

125 So.3d 222

Michael MARIANI, Appellant,

v.

**Jay MARIANI, individually and as trustee
of the Mariani Irrevocable Trust, JAY
Mariani Jr., Jane Mariani, Robert Mariani,
Joel Mariani, Jill Lowe, a/k/a Jill Mariani,
Justine Shearer, a/k/a Justine Mariani,
Kristin Mariani, Barbara Travers, a/k/a
Barbara Mariani, Eric Mariani, Matthew
Mariani, and Monica Kroll, a/k/a Monica
Mariani, as beneficiaries of the Mariani
Irrevocable Trust, Appellees.**

No. 4D11-3659.

**District Court of Appeal of Florida,
Fourth District.**

Feb. 6, 2013.

Appeal from the Circuit Court for the Fifteenth
Judicial Circuit, Palm Beach

[125 So.3d 223]

County; John L. Phillips, Judge; L.T. Case No.
502008CP005627 XXXXNB.
Anya M. Kudzus, Shannon L. Rountree and
Jeffrey H. Skatoff of Clark Skatoff PA, Palm Beach
Gardens, for appellant.

Steven G. Schwartz and Nancy I. Stein-McCarthy
of Schwartz Law Group, Boca Raton, for appellees
Jay Mariani, Joel Mariani and Jane Mariani.

STEVENSON, J.

Appellant Michael Mariani appeals an order denying his motion for summary judgment, which resulted in a final judgment disposing his entire case. The court below found that appellant is not a current beneficiary under the “clear” and “plain language” of the Jane Mariani Irrevocable Wealth Trust (“Trust”) and therefore is ineligible to request or receive discretionary distributions from the Trust. We disagree. As the trial court

was construing the plain language of the Trust, the standard of review is *de novo*. *Burgess v. Prince*, 25 So.3d 705, 706 (Fla. 2d DCA 2010). We find that the terms of the Trust are ambiguous with regard to whether the settlor intended that her grandchild, the appellant, would be eligible to receive discretionary distributions during the lifetime of his father, a clear current beneficiary under the Trust. As disputed issues of fact remained, summary judgment was improper. Accordingly, the judgment is reversed, and the matter is remanded for further proceedings. *See Knauer v. Barnett*, 360 So.2d 399, 405 (Fla.1978) (when the trust instrument is ambiguous, the intent of the settlor may be ascertained from extrinsic evidence).

Reversed and remanded.

GERBER and CONNER, JJ., concur.