

Insights: News

Unanimous Decision at the Illinois Supreme Court in High-Stakes Will Contest

December 1, 2023

HMB* is proud to congratulate Litigation Partners Hal J. Wood and Matthew R. Barrett on their victory at the Illinois Supreme Court. The 7-0 Supreme Court decision was the latest in a series of wins for the team in the case, as it affirmed their prior victories at trial in 2021 and a unanimous appellate court decision affirming the trial victory in 2022. The result ends a years-long dispute over the control over a prosperous family-owned business in favor of HMB's client. The Illinois Supreme Court's decision is also significant because it clarifies the law in Illinois on the application of the presumption of undue influence, especially with respect to married individuals.

HMB's litigation team was led by Hal J. Wood and Matthew R. Barrett, and consisted of Joseph E.M. Franke, Nikita J. Desai, and Elizabeth Morales, with significant contributions from Jeffrey A. Zaluda in HMB's Trusts and Estates Group. The HMB team partnered with Scott Howie and Karen DeGrand of Donohue Brown Mathewson & Smyth LLC for defense of the lower courts' favorable decisions at the Illinois Supreme Court.

Case Summary

In 2001, Mark Coffman executed powers of attorney appointing his spouse, Dorothy Coffman, as his agent for health care and property. He also executed a will at the same time. That will reserved Mark's ownership interests in a family-owned business for his two sisters after both he and his wife had died. In 2018, weeks before his death and while hospitalized, Mark revoked the 2001 will and executed a new will that granted his wife effective control over the family-owned business and the ability to decide who would ultimately inherit Mark's shares. After his death, Mark's sisters alleged that the will executed in 2018 was the product of Dorothy's undue influence and sought to invalidate it and replace it with the 2001 will that guaranteed that the sisters would ultimately inherit the family business.

After a twelve-day trial with nine testifying witnesses, the HMB team successfully obtained a directed judgment from the Kendall County Circuit Court in favor of Dorothy. The court determined that based on the evidence at trial, there was no actual or presumptive undue influence and the 2018 will was the valid will of Mark Coffman.

HMB's team then successfully defended that judgment on multiple appeals, securing a unanimous decision from the Illinois Second District Appellate Court that affirmed the trial court and a 7-0 decision at the Illinois Supreme Court affirming both wins at the courts below. [See *In re Estate of Coffman*, 2022 IL App \(2d\) 210053, 215 N.E.3d 253 \(2d Dist. 2022\) and *In re Estate of Coffman*, 2023 IL 128867.](#)

Impact of the Decision

The Illinois Supreme Court opinion is not only an important win for HMB's client, it is also significant because it clarifies how the existence of powers of attorney may impact the application of Illinois's presumption of undue influence test by holding that a power of attorney for property, whether exercised or not, creates a fiduciary relationship for purposes of the test.

The decision also may impact how estate planning professionals draft powers of attorney for property for married individuals as well. Care should be given to avoid the unintended consequences of creating an environment in which an update to an estate plan benefiting a spouse who holds a power of attorney may be susceptible to an undue influence attack.

Additionally, although recent Illinois appellate decisions had suggested that an alternative undue influence presumption test called the "debilitated testator" test was still viable in Illinois, the Illinois Supreme Court agreed with HMB's team that it was no longer good law in Illinois.

** [On January 10, 2024, Kilpatrick announced its merger with HMB Legal Counsel, effective March 1, 2024.](#)*

Related People



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