

Application for Nomination to the Seventh Judicial Circuit Court of Florida



Rose Marie K. Preddy, Esquire
January 2023

APPLICATION FOR NOMINATION TO THE 7th CIRCUIT COURT

Instructions: Respond fully to the questions asked below. Please make all efforts to include your full answer to each question in this document. You may attach additional pages, as necessary, however it is discouraged. In addition to the application, you must provide a recent color photograph to help identify yourself.

Full Name: Rose Marie Karadsheh Preddy **Social Security No.:** [REDACTED]

Florida Bar No.: 0105872 **Date Admitted to Practice in Florida:** 5/1/1997

1. Please state your current employer and title, including any professional position and any public or judicial office you hold, your business address and telephone number. Preddy Law Firm, P.A., Owner, Julington Creek Business Park, 12627 San Jose Boulevard, Suite 102, Jacksonville, Florida 32223, (904)665-0005
2. Please state your current residential address, including city, county, and zip code. Indicate how long you have resided at this location and how long you have lived in Florida. Additionally, please provide a telephone number where you can be reached (preferably a cell phone number).

[REDACTED]
I have lived at this location since May 2018 and in Florida since 1997.

3. State your birthdate and place of birth. [REDACTED] in Detroit, Michigan.
4. Are you a registered voter in Florida (Y/N)? Yes
5. Please list all courts (including state bar admissions) and administrative bodies having special admissions requirements to which you have ever been admitted to practice, giving the dates of admission, and if applicable, state whether you have ever been suspended or resigned. Please explain the reason for any lapse in membership.

State of Michigan, 1995

United States District Court for the Eastern District of Michigan, 1996

State Bar of Florida, 1997

United States District Court for the Middle District of Florida, 1997

United States Court of Appeals for the Eleventh Circuit, 1998

6. Have you ever been known by any aliases? If so, please indicate and when you were known by such alias.

No.

EDUCATION:

7. List in reverse chronological order each secondary school, college, university, law school or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, the date the degree was received, class standing, and graduating GPA (if your class standing or graduating GPA is unknown, please request the same from such school).

August 1991- May 1994	Temple University Beasley School of Law Juris Doctorate, May 1994 Graduating GPA 2.97, Top 3/4
August 1988 - May 1990	University of Michigan Bachelors of Arts, May 1990 Graduating GPA 2.95, Top 1/3 Cumulative GPA 3.1
June 1989 - July 1989	Georgetown University Academic Credit
January 1987 - May 1988	Macomb Community College Academic Credit
August 1986 - December 1986	Liberty University Academic Credit
December 1985 - May 1986	Center Line High School High School Degree
August 1983 - December 1985	Bethany Christian School Academic Credit
August 1982 - May 1983	Center Line High School Academic Credit

8. List and describe any organizations, clubs, fraternities or sororities, and extracurricular activities you engaged in during your higher education. For each, list any positions or titles you held and the dates of participation.

Temple University School of Law, Christian Legal Society, 1991-1994

University of Michigan, Campus Safety Committee, 1990, Chair

University of Michigan, Michigan Student Assembly, 1989, Vice President

University of Michigan, Students for Bush-Quayle, 1988, Chair

University of Michigan, Campus Crusades for Christ, 1988-1990

The Leadership Institute, Campus Election Workshop, 1988, Graduate

EMPLOYMENT:

9. List in reverse chronological order all full-time jobs or employment (including internships and clerkships) you have held since the age of 21. Include the name and address of the employer, job title(s) and dates of employment. For non-legal employment, please briefly describe the position and provide a business address and telephone number.

Preddy Law Firm, P.A.
Julington Creek Business Park
12627 San Jose Boulevard, Suite 102
Jacksonville, Florida 32223
(904) 665-0005
President/Owner/Attorney
July 2000 - Present

Anderson and Stevens, P.A.
Firm has since closed
Associate Attorney
May 1997 - June 2000

Sayer Regan & Thayer
130 Bellevue Avenue
Newport, Rhode Island 02840
(401) 849-3040
Law Clerk while studying for Florida Bar exam
September 1996 - March 1997

MacDonald and Goren, P.C.
Birmingham, Michigan
Firm has since closed
Associate Attorney
October 1994 - August 1996

Philadelphia District Attorney's Office
3 S Penn Square
Philadelphia, Pennsylvania 19107
(904) 686-8000
Intern for Assistant District Attorney
February 1994 - May 1994

Professor Mark C. Rahdert
Temple University Beasley School of Law
1719 N Broad Street
Philadelphia, Pennsylvania 19122
(215) 204-7861
Assist with drafting and editing book entitled:
"Covering Accidents: Insurance, Liability and Tort Reform"
January – July 1993

Honorable Richard F. Suhrheinrich
United States Court of Appeals for the Sixth Circuit
Potter Stewart U. S. Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202
(513) 564-7000
Offices in Michigan
Law Clerk (Intern)
Summer 1992

Habitat for Humanity International
322 W Lamar Street
Americus, Georgia 31709
(229) 924-6935
As a press relations assistant, I wrote press
releases for national distribution and planned
nationwide promotional events.
January 1991 - July 1991

Senator Douglas Carl (deceased)
Republican candidate for re-election
Michigan State Senate
Mt. Clemens, Michigan
As the campaign manager of a successful re-election
campaign, I wrote speeches, designed advertisements,
and organized fundraising events.
May 1990 - December 1990

10. Describe the general nature of your current practice including any certifications which you possess; additionally, if your practice is substantially different from your prior practice or if you are not now practicing law, give details of prior practice. Describe your typical clients or former clients and the problems for which they sought your services.

My current practice includes both transactional matters and litigation in the circuit court. The areas of practice are primarily probate, guardianship, estates and trusts. Many attorneys who only represent clients for those transactional matters will refer cases to me once conflicts arise and litigation is anticipated. There are few attorneys who are willing to do both the planning and the litigation in the areas of probate, guardianship, trusts and estates.

In guardianship cases, I defend those who are at risk of losing their rights to contract, marry, drive, work, manage their assets, vote, and determine their health care. I also represent a proposed guardian if there is reason remove rights of an individual who is a danger to themselves or others or is being exploited, neglected or abused. Such cases require proving a matter by “clear and convincing evidence”.

I represent beneficiaries or creditors to pursue actions against fiduciaries for misconduct, fraud, misappropriation, or inducing someone to act under undue influence or duress. I also represent fiduciaries who must defend themselves against similar allegations.

I regularly use various chapters in the Florida Statutes including the Probate, Trust, and Guardianship Chapter, Codes and Rules. In disputed matters, the Florida Evidence Code, the Florida Code of Civil Procedure are required to prove or defend allegations.

Clients have called me "their first call" because they trust in my ability to listen and give good advice. After more than 25 years in practice in Florida, I note that my clients span the spectrum of diversity, including education, wealth, age, and ethnicity. I am proud that many judges and attorneys not only refer people to me for legal assistance but have engaged my services for themselves. I believe it is because they trust my advice and competence.

I often work with heirs, business partners and creditors who all have conflicting interests and may not be represented. I learned the delicate balance of dealing fairly with both the represented and unrepresented.

I have successfully run a law firm for more than 22 years, including managing a busy caseload, an office of personnel including, paralegals, accountants, interns and attorneys.

If I am chosen to serve as a circuit court judge, I will continue to use my communication, preparation and timeliness skills to succeed as I have done in private practice. I am always prepared for hearings. I involve my clients and explain the process to them and their options. I have learned the importance that preparation, temperament, listening skills and humility play in the courtroom.

11. What percentage of your appearance in court in the last five years or in the last five years of practice (include the dates) was:

	Court		Area of Practice
Federal Appellate	_____ %	Civil	<u>50</u> %
Federal Trial	_____ %	Criminal	_____ %
Federal Other	_____ %	Family	_____ %
State Appellate	_____ %	Probate	<u>50</u> %
State Trial	<u>100</u> %	Other	_____ %
State Administrative	_____ %		
State Other	_____ %		
TOTAL	<u>100</u> %	TOTAL	<u>100</u> %

If your appearance in court the last five years is substantially different from your prior practice, please provide a brief explanation:

No.

12. In your lifetime, how many (number) of the cases that you tried to verdict, judgment, or final decision were:

Jury?	<u>1 (second chair)</u>	Non-jury?	<u>30+</u>
Arbitration?	_____	Administrative Bodies?	_____
Appellate?	_____		

13. Please list every case that you have argued (or substantially participated) in front of the United States Supreme Court, a United States Circuit Court, the Florida Supreme Court, or a Florida District Court of Appeal, providing the case name, jurisdiction, case number, date of argument, and the name(s), e-mail address(es), and telephone number(s) for opposing appellate counsel. If there is a published opinion, please also include that citation.

None.

14. Within the last ten years, have you ever been formally reprimanded, sanctioned, demoted, disciplined, placed on probation, suspended, or terminated by an employer or tribunal before which you have appeared? If so, please state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.

No.

15. In the last ten years, have you failed to meet any deadline imposed by court order or received notice that you have not complied with substantive requirements of any business or contractual arrangement? If so, please explain fully.

No.

16. For your last six cases, which were tried to verdict or handled on appeal, either before a jury, judge, appellate panel, arbitration panel or any other administrative hearing officer, list the names, e-mail addresses, and telephone numbers of the trial/appellate counsel on all sides and court case numbers (include appellate cases). *This question is optional for sitting judges who have served five years or more.*

1. State of Florida v. Joseph J. Devenuta, Sr., Case No. 55-2021-CF-000767, In the Circuit Court in and for St. Johns County, Florida, Counsel for Defendant: Mitchell A. Stone, Esquire, mstone@jacksonvilledefense.com, (904) 396- 3335; Rose Marie K Preddy, Esquire, Co-Counsel for Defendant charged with three counts of vehicular homicide.

2. In Re: The Guardianship of Howard Courtland Pomeroy, Case No. 2020-GA-000028, In the Circuit Court in and for Clay County, Florida, Counsel for Petitioner: Rose Marie Preddy, Esquire, Counsel for Professional Guardian: D. Craig Calley, Esquire, ccalley@calleylaw.com, (904)388-4567; Counsel for Ward: D. Grant Leggett, Esquire, grant@leggettlawoffices.com; (904)281-9102; Counsel for Respondent: Carla Trinca-Conley, Esquire, ctrincaconley@bbelderlaw.com, (904)398-6100.

3. In Re: Guardianship of Erika Paulk, Case No. 2020-GA-00056, In the Circuit Court in and for Clay County, Florida, Counsel for Respondent: Rose Marie Preddy, Esquire; Counsel for Petitioner: James Adams Owens, Esquire, aowens@seniorcounsellaw.com, (904)619-8890; Counsel for Ward: Robert Perry, Esquire, robert@robertperrylawfirm.com, (904) 654-5950.

4. In Re: Guardianship of William T. Thrower, Jr.: William B. Thrower v. William T. Thrower, Jr. Case No's.: IC16-0213, GA16-0130, Division: 56, In the Circuit Court in and for St. Johns County, Florida, Counsel for Respondent: Rose Marie Preddy, Esquire; Counsel for Petitioner: Ryan Williams, Esquire, rwilliams@jacksonlawgroup.com, (904)823-3333; Counsel for Spouse: Rebecca Beller, Esquire, rebecca@bellerandbustamante.com, (904)288-4414; Counsel for Preneed Guardian: Ernest Clayton Harland, II, Esquire, echjax@gmail.com, (904)728-8834.

5. In Re: Guardianship of Delmas B. Whitehead, Case No. 2017-GA-00057, In the Circuit Court in and for Clay County, Florida, Co-Counsel for Petitioner: Rose Marie Preddy, Esquire and Seth Rothstein, Esquire, sethrothstein@hotmail.com; (904) 398-1419; Counsel for Spouse: Brittany Loper, Esquire, brittany@cooperattorney.com, (904)364-6441.

6. In Re Guardianship of Patsy Wryals, Case No. 2017-GA-00020 In the Circuit Court in and for St. Johns County, Florida, Counsel for Guardian: Rose Marie Preddy, Esquire; Counsel for Ward: Robert Perry, Esquire, robert@robertperrylawfirm.com, (904) 654-5950.

17. For your last six cases, which were either settled in mediation or settled without mediation or trial, list the names and telephone numbers of trial counsel on all sides and court case numbers (include appellate cases). *This question is optional for sitting judges who have served five years or more.*

1. Felicidad R. Griffis, a/k/a Felicidad Cerdan, an individual v. John Gregory Griffis, an individual, Richard A. Griffis, an individual, and John Doe or Jane Doe, as Personal Representative of the Estate of John David Griffis, Case No.: 63- 2018-CA-0080, In the Circuit Court in and for Union County, Florida, Co-Counsel for Plaintiff: Rose Marie Preddy, Esquire, and J. Michael Lindell, Esquire, mlindell@lindellfarson.com, (904)880- 4000, Counsel for Defendants: Jack M. Ross, Esquire, jross@shrlawfirm.com, (352)375-7700.

2. In Re: Eileen Shaughnessy, Beneficiary of the Amended and Restated Edna A. Condon Living Trust v. Mark S. Condon, individually and as Trustee and Beneficiary of the Amended and Restated Edna A. Condon Living Trust, and Edna A. Condon, Settlor of the Amended and Restated Edna A. Condon Living Trust, Case No. CA17-410, In the Circuit Court in and for St. Johns County, Florida, Counsel for Defendant- Edna Condon: Rose Marie Preddy, Esquire, Counsel for Plaintiff: Eric Kolar, Esquire, eric@kolarlaw.com; (904) 396-0009, Counsel for Defendant - Mark Condon: Daniel Seigel, Esquire, dseigel@seigel-law.com (561) 393-6005.

3. In Re: Estate of Ida Jane Woodward: Marie Renee Debrosky, v. Roberta Jane Knight, Case No. 2014 – CP-0023787, Div. PR-A, In the Circuit Court in and for Duval County, Florida, Counsel for Respondent/Cross Petitioner: Rose Marie Preddy, Esquire, Counsel for Petitioner/Cross Respondent: Diane L. Paull, Esquire, dpaul@simpsonpaull.com (904) 249-7288.

4. In Re: Gene Alan Lesser, deceased: Michael Tyson and Alena Whitt vs. Jennifer Lesser, Personal Representative, Case No. 2012-CP-00032, In the Circuit Court in and for Clay County, Florida, Counsel for Petitioners: Rose Marie Preddy, Esquire; Counsel for Respondent: Barry J. Fuller, Esquire, bfuller@lawfuller.com, (904)264-0585.

5. In Re: Guardianship of William A. Loges, Case No. 2010-GA-000563, In the Circuit Court in and for Duval County, Florida, Counsel for Guardians: Rose Marie Preddy, Esquire; Counsel for Professional Guardian: Mike Jorgensen, Esquire, jorgensen@seniorcounselaw.com, (904)619-8890, Counsel for Ward: Benedict Celso, Esquire, bjcelso@comcast.net, (904) 655-0394.

6. William F. Conrad, individually vs. Robert Grace, individually and as trustee of the Jack M. Conrad, Sr. Declaration of Trust dated August 1, 1991, as amended, Jack M. Conrad, II, and Patricia March; Robert Grace, individual and as Trustee of the Jack M. Conrad, Sr. Declaration of Trust dated August 1, 1991, as amended, Jack M. Conrad, II, Counter-Plaintiffs vs. William Conrad, Counter-Defendant; Case No.: 2009-CA-011140, In the Circuit Court in and for Duval County, Florida, Defendant/Counter Plaintiff: Rose Marie Preddy, Esquire, Co-Counsel for Plaintiff/Counter Defendant: Jeffrey S. Bunin, Esquire, jbunin@aptpa.com; (954) 764-7273 and Michael T. Fackler, Esquire, mfackler@milamhoward.com, (904)357-3660.

18. During the last five years, on average, how many times per month have you appeared in Court or at administrative hearings? If during any period you have appeared in court with greater frequency than during the last five years, indicate the period during which you appeared with greater frequency and succinctly explain.

In the last five years I appeared in court on average three times a month.

19. If Questions 16, 17, and 18 do not apply to your practice, please list your last six major transactions or other legal matters that were resolved, listing the names, e-mail addresses, and telephone numbers of the other party counsel.

20. During the last five years, if your practice was greater than 50% personal injury, workers' compensation or professional malpractice, what percentage of your work was in representation of plaintiffs or defendants?

N/A

21. List and describe the five most significant cases which you personally litigated giving the case style, number, court and judge, the date of the case, the names, e-mail addresses, and telephone numbers of the other attorneys involved, and citation to reported decisions, if any. Identify your client and describe the nature of your participation in the case and the reason you believe it to be significant.

1. In Re: Guardianship of William T. Thrower, Jr.: William B. Thrower v. William T. Thrower, Jr., Case No's. ICI16-0213; GA16-0130, In the Circuit Court in and for St. Johns County, Florida. Judge J. Michael Traynor presided over the case. Counsel for Respondent: Rose Marie Preddy, Esquire, Counsel for Petitioner: Ryan Williams, Esquire, rwilliams@jacksonlawgroup.com, (904)823-3333, Counsel for Spouse: Rebeccah Beller, Esquire, rebeccah@bellerandbustamante.com, (904)288-4414, Counsel for Preened Guardian: Ernest Clayton Harland, II, Esquire, echjax@gmail.com, (904)728-8834.

My client was the alleged incapacitated Ward. This case involved allegations by the Petitioner, who was the estranged son of the alleged Ward, to declare his father as incapacitated with the goal of becoming his guardian and changing his estate plans for his own benefit. The adult child lived in another state. The father was newly married and likely the trigger for the son's scheme.

The father, my client, executed estate plan documents which I prepared and facilitated the execution. He had suffered from cancer, recovered and at about the same time contracted meningitis. While in rehabilitation to recover from the side effects, the son filed for guardianship without the consent of his father. The son was described as volatile, unstable and lived in debt. When the son commenced litigation to take all rights from the father, my role was to represent the father and defend against guardianship. This matter involved evidentiary hearings, subpoenas, numerous witnesses and medical experts and evidence to prove my client was competent. This was significant to me as it was the first case where my client, the alleged incapacitated Ward, was able to take the stand and so eloquently articulate both his horror and sadness over his son's attempt to take his rights away and rob him of dignity. After months of litigation the judge ruled in favor of my client, finding he was not incapacitated and the case was dismissed.

2. In Re: Eileen Shaughnessy, Beneficiary of the Amended and Restated Edna A. Condon Living Trust v. Mark S. Condon, individually and as Trustee and Beneficiary of the Amended and Restated Edna A. Condon Living Trust, and Edna A. Condon, Settlor of the Amended and Restated Edna A. Condon Living Trust, In the Circuit Court in and for St. Johns County, Florida, Case No. CA17-410. Judge J. Michael Traynor presided over the case. Counsel for Defendant- Edna Condon: Rose Marie Preddy, Esquire, Counsel for Plaintiff: Eric Kolar, Esquire,

eric@kolarlaw.com, (904) 396-0009, Counsel for Defendant- Mark Condon: Daniel Seigel, Esquire, dseigel@seigel-law.com, (561) 393-6005.

I represented the mother/grantor of a trust over which she allowed her son to serve as trustee before she moved to Florida. She was over 80 years old, and she trusted her son to manage her money. When she moved to Florida from another state the son, as trustee, refused to use the trust funds to allow her to purchase a home in Florida. He also refused to provide accountings or use the trust funds for the care of his mother. My client moved to Florida to be close to her daughter who was helping her find a home and provide for her basic needs.

The litigation ensued and there were several contested motions and discovery disputes involving requests to produce documents and interrogatories. We finally were able to reach a settlement. The case was significant to me as it showed the overreach of an adult child when managing the money of an elderly competent parent and depriving the parent of proper use of their own funds.

3. Felicidad R. Griffis, a/k/a Felicidad Cerdan, an individual v. John Gregory Griffis, an individual, Richard A. Griffis, an individual, and John Doe or Jane Doe, as Personal Representative of the Estate of John David Griffis, Case No.: 63- 2018-CA-0080, In the Circuit Court in and for Union County, Florida. Judge Denise R. Ferrero presided over the case. Co-Counsel for Plaintiff: Rose Marie Preddy, Esquire, and J. Michael Lindell, Esquire, mlindell@lindellfarson.com, (904)880-4000, Counsel for Defendants: Jack M. Ross, Esquire, Jross@shrlawfirm.com, (352)375-7700.

My client was a recent widow. She had immigrated to the U.S. from the Philippines and met her husband, the decedent, in Florida. He came from a small town in Florida and his family was well known in the community. He owned many businesses and properties. The couple lived together and later married for nine years until his death. For years leading up to his death, he was wheelchair-bound due to a stroke and his wife cared for him around-the-clock.

The decedent had two adult sons from a prior marriage. He signed a will providing that my client, his wife, and sons would split the substantial estate equally in thirds. Soon after his death, the adult sons asked my client to go to a lawyer's office where she was offered cash (less than 10% of the value of her interest) if she would sign documents disclaiming her

interest in the estate. Not having any education in the matters of law or business and not having English as her first language, she had no understanding of what she was told to sign, but in her grief, she trusted his adult children.

We proceeded to file suit to throw out the disclaimers based on breach of trust, constructive trust, and fraud. The matter was litigated and included numerous depositions, extensive discovery, and an attempt at mediation. Due to the nature of the assets held, any agreement to resolve the matter would be complicated. Through hard work and persistence, we settled the matter with an agreement among the parties. This case was significant to me because the legal system protected my client and she was treated fairly, despite the disparities between the parties.

4. In Re: Gene Alan Lesser, deceased. Michael Tyson and Alena Whitt, Petitioners, vs. Jennifer Lesser, Personal Representative, Case No. 2012-CP-00032, In the Circuit Court in and for Clay County, Florida. Judge John H. Skinner presided over this case. Counsel for Petitioners: Rose Marie Preddy, Esquire, Counsel for Respondent: Barry J. Fuller, Esquire, bfuller@lawfuller.com, (904)264-0585.

In this case, the decedent had been a bachelor for most of his life and married late at age 60. His niece and nephew were my clients, with whom he was very close. He had signed a will providing for them to get half of his estate and his new wife to get the other half. He also had a prenuptial agreement prepared but it was not executed. When the time came to sign the prenuptial (now a post nuptial) after the marriage, the wife refused. The decedent was then given specific advice on how to manage his accounts to be sure his wife would not inherit the entire estate. Five years after marriage, he died after complications from surgery.

The facts showed that the decedent attempted to make calls from his hospital bed to be sure his estate would pass according to his will. The issue was that his new wife was the last to have access to the original will. If original will was not found or a copy admitted to probate, he would have been considered to have died without a will and she would inherit the entire estate. My clients obtained a copy and sought to admit the will to probate relying on state statutes, case law and evidence to show the decedent intended to die testate. The case involved evidentiary hearings, discovery, including several depositions, interrogatories, requests to produce, briefs and

finally a settlement agreement. This case was significant to me because we were able to show how the law and facts supported the decedent's testamentary intent even when the decedent could not defend his wishes.

5. In re: Guardianship of Rhonda Adell Danyus. In the Circuit Court in and for Duval County, Florida, Case No. 03-00152-CP, Div: CV-C. Judge Brad Stetson, Judge Peter L. Dearing and Judge Jack Schemer presided over this case over the years. Counsel for the Guardian: Rose Marie Preddy, Esquire, Counsel for Incapacitated: Julie Saieg, Esquire, jsaieg@pfhglaw.com, (904) 355-0355, Counsel for Spouse, Joseph Duszlak, Esquire, jduszlaklaw@att.net, (904) 358-8546, Counsel for Minor Child, Cynthia Nichols, Esquire, cynthia@nicholslaw1.com, (904) 598-0055.

The Ward was a young married mother who was hit by a car on her front lawn in a hit-and-run accident. She was left with severe brain damage and would spend the rest of her life in a nursing home with little to no ability to communicate in any meaningful way. Initially, the husband was appointed as guardian of his wife. Allegations arose of physical neglect and financial misconduct by the husband. There were also issues relating to the custody of the minor and divorce. There were many evidentiary hearings, including removal proceedings and efforts to recoup misappropriated funds, and efforts to obtain a divorce while she was incapacitated.

I was able to prove why my client (adult child of the incapacitated) should be appointed guardian in place of her step-father. Further, my client was able to preserve the assets by facilitating all that was necessary to effectuate a divorce of the incapacitated woman.

I described this as a "Terri Schiavo-like" case where there were serious conflicts between the husband, parents and children. Also at issue were ongoing concerns as to proper rehabilitation and preserving Medicaid benefits in case of any financial recovery. To this day the wife is still living in the nursing home with limited ability to move or communicate. This case was significant to me because despite the incapacity of the wife, I was able use the law and the facts to protect her right to live in a safe environment, protect her property, and have her daughter be appointed as an advocate for her.

22. Attach at least two, but no more than three, examples of legal writing which you personally wrote. If you have not personally written any legal documents recently, you may attach a writing sample for which you had substantial responsibility. Please describe your degree of involvement in preparing the writing you attached.

Please see attached composite "Exhibit A".

PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE

23. Have you ever held judicial office or been a candidate for judicial office? If so, state the court(s) involved, the dates of service or dates of candidacy, and any election results.

No.

24. If you have previously submitted a questionnaire or application to this or any other judicial nominating commission, please give the name(s) of the commission, the approximate date(s) of each submission, and indicate if your name was certified to the Governor's Office for consideration.

In 2021, I submitted applications to the 7th Circuit judicial nominating committee for a circuit and a county court seat in St. Johns County. My application for the circuit seat was certified to the Governor's Office for consideration.

25. List any prior quasi-judicial service, including the agency or entity, dates of service, position(s) held, and a brief description of the issues you heard.

N/A

26. If you have prior judicial or quasi-judicial experience, please list the following information:

- (i) the names, phone numbers and addresses of six attorneys who appeared before you on matters of substance;
- (ii) the approximate number and nature of the cases you handled during your tenure;
- (iii) the citations of any published opinions; and
- (iv) descriptions of the five most significant cases you have tried or heard, identifying the citation or style, attorneys involved, dates of the case, and the reason you believe these cases to be significant.

N/A

27. Provide citations and a brief summary of all of your orders or opinions where your decision was reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, attach copies of the opinions.

N/A

28. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, attach copies of the opinions.

N/A

29. Has a complaint about you ever been made to the Judicial Qualifications Commission? If so, give the date, describe the complaint, whether or not there was a finding of probable cause, whether or not you have appeared before the Commission, and its resolution.

N/A

30. Have you ever held an attorney in contempt? If so, for each instance state the name of the attorney, case style for the matter in question, approximate date and describe the circumstances.

N/A

31. Have you ever held or been a candidate for any other public office? If so, state the office, location, dates of service or candidacy, and any election results.

No.

NON-LEGAL BUSINESS INVOLVEMENT

32. If you are now an officer, director, or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your duties, and whether you intend to resign such position immediately upon your appointment or election to judicial office.

I own ASSP, LLC, a single member Florida limited liability company which owns one office suite where I operate my law firm. I would continue ownership of the entity but upon closing my law firm, I would lease the space to a third party. I intend to continue as a member.

33. Since being admitted to the Bar, have you ever engaged in any occupation, business or profession other than the practice of law? If so, explain and provide

dates. If you received any compensation of any kind outside the practice of law during this time, please list the amount of compensation received.

No.

POSSIBLE BIAS OR PREJUDICE

34. The Commission is interested in knowing if there are certain types of cases, groups of entities, or extended relationships or associations which would limit the cases for which you could sit as the presiding judge. Please list all types or classifications of cases or litigants for which you, as a general proposition, believe it would be difficult for you to sit as the presiding judge. Indicate the reason for each situation as to why you believe you might be in conflict. If you have prior judicial experience, describe the types of cases from which you have recused yourself.

None.

PROFESSIONAL ACCOMPLISHMENTS AND OTHER ACTIVITIES

35. List the titles, publishers, and dates of any books, articles, reports, letters to the editor, editorial pieces, or other published materials you have written or edited, including materials published only on the Internet. Attach a copy of each listed or provide a URL at which a copy can be accessed.

- Commentary: “A Historic Change in Estate Planning.” The Jacksonville Daily Record, December 2019, <https://www.jaxdailyrecord.com/article/commentary-a-historic-change-in-estate-planning>
- “Commentary: Reflections on ’80s icons, Alzheimer’s Disease.” The Jacksonville Daily Record, January 2019, <https://www.jaxdailyrecord.com/article/commentary-reflections-on-80s-icons-alzheimers-disease>
- “Bar Bulletin: Would Flying Solo Sabotage Your Career.” The Jacksonville Daily Record, January 2016, <https://www.jaxdailyrecord.com/article/bar-bulletin-would-flying-solo-sabotage-your-career>
- “Why Did We Become Lawyers?” Christian Legal Society Publication, March 2019, <https://christianlegalsociety.org/why-did-we-become-lawyers-1>
- “Bar Bulletin: Top 10 Issues Lawyers Ignore About Their Own Personal Estate Planning,” The Daily Record, October 2019, <https://www.jaxdailyrecord.com/article/bar-bulletin-top-10-issues-lawyers-ignore-about-their-own-personal-estate-planning>

- “All Rise” Jacksonville 904 Magazine, October 2010,
<http://trendmag2.trendoffset.com/publication/index.php?m=9130&i=47924&p=38&ver=html5>
- “Creating an International Criminal Court: Confronting the Conflicting Criminal Procedures of Iran and the United States,” 14 PENN ST. INT’L L. REV. (1996)
<https://elibrary.law.psu.edu/cgi/viewcontent.cgi?article=1378&context=psilr>

36. List any reports, memoranda or policy statements you prepared or contributed to the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. Provide the name of the entity, the date published, and a summary of the document. To the extent you have the document, please attach a copy or provide a URL at which a copy can be accessed.

None.

37. List any speeches or talks you have delivered, including commencement speeches, remarks, interviews, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place they were delivered, the sponsor of the presentation, and a summary of the presentation. If there are any readily available press reports, a transcript or recording, please attach a copy or provide a URL at which a copy can be accessed.

- April 26, 2021, “Planning for the Unexpected” hosted by the Hispanic Republican Club in Flagler County, Florida
- February 5, 2021, “Planning for the Unexpected with You and Your Family. Tips from an Estate Planning Lawyer” sponsored by St. John the Divine Greek Orthodox Church in Jacksonville, Florida
- April 19, 2018, “Why We Became Lawyers” a talk hosted by the Florida Coastal School of Law Christian Legal Society Student Chapter in Jacksonville, Florida
- October 24, 2018, “Defining your Legacy” hosted by St. Justin Martyr Orthodox Church in Jacksonville, Florida
- April 21, 2016, Panel Speaker relating to Solo Practitioners, hosted by Florida Coastal School of Law Panel on the Practice of Law in Jacksonville, Florida
- September 20, 2011, “Defining your Legacy” hosted by St. John the Divine Greek Orthodox Church in Jacksonville, Florida

- September 25, 2006, “2006 Guardianship Updates,” hosted by Trust and Probate Section of the Jacksonville Bar Association
- May 2001, “Changes to the Probate Code” hosted by Trust and Probate Section of the Jacksonville Bar Association
- September 2001, “Overview of Federal Estate Tax Repeal Legislation” hosted by National Business Institute in Jacksonville, Florida
- November 2000 and August 2002, Three Week Series “Estate Planning” seminar hosted by First Baptist Church Continuing Education Committee in Jacksonville, Florida

38. Have you ever taught a course at an institution of higher education or a bar association? If so, provide the course title, a description of the course subject matter, the institution at which you taught, and the dates of teaching. If you have a syllabus for each course, please provide.

No.

39. List any fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement. Include the date received and the presenting entity or organization.

- Full Scholarship to The Fund for American Studies Institute on Political Journalism at Georgetown University, 1989
- “Dean's List” at Temple University School of Law, 1993
- “Florida Supreme Court Pro Bono Service Award” presented by the Florida Supreme Court, 2005
- “President’s Award” presented by Jacksonville Area Legal Aid, 2008
- “Pro Bono Honors” (bronze) presented by Jacksonville Area Legal Aid, 2018
- “Paul Harris Fellow” presented by Rotary International, 2014 and 2020
- Rotary Foundation “Sustaining Member” presented by Rotary International, 2008, 2010-2020
- Commissioned “Yellow Rose of Texas,” presented by Greg Abbott, Governor of Texas, 2019

40. Do you have a Martindale-Hubbell rating? If so, what is it and when was it earned?

Yes. AV rating earned in 2004.

41. List all bar associations, legal, and judicial-related committees of which you are or have been a member. For each, please provide dates of membership or participation. Also, for each indicate any office you have held and the dates of office.

- State Bar of Florida, 1997 to present;
 - Member Real Property and Probate, Trust Law Section, 1997 to present
 - Member Elder Law Section, 2000 to present
 - Solo and Small Firm Section, 2000- 2004
- State Bar of Michigan, 1995 to present;
 - Chair of Litigation Subcommittee on Law Students 1995-1996
- Jacksonville Bar Association, 1997 to 2021
 - Chair of Trust and Probate Committee, 2004-2007, 2016-2019
 - Chair of Member Services, 2015
 - Chair of Lawyer Variety Show Committee, 2008-2009
 - Chair of Holiday Project, 2010 -2012
- Volusia County Bar Association, Member 2021- present
- St. Johns County Bar Association, Member 2021- present
- Christian Legal Society, Member 1997 to present
 - President (Jacksonville Chapter) 2003
 - Board Member (Jacksonville Chapter) 2000-2002, 2004-2015
- National Academy of Elder Law Attorneys, Member 2020 - 2021
- American Bar Association, Member 1997-2000
- Jacksonville Women’s Lawyers Association, Member 1997-2000

42. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in the previous question to which you belong, or to which you have belonged since graduating law school. For each, please provide dates of membership or participation and indicate any office you have held and the dates of office.

- First Coast Blue Star Mothers, Inc. 2021- present
 - Charter President, 2021
- Betty Griffin Center, 2021
 - Board Member 2021 – present
- Federalist Society, 2020 – present
- Rotary Club of Bartram Trail – Julington Creek, 2016 to present
 - President, 2020
 - President Elect, 2019
 - Secretary, 2018

- Community Service Chair, 2017
- Rotary Club of Mandarin, 2007 - 2016
 - Community Service Chair, 2011-2012, 2014-2015
- Jacksonville Women’s Network, 2018 – 2020

43. Do you now or have you ever belonged to a club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion (other than a church, synagogue, mosque or other religious institution), national origin, or sex (other than an educational institution, fraternity or sorority)? If so, state the name and nature of the club(s) or organization(s), relevant policies and practices and whether you intend to continue as a member if you are selected to serve on the bench.

No.

44. Please describe any significant pro bono legal work you have done in the past 10 years, giving dates of service.

- Presently providing pro bono legal services for several guardian advocates through St. Johns County Legal Aid.
- Provided pro bono legal service to decedent who donated her estate to the St. Photios Shrine in St. Augustine, Orthodox Christian Mission Center in St. Augustine and St. John the Divine Orthodox Church in Jacksonville. This was done in 2020 and 2021.
- Aided and advised a pro bono client with criminal record expungement. Client was sheltered at the City Rescue Mission. This was facilitated by Jacksonville Area Legal Aid and Christian Legal Society in 2020 and 2021.
- Provided research and assistance to The Citadel Gospel Choir in Charleston, South Carolina, on the steps to get permissions to perform and record Gospel music covers in 2017 through 2019.
- Assisted clients through Jacksonville Area Legal Aid at advanced directives workshops and assisted pro bono cases as requested in 2012, 2013, 2016, 2017, 2018, and 2020.
- Drafted the “Child/Youth Protection Policy” manual adopted for use by St. John the Divine Greek Orthodox Church and applied to all church volunteers and employees working with children in 2015.

45. Please describe any hobbies or other vocational interests.

- traveling with family (as vacation and as volunteer)
- teaching middle and high school Orthodox catechesis
- reading Near East, European and Russia legal and governmental history and legal systems
- boating, gardening, pet rescue

46. Please state whether you have served or currently serve in the military, including your dates of service, branch, highest rank, and type of discharge.

N/A

47. Please provide links to all social media and blog accounts you currently maintain, including, but not limited to, Facebook, Twitter, LinkedIn, and Instagram.

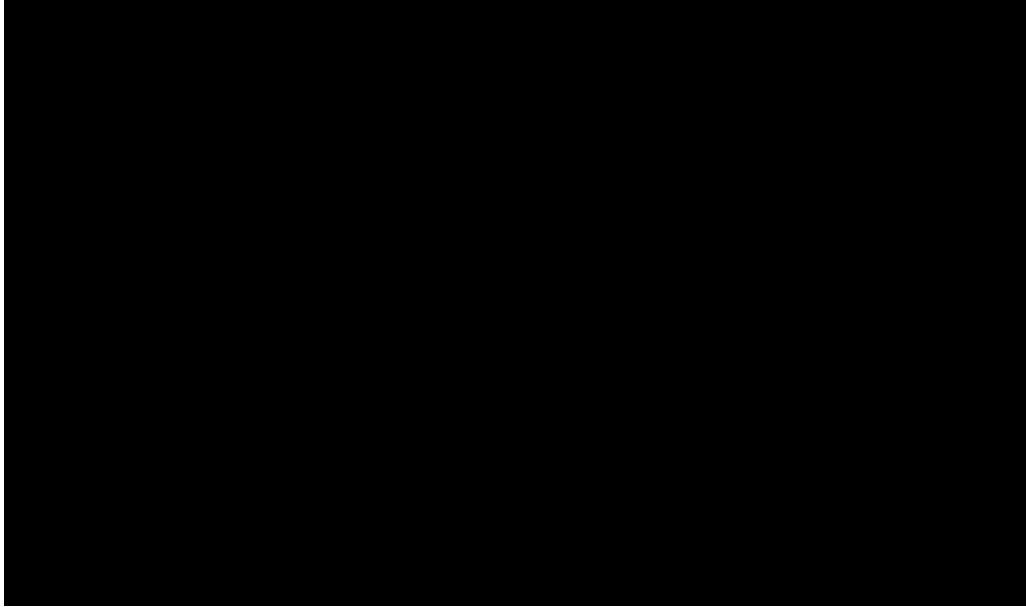
- Law Firm Website - www.preddylaw.com
- Rose Marie Preddy - YouTube
- Preddy Law Firm, P.A. - Home - Facebook
- Preddy Law Firm, P.A. - LinkedIn
- Rose Marie Preddy - LinkedIn
- Preddy Law Firm, P.A. (@preddylawfirm) - Instagram
- @preddylaw - Twitter
- Rose Marie Preddy - Facebook
- Rose Marie Karadsheh - Facebook

FAMILY BACKGROUND

48. Please state your current marital status. If you are currently married, please list your spouse's name, current occupation, including employer, and the date of the marriage. If you have ever been divorced, please state for each former spouse their name, current address, current telephone number, the date and place of the divorce and court and case number information.

- I am married to L. Preddy, CDR, USN (ret).
- Lewis Preddy is the Strategic Communication Lead at the U.S. 4th Fleet at Naval Station Mayport.
- [REDACTED] we have had no other marriages.

49. If you have children, please list their names and ages. If your children are over 18 years of age, please list their current occupation, residential address, and a current telephone number.



CRIMINAL AND MISCELLANEOUS ACTIONS

50. Have you ever been convicted of a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style, date of conviction, and terms of any sentence imposed, including whether you have completed those terms.

No.

51. Have you ever pled nolo contendere or guilty to a crime which is a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style, date of conviction, and terms of any sentence imposed, including whether you have completed those terms. No.

52. Have you ever been arrested, regardless of whether charges were filed? If so, please list and provide sufficient details surrounding the arrest, the approximate date and jurisdiction.

No.

53. Have you ever been a party to a lawsuit, either as the plaintiff, defendant, petitioner, or respondent? If so, please supply the case style, jurisdiction/county in which the lawsuit was filed, case number, your status in the case, and describe the nature and disposition of the matter.

No.

54. To your knowledge, has there ever been a complaint made or filed alleging malpractice as a result of action or inaction on your part?

No.

55. To the extent you are aware, have you or your professional liability carrier ever settled a claim against you for professional malpractice? If so, give particulars, including the name of the client(s), approximate dates, nature of the claims, the disposition and any amounts involved.

No.

56. Has there ever been a finding of probable cause or other citation issued against you or are you presently under investigation for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, or other professional group. If so, provide the particulars of each finding or investigation.

No.

57. To your knowledge, within the last ten years, have any of your current or former co-workers, subordinates, supervisors, customers, clients, or the like, ever filed a formal complaint or accusation of misconduct including, but not limited to, any allegations involving sexual harassment, creating a hostile work environment or conditions, or discriminatory behavior against you with any regulatory or investigatory agency or with your employer? If so, please state the date of complaint or accusation, specifics surrounding the complaint or accusation, and the resolution or disposition.

No.

58. Are you currently the subject of an investigation which could result in civil, administrative, or criminal action against you? If yes, please state the nature of the investigation, the agency conducting the investigation, and the expected completion date of the investigation.

No.

59. Have you ever filed a personal petition in bankruptcy or has a petition in bankruptcy been filed against you, this includes any corporation or business entity that you were involved with? If so, please provide the case style, case number, approximate date of disposition, and any relevant details surrounding the bankruptcy.

No.

60. In the past ten years, have you been subject to or threatened with eviction proceedings? If yes, please explain.

No.

61. Please explain whether you have complied with all legally required tax return filings. To the extent you have ever had to pay a tax penalty or a tax lien was filed against you, please explain giving the date, the amounts, disposition, and current status.

Yes. I have complied with all legally required tax return filings.

HEALTH





SUPPLEMENTAL INFORMATION

71. Describe any additional education or experiences you have which could assist you in holding judicial office.

Regarding additional education, over the years I have attended several conferences, seminars and studied many books relating to the role of the judiciary and theories on statutory interpretation. Relating to Florida law,

I recently completed 20 hours of continuing legal education (CLE) primarily in areas of law which I have not regularly practiced. CLE topics included jury selection, overall preparation for criminal trials, driving under the influence, criminal law updates, ethical issues facing the criminal justice system, and the use of Zoom video technology in the courtroom.

Regarding additional experiences, over the past year Mitchell Stone, a board-certified criminal law attorney with more than thirty years' experience, has allowed me to assist with some of his cases, meet with his clients and provide input and participate in different aspects. Recently, he invited me to second chair a criminal trial in the 7th Circuit. If convicted of the charges of vehicular homicide, the defendant could have been sentenced to life in prison. He was not convicted of those charges. This case as well as others have involved many compelling issues including "Williams Rule" evidence and whether certain actions were sufficient grounds for a mistrial.

I have also gained additional experience by spending the last two years observing many circuit judges and how they run their respective courtrooms. I first focused on the judges with a civil law background prior to taking the bench. I spent hours going from courtroom to courtroom on Zoom. All judges were gracious to allow me to watch their cases. Following these cases, the judges spent time with me discussing their experience prior to becoming judges and sharing their insight in their current roles. As the courtrooms re-opened, I sat in on many criminal and family cases.

With respect to in-person hearings and trials, I had the opportunity to observe many cases, from first appearances to jury selection to verdict. I am thankful for the time and insights of judges including Chief Judge James Clayton, Judge Leah Case and Judge Dawn Nichols in Volusia County, Judge Lee Smith in St. Johns County, Judge Howard McGillin, Jr., in Putnam County and Judge Michael Orfinger at the Annex in Daytona Beach. With respect to the Zoom hearings, Judge Howard Maltz in St. Johns County, Judge Angela Cox in Clay County, and Judge Adrian Soud and Judge Marianne Lloyd Aho in Duval County were generous with their time and insight.

I consulted with several other sitting judges in the 7th Circuit and 4th Circuit. I sought their opinions on how they handled divisions for which they had no experience. From my observation, lawyers from diverse practice backgrounds are a great asset on the bench.

72. Explain the particular contribution you believe your selection would bring to this position and provide any additional information you feel would be helpful to the Commission and Governor in evaluating your application.

I am a unique candidate for this circuit seat in that I am a first-generation American. I know what it means for family members to leave their home country for the hope, freedom, peace, and opportunity for a better life in America. Had my parents not left the Middle East and come to Ellis Island, my life would have been drastically different.

Understanding why they left their home country has helped me appreciate the special place that is the United States of America. My parents would always refer to the “old country” and that America was the place for freedom, peace, stability, and opportunity for all of their children. This is why John Adams’ famous words that we are “a government of laws and not of men” is personal to me. One’s ethnicity, religion or sex will not dictate different treatment under the law. Our Constitution and its separation of powers preserve rights for individuals not found in so many other countries. I will be proud to exemplify those bedrock values from the bench.

My personal story gives me a unique perspective which will also serve me well on the circuit bench. At age 17, I experienced the tragedy of losing my 25-year-old brother in an Army plane crash. The crash which killed all 248 Soldiers returning home for Christmas after deployment to the Sinai Peninsula in 1985. My family is recognized as a Gold Star Family, and my family’s story was on the top pages of the New York Times, L.A. Times and many other newspapers and on television. This was a recognition that we never wanted, but it was a story that gripped the hearts of so many.

I now regularly keep in touch with the men who were part of that tragedy, those involved in the recovery of the bodies from the crash, or those who served with my brother who were not on that flight. They are


all family to me. I have seen what can happen to the lives of good people who are impacted by pain and trauma. This tragedy, and my father's death soon after, shaped my path in life and career choice in ways too numerous to list. I believe I am a better lawyer because of this experience.

I became a Floridian more than 25 years ago when I married into the Navy. My husband recently retired after 29 years of service in the Navy in Florida. I am also an Air Force mother of my son, who is named after my brother. I am also mother to a daughter in preparing for medical school and to a son in middle school. I have served as an employee, an employer, a business owner, a homeowner, a landlord and a tenant. I serve as a volunteer, middle school Sunday school teacher, board member and officer for local charities that do great work for those in need in the circuit. I paid my way through law school and have managed my own law firm for more than 22 years. Life experience has taught me the importance of preparation, patience and maintaining an even temperament, traits that will serve me well on the circuit bench.

I am deeply grateful for this opportunity. Consideration for this appointment is an honor in itself. I humbly believe I am the best person for this job because of my professional and life experience. I have the experience, temperament, respect, humility, and good judgment to successfully serve as circuit court judge for my home, Florida's 7th Circuit.

REFERENCES

73. List the names, addresses, e-mail addresses and telephone numbers of ten persons who are in a position to comment on your qualifications for a judicial position and of whom inquiry may be made by the Commission and the Governor.

1. Daniel Bean, Esquire,
Able Bean Law
100 N. Laura Street, Suite 501
Jacksonville, Florida 32202
DBean@AbelBeanLaw.com


2. Honorable Thomas M. Beverly
Circuit Judge
Duval County Courthouse
501 W. Adams Street
Jacksonville, Florida 32202
[REDACTED]
[REDACTED]
3. Honorable Angela M. Cox
Circuit Judge
Clay County Courthouse
825 North Orange Avenue
P.O. Box 698
Green Cove Springs, Florida 32043
[REDACTED]
[REDACTED]
4. Patricia M. Dodson, Esquire
Chief of Staff/General Counsel
K9s For Warriors
114 Camp K9 Road
Ponte Vedra Beach, Florida 32081-7011
[REDACTED]
[REDACTED]
5. Patrick J. Kilbane, Esquire
Ullmann Wealth Partners
1540 The Greens Way
Jacksonville Beach, Florida 32250
[REDACTED]
[REDACTED]
6. Representative Paul M. Renner
Speaker, Florida House of Representatives
390 N. Orange Avenue, Ste 1400
Orlando, Florida 32081
[REDACTED]
[REDACTED]

7. Congressman John H. Rutherford (FL – 04)
United States House of Representatives

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

8. Father Joseph Samaan
Saint Demetrios Greek Orthodox Church
129 N. Halifax Avenue
Daytona Beach, Florida 32118

[REDACTED]
[REDACTED]

9. Honorable Adrian Soud
Fifth District Court of Appeal
300 South Beach Street
Daytona Beach, Florida 32114

[REDACTED]
[REDACTED]

10. Mr. Rich Turnbull
Rotary International
District Governor for District 6970 (2020-2021)

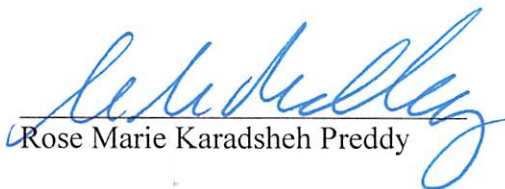
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CERTIFICATE

I have read the foregoing questions carefully and have answered them truthfully, fully and completely. I hereby waive notice by and authorize The Florida Bar or any of its committees, educational and other institutions, the Judicial Qualifications Commission, the Florida Board of Bar Examiners or any judicial or professional disciplinary or supervisory body or commission, any references furnished by me, employers, business and professional associates, all governmental agencies and instrumentalities and all consumer and credit reporting agencies to release to the respective Judicial Nominating Commission and Office of the Governor any information, files, records or credit reports requested by the commission in connection with any consideration of me as possible nominee for appointment to judicial office. Information relating to any Florida Bar disciplinary proceedings is to be made available in accordance with Rule 3-7.1(1), Rules Regulating The Florida Bar. I recognize and agree that, pursuant to the Florida Constitution and the Uniform Rules of this commission, the contents of this questionnaire and other information received from or concerning me, and all interviews and proceedings of the commission, except for deliberations by the commission, shall be open to the public.

Further, I stipulate I have read and understand the requirements of the Florida Code of Judicial Conduct.

Dated this 13th day of January, 2023.


Rose Marie Karadsheh Preddy

(Pursuant to Section 119.071(4)(d)(1), F.S.), . . . The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from the provisions of subsection (1), dealing with public records.

FINANCIAL HISTORY

1. State the amount of gross income you have earned, or losses you have incurred (before deducting expenses and taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

Current Year-To-Date (12-31-22): \$344,070.00

Last Three Years: 2021: \$330,132.00 2020: \$489,962.00 2019: \$359,509.00

2. State the amount of net income you have earned, or losses you have incurred (after deducting expenses but not taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

Current Year-To-Date: \$142,969.00

Last Three Years: 2021: \$187,762.00 2020: \$253,914.00 2019: \$183,698.00

3. State the gross amount of income or losses incurred (before deducting expenses or taxes) you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

Current Year-To-Date: \$12,840.00

Last Three Years: 2021: \$12,840.00 2020: \$13,040.00 2019: \$13,100.00

4. State the amount you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

Current Year-To-Date: (same as #3 above)

Last Three Years: (same as #3 above)

5. State the amount of net income you have earned or losses incurred (after deducting expenses) from all sources other than the practice of law for the preceding three-year period on a year by year basis, and generally describe the sources of such income or losses.

Current Year-To-Date: -\$62.00

Last Three Years: 2021: -\$40.00 2020: -\$237.00 2019: -\$206.00

**FORM 6
FULL AND PUBLIC
DISCLOSURE OF
FINANCIAL INTEREST**

PART A – NET WORTH

Please enter the value of your net worth as of December 31 or a more current date. [Note: Net worth is not calculated by subtracting your *reported* liabilities from your *reported* assets, so please see the instructions on page 3.]

My net worth as of December 31, 2022 was \$937,076.00.

PART B - ASSETS

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes; jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use.

The aggregate value of my household goods and personal effects (described above) is \$ 75,000.00

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

DESCRIPTION OF ASSET (specific description is required – see instructions p. 3)

VALUE OF ASSET

DESCRIPTION OF ASSET (specific description is required – see instructions p. 3)	VALUE OF ASSET
[REDACTED]	\$580,000.00
12627 San Jose Boulevard Suite 102, Jacksonville, Florida 32223	\$220,000.00
Brokerage + 529 [REDACTED]	\$ 97,627.00
IRA [REDACTED]	\$ 51,038.00
Preddy Law Firm, P.A.	\$175,911.00
Checking Account (2) [REDACTED]	\$ 30,000.00
Checking Account [REDACTED]	\$ 2,000.00
Checking Account [REDACTED]	\$ 500.00
Savings Account [REDACTED]	\$ 17,000.00

PART C - LIABILITIES

LIABILITIES IN EXCESS OF \$1,000 (See instructions on page 4):

AMOUNT OF LIABILITY

NAME AND ADDRESS OF CREDITOR

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY
Rocket Mortgage, 1050 Woodward Avenue, Detroit, Michigan 48226	\$233,000.00
Regions Bank, 1900 Fifth Avenue, Birmingham, Michigan 35203	\$ 79,000.00

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

AMOUNT OF LIABILITY

NAME AND ADDRESS OF CREDITOR

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY
None.	

PART D - INCOME

You may ***EITHER*** (1) file a complete copy of your latest federal income tax return, *including all W2's, schedules, and attachments*, ***OR*** (2) file a sworn statement identifying each separate source and amount of income which exceeds \$1,000 including secondary sources of income, by completing the remainder of Part D, below.

I elect to file a copy of my latest federal income tax return and all W2's, schedules, and attachments.
 (if you check this box and attach a copy of your latest tax return, you need not complete the remainder of Part D.)

PRIMARY SOURCE OF INCOME (See instructions on page 5):

NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT
Preddy Law Firm, P.A.	12627 San Jose Boulevard, Suite 102, Jacksonville, Florida 32223	\$344,070.00

SECONDARY SOURCES OF INCOME [Major customers, clients, etc., of businesses owned by reporting person—see instructions on page 6]

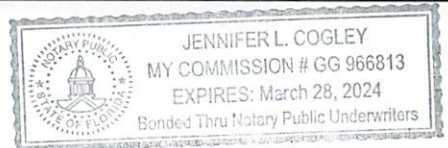
NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE
ASSP, LLC	Rental income	12627 San Jose Boulevard, Suite 102, Jacksonville, Florida 32223	Real estate investments

PART E – INTERESTS IN SPECIFIC BUSINESS [Instructions on page 7]

	BUSINESS ENTITY #1	BUSINESS ENTITY #2	BUSINESS ENTITY #3
NAME OF BUSINESS ENTITY	None.		
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			<input type="checkbox"/>

IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE

<p align="center">OATH</p> <p>I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.</p> <p align="center"><i>Jennifer L. Cogley</i></p> <p align="center">SIGNATURE</p>	<p align="center">STATE OF FLORIDA</p> <p align="center">COUNTY OF DUVAL</p> <p>Sworn to (or affirmed) and subscribed before me this 13th day of <u>January</u>, 2023 by <u>Jesse Marie Preddy</u></p> <hr/> <p align="center">(Signature of Notary Public—State of Florida)</p> <hr/> <p align="center">(Print, Type, or Stamp Commissioned Name of Notary Public)</p> <p>Personally Known <input checked="" type="checkbox"/> OR Produced Identification <input type="checkbox"/></p> <hr/> <p>Type of Identification Produced _____</p>
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FLORIDA DEPARTMENT OF LAW ENFORCEMENT

DISCLOSURE PURSUANT TO THE
FAIR CREDIT REPORTING ACT (FCRA)

The Florida Department of Law Enforcement (FDLE) may obtain one or more consumer reports, including but not limited to credit reports, about you, for employment purposes as defined by the Fair Credit Reporting Act, including for determinations related to initial employment, reassignment, promotion, or other employment-related actions.

CONSUMER'S AUTHORIZATION FOR
FDLE TO OBTAIN CONSUMER REPORT(S)

I have read and understand the above Disclosure. I authorize the Florida Department of Law Enforcement (FDLE) to obtain one or more consumer reports on me, for employment purposes, as described in the above Disclosure.

Rose Marie Karadsheh Preddy



Signature of Applicant

Date: January 13, 2023

EXHIBIT A
WRITING SAMPLES

IN THE CIRCUIT COURT FOR DUVAL COUNTY, FLORIDA
PROBATE DIVISION

IN RE ESTATE OF

File No 01-1395 CP

WILLIAM MORELAND,

Division CV-A

deceased.

**MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO SET ASIDE DISCLAIMER**

The issue in this case is whether this court can set aside the disclaimer entered on July 9, 2001, in order to rectify abuse by a fiduciary who has been unjustly and inequitable enriched absconding with assets of both the decedent and disclaimant?

The law regarding disclaimers of the testamentary and inter vivos interest are covered under both federal and state law. In general, a disclaimer is an instrument executed by a beneficiary of a testamentary or inter vivos interest property. The disclaimer serves to renunciate a whole or a fractional part of any property, real or personal, legal or equitable, present or future interest. Once a valid disclaimer is executed, the disclaimant shall be treated as though she predeceased the transferor. See Florida Statute Section 732.801; Section 689.21; I.R.S. Code Section 2518. The purpose for disclaimers of testamentary inter vivos serves to give the contingent or remainder beneficiary immediate ownership rights to property.

1. Federal Law will continue to recognize valid disclaimers regardless of subsequent state court actions.

Disclaimers for estate tax purposes under the Internal Revenue Code are governed under Section 2046 of the Code which provides that provisions relating to the effect of qualified disclaimers for estate tax purposes are to be found in I.R.C. Section 2518. Section 2518 allows for a person to make a qualified disclaimer and thus be treated as having predeceased the transferor. Disclaimers under I.R.C. Section 2518 generally serve to avoid or minimize the estate tax for those who may be subject to estate tax at death.

Under I.R.S. Revenue Ruling 90-110, 1990, 2 CB 209, the Service provides that a disclaimer must be effective under state law in order to constitute a qualified disclaimer under Section 2518. *See also Deluane v. U.S.*, 143 F.3d 995, 1001 (5th Cir 1998)

The Service recognizes that a valid disclaimer may later be “set aside” in state courts. Nevertheless, if after a valid disclaimer is executed and a state court allows a disclaimer to be set aside under certain equitable circumstances, it would not invalidate the disclaimer for federal tax purposes. See Technical Advice Memorandum, 8701001, August 29, 1986. Under the TAM 8701001, the circumstance involved a court-appointed guardian who obtained court approval for a disclaimer on behalf of an incapacitated ward (minor child). The disclaimer, valid under local law, was also valid for the purposes of Section 2518. One of the questions raised in the Memorandum was whether the qualified disclaimer would in fact remain irrevocable for federal estate tax purposes if there was a subsequent change to the disclaimer under local law.

The Service stated that although local law may allow for setting aside of the disclaimer, this would not void the disclaimer under federal law. The memo specifically stated:

... the court approved disclaimer constituted an effective, timely transfer of the disclaimant’s interest. The mere fact that local law may allow A or B to **set aside a disclaimer** under certain circumstances, when in the **interest of equity**, is not itself fatal to the validity of the disclaimer.” *Id.* (emphasis added)

As such, in the cases where local law allows the disclaimer to be set aside and in the name of equity, the federal implications to a valid qualified disclaimer would remain unchanged.

In this case, the guardian, MICHELLE KNOWLES, filed a disclaimer in this court alleging the purpose of this disclaimer was to avoid the imposition of the estate tax to the incapacitated Ward, CATHERINE MORELAND. Regardless of the state court’s position on setting disclaimers, the federal implications of the disclaimer will remain unchanged. There will be no adverse estate tax result by addressing the issue of an equity as it relates to the disclaimer in this case.

2. The Guardian may execute a disclaimer on behalf of an incapacitated ward only if it is not detrimental to the best interest of the ward or the interests of her beneficiaries.

In Florida, two statutes govern a disclaimer of interest. Florida Statute Section 732.801 relates to the disclaimer of interest in property passing by will or intestate succession. Florida Statute Section 689.21 relates to disclaimers under non-testamentary instruments. Both statutes detail the scope of the right to disclaimer, the form, filing, and the time for recording.

A disclaimer may be exercised by a guardian on behalf of an incapacitated ward under Florida Statute Section 744.441(20). Under this statute one of the powers of the guardian requiring court approval is the ability to “renounce or disclaim any interest by testate or intestate succession or by inter vivos transfer”. To obtain approval for the guardian to disclaim any interest by the incapacitated ward, the guardian must meet the standards provided in Florida Statute Section 732.801. This disclaimer statute specifically provides the scope of one’s right to disclaim under Section 732.801(2)(b). This provision states:

(2) Scope of right to disclaim.- ...

(b) Disclaimer may be made for a minor, incompetent, incapacitated person, or deceased beneficiary by the guardian or personal representative if the court having jurisdiction of the estate of the minor, incompetent, incapacitated person, or deceased beneficiary upon petition finds that the disclaimer:

1. Is in the best interests of those interested in the estate of the beneficiary and of those who take the beneficiary's interest by virtue of the disclaimer and
2. Is not detrimental to the best interests of the beneficiary.

If ordered by the court, the guardian or personal representative shall execute and record the disclaimer on behalf of the beneficiary within the time and in the manner in which the beneficiary could disclaim if living, of legal age, and competent.

Upon obtaining an order from the court in the guardianship case, the guardian then follows the steps described in Florida Statutes Section 732.801 and files the disclaimer in the decedent's probate estate. The disclaimer, therefore, is a document filed, recorded and executed in the probate estate.

In this case, MICHELLE KNOWLES, acting as guardian of CATHERINE MORELAND, filed a petition to authorize a disclaimer in the guardianship court alleging that it would be in the best interest of the estate beneficiaries (which includes herself, MICHELLE KNOWLES) and would not be detrimental to the incapacitated Ward. There was no information on the record explaining how it would benefit CATHERINE MORELAND'S beneficiaries.

The court allowed for the guardian to file the disclaimer in these estate proceedings on July 9, 2001. Although the court may approve a guardian's request to execute a disclaimer under this provision, Florida law still upholds the concept of equitable remedies in the case of unjust enrichment. Equitable relief has been awarded to incapacitated wards and estate beneficiaries in the case of inequitable conduct of the fiduciary.

3. The court can set aside a disclaimer under the doctrine of a constructive trust.

Under Florida Statute Section 744.358, the Guardian has a high fiduciary standard of care and performance when dealing with a minor Ward's assets. The guardian must observe the standards of Section 518.11 regarding investments and the prudent investor rules.

It is well established that Florida law prohibits co-mingling of assets, self dealing and violating the duty of loyalty. Voorhies v. Blood, 173 So. 705 (Fla. 1937); Crawford v. Crawford, 176 So. 838 (Fla. 1937); Redfearn, *Wills*, Fla. § 14-16 (6th ed.); Grimsley, *Florida Law of Trusts*, § 6-1 – 6-6 (4th ed.).

The Florida courts have long recognized the constructive trust doctrine which based on fairness and equity allows an injured party to impose a trust over those who have wrongfully obtained property. The principal underlying constructive trust is the avoidance of a result that allows a party to be unjustly enriched through abuse of

confidence, duress or fraud whether the fraud is actual or constructive. Winn v. Phipps, 113 So. 419 (Fla. 1927).

The application of the constructive trust principal extends to virtually every case where a fiduciary relationship exists such as a guardian or personal representative. Van Woy v. Willis, 14 So.2d 185 (Fla. 1943). The doctrine allows the constructive trust to be impressed upon property when the person holding title would be unjustly enriched if allowed to retain it. To impose a constructive trust there must be (1) a promise, expressed or implied; (2) transfer of property reliance thereon; (3) confidential relationship; (4) unjust enrichment. Abreu v. Amoro, 534 So.2d 771 (Fla. 3rd D.C.A. 1988). Once it is determined that a constructive trust can be imposed, the property over which the trust can be imposed does not have to be the exact property improperly taken. In Rackley v. Matthews, 193 So. 69 (Fla. 1940) the Supreme Court cites Peters v. Bain, 133 U.S. 670 (1890) which relates to the equitable right to obtain improperly taken property:

Formerly the equitable right of following misapplied money or other property into the hands of the parties receiving it depended upon the ability of identifying it, the equity attaching only to the very property misapplied. This right was first extended to the proceeds of the property, namely, to that which was procured in place of it by exchange, purchase or sale. But if it became confused with other property of the same kind, so as not to be distinguishable, without any fault on the part of the possessor, the equity was lost. Finally, however, it has been held as the better doctrine that confusion does not destroy the equity entirely [***4] but converts it into a charge upon the entire mass, giving to the party injured by the unlawful diversion a priority of right over the other creditors of the possessor.

As such, if trust [and necessarily estates and guardianships] property was wrongfully converted and commingled into a personal account, it does not bar the injured party the right to recover. Rackley v. Matthews, 193 So. 69 (Fla. 1940). “It is elementary that where trust funds are traceable into any particular property held in the hands of a trustee, a lien will be impressed upon that property to the extent of the trust fund traced thereto”. Wilkins v. Wilkins, 198 So. 335 (Fla. 1940).

When the fiduciary co-mingles trust funds and dissipates a portion of the co-mingled funds, it is presumed he dissipated his own funds, the resulting assets are first presumed to be owned by the trust. Id.

MICHELLE KNOWLES, acting as guardian for the incapacitated CATHERINE MORELAND, and as personal representative for WILLIAM MORELAND, benefited from the disclaimer which transferred various tangible and intangible assets to her along with two other individuals named in Mr. Moreland's will. While receiving immediate ownership rights of the property by virtue of the disclaimer, she inequitably benefited by failing to turn over estate and guardianship assets, estimated at over \$1,051,679.59. MICHELLE KNOWLES and the circumstances surrounding her confidential relationship with both WILLIAM and CATHERINE MORELAND and her subsequent unjust enrichment, satisfy the necessary elements to justify imposing a constructive trust over the assets of MICHELLE KNOWLES and others who benefited unfairly. At this point, the only identifiable assets are assets which were acquired from the disclaimer executed in 2001. Any federal tax implications will remain unchanged by setting aside the disclaimer.

The constructive trust can also be imposed upon third parties, with the exception of bonafide purchasers. Dubai Islamic Bank v. Attorneys' Title Insurance Fund, 778 So.2d 413 (Fla. 3rd D.C.A. 2001). Ellen Long and J.R. Moreland, the other beneficiaries of the disclaimer, were not good faith bonafide purchasers, instead, received it without any consideration. As a result, a constructive trust can be further imposed over their ownership interests in the disclaimed property.

Conclusion.

MICHELLE KNOWLES has inequitably and unjustly benefited from the disclaimer that was filed due to her failure to turn over estate and guardianship assets. Petitioners request this court impose a constructive trust over all assets that were disclaimed in these proceedings and set aside the disclaimer.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above has been furnished to Michelle Knowles, 1412 North St. Charles Avenue, Pilot Point, Texas, 76258, by U.S. mail and facsimile to (940) 686-5539, J.R. Moreland, 1205 Lulu Street, Wichita, Kansas 67214, and Ellen Moreland Long, 5406 Towles Mill Road, Partlow, Virginia 22534 by U.S. Mail this 1st day of July, 2005.

Rose Marie K. Preddy

IN THE CIRCUIT COURT FOR CLAY COUNTY, FLORIDA
PROBATE DIVISION

IN RE: ESTATE OF

File No. 2012-CP-00032

GENE ALAN LESSER,

Division B

Deceased.

MICHAEL TYSON and ALENA WHITT,
Petitioners,

vs.

JENNIFER LESSER,
Personal Representative
Respondent

**PETITIONERS' BRIEF IN SUPPORT OF
PETITION TO DETERMINE LOST OR DESTROYED WILL**

PETITIONERS Michael Tyson and Alena Whitt, by and through their undersigned attorney, submit the following brief in support of their Petition to Determine Lost or Destroyed Will under Florida Statute Section 733.207 and Florida Probate Rule 5.510 :

ISSUE

Under Florida Statute Section 733.207 and Florida Probate Rule 5.50, should the court admit Gene Lesser's Last Will and Testament of October 2, 2006 when it is stipulated that a fully executed copy has been filed with the court and "competent and substantial evidence" prove that the testator intended to die testate?

STATEMENT OF FACTS

This case involves the missing original Last Will and Testament of Mr. Lesser, dated October 2, 2006 to which a fully executed copy has been filed in these proceedings. The parties stipulate that this is a true and correct copy. Mr. Lesser died on December 5, 2011. He signed a Last Will and Testament to provide that upon his death, one-half of his estate would pass to Petitioners and one-half of his estate to Respondent. Mr. Lesser made his intent clear to his attorney, his wife, his broker, his sister and brother-in-law. No one has ever heard him discuss

any desire to change or revoke his Will. The Will was last seen in the marital home. The fully executed copy of his Last Will can be admitted to probate, but Respondent objects to its admission. If not admitted to probate, Respondent will receive all of the estate assets, contrary to the one-half stated in the Will.

As a brief background, Mr. Lesser spent most of his life as a bachelor. Prior to his marriage to Respondent, Jennifer Lesser, in 2006, his closest heirs at law were his sister, Judy Tyson and Petitioners, Alena Whitt and Michael Tyson, his niece and nephew. Mr. Lesser also had a close knit extended family that gathered about twice a year for various family events including Jewish high holidays to celebrate their traditions, religion, and reinforce family bonds. Mr. Lesser, who never had children, always showed favor to Petitioners, his only niece and nephew. Their relationship never changed until his death. (Lesser Dep. 44:23-25; 45:1-5)

After retirement as a computer programmer, he met Respondent and they married on July 15, 2006. Both were 60 years old. Prior to marriage, Mr. Lesser and Respondent met with an estate plan attorney, William Basford, to get their estate plans in order. Mr. Lesser's plans were sophisticated and well thought out. Mr. and Mrs. Lesser agreed for Mr. Basford to draft wills and a prenuptial agreement. It was drafted so that Mr. Lesser's estate was divided in half between Respondent and Petitioners.

The parties did not complete the documents before they married, but they still continued with Mr. Basford. One month after marriage, in August, 2006, Mr. Lesser learned that Respondent changed her mind and refused to sign the postnuptial agreement. He called Mr. Basford and Mr. Basford advised him on three options: 1) have Respondent sign the postnuptial, 2) do not co-mingle assets or 3) divorce her and require she sign a prenuptial before remarriage. Mr. Lesser followed the second piece of advice, and to the date of his death Mr. Lesser did not co-mingle his assets with Respondent.

The Wills were signed on October 2, 2006. Again, under Mr. Lesser's Will, Petitioners and Respondents were to divide the estate equally.

As was the custom of Mr. Basford, he gave original wills to his clients. When choosing where to place his Will, Mr. Lesser followed family tradition of his father, a judge who told them to place the Will where it could be easily located. In an envelope marked "Mr. Lesser's Will", Mr. Lesser placed the Will on the bookshelf behind his computer on "stacks" of papers on the bookshelf. (Lesser Dep 107:21-25)

Mr. Lesser never indicated to Respondent that he wanted to revoke or change his Will. Mr. Lesser never asked his attorney to change his Will, even though he regularly saw Mrs. Basford, Mr. Basford's assistant, at a senior center.

Until Mr. Lesser's date of death, he believed the October 2, 2006 Will was intact. He kept his premarital assets separate from Respondent to ensure those assets would pass under the Will and be divided equally between Petitioners and Respondent.

On December 5, 2011, Mr. Lesser died from a complication of surgery. Days prior to his admission to the hospital for surgery, he had called his financial planner, Ryan Wetsel, of Merrill Lynch to confirm that his accounts were held only in his name. This portfolio held over 80% of the estate's probate assets. (Wetsel Dep. 17).

After Mr. Lesser's death, Respondent did not ask Mr. Basford to open probate, nor did she ask him for an executed copy of the Will. She sought out an attorney they did not know, Richard Cobb. Respondent did not disclose that Mr. Lesser's had a Will or that they had an estate planning attorney. (Cobb Dep. 15:20-25; 16:1-12)

It is contrary to Mr. Lesser's last wishes as expressed in his Last Will and Testament to give Respondent all of Mr. Lesser's assets. Mr. Lesser's Will gave her one-half of his assets. Mr. Lesser had no intent to revoke or destroy his Will. This Will was either destroyed or lost, but in either case, the fully executed copy can and should be admitted to probate under Florida law.

ARGUMENT

A. PETITIONERS WILL PROVE ALL ELEMENTS NECESSARY TO REBUT A PRESUMPTION THAT A LAST WILL WAS REVOKED.

When a person who executes a will dies and a will cannot be located, a rebuttable presumption arises that he or she destroyed the will with the intent to revoke it. *In re Estate of Hatten*, 880 So. 2d 1271, 1274 (Fla. 3d DCA 2004).

The presumption may, however, be rebutted with competent substantial evidence that the interested party had access to the testator's home, an opportunity to destroy the will, and a pecuniary interest in doing so. See *Pierre v. Estate of Pierre*, 928 So.2d 1252 (Fla. 3rd DCA 2006); *Walton v. Estate of Walton*, 601 So. 2d 1266, 1267 (Fla. 3d DCA 1992). Some courts do look for other circumstances in addition to these to reinforce its finding of fact. This case meets

all elements necessary and can also show further evidence that testator did not intend to die without a will.

B. PETITIONERS MEET THE FIRST ELEMENT TO REBUT THE PRESUMPTION REVOCATION BY FILING A FULLY EXECUTED COPY OF MR. LESSER'S LAST WILL AND TESTAMENT DATED OCTOBER 2, 2006.

The first step to overcoming the presumption of revocation is to establish the terms of the will and offer it for probate pursuant to Florida Statute Section 733.207 and Florida Probate Rule 5.510. Florida Statute Section 733.207 allows for the establishment and probate of lost or destroyed will. Florida Probate Rule 5.510 (serves to implement the procedures under Section 733.207).

In this case, the parties have all stipulated that the fully executed copy of the Last Will and Testament of Gene Lesser, dated October 2, 2006 and filed with the Petition to Determine Lost or Destroyed Will was the Last Will of the decedent.

C. PETITIONERS MEET THE SECOND AND FINAL ELEMENT TO REBUT THE PRESUMPTION REVOCATION BY PRESENTING "COMPETENT AND SUBSTANTIAL EVIDENCE" THAT TESTATOR DID NOT INTEND TO REVOKE THE WILL.

Once the party offering such will for probate has proved the formal execution and attestation of the will, the party objecting to the will to probate must prove that the decedent did not intend to revoke the will with "competent and substantial evidence". *In re: Washington Estate*, 55 So.2d 545, (Fla. 1952). *Stewart v. Johnston*, 194 So. 869 (Fla. 1940); *Walton v. Walton*, 601 So.2d 1266. "Competent and substantial evidence" does not require direct evidence. The courts have consistently found that "...in order to meet the burden of demonstrating competent substantial evidence, circumstantial evidence is sufficient. Direct evidence is not required." *Lonergan v. Budahazi*, 669 So.2d 1062 (Fla. 5th DCA 1996). *In Lonergan*, the court quoted *Dunn v. State*, 454 So.2d 641 (Fla. 5th DCA 1984) to define these terms:

The term “competent substantial evidence” ...existence of some evidence (quantity) as to each essential element and as to the legality and admissibility of the evidence. “Substantial” requires that there be some (more than a mere iota or scintilla) real, material, pertinent, and relevant evidence.....having definite probative value (that is, tending to prove)”.

In this case, there is competent and substantial circumstantial evidence that clearly shows the testator had no intention to revoke his will.

1. Respondent has an adverse interest to the Will, had an opportunity to destroy the Will and had a pecuniary interest in doing so.

Florida courts have found that the presumption of intentional revocation was rebutted primarily by a showing of evidence that a person with: 1. an adverse interest; 2. had an opportunity to destroy the will; and 3. had a pecuniary interest in doing so. There was a motive to destroy the will and they had the opportunity to do so. *In re Washington’s estate*, 55 So.2d at 547; *Lonergan v. Estate of Budahazi*, 669 So.2d at 1064, *Upson v. Estate of Carville*, 369 So.2d 113 (Fla. 1st DCA 1979). *Walton v. Estate of Walton*, 601 So. 2d at 1267.

a. Respondent has an adverse interest to the Will

The courts have interpreted an adverse interest as any interest that will completely or partially displace your own interest in something. In the cases involving a missing will, the courts scrutinize the actions and behavior of the one who would be displaced if the will was admitted to probate. Every case in Florida involves a spouse or descendant who would receive a smaller amount (or none) of the estate if it was administered testate as opposed to intestate. *Lonergan v. Budahazi*, 669 So.2d at 1064; *In Re Hatten*, 880 So.2d 1271 (Fla. 3rd DCA 2004) (Defendant left with one dollar under the Will, but under intestate succession would take \$100,000, court finding a motive to destroy the Will).

In this case, Mr. Lesser’s Last Will and Testament, dated October 2, 2006, provided under Article V as follows:

I give, devise and bequeath one-half (1/2) of my estate to my wife, JENNIFER LEIGH LESSER, should she survive me.

I give, devised and bequeath the rest, residue and remainder of my estate, in equal shares, per stirpes, to my niece, ALENA TYSON WHITT, and my nephew, MICHAEL LIAM TYSON.

Should my wife fail to survive me, I give, devise and bequeath the rest, residue and remainder of my estate, in equal shares, per stirpes, to my aforementioned niece and nephew.

If this will is not admitted to probate and this estate is administered intestate, Florida Statute Section 732.102 (1) applies, which provides as follows:

The intestate share of the surviving spouse is: (1) if there is no surviving descendant of the decedent, the entire share of the estate.

Respondent's share of the estate would be reduced by one-half, if the Will was admitted to probate. As such, Respondent has an adverse interest in seeing the Will admitted to probate.

b. Respondent had an opportunity to destroy the Will

If it is established that there is one with an adverse interest to the will, then that person must have had access to where the will could have been placed. If the adverse party has access to the will, then all courts agree they had the opportunity to destroy the will. *See Lonergan v. Budahazi*, 669 So.2d at 1064 (spouse had access to marital residence where Will was last seen); *Walton v. Estate of Walton*, 601 So. 2d, at 1267.

In this case, Respondent lived alone in the marital home with the decedent. Per the request of the attorney, the decedent took the original will and kept it in the marital home. According to the Respondent the Will was placed on a "bookshelf behind our computers." (Lesser Dep. 33:15-17). This case is similar to *Lonergan* where the spouse had access to marital home and the Will was last seen in the home. *Lonergan*, 669 So.2d at 1064.

c. Respondent had a pecuniary interest in destroying the Will

If the courts find that the one with an adverse interest, who had the opportunity to destroy the will would benefit financially, then courts have found that the presumption of revocation was rebutted. *Walton v. Estate of Walton*, 601 So. 2d at 1269; *In Re: Hatten*, 880 So.2d at 1274.

In this case, Respondent, by having this estate administered intestate, would stand to gain double the amount of assets than if the Will was admitted to probate. Clearly, Respondent had a pecuniary interest in not having the Will probated.

2. Petitioners will present other “Competent and Substantial Evidence” to rebut the presumption of revocation.

Several courts have considered other factors to boost the findings of fact in light of the overall circumstances surround the disappearance. While evidence of access by an adverse party who had a pecuniary interest is necessary, several other factor can support a finding to rebut the presumption of revocation. *Lonergan*, 669 So.2d at 1064

Notably, only one additional fact or circumstances listed below was enough to rebut the presumption, combined with the adverse party having the opportunity and pecuniary interest to destroy the Will. This case’s facts have all the similar circumstances as those detailed below where the courts have found the presumption of revocation to have been rebutted.

a. Mr. Lesser Intended to Die Testate.

The Courts have found that clear and substantial evidence to rebut the presumption of revocation can include evidence decedent desired to die testate and leave property as detailed in the Will. *Upson v. Estate of Carville*, 369 So.2d at 114; *Stewart v. Johnston*, 194 So. at 871;

The evidence will show that Mr. Lesser was meticulous with his affairs. He was detail oriented and sought sophisticated estate planning advice. (Wetsel Dep.17:19-20) (Basford Dep. 12:2-3) (Glass Dep. 10:11-22) Prior to his marriage to Respondent in 2006 he hired attorney William Basford to draft a Will and a Prenuptial Agreement for the engaged couple. The Prenuptial mirrored the terms of the Will, providing one-half of the estate to Petitioners and one-half of the estate to Respondent.

Respondent refused to sign the Prenuptial Agreement, which mirrored the terms under the Will. After marriage, Mr. Lesser, sought for his wife to sign an Ante-nuptial Agreement, which further mirrored the terms of the Will and Prenuptial Agreement. Mr. Basford will testify that Mr. Lesser was angry that the Ante-nuptial was not signed. Finally, Mr. Lesser, executed the Last Will and Testament October 2, 2006, three months after marriage. Respondent admits to being “wounded” by his failure to give her the entire estate. (Lesser Dep. 35:7-12)

While Mr. Basford maintained his attorney – client relationship through the years, Mr. Lesser never indicated his desire to revoke or amend his Will. To Respondent’s knowledge, Mr. Lesser never hired another attorney.

b. Mr. Lesser communicated to his lawyer and also to third parties his intentions to leave the contents of his estate as stated under the will.

The Courts have found that clear and substantial evidence to rebut the presumption of revocation can include evidence that decedent communicated his desires to his attorney and to third parties. *In re Washington*, 55 So.2d at 547; *In re Estate of Carlton*, Fla., 276 So.2d 832 (Fla. 1973); *Stewart v. Johnston*, 194 So. 869 at 871.

Mr. Lesser had possession of the original will, although it was not because he did not want anyone else to have the Will. He was instructed by his attorney, William Basford to take the Will home. It was Mr. Basford’s custom and manner to only hold fully executed copy of the original, which he had. Although Mr. Lesser held the original Will, the Supreme Court of Florida indicates that is not a reason to assume revocation when it is the attorney who tells him to take the will. *Carlton*, 276 So.2d at 833. Mr. Lesser agreed to take the originals, but was informed that a fully executed copy was held with Mr. Basford. Further, Mr. Lesser circulated copies of the Will to his stockbroker (Glass Dep. 14:23-24); kept a copy in his car (Lesser Dep. 64:18-19) and verbally told family members of his intent, as they will testify at the hearing.

c. Mr. Lesser refused to co-mingle assets.

The Courts have found clear and substantial evidence to rebut the presumption of revocation can include evidence that the decedent refused to co-mingle assets. *See Lonergan v. Budhazi*, 669 So.2d at 1064.

In this case, all the accounts itemized in the inventory, which, could have been transferred to and held in joint name, beneficiaries could have been named or deeds could have been changed. In all cases, Mr. Lesser did not change those accounts to add Respondent’s name. The only account that was co-mingled was a checking account to manage day to day bills (Lesser Dep. 25:10).

By keeping the accounts separate, such acts are consistent with his attempts to have Respondent sign the Prenuptial Agreement and the Ante-nuptial Agreement which sought to keep assets separate.

Further, the evidence will show that Mr. Lesser followed the advice of his attorney, William Basford, who instructed him in writing to maintain separate accounts at all times *because* Respondent failed to sign the Prenuptial and Ante-nuptial Agreement.

Further, only days before his death, before entering the hospital for surgery, Mr. Lesser contacted his Merrill Lynch broker to confirm that his accounts were not held in any other name but his own. The envelope, being addressed to “The Household of Gene Lesser” “frustrated” him and he wanted assurance that his accounts would only be titled in his name. (Wetsel 17:13-18). His Merrill Lynch portfolio represents over 80% of the reported liquid inventory value of the estate. Mr. Lesser’s intent was not to co-mingle these probate assets. He made that clear to his broker days before he died.

Testimony will show that Mr. Lesser and Respondent had continued marital discord throughout their 5 1/2 year marriage. His frustration and conflict up to a few months before his death may have served as reason for his failure to co-mingle assets as the years went on through their marriage. Such a factor was also relevant to the court in *Loneragan*, 669 So.2d at 1063. Otherwise, his intent not to co-mingle was done to effectuate the goals of the Prenuptial, Ante-Nuptial which Respondent refused to sign.

d. Mr. Lesser maintained a relationship with Petitioners/ niece and nephew, two beneficiaries of the estate.

The Courts have found clear and substantial evidence to rebut the presumption of revocation can include evidence that decedent maintained relationship with beneficiaries of the will. *Estate of Kuszmaul*, 491 So2d. 287 (Fla. 4 DCA. 1986).

Mr. Lesser maintained a relationship with his niece and nephew, Petitioners, throughout their life. Having had no children, testimony will show that he considered them the ones to whom he would pass on his inheritance. They always held a special relationship with him. This would include writing songs together, making him his favorite cake as a tradition over the years. Although living far apart Mr. Lesser made the ten hour drive to Maryland to visit with Petitioners almost twice a year since moving to Jacksonville. Respondent agreed that Petitioners’

relationship did not change with deceased during their marriage (Lesser Dep. 41:13-16; 44:20-25)

CONCLUSION

Florida law provides that a will that cannot be found is presumed to have been destroyed by the testator. The presumption can be rebutted when an executed copy is submitted to the court and when there is “competent and substantial evidence” that shows the testator intended to die testate.

In this case, that Respondent stood to reap a windfall of 100% of the estate if the Will was not probated. Since she was the only one in the marital home with decedent, she had the opportunity to destroy it.

Further, the facts of this case align with numerous other cases which prove Mr. Lesser intended to die testate, told many people about this will and gave away copies, made sure his accounts were not co-mingled with his spouse by his advice of counsel, and maintained a good relationship with Petitioners, his niece and nephew.

PETITIONERS meet all necessary elements to rebut the presumption of revocation. Mr. Lesser took many steps to ensure his Will of October 2, 2006 be admitted to probate upon his death and that this court would effectuate those terms upon death.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the forgoing has been furnished to Barry J. Fuller, Esquire, 2301 Park Avenue, Orange Park, Florida 32073, bfuller@lawfuller.com by e-mail, this 7th day of August, 2013.



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