

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

April 3, 2026

- ❖ *Miguel v. Miguel*, [2026 WL 816847](#) (Fla. 3d DCA 2026) – A guardianship proceeding, the trial court rejected less restrictive alternatives, including a trust document, and a preneed guardianship upon a finding that they were procured through undue influence. The trial court’s order included that the court “would void” all documents. The 3rd DCA affirmed the trial court’s rulings as to the alternatives but clarified that the holding had no binding effect except as to the narrow issue of less restrictive alternatives. The Appellate Court went on to say that this was required as the trustee was not formally joined, the pleading did not frame the broader issue of the remaining documents’ viability, and a proceeding to invalidate a trust must comply with chapter 736.
 - Guardianship Court jurisdiction, Trust challenges, undue influence
- ❖ *Martinez v. Bustamante*, [2026 WL 816936](#) (Fla. 3d DCA 2026) – A dispute over a patent ambiguity in a marital settlement agreement. the contract read: “[t]he marital domicile shall be occupied by Wife until her death or occupied by Husband until his death.” Husband argued that parol evidence demonstrated that Wife was to receive a life estate in the property. The trial court held the provision void for ambiguity and the 3rd DCA affirmed. The appellate court noted that the Court cannot take parol evidence on a patent ambiguity such as this one and, unless the ambiguity can be resolved by language in the contract or canons of construction, the provision must be held meaningless. The court did note that there is a narrow exception allowing for parol evidence of a patent ambiguity to address the parties’ identity, capacity, or relationship with one another, none of which applied in this case.
 - Patent Latent ambiguities, Parol Evidence, Contract construction
- ❖ *Shamy v. Shovel Ready Projects, LLC*, [2026 WL 816141](#) (Fla. 4th DCA 2026) – A party cannot pursue a claim for unjust enrichment, an implied contract theory, when there is an express contract concerning the same subject matter.
 - Unjust enrichment claims, contract claims, alternative counts
- ❖ *Aderwel Holdings, Ltd. v. Aqua Trees, LLC*, [2026 WL 816948](#) (Fla. 3d DCA 2026) – Plaintiff sued for breach of contract and subsequently took a voluntary dismissal. Defendant sought prevailing party fees under the contract which the trial court denied. The 3rd DCA reversed holding that the contract contained a broad fees provision which required granting of fees where Defendant incurred fees to hire counsel and provide proof of payment to avoid further litigation.
 - Prevailing Party attorneys’ fees, Voluntary Dismissal fees
- ❖ *Zuchaer v. Peninsula Condo. Assoc., Inc.*, [2026 WL 817049](#) (Fla. 3d DCA 2026) – The appeal centers on Appellant’s assertion that the entry of summary judgment against it was improper because outstanding discovery was required to be completed prior to the trial court’s ruling. The 3rd DCA affirmed, holding that Appellant failed to diligently pursue the discovery and did not seek a continuance of the motion for summary judgment hearing, consistent with Fla. R. Civ. P. 1.510(d).
 - Discovery summary judgment, Continuance, Outstanding discovery
- ❖ *Avesta Communities v. Fred*, [2026 WL 816747](#) (Fla. 2d DCA 2026) – An evidentiary hearing on a motion to disqualify Appellant’s counsel. The court entered an order directing for the

exchange of witness lists prior to the hearing. The parties exchanged lists and the witness, the a in question was included on Appellee's list but not Appellant's list. At the hearing, Appellant sought to call the Witness and the Court sustained objection to the testimony on the grounds that he was not on the Appellant's list and there was a written declaration from the witness that was being entered into evidence. The 2d DCA reversed, holding that the Witness was a key witness and that there was not a finding of prejudice against Appellee prior to sustaining the objection. Citing *Binger*, the 2d DCA held that the lack of prejudice finding and the ability to allow for a continuance of the hearing should it require additional time mandated the allowance of the testimony, regardless of the omission from the witness list.

➤ Exclusion of Witnesses, Witness lists

April 10, 2026

❖ *Frank v. Conlan*, [2026 WL 885452](#) (Fla. 4th DCA 2026) – A will contest, the trial court granted summary judgment holding that the Challenger did not have standing as an interested person to contest the will because Appellant would not benefit from invalidation of the will which the Court found to be substantially identical to the previous will except it gave the Appellant 75% of a holding company. The 4th DCA reversed holding that the Appellant constituted an interested person due to there being a difference in the tax treatment of Appellant should he succeed. If successful, son would not be a beneficiary of the estate but would be a creditor with arguably a preferable tax scenario. If unsuccessful, he would be a beneficiary whose share would be liable for taxes. The Court differentiated between standing and interested person status, noting that interested person requires being affected by the outcome. Fla. Stat. § 731.201(21).

➤ Will Contest Standing, Interested Person Status, tax ramifications

❖ *Cortes v. Cortes*, [2026 WL 873364](#) (Fla. 3d DCA 2026) – The trial court referred a matter to a magistrate for hearing over the objection of one of the parties then, after the magistrate's hearing, entered an order confirming the magistrate's report. The 3rd DCA reversed holding that the Appellant timely objected to the magistrate reference which required the matter to be heard and decided by the trial court. Fla. R. Civ. P. 1.490(c), Fla. Prob. R. 5.095(c).

➤ Magistrates, Magistrates require consent of the parties

April 17, 2026

❖ *Bunnell v. War Network, LLC*, [2026 WL 943740](#) (Fla. 4th DCA 2026) – The Trial Court denied a motion to consolidate trials between two cases despite the cases having a near identical nucleus of operative facts and evidence. On a writ for certiorari, the 4th DCA reversed holding that holding two cases had a significant risk of inconsistent verdicts. “[W]here the denial of a party's motion to consolidate two actions could cause repugnant and inconsistent verdicts, such denial is a departure from the essential requirements of the law, because it could cause material injury that cannot be remedied on appeal.”

➤ Consolidation, Interrelated cases, Sister cases

❖ *Rachkov v. Medvednik*, [2026 WL 942824](#) (Fla. 2d DCA 2026) – Appellant failed to appear at his deposition in violation of a previous Court order. As a sanction, the trial court struck his pleadings and entered summary judgment for the Appellee/Plaintiff. The order striking the pleadings did not include *Kozel* factors. The 2d DCA affirmed holding that *Kozel* factors are

only required when it is the attorney's actions that, in whole or part, lead to the sanction. Here, it was the client's failure to appear at the deposition that was cited as the reason for the sanction.

➤ Kozel factors, discovery sanctions, failure to appear at depo

April 24, 2026

❖ *Dorsey v. Hearn*, [2026 WL 1041813](#) (Fla. 6th DCA 2026) – Appellant appellate an Order of Summary Administration and an Order Determining Homestead. The 6th DCA found it lacked jurisdiction as the Appellant failed to file within 30 days of rendition. Fla. R. App. P. 9.110(b). The Court also noted that this barred review of any non-final orders which preceded the final orders, including denial of a Motion for Relief from Judgment. In dicta, the 6th DCA noted that the Appellant would not have been successful on that motion regardless because this was not an adversarial proceeding under Rule 5.025 and that there was no Probate Rule equivalent to Rule of Civil Procedure 1.540 (Relief from Judgment, Decrees, or Orders) or 1.530 (Motions for New Trial and Rehearing).

➤ Estate Appellate Deadlines, Relief from Judgment, New Trial, Rehearing

Obligatory Joke: **There was a 3 foot 3 inch man in my yard yesterday....** It was the meter man.