

\$1 Million Award for Man's Abuse of Mother Upheld

By a MetNews Staff Writer

A judgment for more than \$1 million against a Burbank businessman in a suit brought by the defendant's niece, accusing him of physically and financially abusing his mother, was affirmed Friday by this district's Court of Appeal.

Div. Three rejected Sheldon L. Lowrie's contention that because he was the executor of his mother's estate and trustee of her pour over trust, his niece - the successor trustee and executor - lacked standing to sue him.

"If accepted, this argument would create opportunities for abusers to benefit from their wrongful conduct," Justice Richard Aldrich wrote for the Court of Appeal.

Laura Marie Lowrie's husband died in 1986, leaving her an estate that included several pieces of real estate - including the family residence and another house, both in Burbank - and a Burbank airplane parts business. Sheldon Lowrie took over operation of the business after his father's death.

Laura Lowrie died in 1999 at age 89, leaving an estate valued at about \$1 million. Her will and trust left everything she owned to Sheldon Lowrie, except for \$10,000 each to her other two children, Alan Lowrie and Norma Goodreau, and to her granddaughter, Lynelle Goodreau.

Goodreau was designated as the residual beneficiary if her uncle predeceased his mother.

A year later, Lynelle Goodreau sued under the Elder Abuse and Dependent Adult Civil Protection Act. She accused her uncle of having used manipulation, fraud and undue influence to obtain control of her grandmother's property.

The plaintiff presented evidence that Sheldon Lowrie abused the decedent, isolating her from the rest of the family by not allowing her to make or receive telephone calls and by locking her in the house so that she could not leave. He had also, delayed medical care and failed to assist with her personal hygiene, the plaintiff said.

The evidence also showed that the decedent had originally left the second Burbank house to the plaintiff, but had changed the trust terms in 1992 to substitute the \$10,000 bequest. The decedent subsequently transferred both Burbank houses and all of her personal property to the defendant, and did so - according to testimony - without the knowledge of the rest of the family.

\$1 Million Award for Man's Abuse of Mother Upheld / Continued

Los Angeles Superior Court Judge Ernest George Williams found that the defendant had committed elder abuse by reason of neglect, isolation, and financial abuse and had acted with recklessness, oppression, fraud, and malice. Pursuant to the Elder Abuse Act and Probate Code Sec. 259, he ordered Lowrie disinherited, and awarded Goodreau \$665,000 in economic damages, 250,000 for pain and suffering, \$50,000 in punitive damages, and more than \$400,000 in attorney fees and costs.

Aldrich, writing for the appellate panel, said that Goodreau was "entitled to succeed to the decedent's estate" and thus had standing to sue under the Elder Abuse Act.

The justice acknowledged that Goodreau would not have had standing to bring a survivorship or wrongful death action. But the argument that she cannot sue in this case "ignores Probate Code section. 259 and the purpose of the Elder Abuse Act," Aldrich wrote.

Sec. 259 provides for disinheritance of any person who is shown by clear and convincing evidence to have abused a decedent who was elderly or dependent, and who was unable to manage his or her own affairs or to protect his or her own interests, by reckless, oppressive, fraudulent, or malicious conduct.

Such a defendant is treated as if he or she had predeceased the decedent.

Aldrich explained:

"According to decedent's estate plan, if Sheldon predeceased decedent, Lynelle would become the successor trustee and the successor beneficiary to the remainder. Thus, Lynelle would become the person entitled to succeed to decedent's estate and Lynelle would have standing to bring this case."

That interpretation serves the purpose of the Elder Abuse Act, the justice elaborated, because it ensures that a party with "strong incentive" to pursue an elder abuse action will have standing to do so. The defendant's assertion that only the named executor or trustee, or a person who would succeed in the event of intestacy, "is based upon an unduly restrictive interpretation leading to an unwarranted result."

Attorneys on appeal were Philip Kaufler for Goodreau and Michael Robert Bassin for Lowrie.

The case is *Estate of Lowrie*, 04 S.O.S. 2218.