

APPENDIX TO *AMICUS BRIEF* OF THE SOLICITOR GENERAL

SURVEY OF POST-*DANIEL* CASES IN WHICH THE MARITAL FATHER SOUGHT RELIEF FROM HIS COURT-ORDERED OBLIGATION TO SUPPORT A CHILD BORN TO HIS WIFE DURING THEIR MARRIAGE BUT WHICH HE DID NOT FATHER

Case Name and Citation	Summary of Facts	Type of Proceeding in which Paternity Issue Raised	Length of Time After Final Judgment of Dissolution When Paternity Issue Raised	Age of Child(ren) at Time of Request to End Child Support	Marital Father Required to Pay Child Support?	Court's Basis for Granting or Denying Relief to Marital Father
<u>Anderson v. Anderson</u> 746 So.2d 525 (Fla. 2 nd DCA 1999)	Husband on notice prior to dissolution that he may not be the child's biological father; wife assured him that he was; father did not obtain a paternity test or otherwise contest paternity prior to the final judgment of dissolution; father obtained negative paternity test post-dissolution	Rule 1.540(b) Petition	Less than 1 year	2½ years	Yes	Father failed to prove fraud; issue of paternity was res judicata b/c father had reason to question paternity prior to dissolution final judgment, but failed to do so
<u>C.C.A. v. J.M.A.</u> 744 So.2d 515 (Fla. 2 nd DCA 1999)	Husband had a vasectomy; husband and wife agreed to allow a friend to impregnate wife; wife conceived a child with another man (not the friend); husband raised the issue of non-paternity in the dissolution proceeding in an effort to avoid child support obligation	Husband raised paternity issue in dissolution proceeding	n/a	2½ years	Yes	Marital father is equitably estopped from providing child support because the child would suffer detriment if the father/child (support) relationship was eliminated

Case Name and Citation	Summary of Facts	Type of Proceeding in which Paternity Issue Raised	Length of Time After Final Judgment of Dissolution When Paternity Issue Raised	Age of Child(ren) at Time of Request to End Child Support	Marital Father Required to Pay Child Support?	Court's Basis for Granting or Denying Relief to Marital Father
<u>DeRico v. Wilson</u> 714 So.2d 623 (Fla. 5 th DCA 1998)	Husband did not know that wife had been unfaithful; wife did not know that children were not the husband's; husband obtained negative paternity test of 2 children born during the marriage	Husband Petitioned to Modify the Final Judgment of Dissolution	Almost 2 years	6 and 4 years	No	Marital father has no legal duty to support children who are not biologically his
<u>D.F. v. DOR</u> 736 So.2d 782 (Fla. 2 nd DCA 1999)	Husband alleged that he did not have sexual relations with the wife prior to the time that the child was conceived and therefore he couldn't have been the biological father; he did not contest paternity in the dissolution proceeding; husband requested DNA test 9 years after dissolution to establish his non-paternity	Wife Petitioned to Increase the Child Support Obligation	9 years	11 years	Yes	Res judicata bars the marital father from challenging paternity 9 years after the issue was adjudicated in the dissolution proceeding; husband had the knowledge and opportunity to litigate the issue of paternity in the dissolution proceeding
<u>Gantt v. Gantt</u> 716 So.2d 846 (Fla. 4 th DCA 1998)	During the dissolution proceeding, husband claimed that he was uncertain whether he was the biological father of 2 of the 3 children born during the parties' marriage (he knew he wasn't as to the 3 rd child); he requested blood tests	Husband raised paternity issue in dissolution proceeding	n/a	5 and 3 years	Uncertain (case remanded for court-ordered blood tests)	If the blood tests are negative, the marital father has no obligation to support the children (quoting <u>Daniel</u>) unless the circumstances justify a deviation from the "well-established rule" in <u>Daniel</u>

Case Name and Citation	Summary of Facts	Type of Proceeding in which Paternity Issue Raised	Length of Time After Final Judgment of Dissolution When Paternity Issue Raised	Age of Child(ren) at Time of Request to End Child Support	Marital Father Required to Pay Child Support?	Court's Basis for Granting or Denying Relief to Marital Father
<u>Lefler v. Lefler</u> 722 So.2d 941 (Fla. 4 th DCA 1998)	Husband apparently was not on notice prior to dissolution that he may not be the child's biological father; he came to suspect that he was not biological father 5 years after dissolution and had a private blood tests performed on the child which came back negative	Husband Petitioned to Modify the Final Judgment of Dissolution	5 years	7 years	Unknown (case remanded for court-ordered blood tests)	Trial court should have ordered blood tests(citing <u>Daniel</u> and <u>Gantt</u>)
<u>L.S.H. v. P.L.H.</u> 739 So.2d 1264 (Fla. 2 nd DCA 1999)	Parties entered into dissolution settlement agreement which acknowledged that husband was not biological father; wife waived child support in agreement	Husband raised paternity issue in dissolution proceeding	n/a	Unknown	Uncertain (case remanded)	Wife's waiver of child support does not bind the court; case remanded to determine whether husband contracted for support of the child through the settlement agreement or whether he is equitably estopped from avoiding his support obligation of a child born during marriage

Case Name and Citation	Summary of Facts	Type of Proceeding in which Paternity Issue Raised	Length of Time After Final Judgment of Dissolution When Paternity Issue Raised	Age of Child(ren) at Time of Request to End Child Support	Marital Father Required to Pay Child Support?	Court's Basis for Granting or Denying Relief to Marital Father
<u>White v. White</u> 710 So. 2d 208 (Fla. 1 st DCA 1998)	Parties were married and divorced on several occasions; no evidence that husband might not be child's biological father; husband prior treated the child as his own, never the less husband sought to raise the issue of paternity in the dissolution proceeding	Husband raised paternity issue in dissolution proceeding	n/a	Unknown	Yes	Marital fathers was equitably estopped from contesting paternity of child born during marriage where there is no evidence that he might not be father and he treated the child as his own over a period of many years and provided her financial support