

## DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

# Claudia Passamondi v. Steve Dominic Passamondi, Individually and as Personal Representative of the Estate of Anthony Passamondi, deceased, Edward Frank Passamondi, and Stephanie Cuebas

Passamondi v. Passamondi, No. 2D12-768, 2014 WL 233455 (Fla. 2d DCA Jan. 22, 2014) · No. 2D12-768

### SUMMARY

When a trial court bifurcates a dissolution proceeding by entering a final judgment dissolving the marriage but retains jurisdiction to determine property issues, the subsequent death of a party does not deprive the court of jurisdiction to resolve those reserved issues. The appellate court reversed the dismissal of the former wife's claims, holding that the trial court retained jurisdiction despite the former husband's death and the opening of a probate estate.

### CASE DETAILS

|                       |                                                                                                                                                                                      |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | District Court of Appeal of Florida, Second District                                                                                                                                 |
| WRITING FOR THE COURT | Wallace; Black; Altenbernd                                                                                                                                                           |
| JURISDICTION          | Florida                                                                                                                                                                              |
| DOCKET                | 2D12-768                                                                                                                                                                             |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                |
| PROCEDURAL POSTURE    | Appeal from the Circuit Court for Collier County; Lauren L. Brodie, Judge.                                                                                                           |
| PRECEDENTIAL VALUE    | precedential                                                                                                                                                                         |
| PARTIES               | Claudia Passamondi v. Steve Dominic Passamondi, Individually and as Personal Representative of the Estate of Anthony Passamondi, deceased, Edward Frank Passamondi, Stephanie Cuebas |

### TOPICS

[family law](#)[appellate procedure](#)[probate](#)[civil procedure](#)

### PRACTICE AREAS

[Family Law](#)[Probate](#)[Appellate Procedure](#)

### QUESTIONS PRESENTED

1. Whether the trial court erred in dismissing the Former Wife's claims for determination of property issues in a bifurcated dissolution proceeding following the Former Husband's death
2. Whether the death of a party after entry of a final judgment dissolving the marriage but reserving property issues deprives the dissolution court of jurisdiction

## HOLDINGS

1. When a trial court bifurcates a dissolution proceeding by entering a final judgment dissolving the marriage but retains jurisdiction to determine property issues, the subsequent death of a party does not deprive the court of jurisdiction to determine the reserved issues.

## KEY QUOTATIONS

*“If a trial court bifurcates a proceeding for dissolution of marriage by entering a judgment dissolving the marriage but retaining jurisdiction to determine property issues, the subsequent death of a party does not deprive the trial court of jurisdiction to determine the issues reserved.” (at 4)*

*“Failure to file a brief places an undue burden on the appellate court and reflects an omission of appellee’s responsibility to support the trial court. If the ruling of the trial court is not worthy of support, then appellee ought to confess error and join with the appellant in seeking reversal.” (at 4)*

## FACTUAL BACKGROUND

The Former Husband and Former Wife were married in 1988. In January 2006, the Former Husband filed for dissolution while terminally ill. The trial court bifurcated the proceedings, entering a final judgment dissolving the marriage on May 24, 2006, but reserving jurisdiction over equitable distribution and other issues. The Former Husband died on July 26, 2006, and a probate estate was opened. The Former Wife filed a claim in the probate estate and a supplemental petition in the dissolution proceeding against the estate and the Former Husband's children. The probate case was closed without action on her claim. The trial court dismissed the dissolution claims, concluding it lacked jurisdiction because the probate court had exclusive control over the assets.

## PROCEDURAL HISTORY

The Former Husband filed a petition for dissolution, and the trial court bifurcated the proceedings, entering a final judgment dissolving the marriage while reserving jurisdiction over property and other issues. After the Former Husband died, the Former Wife filed a claim in his probate estate and a supplemental petition in the dissolution action against the estate and his children. The trial court dismissed the claims, finding it lacked jurisdiction because of the death and the probate court's exclusive jurisdiction. The Former Wife moved for rehearing, which was denied without explanation. She appealed.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Reversed and remanded for further proceedings consistent with the opinion.

#### **CASES CITED**

- Fernandez v. Fernandez, 648 So. 2d 712 (Fla. 1995)
- Geisler v. Geisler, 397 So. 2d 1216 (Fla. 2d DCA 1981)

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