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# FARR LAW FIRM *Newsletter*

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## POOR MR. ROBERTSON

Charles T. Boyle

March 2006



Poor Mr. Robertson was generous to a fault – and eventually it cost him in a way he had not anticipated.

Mr. Robertson was a retired accountant living in California in the late 1980's. Although not rich, Mr. Robertson was comfortable, having a significant retirement nest egg and very substantial equity in his California home. Unfortunately, shortly after his retirement, Mr. Robertson's wife of many years died. Mr. Robertson's anticipated "golden years" had become his lonely years. However, after an appropriate time of mourning and being human, Mr. Robertson began dating and found a new wife – a much younger new wife, whom we will call the Second Mrs. Robertson.

Shortly after his marriage to the Second Mrs. Robertson, Mr. Robertson looked into his financial future and decided that the high cost of living in California warranted a move to the State of Florida. Mr. Robertson sold his California home and took the substantial equity from that California home (several hundred thousand dollars) and purchased a new home in sunny Florida. Flush with the love of his new bride, Mr. Robertson had the title to his new Florida home placed jointly in his name with the Second Mrs. Robertson. Now, with his new home and with his new bride, Mr. Robertson looked forward to his once again "golden years".

Unfortunately, the Second Mrs. Robertson did not share Mr. Robertson's contentment and anticipation of the future. Perhaps, because Mr. Robertson did not get into the gym enough or perhaps because the Second Mrs. Robertson spent too much time with her new, young and bronzed tennis instructor, the Second Mrs. Robertson became discontented and filed for divorce.

At the divorce trial the Second Mrs. Robertson argued that the court should award to her one-half the value of the new Florida home. "Oh, no" said Mr. Robertson. He argued that all of the money for the purchase of the new Florida home came from the proceeds of the sale of his non-marital California home and that the Second Mrs. Robertson had contributed nothing to the value of the California home or to any increase in the value of the Florida home. How, he argued, would it be just to give to the Second Mrs. Robertson one-half of the value of the new home when she had contributed nothing to that value?



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Surprisingly, the trial court and, eventually, the Florida Supreme Court, decided that the Second Mrs. Robertson was, indeed, entitled to one-half of the value of the new Florida home. The court's rationale was that Mr. Robertson, by titling the Florida home in joint names, had made a presumptive gift to the Second Mrs. Robertson of one half of the value of the home. Subsequent court decisions have now told us that such a gift presumption is very rarely overcome.

The moral of the story? Generosity is a virtue, but sometimes you can be "generous to a fault". Before making any substantial decisions that may affect your financial future, consult an attorney for the ramifications of that decision. We look forward to helping you with those types of decisions.

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