

RPPTL CURLEY PROBATE & TRUST CASE LAW UPDATE
(July 2026)

July 3, 2026

- ❖ *De Souza v. Oliveira*, [2026 WL 1810877](#) (Fla. 3d DCA 2026) – Appellants argued the trial court lacked subject matter jurisdiction to open an ancillary probate estate. The trial court, without evidentiary hearing opened the ancillary administration and appointed a curator to administer the estate. The 3rd DCA reversed and remanded, holding that the trial court was required to hold an evidentiary hearing to determine the jurisdictional issue prior to appointment of a curator with authority to take possession of estate assets.
 - Curator, Subject Matter Jurisdiction, Evidentiary issues
- ❖ *Trace Elements, Inc. v. Mackensen*, [2026 WL 1901612](#) (Fla. 2026) – Appellees, a married couple, served an offer of judgment on Appellant which did not apportion the amount to be paid to each of the Appellees. The offer was rejected and Appellees obtained a judgment above the requisite amount. The trial court denied fees for failure to apportion under Rule 1.442(c)(3) and the 4th DCA reversed holding that apportionment was not required because it was a *joint proposal regarding a unified, single claim*. The Florida Supreme Court reversed the 4th DCA holding that Rule 1.442(c)(3) requires that the offer apportion the proposal between the two plaintiffs, a textual requirement of Fla. Stat. § 768.79. There is no exception for unified, single claims.
 - Offers of Judgment, Apportionment, Proposal for Settlement

July 10, 2026

- ❖ *Richadson v. Richardson*, [2026 WL 1883858](#) (Fla. 4th DCA 2026) – A determination of heirs dispute in an intestate estate, the Appellee established that she was decedent's daughter by presenting her birth certificate which contained decedent's signature. The trial court found that the Appellee was an intestate heir (daughter) under § 732.108(2) holding that the birth certificate was sufficient. The 4th DCA held that a birth certificate alone is not enough but because the certificate contained the decedent's signature it constituted an acknowledgment in writing by the father under § 732.108(2)(c). The 4th further noted that the standard under probate is different from that under § 382.013 for establishment of paternity. However, the 4th remanded because the trial court failed to hold a hearing on whether the signature was forged, an argument raised by Appellant at the trial level.
 - Intestate heirs, Paternity determination, forgery, Written acknowledgment
- ❖ *Stewart v. Vindel*, [2026 WL 1979606](#) (Fla. 2026) – The Florida Supreme Court held that prejudgment interest is awardable in equitable distribution cases. The Court held that the express authorization to grant remedies “available to the court to do equity between the parties” includes the ability to award prejudgment interest, an equitable remedy. The foundation of the Court's holding is that equity is a central tenet of the dissolution of marriage statute and that there is no express prohibition against prejudgment interest.
 - Prejudgment interest, Courts of Equity
- ❖ *Davidovich v. Lippoff*, [2026 WL 1883405](#) (Fla. 3d DCA 2026) – Appellee moved for summary judgment and Appellant did not file a response. Accordingly, the allegations within the motion were found to be undisputed and the trial court granted summary judgment to

Appellee finding the burden met. The 3rd DCA affirmed holding that failure to file a timely response under Rule 1.1510(c)(5) renders the moving allegations undisputed and the motion should be granted if the movant met its initial burden.

➤ Summary Judgment

July 17, 2026

- ❖ *In Re: Amendment to Florida Probate Rules*, [2026 WL 2053005](#) (Fla. 2026) – Rules 5.025, 5.425, 5.530 – Probate Rule 5.025(a) amended to name proceedings to enforce the authority of a PR under § 733.612 as automatically adversarial. 5.425 is amended to raise the limits on nonexempt personal property for purposes of disposition without administration from \$10,000 → \$20,000. Finally, 5.530 raises the limits on summary administration from \$75,000 → \$150,000. These changes are consistent with legislative changes in [chapter 2026-57](#).

➤ Probate Rules, Summary Administration, Adversarial

July 24, 2026

- ❖ *Sifaco Group, S.A. v. Margioukla*, [2026 WL 2035452](#) (Fla. 4th DCA 2026) – Plaintiff sued for breach of fiduciary duty stemming from decisions made by corporate directors. The trial court denied the motion to dismiss and the 4th DCA reversed with directions to grant dismissal. The 4th DCA held that dismissal was warranted on two bases: The first was that the directors were acting as directors of a separate entity under which they had no fiduciary duties to the Plaintiffs. The second basis was that Plaintiffs failed to state an individual claim to damages as opposed to a derivative claim on behalf of the damaged entity. Unless plaintiff can demonstrate individual harm, as opposed to harm to the entity as a whole. The Court further noted that even if they had alleged both, dismissal would be warranted because Plaintiffs would be suing in dual capacities which cannot be joined under the civil rules.

➤ “The relevant inquiry as to this prong is whether the alleged wrongful conduct devalued the company as a whole or was directed specifically towards the individual plaintiff.”

➤ Breach of fiduciary duty, Dual Capacities, Individual harm

July 31, 2026

- ❖ *Colas v. Lexington Nat’l Insurance Corp.*, [2026 WL 1322116](#) (Fla. 3d DCA 2026) – Appellee successfully moved for summary judgment on the basis of statute of limitations. The motion for summary judgment made only a bare-bones assertion that the statute of limitations had passed and that the claims did not relate back to a previously filed complaint. The trial court granted summary judgment but the 3rd DCA reversed holding that the assertion without evidence was not sufficient to meet the Appellee’s burden on the statute of limitations. In particular, there was no record evidence of when the statute of limitations would have run or that there was no genuine issue of fact as to relation back.

➤ Motion Summary Judgment, Statute of Limitations, Affirmative defense burden

Obligatory Joke: **My kid’s math teacher must be a pirate.** All she’s every doing is looking for X.