

Third District Court of Appeal

State of Florida, January Term, A.D. 2007

Opinion filed February 7, 2007 .
Not final until disposition of timely filed motion for rehearing.

No. 3D06-3047
Lower Tribunal No. 05-4206

Patricia Pollak Weiss
Petitioner,

vs.

**Phyllis Pollak Berkett, individually and as the Successor Interim
Trustee of the Trusts Under the Will of Albert Pollak, deceased, and
the Albert Pollak Intervivos Trusts and Lloyd S. Berkett, and Clerk
of the Courts Harvey Ruvin,**
Respondents.

A Case of Original Jurisdiction – Prohibition.

Patricia Pollak Weiss, in proper person.

Hirschhorn & Bieber and Joel Hirschhorn, for respondents.

Before WELLS, SUAREZ, and LAGOA, JJ.

SUAREZ, J.

We grant the petition for writ of prohibition. The Florida Rules of Civil Procedure apply to adversarial proceedings in probate court. See Mangasarian v. Mercurio, 570 So. 2d 356 (Fla. 3d DCA 1990); Fla. Prob. R. 5.020(d)(2); Fla. R.

Civ. P. 1.420(e). The trial court has exceeded its jurisdiction as the order under review does not comport with the requirements of Florida Rule of Civil Procedure 1.420(e) for dismissal for lack of prosecution.

Petition for Writ of Prohibition granted.