

FLORIDA THIRD DISTRICT COURT OF APPEAL

Christina Fano Schultheis v. Milan Schultheis

No. 3D23-1250 · No. No. 3D23-1250 · Decided February 25, 2026

SUMMARY

The Florida Third District Court of Appeal affirms an initial attorney’s fees order in a post-dissolution enforcement proceeding. It reverses a subsequent order awarding fees incurred by the former wife’s nonparty attorney in litigating the amount of attorney’s fees, holding that such “fees for fees” are not authorized by the plain language or purpose of section 61.16(1), Florida Statutes. The court certifies conflict with *Schneider v. Schneider*, 32 So. 3d 151 (Fla. 4th DCA 2010).

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Gordo, J.; Emas, J.; Lobree, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	February 25, 2026
DOCKET	No. 3D23-1250
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Former Wife appealed an initial attorney's fees order and Former Husband cross-appealed that order and a subsequent order awarding fees incurred by Former Wife's nonparty attorney in establishing the amount of attorney's fees. The Third District affirmed the initial order, reversed the subsequent order, and remanded for recalculation.
STANDARD OF REVIEW	De novo review applies when entitlement to attorney's fees depends on statutory interpretation; the initial attorney's fees award was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	Christina Fano Schultheis v. Milan Schultheis

TOPICS

- family law procedure
- spousal support
- statutory interpretation
- appellate procedure
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion in awarding Former Wife attorney's fees incurred in enforcing the marital settlement agreement.
2. Whether section 61.16(1), Florida Statutes, authorizes an award of attorney's fees incurred by a nonparty attorney in litigating the amount of that attorney's own fees.
3. Whether the award of fees for fees is consistent with the plain language and underlying purposes of section 61.16(1) and chapter 61.

HOLDINGS

1. The circuit court did not abuse its discretion in awarding Former Wife attorney's fees incurred in enforcing the marital settlement agreement.
2. Section 61.16(1), Florida Statutes, does not authorize an award of attorney's fees incurred by a nonparty attorney in litigating the amount of that attorney's own fees.
3. The subsequent attorney's fees order must be reversed and the matter remanded for recalculation excluding fees incurred litigating the amount of attorney's fees.

KEY QUOTATIONS

“Our conclusion that statutory fees may be awarded for litigating the issue of entitlement to attorney’s fees but not the amount of attorney’s fees comports with the purpose of section 627.428 and with the plain language of the statute.” (5-6)

“Nowhere in the text does the statute provide for an award of fees incurred by the non-party attorney.” (10)

“Fees for fees litigation rewards aggressive billing from non-party attorneys, which drives up costs and diverts attention from the merits of the case.” (14)

“Accordingly, we conclude that an award of attorney’s fees incurred in litigating the amount of fees claimed by the non-party attorney is not supported by the plain language of section 61.16(1).” (18)

FACTUAL BACKGROUND

The parties entered into a marital settlement agreement after their marriage was dissolved. Former Wife incurred attorney's fees enforcing that agreement and obtained an initial attorney's fees award from the circuit court. The circuit court subsequently awarded Former Wife fees incurred by her nonparty attorney while litigating the amount of attorney's fees claimed.

PROCEDURAL HISTORY

Following the parties' dissolution of marriage, the circuit court entered an order awarding Former Wife attorney's fees incurred in enforcing the marital settlement agreement. The court later awarded additional fees for time spent by Former Wife's attorney establishing the amount of fees claimed. Former Wife appealed and Former

Husband cross-appealed. The Third District withdrew its prior opinion, substituted this opinion, denied rehearing, rehearing en banc, and certification, affirmed the initial fee order, and reversed the subsequent fee order.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court must recalculate the subsequent attorney's fees award by eliminating fees incurred for time spent litigating the amount of attorney's fees claimed by the nonparty attorney. The initial attorney's fees order remains affirmed.

CASES CITED

- Spano v. Bruce, 62 So. 3d 2, 6 (Fla. 3d DCA 2011)
- Price v. Tyler, 890 So. 2d 246, 250, 252 (Fla. 2004)
- Pepper's Steel & Alloys, Inc. v. U.S., 850 So. 2d 462, 465 (Fla. 2003)
- State Farm Fire & Cas. Co. v. Palma, 629 So. 2d 830, 832-34 (Fla. 1993)
- Daniels v. Florida Dep't of Health, 898 So. 2d 61, 65 (Fla. 2005)
- Air Turbine Tech., Inc. v. Quarles & Brady, LLC, 165 So. 3d 816, 821 (Fla. 4th DCA 2015)
- Dade Cnty. v. Strauss, 246 So. 2d 137, 141 (Fla. 3d DCA 1971)
- Attorney's Title Ins. Fund, Inc. v. Landa-Posada, 984 So. 2d 641, 643 (Fla. 3d DCA 2008)
- Wiggins v. Wiggins, 446 So. 2d 1078, 1079 (Fla. 1984)
- Com. Serv. of Perry, Inc. v. Campbell, 861 So. 2d 1258, 1260 (Fla. 4th DCA 2003)
- Zosman v. Schiffer/Taxis, Inc., 697 So. 2d 1018, 1019 (Fla. 3d DCA 1997)
- Condren v. Bell, 853 So. 2d 609, 610 (Fla. 4th DCA 2003)
- Citibank Fed. Sav. Bank v. Sandel, 766 So. 2d 302, 303 (Fla. 4th DCA 2000)
- Diaz v. SantaFe Healthcare, Inc., 642 So. 2d 765, 766 (Fla. 1st DCA 1994)
- N. Dade Church of God, Inc. v. JM Statewide, Inc., 851 So. 2d 194, 196 (Fla. 3d DCA 2003)
- Oruga Corp., Inc. v. AT&T Wireless of Fla., Inc., 712 So. 2d 1141, 1145 (Fla. 3d DCA 1998)
- Eisman v. Ross, 664 So. 2d 1128, 1129 (Fla. 3d DCA 1995)
- Fortune v. Gulf Coast Tree Care Inc., 148 So. 3d 827, 828 (Fla. 1st DCA 2014)
- Lab'y Corp. of Am. v. Davis, 339 So. 3d 318, 323-24 (Fla. 2022)
- Ham v. Portfolio Recovery Assocs., LLC, 308 So. 3d 942, 946-47 (Fla. 2020)
- Jones v. ETS of New Orleans, Inc., 793 So. 2d 912, 914-15 (Fla. 2001)
- Acosta v. Richter, 671 So. 2d 149, 153-54 (Fla. 1996)
- Conage v. U.S., 346 So. 3d 594, 598 (Fla. 2022)
- Robinson v. Shell Oil Co., 519 U.S. 337, 341 (1997)

- Hess v. Walton, 898 So. 2d 1046, 1049 (Fla. 2d DCA 2005)
- Sarkis v. Allstate Ins. Co., 863 So. 2d 210, 224 (Fla. 2003)
- Murphy v. Tucker, 689 So. 2d 1164, 1165 (Fla. 2d DCA 1997)
- Va. Uranium, Inc. v. Warren, 587 U.S. 761, 765 (2019)
- Rollins v. Pizzarelli, 761 So. 2d 294, 298 (Fla. 2000)
- Pinares v. United Techs. Corp., 973 F.3d 1254, 1262 (11th Cir. 2020)
- Animal Legal Def. Fund v. U.S. Dep't of Agric., 789 F.3d 1206, 1217 (11th Cir. 2015)
- Mercury Indem. Co. of Am. v. Cent. Fla. Med. & Chiropractic Ctr., Inc., 380 So. 3d 477, 481-82 (Fla. 5th DCA 2023)
- Rosen v. Rosen, 696 So. 2d 697 (Fla. 1997)
- Schneider v. Schneider, 32 So. 3d 151 (Fla. 4th DCA 2010)
- Wight v. Wight, 880 So. 2d 692, 694-95 (Fla. 2d DCA 2004)

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