

THE BIG APPLE

VS.

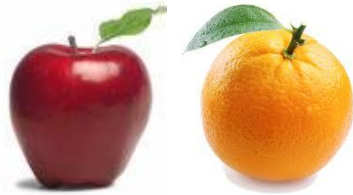
THE FLORIDA ORANGE



Florida Issues for the New York Professional

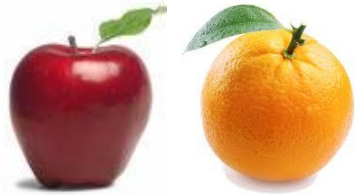
AMY B. BELLER

BELLER SMITH



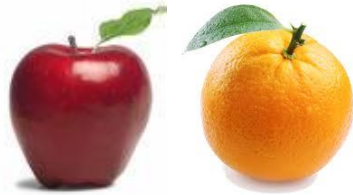
TAXES

- No state, county or city income tax
- No state estate tax or transfer tax
- No more intangible tax
- FL does have property tax and sales tax



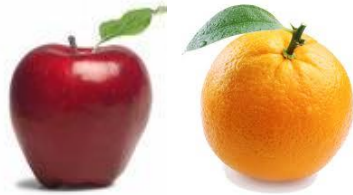
SPOUSAL ENTITLEMENTS

- Elective share 30%
- Exempt property
- Family allowance
- Homestead



HOMESTEAD

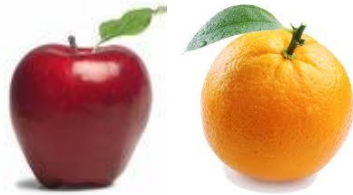
- Three distinct concepts:
 1. Property tax exemption and cap
 2. Creditor protection
 3. Restrictions on Devise



HOMESTEAD

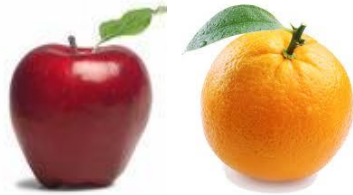
Restrictions on Devise:

- Does not apply to property owned as tenants-by-the-entireties
- Does not apply to property in an irrevocable trust
- Does apply to property in a revocable trust
- Applies if owner survived by spouse or minor child
- If so, can only be devised in fee simple to spouse
- If invalidly devised, passes as if intestate



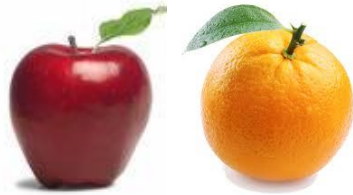
FLORIDA ESTATE PLAN

- Pour-Over Will
- Revocable Trust
 - Homestead in revocable trust
 - No accountings required
 - No “gift” and no separate tax filings
 - Requires two attesting witnesses



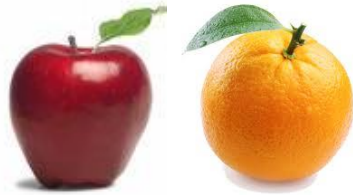
FLORIDA PROBATE

- Usually proceeds without notice to interested persons – Notice of Administration served after letters are issued
- Court-supervised throughout
- Restrictions on who can serve as Personal Representative
- Bond or restricted depository



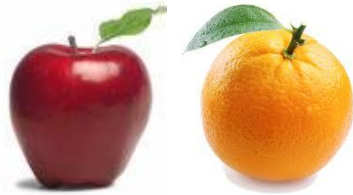
FLORIDA PROBATE

- Creditor's Claims
 - Notice To Creditors
 - Publication
 - Statement of Claim
 - Deadline: later of three months from date of first publication or 30 days from service of NTC
 - Objection and Independent Action



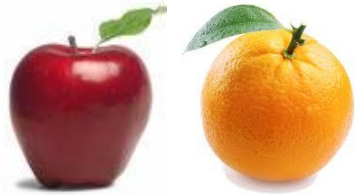
FLORIDA PROBATE

- Creditor's Claims
 - Includes professional fees incurred by decedent during lifetime
 - Includes claims by plaintiff in litigation existing when decedent/defendant dies



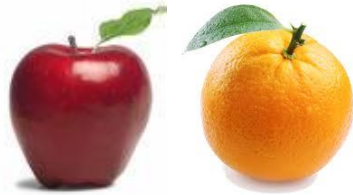
FLORIDA PROBATE

- Petition for Discharge with accounting or waivers
- Expense vs. NY probate



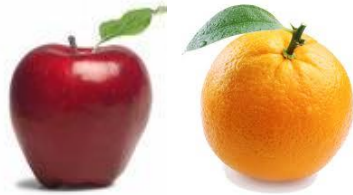
FLORIDA PROBATE

- Summary Administration: for estates with less than \$75k
- Does not include homestead



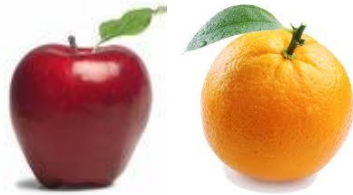
ANCILLARY PROBATE

- Required if there is Florida real property
- Can be avoided if property is in trust



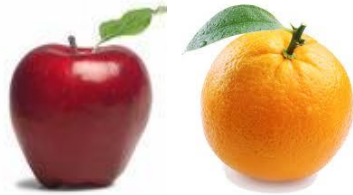
ESTABLISHING FLORIDA DOMICILE

- 183 days outside of New York
- Declaration of Domicile
- Driver's License and Car Registration
- Voter's Registration
- Florida Homestead (give up STAR)
- Florida Advance Directives and Estate Planning Documents



TRUST ACCOUNTING REQUIREMENT

- Applies once trust is irrevocable
- Annual accounting requirement – cannot be drafted around
- Six month limitation for breach claims if proper notice is served



REMOTE NOTARIZATION AND ELECTRONIC WILLS

- Remote notarization in effect now except for advance directives and estate planning documents
- As of July 1, 2020, remote notarization and electronic wills (and will substitutes)
- Not available for “vulnerable adults”

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