

FLORIDA THIRD DISTRICT COURT OF APPEAL

Lynn Wolland v. Frank Wolland

No. 3D25-1520 (Fla. 3d DCA May 27, 2026) · No. 3D25-1520 · Decided May 27, 2026

SUMMARY

The Third District Court of Appeal of Florida reviewed a final judgment assigning all attorney’s fees and costs in a partition action to Lynn Wolland. The court held that section 64.081, Florida Statutes, required the fees and costs to be apportioned between the parties according to their proportional interests in the partitioned property, reversed the judgment, and remanded with directions.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Lobree, J.; Fernandez, J.; Miller, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	May 27, 2026
DOCKET	3D25-1520
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Lynn Wolland appealed a final judgment in a partition action that assigned solely to her responsibility for Frank Wolland's attorney's fees and costs. On rehearing, the court denied the motion, withdrew its prior opinion, substituted this opinion, and reversed and remanded with directions.
STANDARD OF REVIEW	The entitlement determination under section 64.081 was within the trial court's discretion; the fee-allocation issue was governed by the statute's mandatory proportionality requirement.
PRECEDENTIAL VALUE	Published; precedential
PARTIES	Lynn Wolland v. Frank Wolland

TOPICS

- partition
- attorney fees
- appellate procedure
- preservation of error
- statutory interpretation

PRACTICE AREAS

- Real estate
- Civil procedure
- Appellate procedure
- Attorney's fees
- Statutory interpretation

QUESTIONS PRESENTED

1. Whether section 64.081, Florida Statutes (2023), permitted the trial court to assign all attorney's fees and costs incurred for services benefiting the partition solely to Lynn.
2. Whether the appellate court should reach Lynn's claim that the final judgment lacked findings required under Florida Patient's Compensation Fund v. Rowe.

HOLDINGS

1. Although the trial court had discretion to determine that Frank's attorney rendered services benefiting the partition and was entitled to fees, section 64.081 did not give it discretion to assign liability for those fees and costs solely to Lynn. The fees and costs had to be apportioned between the parties in accordance with their proportional interests in the partitioned property.

KEY QUOTATIONS

“Although the trial court acted entirely within its discretion under section 64.081, Florida Statutes (2023), in determining that Frank’s attorney rendered services of benefit to the partition and was therefore entitled to attorney’s fees, we reverse because under section 64.081, the trial court lacked the commensurate discretion to assign liability for those attorney’s fees only to Lynn.” (at 2)

“Accordingly, we reverse the final judgment for attorney’s fees and costs and remand with directions to apportion Frank’s attorney’s fees and costs between the parties in accordance with each party’s proportional interest in the partitioned property.” (at 2)

FACTUAL BACKGROUND

The underlying action sought partition of a jewelry collection. The trial court determined that Frank's attorney rendered services that benefited the partition and awarded attorney's fees, but assigned sole responsibility for those fees and costs to Lynn. The parties' respective proportional interests in the partitioned property therefore controlled the required allocation.

PROCEDURAL HISTORY

Frank Wolland brought an action against Lynn Wolland seeking partition of a jewelry collection. The circuit court entered a final judgment awarding attorney's fees to Frank's attorney and assigning sole responsibility for payment to Lynn. Lynn appealed, and the substituted opinion on rehearing reverses the fee and cost allocation and remands for apportionment according to the parties' proportional interests.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Apportion Frank's attorney's fees and costs between the parties in accordance with each party's proportional interest in the partitioned property.

CASES CITED

- Diaz v. Sec. Union Title Ins. Co., 639 So. 2d 1004, 1006 (Fla. 3d DCA 1994)
- Adler v. Schekter, 197 So. 2d 46, 50 (Fla. 3d DCA 1967)
- Florida Patient's Compensation Fund v. Rowe, 472 So. 2d 1145, 1151 (Fla. 1985)
- Jones v. Bank of Am., N.A., 401 So. 3d 334, 337 (Fla. 4th DCA 2024)
- Platt v. Cape Marine Servs., Inc., 422 So. 3d 654, 656 (Fla. 5th DCA 2025)

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