

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR  
PALM BEACH COUNTY, FLORIDA

PROBATE DIVISION-SOUTH COUNTY  
FILE NO. 502007CP004197XXXXSB

IN RE: The ESTATE OF  
MARTIN B. SERETEAN,  
Deceased.

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OMNIBUS ORDER ON MOTIONS FOR SUMMARY  
JUDGMENT

Motions for Summary Judgment and Partial Summary Judgment filed by most of the parties to this action came before the Court February 9, 2009. All parties were ably represented by counsel. Many of the issues were identical among the various motions, thus the Court deals with them as a group. The Court has reviewed the Motions, heard argument of counsel and considered the pleadings, memoranda, Statements of Uncontested Facts, depositions, Answers to Interrogatories, and Responses to Request for Admissions. Whereupon, the Court finds and

ORDERS AND ADJUDGES that:

1. Amanda, Patrishia, and Sherry Sereteian claim that decedent's September 12, 2006 Last Will, or earlier Will(s) were the product of undue influence exercised upon the Decedent by Marshall Lloyd (Lloyd). Before considering the merits of the "undue influence" issue discussed below, the Court assumes the undue influence claim to be true, and further assumes the presumption of undue influence is not overcome by evidence at trial. Undue influence by Lloyd would invalidate only Item I and

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Item IV(d), (e), (m) and (ff) of the Will, since those items are bequests or benefits to Lloyd and/or his family members. The remainder of the Will would be valid.

Given the assumptions above, the failed specific devises benefiting Lloyd or his family members would pass to the residue, and not to the Petitioners. There is no basis in the record to establish grounds for revocation of the Last Will in its entirety. As to Tracy Seretean, there is no record evidence or presumption that could be drawn from the evidence before the Court that she committed any wrongdoing with regard to the will in question. Her bequest remains valid regardless of the undue influence issue alleged as to Lloyd. The Court considers all the evidence submitted in the light most favorable to Amanda, Patrishia, and Sherry. There are no genuine issues of material fact on this point. Amanda, Patrishia, and Sherry have no standing to pursue their claims given the facts of this case. Summary Judgment against Amanda, Patrishia, and Sherry is required.

2. Amanda, Patrishia, and Sherry claim a presumption of undue influence has been established by the uncontroverted facts before the Court. All parties agree that Lloyd held a confidential relationship with Decedent for approximately 25 years, as his attorney and financial advisor. The parties agree he drafted the wills at issue in this action, thus was active in procuring the wills for purposes of determining whether a presumption of undue influence is raised. The parties ask the

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Court to determine whether Lloyd is a "substantial beneficiary" sufficient to raise the undue influence presumption. Given the uncontroverted facts presented in this case, Lloyd is a "substantial beneficiary" under the Last Will, for purposes of determining the existence of a presumption of undue influence. Accordingly, the presumption of undue influence applies against Lloyd. The Court makes no finding that any actual undue influence occurred, but does find from the evidence presented that the rebuttable presumption has been raised.

3. Amanda Seretean and Patrishia Seretean assert that the Decedent did not have testamentary capacity and/or suffered from an insane delusion such that it deprived him from forming sufficient testamentary capacity on September 12, 2006 at the time of the execution of his Will and/or that the insane delusion affected the provisions of the Will. No argument was received on this point. The Court RESERVES JURISDICTION to consider Summary Judgment on this issue at a later time if necessary.

4. Tracy Seretean's Motions for Summary Judgment dated January 12, 2009 and January 19, 2009, directed to the Second Amended Petitions for Revocation of Probate filed by Sherry Seretean, and Amanda and Patrishia Seretean are GRANTED as to each Count of those Petitions, but for any count claiming testamentary incapacity or delusion (if further hearing is necessary on that point).

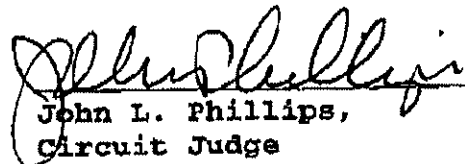
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5. Personal Representatives' Motions for Summary Judgment dated January 20, 2009 and January 26, 2009, directed to the Second Amended Petitions for Revocation of Probate filed by Sherry Sereteau, and Amanda and Patrishia Sereteau are GRANTED as to each count of those Petitions, but for any count claiming testamentary incapacity or delusion, (if further hearing is necessary on that point).

6. Amanda and Patrishia Sereteau's Supplemental Cross Motion For Partial Summary Judgment, dated January 30, 2009, and Joinder by Sherry Sereteau dated January 31, 2009, are DENIED.

7. The Court reserves jurisdiction to decide all remaining issues including but not limited to claims for fees and costs, and the incapacity and delusion issues mentioned in paragraph 3, above.

DONE AND ORDERED at West Palm Beach, Palm Beach County, Florida this 12 day of February, 2009.

  
John L. Phillips,  
Circuit Judge

copies furnished to:  
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