

Third District Court of Appeal

State of Florida

Opinion filed September 28, 2016.
Not final until disposition of timely filed motion for rehearing.

No. 3D16-2133
Lower Tribunal No. 15-24620

Catherine Claflin,
Petitioner,

vs.

Clarence Christopher Claflin,
Respondent,

vs.

MSP Recovery Services, LLC,
Intervenor.

A Case of Original Jurisdiction – Prohibition.

Greene Smith & Associates, P.A., and Laura Davis Smith and Alicia M. De La O, for petitioner.

Marks & West, P.A., and Evan R. Marks and Andrew R. Wilson, for respondent.

MSP Recovery Law Firm, and Frank C. Quesada and John H. Ruiz, for intervenor.

Before WELLS, SHEPHERD and SALTER, JJ.

SHEPHERD, J.

Catherine Claflin seeks a writ prohibiting further proceedings in this dissolution of marriage case, which she and her husband recently voluntarily dismissed. Prior to the voluntary dismissal, the trial court granted MSP Recovery Services, LLC, the right to intervene in the action to assert its claim to a portion of any equitable distribution to the wife of any interest in MSP Recovery. MSP Recovery contends that its claim as intervenor survived the voluntary dismissal of the case. MSP Recovery is incorrect.

As this Court stated in State v. Florida Workers' Advocates, 167 So. 3d 500, 505-06 (Fla. 3d DCA 2015), "the rights of an intervenor are conditional in that they exist only so long as the litigation continues between the parties." (quoting Envtl. Confed'n of Sw. Fla. v. IMC Phosphates, Inc., 857 So. 2d 207, 211 (Fla. 1st DCA 2003)). Therefore, MSP Recovery's claims did not survive the parties' voluntary dismissal of the dissolution of marriage action. The trial court is enjoined and prohibited from conducting further proceedings in this case.

Petition granted; writ withheld.