

IN THE IOWA DISTRICT COURT FOR WRIGHT COUNTY

IN RE: ESTATE OF LOIS LEONA
SCHLICHTING,

WAYNE SCHLICHTING and MERLIN
SCHLICHTING,

Plaintiffs,

vs.

MELVIN SCHLICHTING, Individually and
as Executor,

Defendant-Proponent,

and

BILLY GRAHAM EVANGELISTIC
ASSOCIATION and TURNING POINT
FOR GOD,

Additional Defendants.

CASE NO. ESPR016586

PLAINTIFFS' PETITION AT LAW AND
JURY DEMAND

COMES NOW the Plaintiffs Wayne Schlichting and Merlin Schlichting (hereinafter "Plaintiffs", collectively; or "Wayne", individually; or "Merlin", individually) and for their Petition at Law and Jury Demand state as follows:

PARTIES

1. Lois Leona Schlichting ("Lois" or "Decedent") died on November 21, 2015 at the age of 91.
2. Lois had three (3) natural born children: Wayne Schlichting, Merlin Schlichting and Melvin Schlichting. All three (3) siblings are presently living.
3. Plaintiff Wayne Schlichting is a resident of Hancock County, Iowa and the natural born, adult son of Lois Leona Schlichting.
4. Plaintiff Merlin Schlichting is a resident of Hancock County, Iowa and the natural born, adult son of Lois Leona Schlichting.

5. Defendant Melvin Schlichting is a resident of Hancock County, Iowa and the natural born, adult son of Lois Leona Schlichting.

6. On December 10, 2015, the purported Last Will and Testament of Lois Leona Schlichting, First Codicil to Last Will and Testament of Lois Leona Schlichting, and Second Codicil to Last Will and Testament of Lois Leona Schlichting were admitted to probate by order of the clerk and Defendant Melvin Schlichting was appointed as Executor of the Estate.

7. Decedent's other beneficiaries, Billy Graham Evangelistic Association and Turning Point for God, are joined as Defendants pursuant to Iowa Code Section 633.312.

GENERAL ALLEGATIONS

8. Lois lived most of her adult life at the family homestead in Hancock County, Iowa. Lois moved to the homestead when she married her first husband Glen Schlichting where they raised their three children – Wayne, Merlin and Melvin.

9. Over the course of her adult life, Lois acquired a significant amount of farmland in Hancock County.

10. Glen Schlichting died in January 1973. Lois continued to live on the family homestead and eventually married her second husband, Glen Pals.

11. In 1976, Lois sold each of her children 80 acres of farmland for \$132,000. Both Merlin and Melvin were financially unable to survive the farming conditions in the 1980's and Lois eventually reacquired the 80 acres she sold to Merlin and Melvin.

12. After his failed attempt at farming, Melvin moved out of the area with his second wife.

13. Around 1987, Lois and Glen Pals moved off the homestead to a house in Belmond, Iowa.

14. In 1995, Melvin moved back to the Belmond/Garner area after his second divorce. In short time, Melvin convinced Lois to kick Wayne's daughter out the home place so that Melvin could move in and live there free of charge.

15. In 1997, Lois terminated her farm leases with Wayne, reducing the amount of land he farms from 489 acres to 354 acres. Lois also terminated her farm lease with Wayne's son Steve Schlichting, who had been renting the 260 acres surrounding the homestead.

16. After terminating Steve Schlichting's rental agreement, Lois custom rented the 260 acres to Melvin, which required Lois to purchase a significant amount of farm equipment in order to allow Melvin to farm the land.

17. On June 4, 1998, Lois transferred the 260 acres of farmland surrounding the homestead into the Lois Leona Pals Irrevocable Trust (the "Trust").

18. Under the Trust, Glen Pals was to receive the income from the 260 acres during his life. After Glen Pals' death, Melvin was to receive the income from the Trust, even if Lois was still alive. After Lois's death, Melvin continued to receive income under the Trust, with the land transferring to Melvin in two 10-year increments.

19. At the time Lois executed the Trust, Glen Pals had been suffering from severe health problems for a number of years. Glen Pals died on August 19, 1999.

20. Upon information and belief, Melvin stopped farming the 260 acres and began renting the land to an area farmer a few years after Glen Pals' death.

21. Upon information and belief, Lois continued to gift large sums of money to Melvin at his request.

22. By 2002, the level of influence and control that Melvin had over Lois was to the point that Lois needed Melvin's approval before agreeing to marry her third husband – Jessie Schlichting.

23. On August 19, 2004, the purported Last Will and Testament of Lois Leona Schlichting was executed.

24. In the Will, Lois bequeathed all of her farm machinery to Melvin and bequeathed \$100,000 to Wayne and Merlin on the condition they do not contest her will. The Will also provided Wayne with the option to purchase 263 acres of Lois's farmland at fair market value. The remainder of Lois's assets were bequeathed to two charitable organizations – 60% to Billy Graham Evangelistic Association and 40% to Hidden Acres Christian Center.

25. Absent from the Will, is any mention of the remaining 260+ acres of farmland Lois owned at that time.

26. In 2014, Lois separated from Jessie and moved to a nursing home in Belmond.

27. After returning to Belmond, Melvin was instrumental in Lois's procuring a divorce from Jessie, despite the fact that a divorce was in direct conflict to Lois's religious beliefs.

28. Melvin was also instrumental in Lois's execution of two codicils to her will.

29. The First Codicil to Last Will and Testament of Lois Leona Schlichting ("First Codicil") was executed on December 3, 2014. In the First Codicil, Lois removed Jessie and named Melvin as the executor for her estate.

30. The Second Codicil to Last Will and Testament of Lois Leona Schlichting ("Second Codicil") was executed on August 28, 2015. In the Second Codicil, Lois replaced Hidden Acres Christian Center with Turning Point for God as residual beneficiary. In the Second Codicil, Lois also bequeathed Melvin 60 acres of farmland she acquired through her divorce from Jessie Schlichting.

31. Melvin was involved at material times in Lois's estate planning, beginning with the execution of the Lois Leona Pals Irrevocable Trust in 1997.

32. Wayne and Merlin were never informed of the language or substance of Lois's will; never accompanied her to any attorney's office where testamentary documents were being discussed and executed by Lois; and had no knowledge prior to the death of Lois that they were in essence being disinherited under her Will.

33. Lois, at all material times herein, was susceptible to influence by Melvin, in the execution of Lois's testamentary documents.

34. Melvin had multiple opportunities to, and did, exercise his influence over Lois for wrongful purposes.

35. Melvin was inclined to, and had the disposition to, influence Lois for the purpose of acquiring a significant portion of farmland from Lois and to deprive Wayne and Merlin from any meaning inheritance.

36. The result of Melvin's actions — wrongfully influencing Lois to make inter vivos gifts of farmland and/or bequests of same, along with numerous other monetary gifts to Melvin and leaving nothing to Wayne and Merlin — is an unnatural, unjust, inequitable and unreasonable result, clearly brought about by the Melvin's undue influence.

37. At all material times herein, Melvin had gained the confidence of Lois and purported to act and advise with only the interests of the latter in mind.

COUNT I – WILL CONTEST

38. Plaintiffs replead paragraphs 1 through 37 as if said allegations were full stated herein.

39. At all material times, Lois suffered from a weakened intellect and was unable to comprehend the nature and extent of her estate and lacked an intelligent knowledge of

her true desires regarding the distribution of her estate when she executed the Will, First Codicil and Second Codicil.

40. At all material times, Lois, due to her deteriorating physical and mental condition, was susceptible to manipulation and influence.

41. Melvin used the position of trust and confidence he had over Lois to unduly influence Decedent into executing the Will, First Codicil, and Second Codicil and thereby disinheriting Wayne and Merlin. Melvin defamed Wayne and Merlin to their mother for the purpose of causing Plaintiffs to be disinherited.

WHEREFORE, Plaintiffs pray that the probate of the August 19, 2004 Will, December 3, 2014 Codicil, and August 28, 2015 Codicil of Lois Leona Schlichting be set aside; the Will and Codicils be adjudged to not be the will of the Decedent; an Order be entered denying fees to the Executor, Melvin Schlichting, in connection with a defense of this action; and for any other relief as this Court deems just and proper.

COUNT II – TORTIOUS INTERFERENCE WITH INHERITANCE

42. Plaintiffs replead paragraphs 1 through 41 as if said allegations were fully stated herein.

43. Plaintiffs each had a reasonable expectation of receiving a future benefit as the natural born children of Lois Leona Schlichting.

44. Melvin intentionally interfered with that expectancy through his actions, including, but not limited to:

- Wrongfully inducing Lois to have all income of the Lois Leona Schlichting Irrevocable Trust be paid to himself after Glen Pals death, thereby reducing the size of Lois's estate;
- Wrongfully inducing Lois to execute the August 19, 2004 will, thereby depriving Wayne and Merlin of their expected inheritance; and

- Wrongfully inducing inter vivos transfers of money and real property held by Lois, to himself, thereby reducing the size of Lois's estate.

45. Melvin's interference was tortious, causing Wayne and Merlin to be deprived of a future benefit of inheritance from their mother, Lois, through the following acts and conduct:

- Duress with respect to Lois;
- Breach of confidential relationship with Lois;
- Undue influence over Lois; and/or
- Fraud with respect to Lois.

46. Reasonable certainty exists that the future benefit of inheritance from their mother, Lois, would have been received by Wayne and Merlin but for the wrongful interference of Melvin.

47. Wayne and Merlin have been damaged in the following particulars as a result of being deprived of a future benefit of inheritance from their mother, Lois, in and through the wrongful acts of Melvin:

- The Plaintiffs lost the value of the real property and other assets they would have received from their mother had the tortious acts of Melvin not occurred;
- Wayne and Merlin experienced past and future emotional distress resulting from the wrongful interference by Melvin;

48. Punitive damages, based on the willful, malicious and wanton disregard for the rights and lawful inheritance expectancies of Wayne and Merlin should now be

awarded.

49. Attorney fees, interest and costs should also be awarded in favor of the Plaintiffs

WHEREFORE, Plaintiffs pray for a judgment of this Court for an award of compensatory damages from Defendant based upon his tortious interference with the testamentary bequest of the Decedent. Plaintiffs pray for an award of attorney fees, interest and costs in connection with the tortious interference with a bequest.

JURY DEMAND

COMES NOW the Plaintiffs and respectfully requests that a jury be summoned and impaneled to hear and determine the issues in the above cause of action.

VERIFICATION

I verify and certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding Petition to Set Aside Will and Jury Demand is true and correct.

Date: 4-15-16

Wayne Schlichting
Wayne Schlichting

Date: 4-12-16

Merlin Schlichting
Merlin Schlichting

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PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on April 19, 2016.

By: ☐ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ UPS
☐ Federal Express ☐ E-mail
☒ EFC System Participant (Electronic Service)

Signature 

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