

IN THE SUPREME COURT OF FLORIDA

Profulla Chandra Singh, as Successor  
Trustee for 4EACHOTHER TRUST

Petitioner,

-vs-

CASE NO. \_\_\_\_\_  
L.T. No.: 5D13-1940

Shirley Green and  
Charles William Green,  
Naomi J. Armistead, Jodi M.  
Armistead, and Hilery Armistead,

Respondents.

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On Review from the District Court of Appeal  
Fifth District, State of Florida

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**PETITIONER'S BRIEF ON JURISDICTION**

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Profulla Chandra Singh, as Successor  
Trustee for 4EachOther Trust,  
11810 S. E. 55th Avenue  
Bellevue, Florida 34420  
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CLERK SUPREME COURT  
BY \_\_\_\_\_

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On the same question of law, the 5<sup>TH</sup> DCA's decision in the instant case expressly and directly conflicts with its own ruling in *Johnson v. Mitchell*, Case No: 5DC-03-2434, and *Johnson* expressly and directly conflicts with the 4<sup>th</sup> DCA'S decision in *EHQF Trust v. S & A Capital Partners, Inc.*, 947 So. 2d. 606 (Fla. 4<sup>th</sup> DCA 2007), thus conferring discretionary jurisdiction pursuant to Article V, section (3)(b)(4), Constitution of the State of Florida and Florida Rule of Appellate Procedure 9.030(a)(2)(a)(vi).

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## STATEMENT OF THE CASE AND FACTS

The case in the trial court below is a Quiet Title action, which was filed on April 3, 2008. Petitioner had been represented by counsel until January 30, 2012. For violations of professional conduct, Petitioner dismissed counsel and accepted his formal withdrawal from the case. Since that time, Petitioner, as legal owner of the real property at issue, had been litigating the case pro se in the Seventh Judicial Circuit, trying to enter evidence and obtain sworn testimony to rebut defendants Armisteads' motion to enforce a mediated agreement. Believing that the trial court was not impartial toward him, Petitioner filed a Motion to Disqualify the Honorable Judge Patti Christensen. The Judge denied the motion, prompting Petitioner to file a Petition for a Writ of Prohibition.

Without a Show Cause Order, the 5<sup>th</sup> DCA dismissed the Petition (Exhibit A), basing the dismissal on *EHQF Trust v. S & A Capital Partners, Inc.*, 947 So. 2d. 606 (Fla. 4<sup>th</sup> DCA 2007) (Exhibit B). That case stated that “[a]lthough Florida has not previously addressed the issue, other states have concluded that a trustee cannot appear pro se on behalf of the trust, because the trustee represents the interests of others and would therefore be engaged in the unauthorized practice of law.” (Emphasis added.) Petitioner filed a Motion for Rehearing, citing Florida Statutes, 26 Am. Jur. 2d §611, and the 5<sup>th</sup> DCA’s own Order in *Paul Lyndon Johnson v. Ursula M. Mitchell Trustee, et al.*, Case No: 5DC-03-2434.

In 2003, upon a Show Cause Order in *Johnson*, Mr. Paul Johnson, as trustee of Free Indeed Pure Trust, argued that he was not an officer of a corporation, but the trustee of an express trust, and, in that capacity, the Florida Statutes and Rules granted him the power to litigate pro se. The 5<sup>th</sup> DCA accepted his argument and allowed the trustee Johnson to proceed with the appeal in his own name and ordered the change of the caption to reflect his name. From that point on, the 5<sup>th</sup> DCA accepted all of the trustee Johnson's briefs bearing his pro se signature. In his Motion for Rehearing, Petitioner used the same legal argument trustee Johnson used in *Johnson*. Nonetheless, the 5<sup>th</sup> DCA denied Petitioner's Motion for Rehearing, prompting this invocation of jurisdiction.

### **SUMMARY OF ARGUMENT**

This Court should accept jurisdiction not only because there is a conflict among district court decisions on the same issue of law, but also because the 5<sup>th</sup> DCA's reason for dismissing Petitioner's Petition for Writ of Prohibition will affect all trustees of express trusts in Florida. The 5<sup>th</sup> DCA dismissed Petitioner's Petition based upon *EHQF*. Yet it's Order in *Johnson* supports the opposite. A definitive decision from this Court would resolve the question once and for all: whether a trustee of an express trust as legal owner of real property can prosecute and defend as a pro se litigant, which includes signing all his legal documents in the course of litigation, thus protecting him from unauthorized practice of law.

## JURISDICTIONAL ARGUMENT

The Constitution of Florida, Article V, §3(b)(3), grants this Court discretionary jurisdiction to review cases that expressly and directly conflict among district courts on the same question of law (Fla.R.App.P. 9.030(a)(2)(A)(iv)). This Court should review this legal issue because its resolution will impact the understanding and application of the statutory powers and rights of express trust trustees. This is of exceptional importance because it will clarify

“ \*\*\* the jurisprudence of the State as a judicial precedent,” *State v. Georgoudiou*, 560 So. 2d 1241, 1247-48 (Fla. 5th DCA 1990) (Coward, J., dissenting); *Chancellor Media Whiteco Outdoor v. Department of Transportation*, 795 So. 2d 991, 997 (Fla. 5th DCA 2001) (Pleus, J., dissenting)[.] \*\*\* [It] may also be exceptionally important when its outcome could ‘reasonably and negatively influence the public’s perception of the judiciary’s ability to render meaningful justice.’ *Univ. of Miami v. Wilson*, 948 So. 2d 774, 791 (Fla. 3d DCA 2006) (Shepherd, J., concurring).”

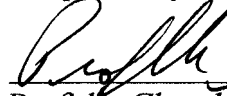
*Ortiz v. State*, 24 So.3d 596 (Fla. 5th DCA 2009) (Cohen, J. dissenting). As the 4<sup>th</sup> DCA stated in *EHQF*, “Florida has not previously addressed the issue.” Therefore, a decision from this Court will set precedent clarifying whether Florida Law codified in §§736.0815(1)(b)1, (b)3, and 736.0816(23), Florida Statutes, Fla. R. Civ. P. (1977), Rule 1.210(c), and Fla. R. Civ. P. (2012) Rule 1.210(a) - Parties, protect a trustee of an express trust from being charged with the unauthorized practice of law. If they do, the decision will create an unambiguous path upon which Florida trustees of express trusts, as legal owners of real property, can

confidently walk without fear of having their documents stricken from the record inflicting great expense and hardship, relieving trustees from having to find a willing attorney to take over a case late in the proceedings, and preserving due process.

### CONCLUSION

The 4<sup>th</sup> DCA has stated that “Florida has not previously addressed the issue.” This issue of utmost importance is ripe for a decision from this Court. Based on the foregoing, Petitioner prays that this Court accepts the decision on jurisdiction and to render meaningful justice in this question of law.


Respectfully submitted,

 uccr-308  
no prejudice

Profulla Chandra Singh, as Successor  
Trustee for 4EachOther Trust, Petitioner  
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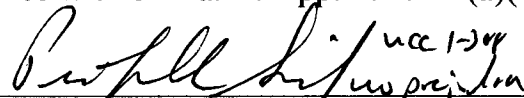
### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished to defendants Charles William Green and Shirley Green, 215 Blossom Drive, Interlachen, Florida, and to Naomi Armistead and Jodi M. Armistead, c/o John D. Middleton, Attorney for Defendants Armistead, 304 State Road 26, Suite 1, Melrose, Florida 32666, by U.S. Mail, this 12<sup>th</sup> day of July, 2013.

  
Profulla Chandra Singh, as Successor  
Trustee for 4EachOther Trust

### **CERTIFICATE OF FONT COMPLIANCE**

I HEREBY CERTIFY that this Jurisdictional Brief is typed with the font Times New Roman 14-points in compliance with of Fla. R. App. P. 9.210(a)(2).

  
Profulla Chandra Singh, as Successor  
Trustee for 4EachOther Trust



IN THE SUPREME COURT OF FLORIDA

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Petitioner,

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**APPENDIX TO  
PETITIONER'S BRIEF ON JURISDICTION**

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Order Dismissing Petition for Writ of Prohibition ..... Exhibit A

*EHQF Trust v. S & A Capital Partners, Inc.*

947 So. 2d. 606 (Fla. 4<sup>th</sup> DCA 2007)..... Exhibit B

**EXHIBIT**  
**B 1 of 2**

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*January Term 2007*

**EHQF TRUST,**  
Appellant,

v.

**S&A CAPITAL PARTNERS, INC., ET AL.,**  
Appellee.

No. 4D06-3761

[January 9, 2007]

*ORDER*

PER CURIAM.

The notice of appeal filed by appellant, a trust, was not signed by an attorney licensed to practice law in Florida. Section 454.23, Florida Statutes (2006), prohibiting the unlicensed practice of law, provides no exception for representation of a trust. Although Florida has not previously addressed the issue, other states have concluded that a trustee cannot appear pro se on behalf of the trust, because the trustee represents the interests of others and would therefore be engaged in the unauthorized practice of law. *Curry v. Kilgore*, 2004 UT App. 112 (Utah Ct. App. 2004); *Ziegler v. Nickel*, 64 Cal. App. 4th 545 (Cal. 2d 1998); *Life Science Church v. Shawano County*, 585 N.W.2d 625 (Wis. Ct. App. 1998); *Mahoning County Bar Ass'n v. Alexander*, 681 N.E.2d 934 (Ohio 1997); *Beaudoin v. Kibbie*, 905 P.2d 939 (Wyo. 1995); *Back Acres Pure Trust v. Fahnlander*, 443 N.W.2d 604 (Neb. 1989); *In re Ellis*, 487 P.2d 286 (Haw. 1971).

It is therefore ordered that this appeal will be dismissed unless appellant files an amended notice of appeal signed by an attorney licensed to practice law within twenty days of this order. This appeal is stayed pending compliance with this order.

STONE, KLEIN and HAZOURI, JJ., concur.

\* \* \*

**EXHIBIT**

**B 2 of 2**

Appeal from the Circuit Court for the Seventeenth Judicial Circuit,  
Broward County; Robert Lance Andrews, Judge; L.T. Case No. 05-1945  
CACE 09.

EHQF Trust, Coconut Creek, pro se.

No appearance for appellee.