

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

KEITH A. BLUESTEIN,
Former Husband,

Appellant,

v.

TRUDY H. BLUESTEIN,
Former Wife,

Appellee.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D06-6398

Opinion filed June 5, 2007.

An appeal from the Circuit Court for Duval County.
E. McRae Mathis, Judge.

Harold W. Mitchell of Newman & Mitchell, Jacksonville, for Appellant.

Jeffrey J. Sneed, Atlantic Beach, for Appellee.

PER CURIAM.

Keith Bluestein appeals an order denying motions for termination of alimony and for relief from a consent order, wherein the circuit court sua sponte modified the visitation arrangement. We reverse.

Contrary to the lower court's findings, neither party had raised an issue of visitation, nor had the parties argued it by consent at the hearing. See Walls v. Sebastian, 914 So. 2d 1110 (Fla. 4th DCA 2005). Because all parties were by then residing in Virginia, it is questionable whether the circuit court would have had jurisdiction to reach the issue, had it been raised. See § 61.515, Fla. Stat. (2005). We direct the court to strike that portion of the order dealing with visitation.

REVERSED and REMANDED.

BENTON, PADOVANO, and THOMAS, JJ., CONCUR.