# 2019
# Florida Family Law Case Update

**Summaries of all Florida Family Law Case Appellate Opinions Reported in 2019**

*The **ULTIMATE** Resource for **15 years** for Florida Family Law Case Updates*

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Stone v. McMillian, 270 So.3d 510 (Fla. 1st DCA 2019). Trial court abused discretion by entering stalking injunction on evidence that was legally insufficient. Facts that Respondent walked dog past Petitioner's residence often, put his dog waste in her curb trashcan on one occasion, and stepped on Petitioner's driveway to avoid being hit by a bus, does not constitute a course of malicious conduct that would give a person severe emotional distress.

Hossey v. Lara, 272 So.3d 498 (Fla. 3d DCA 2019). Injunction against sexual violence of 9-year-old child reversed for insufficient evidence because mother was pro se and failed to introduce substantial evidence. Court makes plea for more resources to help petitioners stating "the issues could hardly be more significant, the allegations, proceedings, and results substantially affect the long-term physical and emotional health of the parties and their families."

Trice v. Trice, 267 So.3d 496 (Fla. 2d DCA 2019). Trial Court erred denying a motion to dissolve a Domestic Violence injunction based on the circumstances underlying injunction changing so injunction serves no valid purpose when:

- Respondent acquitted of criminal charges arising from events that supported injunction.
- Parties' marriage has been dissolved.
- Respondent moved to another State.
- Petitioner living in the United States when Respondent was living in Japan.

- Respondent no longer in military.
- Parties had not seen each other in six years.
- Respondent made no attempt to contact Petitioner in six years.

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McCaffrey v. Ashley, 265 So.3d 688 (Fla. 5th DCA 2019). Court cannot dismiss injunction that seems legally sufficient without explanation.

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Dailey v. Roth, 262 So.3d 268 (Fla. 1st DCA 2019). A permanent injunction for protection against repeat violence cannot be used simply to compel civility and common decency; however, it would be helpful if the Circuit Court had the power to enter an Order requiring adults to act like grown-ups.

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## Life Insurance:

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Grasso v. Grasso, 267 So.3d 1050 (Fla. 1st DCA 2019). Trial Court erred in requiring life insurance to protect child support without findings of necessity and affordability.

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Myers v. Lane, 44 Fla.L.Weekly D2600 (Fla. 4th DCA 2019). Failure to exercise court-ordered timesharing entitled other party to modification of child support pursuant to 61.30(11)(c).

Thomas v. Joseph, 280 So.3d 1107 (Fla. 1st DCA 2019). Order modifying timesharing over child because Mother was not actually the biological mother, was error. Original final judgment gave the Mother parenting responsibility,

regardless of whether she was biological mother or not. Res judicata applies to judgment. To modify, party must still show substantial change of circumstances.

McDaniels v. McDaniels, 278 So.3d 176 (Fla. 1st DCA 2019). Trial court affirmed for denying modification of alimony when MSA provides alimony is non-modifiable unless former husband becomes permanently disabled by a physician or social security administration, as former husband offered no evidence that he is disabled. Court could not order purge on contempt without finding party had present ability.

Dunn v. Dunn, 277 So.3d 1081 (Fla. 5th DCA 2019). Trial court abused discretion by modifying alimony downward by 85%. Trial court erred viewing case entirely from perspective of current needs and effectively punished the former wife for her decision to live a more modest lifestyle than enjoyed during marriage or currently by former husband.

Hollis v. Hollis, 276 So.3d 77 (Fla. 2d DCA 2019). A 47 mile move in residence by one parent, alone, is not a substantial change of circumstances warranting a modification.

Holder v. Lopez, 274 So.3d 518 (Fla. 1st DCA 2019). Error to impute income without evidence to 65-year-old truck driver who retired with multiple health ailments. Retirement is a changed circumstance warranting reconsideration of alimony.

Schot v. Schot, 273 So.3d 48 (Fla. 4th DCA 2019). Modification granting equal timesharing and ultimate medical decision making to dad affirmed when mother failed to provide child's medical diagnosis to father, gave father improper medical directions to care for child, would overfeed the child and give the child laxatives so child would have explosive diarrhea with dad and parties could not agree on school. However, court reversed on modifications not requested in the pleadings.

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