

## Domestic Violence Case Law

### ***Florida Supreme Court***

In re Family Law Forms, \_\_\_ So.3d \_\_\_\_, 2015 WL 1825400 (Fla. 2015). **FORM AMENDED**. The Supreme Court amended form 12.980(n), Petition for an Injunction for Protection Against Dating Violence and the instructions to reflect the statutory language in s. 784.046(2)(b), Florida Statutes. This 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.” Section 784.046(4)(a), Florida Statutes. 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.” s.784.046(4)(a)(2), Florida Statutes. The amendments are effective immediately and the form is ready to use.

<http://www.floridasupremecourt.org/decisions/2015/sc15-339.pdf> (April 23, 2015).

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

Snead v. Ansley, \_\_\_ So.3d \_\_\_\_, 2015 WL 1650468 (Fla. 1st DCA 2015). **REPEAT VIOLENCE INJUNCTION REVERSED**. The appellate court reversed and remanded the injunction for protection against repeat violence. The trial court erred in granting appellee's petition because 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](https://edca.1dca.org/DCADocs/2014/2846/142846_DC13_04152015_065758_i.pdf) (April 15, 2015).

Havenner v. Hutchinson, \_\_\_ So.3d \_\_\_\_, 2015 WL 1747374 (Fla. 1st DCA 2015). **MOTION FOR MODIFICATION DENIAL REVERSED**. An incarcerated inmate appealed the denial of his motion for modification of a repeat violence injunction issued against him. The court held that the appellant's due process rights were violated when the lower court denied his motion after the inmate failed to appear at the hearing, even though the record showed the inmate had attempted to appear telephonically. The appellate court noted that the trial court failed to issue an order directing the Department of Corrections to facilitate the appellant's telephonic appearance at a specified time and date.

[https://edca.1dca.org/DCADocs/2014/3429/143429\\_DC13\\_04172015\\_092530\\_i.pdf](https://edca.1dca.org/DCADocs/2014/3429/143429_DC13_04172015_092530_i.pdf) (April 17, 2015).

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

Horowitz v. Horowitz, \_\_\_ So.3d \_\_\_\_, 2015 WL 1443223, (Fla. 2d DCA 2015). **INJUNCTION FOR PETITION FOR DOMESTIC VIOLENCE REVERSED**. 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 the posts 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 assertions that the husband somehow "hacked" into her Facebook account were disconcerting, that behavior alone does not amount to cyberstalking because it is not an electronic communication.

[http://www.2dca.org/opinions/Opinion\\_Pages/Opinion\\_Pages\\_2015/April/April%2001,%202015/2D13-3871.pdf](http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2015/April/April%2001,%202015/2D13-3871.pdf) (April 01, 2015).

*Leach v. Kersey*, \_\_\_ So.3d \_\_\_, 2015 WL 1740907 (Fla. 2d DCA 2015). **REPEAT VIOLENCE INJUNCTION REVERSED**. The wife appeals a final judgment of injunction for protection against stalking entered against her and in favor of her husband's girlfriend. The appellate court reversed the injunction because competent, substantial evidence was not presented that supported the required two incidents of stalking for injunctive relief. The wife contacted the girlfriend by phone and messages through Facebook and told the girl friend to stay away from her husband. The court held that these messages did serve a legitimate purpose and would not cause a reasonable person to suffer substantial emotional distress. [http://www.2dca.org/opinions/Opinion\\_Pages/Opinion\\_Pages\\_2015/April/April%2017,%202015/2D14-1812.pdf](http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2015/April/April%2017,%202015/2D14-1812.pdf) (April 17, 2015).

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

No new opinions reported.

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

*Putzig v. Bresk*, \_\_\_ So.3d \_\_\_, 2015 WL 1667055 (Fla. 4th DCA 2015). **DATING VIOLENCE INJUNCTION REVERSED**. The appellant argued that the trial court violated her due process rights and the appellate court agreed and reversed and remanded the case. The court did not allow the appellant to complete her testimony, present evidence or a witness, or allow the parties to cross-examine each other. Therefore the court held the trial court abused its discretion and remanded the case for a full evidentiary hearing.

<http://www.4dca.org/opinions/April%202015/04-15-15/4D14-554.op.pdf> (April 15, 2015).

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

No new opinions reported.