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When Is Florida Really Home? A New Florida Ruling on Domicile for International Families

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A Florida appellate court has just reaffirmed a doctrine that every cross-border family with Florida ties should understand — and that their estate plan should proactively address.

Luiza Mara Reis dos Santos Fernandes de Oliveira, et al. v. Natalia Palagi Fernandes de Oliveira, et al. 3rd DCA, Case No. 3D25-0855 | May 13, 2026 | Judges Fernandez, Miller & Gordo

The Case in Brief

On May 13, 2026, Florida's Third District Court of Appeal decided *Oliveira v. Oliveira*, a probate dispute that pitted a decedent's wife and personal representative against his adult daughters from a prior relationship. At its core, the case asked a deceptively simple question: where was this man *domiciled* when he died?

The decedent was a Brazilian-born pilot and entrepreneur who had lived with his wife and young children in Coconut Grove for several years after obtaining a U.S. EB-5 investor visa and permanent resident status. In January 2023, the family moved back to Brazil, enrolled the children in local schools, and the decedent returned to managing his extensive aviation and business interests there. He never made it back to Florida — he died in an aircraft accident near São Paulo three months later, days after listing his Coconut Grove condominium for sale.

The daughters argued that their father had effectively shifted his domicile to Brazil, warranting ancillary — rather than domiciliary — probate proceedings in Florida. The trial court disagreed, denied the motion, and ordered the daughters to pay the estate's litigation fees and costs.

The Third DCA affirmed across the board.

The Law: Why Domicile Is So Hard to Change

Florida law requires a *totality of the circumstances* analysis to determine domicile, but the doctrine has a built-in thumb on the scale: once you establish domicile somewhere, it is *presumed to continue*. The party claiming a change of domicile carries the full burden of proof. As the court put it, citing the Fifth DCA, “[o]nce established, a domicile continues until it is superseded by a new one . . . [T]he burden of proof ordinarily rests on the party asserting the abandonment of one domicile to demonstrate the acquisition of another.” *Keveloh v. Carter*, 699 So. 2d 285, 288 (Fla. 5th DCA 1997).

In other words, moving to another country — even moving your family, purchasing multiple homes there, enrolling your children in foreign schools, parking your four (4) aircraft in a Brazilian hangar, and spending almost no time in Florida — may not be enough to change your legal domicile if you haven’t simultaneously formed a clear, demonstrable *intent to stay permanently* in the new location.

What Tipped the Scales Toward Florida

The court identified a cluster of specific facts that, taken together, supported Florida domicile despite the family’s physical presence in Brazil at the time of death:

- Valid Florida Driver’s License, EB-5 visa, and Green Card with a recently obtained 48-month extension
- Active Florida vehicle insurance policy
- Personal property placed in storage in Florida, not shipped to Brazil with the move
- Federal income taxes filed as a U.S. legal resident
- Wife’s testimony that the Brazil move was temporary, as the family planned to return within 180 days to comply with U.S. immigration law
- Evidence of the family’s consideration to relocate to Orlando
- Coconut Grove condominium had not yet sold at the time of decedent’s passing

The daughters pointed to equally real facts: the decedent had spent only ten (10) days in Florida in 2023, he ran major business operations in Brazil, owned five (5)

properties in Brazil, kept his four (4) aircraft in a hangar located in Brazil, and the family had clearly uprooted and resettled. The appellate court acknowledged this evidence but held that the trial court acted well within its discretion in finding it insufficient to overcome the presumption.

Why This Matters for Your Family and Estate Plan

The *Oliveira* decision is a vivid illustration of the practical stakes riding on a domicile determination. Domicile governs which state's — or country's — laws apply to your estate, where probate is filed, which creditors and claimants have access to your assets, and, in many cases, whether a surviving spouse's rights under Florida law will apply. While this decision does not discuss the specific reasons for the daughters' challenge, it is speculated that it was because Brazil forced heirship laws afforded the daughters a certain inheritance right that was not available to them under Florida law. For international families, such inheritance rights, or other consequences such as foreign inheritance taxes, and U.S. estate tax exposure can hinge on the domicile status.

A U.S. citizen and U.S. domiciled individual is subject to U.S. federal gift and estate tax for transfers during lifetime and/or at death as to their worldwide assets over and above the exemption which is currently \$15,000,000 (and adjusted for inflation each year). By comparison, non-U.S. citizens who are not domiciled in the United States are only subject to U.S. federal gift and estate tax on the transfer of certain U.S. assets. Importantly, there is no exemption available for gifts and only a \$60,000 exemption for transfers at death. An individual's domicile is the key determining factor as to their potential U.S. federal gift/estate tax exposures when they are not a U.S. citizen.

Domicile for U.S. federal gift/estate tax purposes is simply their presence within the United States with the intent to reside indefinitely. The decedent in the *Oliveira* decision was a green card holder which generally indicates that such individual has confirmed they are a permanent resident of the United States. Nevertheless, green card holders are not automatically assumed to be treated as domiciled for U.S. federal gift/estate tax purposes. The objective factors discussed in this case similarly play a role in one's domicile outcome for U.S. federal gift/estate tax purposes, and a green card is only one factor in the analysis with no

one factor having more weight than another factor. Interestingly, the outcome of this case may not necessarily be determinative of the deceased's domicile status for U.S. federal estate tax purposes; yet it would be anticipated that the wife, the estate's personal representative who is responsible for filing the U.S. federal estate tax return, would not take a contrary position to what she took in this decision.

This case shows that domicile disputes are expensive and emotionally destructive. The daughters were ordered to pay the estate's litigation fees and costs — a result that reduced the very inheritance they were fighting to protect.

Blended and international families need clear succession plans. Where competing claimants exist across borders, an unambiguous, current estate plan is the best protection against costly litigation.

Our Perspective

This decision reinforces what our practice has long counseled clients who live between Florida and Latin America or Europe: domicile is legal status, not a geographic fact. The law looks at the whole picture — your documents, your taxes, your stated intentions, and the steps you actually took (or failed to take) before the question arises.

For families with meaningful ties to multiple jurisdictions, proactive planning is the only reliable way to ensure that the law respects your wishes. That means coordinating your Florida estate plan with any foreign succession documents, aligning your immigration posture with your domicile intent, and revisiting your plan whenever life circumstances change — a move, a new business, a change in family structure. The *Oliveira* case also underscores the value of experienced estate litigation counsel when disputes do arise. Domicile contests are fact-intensive and require both an understanding of Florida probate law and the ability to marshal and present complex, multinational evidence effectively.



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