

Family Law Case Law Update March 2020 - July 2020

March

***Robinson v. Christiansen*, 45 Fla. L. Weekly D702, 2020 WL 1445405 (Fla. 3d DCA March 25, 2020)** - Jurisdiction

Order granting motion to dismiss petition for dissolution of marriage for lack of jurisdiction where the parties had a vacation home in Florida but both parties' residence was in Denmark.

April

***Johansson v. Johansson*, 293 So. 3d 505 (Fla. 4th DCA 2020)** - Attorney fees

Held: attorney fees were awarded under statutory chapter governing marital dissolution and support, not as sanction for contempt, and thus court's finding that former husband lacked ability to pay precluded award of attorney fees.

***Martinez-Noda v. Pascual*, Fla. L. Weekly D751, 2020 WL 1540974 (Fla. 3d DCA April 1, 2020)** - Partition
Ex-wife filed petition to partition real property that parties' marital settlement agreement had required her to transfer to ex-husband after he satisfied multiple promissory notes payable to a third-party acquaintance, after husband petitioned for bankruptcy and received a discharge of remaining debt on notes. Held: ex-husband was entitled to credit from proceeds of sale for any disproportionate share of taxes and mortgage payments made since dissolution.

***Levy v. Makri*, 45 Fla. L. Weekly D759, 2020 WL 1540984 (Fla. 3d DCA April 1, 2020)** - Foreign child support order

Trial court order denying motion to enforce a foreign child custody decree affirmed in part and remanded with instructions for trial court to adjudicate portion of motion alleging mother had breached the child support decree by failing to provide her travel schedule to father in a timely manner.

***Pocock v. Pocock*, 45 Fla. L. Weekly D795, 2020 WL 1650258 (Fla. 1st DCA April 3, 2020)** - Due process
Held: trial court violated due process rights by conducting evidentiary hearing without providing notice that it was evidentiary in nature.

***Russell v. Russell*, 295 So. 3d 314 (Fla. 1st DCA 2020)** - Dissolution of marriage - Equitable distribution - Durational alimony - Attorney's fees

Held: (1) trial court's failure to discretely list all statutory factors in alphabetical order did not render equitable distribution scheme erroneous; (2) any error in trial court's omission of child-related factors was harmless; and (3) trial court's ruling that wife was entitled to attorney's fees, but reserving jurisdiction to determine the amount of fees, was a non-final, non-appealable provision in the final judgment.

***Carter v. Carter*, 294 So. 3d 384 (Fla. 4th DCA 2020)** - Dissolution of marriage - Imputed income - Alimony - Child support

Held: evidence supported imputed and actual income attributed to former husband for purposes of alimony and child support, and husband was entitled to credit for amounts paid for children's benefit during retroactive period.

***Singer v. Singer*, 293 So. 3d 1098 (Fla. 4th DCA 2020)** - Dissolution of marriage - Venue

The District Court of Appeal held that trial court could not sua sponte transfer the property dispute case to county where the dissolution of marriage action remained pending.

***Perrault v. Engle*, 294 So. 3d 373 (Fla. 4th DCA 2020)** - Evidence/hearsay exceptions

Held: (1) mother's testimony that child was touching himself while watching television did not constitute corroborating evidence required to admit son's hearsay statements; (2) son's pantomime of alleged abuse was hearsay and thus could not constitute corroborating evidence required to admit son's hearsay statements; and (3) testimony of child sexual abuse crisis center counselor that she found son reliable and trustworthy did not satisfy requirement for corroborating evidence required to admit son's hearsay statements.

***Leos v. Hernandez*, 45 Fla. L. Weekly, 2020 WL 1870352** (Fla. 3d DCA April 15, 2020) - Jurisdiction - General magistrate's report

District Court of Appeal lacked jurisdiction over appeal by child's father in action commenced by mother to relocate with child out of state, brought following magistrate's determination that relocation was provident and mother's actual relocation with child; record was devoid of any indicia that trial ever ruled on father's asserted exceptions to magistrate's determination, and no final order of relocation had been rendered.

***Lauterbach v. Lauterbach*, 45 Fla. L. Weekly D848, 2020 WL 1870332** - Dissolution of marriage - Jurisdiction

Held: trial court lacked subject matter jurisdiction over wife's dissolution petition, and thus trial court's order was void.

***Pratt v. Dept. of Revenue*, 293 So. 3d 1099 (Fla. 4th DCA 2020)** - Child support - Due process/notice

Father did not receive proper notice of final administrative hearing to set child support, and thus final default order against father was entered by Department of Revenue (DOR) without due process; father responded to proposed final order that was served upon him, father confirmed his address with the DOR, notice of final hearing was sent to an address different than the one he confirmed, and there was no return of service in the file.

***McVety v. McVety*, 293 So. 3d 1101 (Fla. 2d DCA 2020)** - Dissolution of marriage - Attorney's fees

Held: trial court could not award former wife \$45,401.50 in accounting costs, in light of parties' stipulation that \$28,000 was a reasonable amount for such costs.

***Befanis v. Befanis*, 293 So. 3d 1121 (Fla. 5th DCA 2020)** - Modification of alimony

Held: parties did not account for former husband's future retirement income when they previously consented to reducing of former husband's alimony.

***Fagen v. Merrill*, 293 So. 3d 1116 (Fla. 2d DCA 2020)** - Discovery

Held: former husband's financial information was not discoverable for purposes of determining former wife's entitlement to attorney fees in absence of resolution of motion to set aside judgment.

***Nishman v. Stein*, 292 So. 3d 1277** (Fla. 2d dCA 2020) - Settlement - Attorney's fees

Father, who was never married to mother, brought paternity action against mother. After the parties had reached a partial settlement, trial court granted mother's motion for temporary attorney's fees. Affirmed, holding (1) a party cannot contract away or waive temporary attorney's fees prior to entry of final judgment in paternity action, and (2) waiver provision in settlement agreement unambiguously exempted claims for timesharing, parenting plan, and child support matters.

Dept. of Revenue v. Ashby, 294 So. 3d 445 (Fla. 5th DCA 2020) - Paternity - Dismissal - Jurisdiction

Trial court lacked jurisdiction to grant former boyfriend's motion to dismiss action to establish paternity of child brought by Department of Revenue (DOR) on behalf of mother against boyfriend after DOR voluntarily dismissed action; DOR had right to voluntarily dismiss its action by stating its dismissal on the record before submitting its case to the trial court for decision, and voluntary dismissal of action ended litigation and instantly divested trial court of jurisdiction to hear boyfriend's motion to dismiss.

Williams v. Gonzalez, 294 So. 3d 941 (Fla. 4th DCA 2020) - Child support - Child custody - Imputed income

In paternity action, trial court entered final judgment of paternity that awarded sole parental responsibility to mother, reduced father's time-sharing, and imposed other restrictions on father's visitation. Appellate court held (1) in making child support finding, the Circuit Court was required to determine underemployed father's imputed income based on his earning potential in city in which he currently lived and worked; (2) the Circuit Court was required to determine underemployed father's imputed income based on his net monthly income; and (3) period for which father owed retroactive child support began following father's final separation with mother, not mother's initial departure with child.

Izquierdo v. Del Valle, 294 So. 3d 946 (Fla. 4th DCA 2020) - Modification - Dismissal

Mother brought petition for modification of parenting plan and timesharing schedule. Trial court dismissed petition for failure to state cause of action. Appellate court held: (1) father's relocation did not, by itself, amount to substantial change in circumstances so as to support modification of timesharing agreement, but (2) mother should have been given opportunity to amend petition.

Jenkins v. Jenkins, 45 Fla. L. Weekly D976, 2020 WL 1932956 (Fla. 3d DCA April 22, 2020) -

Appellee precluded from filing an answer brief and from oral argument. Remanded for ministerial amendment without need for further notice or hearing.

Talarico v. Talarico, 45 Fla. L. Weekly D970, 2020 WL 1933215 (Fla. 3d DCA April 22, 2020) - In camera examination of child

Trial court's failure to record in camera interview with children or to provide appraisal or summary of children's testimony during interview violated mother's right to due process.

Allen v. Allen, 295 So. 3d 789 (Fla. 4th DCA 2020) - MSA - Equitable distribution

Following former husband's death, former wife filed statement of claim for supplemental lump sum payment under life insurance policy against former husband's estate. Former wife moved to enforce marital settlement agreement. Trial court found in favor of former husband's estate. Reversed, holding that marital settlement agreement entitled former wife to payment amount designated as equitable distribution from former husband's estate.

Rhoulhac v. Francois, 295 So. 3d 330 (Fla. 4th DCA 2020) - Supplemental petition

Former wife brought supplemental petition against former husband to recover her alleged interest in former marital home, which husband transferred to his brother, without notice or compensation to wife, who had lived in the home and paid its mortgage for a time following the marriage, pursuant to the final judgment of dissolution of their marriage. After the trial court granted husband's motion to dismiss the petition, wife moved to amend her petition to allege that judgment of dissolution was ambiguous as to disposition of the home. Trial court denied the motion. Reversed and remanding, holding that (1) wife would be allowed to amend petition to allege ambiguity, so that court could resolve ambiguity; (2) final judgment of dissolution of marriage was ambiguous because of its silence as to the disposition of home;

(3) trial court would be allowed to clarify equitable distribution as to disposition of home; and (4) trial court would not be required to reconsider all evidence presented at trial.

***Bell v. Bell*, 295 So. 3d 336 (Fla. 1st DCA 2020)** - Modification - Child custody

Father filed motion to modify timesharing schedule, asking for an increase in time. Mother filed motion for enforcement of parenting plan and marital settlement agreement regarding father's obligation to pay half of certain childcare expenses. Trial court denied mother's motion for summary judgment, granted father's motion, and denied mother's motion for enforcement as moot or abandoned. Reversed and remanded, holding that (1) father's improved mental health did not constitute a substantial and material change in circumstances sufficient to allow for a modification of timesharing arrangement, and (2) mother's motion for enforcement was neither moot nor abandoned.

***Haeberli v. Haeberli*, 45 Fla. L. Weekly D992, 2020 WL 1969292 (Fla. 5th DCA April 24, 2020)** (Rehearing denied July 28, 2020) - Modification - Child support - Alimony

Ex-wife petitioned for increases in child support and alimony required of ex-husband, and ex-husband filed counterpetition seeking reduction in child support and alimony. Following a trial, trial court issued judgment that increased alimony and child support. Affirmed, holding that (1) trial court was not required to rely exclusively on parties' previously-executed marital settlement agreement; (2) competent substantial evidence supported trial court's findings; and (3) District Court of Appeal would not consider issues raised by ex-wife in answer brief.

***Kotlarz v. Kotlarz*, 293 So. 3d 1125 (Fla. 1st DCA 2020)** - Attorney's fees

Former wife brought action against former husband for attorney fees and costs related to her efforts to collect money owed her under for equalizing payment awarded her in dissolution judgment, which had been converted to a money judgment. Trial court awarded wife attorney fees and costs. Reversed, holding that wife's efforts to collect money judgment through a writ of execution was not a proceeding under the dissolution statutes and thus she was not entitled to attorney fees and costs under dissolution statute.

***Mejia v. Mejia*, 295 So. 3d 816 (Fla. 4th DCA 2020)** - Temporary support - Jurisdiction

Circuit court in Florida could determine it had subject matter jurisdiction over dissolution proceeding, although husband filed separate dissolution petition in Dominican Republic and husband alleged wife did not reside in Florida for six months prior to filing petition; both parties had Florida driver's licenses, were registered to vote in Florida, and Florida residence was homesteaded with insurance and utility bills in their names, husband testified at jurisdictional hearing to being in Florida every week, and wife testified that husband prevented her from returning to Florida from Dominican Republic where she was tending to sick father. In determining temporary spousal support in dissolution action, circuit court was required to use husband's net income, rather than gross income, apply child support obligation, and account for wife's imputed income, warranting remand for court to calculate husband's ability to pay utilizing net income, deduct husband's child support obligation from support award, and account for \$2,000 in monthly income imputed to wife.

***Rhoden v. Rhoden*, 295 So. 3d 864 (Fla. 1st DCA 2020)** - Dissolution of marriage - Alimony

Trial court failed to make necessary findings to support its decision to award wife durational alimony rather than permanent alimony in dissolution action; long-term marriage carried rebuttable presumption favoring award of permanent alimony, parties' 35-year marriage was long-term marriage, durational alimony could be awarded where permanent alimony was inappropriate, and trial court did not find that permanent alimony was inappropriate and did not find wife had no ongoing need for support on permanent basis. Evidence did not support trial court's decision to impute income to wife for alimony

purposes in dissolution action, where trial court relied on statement of wife's counsel that wife had held minimum-wage employment in past and what counsel believed minimum wage was, and husband failed to present any evidence of wife's employability. Trial court could not consider parties' anticipated receipt of Social Security retirement benefits in ten years as basis for award of durational alimony to wife for ten-year period in marriage dissolution proceeding; no evidence indicated that parties would collect Social Security in ten years' time, and trial court could not consider future, anticipated events in setting current alimony. Alimony should be based on current existing circumstances, not on possibilities. Trial court's award of durational alimony award to wife for period of ten years could not be extended in dissolution proceeding; length of durational alimony could not be extended except under exceptional circumstances, wife would need to show change in circumstances to warrant modification of alimony, and parties reaching retirement age arguably would not constitute change in circumstances to support later modification.

***Diaz-Silveira v. Diaz-Silveira*, 45 Fla. L. Weekly D1013, 2020 WL 2050700 (Fla. 3d DCA April 29, 2020)** - Dissolution of marriage - Equitable distribution - Attorney's fees
Trial court could not distribute to husband a \$14,200 credit card debt that had been discharged by the credit card company, and trial court could not secure the award of attorney fees to wife.

May

***Walker v. Walker*, 294 So. 3d 456 (Fla. 3d DCA 2020)** - Dissolution of marriage - Alimony - Findings
Remanded for trial court to make the required statutory finding as to whether any other form of alimony was fair and reasonable under the circumstances of the parties.

***Street v. Street*, 45 Fla. L. Weekly, 2020 WL 2090210 (Fla. 2d DCA May 1, 2020)** - Opinion Withdrawn and Superseded on Rehearing by *Street v. Street*, 2020 WL 5805527 (Fla. 2d DCA September 30, 2020) (see Family Law Case Law Update Aug-Sept 2020).

***Delgado v. Morejon*, 295 So. 3d 1214 (Fla. 5th DCA 2020)** - Attorney's fees (bad faith litigation)
Award of attorney's fees to former wife was warranted during litigation of former husband's multiple petitions to modify child support, despite contention that trial court erroneously granted wife's attorney's fees pursuant to statute, even though wife's answer to husband's petition to modify child support did not include request for attorney's fees, where attorney's fees order was not based on statute but instead was awarded to compensate wife for unneeded attorney services caused by husband's bad faith litigation.

***Bryan v. Wheels*, 295 So. 3d 889 (Fla. 1st DCA 2020)** - Modification - Relocation
Mother's relocation, by itself and without any showing of how that move impeded the timesharing plan, did not constitute substantial and material change in circumstances, and competent, substantial evidence did not support trial court's finding that modification was in the best interests of the child.

***Duhamel v. Fluke*, 295 So. 3d 880 (Fla. 2d DCA 2020)** - Attorney's fees - Charging lien
After attorney withdrew from representation of client in marriage dissolution proceeding, attorney filed notice of attorney charging lien against client. Following evidentiary hearing, trial court granted charging lien in the amount of \$18,466.66 attached to retirement funds distributed to client pursuant to equitable distribution of final judgment. Reversed, holding that assets awarded to client in equitable distribution in final judgment of distribution of marriage were not fruits flowing from attorney's services.

Jones v. Jones, 295 So. 3d 1226 (Fla. 5th DCA 2020) - Stipulation - Imputation of income - Attorney's fees
In dissolution action, trial court issued judgment finding that parties stipulated to equitable distribution chart and ordered wife make equalizing payment to husband, imputed income to wife, and denied wife's request for attorney fees. Held: (1) wife did not stipulate to making equalizing payment to husband; (2) record did not contain competent substantial evidence to support imputation of income to wife at \$17.50 per hour; and (3) wife was not entitled to award of attorney fees.

Pace v. Pace, 295 So. 3d 898 (Fla. 5th DCA 2020) - Contempt - Child support - Alimony - Attorney's fees
Former husband lacked ability to pay purge amounts of child support, alimony, and attorney's fees that were awarded to his former wife during dissolution of marriage proceeding, and willful civil contempt of court was not warranted; former husband was not able to get job in financial domain, in which he had been successfully employed in past, certain job prospects evaporated when potential employers viewed former husband's mugshot, which was taken when he was jailed for civil contempt based on non-payment, and employment former husband had secured was not yet generating sufficient income to satisfy his support obligations.

Van Maerssen v. Gerdtz, 295 So. 3d 819 (Fla. 4th DCA 2020) - Dissolution of marriage - Alimony
(1) Distribution of the value of a depleted brokerage account and three retirement accounts to husband as marital assets was unwarranted; (2) trial court was required to consider investment income that wife could have received from her share of proceeds from sale of marital home; (3) trial court was not required to account for future income that wife could have generated from her share of husband's thrift savings plan, monthly pension, and post-retirement survivors' benefits; (4) trial court was required to account for value and cost of monthly survivor benefit attached to husband's pension plan; and (5) trial court's failure to make the requisite findings that demonstrated need to secure wife's alimony award with a life insurance policy warranted remand.

Whitlock v. Veltkamp, 296 So. 3d 528 (Fla. 1st DCA 2020) - Injunction - Timesharing - Domestic violence
Former wife filed petition for injunction against domestic violence, stemming from former husband's alleged stalking. Trial court granted petition, imposed injunction against domestic violence, prohibited husband's ability to possess firearms, and granted wife exclusive timesharing with their minor child. Affirmed, holding that (1) there was sufficient evidence that husband's actions constituted stalking as defined by domestic violence statute, such that injunction was warranted; (2) trial court could prohibit former husband's ability to possess firearms; and (3) trial court could temporarily grant wife exclusive timesharing rights as victim of domestic violence.

Erlandsson v. Erlandsson, 296 So. 3d 431 (Fla. 4th DCA 2020) - Guardianship
Parents filed petition for limited guardianship over daughter, asserting that daughter was not attending to her basic medical and psychiatric needs and was unable to manage her own finances, and sought to remove most of daughter's rights. Trial court ordered plenary guardianship, appointing parents as guardians. Reversed and remanded with instructions, holding that (1) daughter did not have constitutional right to discharge counsel; (2) daughter did not have constitutional right to challenge effective assistance of her statutorily appointed counsel; and (3) daughter did not receive statutorily required assistance of counsel.

Benedict v. Benedict, 296 So. 3d 438 (Fla. 4th DCA 2020) - Modification - Alimony - Evidence
Former husband brought post-divorce motion to modify alimony. Trial court upheld permanent alimony award, but reduced monthly amount by \$500. Reversed and remanded, holding that (1) former husband

had right to call former wife as a witness, and (2) trial court's order on motion was required to make findings under statutory factors.

***Foreman v. James*, 45 Fla. L. Weekly D1095, 2020 WL 2176545 (Fla. 3d DCA May 6, 2020)** - Modification - Parental Responsibility - Notice

Father filed petition to modify paternity settlement agreement and to obtain shared parental responsibility. Following hearing, trial court ordered father and mother to participate in reunification program. Trial court order quashed, holding (1) trial court was required to conduct an evidentiary hearing preceded by appropriate notice prior to issuing order, and (2) proper notice did not proceed hearing that resulted in trial court order, and thus hearing did not comport with due process.

***Scudder v. Scudder*, 296 So. 3d 426 (Fla. 4th DCA 2020)** - Dissolution of marriage - Transfer - Child custody

Following entry of final judgment as to dissolution of marriage between father and mother and transfer of case to determine all child-related issues, father filed a petition to determine parenting plan and child support. Mother counter-petitioned for custody determination, parenting plan, child support, and to permit relocation of children. Trial court awarded mother 70.5% of timesharing and granted her request to relocate while reserving jurisdiction to address child support and other financial issues related to children. Affirmed in part, reversed in part, and remanded, holding that (1) order transferring case to different judicial district gave court in that judicial district authority to decide all issues related to children in an original proceeding; (2) circuit court properly reserved jurisdiction to address child support and other child-related financial issues; (3) circuit court's parenting plan failed to address all statutory requirements for child support and parenting plans; (4) circuit court needed to address parties' responsibility for children's travel expenses; and (5) provision of circuit court's order limiting communication between parents by requiring them to use certain applications was improper.

***Humphrey v. Humphrey*, 296 So. 3d 536 (Fla. 1st DCA 2020)** - Dissolution of marriage - General magistrate
Magistrate did not have authority to continue after husband's timely objection to order of referral.

***Yaklin v. Yaklin*, 296 So. 3d 531 (Fla. 2d DCA 2020)** - Injunction

Former wife's unsubstantiated allegations of abuse by former husband did not warrant injunction for protection against domestic violence.

***Ianni v. Ianni*, 293 So. 3d 640 (Fla. 5th DCA 2020)** - Child support

In determining former husband's retroactive child support obligation, the trial court erred in failing to consider the mortgage payments paid by former husband during the pendency of the litigation. See *Johnson v. Johnson*, 268 So. 3d 203, 205 (Fla. 5th DCA 2019) (holding that former husband's mortgage payments on parties' marital home during course of marital dissolution action were required to be considered when determining retroactive child support obligation).

***Helinski v. Helinski*, 45 Fla. L. Weekly D1154, WL 2020 2463069 (Fla. 3d DCA May 13, 2020)** - Attorney's fees

As a matter of first impression, trial court could award attorney's fees where litigation required determination of best interests of child, notwithstanding contrary provision in parties' divorce settlement; evidence did not support award of attorney's fees to former wife; and former wife was entitled to recover costs based on former husband's voluntary dismissal of petition for modification.

***Phagan o/b/o L.D.P. v. McDuffee*, 296 So. 3d 957 (Fla. 5th DCA 2020)** - Child support (beyond majority)
Trial court had subject matter jurisdiction over supplemental petition filed before child with disability's 18th birthday to extend father's child support obligation beyond age of majority.

***Vinson v. Vinson*, 296 So. 3d 960 (Fla. 1st DCA 2020)** - Contempt
Trial court lacked authority to use contempt powers to enforce husband's obligation to make equalization payments, but Court of Appeal would not remand with instructions directing husband's \$10,600 purge payment to be repaid to husband since trial court was in a better position to determine the state of the parties' financial positions.

***C.G. v. M.M.*, 45 Fla. L. Weekly D1183, 2020 WL 2549548 (Fla. 2d DCA May 20, 2020)** - Child custody - Child support
Trial court could not fashion prospective timesharing schedule and parenting plan based on mother's planned move, and order, to the extent it provided for automatic reduction in mother's parenting time upon move, was too broad.

***Gilbert v. Gilbert*, 45 Fla. L. Weekly D1206, 2020 WL 2549513 (Fla. 3d DCA May 20, 2020)** - Enforcement - Marital Settlement Agreement
Ex-wife was entitled under terms of MSA to award of attorney fees and costs incurred in opposing ex-husband's motion, and trial court erred in summarily denying ex-wife's request for attorney fees and costs incurred in bringing motion to enforce terms of MSA.

***Miller v. Miller*, 294 So. 3d 1021 (Fla. 5th DCA 2020)** - Attorney's fees
Dismissing portion of appeal challenging finding of entitlement to attorney's fees as issue was not ripe for appellate review where trial court only determined entitlement and did not determine amount of fees.

***Jones v. Jones*, 296 So. 3d 965 (Fla. 5th DCA 2020)** - Dissolution of marriage - Alimony
Competent, substantial evidence supported temporary alimony award of \$500 per month in favor of husband, in dissolution of marriage proceedings; husband and wife were married for approximately 11 years before husband filed for the dissolution of marriage, wife was gainfully employed, earning approximately \$2400 every two weeks, husband was not employed at the time of the hearing, wife additionally received approximately \$4000 per month in disability and retirement benefits from the military, husband was also a disabled military veteran and received a monthly disability payment of \$3352, husband testified to his various monthly expenses, and wife had not challenged her ability to pay the temporary alimony award.

***Williams v. Taylor*, 45 Fla. L. Weekly D1276, 2020 WL 2745621 (Fla. 3d DCA May 27, 2020)** - Judgment
Inconsistencies in final judgment of paternity and parenting plan order were voidable but did not render final judgment void.

***Alobaid v. Khan*, 45 Fla. L. Weekly D1278, 2020 WL 2745620 (Fla. 3d DCA May 27, 2020)** - Injunction - Jurisdiction
Circuit court had personal jurisdiction over husband in action by wife for injunction for protection against domestic violence on behalf of herself and her child; although husband was Kuwaiti national, husband was personally served with process while voluntarily present in Florida. Circuit court had specific personal jurisdiction over husband in action by wife for injunction for protection against domestic violence on behalf of herself and her child pursuant to long-arm statute, where petition alleged incident of domestic violence that occurred in Florida, husband failed to file a legally sufficient challenge to allegations, and

husband had sufficient minimum contacts with Florida such that maintenance of the domestic violence action did not offend traditional notions of fair play and substantial justice. Wife established by competent, substantial evidence that she was either a victim of domestic violence or had reasonable cause to believe she was in imminent danger of becoming victim of domestic violence, supporting issuance of injunction for protection against domestic violence against husband on behalf of wife and child, where wife's petition described four incidents in which husband either slapped, pushed, shoved, or kicked her, wife verified that husband threatened to relocate child to Kuwait if wife did not agree to go there herself, wife's testimony was partially corroborated by her mother, and husband admitted to being rough toward wife during their marriage. Despite husband's allegations that Florida was not child's home state, circuit court had jurisdiction to enter temporary time-sharing plan as part of issuance of injunction for protection against domestic violence against husband on behalf of wife and child, where there was no dispute that the child was physically present in Florida when wife filed the underlying petition alleging domestic violence.

June

***Jackson v. Blazer*, 296 So. 3d 984 (Fla. 2d DCA 2020)** - Equitable distribution

Truck held by husband was nonmarital property for purposes of equitable distribution in marital-dissolution proceeding, where husband acquired truck prior to marriage. Car held by husband was nonmarital property for purposes of equitable distribution in marital-dissolution proceeding, where husband acquired car after petition for dissolution was filed. Car held by wife was nonmarital property for purposes of equitable distribution in marital-dissolution proceeding, where wife acquired car after the filing of the petition for dissolution.

***Frye v. Cuomo*, 296 So. 3d 939 (Fla. 4th DCA 2020)** - Time-sharing

(1) It was well within trial court's discretion to restrict husband's time-sharing by requiring him to abstain completely from alcohol use and submit to BAC testing both at beginning and end of each visit; (2) trial court's judgment granting unfettered discretion to wife to request BAC testing from husband at any time was unwarranted; (3) trial court's judgment making husband solely responsible for cost of BAC testing was unwarranted; and (4) trial court's judgment awarding ultimate decision-making authority to wife regarding children's education was unwarranted.

***Singer v. Singer*, 45 Fla. L. Weekly D1342, 2020 WL 2893402 (Fla. 2d DCA June 3, 2020)** - Reopening case

Ex-wife was entitled to reopening of evidence following deaths of her father and boyfriend after close of evidence with respect to alimony and child support; ex-husband would not be unfairly prejudiced, reopening would serve best interests of justice by allowing trial court to recalculate income imputed to ex-wife based upon gifts from father and boyfriend, ex-wife acted promptly to inform court of deaths by moving to reopen judgment after oral pronouncement of judgment but before written judgment was entered and renewing motion after written judgment was entered, and deaths led to disappearance of more than \$20,000, or 37%, of imputed income to ex-wife. Deaths of ex-wife's boyfriend and father soon after trial court's oral pronouncement of divorce judgment which imputed income to ex-wife based in part upon gifts from boyfriend and father were newly discovered evidence that materially altered trial court's findings relating to her imputed income for purposes of alimony and child support, and therefore summary denial of ex-wife's motion for relief from judgment was unwarranted, where deaths occurred after close of evidence, and ex-wife could not have discovered evidence of deaths as they were not extant at time of trial.

Price v. Taylor, 298 SO. 3d 564 (Fla. 4th DCA June 10, 2020) - Dissolution of domestic violence injunction
Wife filed petition for injunction for protection against domestic violence. Trial court denied petition. Appellate court reversed and remanded with instructions to enter injunction. On remand, the trial court denied husband's motion to dissolve injunction. Husband appealed. Reversed and remanded, holding that husband was entitled to present evidence regarding facts surrounding issuance of injunction at hearing on motion to dissolve injunction.

Richards v. Dept. of Revenue, 45 Fla. L. Weekly D1401, 2020 WL 3067548 (Fla. 3d DCA June 10, 2020) - Child support - Administrative proceeding

Father's failure to participate in administrative proceedings conducted by the Department of Revenue to establish administrative support order, which arose out of mother's request for child support services, resulted in waiver of father's ability to challenge sufficiency of evidence supporting Department's determination of his child support obligations specified in administrative support order; father did not return any forms supplied by Department notifying him of the proceedings, as was legally required, did not request financial information and any support paid, and waived his right to administrative hearing by failing to request administrative hearing after receiving notice of his right to do so.

Pares v. Soriano, Fla. L. Weekly D1396, 2020 WL 3067744 (Fla. 3d DCA June 10, 2020) - Motion for Rehearing

Denial of former wife's motion for rehearing addressed to order of partition of proceeds from sale of marital home, most of which were awarded to former husband, on former husband's motion to enforce and clarify final judgment of divorce, was not warranted, where former wife provided trial judge with documents from her doctors which, unrebutted and on their face, supported her continuance request on bases of illness, former wife alternatively asked to attend telephonically, upon her inability to attend in person, and former wife was effectively prevented from presenting her case.

Gerville-Reache v. Gerville-Reache, 45 Fla. L. Weekly D1425, 2020 WL 3092340 (Fla. 1st DCA June 11, 2020) - Modification - Child support

Affirming trial court order that included imputation of income to former husband, trial court included detailed findings supporting ruling.

Johnson v. Johnson, 297 So. 3d 700 (Fla. 1st DCA 2020) - Alimony - Child support

Durational alimony award to husband of \$2,000 per month for 60 months was not supported by competent, substantial evidence, and trial court's decision to deny wife's request for retroactive child support from time husband left marital home did not speak to children's needs or husband's ability to pay.

McGovern v. Clark, 298 So. 3d 1244 (Fla. 5th DCA 2020) - Jurisdiction - Presumption of legitimacy

Laws of state where wife, partner, and children were domiciled, rather than laws of state where wife and partner were married applied to determination of whether trial court had subject matter jurisdiction to adjudicate issues related to children; statute expanding the presumption of legitimacy of a child to children born prior to marriage of the mother and "reputed father" does not require that the "reputed father" is the biological father, only that the person held out as the reputed father willingly assumed the responsibilities of parenthood; and District Court of Appeal would not review wife's challenge to the constitutionality of the statute expanding the presumption of legitimacy of a child to children born prior to marriage of mother and reputed father.

Marwan v. Sahmoud, 45 Fla. L. Weekly D1461, 2020 WL 3261139 (Fla. 3d DCA June 17, 2020) -
Disqualification of judge

Trial court's disqualification was warranted due to continued questioning in civil contempt proceeding regarding former husband's present ability to pay alimony.

Seiwert v. Seiwert, 299 SO. 3d 558 (Fla. 5th DCA 2020) - Exceptions to Magistrate findings -
Disqualification of magistrate

Former husband's motion to recuse magistrate in post-dissolution proceedings was legally insufficient; former husband merely challenged rulings made by magistrate and suggested that those rulings manifested bias against him.

Ricketts v. Ricketts, 45 Fla. L. Weekly D1479, 2020 WL 3353607 (Fla. 2d DCA June 19, 2020) - Privilege

Psychotherapist-patient privilege's exception did not apply to wife's medical records, and trial court was required to determine if wife had waived her psychotherapist-patient privilege before court could conduct in camera inspection of documents in wife's patient privilege log.

Tutt v. Hudson, 299 So. 3d 568 (Fla. 2d DCA 2020) - Modification - Child support - Findings

Trial court's imputation of \$125,000 in annual income to former husband was not supported by competent, substantial evidence in proceeding for modification of his child support obligations; although former husband may have been voluntarily underemployed after the parties' divorce and capable of earning more than the \$38,000 per year he was on track to earn driving for ride-sharing companies, he had been a stay-at-home father during the marriage, he had never earned more than \$60,000 per year, his testimony that he thought he could earn \$500 a day operating his own limousine business referred to indefinite, future point in time, and testimony of wife's vocational expert that former husband was capable of earning \$143,000 as a real estate agent, for which he had obtained a license, applied to future years. Trial court was required make specific findings of fact, either at the hearing on former wife's request to modify former husband's child support obligations or in its order granting the request, to support its decision to reduce former husband's attorney fee award to \$2,500 due to his contentiousness during litigation, after concluding former wife should pay former husband's fees; although court concluded former husband's contentiousness made litigation longer and more difficult, it did not explain what portion of his fees were occasioned by his misconduct.

Stephanos v. Stephanos, 299 So. 3d 37 (Fla. 4th DCA 2020) - Dissolution of Marriage - Agreements

Agreement between spouses was a postnuptial agreement in both form and substance and thus was enforceable in dissolution of marriage proceedings, even though spouses had previously separated and reconciled and agreement did not state that reconciliation would not abrogate its executory provisions; agreement was executed while marriage was intact and parties were not imminently considering divorce. Reconciliation or remarriage abrogates executory provisions in a prior marital settlement agreement, not a postnuptial agreement.

Dampier v. Dampier, 298 So. 3d 695 (Fla. 1st DCA 2020) - Equitable distribution - Liabilities

Debts and obligations incurred as result of wife's forgery were nonmarital liabilities.

Holton v. Holton, 297 So. 3d 707 (Fla. 1st DCA 2020) - Injunction

Injunction for protection against domestic violence reversed, where the primary basis was allegations of cyber-stalking arising from wife's social media posts concerning her husband. The trial court ordered that Holton was prohibited from posting derogatory posts or videos about her husband for a year. Appellate

court found an insufficient factual basis existed for entry of the injunction and that the injunction was overbroad.

July

***Jorgensen v. Tagarelli*, 45 Fla. L. Weekly D1599, 2020 WL 3579651 (Fla. 5th DCA July 2, 2020)** - Dissolution of marriage - Imputation of income - Agreement

Competent and substantial evidence supported trial court's conclusion that wife was voluntarily underemployed, so as to support imputation of income to wife when calculating child support in divorce action; there was evidence that wife worked as self-employed insurance broker during most of parties' four-year marriage, that wife's income increased to \$118,000 as a full-time employee, and that wife voluntarily left her full-time job and returned to work as a self-employed insurance broker and earned about \$38,000 a year. Trial court was prohibited from relying solely on wife's past earnings in imputing income to wife when calculating child support in divorce action; court was required to also consider wife's current earning ability. Husband's monthly installment payments to wife for her rights to co-owned mobile home park pursuant to the parties' settlement agreement in divorce action could not be excluded from husband's business income for purposes of child support calculation, although funds were not technically available to pay child support; monthly installment payments were equalizing payments made over time to satisfy the parties' marital dissolution agreement.

***D.R. v. Heidrich*, 2020 WL 3584188 (Fla. 5th DCA July 2, 2020)** - Guardianship

Appointment of unrelated acquaintance as guardian interfered with mother's fundamental liberty interest to raise her children.

***Concannon v. Schnotala*, 45 Fla. L. Weekly D1601, 2020 WL 3579776 (Fla. 5th DCA July 2, 2020)** (Reh'g denied August 6, 2020) - Discovery

Trial court's rulings on written discovery departed from the essential requirements of law because it ordered production of petitioner's hospital discharge paperwork without an in-camera inspection to prevent disclosure of irrelevant information.

***J.G.G. v. M.S.*, 45 Fla. L. Weekly D1601, 2020 WL 3579766 (Fla. 5th DCA July 2, 2020)** - Due process

Husband was deprived of his right to procedural due process when trial court admitted two unpled allegations of domestic violence for the first time during hearing, and District Court of Appeal would not presume that trial court's error of admitting unpled allegations did not contribute to trial court's decision to issue permanent injunction.

***Williams v. Bossicot*, 45 Fla. L. Weekly D1612, 2020 WL 3833413 (Fla. 4th DCA July 8, 2020)** - Child support
Father was entitled to reduction of calculated child support amount based upon substantial time that father spent with child in even years under timesharing arrangement.

***Bouchard v. Bouchard*, 45 Fla. L. Weekly D1642, 2020 WL 3815546 (Fla. 2d DCA July 8, 2020)** - Due process - Disqualification of GAL

Trial court violated wife's due process right to notice and opportunity to be heard when court granted husband's motion without holding hearing, and trial court's finding that relationship between husband and GAL had been "poisoned" by fee payment dispute did not, by itself, warrant disqualification and removal of GAL.

Wiendl v. Wiendl, 45 Fla. L. Weekly D1643, 2020 WL 3815538 (Fla. 2d DCA July 8, 2020) - Child support - Motion to Vacate - Child support hearing officer

Verbiage of email sent by counsel for former husband to trial judge's judicial assistant was sufficient to trigger requirement of rule governing child support enforcement that trial court hold hearing on husband's motion to vacate order holding husband in contempt for failing to pay child support, and thus trial court was precluded from denying husband's motion to vacate without hearing, where email asked "please advise" of trial court after referencing rule that allowed for hearing on motion to vacate within 10 days of application for hearing, and hearing was mandatory once counsel references rule as rule used word "shall." Fla. Fam. Law R. Proc. 12.491(f).

Stivelman v. Stivelman, 45 Fla. L. Weekly D1624, 2020 WL 3815549 (Fla. 3d DCA July 8, 2020) - Discovery Protective orders preventing, among other things, the discovery of numerous third-party companies' financial documents, rendered in dispute between former wife and former husband pertaining to modification of monthly alimony, did not irreparably harm wife, who sought financial documents to show husband had more assets than amount he represented in previous marriage dissolution proceedings, and thus appellate court lacked certiorari jurisdiction to consider wife's challenge to order.

Coriat v. Coriat, 45 Fla. L. Weekly D1620 (Fla. 3d DCA July 8, 2020) - Modification - Child support - Timesharing

Modification of child support to recalculate former husband's obligation, which was based on children spending 146 nights per year with him, to being based on approximately 82 nights of timesharing was warranted, where former husband exercised no more than 82 overnights per year with children. Modification of former husband's child support, to be based on approximately 82 nights of timesharing, to be applied retroactively to entry of final judgment of dissolution of marriage, as opposed to the date of the supplemental petition for modification, was not warranted, where parties exercised timesharing schedule consistent with parenting plan, and former husband did not fail to exercise agreed parenting plan. Denial of former husband's request for modification of timesharing was warranted, where there was no showing of substantial, material, and unanticipated change of circumstances.

Washington v. Brown, 45 Fla. L. Weekly D1627, 2020 WL 3816104 (Fla. 2d DCA July 8, 2020) - Stalking injunction

Messages from ex-husband to ex-wife's current boyfriend, asking boyfriend to pass inquiries concerning his children with ex-wife, visitation, and ongoing court proceedings to the ex-wife, did not amount to substantial emotional distress, and thus injunction for protection against stalking was not warranted; messages served a legitimate purpose and were directed at ex-wife rather than boyfriend.

J.A.L. v. R.M.A., 298 So. 3d 148 (Fla. 2d DCA 2020) - Appellate attorney's fees

Order on mother's motion for appellate attorney's fees reversed and remanded for trial court to establish a reasonable time schedule for the father to pay the award, as the more than twelve years under the trial court's payment schedule was found to be "manifestly unreasonable." (quoting *Wright v. Wright*, 965 SO. 2d 1168, 1170 (Fla. 2d DCA 2007) (holding that it was manifestly unreasonable to give the former husband up to thirteen years to pay the former wife's attorney's fee award).

D.S. v. A.L.H., 299 So. 3d 614 (Fla. 5th DCA 2020) - Injunction

Final judgment of injunction for protection against domestic violence reversed and remanded for failing to conduct a full evidentiary hearing pursuant to section 741.30(5), Florida Statutes.

Skelly v. Skelly, 45 Fla. L. Weekly D1650, 2020 WL 3886184 (Fla. 5th DCA July 10, 2020) - Modification - Child support

Former wife had standing to bring action to modify child support regarding daughter, who was about to turn 18 years old and had become physically disabled and unable to support herself, where no challenge was made to trial court's factual findings and its conclusion that the parties' daughter became physically incapacitated and dependent prior to her reaching majority.

Giles v. Giles, 298 So. 3d 1277 (Fla 2d DCA 2020) - Dissolution of marriage - Alimony - Equitable distribution - Child support - Evidence

Held: (1) wife did not rebut the statutory presumption that the marriage was a moderate-term marriage; (2) insufficient evidence supported rehabilitative alimony award to wife; (3) insufficient evidence supported durational alimony award to wife; (4) evidence did not support trial court's determination that all four properties in Portugal were marital assets; (5) trial court cannot determine valuation of a marital residence in a dissolution of marriage proceeding by splitting the difference or averaging the values presented by the parties; and (6) discrepancies between evidence and values used by trial court in calculation of child support payable by husband required reversal of the child support award.

Ziegler v. Ziegler, 299 So. 3d 615 (Fla. 5th DCA 2020) - Writ of garnishment

As part of dissolution proceedings, Former Husband obtained a money judgment against Former Wife. Former Husband subsequently filed a Motion for Continuing Writ of Garnishment and requested that the trial court order that Former Wife pay his attorney's fees pursuant to section 57.115, Florida Statutes (2019). Former Wife filed a Claim of Exemption based on her status as head of household. Trial court's order granting the writ of garnishment, finding that Former Wife failed to meet her burden of proving that she is the head of household such that the statutory exemption applies, was affirmed. Reversal upon concession of error as to portion of order that required Former Wife pay Former Husband's attorney's fees.

Baron v. Baron, 45 Fla. L. Weekly D1705, 2020 WL 3988431 (Fla. 1st DCA July 15, 2020) (Reh'g denied August 3, 2020) - Dissolution of marriage - Alimony

The trial court abused its discretion in rendering a final judgment of dissolution of marriage that awarded durational alimony for 12 months rather than permanent periodic alimony to former wife, where the findings of fact contained in the final judgment failed, on their face, to rebut the presumption that former wife was entitled to permanent period alimony, which arose from the fact that former wife and former husband were in long-term marriage of 17 years or more.

Levy v. Levy, 45 Fla. L. Weekly D1680, 2020 WL 3980684 (Fla. 3d DCA July 15, 2020) - Attorney's fees

Statute amending all contracts with prevailing party attorney fees provisions to make those provisions reciprocal required award of prevailing party attorney fees to former wife under property settlement and support agreement after former wife successfully defended against former husband's motion to compel former wife to reimburse former husband for support overpayments and children's expenses, for credit against future spousal support obligations, and for attorney fees and costs, where agreement's prevailing party attorney fees provision provided for award of fees against party who was found to be in violation of agreement.

Chevalier v. Emerson, 45 Fla. L. Weekly D1687, 2020 WL 3983038 (Fla. 4th DCA July 15, 2020) - Modification - Timesharing

Eliminating former wife's time with children until she successfully completed an intensive series of therapeutic steps was unwarranted in former husband's contempt proceeding regarding timesharing,

where timesharing schedule of the parties' children was already established by final Texas divorce order, parties' petitions to permanently modify timesharing were pending to be heard in about three months, and former husband did not plead or prove an emergency.

***Bailor v. Bailor*, 298 So. 3d 681 (Fla. 4th DCA 2020)** - Equitable distribution

Upon concession, portion of trial court's order distributing marital home and advance distribution of the marital home was premature considering the parties had yet to proceed to trial on the issue of equitable distribution.

***Valsaint v. Alphonse*, 45 Fla. L. Weekly D1683, 2020 WL 3980742 (Fla. 3d DCA July 15, 2020)** - Paternity - Child support

Trial court did not abuse its discretion in denying father's request for a continuance of the hearing; nor did the trial court err in dismissing father's petition for failure to effect service of his petition on the minor child's mother.

***Interest of P.L.H.*, 45 Fla. L. Weekly D1726, 2020 WL 4030874 (Fla. 2d DCA July 17, 2020)** - Adoption - Jurisdiction

Trial court's reservation of jurisdiction over "any further action relating to these parties or the minor child" was overbroad. Reversed and remand for vacatur of that language in the reservation-of-jurisdiction provision.

***Rudnick v. Harman*, 45 Fla. L. Weekly D1748, 2020 WL 4198160 (Fla. 4th DCA July 22, 2020)** - Modification

Former husband in divorce modification proceeding filed motion to dismiss former wife's petition for modification and former wife filed motion to waive mediation. Trial court denied former husband's motion to dismiss and granted former wife's motion to waive mediation. Held: (1) trial court departed from essential requirements of law in granting former wife's motion to waive presuit mediation, and (2) trial court's denial of former husband's motion to dismiss could not be addressed through his petition for certiorari review.

***Murphy v. Collins*, 45 Fla. L. Weekly D1775, 2020 WL 4196656 (Fla. 3d DCA July 22, 2020)** - Disqualification

Mother had reasonable fear of not receiving a fair and impartial trial, supporting motion for disqualification of judge in child custody proceedings; trial judge allegedly characterized mother's counsel as engaging in "ploys" and having a "history" of filing late motions and "blaming" court staff, had allegedly expressed being so "tired" of counsel that she "instructed" staff not to accommodate counsel's scheduling requests as a matter of policy, had granted an almost identical motion to disqualify in separate proceeding where disparaging statements about counsel were originally made, did not explain failure to rule on mother's motions for telephonic appearance, and did not provide support for oral finding on mother's purported "refusal" to travel to a hearing where no evidence was taken.

***Romero v. Brabham*, 45 Fla. L. Weekly D1746, 2020 WL 4197749 (Fla. 4th DCA July 22, 2020)** - Motion to vacate

Former wife's allegations in motion to vacate trial court's judgment granting former husband's motion for commitment, contempt, and/or enforcement, presented colorable entitlement to relief, and therefore wife was denied due process when trial court summarily dismissed motion without evidentiary hearing; wife alleged that she filed motion to appear telephonically at hearing on husband's motion, waited 40 minutes on hold, but that she was never allowed into hearing, wife's motion to vacate also alleged meritorious defense—that she allegedly had already complied with prior order, and wife's motion alleged

that she was being denied due process by having to provide relief which was not expressly requested or granted in prior order.

***Sosa v. Portilla*, 45 Fla. L. Weekly D1765, 2020 WL 4198047 (Fla. 3d DCA July 22, 2020) - Contempt**

Trial court was required to include a purge provision in its civil contempt order obligating husband to surrender his passports as a result of his multiple non-appearances in divorce proceedings.

***Ponomarenko v. Esenova*, 45 Fla. L. Weekly D1826, 2020 WL 4342720 (la. 4th DCA July 29, 2020) - Disqualification**

Trial court did not abuse its discretion in limiting time allowed to former husband to prepare a written motion for disqualification of judge during hearing in post-dissolution proceedings on husband's motion for relief from final judgment of dissolution and his petition to modify child support; there was no per se rule requiring reversal any time a judge allowed a limited time to prepare a motion for disqualification during trial.

***Marenco v. Marenco*, 45 Fla. L. Weekly D1798, 2020 WL 4342695 (Fla. 2d DCA July 29, 2020) - Dissolution of marriage - Child support**

(1) Trial court erred in failing to address whether mother's negative rental income should have been considered in calculating child support; (2) trial court erred when it calculated retroactive child support without explaining why it deviated from parties' stipulated income and expense amounts; and (3) trial court erred when it did not determine whether a parenting coordinator should have been appointed, if the parties should have undergone counseling, and if life insurance should have been required as security for child support.

***Harkness v. Harkness*, 45 Fla. L. Weekly D1823, 2020 WL 4342716 (Fla. 4th DCA July 29, 2020) - Dissolution of marriage - Alimony**

In final judgment of dissolution of marriage which, among other things, determined that there was no legal basis for awarding permanent alimony to wife and therefore awarded wife durational alimony in the amount of \$1,500 for five years, (1) trial court was required to address former husband's ability to pay; (2) trial court was required to address former wife's need in terms of her expenses or her necessities as they were established during the marriage of the parties; and (3) trial court's award of durational alimony to former wife upon petition for dissolution of long-term marriage was improper.

***Gore v. Smith*, 45 Fla. L. Weekly D1800, 2020 WL 4342297 (Fla. 3d DCA July 29, 2020) - Modification - Child support**

Forensic accountant's testimony as to father's income in year parties entered into mediated settlement agreement was admissible to address issue of whether there had been substantial change of circumstances, specifically substantial increase in father's income, in years since then, at hearing on mother's petition for upward modification of child support. Substantial change in circumstances occurred so as to permit upward modification of child support to be paid by father; father's income had substantially increased from year in which parties entered into mediated settlement agreement and year in which mother petitioned for upward modification, and there had been substantial increase in child's expenses, including increased money spent on food, use of ride-sharing service, and more expensive clothing. Mother's forensic accountant, who testified at hearing on mother's petition for upward modification of child support and to whom father was ordered to pay \$32,000, was entitled to award of \$29,000, rather than \$32,000; at hearing, accountant testified that his former accounting firm would most likely accept reduced fee, leaving balance of \$29,000, and if they did not, he would take responsibility for bill.

***Bolliger v. Fries*, 45 Fla. L. Weekly D1830, 2020 WL 4375125 (Fla. 2d DCA July 31, 2020) - Attorney's fees
- Findings**

Trial court's simple disposition of attorney's fee issue in final judgment of divorce was inadequate, requiring remand for additional findings to support decision to require husband and wife to be responsible for their own attorney's fees, where statute permitting attorney's fees required trial court to make findings regarding husband and wife's respective financial needs and ability to pay in response to husband's petition for attorney's fees, trial court failed to note consideration of other relevant factors, including merits of respective positions in dissolution and whether litigation was brought primarily to harass, in final judgment, and trial court made no oral findings of parties' financial positions at trial.