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COMMONWEALTH of MASSACHUSETTS
The Trial Court
Probate and Family Court Department

Middlesex Division

Docket # 07P 0556 EP1

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IN RE: ESTATE of ANNETTE VILLENEUVE *
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PRE-TRIAL MEMORANDUM
November 26, 2007

A. Pre-Trial Meeting

A meeting was held on Tuesday, November 13, 2007 at 11:00 AM at the office of Richard J. Gabriel, Esq., 37 South Street, Northborough, Massachusetts. Present was Attorney Richard J. Gabriel, James Pazzanese, Attorney Alan Garber (on behalf of James Pazzanese), and Attorney William F. Crowley (the Special Administrator).

B. Stipulation of True Facts

Annette Villeneuve was in her 90s when she died on January 8, 2007. She left one living son, Eugene J. Villeneuve, several grandchildren and numerous nieces and nephews. An instrument purporting to be the Last Will and Testament of Annette Villeneuve dated January 28, 1987, together with Codicil dated December 5, 1995, were filed with the Probate Court on or about February 26, 2007. On or about February 28, 2007, Richard J. Gabriel was appointed Temporary Executor of the estate.

The Last Will and Testament nominated Nathan Hillman, Esquire of Newton as Executor of the estate. A testamentary trust was created under the original Will, and Joseph Navin of Marlboro and Stuart I. August, Esquire of Newton were nominated as Co-Trustees. There were eleven bequests of legacies made under ARTICLE II of the original Will (ten to individuals and one to the Church of the Immaculate Conception in Marlboro).

The residue of the estate was left to a testamentary trust, which provided, inter alia, for payment not to exceed \$3500.00 per month for Annette's son, Eugene, and payment of \$500.00 per month to Annette's nephew, James Pazzanese. The trust also directed that Eugene should have a life estate in real property which was owned by Annette at the time that the Will was executed located at 149 Highland Street in

Marlborough. Upon Eugene's death, the trust terminates, and the trustee is directed to sell 149 Highland Street, with the net proceeds to be distributed equally to three grandchildren, namely: Debra Peterson, Jeffrey Villeneuve, and Todd Villeneuve.

There were three other pieces of real property owned by Annette at the time of execution of her Will, all located on Howe Street in Marlborough, and numbered 154-158, 141, and 139, according to the Will. (The actual street number of these properties is believed to be 141, 154, and 158.) Upon termination of the trust, all right, title and interest to these three properties is to be given to James Pazzanese.

At termination of the trust, and remaining assets are to be given in equal shares to the said Debra Peterson, Jeffrey Villeneuve, and Todd Villeneuve, and to Teddy Pazzanese and John Pazzanese.

The Codicil dated December 5, 1995, struck six of the ten bequests contained in ARTICLE II of the Will, and replaced the Executor and the Co-Trustees named in the Will with Richard J. Gabriel, Esquire in both positions. In all other respects, the Last Will and Testament dated January 28, 1987 was affirmed.

The real property owned by Annette Villeneuve located at 149 Highland Street, Marlborough, was sold by her on August 22, 2006. (This is the property in which Eugene Villeneuve was to have had a life estate.) Annette did not change her 1987 Will or execute a new Will after the sale of Highland Street. She died on January 8, 2007. It is agreed that the life estate in 149 Highland Street was extinguished upon the sale of the property.

James Pazzanese resides in the first second apartment of 154 Howe Street, which is a two-family residence located directly across the street from Annette's home at 141 Howe Street.

Eugene Villeneuve has lived at 141 Howe Street with his mother for quite some time. He lived on the second floor while Annette lived on the first floor. While this property had been represented to be a two-family residence, it is noted that there is only one manner of egress to and from the second floor. Upon Annette's death, Eugene moved into his mother's apartment. Eugene is approximately 70 years old, and suffers from poor health. Approximately four months ago, he had surgery on his back and has been in Bolton Manor Nursing Home and Rehabilitation Center ever since. His medical status is unknown at this time, and his condition may require long term residence in a nursing home. Eugene apparently has a history of both physical and mental problems that have required hospitalizations in the past. There is a question, and concern, as to whether or not he is capable of providing for himself. He is not represented by counsel, despite the urgings of the Special Administrator to him and to his daughter, to secure an attorney to represent him. Neither he nor anyone on his behalf has ever participated in any discussions or filed any pleadings regarding his mother's estate. In light of these concerns, the Special Administrator has prepared a Motion for the Appointment of an Attorney to represent Eugene Villeneuve, which the Special Administrator prays will be

acted upon by the Court at the Pre-Trial Conference. Notice of this Motion has been served upon all interested persons.

The appointment of Richard J. Gabriel as Temporary Executor was to expire on or about May 28, 2007, and Mr. Gabriel filed a Motion to Extend his appointment. James Pazzanese appeared at the hearing on the Motion and objected to the extension. The Court did not extend Mr. Gabriel's appointment, but rather, appointed Attorney William F. Crowley as Special Administrator.

Mr. Gabriel has filed a First and Final Account as Temporary Executor, and James Pazzanese has filed opposition. As a result, in order to keep the process of this case moving, the Special Administrator has filed a Motion for a Guardian Ad Litem to be appointed to review the Account, which Motion was allowed by the Court.

C. Statement of Contested Issues

A permanent Executor or other fiduciary under the Will must be appointed. Further, a Trustee must be named so that the estate assets can be properly managed and provisions for Eugene Villeneuve et als. be carried out. Mr. Pazzanese has objected to the appointment of Richard J. Gabriel, Esquire as Executor and as Trustee. Attorney Gabriel has agreed to withdraw from both positions, provided that he gets paid for the time that he acted as Temporary Executor, and that an appropriate person is named as Trustee so that Eugene's needs may be met.

Mr. Pazzanese intends to submit names of individuals whom he has indicated are willing to act as Trustee (and presumably Executor as well).

However, Eugene Villeneuve is not represented by counsel, is not competent to represent himself, and has not participated in any settlement discussions. It is the Special Administrator's concern that no agreement can be achieved without adequate representation of Eugene Villeneuve. Therefore it is paramount that an attorney be appointed to represent him quickly so that settlement discussions may continue. If no agreement is reached, then trial on this matter should be scheduled as soon as possible.

D. Discovery

By order of the Court dated September 20, 2007, discovery was to have been completed in 45 days therefrom (on or about November 5, 2007).

E. Witnesses

Mr. Pazzanese intends to call the following witnesses:

Mr. Gabriel intends to call the following witnesses:

F. Exhibits

Mr. Pazzanese intends to introduce the following Exhibits:

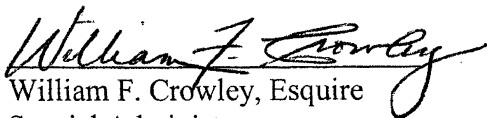
Mr. Gabriel intends to introduce the following Exhibits:

G. Depositions

No depositions have been taken.

H. Time need for trial

Two to three days.



William F. Crowley, Esquire
Special Administrator
626 Main Street
Reading, MA 01867
(781) 942-2233