

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2008

STEVEN LEVIN,
Appellant,

v.

LISA LEVIN,
Appellee.

No. 4D07-2342

[June 11, 2008]

PER CURIAM.

Incorporating a marital settlement agreement, the final judgment of dissolution awarded the husband certain artwork that was in the wife's possession. About a year later, the former husband moved to hold the wife in contempt; one of the grounds for the motion was that the wife withheld the artwork. Correspondence from the wife's lawyer indicated that some of the art was destroyed in a hurricane. The husband disputed the claim and sought some discovery on the issue. At a hearing, the trial judge considered the attorneys' representations about the artwork and recognized that the destruction issue was a factual one that the court might have to "sort out" if the lawyers could not come to an agreement. A May 11, 2007 order, suggested in large part by the wife's attorney, made the finding that the wife "testified that some items were destroyed during Hurricane Wilma and are thus no longer available as indicated herein." No such stipulation or testimony appears in the record. The husband timely objected to the order. Nothing in the record supports the wife's claim on appeal that "it was understood and accepted by all parties that the artwork had been destroyed." At the hearing, the wife testified about outdoor furniture and a damaged rug, not about the artwork. We reverse the May 11 order and remand for the court to take evidence on the artwork destruction issue.

STEVENSON, GROSS and MAY, JJ., concur.

* * *

Appeal of a non-final order from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Jack Tuter, Judge; L.T. Case No. 04-23813(42)(91).

Julie DiMaggio of DiMaggio Law Offices, Fort Lauderdale, for appellant.

Douglas H. Reynolds and Sean L. Collin of Adorno & Yoss, LLP, Fort Lauderdale, for appellee.

Not final until disposition of timely filed motion for rehearing