

MOTION TO DISSOLVE AN INJUNCTION CHECKLIST

NOTE: Courts have broad discretion regarding injunction modifications. [Reed v. Giles, 974 So. 2d 624 \(Fla. 4th DCA 2008\)](#).

Has a motion to dissolve the injunction for protection been filed?

- Which party filed it?
- Best practice if the petitioner has filed it:
 - Encourage the petitioner meet with a domestic violence advocate *prior* to the hearing.

Is the motion to dissolve legally sufficient?

- For a movant to be entitled to receive a hearing on such a motion, the motion must allege a change in circumstances. See [Reyes v. Reyes, 104 So. 3d 1206, 1207 \(Fla. 5th DCA 2012\)](#)
- “Barebones allegations were legally insufficient to support the dissolution of the injunction.” In Bradley, the only facts alleged that did not exist at the time of the entry of the final judgment of injunction for protection against stalking was that Slyman had worn a GPS monitor for fourteen months without violation, had been convicted of misdemeanor stalking, had no contact with Bradley for a little over one and one-half years and had “moved on with this life.” The court noted that most of the time Slyman spent away from Bradley had been during the pendency of his criminal case. [Bradley v. Slyman, ___ So.3d ___, 2021 WL 3116796 \(Fla. 5th DCA 2021\)](#)

Has a hearing been set on the merits of the motion to dissolve?

- The Second District Court of Appeal held that it was error to dismiss the final injunction against domestic violence where there was no motion, notice, or evidentiary hearing. By dismissing the injunction without motion, notice, or evidentiary hearing, the court failed to accord the appellant due process in this matter. [Snyder v. Snyder, 685 So. 2d 1320 \(Fla. 2d DCA 1996\)](#).
- See also [Bennett v. Abdo, 167 So. 3d 522 \(Fla. 5th DCA 2015\)](#).

Has the opposing party been provided with notice of the hearing?

See [Mayotte v. Mayotte, 753 So.2d 609 \(Fla. 5th DCA 2000\)](#); Florida Family Law Rule of Procedure 12.610(b)(2)(C).

- Prior to entering an order to dissolve, confirm the notice was sent to the last provided address.
 - Best practices would require:
 - The parties in court sign for the final judgment and provide their current address.
 - Respondents that were served out of court with the injunction should be noticed at the address reflected on the return service if no further updates are on file by the respondent or counsel.
 - Counsel of record should be noticed *in addition* to the party.

- Determine if the petitioner understands options short of dissolving the injunction including:**
 - Modification permitting non-threatening, non-harassing contact.
 - Modification with a specific expiration date vs. indefinite or upon the occurrence of a specific action (final judgment of dissolution entered).

- Has there been a substantial change in circumstances alleged by the movant?**
 - The party against whom the injunction is entered must demonstrate that the scenario underlying the injunction no longer exists so that continuation of the injunction would serve no valid purpose. [*Alkhoury v. Alkhoury*, 54 So. 3d 641 \(Fla. 1st DCA 2011\)](#).
 - See also [*Moriarty v. Moriarty*, 192 So. 3d 680 \(Fla. 4th DCA 2016\)](#); [*Bradley v. Slyman*, _____ So.3d _____, 2021 WL 3116796 \(Fla. 5th DCA 2021\)](#)

- Have all mandates of the court been satisfied? (i.e., Completed Batterers' Intervention)**
 - Once an injunction is dissolved, a respondent is no longer required to comply with the terms of the injunction. [*Berrien v. State*, 189 So 3d. 285 \(Fla. 1st DCA 2016\)](#).

- Were firearms and ammunition turned over to local law enforcement?**
 - In addition to any order to dissolve, a separate order should be prepared directing the return of the specified firearms and ammunition conditioned upon the respondent being otherwise qualified to possess them.

- Are there any related cases?**
 - If the injunction case is connected through the unified family court (UFC), any notice of hearing and if entered, any order dissolving the injunction must be copied to those files, attorneys of record, and parties.
 - Ideally, any hearing on the motion to dissolve should be set on a date already scheduled for matters involving the parties.
 - If the related cases are *not* all being heard by one judge, ensure that the UFC judges consult as to which judge should handle the motion and hearing.

- Was child support ordered with the final injunction?**
 - If the only case awarding child support is in the injunction, it is critical that the order reflect that child support ceases and reflect any balances owed.
 - A copy of the order must go to the child support division of the clerk's office.
 - In the event child support is being collected and accumulating under another case, such as a Department of Revenue (DOR) or a dissolution of marriage case, clarity requires that any order dissolving the injunction indicate that child support remains an obligation under that case number.
 - A copy of the order should go to the case under which child support is due.
 - A copy of the order should be sent to the attorneys of record and any party not already copied.

This project was supported by Subgrant No. LN203 awarded by the state administering office for the Office on Violence Against Women, U.S. Department of Justice's STOP Formula Grant Program. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the state or the U.S. Department of Justice.