

In the
Supreme Court of the United States



ESTATE OF BASAVAPUNNAMMA K. RAO,
Deceased.

PADMA RAO,
Petitioner,

v.

MIDLAND TRUST COMPANY, AS THE COURT-APPOINTED
SUCCESSOR SUPERVISED ADMINISTRATOR WITH THE WILL ANNEXED,
Respondent.

On Petition for a Writ of Certiorari to the
Illinois Appellate Court, First District

BRIEF IN OPPOSITION

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QUESTION PRESENTED

Whether the Petitioner, Padma Rao (“Padma” or “Petitioner”), as an heir and legatee of Basavapunnamma K. Rao (“Decedent”) in a probate Estate, was deprived of her rights under the Due Process Clause when the Illinois Appellate Court dismissed her Appeal of the Probate Court’s Orders (approving the settlement of the Estate’s Wrongful Death Act and Survival Act causes of action) for lack of standing where Illinois case law clearly dictates that it is the administrator of an estate (and not the estate heirs or beneficiaries) that has the sole control and right of action over an estate’s Wrongful Death Act and Survival Act causes of action.

PARTIES TO THE PROCEEDINGS AND CORPORATE DISCLOSURE STATEMENT

Petitioner

- Padma Rao is a daughter, heir and legatee of the Decedent.

Respondent

- Midland Trust Company (“MTC” or “Respondent”), as the Court-appointed Successor Supervised Administrator with the Will Annexed of the Estate of Basavapunnamma K. Rao, Deceased. (“Estate”).
- The parent organization of MTC is Midland States Bank, whose parent organization is Midland States Bancorp, Inc. (NASDAQ: MSBI), a community-based financial holding company headquartered in Effingham, Illinois, which is the sole shareholder of Midland States Bank, which is the sole shareholder of Midland Trust Company. No public company owns greater than 10% of MSBI’s stock.

Others

- Anita Rao (“Anita”) is a daughter, heir and legatee of the Decedent.

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STATEMENT OF THE CASE

A. Probate Proceedings

The Petition for a Writ of Certiorari (“Petition”) arises from a probate proceeding, the Estate, in the Circuit Court of Cook County, Illinois, Probate Division, Case No. 2013P624 (“Probate Proceedings”). On October 17, 2013, the Decedent died unmarried and was survived by two (2) adult heirs, namely, her daughters: Anita and Padma. On November 25, 2013, the Decedent’s Last Will and Testament was admitted to probate and Padma was appointed as Independent Administrator with Will Annexed.

B. Lawsuit in Law Division Proceedings

On or about December 8, 2014, Padma, as the then Independent Administrator of the Estate, filed a lawsuit alleging medical malpractice (“Lawsuit”) against NorthShore University HealthSystem (“Northshore”) and four employee physicians of Northshore in the Circuit Court of Cook County, Law Division, Case No. 2014L12745 (“Law Division Proceedings”). The Lawsuit included separate counts under the Wrongful Death Act and Survival Act.

On August 23, 2018, after the culmination of multi-day mediation with retired judge Michael Panter and ongoing pre-trial conferences on August 22 and 23, 2018 with Judge Thomas V. Lyons, II (“Judge Lyons”), the presiding judge overseeing the Lawsuit, Judge Lyons entered an Order (“Settlement Order”), which stated that:

- (i) Padma, acting as Independent Administrator of the Estate, agreed to accept the Defendants' offer of a \$2.1 Million settlement ("Settlement"); and
- (ii) the Law Division Court, "knowing and understanding the allegations of this case and the likely evidence in this case, finds said settlement offer to be fair and reasonable."

(Res.App.2a).¹

On September 5, 2018, after Padma, as the Independent Administrator, had agreed, on behalf of the Estate and its beneficiaries, to a \$2.1 Million Settlement, the remaining Parties to the Lawsuit appeared before Judge Lyons on the original scheduled trial date for a status hearing. (Pet.App.18a). During that status hearing, Padma submitted an *ex parte* communication to Judge Lyons, which stated: "I did not and do not assent to settlement. I wish to go to trial." (Pet.App.18a). It was also during that status hearing that Padma first alleged that she, as the Independent Administrator, was not able to settle the Lawsuit due to the Decedent's Hindu beliefs. (Pet.App.18a). Judge Lyons quickly admonished Padma for alleging she had previously raised religious beliefs as a reason for objecting to the Settlement and confirmed that at no point during the Law Division Proceedings and specifically during the pre-trial conferences, either in his chambers or in open court, was religion, and particularly Hinduism, ever mentioned by Padma. (Pet.App. 18a). After a lengthy discussion on the record, Judge

¹ "Res.App." refers to the Respondent's Appendix in the Brief in Opposition, *infra*. "Pet." Refers to the body of the Petition for Writ of Certiorari, while "Pet.App." refers to the Petitioner's appendix.

Lyons ordered that the terms of the August 23, 2018 Settlement of \$2.1 Million, which Padma, as the Independent Administrator, had negotiated and agreed to, would stand and instructed the Parties to return on September 10, 2018 for presentation of the proposed Petition for Distribution pursuant to the Settlement Order. (Pet.App.18a).

On September 10, 2018, after Padma, as the then Independent Administrator, personally negotiated the Wrongful Death Act settlement proceeds allocation against Anita and disproportionately in her own individual favor, Judge Lyons entered a detailed, type-written, three-page Distribution Order (“Distribution Order”) which:

- (i) approved the total Settlement of \$2.1 Million and found that the Settlement was fair and reasonable;
- (ii) approved attorney fees and costs in the amount of \$771,447.81;
- (iii) approved the Survival Act Claim and distribution to the Estate in the amount of \$1,012,223.44;
- (iv) approved the Wrongful Death Act Claim and distribution of the Wrongful Death Act settlement proceeds in the negotiated amount of \$221,430.13 to Padma (70% of the total \$316,328.75 Wrongful Death Act settlement proceeds);
- (v) approved the Wrongful Death Act Claim and distribution of the Wrongful Death Act settlement proceeds in the amount of \$94,898.62 to

Anita (30% of the total \$316,328.75 Wrongful Death Act settlement proceeds);

- (vi) dismissed the Lawsuit, with prejudice, as all matters between the Estate, Padma, Anita and the Defendants had been fully compromised, settled and adjourned; and
- (vii) approved of Padma withdrawing as Independent Administrator to allow a Bank to substitute in on behalf of the Estate to execute any Release documents to finalize the Settlement and Lawsuit.

(Res.App.3a-9a).

On October 10, 2018, in the Law Division Proceedings, Padma, as the then Independent Administrator, on behalf of the Estate, filed a *Motion to Vacate* the Settlement (“Motion to Vacate”). (Pet.App.19a). Based on unsubstantiated allegations of the Decedent’s religious objections to settlement, Padma’s Motion to Vacate sought to vacate the following Orders related to the \$2.1 Million Settlement: August 22, 2018; August 23, 2018 Settlement Order; September 5, 2018; and September 10, 2018 Distribution Order. (Pet. App.19a). On October 29, 2018, in the Law Division Proceedings, Padma, as Independent Administrator of the Estate, filed her *Plaintiff’s Memorandum in Support of the Motion to Vacate*. (Pet.App.19a).

On November 19, 2018, in the Law Division Proceedings, Anita filed her *Motion for Sanctions and Rule to Show Cause as to Why Padma Rao, M.D., Robert H. Muriel, and A&G Law LLC Should Not Be Held in Direct Contempt of Court* (“Anita’s Motion for Sanctions”), seeking sanctions against Padma and her attorney on the basis of Padma’s false repre-

sentations to the Court on September 5, 2018, which were further represented by Padma in an Affidavit and Memorandum, wherein Padma alleged that she: (1) previously advised the Court of her objections to any settlement; (2) had been threatened with being replaced by Anita as Administrator; (3) was pressured and forced to accept settlement; (4) was not advised of the settlement process; and (5) was not adequately represented by counsel.

In her December 10, 2018 response to Anita's Motion for Sanctions, Padma, as the Independent Administrator, relied upon *Will v. Northwestern University*, 881 N.E.2d 481, 492, 378 Ill.App.3d 280, 317 Ill.Dec. 313 (1st Dist. 2007), to argue that only the Administrator of the Estate (herself at the time) has any power to control the Wrongful Death and Survival actions and that the Court should strike Anita's Motion for Sanctions on the basis that Anita, as a non-party to the Lawsuit, lacked standing:

Anita Rao was not a party to the instant medical malpractice lawsuit. She has no divisible or independent cause of action. Only Dr. Rao, as the administrator of the Estate, has the power to control the action. Anita Rao lacks standing in this lawsuit. As such, any court filing by her in this cause was without authority and should be stricken. The Estate requests that this Court strike the appearance and Sanctions Motion filed by Anita Rao.

(Pet.App.25a-26a, ¶ 28).

C. Removal of Padma as Administrator for Cause/ Appointment of MTC as Successor Administrator

On November 16, 2018, in the Probate Proceedings, Anita filed her *Motion to Remove Padma Rao as Independent Administrator* (“Motion to Remove Padma”) based upon: misrepresentations Padma made as Administrator of the Estate to Judge Lyons in the Law Division Proceedings related to the \$2.1 Million settlement; waste and mismanagement of the Estate; and Padma’s inability to act in the best interests of the Estate. (Res.App.19a-28a)

Also on November 16, 2018 in the Probate Proceedings, Anita filed her *Motion to Convert to Supervised Administration* (“Motion to Terminate Independent Administration”), requesting that the Probate Court protect the Estate beneficiaries by converting the administration from Independent to Supervised Administration because of Padma’s actions of waste, mismanagement and inability to act in the best interests of the Estate beneficiaries. (Res.App.15a-16a)

On November 29, 2018, the Probate Court, agreeing with Anita’s allegations of Padma’s waste and mismanagement as Independent Administrator, entered an Order converting the Estate from Independent to Supervised Administration, thus converting Padma’s role from Independent to Supervised Administrator. (Pet.App.19a-20a, ¶ 11).

On December 19, 2018, after a full hearing, the Probate Court concluded that Padma, as Administrator, created waste and mismanaged the Estate and was therefore incapable and unsuitable to act as the Administrator. (Pet.App.20a, ¶ 12). The Court specifically stated:

You were the administrator of this estate. You hired the attorneys to file and adjudicate the cause of action before Judge Lyons. You could fire them at any time. You're the administrator. You didn't do that. There have been numerous negotiations not only before Judge Lyons, not only amongst the attorneys, but there was also a mediation done by a retired judge. Those are not inexpensive. So now, even though Ms. Rao is claiming that she never wanted to settle and she wanted to go to a jury trial, she allowed the attorneys, who she was in charge of as administrator of the estate, to rack up considerable costs by entering into mediation with a retired judge and continuing on and extending the life of this case because she continued to have negotiations in front of Judge Lyons. All the while, according to her, she never wanted to settle, she would never agree to anything . . .

[. . .]

The negotiations to settle with the mediation conference and conferences between the lawyers and court dates before Judge Lyons I think constitutes waste and mismanagement of the estate. And I think for that, and that alone, I could remove Ms. Rao. But the other question that I have to answer, which I also talked about a little bit earlier, is, is she capable or suitable for the discharge of her duties? Not just her, is someone capable if their religious beliefs is that they can never settle? Because when you are the admin-

istrator of an estate, you represent all of the heirs, and you have a fiduciary duty to all of the heirs. You also have a duty to the court. The court has appointed you as the administrator. So if someone—if that's someone's position and they're never going to come off that position, are they suitable or capable to discharge their duties?

[. . .]

And I understand that those are your religious beliefs. And I believe you, that those are your religious beliefs. But my duty is to the estate. And my question that I have to answer is, can you suitably and capably administer the estate with those beliefs. And I think the answer is no. So in combination, although I did look at both of these, incapable, unsuitable discharge the duties and whether there was waste and mismanagement, I found that both of those exist independently, but I can also consider them cumulatively when I decided whether or not to discharge Ms. Rao as the independent executor. And that is my ruling. Based on everything that I have just stated, I believe that she did engage in waste and mismanagement by continuing the negotiations. And I do believe, based on her stance for religious beliefs, that she is incapable and unsuitable for the discharge of her duties.

(Res.App.30a-32a).

As a result of Padma's waste and mismanagement of the Estate, the Probate Court deemed her incapable

and unsuitable as Administrator and therefore removed Padma as Supervised Administrator for cause. (Pet. App.20a, ¶ 12). Also on December 19, 2018, the Probate Court appointed Respondent, MTC, as Successor Supervised Administrator with Will Annexed. (Pet. App.20a, ¶ 13).

D. Approval of Settlement of the Lawsuit in the Probate Proceedings

On January 11, 2019, Padma filed her *Petition to Clarify This Court's December 19, 2018 Ruling* ("Padma's Petition for Clarification") (Res.App.34a), which sought the following relief:

- A. This Court will supervise and provide direction to Midland Trust relative to the Law Division action, including whether to proceed with the pending Motion to Vacate the purported \$2,100,000.00 settlement or to withdraw said motion;
- B. Padma Rao has standing to object and present evidence as to Midland Trust's proposed direction as to whether to proceed with the pending Motion to Vacate the purported \$2,100,000.00 settlement or to withdraw said motion;
- C. Padma Rao has standing to address this Court regarding its supervision of Midland Trust, including the Court's direction and approval of distributions, as well as, objecting and presenting evidence as to any petition brought before this Court to approve any purported settlement in the Law Division Action;

(Res.App.41a).

On January 15, 2019, after a full hearing, the Probate Court entered an Order which “denied in part and approved in part” Padma’s Petition for Clarification as follows: “Paragraph A and B of the wherefore provisions are denied pursuant to Circuit Court rules 12.15 and 6.5²; and Paragraph C is granted as to Padma Rao having standing as an heir and legatee as to any Petition filed before the Probate Court.” (Pet.App.11a, ¶ 12). Thus, Padma’s Petition creatively and disingenuously misleads this Court by purposely failing to identify that the January 15, 2019 Order specifically:

- (1) denied Padma’s request that “This Court will supervise and provide direction to Midland Trust relative to the Law Division action, including whether to proceed with the pending Motion to Vacate the purported \$2,100,000.00 settlement or to withdraw said motion;” and
- (2) denied Padma’s request that “Padma Rao has standing to object and present evidence as to Midland Trust’s proposed direction as to whether to proceed with the pending

² Rule 12.15 requires that when a wrongful death cause of action pending before another Court is settled by a representative appointed by the Probate Court, the representative shall file a petition to receive the proceeds pursuant to Rule 6.5, present vouchers for expenses, and the Probate Court shall close the Estate if there are no other Estate assets. Rule 6.5 limits the Probate Court to distributing the proceeds based on dependency, authorizing the representative to receive the distributable amount, fixing bonds, and requiring vouchers.

Motion to Vacate the purported \$2,100,000.00 settlement or to withdraw said motion;

Although Paragraph C of the January 15, 2019 Order provided Padma limited standing as an heir and legatee as to any petition filed before the Probate Court, the January 15, 2019 Order specifically denied Padma standing to object and present evidence related to the Motion to Vacate or to withdraw the motion.

Also on January 15, 2019, the Probate Court ordered MTC, as Successor Supervised Administrator, to investigate whether the Settlement of the Lawsuit was fair, reasonable and in the best interests of the Estate. (Pet.App.11a, ¶ 11).

On April 11, 2019, after a thoroughly extensive independent investigation, MTC, under seal for confidentiality purposes, presented its detailed *Report to the Court and Request for Direction* (“MTC’s Report to Court”), which first explained its due diligence in the preparation of the Report, including: (1) MTC’s independent investigation of the Law Division Settlement, including a review of all relevant pleadings in the Law Division Proceedings, all supporting information and documentation compiled by the personal injury attorneys, including their confidential analysis of the strengths and weaknesses of its case; (2) interviews with the personal injury attorneys, Anita’s attorney, Padma’s Estate Attorney, and a former Rao family attorney and close personal friend of Padma (notably, Padma and her attorney refused multiple attempts for an interview); (3) the independent expert legal opinion of Honorable Thomas K. Hogan (“Judge Hogan”) (retired Cook County Law Division Judge); and (4) the independent expert legal opinion of Attorney Thomas K. Prindable (“Prindable”), a practicing

medical malpractice personal injury attorney since 1973.

Based on MTC's thorough due diligence and independent investigation, MTC's Report to Court recommended that the Probate Court:

- (a) find that the Settlement Order and the Distribution Order (*i.e.*, the \$2.1 Million Settlement) are fair, reasonable, and in the best interests of the Estate;
- (b) find that, as the Settlement Order and Distribution Order shall stand, Padma's Motion to Vacate in the Law Division Proceedings is moot; and
- (c) direct MTC, as Successor Supervised Administrator, to dismiss the Motion to Vacate filed by Padma while acting as the former Administrator with Will Annexed, with prejudice, based upon its mootness.

On April 11, 2019, the Probate Court entered an Order granting Padma 28 days (*i.e.*, until May 9, 2019) to respond or otherwise plead to the Report to Court. (Pet.App.21a) Because Padma failed to file a responsive pleading to the Report to Court by the deadline, on May 16, 2019, MTC filed its *Petition for Ruling on Report to the Court and Request for Direction* ("Petition for Ruling"), to be presented to the Probate Court on May 22, 2019, seeking an Order: (a) denying any request by Padma for extension of time to file a response to the Report to Court; (b) striking any responsive pleading filed after the May 9, 2019 deadline; (c) approving and accepting MTC's Report; and (d) directing MTC as to the outstanding issues outlined in the Report. (Pet.App.21a)

On May 22, 2019, the Probate Court entered an Order giving Padma leave to file her Response and Objection to MTC's Report to Court, *instanter*. (Res.App.8a, ¶ 2). Notwithstanding Padma's Response and Objection to MTC's Report to Court, filed *instanter*, and after a full oral argument where Padma zealously but disingenuously argued that the Settlement was against the Decedent's wishes, the Probate Court, finding that it is in the best interests of the Estate, entered an Order authorizing MTC, as Successor Supervised Administrator, to withdraw the Motion to Vacate filed by Padma, as former Administrator, that was still pending in the Law Division Proceedings. (Res.App.9a, ¶ 3).

On May 30, 2019, Padma filed her *Motion to Reconsider Ruling on Midland Trust Request for Direction* ("Motion to Reconsider"), requesting that the Probate Court direct MTC to proceed on the Motion to Vacate in the Law Division Proceedings on the basis that MTC's recommendation to withdraw the Motion to Vacate was contrary to the Decedent's wishes and, thus, not in the best interests of the Estate. (Res.App.43a-45a).

On June 19, 2019, MTC filed its *Response to Padma Rao's Motion to Reconsider Ruling on Midland Trust's Request for Direction* ("Response to Motion to Reconsider") (Res.App.47a-61a), requesting that the Probate Court deny Padma's Motion to Reconsider because: (1) it did not raise newly discovered evidence not available at the time of hearing; (2) it did not raise changes in the law; and (3) there were no errors in the Probate Court's previous application of existing law, as: (a) the Decedent's Last Will and Testament is unambiguous in that it failed to specifically address

any alleged religious wishes/beliefs or any alleged wishes with respect to litigation and is clear by specifically authorizing the Executor/Trustee, in his or her absolute discretion, to convert the Estate's interest in the Lawsuit into money via the Settlement; (b) any attempted testimony by Padma as to the Decedent's alleged religious beliefs and alleged wishes related to settling claims, including the Lawsuit, is barred by the Dead Man's Act; and (c) pursuant to the Probate Act, MTC, as Successor Supervised Administrator, was authorized by the Court to withdraw the Motion to Vacate in the Law Division Proceedings and to settle the Lawsuit, in the best interests of the Estate.

On July 2, 2019, after a full oral argument, the Probate Court entered an Order denying Padma's Motion to Reconsider "for the reasons on the record." (Res.App.11a, ¶ 1). Specifically, the Probate Court denied Padma's Motion to Reconsider because Padma presented no new evidence; Padma cited no changes in applicable law; and the Probate Court did not err in its previous application of existing law. The Probate Court agreed with MTC that the Decedent's Last Will and Testament was not ambiguous regarding settlement. The Probate Court, in denying the Motion to Reconsider, further found that, pursuant to *Will v. Northwestern*: (1) the administrator has a duty to perform the tasks associated with administering the estate (*i.e.*, they were to carry out the wishes of the decedent, and more importantly, to act in the best interests of the estate); (2) the administrator is required to uphold its fiduciary relationship to the estate's beneficiaries and to act in the utmost good faith to protect their interests; and (3) the purpose of the wrongful death and survival actions is to provide

beneficiaries with pecuniary benefits they would have received from the deceased had her life continued. Thus, as the Decedent's Last Will and Testament was not ambiguous regarding settlement, even if the Decedent's wishes could be inferred from her external sources, the Probate Court found that *Will v. Northwestern* stands for the proposition that the administrator alone has a fiduciary duty to act in the best interests of the Estate heirs/beneficiaries.

The July 2, 2019 Order entered by the Probate Court also provided MTC the authority, as the Successor Supervised Administrator, to proceed to withdraw the Motion to Vacate in the Law Division Proceedings. (Res.App.11a).

On July 3, 2019, in the Law Division Proceedings, Judge Lyons entered an Order wherein:

- (1) MTC was granted leave to withdraw the pending Motion to Vacate, with prejudice, for the reasons stated on the record;
- (2) the Settlement Order and the Distribution Order were ratified for the reasons also stated on the record; and
- (3) the matter was transferred back to the Probate Court for approval of the Settlement of the Lawsuit and to effectuate the Settlement Order and Distribution Order. (Res. App.13a).

Also on July 3, 2019, the Probate Court entered an Order approving the Settlement and Distribution Orders, approving and authorizing the payout of the Settlement proceeds pursuant to the Distribution Order, and authorizing MTC to execute any and all

documents reasonable and necessary to effectuate the Settlement and Distribution Orders. (Pet.App.5a-6a).

E. Padma's Appeal-Illinois Appellate Court

On July 11, 2019, Padma, individually and as beneficiary of the Estate, filed her *Amended Notice of Appeal* ("Appeal") with the Illinois Appellate Court—First District, Case No. 1-19-1427 ("Appellate Court") (Pet.App.23a), which sought the following relief:

- (a) Reversal and vacating paragraphs 1 and 2 of the Probate Court's July 3, 2019 Order approving the Settlement Order entered in the Law Division Proceedings and approving the Distribution Order entered in the Law Division Proceedings;
- (b) Reversal and vacating prior orders necessary to bring about the Probate Court's July 3, 2019 Order approving the settlement and distribution, including paragraph 2 of the July 2, 2019 Order regarding the denial of Padma's Motion to Reconsider the May 22, 2019 Order allowing MTC to withdraw the Motion to Vacate Settlement;
- (c) Reversal of the July 2, 2019 Order regarding denial of Padma's Motion to Reconsider as to the May 22, 2019 Order allowing MTC to withdraw the Motion to Vacate, with the Appellate Court directing the trial court to direct MTC to proceed in the Motion to Vacate as requested by Padma; and
- (d) Reversal of the May 22, 2019 Order allowing MTC to withdraw the Motion to Vacate,

with the Appellate Court directing the trial court to direct MTC to proceed in the Motion to Vacate as requested by Padma.

Thus, Padma, individually, sought to appeal the Probate Court Orders authorizing MTC, as Successor Supervised Administrator, to: (1) withdraw the Motion to Vacate previously filed by Padma, as the then Independent Administrator, *in the Law Division Proceedings* related to the Settlement; and (2) distribute the \$2.1 Million Settlement, which Padma had previously negotiated, pursuant to the Settlement and Distribution Orders entered *in the Law Division Proceedings*.

F. MTC's Motion to Dismiss Appeal—Illinois Appellate Court

On December 30, 2019, MTC filed its *Motion to Dismiss Appeal* (“Motion to Dismiss”), seeking to dismiss Padma’s Appeal for lack of standing. (Pet. App.15a-30a). In its Motion to Dismiss, MTC argued that Illinois law has long made clear that, under both Wrongful Death Act and Survival Act causes of actions, “the cause of action must be brought by and in the name of the representative or administrator of the decedent’s estate.” *Will v. Northwestern* at 492. (Pet.App.24a). Thus, on the basis of *Will v. Northwestern*, MTC argued that: (1) Padma, individually, lacked standing to bring the Appeal, as she was not a party to the underlying Lawsuit (Pet.App.26a); and (2) Padma, had no standing to be a party to the Appeal as a representative of the Estate, as she was removed as Administrator for waste and mismanagement, and, in any event, Padma filed her Appeal

solely in her individual capacity as “beneficiary” of the Estate. (Pet.App.27a).

Illinois law concerning Padma’s lack of standing as to the Settlement and Distribution Orders entered *in the Law Division Proceedings* is so definitively clear (as outlined in *Will v. Northwestern*, and as previously applied by Padma, as the then Administrator, against Anita), that, on February 20, 2020, the Appellate Court dismissed Padma’s Appeal by granting MTC’s Motion to Dismiss by entering an Order which succinctly “GRANTED” MTC’s Motion to Dismiss Padma’s Appeal, without comment. (Pet.App.3a-4a).

G. Padma’s Petition for Rehearing—Illinois Appellate Court

On March 12, 2020, Padma filed her *Petition for Rehearing on Dismissal Issued in Violation of Supreme Court Rule 23 and Illinois Law* (“Petition for Rehearing”), requesting the Appellate Court vacate its February 20, 2020 dismissal Order, denying MTC’s Motion to Dismiss, and allowing Padma’s Appeal to be heard on the merits. (Res.App.76a). On April 6, 2020, the Appellate Court entered an Order denying Padma’s Petition for Rehearing, again without comment. (Pet.App.13a).

H. Padma’s Petition for Leave to Appeal-Illinois Supreme Court

On May 12, 2020, Padma filed her *Petition to Appeal as a Matter of Right Pursuant to Supreme Court Rule 317, or Alternatively, Petition for Leave to Appeal Pursuant to Supreme Court Rule 315* (“PLA”) with the Illinois Supreme Court, Case No. 125994, asking for leave to appeal to the Illinois

Supreme Court on the basis of a purported violation of her procedural due process rights as an Estate heir and wrongful death claimant, or alternatively, on the basis of a purported conflict with other divisions of the Appellate Court as to the issue of her lack of standing as a non-party to the Lawsuit. (Pet.App.31a-54a).

On May 28, 2020, MTC filed its *Answer to Padma's PLA* (Res.App.62a-91a), asking the Illinois Supreme Court to deny the PLA on the basis that: (1) Padma was not being deprived of her control over the Lawsuit in the Law Division Proceedings, as controlling Illinois law, *Will v. Northwestern*, made clear that it is the administrator alone (and not the heirs or legatees) who possesses the sole right of control over a wrongful death or survival action; and (2) the Illinois First District Appellate Court's Dismissal and Rehearing Orders did not present a conflict with other divisions of the Illinois Appellate Court that warranted the exercise of the Illinois Supreme Court's supervisory authority. On September 30, 2020, the Illinois Supreme Court denied Padma's PLA, again without comment. (Pet.App.1a).

I. Padma's Petition for a Writ of Certiorari

On or about February 27, 2021, Padma filed the instant *Petition for a Writ of Certiorari*.



REASONS FOR DENYING CERTIORARI

I. THE ADMINISTRATOR ALONE POSSESSES THE SOLE RIGHT OF ACTION OR CONTROL OVER A WRONGFUL DEATH ACT AND SURVIVAL ACT CAUSE OF ACTION

Because it is to the administrator that the right of action accrues and it is the administrator who possesses the sole right of action or control over a Wrongful Death Act or Survival Act cause of action, Padma, individually, possesses no property interest in the settlement of the Law Division Lawsuit. As a result, Padma was not deprived of procedural due process by the Illinois Appellate Court's dismissal of Padma's Appeal and denial of Padma's Petition for Rehearing.

Echoing failed arguments made in Padma's PLA to the Illinois Supreme Court (Pet.App.32a-54a), Padma argues that the constitutional question of her procedural due process rights under the Fourteenth Amendment arose as a result of the Illinois Appellate Court's purported "reversal" of the Probate Court's January 15, 2019 Order that she has standing as an heir and legatee to be heard and protect her property interests. (Pet.15-19).

Padma purposely and disingenuously mischaracterizes the Probate Court's grant of limited standing to Padma as an heir and legatee by self-creating an absolute grant of standing as to all matters. Further, Padma disingenuously mischaracterizes the Illinois Appellate Court's dismissal of Padma's Appeal and denial of Padma's Petition for Rehearing as a reversal

of the Probate Court's grant of standing to Padma as an heir and legatee. (Pet.15). However, for the following reasons, Padma has failed to establish her property interests as an Estate heir/legatee and Wrongful Death Act claimant, and thus, Padma does not possess a property interest in the settlement of the Law Division Action and therefore was not deprived of due process by the Illinois Appellate Court's dismissal of Padma's Appeal and/or the denial of Padma's Petition for Rehearing:

A. The Probate Court's January 15, 2019 Order Did Not Grant Padma Standing Regarding the Law Division Lawsuit

As discussed above, the Petition misleads this Court regarding the Probate Court's January 15, 2019 Order by creatively and disingenuously:

- (1) failing to state that Paragraph A specifically denied Padma's request that: "This Court will supervise and provide direction to Midland Trust relative to the Law Division action, including whether to proceed with the pending Motion to Vacate the purported \$2,100,000.00 settlement or to withdraw said motion;" (Pet.App.11a, ¶ 12);
- (2) failing to state that Paragraph B specifically denied Padma's request that: "Padma Rao has standing to object and present evidence as to Midland Trust's proposed direction as to whether to proceed with the pending Motion to Vacate the purported \$2,100,000.00 settlement or to withdraw said motion;" (Pet.App.11a, ¶ 12); and

- (3) said Order granted Paragraph C of the Petition for Clarification's prayer for relief only as to Padma having limited standing as an heir and legatee as to any Petition filed before the Probate Court (Pet.App.11a, ¶ 12).

While Paragraph C of Padma's Petition for Clarification's prayer for relief requested that the Probate Court grant Padma "standing to address [the Probate Court] regarding its supervision of [MTC], including the [Probate Court]'s direction and approval of distributions, as well as, objecting and presenting evidence as to any petition brought before [the Probate Court] to approve any purported settlement in the Law Division Action" (Res.App.41a), consistent with *Will v. Northwestern* (discussed in detail in the following Part B), the Probate Court's January 15, 2019 Order granted Paragraph C only as to Padma having standing as an heir and legatee as to any Petition filed before the Probate Court (Pet.App.11a, ¶ 12). Thus, contrary to what Padma would have this Court believe, the Probate Court's January 15, 2019 Order specifically denied Padma standing to object and present evidence as to the Motion to Vacate, while providing Padma no greater or special standing than the general standing afforded to any other Estate heir or legatee as an "interested person" under the Illinois Probate Act, 755 ILCS 5/1-2.11³.

³ "An 'Interested person' in relation to any particular action, power or proceeding under this Act means one who has or represents a financial interest, property right or fiduciary status at the time of reference which may be affected by the action, power or proceeding involved, including without limitation an heir, legatee, creditor, person entitled to a spouse's or child's

B. Padma, Individually, Does Not Have a Property Interest in the Law Division Action

i. Padma, as an Heir or Legatee, Lacks Standing as to Any Right of Action or Control Over the Lawsuit

As MTC argued in its Motion to Dismiss Padma’s Appeal (Pet.App.15a-30a), in the context of Wrongful Death Act and Survival Act causes of actions, Illinois case law is definitively clear concerning Padma’s individual lack of standing with respect to the Settlement and Distribution Orders entered in the Law Division Proceedings. Specifically, “the cause of action must be brought by and in the name of the representative or administrator of the decedent’s estate.” *Will v. Northwestern* at 289. “It is to this administrator that the right of action accrues and it is this administrator who possesses the sole right of action or control over the suit; the beneficiaries or heirs have neither a right of action nor any control.” *Id.* and cases cited therein (emphasis added).

In *Will v. Northwestern*, Linda Will (“Linda”) and George Wheeler, Jr. (“George”), as co-administrators of the estate of their deceased son, Rashidi Wheeler (“Rashidi”), filed a wrongful death and survival action arising from the death of Rashidi, a football player at Northwestern University (“Northwestern”), during football practice. While co-administrator George filed an affidavit stating he wanted to make demand of a \$16 million settlement, co-administrator Linda,

award and the representative. . . . This definition also applies to the following terms: ‘interested party’, ‘person (or party) interested’ and ‘person (or party) in interest.’” 755 ILCS 5/1-2.11.

objected. The trial court directed the acceptance of the \$16 million settlement over the objections of co-administrator Linda, who objected because the settlement did not include non-monetary items which she, alone, insisted upon. Linda, both individually and as co-administrator, and Rashidi's brothers, heirs of Rashidi's estate and in their individual capacities, appealed, contending that the trial court did not have authority to direct acceptance of the settlement over co-administrator Linda's objection. *Id.* at 481-491. The *Will v. Northwestern* Court, noting that wrongful death and survival actions "must be brought by and in the name of the representative or administrator of the decedent's estate" and do "not create an individual right in a beneficiary to bring suit", dismissed the appeal with respect to Linda, individually, and Rashidi's two brothers for lack of standing, finding that none of them were parties of record to the underlying causes of action in their individual capacities, as the underlying causes of action (wrongful death and survival) must be brought by and in the name of the representative or administrator of the decedent's estate. *Id.* at 492. The *Will v. Northwestern* Court also noted:

As a personal representative of Rashidi's estate working not on her personal behalf but on that of others, Linda, then, was an agent of the court subject to the court's control and direction. She was to work in the best interests of Rashidi's estate and use the utmost good faith to protect the interests of his six beneficiaries. Principally, Linda's duties as coadministrator were to pay off Rashidi's debts (if any) and to insure that

his beneficiaries received their just benefits from his estate quickly. Clearly, Linda's duties did not include an attempt to satisfy her own personal interests; yet, that is precisely what occurred here and what prompted the trial court to intervene. Linda's dissatisfaction with the settlement offered had nothing to do with the adequacy of the amount suggested by Northwestern as a demand and ordered by the trial court.

Id. at 495.

Here, even though the January 15, 2019 Probate Court Order specifically denied Padma's request to object and present evidence as to the Motion to Vacate, purposely and disingenuously relying solely upon Paragraph C of the January 15, 2019 Probate Order, Padma, individually, sought to appeal the Probate Court Orders authorizing MTC, as Successor Supervised Administrator of the Estate, to: (a) withdraw the Motion to Vacate previously filed by Padma, as the then Supervised Administrator, *in the Law Division Proceedings* related to the Settlement which the Court found to be fair, reasonable and in the best interests of the Estate; and (b) distribute the \$2.1 Million Settlement pursuant to the Settlement and Distributions Orders entered *in the Law Division Proceedings*, which Orders were previously negotiated by Padma to her own financial benefit. (Pet.App.23a). However, the law concerning Padma's individual lack of standing is so definitively clear (as outlined in *Will v. Northwestern*), the Illinois Appellate Court's February 20, 2020 Order granted MTC's Motion to Dismiss without comment, and denied Padma's Motion for Rehearing on April 6, 2020, again without comment.

**ii. Padma Is Judicially Estopped from
Advancing Her Position as to Her
Individual Standing as to Her Right of
Action or Control Over the Lawsuit**

As referenced earlier and in direct contradiction to Padma's current argument, in the Law Division Proceedings, Padma herself relied upon *Will v. Northwestern* to argue that only the Administrator of the Estate has any power to control the action and that the Law Division Court should strike Anita's Motion for Sanctions on the basis that Anita, as a non-party to the Lawsuit, lacked standing. (Pet.App. 25a-26a, ¶ 28).

Padma's current argument as to her individual standing as to the Lawsuit is inconsistent and she is therefore judicially estopped from advancing such a position. Judicial estoppel asserts that: (1) the same party in separate actions (2) may not maintain totally inconsistent positions (3) in those separate judicial proceedings (4) when the positions are presented under oath and (5) the party successfully maintained the first position, receiving some benefit thereby. *Smeilis v. Lipkis*, 2012 IL App (1st) 103385, ¶ 20. Here, Padma, while the Administrator of the Estate, in the Law Division Proceedings, relied upon *Will v. Northwestern* to deny Anita from challenging her decisions as to the Lawsuit claiming:

“Anita Rao was not a party to the instant medical malpractice lawsuit. She has no divisible or independent cause of action. Only Dr. Rao, as the administrator of the Estate, has the power to control the action. Anita Rao lacks standing in this lawsuit. As such, any court filing by her in this cause

was without authority and should be stricken. The Estate requests that this Court strike the appearance and Sanctions Motion filed by Anita Rao.”

(Pet.App.25a-26a, ¶ 28).

Now, conveniently and inconsistently, Padma, individually, in the Probate Proceedings, disingenuously demands standing seeking control of or right of action over the Lawsuit. Padma is judicially estopped from advancing such a position.

iii. Padma, While Acting as Administrator of the Estate, failed to File Written Objections to or Appeal of the Settlement and Distribution Orders, and Her Motion to Vacate Said Orders Constituted an Improper Attempt to Satisfy Her Own Personal Wish to Go to Trial

Despite her *ex parte* communication to Judge Lyons that she did not assent to the settlement and wished to go to trial, Padma, as the then Administrator, who then had the sole right of control over the Law Division Action, never filed any written objections to or appeal of either the Settlement and Distribution Orders. In fact, Padma, as the then Administrator, proactively participated in the multi-day mediation with Judge Panter, two-day pre-trial conference with Judge Lyons and even negotiated the percentage amount of the Wrongful Death Act settlement proceeds to be distributed to her, individually, in her own favor (70% to her and 30% to Anita), as outlined in the Distribution Order. Padma, as the then Administrator, did proceed to file the Motion to Vacate the Settlement and Distribution Orders. However, just

as in *Will v. Northwestern*, Padma's role as the then Administrator should not have included an improper attempt to satisfy her own personal wish to go to trial. It is important to note that Padma's Motion to Vacate the Settlement and Distribution Orders did not allege that the \$2.1 Million settlement was not fair or reasonable and thus had nothing to do with the adequacy of the settlement amounts.

Now, Padma conversely and disingenuously argues that *Will v. Northwestern* does not apply to her, individually, because *Will v. Northwestern* involved the appeal of a Law Division case rather than the Probate Court or estate administration. (Pet.9-12). However, as Padma's Appeal involved the appeal of Orders authorizing MTC, as Supervised Administrator, to take certain actions in or related to the Law Division Proceedings (*i.e.*, withdrawing the Motion to Vacate previously filed by Padma, as the then Administrator, related to the \$2.1 Million Settlement; and distributing the \$2.1 Million Settlement pursuant to the Settlement and Distributions Orders entered in the Law Division Proceedings), it directly relates to MTC's right of action or control over the Lawsuit, a Wrongful Death Act and Survival Act cause of action. As *Will v. Northwestern* definitively establishes that it is the administrator alone (and not the beneficiaries or heirs) who possesses the sole right of control over a Wrongful Death Act or Survival Act cause of action, Padma is unable to establish her property interests as an Estate heir or beneficiary and Wrongful Death Act claimant. As a result, Padma, individually, does not possess any property interest in the Wrongful Death Act or Survival Act cause of

action and therefore is not being deprived of due process by the Illinois Appellate Court's Orders.

C. The Illinois Appellate Court's Orders Do Not Conflict with Decisions of This Court, as Padma Does Not Have a Property Interest in the Law Division Action

Contrary to Petitioner's arguments (Pet.17-19), the Illinois Appellate Court's Orders do not conflict with decisions of this Court. For example, in *Fuentes v. Shevin*, 407 U.S. 67, 96 (1972), this Court held that statutory prejudgment replevin provisions work a deprivation of property without due process of law insofar as they deny the right to a prior opportunity to be heard before chattels are taken from their possessor. It is clear in *Fuentes* that the Appellants, whose chattels were seized pursuant to prejudgment replevin provisions of Florida and Pennsylvania statutes, had a property interest in their chattels. Also, in *Memphis Light, Gas & Water Div. v. Craft*, 436 U.S. 1, 22 (1978), this Court held that due process requires that a municipal utility company notify the customer of the availability of an avenue of redress within the organization before terminating utility services. Again, it is clear in *Memphis Light* that the customers, whose utility services were terminated for nonpayment, had a significant property interest, as this Court deemed utility services an essential necessity of modern life.

In contrast to *Fuentes*, *Memphis Light*, *Wolff v. McDonnell*, 418 U.S. 539, 557-558 (1974), and *Goldberg v. Kelly*, 397 U.S. 254, 264 (1970), here, Padma, individually as an heir and legatee, is not being deprived of her control over the Lawsuit in the Law

Division Proceedings, as *Will v. Northwestern* makes clear that it is the administrator alone (and not the beneficiaries or heirs) who possesses the sole right of control over a Wrongful Death Act or Survival Act cause of action. *Will v. Northwestern* at 289.

Thus, as: (1) the Probate Court denied Padma's request for the Probate Court to supervise and provide direction to MTC relative to the Lawsuit, including whether to proceed with the Motion to Vacate (Pet.App.11a, ¶ 12); (2) the Probate Court denied Padma's request for the Probate Court to grant Padma standing to object and present evidence as to MTC's proposed direction as to whether to proceed with the pending Motion to Vacate (Pet.App.11a, ¶ 12); (3) the Probate Court did not grant Padma any greater standing than that afforded to any heir or legatee with respect to the Lawsuit (Pet.App.11a, ¶ 12); (4) Padma, individually, has no right of control over the Lawsuit when she herself successfully argued against Anita having any right of control over the Lawsuit and is judicially estopped from doing so; (5) there is no question of first impression that arises under the Constitution of the United States or of the State of Illinois as a result of the Illinois Appellate Court's Orders; and (6) Padma, while acting as Administrator of the Estate, filed a Motion to Vacate which improperly advanced her own personal wishes rather than the best interests of the Estate, Padma's Petition must be denied.

II. PADMA POSSESSES NO PROPERTY INTEREST THAT WAS DEPRIVED OF PROCEDURAL DUE PROCESS BY THE ILLINOIS APPELLATE COURT

A. There Is No Conflict Between the Illinois Appellate Court's Orders and *Powell*

Echoing failed arguments made in her PLA (Pet.App.36a-37a, 49a), Padma mischaracterizes the Illinois Supreme Court's holding in *In re Estate of Powell*, 2014 IL 115997, in support of her erroneous proposition that "it is undisputed under Illinois law that [Padma] has a direct property interest in the wrongful death action, and thus procedural due process requires [Padma] to have standing and be heard regarding the Probate Court's oversight of such action and approval of a settlement compromising [Padma]'s property rights in the action." (Pet.19).

In *Powell*, the guardian of the estate of one of the decedent's beneficiaries filed a legal malpractice cause action against attorneys/law firms that represented the administrator of the decedent's estate in a wrongful death cause of action. *Powell* never specifically discussed standing and the complaint was not dismissed by the trial court for lack of standing. Rather, the plaintiff's complaint was dismissed by the trial court for failure to allege that the attorneys/law firms who represented the decedent's estate in the wrongful death action owed a duty to plaintiff, as a beneficiary of the decedent's estate. The Illinois Supreme Court ultimately held that an attorney who files a wrongful death action on behalf of a decedent's estate owes a legal duty to the decedent's beneficiaries at the distribution of funds phase of the action and that the complaint sufficiently alleged that

defendants' acts or omissions (in failing to have a guardian appointed for plaintiff) proximately caused actual damages. *Id.* at ¶¶ 20, 24. Here, as Padma's Appeal neither involved a legal malpractice claim nor a claim against the attorneys who filed the wrongful death action in this matter, Padma inappropriately attempts to expand *Powell's* actual holding to lend herself standing. As the Illinois Supreme Court already agreed by denying Padma's PLA, *Powell* is inapplicable and presents no conflict worthy of the Illinois Supreme Court's or this Court's attention.

B. Padma Is Not "Helpless" in This Matter

Padma disingenuously argues that:

"[t]he idea that [Padma] is helpless to have any protection for her rights in the wrongful death claim and the 'grief, sorrow and mental suffering' damages she is due by jury is antithetical to constitutional procedural due process rights as well as common sense. The resulting scenario that [Padma] is entirely at the mercy of an attorney or administrator who might be negligent, corrupt or incompetent is utterly inimical to the Fourteenth Amendment and its due process guarantee."

(Pet.20).

Padma has never been and is not "helpless" in this matter, as: (i) her interests as heir/legatee are protected by MTC's duty as Successor Supervised Administrator of the Estate to act in the best interests of the Estate and its beneficiaries; and (ii) pursuant to 755 ILCS 5/23-2, Padma, as an interested party,

may, but has not filed a petition to remove MTC as the Successor Supervised Administrator of the Estate.

Padma is not entirely at the mercy of an attorney or administrator who might be negligent, corrupt or incompetent, as an administrator owes a duty to act in the best interests of the Estate and its beneficiaries. *Will v. Northwestern* at 494. The Probate Court, after review of the Report to Court and Padma's Response thereto, authorized MTC as the Successor Supervised Administrator of the Estate, in the best interest of the Estate, to withdraw the Motion to Vacate. If Padma believed MTC as the Administrator of the Estate was negligent, corrupt or incompetent, Padma, as an heir/legatee with standing as an interested person, could have sought to remove MTC as Administrator (just as Anita, relying upon 755 ILCS 5/23-2, successfully removed Padma as Administrator of the Estate for waste and mismanagement), but failed to exercise her rights and remedies.

Additionally, at the time Padma was acting as Administrator, despite Padma's *ex parte* communication in the Law Division Proceedings that she did not assent to the settlement and wished to go to trial, Padma, as the then Administrator of the Estate, who then had the sole right of control over the Law Division Action, never filed any written objections to or appeal of either the Wrongful Death Act or Survival Act settlement outlined in the detailed Settlement and Distribution Orders. In fact, as the then Administrator, Padma proactively sought settlement, authorized and participated in the mediation of the settlement, and proactively and successfully negotiated the amount of the Wrongful Death Act settlement proceeds to be distributed to her, individ-

ually, to the detriment of her sister, Anita. Thus, even at the time when Padma, as the then Administrator, had the right of control over the Law Division Action, she improperly exercised her rights by attempting to satisfy her own personal wish to go to trial rather than considering the best interests of the Estate and its beneficiaries.

III. THERE IS NO COMPELLING REASON FOR THIS COURT'S REVIEW

MTC urges, most respectfully, that review by this Court is not appropriate in such a matter where: (1) Illinois law is so definitely clear; and (2) the Appellate Court's dismissal of Padma's Appeal and denial of Padma's Petition for Rehearing: (a) does not arise in a case raising a federal question on which a conflict has developed among federal circuit or state supreme courts; (b) does not arise in a case in which the lower court reached a decision in conflict with this Court's precedent; (c) does not arise in a case presenting an important issue of federal law with significant practical consequences; and/or (d) presents no question under the Constitution of the United States or of the State of Illinois which arises for the first time.

The result in this matter has not been unfair to Padma, as she, individually, had rights and remedies which she failed to exercise. The Illinois Appellate Court, after carefully considering the issue, dismissed Padma's Appeal and even denied her Petition for Rehearing, all without comment, as Illinois law is definitely clear that the administrator alone possesses the sole right of action or control over Wrongful Death Act and Survival Act causes of action. Then,

as Illinois law is so definitive, the Illinois Supreme Court denied Padma's Petition for Leave to Appeal, without comment, which was based upon her same unfounded procedural due process arguments that she makes herein.

Those rulings did not decide any federal question, let alone a federal question that conflicts with a decision of another state supreme or United States court of appeals. Petitioner has not cited a single case—whether state or federal—which establishes that an heir/legatee has standing to object to or control the settlement of a Wrongful Death Act cause of action. As a result, there is no compelling reason to unsettle the decisions of the Illinois Appellate Court and/or the Illinois Supreme Court.

Furthermore, the issues presented do not provide an opportunity to this Court to resolve an important question of federal law nor provide a holding of general applicability. Other than Petitioner claiming that the Due Process Clause of the Fourteenth Amendment has been violated, no question of federal law has been raised as Padma does not have an individual property interest in the right of action or control over the Lawsuit. The matter before this Court is limited to state issues—Illinois case law and statutory provisions. Furthermore, the matter is so fact-intensive it would be difficult for this Court to craft a holding that is applicable to more than a few cases, if not limited only to this case. As such, this matter does not present this Court with the opportunity it looks for—an ability to resolve conflicts between state court rulings and federal court rulings, resolve inconsistent rulings between federal courts, or resolve federal questions of great importance to the United

States. Such a review by this Court only allows Petitioner another opportunity to seek relief from rulings which were correctly decided against her.



CONCLUSION

The Illinois Appellate Court's Orders are not inconsistent with the Probate Court and have not deprived Padma, individually, of her procedural Due Process rights. As *Will v. Northwestern* makes definitively clear, it is the administrator alone (and not the beneficiaries or heirs) who possesses the sole right of control over a Wrongful Death Act or Survival Act cause of action, such as the Lawsuit. Even when Padma was acting as the Administrator of the Estate, she proactively sought settlement, authorized and participated in the mediation of the settlement, and successfully and disproportionately negotiated the amount of the wrongful death proceeds to be distributed to her, individually, to the detriment of her sister, Anita. Thus, even at the time when Padma, as the then Administrator, had the sole right of control over the Law Division Lawsuit, she improperly exercised that right by attempting to satisfy her own personal wish to go to trial, rather than considering the best interests of the Estate and its beneficiaries. After Padma was removed as Administrator of the Estate for cause, Padma, individually, as heir/legatee, failed to exercise her right to file a petition to remove MTC for any purported negligence, corruption or incompetence and, instead, disingenuously maintains a self-serving and totally inconsistent position in the Probate Proceedings (*i.e.*, that while acting as the Admini-

strator, *Will v. Northwestern* applies to bar Anita's individual standing with respect to control of or right of action over the Lawsuit but somehow does not apply to bar Padma's individual standing with respect to the same request for control of or right of action over the Lawsuit), and therefore should be judicially estopped.

Lastly, Padma presents no issue arising from the Appellate Court's Orders that merits this Court's review. The Appellate Court's dismissal of Padma's Appeal and denial of Padma's Petition for Rehearing: (1) does not arise in a case raising a federal question on which a conflict has developed among federal circuit or state supreme courts; (2) does not arise in a case in which the lower court reached a decision in conflict with this Court's precedent; (3) does not arise in a case presenting an important issue of federal law with significant practical consequences; and (4) presents no question under the Constitution of the United States or of the State of Illinois which arises for the first time. Therefore, there is no compelling reason for this Court to revisit these conclusions. For all the foregoing reasons, the Petition must be denied.

Respectfully submitted,

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COUNSEL FOR RESPONDENT MIDLAND

TRUST COMPANY, AS SUCCESSOR

SUPERVISED ADMINISTRATOR WITH

WILL ANNEXED OF THE ESTATE OF

BASAVAPUNNAMMA K. RAO, DECEASED

APRIL 8, 2021