IN THE DISTRICT COURT OF APPEAL OF FLORIDA
FOURTH DISTRICT

JOAN JOHNSON,

Appellant,

v.

LEE TOWNSEND, et al.,

Appellees.
_____/

Case No.: 4D18-0432

L.T. No.: 502015CP001096XXXXNB

INITIAL BRIEF OF APPELLANT JOAN JOHNSON

On Appeal from the Probate Court of the Fifteenth Judicial Circuit
in and for Palm Beach County, Florida

EDWARD DOWNEY, ESQ.
Florida Bar No. 441074
DOWNEY | McELROY, P.A.
Counsel for Appellant
3501 PGA Boulevard, Suite 201
Palm Beach Gardens, FL 33410
Telephone: (561) 691-2043
Telefax: (561) 691-8078
Email-pleadings: attorneys@downeypa.com
Email-personal: edward@downeypa.com

TABLE OF CONTENTS

TABLE OF CITATIONS

Cases

Statutes

Other Authorities

PREFACE

This is an appeal of a final Order from a probate court that finally determines the community property rights of the decedent Clark Johnson's surviving spouse, JOAN JOHNSON. The Appellant is JOAN JOHNSON, the surviving spouse of Clark Johnson and the Personal Representative of his Estate.

Clark Johnson shall be referred to as "CLARK;" JOAN JOHNSON shall be referred to as "JOAN."

The Appellees, LEE TOWNSEND, LESLIE LYNCH, ELIZABETH DENECKE, and LISA EINHORN, are Clark Johnson's four daughters from a prior marriage who are creditors of his Estate and are otherwise interested persons in the Estate and shall be referred to as the "Daughters."

References to the Record on Appeal shall be referred to as "R. ___" and references to the Supplemental Record on Appeal shall be referred to as "SR. ___."

STATEMENT OF THE CASE AND FACTS

CLARK died on January 21, 2015. JOAN serves as Personal Representative of the Estate and Letters of Administration were issued to JOAN on March 19, 2015. R. 359.

Notice to Creditors was initially published on March 31, 2015 (and the three-month claims period expired on June 30, 2015). R. 360; 369-370.

The Notice of Administration was filed in the Court file on March 17, 2015. R. 336-337.

JOAN filed her Petition to Determine and Perfect Surviving Spouse's Community Property Interest in Estate Assets on September 6, 2017 (the "Petition") (R. 778-797); the Daughters filed their Motion to Strike the Petition on October 6, 2017 (R. 967-992). The non-evidentiary hearing on the Daughters' Motion to Strike occurred on January 11, 2018. The parties submitted post hearing memoranda of law as to the Motion to Strike.

JOAN's Petition sought a determination of her community property interest in property titled in CLARK's name at the time of his death which property was acquired by CLARK when CLARK and JOAN were domiciled in Texas, a community property state. JOAN's Petition was based upon the statutory

provisions of F.S. §732.216 – 732.228, known as the Florida Uniform Disposition of Community Property Rights at Death Act. SR. 192-204.

After a non-evidentiary hearing on the Daughters' Motion to Strike the Petition (and the Daughters' discovery objections asserted to JOAN's discovery requests), the Court entered the Order on Appeal on January 24, 2018 entitled Order Granting Motion to Strike Petition to Determine and Perfect Surviving Spouse's Community Property Interest in Estate Assets. SR. 237-239.

JOAN filed a timely Notice of Appeal of the January 24, 2018 Order. (SR. 240-245.)

SUMMARY OF ARGUMENT

The probate court erred when it determined that JOAN's Petition was in the nature of a creditor claim subject to a filing deadline and thus struck the Petition as untimely filed. There is no such filing deadline to perfect a spouse's community property interests. JOAN's Petition was not required to be filed within the three month creditor claim limitations period under F.S. §733.702 or the two year non-claim period under F.S. §733.710, or otherwise within three months of service of Notice of Administration. The governing statutory provisions do not create a filing deadline; JOAN's community property rights are not a "claim" against the Estate; and even if they were in the nature of a claim, then JOAN's community property

rights constitute an equitable lien (and thus fall within the statutory exceptions to F.S. §733.702 and/or §733.710) and/or fall within the "trust exception" to the claims' statutes.

STANDARD OF REVIEW

The standard of appellate review on issues involving the interpretation of statutes is de novo. See, B.Y. v. Department of Children and Families, 887 So.2d 1253 (Fla. 2004) and Jones v. Golden, 176 So.3d 242 (Fla. 2015).

ISSUE ON APPEAL

Whether JOAN's community property rights in property which were established when she and CLARK resided in Texas, a community property state, must be pursued by her by a filing to perfect those interests filed within CLARK's Estate proceedings during the three month creditor claims period of F.S. §733.702 and/or no later than the two year non-claims period of F.S. §733.710, and failing that timely filing, whether JOAN is otherwise forever barred from receiving her community property interests and/or alternatively is deemed to have abandoned her community property interests.

ARGUMENT

JOAN's Petition seeks to determine and perfect her community property rights in property titled in CLARK's name and thus purportedly held in the Estate at the time of his death. The Petition alleges that the community property interests were accrued and accumulated while she and CLARK were domiciled in Texas, a community property state.

JOAN's Petition was filed pursuant to the dictates of the "Florida Uniform

Disposition of Community Property Rights at Death Act" found in F.S. §732.216 - 732.228. The Petition asks the Court to determine and perfect JOAN's title to her community property interests in those community property assets, specifically including the interest in the Palisades Capital Management, LLC investment which JOAN alleges was purchased by CLARK in 1999 while they were domiciled in Texas from community property. The Petition attaches the 1999 Purchase Agreement.

JOAN filed her Petition in September 2017, more than two years after CLARK's date of death and after the expiration of the three month creditor claims period, and more than three months after the filing/service of the Notice of Administration.

The Daughters' Motion to Strike contended that JOAN's Petition is too late and is actually in the nature of a creditor claim against the Estate which must be filed within the creditor claim limitations procedure of the Probate Code (i.e., within three months of publication of Notice to Creditors under F.S. §733.702 and/or no later than the two year statute of non-claim under F.S. §733.710) or that the Florida Uniform Disposition of Community Property Rights at Death Act set forth in F.S. §732.216 – 732.228 creates a separate filing deadline of no later than three months after the filing or service of Notice of Administration. The Order on

appeal determined that the Petition was actually in the nature of a creditor claim, that it was untimely, and that there was no "trust exception," or any other exception, which would allow JOAN's Petition to be filed more than two years after CLARK's death. SR. 237-239.

FLORIDA UNIFORM DISPOSITION OF COMMUNITY PROPERTY RIGHTS AT DEATH

JOAN's Petition is based upon the "Florida Uniform Disposition of Community Property Rights at Death Act" set forth in F.S. §732.216 – 732.228. The Florida Act was derived from the Uniform Disposition of Community Property Right at Death Act which was promulgated in 1971. A copy of the Uniform Law was attached as Exhibit 1 to JOAN's Response to Daughters' Motion to Strike (SR. 192-204). In 1992, Florida largely adopted and enacted the Uniform Law by the adoption of F.S. §732.216 – 732.228.

Key provisions of the Florida Act are the following:

> 732.217 Application.—Sections 732.216-732.228 apply to the disposition at death of the following property acquired by a married person:
> (1) Personal property, wherever located, which:
> (a) Was acquired as, or became and remained, community property under the laws of another jurisdiction;
> (b) Was acquired with the rents, issues, or income of, or the proceeds from, or in exchange for, community property; or
> (c) Is traceable to that community property.
> (2) Real property, except real property held as tenants by the entirety, which is located in this state, and which:

(a) Was acquired with the rents, issues, or income of, the proceeds from, or in exchange for, property acquired as, or which became and remained, community property under the laws of another jurisdiction; or
(b) Is traceable to that community property.

732.218 Rebuttable presumptions.—In determining whether ss. 732.216-732.228 apply to specific property, the following rebuttable presumptions apply:

(1) Property acquired during marriage by a spouse of that marriage while domiciled in a jurisdiction under whose laws property could then be acquired as community property is presumed to have been acquired as, or to have become and remained, property to which these sections apply.

(2) Real property located in this state, other than homestead and real property held as tenants by the entirety, and personal property wherever located acquired by a married person while domiciled in a jurisdiction under whose laws property could not then be acquired as community property and title to which was taken in a form which created rights of survivorship are presumed to be property to which these sections do not apply.

732.219 Disposition upon death.—Upon the death of a married person, one-half of the property to which ss. 732.216-732.228 apply is the property of the surviving spouse and is not subject to testamentary disposition by the decedent or distribution under the laws of succession of this state. One-half of that property is the property of the decedent and is subject to testamentary disposition or distribution under the laws of succession of this state. The decedent's one-half of that property is not in the elective estate.

732.223 Perfection of title of surviving spouse.—If the title to any property to which ss.732.216-732.228 apply was held by the decedent at the time of the decedent's death, title of the surviving spouse may be perfected by an order of the probate court or by execution of an instrument by the personal representative or the beneficiaries of the decedent with the approval of the probate court. The probate court in which the decedent's estate is being administered has no duty to discover whether property held by the decedent is property to which

> ss. 732.216-732.228 apply. The personal representative has no duty to discover whether property held by the decedent is property to which ss. 732.216-732.228 apply unless a written demand is made by the surviving spouse or the spouse's successor in interest within 3 months after service of a copy of the notice of administration on the surviving spouse or the spouse's successor in interest.
>
> 732.226 Limitations on testamentary disposition.— Sections 732.216-732.228 do not authorize a person to dispose of property by will if it is held under limitations imposed by law preventing testamentary disposition by that person.

TEXAS COMMUNITY PROPERTY LAW

JOAN's Petition alleges that she and CLARK lived in Texas until 2000 and during that time, CLARK, a business executive, made a lot of money, and acquired extensive property which he titled in his name, in which JOAN has vested community property rights.

Texas is a community property state, and assets acquired by either spouse while domiciled in Texas are owned 50% by the husband and 50% by the wife. See, V.T.C.A., Family Code §3.002 – 3.006 and Texas case law.

> "A fundamental tenet of the community property system is that whatever is acquired during marriage by the talent, toil, or other measure of productivity of either spouse is community property. Winger v. Pianka, 831 S.W.2d 853, 857 (Tex.App.-Austin 1992, writ denied). Thus, any spouse's personal income is community property. Id.; Maben v. Maben, 574 S.W.2d 229, 232 (Tex.Civ.App.-Fort Worth 1978,no writ)."

See, McClary v. Thompson, 65 S.W.3d 829, 834 (Tex. Ct. App. Forth Worth 2002).

Under Texas law, the rights of a husband and wife in community property creates a trust relationship between the husband and wife as to community property controlled by one spouse. See, Madrigal v. Madrigal, 115 S.W.3d 32 (Tex. Ct. App. San Antonio 2003) ("a trust relationship exists between a husband and wife as to that community property controlled by each spouse"). See also, Carnes v. Meador, 533 S.W.3d 365 (Tex. Ct. App. Dallas 1975); Brownson v. New, 259 S.W.2d 277 (Tex. Ct. App. San Antonio 1953).

Madrigal describes the relationship as follows:

> "Proceeds from a life insurance policy acquired as a benefit of employment during marriage are community property. (citations omitted) The policy is the sole management community property of the employee spouse, and that spouse may designate the beneficiary of the policy. (citations omitted) However, because a trust relationship exists between husband and wife regarding the community property controlled by each spouse, if the designation of a third party beneficiary constitutes active or constructive thought on the community, proceeds may be awarded to the surviving spouse rather than the designated beneficiary (citations omitted)." Madrigal at 34, 35.

The Texas Carnes court describes the relationship as follows:

> "A trust relationship exists between husband and wife as to that community property controlled by each spouse" (citing Brownson). Carnes at 370.

The Texas Brownson court describes the relationship as follows:

> "The husband is by law the manager of the community estate and a trust relationship exists between him and his wife." Brownson at 280.

Texas law does not treat the surviving spouse's community property interests as a creditor claim, to be asserted as a claim against her husband's estate. Under Texas law, the rights of the surviving spouse in community property law is found in Texas Estates Code §360.253, which provides as follows:

> (a) If a spouse dies leaving community property, the surviving spouse, at any time after letters testamentary or of administration have been granted and an inventory, appraisement, and list of claims of the estate have been returned or an affidavit in lieu of the inventory, appraisement, and list of claims has been filed, may apply in writing to the court that granted the letters for a partition of the community property.
>
> . . .
>
> (c) The court shall proceed to partition the community property into two equal moieties, one to be delivered to the surviving spouse and the other to be delivered to the executor or administrator of the deceased spouse's estate.

IS THERE A DEADLINE TO PURSUE COMMUNITY PROPERTY RIGHTS UNDER THE FLORIDA ACT

Nowhere in the Florida Act does it create a time deadline for the spouse to pursue her community property rights after her husband dies.

Although not described in the Order on Appeal, the Daughters' Motion to Strike argued that the Florida Act created a filing deadline under F.S. §732.223.

However, this confuses the exoneration language found within F.S. §732.221 and §732.223 – wherein the Personal Representative of the Estate is exonerated from liability if a party asserts there is community property either in the surviving spouse's name or the Estate name which the Personal Representative did not pursue or perfect. The exoneration of the Personal Representative is provided under the Florida Act unless the Personal Representative receives a written demand from a beneficiary within three months of "Notice of Administration" or a written demand from a creditor within three months of publication of "Notice to Creditors." Exoneration from personal liability however does not create a filing deadline for the spouse to perfect her interests.

If the claims process was intended by the Florida Legislature to capture – and limit, a spouse's community property rights – they would have said so in the Florida Act. See also, Comment to Section 4 of the Uniform Disposition of Community Property Rights at Death Act, which is the act upon which the Florida Act was based – clearly showing this section is merely an exoneration statute – and explicitly is not to be construed to interfere with the court's jurisdiction to perfect title to the spouse. (SR. 192-204.)

WHAT IS A CLAIM AND WHAT ARE THE CLAIMS DEADLINES

Part VII of the Florida Probate Code sets forth the time period for filing creditor claims. See, F.S. §733.702 and F.S. §733.710.

Subsection (1) of F.S. §733.702 provides:

> "(1) If not barred by s. 733.710, no claim or demand against the decedent's estate that arose before the death of the decedent, including claims of the state and any of its political subdivisions, even if the claims are unmatured, contingent, or unliquidated; no claim for funeral or burial expenses; no claim for personal property in the possession of the personal representative; and no claim for damages, including, but not limited to, an action founded on fraud or another wrongful act or omission of the decedent, is binding on the estate, on the personal representative, or on any beneficiary unless filed in the probate proceeding on or before the later of the date that is 3 months after the time of the first publication of the notice to creditors or, as to any creditor required to be served with a copy of the notice to creditors, 30 days after the date of service on the creditor, even though the personal representative has recognized the claim or demand by paying a part of it or interest on it or otherwise. The personal representative may settle in full any claim without the necessity of the claim being filed when the settlement has been approved by the interested persons."

Subsection (4) of F.S. §733.702 provides:

> "(4) Nothing in this section affects or prevents:
> (a) A proceeding to enforce any mortgage, security interest, or other lien on property of the decedent."

F.S. §733.710 provides as follows:

> "(1) Notwithstanding any other provision of the code, 2 years after the death of a person, neither the decedent's estate, the personal representative, if any, nor the beneficiaries shall be liable for any

> claim or cause of action against the decedent, whether or not letters of administration have been issued, except as provided in this section.
>
> ...
>
> (3) This section shall not affect the lien of any duly recorded mortgage or security interest or the lien of any person in possession of personal property or the right to foreclose and enforce the mortgage or lien."

For purposes of the Florida Probate Code, "claim" and "property" are defined under F.S. §731.201 as follows:

> "(4) 'Claim' means a liability of the decedent, whether arising in contract, tort, or otherwise, and funeral expense. The term does not include an expense of administration or estate, inheritance, succession, or other death taxes."

F.S. §731.201(32) defines "property" as follows:

> "'Property' means both real and personal property or any interest in it and anything that may be the subject of ownership."

COMMUNITY PROPERITY RIGHTS
ARE VESTED PROPERTY RIGHTS – NOT CLAIMS

JOAN's community property rights were vested and created under Texas law when the property was acquired by either spouse during the marriage. See generally, McClary.

JOAN's community property rights are not a "claim" against the Estate, as no liability is sought to be imposed against CLARK or his Estate that arose before CLARK's death; further, no allegation is made in the Petition that CLARK held

title to the property adverse to JOAN's interest. Rather, her Petition merely seeks to establish JOAN's rights to succeed to her own property interest.

Unlike the definition of a "claim" under F.S. §731.201(4), JOAN's community property rights are not "a liability of the decedent" based upon an adverse interest asserted therein by CLARK.

CLARK properly held title to the community property in his name – as such title ownership is recognized under Texas law. He merely holds title as Trustee for JOAN – and upon his death, the Estate similarly holds title as Trustee for JOAN.

However, even if JOAN's community property rights were considered in the nature of a creditor claim, her vested community property rights give rise to an equitable lien in JOAN's favor - which would fall within the lien exception to the creditor claim limitations process and/or JOAN's community property rights would fall within the "trust exception" to the creditor claim limitations process.

FLORIDA COMMUNITY PROPERTY CASES

There are only two community property cases which analyze the issue of a surviving spouse's community property rights. Colclazier v. Colclazier, 89 So.2d 261 (Fla. 1956) and Quintana v. Ordono, 195 So.2d 577 (Fla. 3d DCA 1967).

Only Quintana is instructive. The Quintana case relates to a surviving spouse's rights to pursue her community property interests in her deceased husband's Estate and whether the creditor claim limitations period applies.

Per Quintana, community property acquired by a married couple domiciled in a community property state does not lose its status as community property when the couple subsequently moves to a common law jurisdiction. See, Quintana at 580.

Relevant to our case, the Quintana court analyzed and rejected the same argument made by the Daughters here and found in the Order on Appeal (i.e., that JOAN's Petition to Determine Community Property is barred by Florida's non-claim statute because it was filed more than two years after the Decedent's date of death).

The surviving spouse in Quintana filed an action to perfect her community property rights in the Decedent's Estate after the non-claim period had expired. The Third DCA held that Florida's non-claim statute does not apply to a surviving spouse's action to enforce her community property rights noting that the community property rights vested in the wife at the time they were domiciled in the community property state. See, Quintana at 580.

The Quintana court cited to a California case, In re Thornton's Estate, 33 P.2d 1 (Cal. 1934), for the legal principle that once property rights vest in an individual, those property rights are constitutionally protected and cannot be removed without implicating the constitutional principles of full faith and credit, equal protection, and interstate commerce.

In Quintana, the husband and wife formerly resided in Cuba where they accumulated property (which the Quintana court described as a "form of community property marriage") and they later moved to Florida. Quintana described the surviving spouse's interest in the property held in the husband's estate as follows:

> "Therefore, under the laws of Cuba, the stock did not vest in the husband but in the 'Sociedad de Ganancialis.' Thus the wife had a vested interest in the stock equal to that of her husband.
>
> The interest which vested in the wife was not affected by the subsequent change of domicile from Cuba to Florida in 1960.
>
> ...
>
> Under Florida law, if a portion of the consideration belongs to the wife and title is taken in the husband's name alone, a resulting trust arises in her favor by implication of law to the extent that consideration furnished by her is used. It results in trust generally found to exist in transactions affecting community property in non-community property states where a husband buys property in his own name. Therefore, while the husband held legal title to the note and contract, he held a one-half interest in trust for his wife.

> It is well settled that the Florida non-claim statute section 733.16, supra, does not apply so as to require the cestui to file a claim against the estate of the trustee.
>
> As the estate holds the legal title to the note and contract, it is proper that the administrator of the estate collect the monies, principle and interest due on the note. Such procedure does not estop the wife from obtaining her interest. The administrators of the husband's estate are trustees as to the wife's equitable interest."

Quintana at 580.

Although the new Florida Probate Code was enacted in 1974 after the Quintana opinion, the principle that JOAN's community property rights are a vested protected interest exempt from the creditor claim limitations process was not abrogated.

ALTERNATIVELY, THE "TRUST EXCEPTION" TO THE CLAIMS PROCEDURE

Alternatively, JOAN's community property rights fall within the "trust exception" to the creditor claims limitations process. The Order on Appeal incorrectly determines that there is no "trust exception" or any other exception which applies to allow JOAN's Petition to be filed more than two years after CLARK's death.

The "trust exception" to the creditor claims process is fully described in Scott v. Reyes, 913 So.2d 13 (Fla. 2d DCA 2005) and the earlier Velzy v. Estate of Miller, 502 So.2d 1297 (Fla. 2d DCA 1987). In the later Scott decision, the

Second DCA notes that the "trust exception" to the creditor claim limitations process was narrowed after the enactment of the 1974 Florida Probate Code and provides that to hereafter take advantage of the "trust exception," the Decedent must hold the assets "either by way of an express trust or some other clearly defined means."

The Scott court summarized the trust exception after the enactment of the Florida Probate Code as follows:

> "The 'trust exception' or a 'equitable title to specifically identifiable property' exceptions to the requirements of the non-claim statutes, as those exceptions pertain to recovery of property from an estate, have effectively been limited to those situations where the decedent clearly held the property on behalf of the actual owner either by way of an express trust or some other clearly defined means." Scott at 17-18.

As described above as to the community property interests under Texas law, JOAN's community property interest is in the nature of a trust relationship which exists between the husband and wife. The Second DCA in Quintana also notes this Trust relationship, concluding that the husband holds title as Trustee, in Trust for the wife. See, Quintana at 580. See, Madrigal, Carnes, and Brownson, supra.

JOAN's community property rights in property titled in CLARK's name is a vested, equitable interest in property (akin to a "mortgage, security interest, or other lien on property" as referenced in F.S. §733.702(4)(a) and/or §733.710(3)) and falls within the "trust exception," and/or the "equitable title to specifically

identifiable property" exception as described in Scott. The Order on Appeal is just wrong on this point.

The Daughters' below cited the Court to a Federal District opinion Grijalva v. Gulf Bank, 2011 WL 282754 (U.S. Dist. Ct. Southern District 1/25/11) for the proposition that the "trust exception" to the creditor claim limitations process did not avoid the application of F.S. §733.710. However, Grijalva is distinguishable in several ways. First, it was Federal Southern District opinion (which was not published in the Federal Supplement) and thus, is not precedential or binding on this court.

Further, Grijalva does not involve community property rights nor did the claimant (who missed the three month filing deadline for creditor claims) assert that there was an exception to the creditor claim limitations process due to the existence of a lien and/or a trust relationship arising out of community property rights.

Finally, to the extent the Grijalva cites to the Florida Supreme Court opinion in May v. Illinois, 771 So2d 1143 (Fla. 2000) suggesting that the May court rejected or abrogated the "trust exception" to the creditor claim filing deadlines, this principle is actually not found within the May opinion (and the Scott opinion rendered 5 years after the 2000 May opinion belies this rationale).

SUMMARY

JOAN's Petition was not required to be filed within the creditor claim limitations periods under F.S. §733.702 and/or §733.710 as her community property rights are not a "claim" against the Estate and further they are either in the nature of an equitable lien and fall within the statutory exceptions of F.S. §733.702 and/or §733.710 or alternatively fall within the "trust exception" to the claims limitations process as enunciated by Scott.

CONCLUSION

The probate court's Order Striking JOAN's Petition to Determine and Perfect Surviving Spouse's Community Property Interest in Estate Assets should be reversed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via e-mail this 17th day of April, 2018 to William E. Boyes, Esq. (bboyes@bfmlaw.com; asabocik@bfmlaw.com; czill@bfmlaw.com), Boyes, Farina & Matwiczyk, P.A., 3300 PGA Blvd, Suite 600, Palm Beach Gardens, FL 33410, and Rebecca G. Doane, Esq. (rgdoane@doanelaw.com; ngarrigan@doanelaw.com; manderson@doanelaw.com), Doane & Doane, P.A., 2000 PGA Blvd, Suite 4410, Palm Beach Gardens, FL 33408.

DOWNEY | McELROY, P.A.
Counsel for Appellant
3501 PGA Boulevard, Suite 201
Palm Beach Gardens, FL 33410
Telephone: (561) 691-2043
Telefax: (561) 691-8078
Email-pleadings: attorneys@downeypa.com
Email-personal: edward@downeypa.com
Email-personal: lmcelroy@downeypa.com

/s/ Edward Downey
BY: _____
EDWARD DOWNEY
Florida Bar No. 441074
R. LEE McELROY IV
Florida Bar No. 0949191

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the contents of this Initial Brief are in compliance with the font requirements of Fla. R. App. P. 9.210(a)(2), on this 17th day of April, 2018.

/s/ Edward Downey

_____

EDWARD DOWNEY
Florida Bar No. 441074
R. LEE McELROY IV
Florida Bar No. 0949191

\\fileserver\data\DOC\CLIENTS\JOHNSON, CLARK - Estate & Trust\APPEAL - 0432\Initial Brief.docx