

Florida's Vexatious Litigant Law

FLORIDA STATUTE §68.093

EFFECTIVE JULY 1, 2025





Expands Case Types

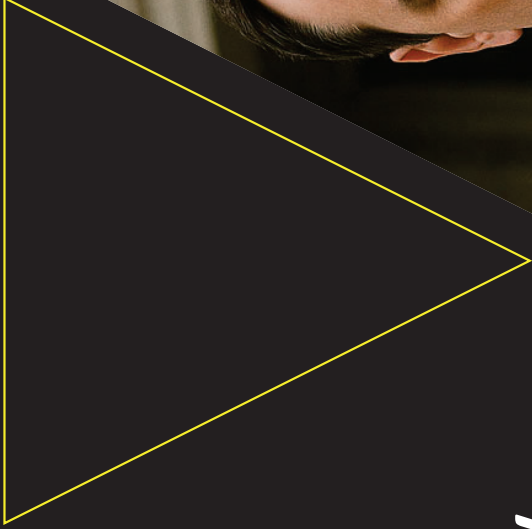
Previously Included: Civil & Probate

Now Includes:

- Family Law
- Small Claims
- Probate narrowed to adversary proceedings under Rule 5.2025



Applies to Pro
se Litigants
only



Court or Party
can request
relief



Definition of a Vexatious Litigant

Pro Se
Litigants
(Primary
focus) who:

Filed 5 plus
actions in 7
years which
are adversely
determined

Re-litigates
actions
already
decided

Files repeated
pleadings or
requests
already ruled
upon.

Definition of a Vexatious Litigant

Repeatedly files
unmeritorious
pleadings or
documents

Conducts
unnecessary
discovery

Utilizes frivolous
tactics meant to
delay

Anyone
previously
declared
vexatious litigant

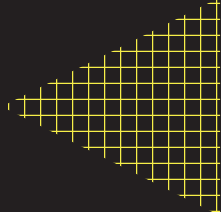
Require posting of a
bond or court order to
file

Set outs sanctions for
failure to post a bond

Relief & Sanctions


HB 1652
Fl. Stat. §
119.0714

MAKES CONFIDENTIAL ANY
MATTER IN A PLEADING THAT A
COURT HAS FOUND TO BE
IMMATERIAL, IMPERTINENT, OR A
SHAM MATTER THAT WOULD
DEFAME OR CAUSE DAMAGE TO
A "GOOD NAME" OR JEOPARDIZE
SAFETY.



IN THE CIRCUIT COURT

SHAM

CONFIDENTIAL

Plaintiff _____

Defendant _____

CASE NO. _____



...ntsi nm, mrd, suisspid l esoare coresrecs-
...d. ...d.

HB 157
Fl. Stat. §
48.091

- Clarifies Service of
Process
(Former residents &
Businesses)



ATTORNEY'S FEES AND COSTS (NO LAUGHING MATTER)

FFLAIC SEPTEMBER 2025

61.16

- Seeking fees requires a two-part process. Establishing **ENTITLEMENT** based on need and ability to pay.
 - In doing so, the court may consider the earning ability of both spouses, the amount of marital assets and liabilities distributed to each spouse, and the liquidity of the assets distributed. *Doyle v. Doyle*, 789 So.2d 499, 502-03 (Fla. 5th DCA 2001).
- Determining **AMOUNT** Hours Expended, Rates Charged, and the reasonableness of each

61.16

- Court must be presented with **substantial competent evidence** to support its findings.
- Where substantial competent evidence is not presented there is not sufficient evidence to support a fee award, and the litigant is not entitled to a second opportunity to present this proof. *Kranz v. Kranz*, 737 So 2d 1198 (Fla. 5th DCA 1999).
- Note: determination of entitlement and amount can be a bifurcated process. *Hoffay v. Hoffay*, 555 So 2d 1309 (Fla 1st DCA 1990).

61.16

- What are the **required findings**?
- Reasonableness of the hourly rate charged
- Number of hours reasonably expended
- Hourly rates and hours expended can be reduced based upon consideration of factors enumerated in *Florida Patient's Compensation Fund v. Rowe*, 472 So 2d 1145 (Fla 1985).
"Inadequate documentation may result in a reduction in the number of hours claimed, as will a claim for hours that the court finds to be excessive or unnecessary." *Id.*

61.16

- What is **substantial competent evidence** when seeking attorney's fees and costs?
- 1. **Testimony**: Attorney Performing Service
 - Unsworn Testimony: Not sufficient unless stipulated to by both parties
 - Sworn Testimony: Competent evidence includes invoices, records and other information detailing the services provided as well as the testimony from the attorney in support of the fee. *Faircloth v. Bliss*, 917 So.2d 1005 (Fla. 4th DCA 2006); see also *Daniel v. Moats*, 718 So.2d 949 (Fla. 5th DCA 1998); *Clark v. Squire, Sanders & Dempsey*, 495 So.2d 264 (Fla. 3d DCA 1986)

61.16

- **Expert Witness**

- 61.16(1), Florida Statutes, provides “... An application for attorney’s fees, suit money, or costs, whether temporary or otherwise, **shall not require corroborating expert testimony** in order to support an award under this chapter...”
- For attorney’s **fees sought as a sanction** expert testimony is required as to the reasonableness of the time expended and hourly rate. *Rauskin v. Christiansen & Jacknin*, P.A., 863 So.2d 442 (Fla. 4th DCA 2003) & *Mitchell v. Flatt*, 344 So.3d 588 (Fla. 2d DCA 2022)
- Expert Testimony alone is insufficient.
- The attorney must testify regarding services rendered or enter a sworn affidavit. Existence of the affidavit in the record alone is insufficient. The Fee Affidavit must be entered into evidence **or sworn** testimony must be provided. Court must make findings. *Schreiber v. Schreiber*, 331 So.3d 874 (Fla.5th DCA 2021).

61.16

- Additional evidence can be provided by attorney's record custodian.
- *Cozzo v. Cozzo*, 186 So.3d 1054 (Fla. 3d DCA 2015) Wife's counsel was not required to testify as to fees when Wife provided testimony from an expert AND the attorney's record custodian.

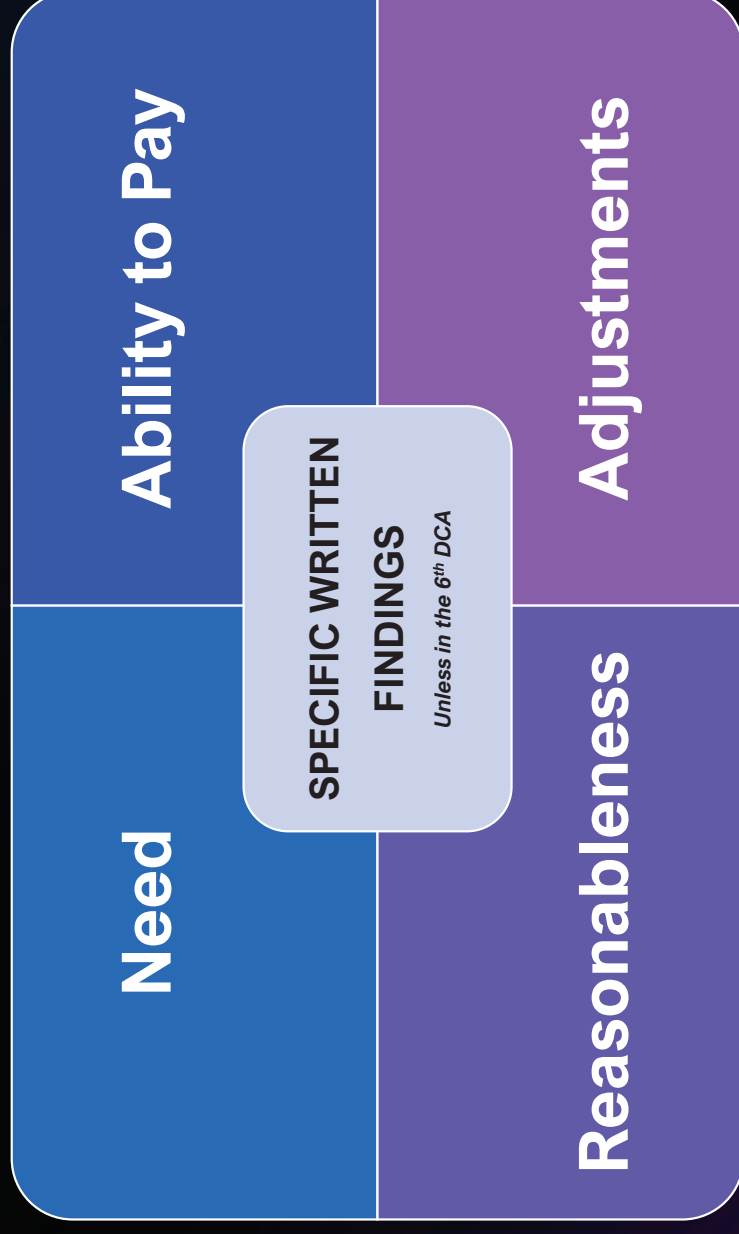
61.16

- What is substantial competent evidence when seeking attorney's fees and costs? (Cont.)
- **Fee Affidavit**
 - Must be specific and detailed. Should include billing rate, detail as to why the rate is reasonable, total time billed, itemization of completed tasks and estimates of future billing at various stages of litigation.
 - Do not include- Unit Billing and Secretarial Tasks
 - The attorney must testify regarding the fee affidavit and services rendered. Existence of the affidavit in the record alone is insufficient. The Fee Affidavit must be entered into evidence and testimony must be provided. *Chestnutt v. Chestnutt*, 752 So 2d 1287 (Fla. 2d DCA 2000).

61.16

- What is substantial competent evidence when seeking attorney's fees and costs? (Cont.)
- **Financial Affidavit**
 - Financial Affidavits must be filed and served prior to temporary and final attorney's fees and costs hearings pursuant to Florida Family Law Rule of Procedure 12.285 (Mandatory Disclosure rule).
 - Financial Affidavits must be entered into evidence at the hearing, if you are depending on the information contained therein to support your request for fees. It is not sufficient that the Financial Affidavits are filed in the Court file. *Anderson v. Anderson*, 642 So 2d 1121 (Fla. 1st DCA 1994)

ORDER REQUIREMENTS: LODESTAR FORMULA



NEED & ABILITY TO PAY

- Findings of the parties' financial positions made at the time of the Final Judgment (equitable distribution & support)
- Order should not solely focus on the income of the parties but rather ALL the financial resources available to them (marital & nm)
- Actual Need vs. Disparity of Resources (See *Gonzalez v. Rodriguez*, (25WL2326197, Fla. 3d DCA 2025))

REASONABLE FEE: ROSEN

- A reasonable hourly rate AND a reasonable accounting of hours expended must be determined.
- Specific Findings:
 - Scope and History of Case
 - Duration of Litigation
 - Merits of the positions
 - Whether brought or maintained primarily to harass, frustrate or stall
 - Existence of prior and/or pending litigation
- Reasonable Rate x Reasonable Hours = Fee

APPROPRIATENESS OF ADJUSTMENTS

- Appropriateness of any enhancement or reduction: Must have specific findings and state the grounds on which it justifies an adjustment of fee on the basis of the nature of the litigation.
- *Florida Patient's Compensation Fund v. Rowe*, 472 So.2d 1145 (Fla.1985)

REASONABLE FEE: WRITTEN FINDINGS

- Court stating that X amount of money is reasonable for a fee, is NOT sufficient.
 - *Duke v. Duke*, 211 So. 3d 1078 (Fla. 5th DCA 2017)
- Court simply stating 7 hours at \$300 per hour is reasonable, satisfied specific findings requirement (.
 - See *Frezza v. Frezza*, 216 So. 3d 758 (Fla. 2d DCA 2017)

TEMPORARY FEES

- **Requires Evidentiary Hearing**
- Specific Findings NOT required, however record must contain sufficient evidence to support award
- Court must still address reasonableness of award along with need and ability to pay

ADDITIONAL ORDER REQUIREMENTS

- Once fees are requested, Court must address them.
- Order or Judgement must describe the legal basis for the award:
 - §61.16
 - *Rosen v. Rosen*, 696 So. 2d 697 (Fla. 1997)
 - Inherent Authority
- Order must contain factual findings for basis of a payment plan

DISTRICT SPLIT ON WRITTEN FINDINGS

- 6TH DCA, still requires specific findings as mentioned, however, if findings were made on the record, they don't need to be in writing.
- No written specific findings and no transcript – order on fees will be affirmed.
- *Julia v. Ramos-Baez*, 395 So.3d 1121 (Fla. 6th DCA 2024)

DISCOVERY FEES/COSTS

- To obtain fees for insufficient discovery disclosure, **you must:**
 - Write a good faith letter requesting compliance with the discovery request (**motion must include certification of good faith request for compliance**)
 - File Motion To Compel with certification of attempt to obtain discovery without involving court
 - Request attorney's fees and costs within motion
 - Prove reasonableness of costs/expenses, fees, client's need and opposing party's ability to pay pursuant to Section 61.16

DISCOVERY FEES/COSTS

- Fourth Judicial Circuit First Amended Administrative Order No. 88-2
- Requires good faith letter with certification in motion
- Once hearing is scheduled, it cannot be cancelled without court's approval
- Notice of Hearing must include:
 - ALL ATTORNEYS APPEARING AT THE HEARING SHALL BE FAMILIAR WITH, AND SHALL CONDUCT THEMSELVES IN ACCORDANCE WITH, THE GUIDELINES FOR PROFESSIONAL CONDUCT OF THE TRIAL LAWYERS SECTION OF THE FLORIDA BAR AND THE JACKSONVILLE BAR ASSOCIATION AS WELL AS THE HANDBOOK ON DISCOVERY PRACTICE PUBLISHED BY THE JOINT COMMITTEE OF THE TRIAL LAWYERS SECTION OF THE FLORIDA BAR AND CONFERENCES OF CIRCUIT AND COUNTY COURT JUDGES

FOURTH JUDICIAL CIRCUIT FIRST AMENDED ADMINISTRATIVE ORDER NO. 88-2

- INTENT
 - Limit unnecessary hearings regarding discovery; and
 - To prevent last minute cancellations of hearings due to attorneys' untimely compliance with discovery requests
 - Encourage judges to use their discretion in assessing sanctions, including attorney's fees to induce attorneys to resolve discovery disputes without filing compel motions and setting unnecessary hearings

FOURTH JUDICIAL CIRCUIT FIRST AMENDED ADMINISTRATIVE ORDER NO. 98-10

- **REQUIRES:**
 - Notices of hearing **MUST** include “ALL ATTORNEYS APPEARING AT THE HEARING SHALL BE FAMILIAR WITH, AND SHALL CONDUCT THEMSELVES IN ACCORDANCE WITH, THE GUIDELINES FOR PROFESSIONAL CONDUCT OF THE TRIAL LAWYERS SECTION OF THE FLORIDA BAR AND THE JACKSONVILLE BAR ASSOCIATION AS WELL AS THE HANDBOOK ON DISCOVERY PRACTICE PUBLISHED BY THE JOINT COMMITTEE OF THE TRIAL LAWYERS SECTION OF THE FLORIDA BAR AND CONFERENCES OF CIRCUIT AND COUNTY COURT JUDGES”

AND

-
- Responsibility of Petitioner: furnish a copy of Fourth Judicial Circuit NOTICE TO ALL ATTORNEYS/STATEMENT OF PROFESSIONALISM with First Amended Administrative order No. 98-10 to every attorney filing an appearance in the case (See First Amended Administrative order No. 98-10)

AND

- File a Certificate Of Compliance with First Amended Administrative order No. 98-10(C)
-
- **INTENT:**
 - Enhance communication, constructive problem solving, respect, and courtesy between judges and lawyers
 - Limit unnecessary hearings regarding discovery; and
 - To prevent last minute cancellations of hearings due to attorneys' untimely compliance with discovery requests
 - Encourage judges to use their discretion in assessing sanctions, including attorney's fees in order to induce attorneys to resolve discovery disputes without filing compel motions and setting unnecessary hearings

CONTEMPT 12.615

FEEES AS SANCTION

V.

61.16 FEEES

RULE 12.615 – FEES AS SANCTION

- Governs contempt proceedings in support matters
- Purpose is to compel compliance, not to punish
- Court may order sanctions if the party is found to be in contempt
- Appropriate sanctions include: incarceration, attorneys' fees, suit money and costs, compensatory or coercive fines and any other coercive sanction or relief permitted by law, so long as a purge provision is provided. 12.615(d)

RULE 12.615 – PURGE

- 12.165(e) -- If the Court orders any coercive sanction (which may include fees, suit money and costs), then the Court shall set conditions for a purge of the contempt, based on the party's present ability to comply.
- The Court may grant a reasonable time to comply with the purge conditions.
- If incarceration is one of the sanctions & the Court defers same for 48 hours (per , then if the party fails to comply the movant must file an affidavit of noncompliance with the Court, and the Court may then issue a writ of bodily attachment

RULE 12.615 – CASE LAW

- Goulding v. Goulding, 368 So.3d 49 (Fla. 2d DCA 2023).
 - If court grants fees as a sanction under 12.615, the Court must include a purge provision as required by (e) of the Rule.
 - The conditions which the Court must set for the purge must be based on the party's present ability to comply.
 - Court must base a purge on the party's present ability to pay
- The fees must be based on the injured party's actual loss and must be directly related to the successful motion for contempt. Stusch v. Jiruska, 188 So.3d 874 (Fla. 4th DCA 2016)

61.16 FEES IN CONTEMPT PROCEEDINGS

- If the fees are not being awarded as a sanction, then the usual requirements regarding need and ability to pay are required, per 61.16, Florida Statutes, in order to award fees
- See the prior slides on the basics regarding the evidence and findings required as to need/ability to pay fees
- See the prior slides on the basics regarding the evidence and findings required as to the amount of the fee
- See the prior slides as to the fact that the non-compliant party may not be awarded fees if their refusal to comply with the order was without justification

INEQUITABLE CONDUCT DOCTRINE

- Permits award of atty's fees where one party has exhibited egregious conduct or acted in bad faith
 - Bitterman v. Bitterman, 714 So. 2d 356 (Fla. 1998)
 - FL SC recognized court's inherent power to award fees as a sanction where party has acted "vexatiously or in bad faith"
 - Moakley v. Smallwood, 826 So. 2d 221 (Fla. 2002).
 - Clarifies and cabins that inherent authority: trial courts may assess attorney's fees against an attorney for bad-faith litigation conduct, but must make express, detailed findings and afford notice and an opportunity to be heard.

PREJUDGMENT INTEREST

- Florida follows the “loss theory” of prejudgment interest
- Prejudgment interest is an element of pecuniary damages — once a party’s right to a sum of money is fixed as of a particular date, they are entitled to interest from that date forward.
- Argonaut Ins. Co. v. May Plumbing Co., 474 So. 2d 212 (Fla. 1985)
 - Held that prejudgment interest on attorney’s fees should run from the date the court determines entitlement, not the later date when the fees are actually quantified.

FEES FOR FEES

- Whether a prevailing party can recover attorney's fees for the time spent litigating their entitlement to and/or amount of fees depends on the underlying statute, contract, or rule that authorizes fee-shifting.
- Florida follows a bright line Palma rule:
 - Fees for proving entitlement → compensable
 - Fees for proving the amount of fees → not compensable
 - State Farm Fire & Cas. Co. v. Palma, 629 So. 2d 830 (Fla. 1993)

57.105 FEES

57.105 mandates fees paid by the losing party **and the losing party's attorney** when the losing party or the losing party's attorney knew or should have known that a claim or defense:

a) was not supported by the necessary material facts, or b) would not be supported by the application of the then-existing law

57.105 EXCEPTIONS

- Not awarded if court determines claim was initially presented as good faith argument as applied to material facts with reasonable expectation of success.
- Not awarded against attorney if he or she acted in good faith based on the representations of the client as to the existence of those material facts.

57.105 EXCEPTIONS

- Cannot be awarded in injunction cases unless court finds by clear and convincing evidence that the petitioner knowingly made a false statement or allegation in the petition or that the respondent knowingly made a false statement or allegation in an asserted defense, with regard to a material matter.
 - *Cadavid v. Sporta*, 344 So.3d 478 (Fla. 4th DCA 2022)

PARTITIONS (PER 64.081)

- Limited case law: plain language of the statute implies that fee award needs to be included in the judgment. Court may order fees be paid out of proceeds of sale.
- Careful – court can review a complaint for partition and find it to be a petition for modification, depending on language. If that occurs, fees will be awarded in accordance with Chapter 61.
- *Harmon v. Harmon*, 453 So.2d 77 (Fla. 3rd DCA 1984)

Charging Lien Defined

Sinclair, Louis, Siegel, Heat, Nussbaum & Zavertnik, P.A., v. Baucom, 428 So.2d 1383 (Fla. 1983).

“(...) an equitable right to have the costs and fees due an attorney for services in the suit secured to him or her in the judgment or recovery in that particular suit.”



“HOLD!”

Charging Lien Forum

D'Anna v. Ackerman, 251 So.3d 194 (Fla. 4th DCA 2018).

The proper forum for adjudicating the validity, enforceability, and amount of a charging lien is with the trial judge before whom the underlying action is pending.



“HOLDi”

Charging Lien “Elements”

Sinclair, Louis, Siegel, Heat, Nussbaum & Zavertnik, P.A., v. Baucom, 428 So.2d 1383 (Fla. 1983)
Litman v. Fine, Jacobson, Schwartz, Nash, Block & England, P.A., 517 So.2d 88 (Fla. 3rd DCA 1987)
Naftzger v. Elam, 41 So.3d 944 (Fla. 2nd DCA 2010)

- 1) Express or implied contract between the attorney and the client.
- 2) Express or implied understanding between the attorney and the client that payment is dependent upon or will come from the recovery.



“HOLD!”

Charging Lien “Elements” Continued

3) Attempt to avoid or a dispute regarding payment of fees.

“CHARGE!”



Charging Lien “Elements” Continued

4) Timely Notice

a) Should be filed in the original action before its termination.

Brydger v. Wolfe, 847 So.2d 1084 (Fla. 4th DCA 2003); Arenas v. Smith and Vargas, 315 So. 3d 798 (Fla 1st DCA 2021).

b) Can be considered after entry of final judgment as long as notice was provided prior to entry. Card v. Card, 122 So.3d 436 (Fla 2nd DCA 2013).

c) A charging lien is “perfected” upon timely notice. Thereafter, the paying party has an affirmative duty to provide notice to the lienor and to protect the lienor’s interest in any settlement proceeds. Kaster, Lynch, Farrar, & Ball, LLP, v. Clyde & Co., U.S., LLP, 2025 WL 1172792 (--- So.3d -

--- 2025).

Charging Lien “Elements” Continued

5) Positive Judgment or Settlement

- a) Services rendered must produce a positive judgment or settlement. Correa v. Christensen, 780 So.2d 220 (Fla. 5th DCA 2001); LaVere-Alvaro v. Syprett, Meshad, Resnick, Lieb, Dumbaugh, Jones, Krotec & Westheimer, P.A., 54 So.3d 1056 (Fla. 2nd DCA 2011).
- b) The lien can only attach to the tangible fruits of services rendered, i.e., assets in equitable distribution secured through judgment or settlement. Conroy v. Conroy, 392 So.2d 934 (Fla. 2nd DCA 2010).
- c) The lien cannot attach to assets beyond those recovered. Szurant v. Aaronson, 277 So.3d 1093 (Fla. 2nd DCA 2019).
- d) The lien cannot attach until a final judgment is entered. walia v. Hodgson Russ, LLP, 28 So.3d 987 (Fla. 4th DCA 2010).

Non-Trick Charging Lien Questions

- a) Can the lien attach to a homestead?
- b) Can the parties subject property to a charging lien by agreement?
- c) Is an attorney who did not keep contemporaneous time records out of luck?
- d) Once I perfect my lien, will I be able to get all my fees including the “unreasonable” ones?

Non-Trick Charging Lien Answers

a) Of course not. This is Ron DeSantis' Florida after all. [Chames v. Demayo](#), 972 So.2d 850 (Fla. 2007); [Sass v. Sass](#), 988 So.2d 1135 (Fla. 4th DCA 2008).



Non-Trick Charging Lien Answers Continued

b) Si, amigos. The parties can enter into contracts that expressly subject otherwise exempt property to a charging lien. Sabin v. Butter, 522 So.2d 939 (Fla. 3rd DCA 1988).

c) No. It is permissible for a reconstruction of time to be prepared. Cohen & Cohen, P.A., v. Angrand, 710 So.2d 166 (Fla. 3d DCA 1998).

d) Sadly, no. Failure to make findings regarding reasonableness requires reversal. Riveiro v. J. Cheney Mason, P.A., 82 So.3d 1094 (Fla. 2nd DCA 2012).

APPELLATE FEES

1. Potential Impact of *Haslauer v. Haslauer* 381 So.3d 662 (Fla. 1st DCA 2024)

- Pleading need required
- Paying fees with marital funds v. waiting for the outcome of the case. No fees if each party has the ability to pay regardless of financial disparity.
- Prospective only application of 61.16

APPELLATE FEES

2. Appellate fee issues based on these factors.
 - The need for advising clients of the potential fee shifting issue
 - The “new” normal re: prospective application for fees in the appellate court.
3. You can waive the other side’s failure to plead entitlement. *Bergman*, 50 Fla.L.Weekly D1666a

HELPFUL RESOURCES

- Hubbard House 24/7 Confidential Hotline: (904) 354-3114; TTY: (904) 354-3958; 24-hour hotline can also be reached via text at (904) 210-3698

Quigley House 24/7 Helpline: (904) 284-0061

Women's Center of Jacksonville (904) 722-3000

Jacksonville Sheriff's Office Emergency 9-1-1 Non-Emergency (904) 630-0500 Victim's Services (904) 630-1764

Clay County Sheriff's Office Emergency 9-1-1 Non-Emergency (904) 264-6512
Suicide Prevention Hotline (800) 273-8255

Department of Children and Families Abuse Hotline (800) 962-2873; Florida Relay 711 or TTY: 1-800-955-8771; BENEFITS (850) 300-4323

DOR Child Support Services State Disbursement Unit (877) 769-0251 Florida DOR Website - Child Support

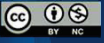
THANK YOU

JEOPARDY!

ATTORNEY'S FEES

Group 3

Andrew Pastor, Meghan Clary, GM Diane Kirigin, Megan Pravda,
Zoe Chaitoff, Gina Szapucki, David Hirschberg, Stuart Manoff,
Howard Rudolph, Luz McLean, Jessica Tyson & Heather Karmeris




1

JEOPARDY BOARD				ROUND 1 (click for Round 2)
Factors to Consider in Determining Fees	Appellate Fees	Contractual Provisions Regarding Fees	Evidentiary Considerations	Expert Fees
\$100	\$100	\$100	\$100	\$100
\$200	\$200	\$200	\$200	\$200
\$300	\$300	\$300	\$300	\$300
\$400	\$400	\$400	\$400	\$400
\$500	\$500	\$500	\$500	\$500

2

Factors to Consider in Determining Fees \$100 Question

The primary elements in determining entitlement to attorney's fees and costs under *Fla. Stat. § 61.16*

Click to see answer 

3

Factors to Consider in Determining Fees \$100 Answer

What is need and ability to pay

Fla. Stat. §61.16

Click to return to Jeopardy Board 

4

Factors to Consider in Determining Fees
\$200 Question

The case that says the Court may consider other relevant factors to provide justice and equity (we all cite in our Petitions)

Click to see answer 

5

Factors to Consider in Determining Fees
\$200 Answer

What is Rosen v. Rosen, 696 So.2d 697 (Fla. 1997)

Click to return to Jeopardy Board 

6

Factors to Consider in Determining Fees
\$300 Question

The trial court should make its final determination regarding attorneys' fees as to the parties' financial positions at what point during the divorce proceedings

Click to see answer 

7

Factors to Consider in Determining Fees
\$300 Answer

What is **AFTER** the dissolution proceedings have concluded

Driscoll v. Driscoll, 763 So. 2d 1189 (Fla. 4th DCA 2000)

Click to return to Jeopardy Board 

8

Factors to Consider in Determining Fees
\$400 Question

We rely on these documents as evidence to convince the court that our time spent and hourly rate are reasonable

Click to see answer 

9

Factors to Consider in Determining Fees
\$400 Answer

What are billing records
(don't forget to move your bills into evidence)

Click to return to Jeopardy Board 

10

Factors to Consider in Determining Fees
\$500 Question

When there is insufficient income or cash accounts available to pay fees, the trial court may require the parties to fund litigation through this type of asset despite a tax penalty

Click to see answer 

11

Factors to Consider in Determining Fees
\$500 Answer

What are retirement accounts

Schmitz v. Schmitz, 891 So. 2d 1140 (Fla. 4th DCA 2005)

Click to return to Jeopardy Board 

12

Appellate Fees
\$100 Question

A motion for temporary appellate fees and costs must be filed in which court

Click to see answer 

13

Appellate Fees
\$100 Answer

What is the trial court

Swartz v. Swartz, 691 So. 2d 2 (Fla. 3d DCA 1996)

Click to return to Jeopardy Board 

14

Appellate Fees
\$200 Question

Without this, or an adequate statement under *Fla. R. App. P.* 9.200(b)(5), the appellate court cannot determine if the trial court made the required findings concerning the parties' relative financial positions

Click to see answer 

15

Appellate Fees
\$200 Answer

What is a transcript

Jacobs v. Jacques, 310 So. 3d 1018 (Fla. 2d DCA 2020)

Click to return to Jeopardy Board 

16

Appellate Fees
\$300 Question

This rule governs the
procedure to be followed
with respect to entitlement
to appellate fees

Click to see answer 

Appellate Fees
\$300 Answer

What is Rule 9.400, Florida
Rules of Appellate Procedure

Fla. R. App. P. 9.400(b)

Click to return to Jeopardy Board 

17

18

Appellate Fees
\$400 Question

A trial court can only award
appellate attorney's fees
when this happens

Click to see answer 

Appellate Fees
\$400 Answer

What is the appellate court
authorizes the award

Rados v. Rados, 791 So. 2d 1130 (Fla. 2d DCA 2001)

Click to return to Jeopardy Board 

19

20

Appellate Fees
\$500 Question

Motions to tax costs must be filed in the trial court no later than this many days after rendition of the appellate court's order.

Click to see answer 

Appellate Fees
\$500 Answer

What is 45 days

Garcia v. Collazo, 178 So. 3d 429, 430 (Fla. 3d DCA 2015).

Click to return to Jeopardy Board 

21

22

Contractual Provisions Regarding Fees
\$100 Question

In Belcher v. Belcher, 271 So. 2d (Fla. 1972), this was determined to be something the parties can not limit or contract away in prenuptial or postnuptial agreements

Click to see answer 

Contractual Provisions Regarding Fees
\$100 Answer

What are temporary attorney's fees and costs

Belcher v. Belcher, 271 So. 2d (Fla. 1972)

Click to return to Jeopardy Board 

23

24

Contractual Provisions Regarding Fees
\$200 Question

The court may enforce this type of fee provision in a prenuptial agreement where litigation concerns the validity of the prenuptial agreement

Click to see answer 

25

Contractual Provisions Regarding Fees
\$200 Answer

What is a prevailing party fee provision

Lashkiajani v. Lashkiajani, 911 So. 2d 1154 (Fla. 2005)

Click to return to Jeopardy Board 

26

Contractual Provisions Regarding Fees
\$300 Question

The appellate court applies this standard of review when determining whether a party is entitled to attorney's fees pursuant to a fee provision in a contract

Click to see answer 

27

Contractual Provisions Regarding Fees
\$300 Answer

What is de novo review

Bayview Loan Servicing, LLC v. Cross, 286 So. 3d 858 (Fla. 5th DCA 2020)

Click to return to Jeopardy Board 

28

Contractual Provisions Regarding Fees
\$400 Question

When modifying a parenting plan, the trial court has discretion to award attorney's fees under § 61.16 despite a waiver of post judgment attorney's fees in a marital settlement agreement, since the trial court must still consider this regarding the child

Click to see answer 

29

Contractual Provisions Regarding Fees
\$400 Answer

What are the best interests
of the child

Helinski v. Helinski, 305 So. 3d 703 (Fla. 3d DCA 2020)

Click to return to Jeopardy Board 

30

Contractual Provisions Regarding Fees
\$500 Question

If a contract has a prevailing party attorney's fees provision, the determination of the prevailing party in the litigation is based on the "_____ issues test"

Click to see answer 

31

Contractual Provisions Regarding Fees
\$500 Answer

What is the
significant issues test

Moritz v. Hoyt Enterprises, Inc., 604 So. 2d 807 (Fla. 1992)

Click to return to Jeopardy Board 

32

Evidentiary Considerations
\$100 Question

Absent this, an award of attorney's fees in a dissolution proceeding must be determined at an evidentiary hearing.

Click to see answer 

33

Evidentiary Considerations
\$100 Answer

What is a stipulation

Soterakis v. Soterakis, 913 So. 2d 688 (Fla. 5th DCA 2005)

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34

Evidentiary Considerations
\$200 Question

The 4th DCA has reversed attorney's fees payment plan awards due to an absence of this

Click to see answer 

35

Evidentiary Considerations
\$200 Answer

What are factual findings/basis for the installment period or amount

Nizahon v. Boch, 339 So.3d 1002 (Fla. 4th DCA 2022)

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36

Evidentiary Considerations
\$300 Question

An award of attorney's fees without adequate findings justifying the amount of the award is this kind of error

Click to see answer 

37

Evidentiary Considerations
\$300 Answer

What is reversible error

Jacobs v. Jacques, 310 So. 3d 1018 (Fla. 2d DCA 2020)

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38

Evidentiary Considerations
\$400 Question

This burden of proof is used to determine the amount of an attorneys fee award

Click to see answer 

39

Evidentiary Considerations
\$400 Answer

What is competent, substantial evidence

McCants v. McCants, 984 So. 2d 678 (Fla. 2d DCA 2008)

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40

Evidentiary Considerations \$500 Question

When assessing an attorney fee award, the court must make specific written findings as to these 5 categories

Click to see answer 

41

Evidentiary Considerations \$500 Answer

What is (1) need, (2) ability to pay, (3) hourly rate, (4) number of hours expended; and (5) appropriateness of any enhancement or reduction

Catalano v. Catalano, 802 So. 2d 1146 (Fla. 2d DCA 2001)

Click to return to Jeopardy Board 

42

Expert Fees \$100 Question

In this type of hearing, corroborating expert testimony is not required

Click to see answer 

43

Expert Fees \$100 Answer

What is a *Fla. Stat.* §61.16 fee hearing

Click to return to Jeopardy Board 

44

Expert Fees
\$200 Question

Generally, this type of testimony is required in any charging lien action to recover attorney's fees from a client

Click to see answer 

Expert Fees
\$200 Answer

What is independent expert testimony

Robin Roshkind, P.A. v. Machiela, 45 So. 3d 480, 482 (Fla. 4th DCA 2010)

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45

46

Expert Fees
\$300 Question

An expert witness for attorney's fees is supposed to prove this

Click to see answer 

Expert Fees
\$300 Answer

What is a reasonable fee

Cohen v. Cohen, 400 So. 2d 463 (Fla. 4th DCA 1981)

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47

48

Expert Fees
\$400 Question

An attorney's fees award entered as a sanction must be supported by expert testimony as to these 2 things

Click to see answer 

Expert Fees
\$400 Answer

What is (1) the reasonableness of the *amount of time expended* and (2) the reasonableness of the *hourly rate*

Rakusin v. Christiansen & Jacknin, P.A., 863 So. 2d 442 (Fla. 4th DCA 2003)

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49

50

Expert Fees
\$500 Question

In this case the court questioned the use of attorney's fee experts for charging liens (hint..she was a local family attorney, some would argue)

Click to see answer 

Expert Fees
\$500 Answer

What is the reasonable amount of attorney's fees

Robin Roshkind, P.A. v. Machiela, 45 So. 3d 480, 482 (Fla. 4th DCA 2010)

Click to return to Jeopardy Board 

51

52

JEOPARDY BOARD				
ROUND 2 (click for Final Jeopardy)				
Charging Liens	Retainer Agreements	Other Avenues for Fees	Challenges to Reasonableness of Fees	Miscellaneous
\$100	\$100	\$100	\$100	\$100
\$200	\$200	\$200	\$200	\$200
\$300	\$300	\$300	\$300	\$300
\$400	\$400	\$400	\$400	\$400
\$500	\$500	\$500	\$500	\$500

53

Charging Liens \$100 Question

A legal vehicle that enables an attorney to recover their fees where they obtained “fruits” for their client

Click to see answer 

54

Charging Liens \$100 Answer

What is a charging lien?

Sinclair, Louis, Siegel, Heath, Nussbaum & Zavertrnik, P.A. v. Baucom, 428 So. 2d 1383, 1384 (Fla. 1983).

Click to return to Jeopardy Board 

55

Charging Liens \$200 Question

Florida common law recognizes these two types of attorney's liens

Click to see answer 

56

Charging Liens
\$200 Answer

What is a charging lien
and a retaining lien

Chames v. Demayo, 972 So. 2d 850 (Fla. 2007)

Click to return to Jeopardy Board 

57

Charging Liens
\$300 Question

The “fruits” awarded as a
result of the attorney’s
efforts for the client

Click to see answer 

58

Charging Liens
\$300 Answer

What are the only things to
which a charging lien
can attach

Duhamel v. Fluke, 295 So.3d 880 (Fla. 2d DCA 2020)

Click to return to Jeopardy Board 

59

Charging Liens
\$400 Question

1. A valid agreement for payment of fees,
2. An agreement (express or implied) that payment may come from the proceeds of the litigation (fruits),
3. Non-payment or a dispute as to the actual amount of fees owed;
4. Timely notice of lien, and
5. Notice of hearing to impose lien

Click to see answer 

60

Charging Liens
\$400 Answer

What are the elements
necessary to properly impose
a charging lien?

Sinclair, Louis, Siegel, Heath, Nussbaum & Zavertnik,
P.A. v. Baucom, 428 So. 2d 1383 (Fla. 1983)

Click to return to Jeopardy Board 

61

Charging Liens
\$500 Question

A charging lien cannot attach
to this asset in the State of
Florida

Click to see answer 

62

Charging Liens
\$500 Answer

What is homestead property

Chames v. Demayo, 972 So. 2d 850 (Fla. 2007)

Click to return to Jeopardy Board 

63

Retainer Agreements
\$100 Question

A family law attorney has an
ethical duty to charge a
_____ and _____ fee

Click to see answer 

64

Retainer Agreements
\$100 Answer

What is a fair and
reasonable fee

Robin Roshkind, P.A. v. Machiela, 45 So. 3d 480
(Fla. 4th DCA 2010)

Click to return to Jeopardy Board 

65

Retainer Agreements
\$200 Question

In a dissolution of marriage
action, this type of fee based
upon the results obtained is
impermissible

Click to see answer 

66

Retainer Agreements
\$200 Answer

What is contingency fee

Rules Reg. Fla. Bar, 4-1.5

Click to return to Jeopardy Board 

67

Retainer Agreements
\$300 Question

An advanced fee, unearned
by the attorney, must be
held in this type of an
account

Click to see answer 

68

Retainer Agreements
\$300 Answer

What is a trust account

Rules Reg. Fla. Bar, 4-1.5

Click to return to Jeopardy Board 

69

Retainer Agreements
\$400 Question

In an attorney's retainer agreement, an attorney may charge either or a hybrid of these two payment structures in a family law case

Click to see answer 

70

Retainer Agreements
\$400 Answer

What is an hourly fee and a flat fee

Rules Reg. Fla. Bar, 4-1.5

Click to return to Jeopardy Board 

71

Retainer Agreements
\$500 Question

This forum may be used to adjudicate a fee issue between a lawyer and client if in writing and contained in a retainer agreement

Click to see answer 

72

Retainer Agreements
\$500 Answer

What is an arbitration

Lemoz v. Sessa, 319 So. 3d 135 (Fla. 3d DCA 2021)

Click to return to Jeopardy Board 

73

Other Avenues for Fees
\$100 Question

A party may pursue attorney's fees under this statute when a claim or defense lacks factual or legal merit

Click to see answer 

74

Other Avenues for Fees
\$100 Answer

What is *Fla. Stat. § 57.105*

Click to return to Jeopardy Board 

75

Other Avenues for Fees
\$200 Question

Where a party refuses to honor a timesharing schedule in a parenting plan, the trial court has the authority to award attorney's fees based upon the wrongful conduct of the parent, as opposed to the financial resources of the parties, under this statute section

Click to see answer 

76

Other Avenues for Fees
\$200 Answer

What is *Fla. Stat. §61.13*

Fla. Stat. §61.13(4)(c)(2)

Click to return to Jeopardy Board 

77

Other Avenues for Fees
\$300 Question

Where a party is seeking attorney's fees to partition real property in a divorce proceeding, that party is not requesting fees under Chapter 61, but under this Chapter

Click to see answer 

78

Other Avenues for Fees
\$300 Answer

What is Chapter 64, *Florida Statutes*

Fla. Stat. § 64.081

Click to return to Jeopardy Board 

79

Other Avenues for Fees
\$400 Question

Where a party fails to produce discovery, a party may seek attorney's fees and costs for filing a motion to compel the discovery under this Florida Family Law Rule of Procedure

Click to see answer 

80

Other Avenues for Fees
\$400 Answer

What is *Fla. Fam. L. R. P.*
12.380

Click to return to Jeopardy Board 

81

Other Avenues for Fees
\$500 Question

Attorney's fees may be
awarded in a dissolution of
marriage action involving
corporate entities if the
issues are _____.

Click to see answer 

82

Other Avenues for Fees
\$500 Answer

What is intertwined

Kass v. Kass, 560 So. 2d 293 (Fla. 4th DCA 1990)

Click to return to Jeopardy Board 

83

Challenges to Reasonableness of Fees
\$100 Question

It is the type of billing that
fails to itemize time for each
separate task, a no-no if you
want to be awarded fees for
your time entry

Click to see answer 

84

Challenges to Reasonableness of Fees \$100 Answer

What is block-billing

Moore v. Kelso-Moore, 152 So.3d 681 (Fla. 4th DCA 2014)

Click to return to Jeopardy Board 

85

Challenges to Reasonableness of Fees \$200 Question

This type of service for our clients can become excessive and judges should reduce it if too much time is spent on it; it may remind you of a Beatles song

Click to see answer 

86

Challenges to Reasonableness of Fees \$200 Answer

What is hand holding

Guthrie v. Guthrie, 357 So.2d 247 (Fla. 4th DCA 1978)

Click to return to Jeopardy Board 

87

Challenges to Reasonableness of Fees \$300 Question

This type of time entry may not be recoverable from the opposing side, depending on if you are coming from “Timbuktu” versus close to the courthouse

Click to see answer 

88

Challenges to Reasonableness of Fees
\$300 Answer

What is travel time

Mandel v. Decorator's Mart, Inc., of Deerfield Beach, 955
So.2d 311 (Fla. 4th DCA 2007)

Click to return to Jeopardy Board 

89

Challenges to Reasonableness of Fees
\$400 Question

The court should not award fees
for this type of work, the type of
work that reminds you of Dolly
Parton and the famous movie
“9 to 5”

Click to see answer 

90

Challenges to Reasonableness of Fees
\$400 Answer

What is clerical work

Youngblood and Youngblood, 91 So.3d 190 (Fla. 2d DCA 2012)

Click to return to Jeopardy Board 

91

Challenges to Reasonableness of Fees
\$500 Question

This type of billing includes
you and your buddy in the
firm working on the same
case and can be excluded if
you are “copy cats”

Click to see answer 

92

Challenges to Reasonableness of Fees
\$500 Answer

What is multiple attorneys
billing or duplicate billing

Universal Property & Casualty Ins. Co. v. Deshpande,
314 So. 3d 416 (Fla. 3d DCA 2020)

Click to return to Jeopardy Board 

Miscellaneous
\$100 Question

Where a party has been
represented by multiple
attorneys, but only one attorney
testifies at the fee hearing,
which attorney(s) may the party
recover attorney's fees for

Click to see answer 

93

94

Miscellaneous
\$100 Answer

Who is the testifying
attorney

Neitlich v. Thirty-Three Sixty Condo. Ass'n, Inc., 77
So.3d 248, 249 (Fla. 4th DCA 2012).

Click to return to Jeopardy Board 

Miscellaneous
\$200 Question

The burden of proof a party
must satisfy when asserting a
Fla. Stat. §57.105 claim

Click to see answer 

95

96

Miscellaneous
\$200 Answer

What is a preponderance of the evidence

Click to return to Jeopardy Board 

97

Miscellaneous
\$300 Question

Once the court determines entitlement to an award of fees, this type of interest should be awarded

Click to see answer 

98

Miscellaneous
\$300 Answer

What is prejudgment interest

Genser v. Reef Condo. Ass'n, Inc., 100 So.3d 760, 762 (Fla. 4th DCA 2012)

Click to return to Jeopardy Board 

99

Miscellaneous
\$400 Question

The burden of proof to be awarded attorney's fees in injunction proceedings for domestic violence, repeat violence, dating violence, sexual violence and/or stalking

Click to see answer 

100

Miscellaneous
\$400 Answer

What is clear and convincing evidence

Click to return to Jeopardy Board 

101

Miscellaneous
\$500 Question

In this infamous case involving the review of billing records, the Appellate Court stated: “Apart from the obvious rewriting of the laws of physics so that it took the earth 25% longer to rotate on its axis that day ...”

Click to see answer 

102

Miscellaneous
\$500 Answer

What is Martin L. Haines, III v. Gloria Sophia f/k/a Gloria Sprayregen, 711 So. 2d 209 (Fla. 4th DCA 1998)

Click to return to Jeopardy Board 

103

FINAL
JEOPARDY!

ATTORNEY'S FEES

Click to see question 

104

Final Jeopardy Question

The Court, pursuant to its inherent authority, is not required to make an express finding of need and ability to pay when imposing fees under this doctrine.



Click to see answer 

105

Final Jeopardy Answer

What is the inequitable conduct doctrine

Bitterman v. Bitterman, 714 So. 2d 356 (Fla. 1998)

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106

THANK YOU FOR
PLAYING IOC GROUP 3
JEOPARDY!

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