

## Family Law – Interpersonal Violence Cases

### **Florida Supreme Court**

No new cases reported.

### **First District Court of Appeal**

Berrien v. State, \_\_\_ So.3d \_\_\_\_, 2016 WL 1425943, (Fla. 1<sup>st</sup> DCA 2016) **DOMESTIC VIOLENCE INJUNCTION VACATED** An unmarried mother, who had previously received a domestic violence injunction against the father, petitioned to have her injunction dissolved. The court complied. However, the father failed to comply with the terms of the injunction, and the original judge that ordered the injunction vacated the order dissolving the injunction and pursued indirect criminal contempt charges against the respondent. The father appealed, and the appellate court held that once the injunction was dissolved, the father was no longer required to comply with the terms of the injunction. Therefore, the successor judge was not allowed to reinstate it sua sponte or hold the father in contempt for failing to comply or failing to attend the compliance hearings. The appellate court noted that the order of dismissal removed the court's jurisdiction. April 12, 2016.

[https://edca.1dca.org/DCADocs/2015/0931/150931\\_DC13\\_04122016\\_103610\\_i.pdf](https://edca.1dca.org/DCADocs/2015/0931/150931_DC13_04122016_103610_i.pdf)

Wills v. Jones, \_\_\_ So.3d \_\_\_\_, 2016 WL 1660617, (Fla. 1<sup>st</sup> DCA 2016) **DOMESTIC VIOLENCE INJUNCTION REVERSED** 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 their daughter. 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 both 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. The court also noted that pursuant to §784.048(1)(a), Fla. Stat. (2015), the parents' act of seeking the Baker Act did not constitute harassment because their actions did have a legitimate purpose – obtaining mental health services for their daughter. The parents' other behavior also did rise to the level necessary to establish a legal basis for an injunction. April 27, 2016.

[https://edca.1dca.org/DCADocs/2015/2911/152911\\_1287\\_05022016\\_093651\\_i.pdf](https://edca.1dca.org/DCADocs/2015/2911/152911_1287_05022016_093651_i.pdf)

### ***Second District Court of Appeal***

Scott v. Blum, \_\_\_ So.3d \_\_\_\_, 2016 WL 1718866 (Fla. 2d DCA 2016) [STALKING INJUNCTION REVERSED](#) Mr. Blum claimed that Mr. Scott sent out over 2200 emails that negatively affected his business, and the court entered an order prohibiting Mr. Scott from cyberstalking. Mr. Scott appealed, claiming that the petitioner 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 they reversed, finding that Mr. Blum failed to meet his evidentiary burden. While the emails may have caused Mr. Blum some emotional distress or embarrassment, the appellate court found that they did not meet the definition of cyberstalking. April 29, 2016.

[http://www.2dca.org/opinions/Opinion\\_Pages/Opinion\\_Pages\\_2016/April/April%2029,%202016/2D15-3412.pdf](http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/April/April%2029,%202016/2D15-3412.pdf)

### ***Third District Court of Appeal***

No new cases reported.

### ***Fourth District Court of Appeal***

Vaught v. Vaught, \_\_\_ So.3d \_\_\_\_, 2016 WL 1579251, (Fla. 4<sup>th</sup> DCA 2016) [INJUNCTION AGAINST DOMESTIC VIOLENCE REVERSED AND REMANDED](#) The wife filed a petition for protection against domestic violence alleging stalking and destruction of personal property. Since she was advised the allegations were not sufficient for a temporary injunction, the wife later supplemented her petition with an additional affidavit that alleged 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 only received the additional affidavit 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 motion for a continuance since the notice of the hearing on the new and supplemental allegations was provided only a few business days before the final hearing. April 20, 2016. <http://www.4dca.org/opinions/April%202016/04-20-16/4D14-3699.op.pdf>

### ***Fifth District Court of Appeal***

No new cases reported.