

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2007

THOMAS A. LEE, III, LOUISE MACK and
LOUIE HAMPTON, ET AL.,

Appellants,

v.

Case No. 5D06-1046

CORRECTED

HOWARD J. SHAW, JOHN R. SHAW, JR.,
ET AL.,

Appellees.

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Opinion filed February 23, 2007

Appeal from the Circuit Court
for Putnam County,
A.W. Nichols, III, Judge.

Robert W. Bauer, of Clayton-Johnston, P.A.,
Gainesville, for Appellant.

John R. Stiefel, Jr., and Bethany Ray
Reichard, of Holbrook, Akel, Cold, Stiefel &
Ray, P.A., Jacksonville, for Appellee.

PER CURIAM.

We are bound to agree with appellants that the affidavit offered in support of the motion for summary judgment was insufficient for the trial court to determine the legal and factual issues contained in the judgment, including the conclusion that the property at issue is not subject to partition.

On this record, we express no opinion concerning whether the property is subject to partition in whole or in part. Nor can we conclude on this record whether the appointment of a commission is required.

REVERSED and REMANDED.

GRIFFIN, ORFINGER and LAWSON, JJ., concur.