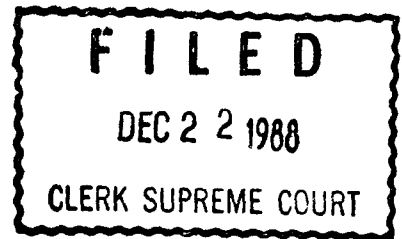


IN THE COURT OF APPEALS OF IOWA



IN THE MATTER OF)
THE ESTATE OF JOHN L.)
JOHNSON, Deceased,)

RICHARD D. JOHNSON,)
Executor,)

Appellant,)

vs.)

JOHN WILLIAM JOHNSON,)

Appellee.)

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8-629
88-318

Appeal from the Iowa District Court for Monroe County
(Probate No. 19-266), Richard J. Vogel, Judge.

The executor appeals from a district court ruling
granting John W. Johnson's motion for an accounting by the
executor concerning the assets of John L. Johnson's
estate. **AFFIRMED.**

Marvin V. Colton, Albia, for the appellant.

John A. Pabst of Clements, Pothoven, Pabst & Stravers,
Albia, for appellee.

Considered by Oxberger, C.J., and Donielson and
Schlegel, JJ.

OXBERGER, C.J.

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The executor appeals a district court ruling granting John W. Johnson's motion for an accounting by the executor of the assets of John L. Johnson's estate. The executor contends the family settlement agreement signed by the heirs and beneficiaries of the estate waived any requirement by the executor to provide an accounting of the estate's assets. Our review is de novo. We affirm.

John L. Johnson died on July 25, 1974. Richard D. Johnson was appointed executor. On April 26, 1979, a family settlement agreement was filed and executed by all the heirs and beneficiaries of the estate. The agreement provided for the distribution of all estate assets. In addition, the agreement provided the parties waived the right to "judicial determination of distribution" of the deceased's estate. Notices and delinquencies have been filed on numerous occasions since the agreement was executed and the estate still remains open today.

On December 30, 1987, John William Johnson, son of the deceased, filed a motion for accounting of the estate's assets pursuant to section 633.469 of the Iowa Code. The executor resisted the motion but the district court granted the motion. The district court determined the family settlement agreement did not waive the right to an accounting. The district court noted the devisees of the decedent's estate were entitled to an accounting of the

interest, rents and profits the executor may have acquired while in the executor's control.

The dispositive issue in this case is whether the language in the family settlement agreement which states ". . . and each of the parties hereto specifically waives the right to judicial determination of distribution of the Estate of the said deceased. . . ." means that the parties waived the right to require the executor to do an accounting of the estate.

The purpose of interpretation of a contract is to ascertain the intent or purpose of the parties. Pathology Consultants v. Grattan, 343 N.W.2d 428 (Iowa 1984). The purpose of the section from the family settlement agreement which is cited above is to determine the distribution of assets of the estate without resort to the judiciary. Distribution of assets and accounting of assets are two separate events. We fail to find the language of the family settlement agreement waives a devisee's right to an accounting.

It has been fourteen years since the estate was opened and since executor Richard D. Johnson has been in sole control of the property. The devisees are entitled to an accounting of any property or funds which have come into the executor's control by way of rents, interest or profits on the property during that period of time. We find the appellee's motion was properly granted.

AFFIRMED.