

# FLORIDA FIFTH DISTRICT COURT OF APPEAL

## Nurbaiti Jones v. Donald S. Jones

Case No. 5D2024-2342; LT Case No. 2022-DR-30066-FMCI · No. 5D2024-2342; LT Case No. 2022-DR-30066-FMCI · Decided May 23, 2025

### SUMMARY

The Florida Fifth District Court of Appeal affirmed in part, reversed in part, and remanded a dissolution judgment. The court held that the trial court was required to make specific written findings identifying, classifying, valuing, and distributing the parties' assets and liabilities, including in connection with a default judgment. The court affirmed the striking of the wife's counterpetition but remanded for the required equitable-distribution findings.

### CASE DETAILS

|                       |                                                                                                                                                                       |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Florida Fifth District Court of Appeal                                                                                                                                |
| WRITING FOR THE COURT | Per Curiam; Makar, J.; Jay, J.; Soud, J.                                                                                                                              |
| JURISDICTION          | Florida Fifth District Court of Appeal                                                                                                                                |
| DECIDED               | May 23, 2025                                                                                                                                                          |
| DOCKET                | 5D2024-2342; LT Case No. 2022-DR-30066-FMCI                                                                                                                           |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                 |
| PROCEDURAL POSTURE    | Wife appealed a dissolution judgment, challenging the striking of her counterpetition and the trial court's failure to make required equitable-distribution findings. |
| PRECEDENTIAL VALUE    | Published opinion                                                                                                                                                     |
| PARTIES               | Nurbaiti Jones v. Donald S. Jones                                                                                                                                     |

### TOPICS

- equitable distribution
- dissolution of marriage
- default judgment
- appellate procedure
- family law procedure

### PRACTICE AREAS

- family law
- appellate procedure
- civil procedure

### QUESTIONS PRESENTED

- Whether the trial court erred by striking Wife's counterpetition.

2. Whether the dissolution judgment was legally sufficient when it failed to make specific written findings identifying, classifying, valuing, and distributing the parties' assets and liabilities.

## HOLDINGS

1. The court affirmed the trial court's ruling striking Wife's counterpetition without discussion.
2. Unless the parties have executed an agreement, written findings identifying, classifying, valuing, and distributing the parties' assets and liabilities are mandatory. The requirement applies even when the trial court enters a default judgment, and the absence of the findings constitutes fundamental error on the face of the judgment.
3. On remand, the trial court must make factual findings supporting its classification of the parties' assets and liabilities as marital or nonmarital, set aside nonmarital assets or liabilities or nonmarital portions of marital assets, value and distribute the marital assets and liabilities, and begin with the statutory presumption of equal distribution.

## KEY QUOTATIONS

*“Although there is a presumption in favor of an equal distribution,”* (at 1)

*“specific written findings of fact that identify, classify, value, and distribute the parties’ assets and liabilities.”*  
(at 2)

*“Further, in considering distribution, the court should begin with the statutory presumption that the distribution should be equal.”* (at 3)

## FACTUAL BACKGROUND

The dissolution judgment classified the Sandy Hill property and its contents and the Quinebaug Camp property and its contents as Husband's nonmarital assets. It awarded or addressed several other assets, including vehicles, business assets, brokerage accounts, retirement and health accounts, pension income, and bank accounts, but did not consistently classify the assets, state their full values, or explain the basis for the distributions. The court valued the marital home on Ferri Circle at \$300,000 and awarded Wife half that amount without explaining the valuation basis.

## PROCEDURAL HISTORY

The Circuit Court for Volusia County entered a dissolution judgment, struck Wife's counterpetition, and distributed or awarded various assets without making all required findings concerning classification, valuation, and distribution. The Fifth District Court of Appeal affirmed the ruling striking the counterpetition, reversed the judgment in part for the deficient equitable-distribution findings, and remanded with instructions.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The trial court must make factual findings supporting its classification of the parties' assets and liabilities as marital or nonmarital; set aside the nonmarital assets or liabilities, or the nonmarital portions of marital assets; value and distribute the marital assets and liabilities; and begin with the statutory presumption that distribution should be equal.

#### CASES CITED

- McGowan v. McGowan, 344 So. 3d 607, 610-11 (Fla. 1st DCA 2022)
- Kincaid v. Kincaid, 397 So. 3d 1169, 1175 (Fla. 5th DCA 2024)
- Viera v. Viera, 698 So. 2d 1308, 1308-09 (Fla. 5th DCA 1997)
- Aponte v. Wood, 308 So. 3d 1043, 1047 (Fla. 4th DCA 2020)
- Ortiz v. Ortiz, 306 So. 3d 1081, 1082 n.1 (Fla. 3d DCA 2020)
- Diaz v. Diaz, 300 So. 3d 767, 770 (Fla. 3d DCA 2020)
- Gayer v. Nicita, 368 So. 3d 533, 537 (Fla. 6th DCA 2023)
- Pavese v. Pavese, 932 So. 2d 1269, 1270 (Fla. 2d DCA 2006)
- Rennert v. Rennert, 307 So. 3d 1021, 1022 (Fla. 2d DCA 2020)