

FLORIDA FIFTH DISTRICT COURT OF APPEAL

Bryan K. Mickler v. Victoria M. Iizuka f/k/a Victoria M. Mickler and
Chip Parker

Mickler · No. 5D2024-1243 · Decided June 27, 2025

SUMMARY

The Fifth District Court of Appeal reversed and remanded the denial of Bryan Mickler’s motion for sanctions under section 57.105, Florida Statutes. The court held that the trial court incorrectly concluded it could vacate a prior dissolution judgment and its release provision under Florida Family Law Rule of Procedure 12.540 when no motion to set aside the judgment was pending in the court that entered it. The court directed further proceedings to determine whether the release barred Victoria Iizuka’s claims and whether her attorney had a good-faith basis to pursue them.

CASE DETAILS

COURT	Florida Fifth District Court of Appeal
WRITING FOR THE COURT	Harris, J.; Edwards, C.J.; Lambert, J.
JURISDICTION	Florida Fifth District Court of Appeal
DECIDED	June 27, 2025
DOCKET	5D2024-1243
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Mickler appealed the trial court's denial of his motion for attorney-fee sanctions under section 57.105(1), Florida Statutes, arising from claims filed by Iizuka against him and others.
STANDARD OF REVIEW	Denial of attorney's fees under section 57.105(1) is reviewed for abuse of discretion; rulings based on issues of law are reviewed de novo.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Bryan K. Mickler v. Victoria M. Iizuka f/k/a Victoria M. Mickler, Chip Parker

TOPICS

- sanctions
- attorney fees
- civil procedure
- appellate procedure
- family law procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether filing claims that were potentially barred by a release in a prior consent judgment could support attorney-fee sanctions under section 57.105(1)(b), Florida Statutes.
2. Whether the civil court had authority under Florida Family Law Rule of Procedure 12.540(b) to vacate the prior dissolution judgment and its release.
3. Whether the trial court adequately determined whether the release barred Iizuka's claims and whether counsel had a good-faith legal basis for filing them.

HOLDINGS

1. A motion seeking relief from a judgment under Florida Family Law Rule of Procedure 12.540(b), like a motion under Florida Rule of Civil Procedure 1.540(b), must be filed in the action and court in which the judgment was rendered. Because no such motion was pending in the dissolution proceeding and none was filed in the civil action, the civil court lacked authority to set aside the Consent Judgment or its release under rule 12.540(b).
2. The trial court applied an incorrect legal premise when denying sanctions by assuming that it could set aside the Consent Judgment and release in the civil action. The court was required to reconsider the sanctions motion in light of the release's continuing validity and the lack of authority to vacate the judgment under rule 12.540(b).
3. The appellate court did not decide whether the release actually barred Iizuka's claims or whether Parker had a good-faith basis for filing them. Those questions required determination by the trial court on remand.

KEY QUOTATIONS

“when relief from a judgment is sought by a rule 1.540 motion, the motion is filed in the action in which the judgment was rendered.” (4)

“a motion under rule 12.540 “does not affect the finality of a judgment or suspend its operation.”” (5)

“Where the language of the release is clear and unambiguous” a court “cannot indulge in construction or interpretation of its plain meaning.” (6)

FACTUAL BACKGROUND

Mickler and Iizuka were married in 2004, and a 2020 Consent Final Judgment dissolved their marriage and equitably distributed the Sheffield Property and valid liens on it. The judgment also broadly released each party from claims, damages, and causes of action against the other. After Mickler's parents demanded payment on a note and mortgage allegedly executed by the couple, Iizuka filed a civil complaint denying that she signed the instruments and asserting nine claims against Mickler and others. Although a rule 12.540(b) motion seeking relief from the Consent Judgment had been filed in the dissolution case, Iizuka's counsel withdrew it during the statutory safe-harbor period and did not seek to set aside the judgment or release in the civil complaint.

PROCEDURAL HISTORY

After the parties' marriage was dissolved by a 2020 Consent Final Judgment containing a broad release, Iizuka filed a separate civil complaint alleging claims including civil theft, statutory consumer-collection violations, conspiracy, breach of fiduciary duty, slander of title, conversion, quiet title, declaratory relief, and injunction. Mickler moved to dismiss, for summary judgment, and for sanctions, arguing that the release barred Iizuka's claims and that the claims lacked legal merit. The trial court denied summary judgment and sanctions, reasoning that it could vacate the release under Florida Family Law Rule of Procedure 12.540(b). The Fifth District reversed and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must reconsider the sanctions motion under the correct legal framework, including whether the Consent Judgment's release precluded Iizuka's claims against Mickler and whether Parker had a good-faith basis to bring those claims despite the release and the court's inability to set aside the Consent Judgment under rule 12.540(b).

CASES CITED

- S. Wild Olive, LLC v. Total Maint. Servs., LLC, 387 So. 3d 1254, 1257 (Fla. 5th DCA 2024)
- Ensign Bank, F.S.B. v. S. Fla. Warehousing II, 582 So. 2d 165, 166 (Fla. 4th DCA 1991)
- Bane v. Bane, 775 So. 2d 938, 941 (Fla. 2000)
- Mullins v. Kennelly, 847 So. 2d 1151, 1154 (Fla. 5th DCA 2003)
- MC Liberty Express, Inc. v. All Points Servs., Inc., 252 So. 3d 397, 403 (Fla. 3d DCA 2018)
- Davis v. Bailynson, 268 So. 3d 762, 767 (Fla. 4th DCA 2019)
- Plumpton v. Cont'l Acreage Dev. Co., Inc., 830 So. 2d 208, 210-11 (Fla. 5th DCA 2002)
- Cerniglia v. Cerniglia, 679 So. 2d 1160, 1164 (Fla. 1996)
- Green v. Callahan, 664 So. 2d 21, 23 (Fla. 4th DCA 1995)
- O'Hair v. O'Hair, 396 So. 3d 630, 634 (Fla. 6th DCA 2024)
- Akers v. City of Miami Beach, 745 So. 2d 532, 535 (Fla. 3d DCA 1999)