Fifth Circuit Court of Appeal
State of Louisiana

No. 26-CA-147

LIONELL ADAMS, JR., ET AL

versus

LIONELL ADAMS, SR.

ON APPEAL FROM THE FORTIETH JUDICIAL DISTRICT COURT
PARISH OF ST. JOHN THE BAPTIST, STATE OF LOUISIANA
NO. 80,235, DIVISION "B"
HONORABLE NGHANA LEWIS, JUDGE PRESIDING

November 25, 2026

SCOTT U. SCHLEGEL

JUDGE

Panel composed of Judges Fredericka Homberg Wicker,
Jude G. Gravois, and Scott U. Schlegel

REVERSED AND RENDERED

SUS
FHW
JGG

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MORGAN NAQUIN
DEPUTY CLERK

COUNSEL FOR PLAINTIFF/APPELLANT,
LIONELL ADAMS, JR., JONIQUE R. JOHNSON, AND BRANDY A. LEWIS

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Deidre K. Peterson

SCHLEGEL, J.

Plaintiffs/appellants, Lionel Adams, Jr., Jonique R. Johnson, and Brandy A. Lewis, appeal the trial court's February 2, 2026 judgment, which dismissed their claims against defendant/appellee, Lionel Adams, Sr., with prejudice. Appellants, who are siblings, allege that their father, Lionel Adams, Sr., withdrew funds from a bank account that was the separate property of their mother, Ora Jean Adams, after her death. Finding that the trial court erred as a matter of law, we reverse the trial court's judgment and render judgment in favor of plaintiffs/appellants, as set forth below.

I. *Facts and Procedural History*

A. *Factual Background*

This appeal arises from a family dispute over the ownership of proceeds received by Ora Jean Adams ("Mrs. Adams") in settlement of an asbestos claim that was brought and settled before her death. In early November 2022, she received two checks payable only to her in the amounts of $621,799.40 and $1,475.00, for a total of $623,274.40. The circumstances of how she deposited the checks into her savings account at the Total Choice Federal Credit Union ("the bank") on November 10, 2022 are discussed below. She died intestate on November 22, 2022.

Lionel Adams, Sr. ("Mr. Adams") and Mrs. Adams were married for over 40 years. The couple had four biological children, including the three plaintiffs, Lionel Adams, Jr. ("Lionel Jr."), Jonique R. Johnson ("Jonique"), and Brandy A. Lewis ("Brandy"). A fourth biological child predeceased them, while a fifth child, who was adopted only by Mrs. Adams, is not involved in this case.

Brandy testified that because of a hurricane, she had been living in a camper in her parents' backyard for about a year before her mother's death. She stated that her mother always kept her finances separate from her father's, and that her parents

received separate bank statements. She talked to her mother every day and was there to help her mother daily in the last year of her mother's life while her mother was going through chemotherapy treatments. She assisted with driving her mother to some of her lab visits and assisted her mother in writing out and delivering her checks to the church. She stated that there was no indication from her mother that she was going to give all of the settlement proceeds to Mr. Adams. Instead, her mother wanted her children to be taken care of from the settlement proceeds. Her mother had multiple discussions about her wishes with the entire family.

Brandy testified that after the settlement checks arrived, her father was aggravated because her mother refused to go to the bank to deposit the funds. On the day the checks were deposited, her father summoned her and her sister, Jonique, to come into the house to discuss some things. He told them: "Can you get your stupid ass mama to go to the bank and deposit the check because if not the State is going to take it." Brandy testified that her father wanted Mrs. Adams to deposit the checks, but that her mother did not want to go to the bank. Brandy talked to her mother about depositing the checks, but her mother was also agitated/aggravated because she was in pain. At that time, her mother needed assistance with sitting, standing, and dressing. She did not do anything on her own. When Brandy talked to her about going to the bank, Mrs. Adams pulled away from her and said, "let the State take it."

Eventually, Mrs. Adams agreed to go to the bank. Brandy offered to go with her mother and father, but her father did not want her to go with them. Brandy thought it was unusual for her father to want her help in getting her mother to go to the bank but did not want Brandy's help to actually go to the bank with her mother. On the day her parents went to the bank, Brandy's husband helped Mrs. Adams into her wheelchair and to the car. After they left for the bank though, Mrs. Adams and Mr. Adams returned home because Mrs. Adams had not brought her driver's

license with her. Brandy stated that when her father and mother got back from depositing the settlement checks with the bank, there was no indication from either of them that her mother had decided to give all of the funds to her father. Mrs. Adams died two weeks later.

Brandy testified that a day or two after her mother's death on November 22, 2022, she received a $25,000 check from her father. The check she received was issued on November 23, 2022.

Jonique testified that during her mother's illness before she died, she also spent a lot of time with her. She went to her mother's house several times throughout the week. She said that her parents always had separate bank accounts and that Mrs. Adams never said she was going to give all of the settlement proceeds to Mr. Adams. Jonique stated that her mother spoke about the money being split equally among her children and that she wanted her grandchildren to have it as well. Jonique said that her mother was not exempting her father from getting any of the money, but that her mother wanted the funds to be split equally. She stated that her father later gave her $25,000 of the settlement money.

Lionel Jr. was living in Arizona at the time his mother was going through the last phases of her illness. He testified that he spoke with her every day up until her last days, when she basically could not talk anymore. He said that when he spoke with his mother about the money, she said she wanted to divide it up and that she wanted to take care of everybody. He said that his mother never expressed that she was giving the settlement funds to her father as a gift. He said that she would never do that and that it was never her intention to give the money solely to Mr. Adams.

The exhibits introduced into evidence indicated that the settlement checks were each endorsed "Ora Jean Adams." Mr. Adams's name and signature were not on the front or back of the checks. The parties do not dispute that the settlement

funds received were the separate property of Mrs. Adams, or that she maintained a separate account at the bank.

Mr. Adams testified that he and his wife had separate checking and savings accounts at the bank. He stated that on the day when he and his wife went to the bank to deposit the checks, the money was supposed to go into his account, and his wife left it up to him to do what he wanted to do with the money. When he asked her how much he should give to the children, she at first said $10,000, but he said, "we'll give them more than that." He testified that on the date they went to the bank, he was certain that his wife gave him the money – "I did what she told me to do." He stated that the bank employee, Tiffany Murray, brought everything out to the vehicle for Mrs. Adams to sign. He said his wife made it clear to Ms. Murray that she was signing everything over to him. Further, when he and his wife went to deposit the checks, her actions resulted in him being placed as a joint owner on her bank account. He testified that he went back home with his wife after depositing the money and did not communicate to the children anything about the money.

Mr. Adams testified that following his wife's death on November 22, 2022, Ms. Murray at the bank typed out certified checks to the three plaintiffs, which he gave to each of them. Mr. Adams stated that he thought it was "crystal clear" that the children would get more money. The exhibits indicated that Brandy received a check dated November 23, 2022 for $25,000, and Lionel Jr. received a check dated November 25, 2022 for $22,000. Although Jonique testified that her father gave her $25,000, a copy of this check was not offered into evidence.

Mr. Adams confirmed that while Mrs. Adams was alive and after the deposit on November 10, 2022 until her death on November 22, 2022, he did not touch or move any monies around or issue checks from her personal bank accounts.

In the week after her death, Mr. Adams disbursed $245,987 from the savings account, leaving $377,287.40 of the original settlement funds of $623,274.40 in the

savings account. Later, on December 22, 2022, Mr. Adams transferred $426,455.95 from the savings account, and $5,146.99 from the checking account, to his individual savings account, for a transfer total of $431,602.94. The transfer amount included the remaining $377,287.40 of the settlement funds, $49,168.55 in personal funds from Mrs. Adams's savings account, and $5,146.99 of personal funds from her checking account. This effectively depleted all of Mrs. Adams's bank assets, leaving a residual balance of $5 in her main savings and $0.01 in her checking account.

B. *Proceedings Below*

The trial court held a bench trial on October 13, 2025, on the Petition for Damages for Civil Conversion and Unjust Enrichment filed by plaintiffs. At the conclusion of the trial, the trial court asked the parties to supplement the record with the bank statements for November 2022, which had not been introduced into evidence in their entirety.

At a subsequent hearing on November 10, 2025, the parties introduced additional bank statements as well as a "member service agreement" form signed by Mrs. Adams on November 10, 2022 that allegedly added Mr. Adams as a joint owner of her individual checking and savings accounts. The trial court took the matter under advisement on November 10, 2025.

On February 2, 2026, the trial court entered a judgment with written reasons concluding that Mrs. Adams manifested donative intent when she added Mr. Adams as a joint owner on her account shortly before her death, and that Mr. Adams accepted the alleged donation through limited pre- and post-death banking activity. The trial court entered judgment in favor of Mr. Adams and against plaintiffs and dismissed the petition with prejudice.

II. *Law and Analysis*

A. *Assignments of Error*

Appellants assert three assignments of error:

> (1) the trial court legally erred or disregarded the controlling law in finding that Mrs. Adams intended to donate and irrevocably divested herself of the funds, and by finding that Mr. Adams made a valid acceptance of her separate property during her lifetime;
>
> (2) the trial court's finding that Mr. Adams met his burden of proving donative intent, delivery, and acceptance by strong and convincing evidence was manifestly erroneous; and
>
> (3) the trial court legally erred in dismissing the appellants' conversion claims when post-death withdrawals of Mrs. Adams's separate property by Mr. Adams were proved by undisputed evidence of defendant issuing cashier's checks from those funds and transferring the remaining balance of her separate property into his own personal bank account.

B. *Standard of Review*

A reviewing court may not set aside a trial court or a jury's finding of fact in the absence of manifest error or unless those findings are clearly wrong. *On Leong Chinese Merchants Ass'n v. AKM Acquisitions, L.L.C.*, 25-140 (La. App. 5 Cir. 12/10/25), 428 So.3d 770, 785, *writ denied,* 26-042 (La. 3/31/26), 428 So.3d 689. Where there are two permissible views of the evidence, the factfinder's choice between them cannot be manifestly erroneous or clearly wrong. *Id.*

However, where the trial court makes a legal error that interdicts the fact-finding process, the manifest error standard is no longer applicable, and the appellate court may conduct a *de novo* review of the record. *Id.* at 785-86. A legal error occurs when a trial court applies incorrect principles of law, and such errors are prejudicial. *Id*. at 786. Errors are prejudicial when they materially affect the outcome of the trial and deprive a party of substantial rights. *Id*.

C. *Law and Discussion*

1. *First and Second Assignments of Error*

In the first two assignments of error, the plaintiffs argue that the trial court legally erred in finding that Mrs. Adams made a valid *inter vivos* donation of her separate property settlement funds to Mr. Adams. Plaintiffs argue that the trial court conflated the mechanical access to the account to which Mr. Adams's name was added with the divestment and transfer of ownership of the funds deposited. Plaintiffs contend that under Louisiana law, the right to withdraw funds from a bank account does not equate to ownership of those funds nor does it divest the other account holder of their ownership. Further, because no completed *inter vivos* donation occurred, the settlement proceeds remained the separate property of Mrs. Adams and vested immediately in her estate upon the moment of her death. By contrast, defendant argues that the trial court's findings are based upon live witness credibility determinations, and are therefore entitled to exceptional deference, and are reversible only for manifest error.

"A donation *inter vivos* is a contract by which a person, called the donor, gratuitously divests himself, at present and irrevocably, of the thing given in favor of another, called the donee, who accepts it." La. C.C. art. 1468. Pursuant to this article, in order for the donation to be valid, there must be a divestment, accompanied by donative intent. *In re Succession of O'Krepki*, 16-50, p. 8 (La. App. 5 Cir. 5/26/16), 193 So.3d 574, 579, *writ denied*, 16-1202 (La. 10/10/16), 207 So.3d 406. Additionally, acceptance of the object offered must be made by the donee during the donor's lifetime and by authentic act (the form required for donations), unless otherwise expressly permitted by law. *Id.* (citing La. C.C. arts. 1541 and 1544).[1]

[1] La. C.C. art. 1541 provides:
A donation inter vivos shall be made by authentic act under the penalty of absolute nullity, unless otherwise expressly permitted by law.

The Civil Code provides two exceptions to the rule that *inter vivos* gifts be made by authentic act, the application of which depends on whether the object of the donation is a corporeal or incorporeal movable. If the object of the donation is a corporeal movable, La. C.C. art. 1543 provides that the *inter vivos* donation of a corporeal movable may also be made by delivery of the thing to the donee without any other formality. *In re Succession of O'Krepki*, 193 So.3d at 579. The second exception to the requirement that *inter vivos* donations be made in the form of authentic act is found in La. C.C. art. 1550, which is applicable to certain incorporeal movables of the kind evidenced by a certificate, document, instrument, or other writing, transferable by endorsement or delivery, and provides that donations of such incorporeal movables may be made by "requirements otherwise applicable to the transfer of that particular kind of incorporeal movable," which we do not have here. *Id.*

In Louisiana, funds in a savings account, or the right to the funds therein, is considered an incorporeal movable. *Butler v. Reddick*, 431 So.2d 396, 398 (La. 1983); *Succession of Villere*, 411 So.2d 484, 487 (La. App. 4 Cir. 1982). *See also In re Succession of O'Krepki*, 193 So.3d at 579 (citing *Succession of Miller,* 405 So.2d 812, 819 (La. 1981)). Further, funds deposited into a joint bank account remain the property of the original owner and his or her estate at death, absent an authentic act of donation. *In re Succession of O'Krepki*, 193 So.3d at 580; *Succession of Fralick v. Sec'y of the Dep't of Revenue & Tax'n for the State of La.*, 529 So.2d 159, 161-62 (La. App. 3 Cir. 1988). The right of withdrawal, or having one's name listed on the account, is not tantamount to ownership of the funds

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La. C.C. art. 1544 provides:

A donation inter vivos is without effect until it is accepted by the donee. The acceptance shall be made during the lifetime of the donor.

The acceptance of a donation may be made in the act of donation or subsequently in writing.

When the donee is put into corporeal possession of a movable by the donor, possession by the donee also constitutes acceptance of the donation.

therein. *In re Succession of O'Krepki*, 193 So.3d at 580; *Vinet v. Vinet*, 20-387, p. 6 (La. App. 5 Cir. 4/14/21), 347 So.3d 972, 977. As we held in *Vinet*, "The mere act of placing [funds] in the joint checking account did not effect a donation …because [the depositor] could have withdrawn them at any time." *Id.* The putative donee in *Vinet* "never had complete, irrevocable control over the funds, and therefore there was no completed *inter vivos* gift." *Id.* Only "…the cash, withdrawn from the savings account, is a corporeal movable and subject to manual gift provided there was actual delivery of the funds." *Butler v. Reddick*, 431 So.2d at 398.

These principles were clearly articulated by the First Circuit Court of Appeal in *Matherne v. Polite*, 22-194, p. 11 (La. App. 1 Cir. 11/4/22), 355 So.3d 664. This case involved a couple, Mr. and Mrs. Polite, who were married in 2001 after executing a prenuptial agreement establishing a separate property regime. In 2013, Mrs. Polite was injured in an automobile accident. She received three settlement checks payable to her in 2015, 2016, and 2017. She deposited all three checks into a joint savings account she shared with her husband. Mr. Polite withdrew $72,000 from the account in two transactions before her death. Mrs. Polite died intestate in April 2017. Mr. Polite also withdrew $3,000 from the account after her death, leaving a balance in the account of approximately $5,000.

Mrs. Polite's son from outside the marriage, Damon Matherne, was recognized in a separate probate proceeding as the sole heir of her estate. He sought to invalidate the prenuptial agreement and to recover any of his mother's separate property still in Mr. Polite's control, including the settlement proceeds.

Citing *In re Succession of O'Krepki*, 193 So.3d at 579, the First Circuit recognized that funds deposited into a joint bank account remain the property of their original owner absent an authentic act of donation. *Matherne*, 355 So.3d at 671. Further, the right of withdrawal, or having one's name listed on the account,

was not tantamount to ownership of the funds therein. *Id.* Thus, the First Circuit held that Mrs. Polite's act of placing the settlement funds in the joint account, standing alone, was insufficient to complete the donation of funds to Mr. Polite. *Id.* at 672. Notwithstanding, the court found that the $72,000 withdrawn by Mr. Polite from the joint account and placed into his personal account prior to her death demonstrated a completed manual delivery and control over the funds. *Id.* The First Circuit also upheld the trial court's finding of donative intent, noting specifically that there was no evidence that Mrs. Polite ever objected to the withdrawal of those funds and even deposited the second check after a withdrawal by Mr. Polite. As a result, the court held that the $72,000 Mr. Polite withdrew constituted a completed *inter vivos* donation by manual delivery. However, the remaining funds that Mr. Polite took possession of after Mrs. Polite's death and the funds that remained in the account were never actually delivered or accepted as a manual gift during Mrs. Polite's lifetime and thus would be returned to Mrs. Polite's estate. *Id*. at 673.

Accordingly, in order for Mr. Adams to prevail, he must show that the *inter vivos* donation was either made by authentic act or that he transferred the settlement funds to his own account prior to Mrs. Adams's death and that there was donative intent. He has failed on all counts.

a. *Whether an inter vivos donation by authentic act was proved*

As noted above, there is no dispute that the settlement funds, which were deposited into Mrs. Adams's bank account on November 10, 2022, were Mrs. Adams's separate property and are considered an incorporeal movable. The member service agreement executed by Mrs. Adams on November 10, 2022 adding Mr. Adams to the account, however, was not executed by authentic act. Thus, his claim fails.

b. *Whether the funds were transferred prior to Mrs. Adams's death*

The only remaining route by which these funds could have passed to Mr. Adams without an authentic act would have been his transfer of the settlement funds to his own account prior to Mrs. Adams's death. But again, it is undisputed that this did not happen, so the trial court's inquiry should have ended here. Mr. Adams testified that he did not withdraw any funds or issue any checks from Mrs. Adams's savings account during the period of November 10 through November 22, 2022, while she was still alive. In fact, only six transactions from Mrs. Adams's checking account, not savings account, were made after deposit of the settlement funds and before Mrs. Adams's death. Furthermore, these transactions appear to be ordinary transactions related to Mrs. Adams: a $60 ATM withdrawal on November 12; a $100 payment to Comenity on November 15; a $338 Social Security deposit on November 16; a $38.09 life insurance payment on November 16; a $16.44 debit card Amazon payment withdrawal on November 20; and a $45.92 insurance payment on November 21.

Notwithstanding, the trial court "inferred" that two of the transactions "had to have been taken and/or initiated by Mr. Adams, given Mrs. Adams's weak and debilitated physical condition, between November 10 and November 22, 2022." Although referring to the two transactions, the trial court acknowledged:

> But even if these acts, which documentary evidence clearly and convincingly indicates took place before Mrs. Adams' death, are insufficient to establish Mr. Adams' acceptance of Mrs. Adams' donation of her personal injury settlement proceeds, given the relatively small amounts of these transactions in comparison with the value of the settlement proceeds, other documentary and testimonial evidence counsels in favor of this court finding donative intent by Mrs. Adams and donation acceptance by Mr. Adams.

We find that the reasons given by the trial court are not only legally in error, but also unsupported by the evidence. The determination of Mrs. Adams's donative intent and donation acceptance by Mr. Adams would have become

relevant only if Mr. Adams had withdrawn funds from the savings account prior to Mrs. Adams's death. Because only then, would Mr. Adams have been required to prove the donation, including the donative intent, by strong and convincing proof. *O'Krepki v. O'Krepki*, 25-551, p. 11 (La. 5/1/26), 432 So.3d 123, 129-30; *Matherne v. Polite*, 355 So.3d at 668.

In the present case, Mrs. Adams retained full dominion and control over the settlement proceeds during her lifetime. Mr. Adams did not exert any control or dominion over the funds until after she died.

2. *Third Assignment of Error*

Plaintiffs' third assignment of error argues that Mr. Adams converted the separate property settlement funds of Mrs. Adams by withdrawing separate property from her bank account, issuing cashier's checks from those funds, and transferring the remaining balance of the separate property into his own personal bank account after her death.

The tort of conversion is committed when one wrongfully performs any act of dominion over the property of another in denial of or inconsistent with the owner's rights. *Funderburg v. Superior Energy Servs., Inc.*, 10-517, p. 6 (La. App. 5 Cir. 12/29/11), 83 So.3d 1148, 1151, *writ denied,* 12-309 (La. 3/30/12), 85 So.3d 126. Any wrongful exercise or assumption of authority over another's goods, depriving him of the possession, permanently or for an indefinite time, is a conversion. *Id.* Louisiana civil law conversion is committed when any of the following occurs: 1) possession is acquired in an unauthorized manner; 2) the chattel is removed from one place to another with the intent to exercise control over it; 3) possession of the chattel is transferred without authority; 4) possession is withheld from the owner or possessor; 5) the chattel is altered or destroyed; 6) the chattel is used improperly; or 7) ownership is asserted over the chattel. *Id.*; *Dual*

Drilling Co. v. Mills Equipment Investments, Inc., 98-0343, p. 4 (La. 12/1/98), 721 So.2d 853, 857.

Because the plaintiffs established that Mr. Adams exercised ownership rights over Mrs. Adams's property by withdrawing the settlement funds from her account and placing them in his own separate account after she died, the plaintiffs have shown that he acquired possession of the property in an unauthorized manner. The plaintiffs are not asserting claims of conversion as to other amounts in Mrs. Adams's accounts that he transferred on December 22, 2022.

Under La. C.C. art. 934, "Succession occurs at the death of a person." La. C.C. art. 935 provides that "Immediately at the death of the decedent, universal successors acquire ownership of the estate … ." Under La. C.C. art. 880, "In the absence of valid testamentary disposition, the undisposed property of the deceased devolves by operation of law in favor of his descendants, ascendants, and collaterals . . . . "

Accordingly, because no completed *inter vivos* donation to Mr. Adams occurred and Mrs. Adams died intestate, her separate property settlement funds devolved to her heirs at the moment of her death.

Thus, the plaintiffs have proven that Mr. Adams converted the $623,274.40 in settlement funds, and that they are entitled to a return of a portion of these funds as discussed further below.

3. *Amounts Recoverable*

Plaintiffs are three of the five children of Mrs. Adams. They seek recovery pursuant to their statutory rights to 3/5ths of the original settlement proceeds of $623,274.40, for a total amount of $373,964.64. Having found that defendant failed to prove an *inter vivos* donation of the settlement proceeds by Mrs. Adams, and that he converted the funds, we find in favor of plaintiffs, and hold they are each entitled to 1/5th of the original settlement funds.

III. *Decree*

For these reasons, we reverse the February 2, 2026 judgment of the trial court. It is ordered, adjudged, and decreed that there be judgment against defendant/appellee, Lionel Adams, Sr., and in favor of the plaintiffs/appellants as follows:

1. Lionel Adams, Jr. – $102,654.88;[2]

2. Jonique R. Johnson – $99,654.88;[3] and

3. Brandy A. Lewis – $99,654.88.[4]

with legal interest to run from the date of judicial demand until paid. All costs in the trial court and the costs of this appeal are assessed against defendant/appellee, Lionel Adams, Sr.

REVERSED AND RENDERED

[2] $623,274.40 x 20% = $124,654.88 - $22,000 previously distributed = $102,654.88.
[3] $623,274.40 x 20% = $124,654.88 - $25,000 previously distributed = $99,654.88.
[4] $623,274.40 x 20% = $124,654.88 - $25,000 previously distributed = $99,654.88.

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISON, JR.
SCOTT U. SCHLEGEL
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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **NOVEMBER 25, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

26-CA-147

E-NOTIFIED
40TH DISTRICT COURT (CLERK)
HONORABLE NGHANA LEWIS (DISTRICT JUDGE)
TODD J. BIALOUS (APPELLANT)
DEIDRE K. PETERSON (APPELLEE)
JACQUELINE L. SAVOIE (APPELLANT)
CRAIG H. STEWART (APPELLEE)

MAILED
NO ATTORNEYS WERE MAILED