Fla. 5th DCA 2005)**
The trial court erroneously declined to exercise jurisdiction when a father, on behalf of his minor children, filed petitions for injunction for protection against domestic violence against the children's grandparents. The trial court had issued a temporary hearing, but at the commencement of the hearing to decide the

next course as to the injunction, the court terminated the hearing without allowing the petitioner to demonstrate that the cases were properly within the court's jurisdiction, because it did not see how the parties came within the applicable statute since they did not currently reside together. The petitioner's response that the parties "used to" live together should have been sufficient for the court to allow the petition for domestic violence to continue. Instead, the trial judge abruptly dismissed the petitions. The district court reversed and remanded to afford the petitioner the opportunity to demonstrate that the cases were properly within section 741.30(1)(e), Florida Statutes, under which a domestic violence injunction may be sought by "family or household members," which includes "persons who are presently residing together as a family or who have resided together in the past as if a family."

***In re D.A.D. II*, 903 So. 2d 1034 (Fla. 2d DCA 2005)**
Evidence of a father's participation in a murder-for-hire plot to kill his brother-in-law, coupled with the father's chronic drug abuse, alcoholism, lengthy criminal history, chronic abuse, and domestic violence, constituted "egregious conduct" and was sufficient evidence of the father's unfitness as a parent. The father's acts of domestic violence, directed at both children and the mother in the presence of the children, was abuse to the children.

***Wade v. Hirschman*, 903 So. 2d 928 (Fla. 2005)**
Unless a different standard is provided in the final judgment, a non-custodial party seeking modification of child custody must prove (1) a substantial, material change in circumstances, and (2) that a change of custody is in the child's best interests. The supreme court resolved a conflict among district courts, holding that the moving party need not show detriment to the child were custody not to be changed.

***Poindexter v. Springer*, 898 So. 2d 204 (Fla. 2d DCA 2005)**
Springer, a private investigator, filed an injunction against Poindexter, a prison inmate who had previously employed her. The trial court granted Springer a permanent injunction against repeat violence based on Poindexter's actions against Springer, which included filing a complaint against her with the licensing board, filing a small claims suit against her, sending her a letter threatening to sue her, and sending her an envelope containing three letters addressed to local attorneys intended to harass her. The district court reversed, holding that both the complaint to the licensing board and the filing of a small claims suit were constitutionally protected activity; that the letter threatening to sue was not in the record or in evidence and could not be considered; and that the mailing of three separate letters in one envelope constituted only one act and was insufficient to establish a course of conduct for stalking as required by section 784.048(1)(b), Florida Statutes (2002).

***Ravitch v. Whelan*, 851 So. 2d 271 (Fla. 5th DCA 2003)**
After the parties broke up, the petitioner and respondent communicated with each other via e-mail and voice messages. The petitioner testified that she saw the respondent at social events but that he never made eye contact with her. Thereafter, the respondent and his attorney wrote to the petitioner seeking repayment of a loan, to which the petitioner never responded, but less than two weeks later she filed for an injunction against repeat violence against the respondent. The petitioner alleged that the two qualifying acts were (1) her diary entry documenting stalking, and (2) her statement that the phone lines to her home were destroyed. Although the trial court concluded that the respondent had nothing to do with the phone lines, it entered a repeat violence injunction. The district court reversed, holding that none of the communications were found hostile or threatening, and nothing in the record demonstrated a basis for finding that a reasonable person would suffer substantial emotional distress from the incidents.

***Buerster v. Fermin*, 844 So. 2d 804 (Fla. 4th DCA 2003)**
It was error to enter a permanent injunction against repeat violence when the petitioner's own testimony established that only one act, if any, occurred. Although the petitioner testified that the respondent yelled and screamed at him daily for two and a half years, the district court found this insufficient to hold that the petitioner had a well-founded fear that violence was imminent as the petitioner admitted he was not in fear.

***Gianni v. Kerrigan*, 836 So. 2d 1106 (Fla. 2d DCA 2003)**
The trial court erred in entering a repeat violence injunction as the court found that only one act of violence, independent from phone calls the respondent made to the petitioner, actually occurred. The court held that the threatening phone calls by the respondent did not rise to the level of an assault as defined by the state. Additionally, the petitioner testified that he was not frightened by the calls. The decision of the trial court was reversed.

***Orr v. Koutsogiannis*, 829 So. 2d 962 (Fla. 4th DCA 2002)**
The trial court's decision was reversed. Threats made by the appellant, even after an act of violence, which were admittedly not taken seriously by the victim, were not sufficient to support a finding of an act of violence within the meaning of section 784.046, Florida Statutes.

***Long v. Edmundson*, 827 So. 2d 365 (Fla. 2d DCA 2002)**
The trial court erred in entering a permanent injunction for repeat violence after the original ex parte temporary injunction was denied, in a landlord-tenant case in which the tenant did not establish that the landlord committed two acts of violence. The only qualifying incident was one in which the landlord waved a gun and pushed the tenant. The second incident did not qualify as an act of violence when the landlord left a threat on the tenant's answering machine stating that if the tenant was not out by certain date, the landlord would "take care of you and your dog," and the tenant testified that the incident did not cause her any fear. The decision of the trial court was reversed. For an identical holding, see *Orr v. Koutsogiannis*, 829 So. 2d 962 (Fla. 4th DCA 2002).

***Darrow v. Moschella*, 805 So. 2d 1068 (Fla. 4th DCA 2002)**
The respondent appealed the lower court's order granting the petitioner's request for a repeat violence injunction. The respondent contended that because the incidents alleged in the petition occurred all at one time, they did not meet the definition set forth in that statute for repeat violence. The petitioner and respondent were on the same golf course when the incident occurred. Although there was a brief pause between parts of the physical confrontation, the appellate court held that the conduct did not constitute repeat violence under section 784.046, Florida Statutes, and reversed the trial court order.

***Gonzales v. Clark*, 799 So. 2d 451 (Fla. 5th DCA 2001)**
The petitioner requested an emergency writ of certiorari for review of two separate orders that denied her petition for an ex parte domestic violence injunction. The first order denied the petition without a hearing. The second order denied relief, holding that the first order, issued by a different judge, was controlling. The judge who issued the first order admitted error because the petitioner's allegations were sufficient to warrant the injunction. The district court quashed both orders and remanded the case to the first judge to issue a temporary injunction.

***Kopelovich v. Kopelovich*, 793 So. 2d 31 (Fla. 2d DCA 2001)**
The district court held that it was error for the trial court to grant an initial ex parte injunction and an amended temporary injunction against the respondent since the petitioner failed to establish an immediate or present danger, or threat of or actual domestic violence, in accordance with section 741.30(5), Florida Statutes (1999), and rule 12.610, Florida Family Law Rules of Procedure. In order to balance the respondent's due process rights against the harm sought to be prevented, the evidence supporting an ex parte injunction should be "strong and clear." Additionally, it was error to enter a permanent injunction when the petitioner amended her petition to include allegations sufficient to satisfy the statutory requirements but the petitioner's testimony at hearing still failed to satisfy the requirement that she had a "reasonable cause to believe she was in imminent danger of domestic violence." The trial court's decision was reversed and remanded.

***Giallanza v. Giallanza*, 787 So. 2d 162 (Fla. 2d DCA 2001)**
The trial court erred in extending the injunction against domestic violence against the respondent because the petitioner had not established sufficient facts. "The statutory definition of 'domestic violence' requires some showing of violence or a threat of violence. General harassment does not constitute

‘domestic violence’ under the statute.” Here, the petitioner never alleged any further actual violence or threats of violence or showed any fear of domestic violence. Rather, the record reflected that she was upset by the respondent’s dealings with their children and that she believed that he was using the children to harass her.

***Moore v. Hall*, 786 So. 2d 1264 (Fla. 2d DCA 2001)**
The trial court erred in finding that the verbal statement from the respondent saying “I should have killed her eleven years ago,” made to a process server, did not provide the petitioner with an objectively reasonable fear of imminent domestic violence at the hands of the respondent. A pushing incident that occurred 12 years earlier, along with a gift sent to the petitioner from the respondent containing a knife in the back of a statuette she had given him, may have given the petitioner a reasonable fear of imminent domestic violence sufficient to support the issuance of an injunction at that time. However, at the time of the injunction hearing, 12 years had passed without further violence or threats, despite continued litigation between the parties. The decision of the trial court was therefore reversed.

***Dudley v. Smith*, 786 So. 2d 630 (Fla. 5th DCA 2001)**
The district court held that it was error to enter an injunction against repeat violence prohibiting the party from boarding any bus driven by the other party, since there was insufficient evidence to support entry of the injunction. For an injunction for repeat violence, section 784.046(1)(b), Florida Statutes, “requires at least four incidents of harassment. . . . Repeat violence requires two incidents of ‘violence or stalking’ and stalking itself requires ‘repeated’ harassment.” In this case, the respondent followed the petitioner to lunch, sat at a table with her and tried to talk to her, and followed her back to the bus station. The respondent also boarded a bus driven by the petitioner and spoke to her in a manner she described as threatening. In addition, there was testimony that the respondent would write bus drivers’ tag numbers to discover where they lived. The district court held that, while this conduct is not condoned, the evidence was insufficient to support the injunction entered. Injunctions against repeat violence are important in appropriate cases, but they “should be carefully considered when such injunction restricts one from entering a public facility or from using a public conveyance.” The decision of the trial court was reversed.

***Chanfrau v. Fernandez*, 782 So. 2d 521 (Fla. 2d DCA 2001)**
The district court held that it was error to dismiss a permanent injunction against domestic violence when there was no motion, notice, or evidentiary hearing. “By dismissing the injunction without motion, notice, or evidentiary hearing, the court failed to afford appellant due process in this matter.” Additionally, the trial court erred in granting a counter-petition by the appellee without a hearing. A trial court is required to hold a full evidentiary hearing before entering a permanent injunction against domestic violence. § 741.30(5)(c), Fla. Stat. (1999). The trial court’s decision was reversed and remanded for further proceedings.

***McMath v. Biernacki*, 776 So. 2d 1039 (Fla. 1st DCA 2001)**
The respondent’s sending a letter and flowers to the petitioner does not meet the burden under the repeat violence statute. There was neither a verbal threat nor physical harm to the victim. According to the court, “[t]hese incidents do not show that the petitioner had a well-founded fear that violence was imminent.” Because these two incidents did not meet the statutory requirement for an injunction against repeat violence, the court was correct in refusing to grant the injunction.

***Cuiksa v. Cuiksa*, 777 So. 2d 419 (Fla. 1st DCA 2000)**
The district court held that the trial court did not abuse its discretion in denying a temporary injunction for protection against domestic violence when the allegations in the petition did not demonstrate the existence of an “immediate and present danger of domestic violence” as required by section 741.30(5)(a), Florida Statutes. Although the appellate court did not rule on the issue of whether the trial court erroneously dismissed the petition without a hearing, as no order doing so was provided as part of the case on appeal, the opinion noted that in accordance with section 741.30(5)(b), Florida Statutes, a hearing on the allegations of the petition would clearly be required before the case could be dismissed.

***Mossbrooks v. Advincula*, 748 So. 2d 382 (Fla. 3d DCA 2000)**
The district court reversed the entry of an injunction for protection against domestic violence because the evidence presented to the trial court of the alleged prior acts of violence was insufficient as a matter of law.

***Anderson v. McGuffey ex rel. McGuffey*, 746 So. 2d 1257 (Fla. 1st DCA 2000)**
The district court held that it was error for the trial court to enter an injunction for protection against repeat violence when no action of violence within the statutory definition was alleged either in the petition for injunction or at the hearing at which the parties testified.

***Farrell v. Marquez*, 747 So. 2d 413 (Fla. 5th DCA 1999)**
The district court held that it was error for the trial court to enter a permanent injunction for protection against domestic violence when no evidence was presented that the former husband had physically harmed or threatened the former wife and the facts alleged and proved did not support the conclusion that she had reasonable cause to believe that she was in imminent danger of becoming a victim of domestic violence. The testimony revealed four encounters that did not involve any physical harm or threat of harm. During the first encounter, the former wife discovered the former husband's parked car next to hers in the campus parking lot; however, there was no evidence the former husband was present at the time. Second, the former wife saw the former husband three times at a school building where they both took classes. On one occasion, he greeted her in passing. On another occasion, he offered her a birthday card, and she walked past him. On the third occasion, after a lecture they both had attended, when attempting to cut through the crowd and leave and the husband did not move out of her way, she reacted by pushing him out of the way with her bookbag. She admitted, however, that it was impossible for him to move because there were people on both sides of him.

***Gustafson v. Mauck*, 743 So. 2d 614 (Fla. 1st DCA 1999)**
The district court held that the trial court erred in granting a permanent injunction for protection against domestic violence on the basis of telephone calls made to the petitioner, since the calls did not give the petitioner objectively reasonable grounds to fear that she was in imminent danger of violence from the respondent, and there was no evidence of previous physical violence, although a permanent injunction had previously been entered and had expired two years prior. The court reviewed the 1997 amendment to section 741.30(1)(a), Florida Statutes, which changed the standard for issuance of an injunction to require reasonable fear of imminent danger, as opposed to reasonable fear of violence at some indeterminate time in the future.

***Russell v. Hogan*, 738 So. 2d 1003 (Fla. 2d DCA 1999)**
The district court held that the trial court erred in entering a permanent injunction for protection against domestic repeat violence since evidence of only one act was presented at the final hearing, as opposed to the two acts required under the statute.

***Abravaya v. Gonzalez*, 734 So. 2d 577 (Fla. 3d DCA 1999)**
The district court held that the testimony of a former girlfriend, alleging that her former boyfriend threatened her by driving his truck on the expressway in an erratic and threatening manner, intentionally preventing her from exiting the highway and rear-ending her vehicle, was consistent internally and with a bystander's testimony, and even standing alone was sufficient to support the entry of a permanent injunction for protection against domestic violence.

***Rae v. Flynn*, 690 So. 2d 1341 (Fla. 3d DCA 1997)**
A dog owner appealed an order (1) denying her an injunction for protection against repeat violence, (2) granting her neighbor a repeat violence injunction, and (3) prohibiting her from housing her pets outdoors. The neighbor's initial petition alleged that the dog owner appeared physically violent, was responsible for slanderous graffiti on a common wall between the parties' residences, and threatened to drive the neighbor out by playing loud music after he complained about the dogs kept in a kennel on a common property line. Although the parties had stipulated to the entry of a permanent injunction against violence,

the dog owner later filed a retaliatory petition, which the court denied, but the court then modified the stipulated injunction to prohibit the dog owner from housing her dogs outside. The district court affirmed the issuance of an injunction prohibiting the dog owner from repeat violence and requiring the pets to be housed indoors, finding that barking dogs can be considered a nuisance so as to justify relief when the petitioner was "substantially and unreasonably disturbed."

***Rey v. Perez-Gurri*, 662 So. 2d 1328 (Fla. 3d DCA 1995)**
Chapter 741, Florida Statutes, does not require a petitioner to demonstrate that he or she has already been a victim of domestic violence. The petitioner's evidence that her former husband recently threatened her was sufficient to establish reasonable cause to believe that she was about to become a victim of domestic violence in light of her former husband's prior violent threatening behavior and his ability to carry out the threats. Note: the 1997 statutory change requires that the petitioner must either be a "victim of domestic violence or have reasonable cause to believe he or she is in imminent danger of becoming a victim." Notwithstanding such change, the reasoning of this case should apply, provided the imminent standard is met.

***Campbell v. Campbell*, 584 So. 2d 125 (Fla. 4th DCA 1991)**
The procedure outlined in chapter 741, Florida Statutes, is the exclusive method to obtain an injunction for protection against domestic violence. No other remedies, including rule 1.610, Florida Rules of Civil Procedure, may be utilized to obtain an injunction against domestic violence.

***Johnson v. Brooks*, 567 So. 2d 34 (Fla. 1st DCA 1990)**
The petitioner was not entitled to a repeat violence injunction when the sole allegations were that the respondent made numerous threatening telephone calls and that the respondent was known to be violent. Telephone threats do not constitute an assault. Note: subsequent to Brooks, the legislature amended section 741.28(1), Florida Statutes, to include stalking in the enumerated list of offenses that could justify a repeat violence injunction. Since numerous threatening phone calls can constitute stalking, this inclusion effectively overrules Brooks.

Temporary Injunction

***Pryor v. Pryor*, 141 So. 3d 1279 (Fla. 1st DCA 2014)**
The respondent appealed an order that extended a temporary injunction for protection against domestic violence which, even as extended, had expired by the time of the court's review. The court vacated the original order and the temporary injunction and dismissed the appeal due to the "collateral legal consequences that flow from" domestic violence injunctions. The court noted that while the statute does allow the court to issue a continuance for good cause, the court may not issue a series of temporary injunctions in lieu of a permanent injunction.
https://edca.1dca.org/DCADocs/2013/6070/136070_DA08_07222014_084641_i.pdf

***Smith v. Manno*, 138 So. 3d 1143 (Fla. 5th DCA 2014)**
The court dismissed a mother's petition for an injunction against domestic violence on behalf of herself and her minor daughter, and the mother appealed. The trial court had entered a temporary injunction against the respondent, but dismissed the case during the return hearing upon noting that the respondent had a pending criminal case in which the conditions of his bond already prohibited contact with the petitioner. The appellate court reversed and remanded the case and noted that the petitioner was entitled to an evidentiary hearing, and that if she meets her burden of proof at the hearing, then she is entitled to an injunction. The existence of a pending criminal case with bond conditions that prohibit contact does not abolish her right to a domestic violence injunction and the protections it offers.
http://www.5dca.org/Opinions/Opin2014/051214/5D13-3179.op.pdf

***Dietz v. Dietz*, 127 So. 3d 1279 (Fla. 1st DCA 2013)**
A temporary injunction was entered ex parte against the respondent, and six days later a full evidentiary hearing was held, during which the court heard testimony from the respondent, his mother, and his sister. The judge ordered the temporary injunction to continue for six months but stated that he had made "no final determination as to the sufficiency of the evidence presented at the hearing." The court further ordered the parties to return in six months for a status conference. The appellate court reversed the decision and noted that while section 741.30, Florida Statutes, does allow the trial court to extend a temporary injunction for good cause, it "does not provide for the issuance of a series of temporary injunctions in lieu of a permanent injunction. . . . Extending the temporary injunction is not authorized unless a continuance is authorized."
http://opinions.1dca.org/written/opinions2013/12-17-2013/13-2098.pdf

***Rudel v. Rudel*, 111 So. 3d 285 (Fla. 4th DCA 2013)**
The wife, a German citizen, petitioned for dissolution of marriage and for an injunction for protection against domestic violence. The court granted the ex parte temporary injunction, but later dismissed the petition for injunction against domestic violence and the wife appealed. The appellate court reversed as to the domestic violence injunction and noted that the wife gave uncontradicted testimony regarding acts of domestic violence and also provided corroborating witness testimony. Although the dissolution of marriage petition was correctly dismissed due to jurisdictional issues, the appellate court held that the wife did present sufficient evidence to support an injunction, and remanded the case for a new hearing because the husband did not have the opportunity to present evidence on the domestic violence issue since his challenge to jurisdiction was still outstanding.
http://www.4dca.org/opinions/April%202013/04-17-13/4D11-2616.op.pdf

***Bacchus v. Bacchus*, 108 So. 3d 712 (Fla. 5th DCA 2013)**
The husband appealed an order that extended a temporary injunction against domestic violence for one year. The court reversed and noted that the purpose of extending a temporary injunction is to preserve the status quo until a final evidentiary hearing can be held. In this case, the temporary injunction was extended in lieu of a full hearing on a permanent injunction, which is not authorized by the Florida Statutes. The court also noted that there was not enough evidence presented to support issuing a permanent injunction, however, since the wife was limited by the court in her ability to present evidence, the case was remanded for a full hearing.
http://www.5dca.org/Opinions/Opin2013/022513/5D12-1939.op.pdf

***Deale v. Deale*, 68 So. 3d 432 (Fla. 5th DCA 2011)**
The district court affirmed a trial court's order dismissing a temporary injunction for protection against domestic violence. The appellant (husband) claimed that the trial court erred by finding that there was insufficient evidence to warrant the issuance of an injunction for protection against domestic violence by the appellee (wife). The trial court entered a temporary injunction for protection against domestic violence, but at the hearing was not persuaded that the law supported issuing a permanent injunction. Although the district court agreed that the appellant had offered evidence in the trial court to support his allegations, the district court stated that it was not in a position to substitute its judgment for the trial court's, and affirmed the dismissal.
http://www.5dca.org/Opinions/Opin2011/090511/5D10-2820.op.pdf

***Weimorts v. Shockley*, 47 So. 3d 386 (Fla. 1st DCA 2010)**
The district court reversed the trial court's order extending a temporary injunction for protection against dating violence, entered the same day the trial court denied the defendant's motion to dismiss for improper venue. The district court stated that, because section 784.046, Florida Statutes, provides for a protective injunction against dating violence but does not contain a special venue provision, the trial court was required to apply the general venue provision in section 47.011, Florida Statutes, which states "[a]ctions shall be brought only in the county where the defendant resides, where the cause of action accrued, or where the property in litigation is located."

The district court stated that because the respondent resided in Walton County, any cause of action accrued in Walton County, and the third option allowing venue where the property in litigation is located was not applicable. Thus, venue lay only in Walton County. The trial court erred in refusing to transfer venue from Okaloosa County, the residence of the petitioner, to Walton County. The district court noted that the legislature added to section 741.30, Florida Statutes, a special venue provision ((1)(j)), which allows a petition to be filed in the circuit where the petitioner resides. However, there is no indication that this special venue provision applies outside of chapter 741. The district court recognized that, pursuant to instructions to form 12.980(n), Florida Family Law Rules of Procedure, a petitioner filing a petition for prohibition against dating violence is to file the petition in the circuit where he or she lives. However, these instructions cannot contradict section 47.011, Florida Statutes.
http://opinions.1dca.org/written/opinions2010/11-17-2010/10-2660.pdf

***Department of Children and Families v. D.B.D.*, 42 So. 3d 916 (Fla. 4th DCA 2010)**
The district court affirmed the trial court's order dissolving a temporary ex parte injunction against a father and dismissing suspension of the father's parental time-sharing. The mother was a DCF attorney. DCF filed a motion for injunction under section 39.504, Florida Statutes, which was heard before a judge unfamiliar with the family's acrimonious divorce proceedings. The father, also an attorney, received notice two hours before the hearing but was not allowed to appear by phone and was unable to attend. In addition to the mother, two lawyers and three DCF representatives were present. None of the attorneys made the judge aware of ongoing proceedings in family court, mentioned the mother's emergency motion to suspend visitation, or brought up the mother's previous attempt to secure an injunction on behalf of the children. The DCF attorney convinced the judge to enter an injunction that remained in effect until further order of the court, without holding any further hearing. However, section 39.504(2), Florida Statutes, provides that if a judge issues an immediate injunction, the court must hold a hearing "on the next day of judicial business" to dissolve, continue, or modify the injunction. The family court judge ordered the transfer of the injunction case to the family court because of the longstanding dissolution case pending there and held a hearing, after which the judge found that DCF had filed the injunction petition before a dependency judge in bad faith, bypassing the proceeding pending in the family court, and dismissed the injunction. The appellate court affirmed.
http://www.4dca.org/opinions/Aug%202010/08-25-10/4D09-4862.op.pdf

***Schock v. Schock*, 979 So. 2d 1201 (Fla. 4th DCA 2008)**
The petitioner father appealed the vacating by the family court of temporary ex parte domestic violence injunctions against the respondent mother and her boyfriend. In the midst of dissolution of marriage proceedings, the petitioner father had filed for injunctions against the mother, citing neglect, and against her live-in boyfriend, citing that he had inappropriately touched the parties' two-year-old minor child. The duty judge entered temporary injunctions against the mother and the boyfriend. In addition, the father was granted temporary custody of the minor child. The following day, the respondent mother filed an Emergency Motion for Return of Child and Change of Custody in the dissolution case, which the dissolution judge granted. In turn, both orders entered by the duty judge were vacated by the dissolution judge, who stated that the allegations did not satisfy the requirements of section 784.046, Florida Statutes. The district court held that the trial court erred in vacating the temporary injunctions without a hearing. The temporary injunctions were thus reinstated and remanded to the trial court to conduct a hearing on the respondent's motion.
http://www.4dca.org/Apr%202008/04-23-08/4D07-3682.opC042208.pdf

***Shocki v. Aresty*, 994 So. 2d 1131 (Fla. 3d DCA 2008)**
The appellant neighbor appealed entry of a final injunction against repeat violence in favor of the appellee neighbor, who stated he was a victim of assault, battery, and stalking. In the original petition, the appellee alleged several assaults, including an offensive banging on the appellee's bedroom wall, using a hammer to bang on the appellee's barbeque grill, and additional verbal threats. After his ex parte petition was denied, the appellee moved for an emergency hearing for protective relief due to an alleged further act of violence by the appellant which included intentional damage to the appellee's wife's vehicle. At trial, the court heard testimony that these neighbors had a long-standing acrimonious relationship as evidenced by

their various verbal confrontations. During the appellee's closing (over objection), the appellee described his discovery of two dead birds in his walkway the morning of the hearing and stated that he was warned by the appellant that his wife should be careful. The court entered a five-year injunction against the appellant based solely on the findings of stalking. The district court agreed with the trial court that assault and battery had not occurred, and noted that the trial court's finding of stalking was based on "new" evidence that was prejudicial in nature. The appellant was entitled to notice of those allegations prior to the hearing in order to present a defense. The district court suggested that parties with similar condominium disputes should explore other options for resolution before bringing their claims to a repeat violence court and that many issues that arise in condominium disputes do not warrant injunctive relief. But it also noted that, but for the due process issues presented by the appellant, this dispute may ultimately require judicial intervention. Accordingly, the injunction was reversed and remanded with directions to allow the appellee to amend his petition to address the alleged acts of stalking and statutory violence and to seek a new trial on such an amended petition.

***Betterman v. Kukelhan*, 977 So. 2d 702 (Fla. 4th DCA 2008)**
A former boyfriend appealed the denial of his motion to vacate a permanent injunction for domestic violence entered against him. The trial judge originally denied a temporary injunction and set the matter for hearing, at which the boyfriend denied allegations but did not object to the entry of the permanent injunction. When he realized the injunction would require him to surrender his concealed weapons permit, the boyfriend petitioned the court to request that the injunction be dissolved or that he be allowed to retain the permit. After an initial denial of the motion by the judge who denied the temporary injunction, the boyfriend filed the same motion before the judge who entered the final order of injunction. That motion also was denied, with a memorandum stating that the motion already had been denied by another judge. The boyfriend argued that such a summary denial of his motion to vacate violated due process requirements. The district court held that a motion to modify or dissolve may be brought at any time, and that a moving party should be allowed to present evidence in support of such a motion. Given that the boyfriend agreed to the entry of the injunction and did not present any evidence at the initial hearing, the district court reversed the order denying the motion to dissolve the injunction and remanded the case back to the trial court for a hearing on the motion.
http://www.4dca.org/Mar2008/03-19-08/4D07-3173.op.pdf

Transcripts

***Jackson v. Echols*, 937 So. 2d 1247 (Fla. 3d DCA 2006)**
The district court affirmed an order for a permanent injunction against domestic violence where the appellant contended the court abused its discretion by issuing the injunction when the parties no longer resided together. Even though the hearing was recorded pursuant to Florida law, the transcript was unavailable on appeal, and the statement of evidence was neither timely submitted nor stipulated to. Without the benefit of the transcript, the court looked to whether the petition, on its face, satisfied the requirements for a permanent injunction. The appellant contended that the petition was insufficient because it stated that the violence occurred when the parties were no longer residing together and that the relationship between the parties was that of an "ex live-in" boyfriend/girlfriend. The district court affirmed, finding that (1) without the transcript or statement of evidence, the court must presume that the trial court acted within its broad discretion; (2) an "ex live-in" boyfriend/girlfriend relationship satisfies the requirement that the parties must have resided together "as if a family" under the domestic violence statute; and (3) violence between the parties need not have occurred while the parties were living together to satisfy the requirement for a permanent injunction against domestic violence.

***Buckley v. Belott*, 918 So. 2d 379 (Fla. 1st DCA 2005)**
The appellant appealed an order granting a permanent injunction for protection against dating violence because, although the hearing was recorded, the recording was defective and a transcript could not be prepared. The appellant's earlier motion for reversal for a new hearing was initially denied because the appellant had not first attempted to obtain a statement of the evidence in accordance with rule

9.200(b)(4), Florida Rules of Appellate Procedure, to serve as substitute for the transcript. When the statement was obtained, it was not approved because the judge had no recollection of the hearing, and the appellant renewed his motion. The district court reversed and remanded for a hearing de novo.

***Squires v. Darling*, 834 So. 2d 278 (Fla. 5th DCA 2002)**
The district court affirmed the entry of an injunction as the moving party failed to provide the court with a transcript of the proceedings or a record of the proceedings pursuant to rule 9.200(b)(4), Florida Rules of Appellate Procedure. Without a transcript or record, "the presumption of correctness attached to the final judgment is preserved." *See Applegate v. Barnett Bank of Tallahassee*, 377 So. 2d 1150 (Fla. 1979).

***Stevens v. Bryan*, 805 So. 2d 881 (Fla. 2d DCA 2001)**
The respondent appealed to a repeat violence injunction, as next friend of her son. Because no record or transcript was provided, the district court could not find error in the trial court's decision. The case was remanded only to correct scrivener's errors regarding the correct parties and to remedy an error on the pre-printed form.

***Ricketts v. Ricketts*, 790 So. 2d 1265 (Fla. 5th DCA 2001)**
No transcripts were made available to determine whether or not error was committed by the trial court; therefore, the injunction preventing the appellant from contacting her ex-husband was affirmed.

***Lawrence v. Walker*, 751 So. 2d 68 (Fla. 4th DCA 1999)**
The district court affirmed the trial court's issuance of an injunction for protection against domestic violence when the contentions raised by the appellant could not be evaluated because no transcript was made of the hearing in which the evidence was presented. In a special concurrence, the court observed that an injunction action is a civil proceeding, and because there is no requirement that such proceedings be transcribed at public expense, the party must arrange in advance for reporting and transcription. It was noted that with so much litigation being conducted pro se, the parties should be alerted in the notice for a final hearing on the injunction that if they want the hearing reported, they must arrange for a court reporter to transcribe the proceedings.

***Pollock v. Couffer*, 750 So. 2d 659 (Fla. 5th DCA 1999)**
The district court affirmed the ruling of the trial court. The appellant/respondent contended that the evidence of record did not support the trial court's entry of a permanent injunction for protection against repeat violence, but he failed to provide the appellate court with either a transcript of the trial court proceedings or a stipulated statement of facts. Accordingly, the appellate court was prevented from reviewing the validity of the claim and held that no error of law was apparent.

Venue

***Weimorts v. Shockley*, 47 So. 3d 386 (Fla. 1st DCA 2010)**
The district court reversed the trial court's order extending a temporary injunction for protection against dating violence, entered the same day the trial court denied the defendant's motion to dismiss for improper venue. The district court stated that, because section 784.046, Florida Statutes, provides for a protective injunction against dating violence but does not contain a special venue provision, the trial court was required to apply the general venue provision in section 47.011, Florida Statutes, which states "[a]ctions shall be brought only in the county where the defendant resides, where the cause of action accrued, or where the property in litigation is located."

The district court stated that because the respondent resided in Walton County, any cause of action accrued in Walton County, and the third option allowing venue where the property in litigation is located was not applicable. Thus, venue lay only in Walton County. The trial court erred in refusing to transfer venue from Okaloosa County, the residence of the petitioner, to Walton County. The district court noted that the legislature added to section 741.30, Florida Statutes, a special venue provision ((1)(j)), which

allows a petition to be filed in the circuit where the petitioner resides. However, there is no indication that this special venue provision applies outside of chapter 741. The district court recognized that, pursuant to instructions to form 12.980(n), Florida Family Law Rules of Procedure, a petitioner filing a petition for prohibition against dating violence is to file the petition in the circuit where he or she lives. However, these instructions cannot contradict section 47.011, Florida Statutes.
http://opinions.1dca.org/written/opinions2010/11-17-2010/10-2660.pdf

***Hill v. Fields*, 813 So. 2d 212 (Fla. 2d DCA 2002)**

The petitioner and the respondent, a divorced couple, resided in different jurisdictions, the petitioner in Pasco County and the respondent in Polk County. The petitioner filed for injunctive relief against domestic violence in Pasco County and was granted a temporary injunction for her and the minor children of the marriage. In the petition, the alleged incidents occurred in Polk County. The respondent sought dismissal, challenging the venue and jurisdiction of the court in issuing the temporary injunction pursuant to chapter 741, Florida Statutes (1999), and the appellate court agreed that the general venue statute, chapter 47, Florida Statutes, applied (*see also Barr v. Florida Board of Regents*, 644 So. 2d 333 (Fla. 1st DCA 1994)). Section 47.011, Florida Statutes, mandates that the action be brought in the jurisdiction where the incident occurred or where the respondent resides. Therefore, the proper venue for the case was Polk County, not Pasco County. However, the district court held that dismissal of the injunction would not be the proper remedy and ordered the case to be transferred to the proper jurisdiction.