

CIRCUIT COURT OF FLORIDA

In re: Estate of Oldman Johnson

No. [Unknown], 2025 WL [Unknown] (Fla. Cir. Ct. [Unknown])

SUMMARY

Proposed Florida jury instructions addressing undue influence and tortious interference with an expectancy. The instructions detail a burden-shifting framework: if the plaintiff proves the defendant actively procured the will or trust (e.g., presence at execution, involvement in drafting, secrecy), a presumption of undue influence arises that the defendant must rebut by the greater weight of the evidence. For tortious interference, the plaintiff must establish the decedent's fixed testamentary intent, intentional interference through undue influence, causation, and damages.

CASE DETAILS

COURT	Circuit Court of Florida
JURISDICTION	Florida
DISPOSITION	other
PRECEDENTIAL VALUE	Not applicable

TOPICS

- undue influence
- probate
- trusts
- torts
- civil procedure

PRACTICE AREAS

- Wills, Trusts, and Estates
- Tort Law

QUESTIONS PRESENTED

- Whether the Defendant actively procured the challenged trust amendment through undue influence, shifting the burden of proof.
- What factors the jury should consider in evaluating claims of undue influence.
- What elements constitute tortious interference with an expectancy under Florida law.

HOLDINGS

- If Plaintiffs prove by the greater weight of the evidence that Defendant actively procured the contested document, the law presumes undue influence and the burden shifts to Defendant to rebut the presumption by proving by the greater weight of the evidence that the document was executed freely,

voluntarily, and without undue influence. Once rebutted, the burden returns to Plaintiffs to prove their claims by the greater weight of the evidence.

2. Non-exhaustive factors for active procurement under Florida law include: presence of beneficiary at execution or when testator expressed desire to make will; beneficiary's recommendation of attorney; beneficiary's knowledge of contents or giving instructions; securing witnesses; safekeeping of will; isolating testator and disparaging family members; mental inequality; and reasonableness of the challenged provisions.
3. To prevail on a claim for tortious interference with an expectancy, Plaintiff must prove: (1) existence of an expectancy; (2) intentional interference through undue influence; (3) causation; and (4) damages. Plaintiff must show with reasonable certainty that the decedent had a formed, fixed intention to make a bequest or gift that would have been in effect at death but for the intentional interference.

KEY QUOTATIONS

“The Undue Influence Doctrine is based on the theory that the testator is induced by various means, to execute an instrument which, although his, in outward form, is in reality not his, but the will of another person which is substituted for that of the testator.” (at 1)

“It is important to note that the above-referenced factors are not the elements of the cause of action of undue influence. They relate solely to shifting the burden of proof.” (at 2)

“Some of the essential steps in asserting undue influence upon a person against those for whom he has love and in whom he has confidence is for some other person (1) to have access to the person to be influenced, (2) to administer to the needs and wants and wishes of such person, (3) to keep those for whom the person to be influenced has love for and confidence in away from the person to be influenced, (4) to establish a confidential relationship, and (5) to tear down this love and confidence by insinuations and accusations.” (at 3)

“What degree of influence will vitiate a Will [or Trust] depends much upon the bodily and mental vigor of the testator, for that which would overwhelm a mind weakened by sickness, dissipation, or age might prove no influence at all to one of strong mind in the vigor of life.” (at 3)

FACTUAL BACKGROUND

This document contains proposed jury instructions for a will and trust contest concerning decedent Oldman Johnson. The Plaintiffs allege that Defendant exercised undue influence to procure a trust amendment in Defendant's favor and committed tortious interference with an expectancy. The instructions outline factors the jury may consider in determining whether the presumption of undue influence arises, including Defendant's involvement in the decedent's affairs, dependence, secrecy, changes to the estate plan, mental acuity, and disparagement of family members.

DISPOSITION

other

CASES CITED

- In re: Ates Estate, 60 So. 2d 275 (Fla. 1952)
- [case] Blinn v. Carlman, Blinn v. Carlman, 159 So. 3d 390 (Fla. 4th DCA 2015)
- Clark v. Grimsley, 270 So. 2d 53 (Fla. 1st DCA 1972)
- Elson v. Vargas, 520 So. 2d 76 (Fla. 3d DCA 1988)
- In re: Estate of Carpenter, 253 So. 2d 697 (Fla. 1971)
- Paananen v. Kruse, 581 So. 2d 186 (Fla. 2d DCA 1991)
- In re: Estate of Burton, 45 So. 2d 873 (Fla. 1950)
- In re: Donnelley's Estate
- Newman v. Smith, Newman v. Smith, 82 So. 236 (Fla. 1919)
- Watts v. Newport, 151 Fla. 209 (Fla. 1942)
- Peacock v. DuBois, 105 So. 2d 321 (Fla. 1925)
- In re: Estate of Reid, 138 So. 2d 342 (Fla. 3d DCA 1962)
- Gardiner v. Goertner, 149 So. 186 (Fla. 1932)
- [case] Cripe v. Atlantic First Nat'l Bank of Daytona Beach, Cripe v. Atlantic First Nat'l Bank of Daytona Beach, 422 So. 2d 820 (Fla. 1982)
- Hack v. Estate of Helling, 811 So. 2d 822 (Fla. 5th DCA 2002)
- In re: Auerbach's Estate, 41 So. 2d 659 (Fla. 1949)
- In re: Estate of Perez, 470 So. 2d 48 (Fla. 3d DCA 1985)
- In re: Ates' Estate, 60 So. 2d 275 (Fla. 1953)
- In re: Estate of Winslow, 147 So. 2d 613 (Fla. 2d DCA 1962)
- In re: Estate of Lamberson, 407 So. 2d 358 (Fla. 5th DCA 1981)
- Newman v. Smith, Newman v. Smith, 82 So. 2d 236 (Fla. 1919)