

No. 19-5393

In The

Supreme Court of the United States

Joanna Eiermann, Petitioner,

v.

Lawrence R. Bowers,

Lahey Clinic Foundation, Inc.,

A/K/A Lahey Hospital and Medical Center, Respondents.

On Petition for Writ of Certiorari to The United States

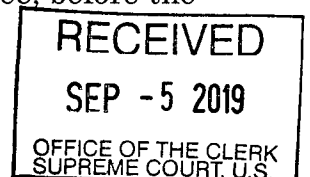
Court of Appeals for the First Circuit

REPLY TO OPPOSITION BRIEF BY RESPONDENTS:

My Great Uncle, Dr. Urban Harris Eversole died in 1985 and my Great Aunt, Madge J. Eversole, 1987. Neither respondent attempted to contact Dr. Eversole's, surviving brothers or extended family, during the 44 to 45day, prolonged hospital stays for each, nor after either's death.

In 1991, my Father, Boyd Harris Eversole, contested the inventory of Madge Eversole's estate and there was never a dispute filed over either will. He and his attorney from Missouri inquired with both respondents as to the whereabouts of the remains (1985, 1987) or memorial for both (1991). A document of this inquiry was provided to the appeals court. They each responded, the first that both were cremated and the second that there wasn't any known memorial. However, a dedication to Dr. Eversole was prepared and made in 1991 for an education center, with some of his Napoleonic Memorabilia on display at the Clinic.

The respondent's, Lahey Clinic philanthropy employee, unexpectedly contacted my Father's former attorney, 29 years after Dr. Eversole's death and myself, requesting to give us Dr. Eversole's Napoleonic Memorabilia collection. They paid for all of the shipping and handling of over 100 items, including 4, solid oak, display cases. I sold the entire collection, except the display cases, for over \$40,000, which was more than what we were told to expect in value by the philanthropy employee, before the shipment arrived.



I provided a document to the court that someone from Lahey Clinic was purchasing for Dr. Eversole's collection, as late as 2013, which I found indicative and possible that the business my great Uncle had for collecting the memorabilia was still active at that time. I provided documentation from the Social Security Administration that he filed past business income earnings, before his death.

The Internal Revenue Service informed me that I would need a beneficiary, trustee or estate executor request, in order to obtain the tax returns of Dr. Eversole. Both respondents denied my request for assistance with obtaining his tax returns. Documents of this are also included with my appeal brief.

Both respondent's and the lower courts down play Dr. Eversole's role at the Lahey Clinic. He was a trustee of the Lahey Clinic, head anesthesiologist, founder of the Dr. Frank Lahey Society, past board of Trustees Secretary for Lahey Clinic and Founder of the Massachusetts Anesthesiologist Society.

Dr. Eversole was also a past President of the American Anesthesiologist, who provided the obituaries, photos and other information of both Dr. and Madge Eversole, just a few months prior to us being contacted by and before Lahey Clinic sent Dr. Eversole's collection. This was also documented and provided to the lower courts. He was also a medical doctor and wrote over 100 medical journals. He was a patent designer of medical equipment (i.e. currently known as Eversole Laryngoscope and Eversole Blade), which was featured in the Foregger Patent Catalog.

I provided philanthropy reports in my brief to the United States Massachusetts Appeals Court that the Eversole's were being recognized in fiscal years, 2004 and 2009, for gifting over \$1,000,000 each year, which was considerably later, after they died (1985, 1987). Both reports indicate that receiving gifts by way of irrevocable trust was common and anticipated by the Societies.

Neither respondent demonstrate any concern for the whereabouts of Madge J. Eversole's remains, which remain unknown and their actions are preventative in having her name inscribed on her family gravestone memorial.

I received no response to my request for the respondents in allowing Madge Eversole's name inscription to her families grave stone, which includes her parent's and late husband's. I have a right to know if there was a reason and to what means was taken for her disposal and if it was against federal law.

Court Justice, Richard G. Stearns's dismissal was a discriminatory act, because he did this without requesting or reviewing any of my supporting documents for my

serious allegations against the respondents, which took me since 2014 to compile and study.

My “assertions” of an inheritance and foul play came naturally, upon my discovery of information from the Eversole’s death certificates on how my Great Aunt and Great Uncle suffered in prolonged hospital stays, just prior to their deaths and with the executor’s handling of their estates, legal guardianship, along with other individuals and entities, provided in my brief to the appeals court.

I found it quite “bizarre” that the respondent, Lahey Clinic’s employee, felt compelled to send me and my Father our Great Uncle’s Napoleonic Memorabilia collection, 29 years after his death and about 23 years after my Father’s Norfolk Probate Court case regarding the inventory report, which was ultimately just a request for the inventory estate filing for Madge J. Eversole.

My Father nor I had ever requested to possess Dr. Eversole’s collection or claimed to own it. I also find it “bizarre” that the respondent stated that he could not remember what he did with the remains of Mrs. Eversole.

I obtained a legal opinion from an attorney, which was provided in my brief, that receiving the Napoleonic memorabilia gift was possibly completing the wishes of the donor. This is why I find it reasonable to believe that I was an intended beneficiary of my Great Uncle. I was his only Great Niece and heir, along with my Dad and two siblings. There weren’t and aren’t any other known living relatives to either the Eversole’s during their lifetime or proceeding. I met Dr. Eversole and Madge, as a child, they had no children and neither were estranged from our family.

I spoke to an attorney for the Lahey Clinic and requested that he speak with the Philanthropy department in regards to Dr. Eversole’s Education fund and the transactions of their employee, who was transferring money from the fund into a fund he set up in honor of himself. The attorney, denied my request and stated that he would do this only with a court order. This contact was documented and provided in my appeal.

Also, the U.S. Appeals court of Massachusetts ignored my right to discovery of information, according to the US Code Title 28, Rule 26; General Provisions Governing Discovery: **(b)** Discovery Scope and Limits. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

- (1)** In General. Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party, including the existence, description, nature, custody, condition, and location of any books,

documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence. All discovery is subject to the limitations imposed by RCFC 26(b)(2)(i), (ii), and (iii).

In conclusion:


The documents I provided in my appeal brief to the United States Court of Appeals in Massachusetts, the actions and responses of both respondents provide reasonable evidence that Dr. Urban Harris Eversole established a silent, irrevocable trust and that I am a beneficiary. The respondent's employee at Lahey Clinic philanthropy department was completing Dr. Eversole's gift to the trust beneficiary, when they provided me and my Father with the Napoleonic Memorabilia Collection, owned by Dr. Eversole.

I also believe that both respondents have information of Dr. Eversole's education fund, that was to include his family and trust, which may still be producing an income. Both respondents can assist in identifying the trustee. By not doing so they are facilitating the trustee in failing to identify and notify Dr. Eversole's family beneficiaries and is in violation of the Uniform Trust Code 813. A copy of Section 813 of the UTC, General Law is included with this response.

Respecting and complying with all laws in regards to the UTC and US Code of rules is of national importance and it affects all United States Citizens.

The right to represent oneself, be treated with respect and be heard, regardless of financial status, in any US court of law, without discrimination is also of great National Interest.

Respectfully submitted,


Joanna Eiermann, petitioner

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Dated September 1, 2019

Part II REAL AND PERSONAL PROPERTY AND DOMESTIC RELATIONS

Title II DESCENT AND DISTRIBUTION, WILLS, ESTATES OF DECEASED
PERSONS AND ABSENTEES, GUARDIANSHIP,
CONSERVATORSHIP AND TRUSTS

Chapter 203E MASSACHUSETTS UNIFORM TRUST CODE

Article 8 DUTIES AND POWERS OF TRUSTEE

Section 813 DUTY TO INFORM AND REPORT

Section 813. Duty to inform and report

(a) A trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust. Unless unreasonable under the circumstances, a trustee shall promptly respond to a qualified beneficiary's request for information related to the administration of the trust.

(b) Within 30 days after acceptance of the trust or the trust becomes irrevocable, whichever is later, the trustee shall inform, in writing, the qualified beneficiaries of the trustee's name and address. The information shall be delivered or sent by ordinary first class mail.

(c) A trustee shall send an account to the distributees and permissible distributees of trust income or principal and to other qualified beneficiaries who request it, at least annually and at the termination of the

trust. The account of trust income and principal may be formal or informal, but shall include information relating to the trust property, liabilities, receipts and disbursements, including the amount of the trustee's compensation, a listing of the trust assets and, if feasible, their respective market values.

(d) A beneficiary may waive the right to a trustee's account of trust income or principal or other information otherwise required to be furnished under this section. A beneficiary, with respect to future accounts and other information, may withdraw a waiver previously given. A waiver of a trustee's account or other information shall not relieve the trustee from accountability and potential liability for matters that the account or other information would have disclosed.