

**LOUISIANA JOINT
UNDERWRITERS OF
AUDUBON INSURANCE
COMPANY**

VERSUS

**SCOTT JOHNSON, THE
SUCCESSION OF SELMA
ISRAEL ZACHARY AND THE
SUCCESSION OF HAMILTON
ISRAEL**

* **NO. 2009-CA-0336**
* **COURT OF APPEAL**
* **FOURTH CIRCUIT**
* **STATE OF LOUISIANA**
*
*
*
* * * * *

CONSOLIDATED WITH:

SCOTT JOHNSON

VERSUS

**AUDUBON INSURANCE
COMPANY AND LOUISIANA
CITIZENS FAIR PLAN A/K/A
LOUISIANA CITIZENS
PROPERTY INSURANCE
CORPORATION**

CONSOLIDATED WITH:

NO. 2009-CA-0337

TOBIAS, J., CONCURS AND ASSIGNS REASONS.

I respectfully concur to assign additional reasons in support of the majority opinion.

As the majority notes the court appointed curator discovered that Scott Johnson filed fraudulent affidavits in the succession proceedings of Alice Davis wife of and Israel Hamilton and Selma Israel Zachary, the owners of the property, in order to obtain a judgment of possession transferring the subject property to himself. The curator obtained a reversal of the judgments.

The doctrine of "clean hands" is an equitable principle that requires that "he who comes into a court of equity must come with clean hands." *City of New Orleans v. Levy*, 233 La. 844, 865-66, 98 So.2d 210, 218 (La. 1957). The doctrine is derived from the common law and has questionable application in our civilian

jurisdiction. Louisiana courts can only turn to equity principles to decide cases in the absence of express law. La. C.C. art. 21; *Edmonston v. A-Second Mortgage Company of Slidell, Inc.*, 289 So.2d 116 (La.1974); *Chambers v. Parochial Employees' Retirement System of Louisiana*, 398 So.2d 102 (La. App. 3rd Cir.1981), *writ denied*, 400 So.2d 1382 (La.1982). To the extent that Mr. Johnson is entitled to any consideration under equitable principles, I find that the doctrine of “clean hands” prevents him from prevailing in these proceedings.