

Stephens' Squibs

Family Law Case Law Updates

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Monthly Florida Family Law CLE

Episode 4 - Released November 15, 2020

Presented by:

Eddie Stephens, Caryn A. Stevens & Gina Szapucki

Special Guests:

Kelly Albanese, Melinda Gamot & Ron Kauffman

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Center for Child Counseling, Inc.



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Stephens Squibs Monthly Family Law CLE –Episode 4
November 15, 2020

Course No: 2008695N

Anticipated Credits:

1.0. General

1.0 Marital & Family Board Certification

0.5 Ethics

0.5 Professionalism

Also Available:

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2ND ANNUAL
FAMILY LAW MENTAL HEALTH SUMMIT

Hosted By:
Eddie Stephens & Joe Considine

Speakers:
Dori Foster-Morales - Laura Davis Smith - Ralph "R.T." White - Eddie Stephens - Dr. John Dyben
Deborah Kuzmin, LCSW - Molly Paris - Dr. Scott M. Weinstein - Joe Considine

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Dori Foster Morales, Recipient
2020 Judge Ron Alvarez Resiliency Award

Laura Davis Smith, Recipient
2020 Jane Robinson Child Advocate Award

Ralph "R.T." White
Speaker

Joe Considine
Speaker

Learn more or register: www.tinyurl.com/famlaw2020

Florida Bar Accreditation CLE Credits:
General CLE 4.5, Ethics 0.5, Mental Illness 2.0, Substance Abuse, 2.0, and Marital & Family Certification Credits 4.5
Registration Fee: \$200

To register:

www.tinurl.com/famlaw2020

Episode 4 - Agenda:

- 00:00:00 - 00:17:08 Family Law Case Law Update for all Florida reported cases in September 2020. Topics include; Alimony, Attorney's Fees, Enforcement, Equitable Distribution, Income, Injunctions, Modification, Procedure, and Support. Presented by EDDIE STEPHENS, CARYN A. STEVENS, & GINA SZAPUCKI.
- 00:17:08 - 00:20:40 Deep Dive with RON KAUFFMAN
- 00:24:17 - 00:29:40 Discussion of Disciplinary Actions from September 2020. Presented by EDDIE STEPHENS, CARYN A. STEVENS, & GINA SZAPUCKI.
- 00:29:40 – 00:39:45 Board Certification Tip of the Month with KELLY ALBANESE.
- 00:39:45 – 01:00:31 Tips on Professionalism and Ethics with Family Law Legend, MELINDA GAMOT.

Many thanks to our Season Sponsor:



HOST BIOS

Eddie Stephens, author of *Stephens' Squibs – Florida Family Law Updates*, is a partner at Ward Damon and leads the Family and Marital Law department. He is a Board Certified Family Law attorney who specializes in high-conflict divorces. Most important to Stephens is litigating in a manner that minimizes the impact of divorce on children.

Caryn A. Stevens is a partner at Ward Damon, and focuses her practice exclusively in the areas of marital & family law. Prior to joining Ward Damon, she practiced marital & family law at a boutique-style family law firm and spent 12 years working in the mental health & counseling fields. Caryn has assisted thousands of children, families and couples through difficult circumstances and life changes, providing a wealth of experience that allows her to bring a unique

and compassionate perspective to her clients. Caryn is a native South Floridian, and currently lives in Palm Beach County with her husband. She comes from an extensive family of attorneys, including her father, brother, several uncles and cousins. Caryn is a proud alumni of Florida State, and in her spare time she loves watching FSU football, traveling the world, and going to the theater.

Gina Szapucki is an associate at Ward Damon and concentrates her practice exclusively in the areas of marital & family law. Gina quickly realized she had a passion for helping families while clerking for a family law firm. Prior to joining Ward Damon, she practiced marital & family law at a boutique law firm. Her drive to assist and guide families during challenging times continues to grow. In her spare time enjoys traveling, cycling, exploring new restaurants and cuisines. Gina Szapucki is an associate at Ward Damon and concentrates her practice exclusively in the areas of marital & family law. Gina quickly realized she had a passion for helping families while clerking for a family law firm. Gina represents clients from all walks of life while zealously advocating for individual's rights under Florida law. Gina is originally from New Jersey but has called Florida home for the last 15 years. She is a proud Chi Omega Alumni and in her spare time enjoys traveling, cycling, exploring new restaurants and cuisines.

SPEAKER BIOS

Kelly Albanese - As a specialist in marital & family law, Mrs. Albanese has the proven experience, which she has gained through her numerous trials and representation of clients in both contested and uncontested cases, and the proven knowledge and ability to effectively represent individuals no matter how simple or complex the case may be. Mrs. Albanese prides herself on her professionalism and skill in zealously advocating for her clients while also remaining economically conscious of her client's finances.

Before joining Westchase Law, P.A. in 2012, Mrs. Albanese earned her Bachelor of Arts degrees in both Philosophy & Political Science from The Florida State University. She went on to pursue her law degree and received her Juris Doctor degree from Barry University in Orlando, Florida. During law school, Mrs. Albanese participated in Barry University's Child & Family Law Concentration Program. Mrs. Albanese also gained experience working as a law clerk for a firm located in Wesley Chapel, FL, where she was consequently hired on as an Associate Attorney and where she began her focus on marital & family law.

Melinda Gamot - Melinda is an AV-rated attorney who practices marital and family law exclusively, focusing on cases involving complex marital estates and unique issues concerning children and property. Her prior experience as a commercial litigator provide her the skills necessary to try complex litigation disputes successfully, and to resolve a myriad of other issues that arise in the practice of family law. Born and raised in Palm Beach County, Florida, Melinda

graduated with high honors from the University of Florida. She earned her J.D., with honors, at the University of Florida Law School. Melinda was admitted to The Florida Bar in 1978 and to practice before the Supreme Court of the United States in 2007. She is also a member of The Colorado Bar. Since 1992, Melinda has been board certified by The Florida Bar in marital and family law. She is a fellow with the International Academy of Matrimonial Lawyers (IAML) as well as the American Academy of Matrimonial Lawyers (AAML), where she is a past president of the Florida Chapter. Melinda is active in The Florida Bar. She chaired and served on the Marital and Family Law Certification Committee for The Florida Bar for several years, and she remains active with the Bar's Family Law Section as a member of its executive committee. She has chaired numerous committees for the Family law Section. Melinda was part of the original committee that compiled *The Bounds of Advocacy*, which was adopted by The Florida Bar's Family Law Section. Melinda is also a past co-chair of The Florida Bar's Certification Review Committee, and she spent several years on the Legislative Committee. Melinda's community activities include serving on the board of directors of the Palm Beach County Legal Aid Society for several years, where she is currently a trustee. Melinda has authored several articles and frequently lectures at Florida Bar and AAML sponsored seminars. Recent lecture topics include alimony, litigating children's issues, unequal distribution of assets, business valuations, preparing complex financial affidavits, and interpreting and understanding complex tax returns. Aside from her passion for the law, Melinda is devoted to animals, particularly horses. When she is not practicing law, Melinda is usually at her ranch or showing her cutting horses.

Ronald H. Kauffman is the founder of Ronald H. Kauffman, P.A. He is board certified in marital and family law and a Fellow in the American Academy of Matrimonial Lawyers and International Academy of Family Lawyers. He currently serves on the Executive Council of the Florida Bar Family Law Section, and is a member of both the California and Florida Bars. Ron is the past President, and a member of the Board of Directors of, the First Family Law American Inns of Court, and currently serves on the Publications Committee of the Family Law Section of the Florida Bar. Ron is a frequent writer, and one of his most recent articles "To Catch a Time-sharing Deviation" was published in *The Florida Bar Journal*, and is cited as a reference in the Florida Benchbook on Child Support. The Office of the State Courts Administrator, which serves under the Florida Supreme Court, publishes the Benchbook for members of the judiciary. Ron has taught the Florida Bar Family Law Section Trial Advocacy Program and has lectured to different professional organizations including, the Florida Bar, the AAML, the Florida Chapter of the AFCC; Miami-Dade County Family Court Services; and The First Family Law American Inns of Court. Outside the courtroom, Ron serves as Chair of the Educational Excellence Student Advisory Council at Ada Merritt K-8 Center in Miami, Florida. He is also a former wrestler and wrestling coach, an avid reader, and an extensive traveler.

Florida September 2020 Family Law Appellate Opinions:

Alimony:

1. *Tordini v. Tordini*, 45 Fla.L.Weekly D2089 (Fla. 5th DCA 2020). Award of alimony that failed to meet wife's need and left husband with surplus without an explanation reversed. *Judge Karen A. Foxman, reversed.*

Attorney's Fees:

2. *Gonzalez v. Reyes*, 45 Fla.L.Weekly D2050 (Fla. 2nd DCA 2020). Trial court erred in determining "ability" by deducting alimony twice, as well as child support, from husband's income. *Judge Scott H. Cupp, affirmed in part, reversed in part.*

3. *Root v. Feinstein*, 45 Fla.L.Weekly D2022 (Fla. 4th DCA 2020). Trial court erred denying former wife's attorney's fees for misconduct (accessing former husband's private emails) without quantifying the amount of fees due to purported misconduct. *Judge Fabienne Fahnestock, reversed.*

Enforcement:

4. *Webb v. Webb*, 45 Fla.L.Weekly D2051 (Fla. 2nd DCA 2020). Equitable distribution payment is generally subject to 95.11(1)'s twenty (20) year statute of limitation. An agreement that is not merged into the final judgment, but incorporated by reference, may still be enforced as a judgment. When an agreement is merged into a final judgment, the agreement loses the legal effect and is superseded by order. *Scott H. Cupp, affirmed*

Injunctions:

5. *Walker v. Harley-Anderson*, 45 Fla.L.Weekly D2116 (Fla. 4th DCA 2020). Injunction based solely on text messages that were not authenticated was reversed. Long discussion of authentication of text messages. *Judge Michael G. Kaplan, reversed.*

6. *Pawley v. Marie*, 45 Fla.L.Weekly D2040 (Fla. 3rd DCA 2020). Respondent could not seek to set aside an injunction based on fraud (Petitioner already alleged they lived together when they did not). Respondent waived right to contest facts when he agreed to the injunction and the motion is not filed within one (1) year of injunction. Replaces opinion of 45 Fla.L.Weekly D1521a. *Judge Bonnie J. Helms, affirmed.*

Procedure:

7. *Murphy v. Collins*, 45 Fla.L.Weekly D2111 (Fla. 3rd DCA 2020). Trial court erred rendering order that changed substantial findings after being disqualified. After hearing testimony and evidence and rendered an oral

pronouncement, court retains authority to perform ministerial acts of reducing that ruling to written orders, but if order deviates from oral pronouncement, court commits error. *Judge Bonnie J. Helms, reversed.*

8. *Murphy v. Hutchens*, 45 Fla.L.Weekly D2085 (Fla. 5th DCA 2020). If a party does not seek exceptions to a report, the appellate review is limited to errors on face of judgment. *Judge Elizabeth A. Blackburn, affirmed.*

9. *Frank v. Frank*, 45 Fla.L.Weekly D2041 (Fla. 3rd DCA 2020). Trial court erred not giving foreign judgment full force and effect and for modifying the amount of equitable reasons not even plead. *Judge Bernard S. Shapiro, reversed.*

10. *Varchetti v. Varchetti*, 45 Fla.L.Weekly D2021 (Fla. 4th DCA 2020). Florida family law rules do not contain any deadline or time limit for raising the issue of inconvenient forum under the UCCJEA. Rule 1.061(g) does not apply to family law proceedings. *Judge Cynthia L. Cox, reversed.*

The Florida Bar
Summary of Disciplinary Orders
September 2020 (Reported October 1, 2020)
(Ranked in order of severity of discipline)

- 1. Albert Hessberg III**, 80 State St., **Albany, NY**, **disbarred** effective immediately following an August 20 court order. (Admitted to practice: 1983) Beginning in 2006, through March 2018, Hessberg defrauded firm clients by misappropriating money entrusted to him as fiduciary and trustee for his clients; misappropriating funds from one client to replenish the account of another client from whom he had previously stolen; billing clients for legal services not rendered; and misappropriating payments for legal services that should have been made to the firm. In total, Hessberg misappropriated approximately \$869,000. This is a reciprocal discipline action, based on an order from the Supreme Court of New York. (Case No: SC19-2134)
- 2. Michael Jonathan Braunschweig**, 5455 S.W. 8th St., Suite 255, **Coral Gables**, **disciplinary revocation** with leave to seek readmission after five years effective immediately following a July 30 court order. (Admitted to practice: 2011) Braunschweig neglected and/or abandoned client matters and failed to communicate and keep clients reasonably informed. Braunschweig had previously been suspended for failing to respond to Bar inquiries. (Case No: SC20-952)
- 3. LeesaAnn Nicole Dodds**, 412 E. Madison St., Suite 909, **Tampa**, **suspended** effective 30 days following an August 6 court order. (Admitted to practice: 2014) Dodds failed to respond to an official Bar inquiry and the Bar filed a Petition for Contempt and Request for Order to Show Cause with The Florida Supreme Court. The court issued an Order to Show Cause and Dodds failed to respond. (Court Case No: SC20-834)

4. Adrian Shiand Webster-Cooley, 8451 Gate Parkway West, Suite 723, **Jacksonville, suspended for three years** followed by a one-year probation and must pay restitution, effective nunc pro tunc to May 18, 2020, following a July 30 court order. (Admitted to practice: 2017) Webster-Cooley joined with nonlawyers through “The Criminal Defense League,” which solicited clients nationwide via the internet for mostly criminal matters. Nonlawyers handled all aspects of cases, harming clients, and clients had trouble communicating with employees. The Criminal Defense League listed Webster-Cooley as managing attorney though he had no actual involvement in any of the cases. He also created Criminal Defense League Processing, Inc., solely for the purpose of receiving client funds and transmitting that money to the nonlawyers. (Case No: SC20-561)

5. Michael Joseph Gabor, 1636 Arrowhead Trail, **Neptune Beach, suspended for three years** effective nunc pro tunc to January 18, 2020 following an August 6 court order. (Admitted to practice: 2009) Gabor pleaded no contest to one count of felony aggravated battery (causing great bodily harm) after a domestic altercation in his home. Gabor also failed to notify the Bar of his felony arrest and charges. (Case No: SC19-2112)

6. Randall Albert Werre, P.O. Box 387, **Milton, suspended for three years** effective immediately following a July 22 court order. (Admitted to practice: 1984) Werre was held in contempt of the Court’s orders dated September 12, 2019, and December 4, 2019, for failing to notify clients, opposing counsel and tribunals of his suspension. (Case No: SC20-829)

7. Kevin E. Paul, PO Box 938, **St. Petersburg, suspended for one year** effective 30 days from an August 6 court order. (Admitted to practice: 2006) While representing Roberta Kaplan in multiple foreclosure litigation cases, Paul filed numerous motions to quash service of process, challenging the validity of the plaintiffs’ attempts to serve Kaplan. Paul did not independently investigate to determine the validity of service or if his client was evading service. Kaplan never executed any document in Paul’s presence and Paul took no step to verify

the authenticity of her signature. His actions caused significant and unjust delays in litigation. (Case No: SC20-1045)

8. Peter Arnold Robertson, 5575 A1A South, Suite 116, **St. Augustine**, **suspended for 90 days** and required to complete ethics school and a professionalism workshop effective 30 days following an August 6 court order. (Admitted to practice: 1991) Robertson, an attorney and general contractor who owns a construction company, referred clients of his law firm to his construction company without advising them to seek independent counsel and without putting the terms of the business transaction in writing with the clients' informed consent. Robertson represented a married couple against the seller of a home for failing to disclose mold and water damage. The husband fired Robertson after discovering an impermissible personal relationship had developed between Robertson and his wife. Despite the conflict of interest, and having been fired by the husband, Robertson filed documents with the court on behalf of both clients. (Case No: SC20-1050)

9. Anton Aggrey Gammons, P.O. Box 682048, **Orlando**, **suspended for 30 days** effective 30 days following a July 30 court order. (Admitted to practice: 2011) Gammons pleaded no contest to possessing cocaine, 20 grams or less of cannabis, and drug paraphernalia. After Gammons successfully completed Veteran's Court, the criminal charges were dismissed. (Case No: SC20-1028)

10. Alan Douglas Henderson, 230 Canal Blvd., Suite 3, **Ponte Vedra Beach**, **suspended for 30 days** and directed to attend ethics school and a professionalism workshop effective 30 days following a July 31 court order. (Admitted to practice: 1984) Henderson represented a close family friend who had filed a petition for injunction for protection against domestic violence against her husband. Henderson instructed his client to break into a safe containing the husband's records and after reviewing the confidential medical records, Henderson made copies to use at an upcoming proceeding. (Case No: SC19-517)

11. William S. Saliba, 1065 W. Morse Blvd., Suite 101, **Winter Park**, **public reprimand** and required to complete ethics school effective 15 days following a July 30 court order. (Admitted to practice: 2015) Saliba engaged in a pattern of misconduct during his association with a business that assists clients in exiting their timeshare contracts. Saliba did not personally meet with the clients, and he had no direct supervision of the employees who communicated with the clients and the timeshare companies. One client filed a Bar complaint alleging that Saliba failed to diligently represent him and failed to provide adequate communication concerning his legal matter. (Case No: SC20-315)