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**ORDER OF THE CIRCUIT COURT OF
COOK COUNTY, LAW DIVISION
(AUGUST 23, 2018)**

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

PADMA RAO, as Independent Administrator of the
Estate of BASAVAPUNNAMMA K. RAO, deceased,

Plaintiff,

v.

NORTHSHORE UNIVERSITY HEALTHSYSTEM,
ROBERT VALLEAU, D.O., SHALINI RAVELLA,
M.D., LAMENTA S. CONWAY, M.D., and
PATRICK LAY, M.D.,

Defendants.

2014 L 12745

Before: Thomas V. LYONS II, Judge.

This cause coming on to be heard for pre-trial
conference and the Court being fully advised;

IT IS HEREBY ORDERED:

1. Defendants, NORTHSHORE UNIVERSITY
HEALTHSYSTEM and PATRICK LAY, M.D., have
offered a settlement in the amount of \$2,100,000.00.

2. Plaintiff, PADMA RAO, acting as Independent Administrator of the Estate of BASAVAPUNNAMMA K. RAO, Deceased, has agreed to accept the aforesaid offer.

3. This 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.

ENTER:

/s/ Thomas V. Lyons II
Judge

Date: August 23, 2018

**DISTRIBUTION ORDER OF THE
CIRCUIT COURT OF COOK COUNTY,
LAW DIVISION
(SEPTEMBER 10, 2018)**

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

PADMA RAO, as Independent Administrator of the
Estate of BASAVAPUNNAMMA K. RAO, deceased,

Plaintiff,

v.

NORTHSHORE UNIVERSITY HEALTHSYSTEM,
and PATRICK LAY, M.D.,

Defendants.

2014 L 12745

Before: Thomas V. LYONS II, Judge.

This cause coming on to be heard, all parties being represented by counsel and it appearing to the Court as follows:

A. That the Court previously entered an Order on 8/23/18 between Defendants, NORTHSHORE UNIVERSITY HEALTH SYSTEM and PATRICK LAY, M.D., and Plaintiff, PADMA RAO, as Independent Administrator of the Estate of BASAVAPUNNAMMA RAO, Deceased, settling the case for sum of \$2,100,000.00 (\$500,000 for the Wrongful Death Claim and \$1,600,000

for the Survival Act Claim) in full and final settlement of the Survival and Wrongful Death causes of action and further, the court found in that previous Order that the sum was fair and reasonable.

B. Padma Rao retained the law firm of Karlin, Fleisher and Falkenberg, LLC to litigate this matter pursuant to an attorney client agreement setting forth the attorney's fee as being 1/3rd of the total settlement and said agreement allowed for reimbursement of costs expended.

After consideration of the above findings, it is hereby ordered as follows:

1. That this Court having reviewed the offer and issues of liability raised in this cause finds that the total settlement of \$2,100,000.00, broken down as set forth above, is fair and reasonable and hereby approves same. The Court further instructs the Independent Administrator to execute Releases in exchange for a gross settlement draft in the amount of \$2,100,000.00 payable to the Independent Administrator and Karlin, Fleisher & Falkenberg, attys, with distribution to be made as follows:

Name	Amount
Karlin, Fleisher & Falkenberg (Attorneys' Fees)	\$ 700,000.00
Karlin, Fleisher & Falkenberg (Costs)	\$ 71,447.81
Estate of Basavapunnamma K. Rao	\$ 1,012,223.44
Wrongful Death Proceeds	\$ 316,328.75
Total:	\$ 2,100,000.00

2. That the law firm of Karlin, Fleisher & Falkenberg, LLC, is entitled to receive attorney's fees in the amount of \$700,000.00 and costs of litigation in the amount of \$71,447.81 and the Court finds that sums are reasonable and proper and approves same, subject to possible attorney fee distributions of 1/6th each of said \$700,000.00 amount to referring attorneys Cannon and Gordon following separate order.

3. The court determines that there are no liens and/or other interests against these proceeds.

4. After deduction of the attorney fees and costs, the division between the Wrongful Death Act Proceeds and the Survival Act Proceeds will be as follows:

Wrongful Death Act Proceeds	
Gross Amount	\$ 500,000.00
Percentage of Settlement	23.8%
Apportioned Attorney Fee Deduction	\$ 166,666.67
Apportioned Attorney Expenses Deduction	\$ 17,004.58
Remaining Funds	\$ 316,328.75

Survival Act Proceeds	
Gross Amount	\$ 1,600,000.00
Percentage of Settlement	76.2%
Apportioned Attorney Fee Deduction	\$ 533,333.33
Apportioned Attorney Expenses Deduction	\$ 54,443.23
Remaining Funds	\$ 1,012,223.44

Totals	
Gross Amount	\$ 2,100,000.00
Percentage of Settlement	100%
Apportioned Attorney Fee Deduction	\$ 700,000.00
Apportioned Attorney Expenses Deduction	\$ 71,447.81
Remaining Funds	\$ 1,328,552.19

5. The pro rata share of the net proceeds attributable to the Wrongful Death case are \$316,328.75 and are to be distributed by agreement with 70% of said amount to Padma Rao (\$221,430.13) and 30% of said amount to Anita Rao (\$94,898.62), and the court finds this division to be fair and reasonable.

6. The pro rata share of the net proceeds from the Survival Act settlement in the amount of \$1,012,223.44 are hereby a part of the Estate of Basavapunnamma Rao, deceased, subject to approval and disbursement in the Probate Division.

7. All matters and controversy as between the Plaintiff and the Defendants, NORTSHORE UNIVERSITY HEALTH SYSTEM and PATRICK LAY, M.D., having been fully compromised, settled and adjourned this cause of action is hereby dismissed with prejudice and without costs as to said Defendants.

IT IS HEREBY ORDERED that this Order shall be effective only after the entry in the probate division of an order approving the bond or other security required to administer the settlement and distribution provided in this Order, and given Padma Rao's refusal to sign the Release document and agreement to withdraw as Independent Administrator, that a Bank be substituted in by the probate Court to further effectuate the terms of this agreement including the execution of a Release.

Enter:

/s/ Thomas V. Lyons II
Judge

Date: September 10, 2018

**ORDER OF THE CIRCUIT COURT OF
COOK COUNTY, PROBATE DIVISION
(MAY 22, 2019)**

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT-PROBATE DIVISION

ESTATE OF BASAVAPUNNAMMA K. RAO,

Deceased.

Case No. 2013 P 6243

Before: Hon. James P. MURPHY, Judge Presiding.

This matter coming to be heard before this Court upon the presentation of the **Petition for Rule to Show Cause and Petition for Ruling on Report to the Court and Request for Direction**, the Court being fully advised of the matters herein;

IT IS HEREBY ORDERED:

1. The Petition for Rule to Show Cause related to the filing of the Final Account of Padma Rao is entered and continued to June 5, 2019 at 10:00. Proper Notice of the Rule to Show Cause shall issue;

2. Over the objection of Midland Trust Company as Successor Supervised Administrator, Padma Rao is given leave to file her Response to the Report to Court, instant;

3. After review of the Report to the Court and Padma Rao's Response thereto, Midland Trust Company, as the Successor Supervised Administrator is hereby authorized to withdraw the Motion to Vacate filed by Padma Rao, as the former Independent Administrator in Law Division Case #2014 L 12745 in the best interests of the Estate.

/s/ James P. Murphy
Judge
Judge's No. 1933

Date May 22, 2019

**ORDER OF THE CIRCUIT COURT OF
COOK COUNTY, PROBATE DIVISION
(JULY 2, 2019)**

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT–PROBATE DIVISION

ESTATE OF BASAVAPUNNAMMA K. RAO,

Deceased.

Case No. 2013 P 6243

Before: Hon. James P. MURPHY, Judge Presiding.

This matter coming to be heard before this Court upon the hearing related to: **Padma Rao's Motion to Reconsider Ruling on Midland Trust Request for Direction; Motion for Direction to Determine Padma Rao Disclaimed her Interest to any Recovery in Cook County Case No. 14 L 12745; Motion for Rule 137 Sanctions against Michael Steigmann and Padma Rao; Petition to Settle Cause of Action–Wrongful Death; Second Petition for Rule to Show Cause; Accounting of Padma Rao, former Independent and Supervised Administrator with Will Annexed**, the Court being fully advised of the matters herein;

IT IS HEREBY ORDERED:

1. Padma Rao's Motion to Reconsider is denied for the reasons on the record;

2. Motion for Direction to Determine Padma Rao Disclaimed her Interest is denied for the reasons on the record;

3. Motion for Rule 137 Sanctions against Michael Steigmann and Padma Rao is denied for the reasons stated on the record;

4. With the filing of Padma Rao's Accounting the Second Rule to Show Cause is withdrawn;

5. Padma Rao's Motion for Stay Pending an Appeal is denied with leave to refile;

6. Padma Rao's Petition for Partial Distribution is denied;

7. All parties are provided 30 days to object to the Accounting of Padma Rao; Padma Rao has 14 days in which to Respond to any Objections; All Replies shall be filed 14 days thereafter;

8. The Petition to Settle Cause of Action, any argument related to 304(A) language and all other matters are hereby continued to July 3, 2019 at 10:00 a.m.

/s/ James P. Murphy
Judge
Judge's No. 1933

Date July 2, 2019

ORDER OF THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS LAW DIVISION
(JULY 3, 2019)

IN THE CIRCUIT COURT OF COOK COUNTY,
ILLINOIS LAW DIVISION

MIDLAND TRUST COMPANY AS SUPERVISED
ADMINISTRATOR WITH WILL ANNEXED OF
THE ESTATE OF BASAVAPUNNAMMA
K. RAO, DECEASED,

Plaintiff,

v.

NORTHSHORE UNIVERSITY
HEALTHSYSTEM, ET AL.,

Defendants.

No. 2014 L 012745

Before: Hon. Thomas V. LYONS, II, Judge Presiding.

This matter coming before the Court upon presentation of **the Motion to Withdraw Motion to Vacate, Motions for Sanctions and Motions for Contempt of Court**, due notice being provided to all interested Parties, this Court having jurisdiction and being duly advised of all matters herein;

IT IS HEREBY ORDERED:

1. Midland Trust Company, not individually, but solely as the Court-appointed Successor Supervised Administrator with Will Annexed of the Estate of Basavapunnamma K. Rao, Deceased (“Estate”), is hereby granted leave to withdraw the Motion to Vacate, with prejudice; for the reasons stated on the record;

2. The Settlement Order entered by this Court on August 23, 2018 shall stand; for the reasons stated on the record;

3. The Distribution Order entered by this Court on September 10, 2018 shall stand; for the reasons stated on the record;

4. This matter is transferred back to the Probate Court (Cook County Case Number 2013 P 6243) for approval of the Settlement of the Lawsuit and to effectuate the Settlement Order entered August 23, 2018 and Distribution Order entered September 10, 2018, all pursuant to the provisions of the Joint Order of the Probate, Law, and Municipal Divisions entered in August, 2014;

5. The Motions for Sanctions and Motions for Contempt of Court are hereby entered and continued to July 16, 2019 at 9:00 a.m.; and

6. All parties involved with the Motion for Sanctions and Motions for Contempt of Court shall meet prior to July 16, 2019 to seek resolution.

/s/ Thomas V. Lyons, II
Judge
Circuit Court - 1986

Date July 3, 2019

**MOTION TO CONVERT* TO
SUPERVISED ADMINISTRATION
(NOVEMBER 16, 2018)**

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION

ESTATE OF BASAVAPUNNAMMA K. RAO,

Deceased.

No. 13 P 6243

NOW COMES ANITA RAO, by and through her attorneys Bielski Law Office, Ltd., and for her Motion to Convert to Supervised Administration, states as follows:

1. Decedent died testate and was survived by two daughters. Neither daughter was named executor in the Will.

2. Anita Rao, daughter, is as an heir and an interested person.

3. Padma Rao, daughter, is an heir and was appointed as Independent Administrator with Will Annexed.

4. Undersigned counsel for Anita Rao was recently retained by Anita Rao to represent her in the matter of *PADMA RAO, an Independent Administrator of the*

* Original Document was erroneously titled "Motion to Covert"

Estate of BASAVAPUNNAMMA K. RAO, deceased, v. NORTHSORE UNIVERSITY HEALTHSYSTEM, ROBERT VALLEAU, D.O., SHALINI RAVELLA, MD., and NORTHSORE UNIVERSITY HEALTHSYSTEM FACULTY PRACTICE ASSOCIATES d/b/a NORTHSORE UNIVERSITY HEALTHSYSTEM MEDICAL GROUP, Cook County Case No. 14 L 12745 (“Lawsuit”)

5. The Lawsuit is an asset of this Estate.

6. Filed contemporaneously with this motion is Anita Rao’s Petition to Remove Padma Rao as Independent Administrator. Anita Rao incorporates the allegations contain therein in this motion, but to summarize, Anita Rao alleges:

- A) Judge Lyons in the Lawsuit stated on the record he does not believe Padma Rao is suitable as representative;
- B) Padma Rao lied under oath in the Lawsuit before Judge Lyons;
- C) Padma Rao is wasting assets of the Estate, and her actions are directly threatening a \$2.1 million settlement reached in the Lawsuit;
- D) Padma Rao received an order of protection against Anita Rao. There is a severe conflict of interest having Padma Rao managing and overseeing money that Anita Rao is a beneficiary of; and,
- E) Counsel for Anita Rao discovered that Padma Rao, as administrator, allowed the *Estate of Musunuru S. Rao*, Cook County Case No 09 CH 1034, to lose approximately \$2 million in value, she paid herself \$155,000.00 in fees, and incurred approximately \$250,000.00 in

attorney's fees. This was done without proper notice to Anita Rao, who was an heir of Musunuru S. Rao.

7. Padma Rao is not cooperating with the Plaintiff's attorneys in the Lawsuit, and in fact being directly confrontational with them.

8. Anita Rao further demands that Padma Rao be compelled to file an itemized accounting of all receipts and disbursement in this Estate.

9. 755 ILCS 5/28-4 allows an interested person such as Anita Rao to petition this Court to terminate independent administrator. The Will, attached hereto as Exhibit A, does not mandate independent administration and there is good cause to convert to supervised administration.

10. This Estate requires supervision to protect the Estate beneficiaries, to prevent the wasting of assets, and to preserve the status quo.

WHEREFORE, Anita Rao requests this Honorable Court convert this matter to Supervised Administration, and for any other relief this court deems equitable and just.

Respectfully submitted,

ANITA RAO

By: /s/ John N. Bielski II
one of her attorneys
Bielski Law Office, Ltd.
53 W. Jackson Blvd., Suite 401
Chicago, IL 60604
(312) 583-9430
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**MOTION TO REMOVE PADMA RAO AS
INDEPENDENT ADMINISTRATOR
(NOVEMBER 16, 2018)**

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION

ESTATE OF BASAVAPUNNAMMA K. RAO,

Deceased.

No. 13 P 6243

NOW COMES ANITA RAO, by and through her attorneys Bielski Law Office, Ltd., and for her Motion to Remove Padma Rao as Independent Administrator of the Estate of Basavapunnamma K. Rao ("Estate") pursuant to 755 ILCS 5/23-2, states as follows:

1. Decedent died testate and was survived by two daughters. Neither daughter was named executor in the will.
2. Anita Rao, daughter, is an heir and an interested person.
3. Padma Rao, daughter, is an heir and was appointed as Independent Administrator with Will Annexed.
4. Undersigned counsel for Anita Rao was recently retained by Anita Rao to represent her in the matter of *PADMA RAO, an Independent Administrator of the*

Estate of BASAVAPUNNAMMA K. RAO, deceased, v. NORTHSORE UNIVERSITY HEALTHSYSTEM, ROBERT VALLEAU, D.O., SHALINI RAVELLA, MD., and NORTHSORE UNIVERSITY HEALTHSYSTEM FACULTY PRACTICE ASSOCIATES d/b/a NORTHSORE UNIVERSITY HEALTHSYSTEM MEDICAL GROUP, Cook County Case No. 14 L 12745 (“Lawsuit”).

5. The Lawsuit is an asset of this Estate.

6. Counsel was retained by Anita Rao because the Independent Administrator settled the lawsuit after numerous settlement conferences were held between the parties.

7. After agreeing to the settlement, Judge Lyons entered an order acknowledging the settlement in the amount of \$2.1 million on August 23, 2018. See attached Exhibit A.

8. The matter was continued to September 5, 2018. On that date, Padma Rao falsely claimed she never accepted the settlement and could not settle any case for any amount because her religious beliefs didn’t allow for settlement.

9. Padma Rao never voiced any claim that her religious beliefs didn’t allow for settlement prior to September 5, 2018, and allowed the parties, their attorneys, Judge Lyons, and retired Judge Panter to spend numerous days and hours in settlement conferences and incur thousands of dollars in fees and costs in reliance on her expressed agreement to participate in settlement conferences before making these claims.

Padma Rao Lied to Judge Lyons in Open Court

10. Padma Rao further falsely testified that she previously advised Judge Lyons that she had religious objections to settling the lawsuit. Judge Lyons was upset with the accusation, and flatly rejected any claim that Padma Rao raised any religious objections before September 5, 2018. Judge Lyons stated that Padma's representations to the Court were "factually inaccurate and easily dis-proven" as follow:

THE COURT: Then—okay. So this is the first time—okay. This—and I'm going to be very blunt here because I've dedicated hours and hours and hours to both settlement—in settlement discussions with you, with your attorneys, with other parties, other interested parties, other interested parties and defense attorneys, as well. For the first time today I'm hearing that Hinduism has come into effect.

We talked about different numbers, other numbers you had in mind, other numbers you had had in mind when you were with retired Judge Panter at the private mediation session, other numbers with me in the several sessions that we had. Your attorney was making phone calls to you when you were not—the time you couldn't be present, and never once was it brought to my attention that according to you now—for the first time I'm hearing that it's against the Hindu religion. And I find that incredible. Because you—you mentioned a figure of \$6 million at one point.

So at what point does the Hindu religion allow you to accept a settlement? Because you came up with a number of \$6 million at one point.

MS. PADMA RAO: Your Honor, I was—

THE COURT: And \$6 million was never offered, nor was anything approaching \$6 million offered.

MR. FALKENBERG: May I take two minutes to consult with my client, your Honor? I think it's important.

THE COURT: Sure. I think it's important that she be careful when she makes representations that are factually inaccurate and easily disproven.

MR. FALKENBERG: That's the basis but let me talk to her.

THE COURT: I think it's a wonderful idea, Mr. Falkenberg.

Report of Proceedings dated September 5, 2018, pages 21-23, attached hereto as Exhibit B.

**Judge Lyons Doubted That Padma Rao Is
Looking Out for the Best Interests of the Estate
and Questioned Whether She Is Qualified to
Be an Administrator**

11. Judge Lyons further questioned whether Padma was looking out for the best interests of the Estate, and inferred that she should be removed and replaced as the representative:

THE COURT: Okay. Far be it for me to do anything against your religious beliefs, which is

why I'm certain you never brought that up before. Because I don't do anything to interfere with anyone's religious beliefs, whatever they may be.

Under the circumstances, I don't believe I have a choice in this matter because your—if you don't want to participate in the settlement, that's fine. What I am inclined to do—and I'll let the attorneys weigh in on this. I'm inclined to transfer this to the presiding Judge of the probate division and suggest that you be removed as the administrator of this estate and someone else, perhaps your sister, replace you.

I'll hear from the attorneys if you have any other suggestions. Because I have to look out for the best interest of the estate.

Exhibit B, page 27.

12. Judge Lyons, in discussions with Plaintiff's counsel, stated that an administrator such as Padma Rao who refuses to settle a lawsuit for any reasonable amount, is not qualified to act as the representative of the Estate:

MR. FALKENBERG: I'd like to add one thing to what you're saying and why you're saying it for my client's benefit. If one is not willing to negotiate a reasonable settlement on behalf of the estate—

THE COURT: Whether it be for religious reasons or other reasons.

MR. FALKENBERG: —you're entitled to not want to do that. But if—but my—I think what the

judge is raising, and correct me if I'm wrong, Judge, is that if one is not willing to enter into a settlement that is reasonable for the estate, then one is not in a position that one can act as an administrator, independent administrator for the estate, do what's in the best interest. Because if you're saying if they offered 20, 30, 40, \$50 million—

THE COURT: Which, by the way, is not what was said this last week. Just so the record is clear, there were numbers out came out of the administrator's mouth.

MR. FALKENBERG: Understood, understood.

THE COURT: Okay.

MR. FALKENBERG: But my point is if you're saying no amount of money will settle the case, how can you act in the best interest of the estate is what his Honor is indicating, He's not indicating that you did last week is wrong, what he is indicating I believe is that he has concerns, and, again, correct me if I'm wrong your Honor, but concerns that if you cannot enter into a reasonable settlement now, or that's your position that you never could because of religious beliefs, then you're not an appropriate person to be appoint administrator and—

MR. RZEPCHYNSKI: And, your Honor, if I may. I did apprise my client of that being an option for you to take that—

The COURT: It's not an option. I'm willing to listen to other options. At this point, I'm not

sure I have much of a choice. Because if I have someone who's been appointed the administrator who is now telling me for the first time that her religious beliefs and her mother's religious beliefs prevent her from acting in that capacity.

Exhibit B, pages 28-30

13. The September 5, 2018 hearing was continued to September 10, 2018. Between the two hearings, numerous discussions were held among the respective parties about Padma Rao's role as administrator and the proposed distribution of the wrongful death proceeds.

14. During that period, Padma Rao, once again acknowledging the settlement and being represented by counsel, agreed to a 70/30 split of the wrongful death proceeds with her sister. See attached Exhibit C.

15. Padma Rao appeared before Judge Lyons On September 10, 2018. Padma Rao represented to Judge Lyons that she would step aside as Administrator and allow a bank to substitute in as an administrator. She further consented to allowing the bank to sign any necessary paperwork, affirmed her agreement to the 70/30 wrongful death distribution, and stated she had no objection to the proposed distribution order. This was confirmed in the Order entered by Judge Lyons as follows:

IT IS HEREBY ORDERED that this Order shall be effective only after the entry in the probate division of an order approving the bond or other security required to administer the settlement and distribution provided in this Order, and given Padma Rao's refusal to sign the Release document and agreement to

withdraw as Independent Administrator, that a bank be substituted in by the probate Court to further effectuate the terms of this agreement including the execution of a Release. (emphasis added)

Exhibit D, page 3.

16. After the September 10, 2018 hearing, counsel for this Estate and counsel for Anita Rao discussed appointing a bank as an administrator to replace Padma Rao. Paperwork was tendered to Anita Rao by the Estate's attorney to effectuate appointing the bank as an administrator in compliance with Judge Lyons's Order. Anita Rao signed the paperwork. As soon as Anita Rao signed the paperwork Padma Rao began filing new pleadings (through new counsel) alleging she never consented to the settlement, and never agreed to what she represented to the Law Division on September 10, 2018.

17. Padma Rao filed pleadings alleging Judge Lyons lied, that he "railroaded" her, and that Judge Lyons and her attorneys "cajoled, pressured" her "and made her participate in a process she did not want, never consented to, and tried desperately to exit." See Exhibit E.

**It Was Recently Discovered Padma Rao
Mismanaged Her Father's Estate**

18. Decedent was predeceased by her husband, Musunuru S. Rao.

19. Padma was the administrator of that Estate. Undersigned counsel, after being retained in this case, reviewed the Circuit Clerk's file for the *Estate of Musunuru S. Rao*, Cook County Case No 09 CH 1034.

The investigation continues, but from reviewing that file it appears that:

- A) Padma allowed that Estate to lose approximately \$2,000,000.00 in market value;
- B) Padma paid herself an administrator fee of \$155,000.00;
- C) Padma allowed that estate to incur over \$250,000.00 in attorney's fees; and,
- D) Padma Rao did not provide proper notice of the Estate (and Padma Rao's self-dealing) to her sister and heir, Anita Rao.

20. Anita Rao is proceeding with re-opening the Estate of Estate of Musunuru S. Rao.

21. Padma has a history of mismanaging and wasting estate assts.

22. Padma has never tendered an accounting to Anita Rao for her father's estate, or this estate.

23. The first time Anita Rao knew there was approximately \$6 million in this Estate was after undersigned counsel demanded to know the value of the Estate in September 2018.

**Padma Rao Should Not Be the Administrator
When She Has an Order of Protection Against
the Other Heir**

24. Padma Rao has an order of protection against Anita Rao. See attached Exhibit F. There is a severe conflict of interest in allowing an administrator who has order of protection against her sister to have any control over her sister's share of the Estate.

25. An administrator that has an adverse interest or hostility towards the distributees of the estate is not qualified to be an administrator. *See In re Estate of Abell*, 395 Ill.App.2d 1049, 269 N.E.2d 352 (1971).

**755 ILCS 5/23-2 Dictates That Padma Rao
Should Be Removed**

26. Judge Lyons has clearly lost in faith in Padma Rao's ability or qualifications to act as administrator. The Administrator is unsuitable for the discharge of her duties pursuant to 755 ILCS 5/23-2(9).

27. Padma Rao is wasting the assets of the Estate, and is acting in the reckless disregard of the interests of the Estate. The Administrator should be removed as Administrator pursuant to 755 ILCS 5/23-2(4) and (5).

28. Padma Rao is directly threatening a \$2.1 million settlement on behalf of the Estate.

29. Anita Rao does not want to be appointed as administrator, and has never expressed any desire to be an administrator.

30. A third-party bank, or an independent party of the Court's choosing, should be appointed as supervised administrator of this Estate. Anita Rao is proposing Midland Trust Company to administer the Estate. The petition to appoint Midland Trust Company is being sent out for signature, and will be tendered to the Court and counsel for Padma Rao.

31. Anita Rao has suffered attorney's fees and costs because of Padma Rao's misconduct.

32. There will be serious harm to this Estate if Padma Rao is allowed to remain as Administrator.

33. Pursuant to 755 ILCS 5/9-3, should Padma Rao be removed as administrator, she is not allowed to name a successor.

WHEREFORE, Anita Rao requests this Honorable Court remove Padma Rao as Independent Administrator, and appoint a third-party supervised administrator, Midland Trust Company, or a Court-appointed third-party, and for any other relief this Court deems equitable and just.

Respectfully submitted,

ANITA RAO

By: /s/ John N. Bielski II
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COLLOQUY OF JUDGE DEGLADO,
CIRCUIT COURT OF COOK COUNTY, ILLINOIS
(DECEMBER 19, 2018)

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION

IN RE THE ESTATE OF
BASAVAPUNNAMMA K. RAO,

Deceased.

No. 13 P 6243

Before: Honorable Kent A. DELGADO, Judge.

RECORD OF PROCEEDINGS before the HONORABLE KENT A. DELGADO, Judge of the Circuit Court of Cook County, Illinois, commencing at the hour of 11:46 o'clock a.m., on December 19, 2018, in the matter of above-entitled cause.

[. . .]

[December 19, 2018 Transcript, p. 22]

JUDGE DELGADO:

. . . It also shows me that she's a very determined person. And Ms. Rao is not a shrinking violet.

So based on that background that I have from Ms. Rao, the question now becomes not only is this a new revelation by Ms. Rao that she can't settle for

religious reasons—that's one question. And that question in and of itself, whether she can settle or not, is that in the best interests of the estate? Even if that was her position from the beginning and she let everybody know, can someone with a religious position still act in the best interests of the estate, and does that make them incapable or unsuitable to be the administrator?

But more than that, the question I also have to answer is, now she is stating that this has been her position the whole time, that she told her lawyers, that this was her position prior to any settlement negotiations. She states in her affidavit that she has always said that she wanted a jury trial and would never settle. She goes on to say, at this point, it's her position that she would never settle, even today.

So the question then is, did Ms. Rao do this? Well, I don't know that I could answer that. I don't know that I have enough evidence before me to answer whether or not she said those things. But it is clear to me that Ms. Rao, not being a shrinking violet, being a very determined woman, able to recount many different things in her life, able to help her mother, is she someone that would just sit by as attorneys railroaded her and Judge Lyons railroaded her, as she alleges in her affidavit? And I think the answer is no.

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.

And to me, that is what I'm considering. It's not whether it's a fair and reasonable offer. It might not be. Ms. Rao might be right. Maybe it should go to trial because the offer isn't fair. I don't know that. And I'm not here to decide that. But I think her actions, based on her background, tells me that in the past however long—it was opened in 2014. 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 belief is that they can never settle?

Because when you are the administrator 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 before I make my ruling, I want to let Ms. Rao know that I understand this is very difficult. And what you're going through, the loss of a parent, is very difficult. When it came the way that it came in your case, and you have a case up in the Law Division, it's very emotional, and it's very difficult, and I understand that.

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 to discharge the duties and whether there was waste or mismanagement, I found that both of those exist independently, but I can also consider them cumulatively when I decide 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.

That does not mean that I'm approving this settlement. It does not mean that I think Judge Lyons should approve this. I am making no rulings or

any findings regarding anything that happened before Judge Lyons. That's for Judge Lyons to decide. Whatever he wants to do, he can do.

I'm not—you're right. I'm not the appellate court. And I'm not here to rule on anything that Judge Lyons has said, anything that Judge Lyons has done. All I'm here to decide is whether I believe that Ms. Rao should be removed . . .

**PETITION TO CLARIFY THIS COURT'S
DECEMBER 19, 2018 RULING
(JANUARY 11, 2019)**

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION

ESTATE OF BASAVAPUNNAMMA K. RAO,

Deceased.

2013 P 6243

NOW COMES Padma Rao, as heir to the Estate of Basavapunnamma K. Rao, Deceased, by and through her attorneys Kerry R. Peck and Timothy J. Ritchey, of Peck Ritchey, LLC, and for her Petition to Clarify this Honorable Court's December 19, 2018 Ruling, states as follows:

BACKGROUND

1. That Padma Rao ("Petitioner") is presently a licensed Physician and Surgeon in the State of Illinois and the District of Columbia.
2. That in 2005 Petitioner left her position as a nuclear radiologist at Northwestern Memorial in order to provide assistance to her family overseas.
3. That this Honorable Court acknowledged at the December 19, 2018 Court proceeding that Petitioner has an impressive resume and is a very accomplished

woman. Please see the Record of Proceedings from December 19, 2018, specifically page 20, lines 14-16. attached hereto and made a part hereof as Exhibit A.

4. That this Honorable Court also acknowledged that Petitioner is a hard worker and very determined individual who stands up for her firm beliefs. Please see Exhibit A, specifically page 20, lines 19-20 and page 21, line 23.

5. That, as this Court correctly opined, the Petitioner has been through a lot and the experience and challenges of losing her mother has been very difficult for her and she is very emotionally invested in these legal proceedings. Please see Exhibit A, specifically page 25, lines 11-16.

6. That Petitioner was appointed as the Independent Administrator of the Estate of Basavapunnamma K. Rao, Deceased (the “Estate”).

7. That it is important to note that Petitioner was appointed as Administrator of the Estate and initiated the cause of action, relative to the Estate, in the Law Division, and has diligently pursued that action.

8. That on or around November 2018 Anita Rao, daughter of Basavapunnamma K. Rao (the “Decedent”), heir and interested party filed a Motion to Remove Padma Rao as Independent Administrator.

9. That on December 19, 2018 this Honorable Court heard arguments on Anita Rao’s Motion to Remove Padma Rao as Independent Administrator.

10. That on December 19, 2018, Anita Rao submitted to this Honorable Court a petition for Midland Trust Company (“Midland Trust”) to be appointed as the administrator of the Estate.

11. That on December 19, 2018, this Honorable Court entered an Order removing Padma Rao as administrator, appointing Midland Trust as Supervised Administrator of the Estate with the condition that Midland Trust tender a memorandum to the Court detailing the steps it will take to administer the Estate and remain fair and impartial. Please see the December 19, 2018 Order attached hereto and made a part hereof as Exhibit B.

12. That the December 19, 2018 Order also stated that Midland Trust is not authorized to take any action relative to settlement negotiations or otherwise in the Law Division until further order of court. Please see Exhibit B, specifically paragraph 4.

13. That there is an ongoing cause of action in the Circuit Court of Cook County, Law Division, which was filed by Padma Rao, on behalf of this Estate.

14. That on August 23, 2018, the Honorable Judge Thomas Lyons entered an order with respect to a purported settlement.

15. That there is a Motion to Vacate, filed by the Padma Rao, as Administrator of this Estate, pending in the Law Division matter. Please see the Motion to Vacate attached hereto and made a part hereof as Exhibit C.

16. That since Petitioner has been removed as Administrator of the Estate, Midland Trust is required to substitute into the Law Division action and address the pending Motion to Vacate.

17. That Midland Trust is also required to take a fresh look at the issues at hand, conduct its own

analysis of the Law Division matter, and submit a memorandum to this Court relative to the same.

18. That Midland Trust is further required to seek authority as Supervised Administrator of this Estate from this Court.

19. That Petitioner is receptive to this Court's December 19, 2018 ruling, specifically that this Court is not looking to "appoint someone to rubber stamp the settlement" and believes that someone needs to review this matter "with fresh eyes." Please see Exhibit A, specifically page 27, lines 20-23.

20. That, accordingly on that issue, Petitioner seeks to confirm the parameters of the December 19, 2018 ruling and the process moving forward.

PETITION TO CLARIFY RULING

21. That while Petitioner does not agree with being removed as administrator of the Estate, she recognizes and appreciates this Court's commitment to supervising Midland Trust and ensuring a fair and impartial review.

22. That Petitioner has a deadline of January 18, 2019 to appeal her removal as Administrator of the Estate.

23. That, however, Petitioner is considering foregoing her right to an appeal depending on confirmation that this Court will supervise Midland Trust in its analysis of the Estate matters, including the Law Division action.

24. That Petitioner also seeks clarification as to her standing and role in the review of the Law Division

action, including the pending Motion to Vacate, and Estate proceedings.

25. That this Petition is brought in an effort to resolve numerous pending issues and potentially avoid filing an appeal and avoid further disputes in the Law Division matter.

26. That based on the December 19, 2018 court proceedings, it is Petitioner's understanding that this Honorable Court's goal and objective is to have Midland Trust perform an assessment of the Estate with "fresh eyes" through an impartial lens. Please see Exhibit A, specifically page 27, line 23.

27. That it is also Petitioner's understanding that this Court will oversee and supervise Midland Trust's fresh assessment.

28. That Petitioner wants to ensure that this Court has all of the necessary information and evidence in order to perform a comprehensive review of Midland Trust's proposed action.

29. That, in turn, Petitioner wants to be certain that this Honorable Court is aware of relevant information as essential to this Court's supervision, oversight and review of Midland Trust.

30. That, as this Estate is now in supervised administration, Petitioner desires to provide this Court any and all relevant evidence in order to assist this Court in its review of Midland Trust's memorandum and approach moving forward in the Law Division.

31. That, further, based on the December 19, 2018 court proceedings, it is Petitioner's understanding that this Court does not desire for a new administrator to be appointed and simply seek to "rubber stamp the

settlement” for the Law Division matter. Please see Exhibit A, specifically page 27, line 21.

32. That Petitioner has been closely involved with this Estate since its inception and possesses critical information which will aid and assist this Court in its supervision and ensure that a settlement is not simply rubber stamped.

33. That, for example, Petitioner was present during settlement conferences and prior court proceedings and had an opportunity to review and analyze documents obtained through discovery requests.

34. That it is essential for Petitioner to paint the full picture for this Court and present evidence as to why the purported settlement does not provide sufficient justice for Petitioner’s mother, the Decedent.

35. That Petitioner perceives this Court’s emphasis on a fresh, fair and impartial review as efficient means to advance the administration of this Estate.

36. That, however, Petitioner wants to ensure that she has standing and will have an opportunity to object and present evidence to reach a resolution as to whether the Estate should pursue the Motion to Vacate the purported \$2,100,000.00 settlement or withdraw said motion in the Law Division.

37. That Petitioner seeks confirmation that this Court will provide direction to Midland Trust, after a review of the matter, as to whether or not to proceed with the pending Motion to Vacate.

38. That Petitioner’s fundamental objective is to ensure this Court is fully apprised of the history and background of Estate matters in order to reach a decision that is in the best interest of the Estate.

39. That 755 ILCS 5/1-2.11 defines an “interested person” in relation to any particular action or proceedings under the Probate Act as 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 award and the representative. (Emphasis Added).

755 ILCS 5/1-2.11.

40. That Petitioner is an heir to this Estate and therefore qualifies as an interested person under the Probate Act.

41. That, as such, it is Petitioner’s position that she has a right to have her voice heard, participate and object in proceedings and present evidence to this Court to support her positions.

42. That if this Court can confirm that Petitioner has a right to have an active role in the Court’s review of Midland Trust and the Court’s review of Estate administration, and in the direction this Court will provide Midland Trust as to the pending Motion to Vacate, or any petition related to the Law Division action, then Petitioner is likely to forgo the appeal of her removal and the appointment of Midland Trust, as well as, her continued action in the Law Division.

43. That Petitioner desires to avoid any unnecessary delays and would like to have all matters consolidated and efficiently addressed.

WHEREFORE, Padma Rao, as heir of the Estate of Basavapunnamma K. Rao, Deceased, respectfully

requests that this Honorable Court enter an order stating:

- 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; and
- D. Any further relief that this Honorable Court deems reasonable and just under the circumstances.

Respectfully Submitted,

Padma Rao, as heir of the Estate of
Basavapunnamma K. Rao, Deceased

/s/ {Illegible}

By: One of her Attorneys

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**PADMA RAO'S MOTION TO RECONSIDER
RULING ON MIDLAND TRUST
REQUEST FOR DIRECTION
(MAY 30, 2019)**

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION

ESTATE OF BASAVAPUNNAMMA K. RAO,

Deceased.

No. 2013 P 6243

Before: Hon. James P. MURPHY, Judge Presiding.

This court failed to address controlling law in *Hudson, Will*, and *Lis* requiring an administrator to carry out the decedent's wishes, and thus Padma Rao ("Padma") files this Motion to Reconsider the Court's decision on the Midland Trust Company ("MTC") Request for Direction.

On May 22, 2019, this Court allowed MTC's request to withdraw a Motion to Vacate a medical malpractice settlement in the Law Division, over Padma's objection. The Motion to Vacate asserts that the purported settlement agreement was improper, coerced, and does not follow the wishes of decedent. After MTC was appointed Supervised Administrator, in charge of prosecuting the Law Division matter, MTC asked this Court for instruction on whether to withdraw the

Motion to Vacate after MTC filed a Report stating that the settlement was financially fair. Padma objected that the settlement violated the wishes of decedent—a fact which is undisputed—and thus under Illinois law was not in the best interests of the Estate, requiring the Motion to Vacate to proceed. On May 22, the Court noted that MTC was appointed as independent administrator, and then the Court followed MTC's recommendation to allow MTC to withdraw the Motion to Vacate. The Court did not comment at all on how Illinois law requires an administrator to carry out the decedent's wishes.

ARGUMENT

Because Illinois law mandates that the administrator follows the wishes of the decedent to secure the best interests of the Estate, this Court's ruling failed to implement Illinois law and properly supervise MTC as a supervised administrator. Instead, the Court's reasoning is entirely circular and based on an incorrect premise—that having appointed MTC as administrator, the Court was obliged to follow MTC's recommendation and surrender its supervisory role completely.

However, when MTC's recommendation completely ignores Illinois law requiring the administrator to carry out the wishes of decedent, this is precisely the situation that requires oversight by this Court in its supervisory role to ensure that MTC follows Illinois law. It is undisputed that the First District has repeatedly held that it is the duty of the administrator to "carry out the wishes of the decedent" in order to act in the best interests of the estate. *Estate of Hudson by Caruso v. Tibble*, 99 N.E.3d 105, 112 (1st Dist. 2018); *Will v. Northwestern Univ.*, 378 Ill. App. 3d 280, 291

(1st Dist. 2007); *In re Estate of Lis*, 365 Ill. App. 3d 1, 9 (1st Dist. 2006). There is also no factual dispute that the purported settlement would fail to carry out the wishes of the decedent, and this Motion to Reconsider incorporates Padma's Response and Objection in its entirety.

Accordingly, Padma requests that this court properly exercise its supervisory authority and squarely address this crucial issue. In its decision here on the MTC request for direction, this Court should either: 1) require MTC to follow Illinois law requiring the administrator to carry out the wishes of decedent, and thus allow the Motion to Vacate to proceed; or 2) address the law and state that this Court disagrees with *Hudson*, *Will*, and *Lis*, and thus the Court chooses to allow administrator MTC to ignore the decedent's wishes and withdraw the Motion to Vacate. While Padma believes choice two would be legally improper, at least this Court would not be abdicating its supervisory role, and its legal grounds would be clearly stated for appeal.¹

WHEREFORE, Padma requests the Court direct MTC to proceed on the Motion to Vacate.

¹ Particularly where MTC moved to request a ruling for May 22, 2019 without giving Padma proper notice, fairness and due process concerns further counsel this Court to carefully and adequately state its grounds for its finding.

Res.App.46a

By: /s/ Michael Steigmann
190 S. LaSalle St., Suite 2100
Chicago, IL 60603
312 833-5945
Atty Id. 43711

**MTC'S RESPONSE TO PADMA RAO'S MOTION
TO RECONSIDER RULING ON MIDLAND TRUST
REQUEST FOR DIRECTION
(JUNE 19, 2019)**

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION

ESTATE OF BASAVAPUNNAMMA K. RAO,

Deceased.

No. 2013 P 6243

Before: Hon. James P. MURPHY, Judge Presiding.

NOW COMES Midland Trust Company ("MTC"), not individually, but solely as the Court-appointed Successor Supervised Administrator with Will Annexed ("Successor Supervised Administrator") of the Estate of Basavapunnamma K. Rao, Deceased ("Estate"), by and through its attorneys, FMS Law Group LLC, and presents its **Response to Padma Rao's Motion to Reconsider Ruling on Midland Trust Request for Direction**. In support thereof, the Successor Supervised Administrator respectfully states as follows:

BACKGROUND FACTS

1. On October 17, 2013, Basavapunnamma K. Rao ("BK") passed away, leaving a Will dated February 29,

1980 (“Will”). A true and accurate copy of the Will is attached hereto as Exhibit A.

2. On November 25, 2013, this Court admitted the Will to probate and appointed BK’s daughter, Padma Rao (“Padma”), as Independent Administrator with Will Annexed.

3. On December 8, 2014, Padma, as Independent Administrator with Will Annexed, 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. 2014 L 12745 (“Law Division Proceedings”).

4. On August 22, 2018, after a pre-trial conference with Judge Thomas V. Lyons, II (“Judge Lyons”), who is the presiding judge overseeing the Lawsuit in the Law Division Proceedings, Judge Lyons entered an Order voluntarily dismissing, with prejudice, Dr. Robert Valleau, D.O., Dr. Shalini Ravella, M.D. and Dr. Lamenta S. Conway, M.D. The August 22, 2018 Order further stated that the Lawsuit shall continue as to the remaining Defendants, being Northshore and Dr. Patrick Lay, M.D.

5. On August 23, 2018, after the culmination of mediation with retired judge Michael Panter (“Judge Panter”) and ongoing pre-trial conferences with Judge Lyons, Judge Lyons entered an Order, which stated in part, that: (i) Padma, acting as Independent Administrator of the Estate, has agreed to accept the Defendants’ \$2,100,000.00 (“\$2.1 Million”) settlement (“Settlement”); and (ii) the 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.”

6. On September 5, 2018, the remaining Parties to the Lawsuit appeared before Judge Lyons on the original scheduled trial date. During the September 5, 2018 hearing, Padma submitted an *ex parte* communication to Judge Lyons, which stated that “I did not and do not assent to settlement. I wish to go to trial.”

7. It was also during the September 5, 2018 hearing that Padma first alleged that she was not able to settle the Lawsuit due to BK’s Hindu beliefs. Judge Lyons quickly admonished Padma for alleging she 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.

8. After a lengthy discussion on the record, Judge Lyons ordered that the terms of the August 23, 2018 Settlement of \$2.1 Million would stand and instructed the Parties to return on September 10, 2018 for presentation of the proposed Petition for Distribution pursuant to the August 23, 2018 Settlement Order.

9. On September 10, 2018, Judge Lyons entered a detailed, three (3) page Distribution Order which, in part: (i) approved the total Settlement of \$2.1 Million and found that the Settlement was fair and reasonable; (ii) approved attorney fees and costs of Karlin, Fleisher & Falkenberg (“KFF”) 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 Claim and distribution

of the Wrongful Death proceeds in the amount of \$221,430.13 to Padma; (v) approved the Wrongful Death Claim and distribution of the Wrongful Death proceeds in the amount of \$94,898.62 to Anita; (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 of the Estate to allow a Bank to substitute in on behalf of the Estate to execute any Release documents to finalize the Settlement and Lawsuit.

10. On October 10, 2018, Padma, as Independent Administrator with Will Annexed, filed a *Motion to Vacate* on behalf of the Estate in the Law Division Proceedings. Based on Padma's allegation of BK's alleged 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).

11. On November 29, 2018, on the petition of BK's other daughter, Anita Rao ("Anita"), this Court converted the Estate to Supervised Administration and modified Padma's role from Independent to Supervised Administrator with Will Annexed.

12. On December 19, 2018, this Court found Padma to be incapable and unsuitable to act as the Administrator of the Estate and removed Padma as Supervised Administrator with Will Annexed for engaging in waste and mismanagement of the Estate. As a result, on December 19, 2018, this Court appointed MTC as Successor Supervised Administrator with Will Annexed.

13. On January 15, 2019, this Court ordered MTC to investigate whether the \$2.1 Million Settlement of the Lawsuit in the Law Division Proceedings was fair, reasonable and in the best interests of the Estate.

14. On April 2, 2019, MTC, under seal for confidentiality purposes, provided all interest parties and a courtesy copy to this Court of its detailed *Report to the Court and Request for Direction* (“Report to Court”), which Report to Court: (a) concluded that the \$2.1 Million Settlement is fair, reasonable, and in the best interests of the Estate and that the Settlement should be approved by the Court; and (b) sought direction and authority from the Court to withdraw the Motion to Vacate, with prejudice, filed in the Law Division Proceedings by Padma, as the former Independent Administrator with Will Annexed.

15. On April 11, 2019, this Court entered an Order granting Padma 28 days (*i.e.*, until May 9, 2019) to respond or otherwise plead to the Report to the Court.

16. Because Padma had failed to file a responsive pleading to the Report to the Court by the May 9, 2019 deadline, on May 16, 2019, MTC filed its *Petition for Ruling on Report to the Court and Request for Direction* (“Petition for Ruling”), 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.

17. Also on May 16, 2019, MTC filed and provided to Padma its *Notice of Motion of the Petition for*

Ruling, which was to be presented to this Court for approval on May 22, 2019.

18. On May 22, 2019, over the objection of MTC, this Court entered an Order giving Padma leave to file her Response and Objection to MTC's Report to Court, instanter, and, notwithstanding Padma's filed Response and Objection to MTC's Report to Court, after oral argument, in the best interests of the Estate, this Court authorized MTC, as Successor Supervised Administrator with Will Annexed, to withdraw the Motion to Vacate filed by Padma, as former Independent Administrator with Will Annexed, that was still pending in the Law Division Proceedings.

19. On May 30, 2019, Padma filed her *Motion to Reconsider Ruling on Midland Trust Request for Direction* ("Motion to Reconsider"), requesting that this Court direct MTC to proceed on the Motion to Vacate in the Law Division Proceedings.

LEGAL STANDARD—MOTION TO RECONSIDER

20. Under Section 2-1203(a) of the Illinois Code of Civil Procedure, a party may file a motion to reconsider within 30 days after an order is entered. 735 ILCS 5/2-1203(a). The purpose of a motion to reconsider is to bring to the trial court's attention: (a) newly discovered evidence not available at the time of hearing; (b) changes in the law; or (c) errors in the court's previous application of existing law. The decision to grant or deny a motion to reconsider lies within the trial court's discretion. *Stringer v. Packaging Corp. of America*, 351 Ill.App.3d 1135, 815 N.E.2d 476, 278 Ill.Dec. 73 (Ill. App., 2004).

21. Section 2-1203 does not allow a party to file a motion to reconsider the Court's ruling simply because he/she does not like the outcome and wants the Court to re-examine the issues. Rather, Illinois case law limits motions to reconsider to a few distinct situations. *First*, a party may bring a motion to reconsider if he finds newly discovered evidence that existed at the time of the hearing which would help his case. However, if a party was able to discover this evidence prior to the hearing and simply failed to do so, the Court has the discretion to deny the motion to reconsider and let the ruling stand. *Second*, a party may file a motion to reconsider within 30 days if there has been a change in the law within that time frame. *Third*, a party may bring a motion to reconsider if the Court has made an error in applying the law. Thus, a Motion to Reconsider is not a weapon to be used to change the Court's mind, but rather, is a tool that can be used in the rare instances where new evidence comes to light, the law changes, or the Court has made a mistake.

ARGUMENT

22. Padma's Motion to Reconsider neither raises newly discovered evidence not available at the time of hearing nor does it raise changes in the law. Rather, Padma's Motion to Reconsider is based on her incorrect argument that this Court erred in its application of existing law by allegedly ignoring Illinois law requiring an administrator to "carry out the wishes of the decedent" when it authorized MTC, as Successor Supervised Administrator, to withdraw the Motion to Vacate in the Law Division Proceedings in the best interests of the Estate. (*See* Padma's Motion to Reconsider, Page 2)

23. This Court, however, did not err in its previous application of existing law in authorizing MTC, as Successor Supervised Administrator, to withdraw the Motion to Vacate in the Law Division Proceedings in the best interests of the Estate for the following reasons:

A. The Will Controls with Respect to the Wishes of a Decedent.

24. Relying on the *Lis*, *Will*, and *Hudson* cases, Padma asserts that Illinois law requires an administrator to carry out the wishes of the decedent in order to act in the best interests of the estate. (Motion to Reconsider, Page 2)

25. The *Lis* court stated as follows with respect thereto:

“The purposes of administering an estate are to conserve the personal assets of the estate, including the collection of all debts due to the decedent; to pay all debts and taxes owed by the decedent and her estate; and to properly distribute the residue among the heirs at law according to the terms of the will or, absent a will, the statute of descent and distribution. [omit internal citations] In this regard, generally it is the duty of an executor or administrator to perform these tasks [omit internal citations] and, in so doing, she should carry out the wishes of the decedent and act in the best interest of the estate.” [emphasis added] *In re Estate of Lis*, 847 N.E.2d 879, 886 (Ill. App. 2006).

Thus, to summarize and clarify, the *Lis* line of cases requires an administrator to administer the estate

(i.e., conserve estate assets, pay debts and taxes, and distribute the estate pursuant to the will or, absent a will, to the heirs), and in so doing, an administrator should carry out the wishes of the decedent and act in the best interests of the estate.

26. The wishes of a decedent are best evinced by a decedent's last will and testament. All extrinsic evidence and rules of construction will first yield to the intent of the settlor or testator that is evidenced within the four corners of the document. *See, e.g., In re Estate of Kirchwehm*, 211 Ill.App.3d 1015, 570 N.E.2d 851, 156 Ill.Dec. 375 (1st Dist. 1991).

27. It is well-settled law in Illinois that if a will or trust is unambiguous, parol or extrinsic evidence cannot be used to interpret its meaning. *See, e.g., In re Estate of Hurst*, 329 Ill.App.3d 326, 769 N.E.2d 55, 64, 263 Ill.Dec. 853 (4th Dist. 2002); *In re Estate of Steward*, 134 Ill.App.3d 412, 480 N.E.2d 201, 203, 89 Ill.Dec. 315 (2d Dist. 1985); *Fifth Third Bank, NA. v. Rosen*, 2011 IL App (1st) 093533, ¶ 24, 957 N.E.2d 956, 354 Ill.Dec. 362.

28. BK's Will is unambiguous and provides clear direction by authorizing her Executor/Trustee:

“1. TO SELL, CALL in and convert into money all of my estate not consisting of money and which I have not specifically bequeathed at such times and upon such terms as my Trustee in his absolute discretion may decide upon.” (Exhibit A, Paragraph 1) (emphasis added).

Thus, pursuant to Paragraph 1 of the Will, BK's Executor/Trustee, at such times and upon such terms as he or she in his or her absolute discretion may

decide upon, may convert the Estate's interest in the Lawsuit into money via the Settlement.

29. Additionally, BK's Will is absolutely silent as to any of BK's alleged religious wishes/beliefs, including any alleged refusal to settle claims (such as the Lawsuit) based on religious beliefs.

30. Here, as BK's Will is clear and unambiguous related to the Executor/Trustee's authority to settle claims and is silent regarding BK's alleged religious wishes/beliefs, this Court need not look beyond the plain language of BK's Will to resolve an ambiguity. *Northern Trust Co. v. Winston*, 32 Ill.App.3d 199, 336 N.E.2d 543, 548 (1st Dist. 1975) (The instrument must be sufficiently unclear to justify a court looking beyond such instrument's plain language to resolve an ambiguity).

31. Further, Padma cannot create an alleged ambiguity in BK's Will and open the door for parol evidence as to BK's alleged religious wishes/beliefs simply by alleging that BK did not intend to say what is otherwise clearly stated in BK's Will. *In re Estate of Romanowski*, 329 Ill.App.3d 769, 771 N.E.2d 966, 972, 265 Ill.Dec. 8 (1st Dist. 2002) (A party cannot create an ambiguity and open the door for parol evidence simply by alleging that the drafter did not intend to say what is otherwise clearly stated in the document).

B. Padma's Testimony Is Barred by the Dead Man's Act.

32. Padma disingenuously characterizes as "undisputed" BK's alleged wish to have a public jury trial decide justice in the event of her death instead of

obtaining a closed-door settlement with no admission of wrongdoing. (Response to Petition for Ruling, Page 5)

33. As an initial matter, BK's alleged religious wishes/beliefs concerning settlement of litigation are not undisputed, as Padma characterizes in her Response. Even if they were allegedly undisputed, Padma's testimony concerning BK's alleged religious wishes/beliefs concerning settlement is barred by the Dead Man's Act, which provides, in relevant part, that:

"In the trial of any action in which any party sues or defends as the representative of a deceased person. . . . , no adverse party or person directly interested in the action shall be allowed to testify on his or her own behalf to any conversation with the deceased. . . . or to any event which took place in the presence of the deceased. . . . except in the following instances:

- (a) If any person testifies on behalf of the representative to any conversation with the deceased. . . . or to any event which took place in the presence of the deceased. . . . , any adverse party or interested person, if otherwise competent, may testify concerning the same conversation or event." 735 ILCS 5/8-201.

34. Illinois law provides that the purpose of the Dead Man's Act is to "protect decedents' estates from depletion based on perjured testimony since it was considered that a party would be prone to testify falsely when such testimony cannot be directly contradicted". *Fleming v. Fleming*, 85 Ill.App.3d 532, 538, 40 Ill.Dec. 676, 680 (1980). Thus, objections based upon the Dead Man's Act are the right of a representative of

the estate, not the adverse party. *Popham v. Taff (In Re Estate of Sewart)*, 274 Ill.App.3d 298, 210 Ill.Dec. 175, 652 N.E.2d 1151 (1995).

35. Padma is no longer a representative of the Estate that can be excepted from the bar of the Dead Man's Act. Here, Padma, as the Respondent with respect to MTC's Report to Court and Petition for Ruling, is an adverse party or person directly interested in the action. Thus, Padma's testimony is barred by the Dead Man's Act, and Padma is prohibited from testifying about any conversations or events that took place in BK's presence, including but not limited to BK's alleged religious beliefs/wishes, no of which are expressed in the Will.

36. Thus, not only is Padma's attempted introduction of extrinsic testimony improper (given that there is no ambiguity in BK's Will), Padma's testimony is barred by the Dead Man's Act.

C. The Probate Act Specifically Authorizes MTC, as Successor Supervised Administrator, by Leave of the Court and Upon Such Terms as the Court Directs, to Settle the Lawsuit.

37. Certain provisions of the Probate Act, 755 ILCS 5/1-1, *et seq.*, apply to an estate under Supervised Administration and do not restrict application thereof based on the terms of the will. Specifically, for example, with respect to the compromise of claims or any interest the decedent has in any personal estate, Section 19-8 ("Compounding, compromising or exchanging personal estate") provides as follows:

“By leave of court without notice or upon such notice as the court directs, a representative may compound or compromise any claim or any interest of the ward or the decedent in any personal estate or exchange any claim or any interest in personal estate for other claims or personal estate upon such terms as the court directs.” 755 ILCS 5/19-8 [emphasis added]

38. Thus, under Section 19-8 of the Probate Act, MTC, as Successor Supervised Administrator with Will Annexed, by leave of the Court and upon such terms as the Court directs, may settle the Lawsuit pending in the Law Division Proceedings.

39. In the case at bar, pursuant to Section 19-8 of the Probate Act, MTC, as Successor Supervised Administrator of the Estate, properly presented to this Court its Report to the Court on the proposed Settlement and sought this Court’s approval of the proposed Settlement in its Petition for Ruling. Further, although not required by Section 19-8 to do so unless directed by the Court, MTC provided Padma with notice of its Petition for Ruling.

40. The Report to Court was prepared by MTC after its thorough and independent investigation to determine whether the proposed Settlement of the Lawsuit was fair, reasonable, and in the best interests of the Estate. (Report to Court, ¶ 25) Specifically, the Report to Court included: (a) an independent investigation of the Settlement, including a review of all pleadings and interviews of relevant parties (Report to Court, ¶¶ 26-40); and (b) two (2) independent professional expert legal opinions as to whether the Settlement is fair, reasonable, and in the best interests

of the Estate (Report to Court, ¶¶ 41-52). Based on the foregoing, MTC concluded that the \$2.1 Million Settlement was fair, reasonable and in the best interests of the Estate and recommended that the Settlement should be approved by this Court. (Report to Court, ¶ 59)

41. On May 22, 2019, after oral argument, pursuant to Section 19-8 of the Probate Act and the recommendations in MTC's independent and detailed Report to Court, this Court entered an Order stating as follows, specifically determining that to do so was in the best interests of the Estate:

“3. After review of the Report to the Court and Padma Rao's Response thereto, Midland Trust Company, as the Successor Supervised Administrator, is hereby authorized to withdraw the Motion to Vacate filed by Padma Rao, as former Independent Administrator in Law Division Case #2014 L 12745 in the best interests of the Estate.”

CONCLUSION

Padma's Motion to Reconsider must be denied because: (i) it does not raise newly discovered evidence not available at the time of hearing; (ii) it does not raise changes in the law; and (iii) there were no errors in this Court's previous application of existing law, as: (a) BK's Will is unambiguous in that it fails 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, at such times and upon such terms as he or she in his or her absolute discretion may decide upon, to convert the Estate's interest in the Lawsuit into money via the Settlement; (b) any attempted testimony by Padma as

to BK's alleged religious wishes/beliefs and alleged wishes related to settling claims, including, but not limited to the Lawsuit, is barred by the Dead Man's Act; and (c) pursuant to Section 19-8 of the Probate Act, MTC, as Successor Supervised Administrator with Will Annexed, by leave of the Court and upon such terms as the Court directs, was authorized to withdraw the Motion to Vacate in the Law Division Proceedings and to settle the Lawsuit pending in the Law Division Proceedings in the best interests of the Estate.

WHEREFORE, Midland Trust Company, not individually, but solely as Successor Supervised Administrator with Will Annexed of the Estate of Basavapunnamma K. Rao, Deceased, respectfully requests that this Court enter an Order:

- A. denying Padma Rao's *Motion to Reconsider Ruling on Midland Trust Request for Direction*;
- B. for any other direction as the Court deems just and appropriate.

Respectfully Submitted,

**Midland Trust Company, not individually,
but solely as Successor Supervised
Administrator with Will Annexed of the
Estate of Basavapunnamma K. Rao, Deceased**

/s/ Mark R. Singler

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**MTC ANSWER TO THE APPELLANT
PETITION FOR LEAVE TO APPEAL PURSUANT
TO SUPREME COURT RULE 315
(MAY 28, 2020)**

IN THE
SUPREME COURT OF THE STATE OF ILLINOIS

IN RE THE ESTATE OF
BASAVAPUNNAMMA K. RAO,

Deceased.

PADMA RAO,

Petitioner-Appellant,

v.

MIDLAND TRUST COMPANY,

Respondent-Appellee.

No. 125994

Appellate Case No. 1-19-1427

Dates of Orders: February 20, 2020 & April 6, 2020

On Appeal from Circuit Court of
Cook County, Probate Division

Circuit Court Case No. 13 P 6243

Hon. James P. Murphy, Judge Presiding

**Answer to 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**

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**ANSWER OF MIDLAND TRUST COMPANY, AS SUCCESSOR
SUPERVISED ADMINISTRATOR WITH WILL ANNEXED OF
THE ESTATE OF BASAVAPUNNAMMA K. RAO, DECEASED,
TO PADMA RAO'S 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**

Respondent, Midland Trust Company, not individually, but solely as Successor Supervised Administrator with Will Annexed of the Estate of Basavapunnamma K. Rao, Deceased, by and through its attorneys, FMS Law Group LLC, hereby files this Answer to Padma Rao's 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 ("Petition") and respectfully requests denial of said Petition, stating in support thereof as follows:

STATEMENT OF FACTS

Probate Proceedings

This instant Petition arises from a decedent's estate probate proceeding, the Estate of Basavapunnamma K. Rao, Deceased ("Estate"), in the Circuit Court of Cook County, Probate Division, Case No. 2013 P 624 ("Probate Proceedings"). On October 17, 2013, Basavapunnamma K. Rao ("BK") died unmarried (C.41) and was survived by two (2) adult heirs, namely, her daughters, Anita Rao ("Anita") and the Petitioner, Padma Rao ("Padma"). (C.65) On November 25, 2013, in the Probate Proceedings, BK's Will dated February 29, 1980 ("BK's Will") was admitted to probate and Padma was appointed as Independent Administrator with Will Annexed of the Estate. (C.62-63)

Lawsuit in Law Division Proceedings

On or about December 8, 2014, Padma, as the then Independent Administrator of the Estate, filed a medical malpractice lawsuit (“Lawsuit”) against North-Shore University HealthSystem and four of its employee physicians in the Circuit Court of Cook County, Law Division, Case No. 2014 L 12745 (“Law Division Proceedings”).¹ The Probate Court was informed of the existence of the Lawsuit in the Law Division Proceedings on or about August 12, 2015. (C.271) On August 23, 2018, after the culmination of mediation with retired judge Michael Panter and ongoing pre-trial conferences with Judge Thomas V. Lyons, II (“Judge Lyons”), who was the presiding judge overseeing the Lawsuit in the Law Division Proceedings, Judge Lyons entered an Order (“Settlement Order”), which stated in part, 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.” (C.356) On September 5, 2018, the remaining Parties to the Lawsuit appeared before Judge Lyons on the original scheduled trial date. During the September 5, 2018 hearing, Padma submitted an *ex parte* communication to Judge Lyons, which stated that “I did not and do not assent to settlement. I wish to go to trial.” (C.359: Page 5, Lines 9-24) It was also during

¹ Respondent respectfully requests that this Court take judicial notice of the pleadings, orders, papers and proceedings in the Law Division Proceedings (Circuit Court of Cook County, Law Division, Case No. 2014 L 12745). Illinois Rule of Evidence 201; 735 ILCS 5/8-1002.

the September 5, 2018 hearing that Padma first alleged that she was not able to settle the Lawsuit due to BK's Hindu beliefs. (C.361: Page 13, Lines 6-24; C.363: Page 21; Lines 13-21) Judge Lyons quickly admonished Padma for alleging that she 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. (C.362-364) After a lengthy discussion on the record, Judge Lyons ordered that the terms of the August 23, 2018 Settlement of \$2.1 Million would stand and instructed the Parties to return on September 10, 2018 for presentation of the proposed Petition for Distribution pursuant to the August 23, 2018 Settlement Order. (C.368) On September 10, 2018, with Padma's approval, Judge Lyons entered a detailed, three (3) page Distribution Order ("Distribution Order") which, in part: (i) approved the total Settlement of \$2.1 Million and found that the Settlement was fair and reasonable; (ii) approved attorney fees and costs of Karlin, Fleisher & Falkenberg 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 Claim and distribution of the Wrongful Death proceeds in the negotiated amount of \$221,430.13 to Padma; (v) approved the Wrongful Death Claim and distribution of the Wrongful Death proceeds in the amount of \$94,898.62 to Anita; (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 of the

Estate to allow a Bank to substitute in on behalf of the Estate to execute any Release documents to finalize the Settlement and Lawsuit. (C.378-380; A-5 to A-7) On October 10, 2018, in the Law Division Proceedings, Padma, as the then Independent Administrator, filed a *Motion to Vacate* on behalf of the Estate (“Motion to Vacate”). Based on Padma’s allegation of BK’s alleged 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. (C.612-616) On October 29, 2018, in the Law Division Proceedings, Padma, as Independent Administrator, filed her Plaintiff’s Memorandum in Support of the Motion to Vacate. (C.307-337) On June 20, 2019, in the Law Division Proceedings, in her Motion to Strike (and Response to) Anita Rao’s Motion for Sanctions and Rule to Show Cause, Padma herself relied on *Will v. Northwestern University*, 378 Ill.App.3d 280, 289 (1st Dist. 2007) to argue 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 case was without any authority and should be stricken. The Estate requests that this Court strike the appearance and Sanctions Motion filed by Anita Rao.” (C.1092-1093)

Removal of Padma as Administrator/Appointment of MTC as Successor Administrator

On November 29, 2018, on the petition of BK's other daughter, Anita, in the Probate Proceedings (C.338-346), based upon the actions of Padma as Administrator, the Estate was converted from Independent to Supervised Administration, and Padma's role was modified from Independent to Supervised Administrator with Will Annexed. (C.473) On December 19, 2018, the Probate Court found Padma to be incapable and unsuitable to act as the Administrator of the Estate and removed Padma as Supervised Administrator with Will Annexed for cause, for engaging in waste and mismanagement of the Estate. (C.562) Also on December 19, 2018, the Probate Court appointed Midland Trust Company ("MTC") as Successor Supervised Administrator with Will Annexed. (C.561)

Approval of Settlement of the Lawsuit in the Probate Proceedings

On January 15, 2019, the Probate Court ordered MTC, as Successor Supervised Administrator with Will Annexed, to investigate whether the \$2.1 Million Settlement of the Lawsuit in the Law Division Proceedings was fair, reasonable and in the best interests of the Estate. (C.661, A-4, ¶ 11) On April 2, 2019, MTC, under seal for confidentiality purposes, provided all interested parties and a courtesy copy to the Probate Court of its detailed *Report to the Court and Request for Direction* ("Report to Court"), which: (a) concluded that the \$2.1 Million Settlement is fair, reasonable, and in the best interests of the Estate and that the Settlement should be approved by the Probate Court; and (b) sought direction and authority from the

Probate Court to withdraw the Motion to Vacate, with prejudice, filed in the Law Division Proceedings by Padma, as the former Independent Administrator. 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 the Court. (C.667) Because Padma failed to do so by May 9, 2019, 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 for approval on May 22, 2019 (C.685-686), 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. (C.677-682) On May 22, 2019, over the objection of MTC, the Probate Court entered an Order giving Padma leave to file her Response and Objection to MTC’s Report to Court, instanter. (C.767) Notwithstanding Padma’s filed Response and Objection to MTC’s Report to Court, and after a full oral argument, “in the best interests of the Estate”, on May 22, 2019, the Probate Court entered an Order authorizing MTC, as Successor Supervised Administrator with Will Annexed, to withdraw the Motion to Vacate filed by Padma, as former Independent Administrator, that was still pending in the Law Division Proceedings. (C.767) 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. (C.768-770) It is important to note that Padma, in her Response and Objection to MTC’s

Report and Motion to Reconsider, never objected to MTC's finding that the \$2.1 Million Settlement was fair, reasonable and in the best interests of the Estate. On July 2, 2019, in the Probate Proceedings, after a full oral argument, the Probate Court entered an Order denying Padma's Motion to Reconsider "for the reasons on the record." (C.1218) The July 2, 2019 Order entered by the Probate Court authorized MTC, as Successor Supervised Administrator, to proceed to withdraw the Motion to Vacate in the Law Division Proceedings. On July 3, 2019, in the Law Division Proceedings, MTC was granted leave to withdraw the pending Motion to Vacate, with prejudice, for the reasons stated on the record, and the Settlement Order and the Distribution Order were ratified by Judge Lyons for the reasons stated on the record. (C.1293) Also on July 3, 2019, in the Probate Proceedings, the Probate Court entered an Order: (1) approving the Settlement Order and the Distribution Order; (2) approving and authorizing the payout of the Settlement proceeds pursuant to the Distribution Order; and (3) authorizing MTC to execute any and all documents reasonable and necessary to effectuate the Settlement Order and Distribution Order. (C.1220)

Padma's Appeal to the First District Appellate Court

On July 11, 2019, Padma, as "beneficiary in the above matter", filed in the Appellate Court of Illinois, First Judicial District ("First District Appellate Court") her Amended Notice of Appeal ("Appeal"), seeking the following relief:

- “(a) Reversal and vacating paragraphs 1 and 2 of the 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 this 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." (C.1228-1229)

MTC's Motion to Dismiss Appeal

On December 30, 2019, MTC filed its Motion to Dismiss Appeal ("Motion to Dismiss"), seeking to dismiss Padma's Appeal for lack of standing. (A-9 to A-20) MTC argued that: (1) Padma, individually, lacked standing to bring the Appeal, as she was not a party to the underlying medical malpractice Lawsuit; and (2) Padma has no standing to be a party to the Appeal as a representative of BK's Estate, as she is no longer the representative of the Estate, and, in any

event, Padma filed her Appeal solely in her individual capacity as “beneficiary” of BK’s Estate. (A-18 to A-19) On February 20, 2020, the First District Appellate Court entered an Order granting MTC’s Motion to Dismiss Appeal (“Dismissal Order”). (A-1)

Padma’s Petition for Rehearing

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 First District Appellate Court: vacate its February 20, 2020 Dismissal Order; deny MTC’s Motion to Dismiss; and allow Padma’s Appeal to be heard on the merits. (A-30 to A-38) On April 6, 2020, the First District Appellate Court entered an Order denying Padma’s Petition for Rehearing (“Rehearing Order”). (A-2)

Padma’s Petition to Supreme Court

On May 12, 2020, Padma filed the instant Petition related to the Dismissal Order and Rehearing Order.

ARGUMENT

I. Answer to Argument for Appeal as a Matter of Right Under Rule 317

Padma argues that the “constitutional question of [her] procedural due process rights under the fourteenth amendment arose for the first time on appeal, as a result of the Appellate Court’s reversal of the trial court’s finding that [she] has standing in this matter as heir to be heard and protect her property interests.” (*See*, Petition 10) Padma contends that she “has established her property interests as an Estate

heir and wrongful death claimant under Illinois law as held in *Cappetta, Wallen, Thomson, Venturelli, and Powell*.” (See, Petition 10) However, as each such case is inapposite to this Estate for the reasons set forth in detail below in Parts II.A. and II.B. and as *Will v. Northwestern University*, 378 Ill.App.3d 280, 289 (1st Dist. 2007) establishes that it is the administrator (and not the beneficiaries or heirs) who possesses the sole right of control over a wrongful death and/or survival action(s), Padma has failed to establish her property interests as an Estate heir and wrongful death claimant, and thus, Padma does not possess any property interest that is being deprived of due process by the First District Appellate Court’s Dismissal Order and Rehearing Order. Next, Padma compares her purported Rule 317 right to appeal to several of this Court’s decisions to grant a Rule 317 appeal. (See, Petition 10-11) For example, in *Department of Public Aid ex rel. Cox v. Miller*, 146 Ill.2d 399 (1992), this Court granted the appellant’s Rule 317 petition because equal protection of the law would have been violated if a settlement order entered pursuant to the settlement provisions of a paternity statute later barred a subsequent support action brought on behalf of a nonmarital child such that marital children and nonmarital children were not treated equally. *Id.* at 401, 410. It is clear in *Miller* that the petitioner, the Department of Public Aid on behalf the minor nonmarital child, would potentially have been deprived of financial support if treated differently from a marital child. Here, however, Padma is not being deprived of her control over the Lawsuit in the Law Division Proceedings, as *Will* makes clear that it is the administrator (and not the beneficiaries or heirs) who possesses the sole right of control over a wrongful death or survival action. *Will* at 289. Thus,

as 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 First District Appellate Court's Orders, Padma's Petition pursuant to Rule 317 must be denied.

II. Answer to Petition, in the Alternative, for Leave to Appeal Under Rule 315

In the alternative, Padma seeks leave to appeal pursuant to Supreme Court Rule 315. Ill. S. Ct. R. 315. However, her Petition presents no issue that merits this Court's review pursuant to Rule 315. The First District Appellate Court's Dismissal Order and Rehearing Order do not conflict with any other decision, present no question of general importance and do not require the exercise of this Court's supervisory authority. Accordingly, as a matter of sound judicial discretion, this Court should deny Padma's leave to appeal under Rule 315.

A. The First District Appellate Court's Dismissal and Rehearing Orders Do Not Present a Conflict with Other Divisions of the Appellate Court

Padma incorrectly contends that this Court should grant her Rule 315 Petition, as a conflict purportedly exists between this decision and other decisions in the Second, Third and Fourth Districts. (*See*, Petition 13-16) Here, Padma, individually, sought to appeal 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 \$2.1 Million Settlement; and (2)

distribute the \$2.1 Million Settlement pursuant to the Settlement and Distributions Orders entered in the Law Division Proceedings. (C.1228-1229) However, the law concerning Padma's lack of standing with respect to such Orders is so definitive and clear (as outlined in *Will*, and as applied by Padma, as the then Independent Administrator, against Anita), the First District Appellate Court's Dismissal Order succinctly "GRANTED" MTC's Motion to Dismiss. (A-1) In its Motion to Dismiss, MTC argued that, in the context of wrongful death and survival actions, Illinois law has long made clear that, under both wrongful death and survival actions, "the cause of action must be brought by and in the name of the representative or administrator of the decedent's estate. *Will* at 289. (A-9 to A-20) "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). (A-16) Ironically, as referenced earlier herein, in the Law Division Proceedings, Padma herself relied on *Will* to argue that only the administrator of the Estate has any power to control the action 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. (A-17; C.1092-1093)

Now, conveniently, Padma argues that *Will* does not apply because it involved the appeal of a Law Division case and did not involve the Probate Court or estate administration. (*See*, Petition 17) However, as Padma's Appeal involves the appeal of Orders authorizing MTC, as Supervised Administrator with Will Annexed, to take specific actions in or related to the

Law Division Proceedings (*i.e.*, withdrawing the Motion to Vacate previously filed by Padma, as the then Independent Administrator, related to the \$2.1 Million Settlement in the Law Division Proceedings; and distributing the \$2.1 Million Settlement pursuant to the Settlement and Distributions Orders entered in the Law Division Proceedings), it relates directly to MTC's right of action or control over the Lawsuit, a wrongful death and survival action. As discussed in detail below, the First District Appellate Court's Dismissal Order and Rehearing Order do not conflict with decisions in other divisions of the Appellate Court:

i. There Is No Conflict with the Second District

Padma disingenuously attempts to create a non-existent conflict between the First and Second Districts on the basis of *Cappetta*, *Wallen* and *Lilly*. (*See*, Petition 13-15) However, the First District Appellate Court's Dismissal Order and Rehearing Order do not conflict with decisions in the Second District. In fact, the *Will* Court even cited a Second District case, *Jo Lou Mio v. Alberto-Culver Co.*, 306 Ill.App.3d 822, 826 (2nd Dist. 1999), in support of the principle that it is the 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. *Will* at 289.

Cappetta is inapposite to the Estate, as it did not involve standing with respect to a wrongful death or survival action. Rather, *Cappetta* involved a motion to approve the settlement of all creditors' claims and the standing with respect thereto of two (2) charitable beneficiaries of another estate that was a creditor/claimant of Cappetta's estate excluded from the settlement negotiations of all claims. *In re Estate of Cappetta*,

315 Ill.App.3d 414 (2nd Dist. 2000). Thus, as *Cappetta* did not involve standing with respect to a wrongful death or survival action, the First District Appellate Court's Dismissal Order and Rehearing Order do not conflict with *Cappetta*.

Like *Cappetta*, *Wallen* did not involve standing with respect to a wrongful death or survival action. Rather, *Wallen* involved an appeal of the denial of a corporate creditor's claim against the estate where the estate administrator had improperly commingled the decedent's personal estate assets with the assets of the decedent's closely held corporation against which the creditor had a judgment. The *Wallen* Court affirmed the trial court's denial of the creditor's claim on the theory of piercing the corporate veil but reversed the trial court's denial of its equitable claim against any assets that could be traced from the corporation into the possession of the estate. *In re Estate of Wallen*, 262 Ill.App.3d 61 (2nd Dist. 1994). As *Wallen* did not involve standing with respect to a wrongful death or survival action, the First District Appellate Court's Dismissal Order and Rehearing Order do not conflict with *Wallen*.

Lilly, a 1976 case, is equally inapposite. Although *Lilly* involves a wrongful death action, it is a 1976 case that pre-dates *Mio* at a time when the decedent's parents in *Lilly* had the right to bring their wrongful death claim. *Matter of Lilly's Estate*, 41 Ill.App.3d 348, 349 (2nd Dist. 1976). As *Lilly* is superseded by the 1999 holding in *Mio* (*Mio* being consistent with *Will*), the First District Appellate Court's Dismissal Order and Rehearing Order do not conflict with *Lilly*.

ii. There Is No Conflict with the Third District

Padma also erroneously attempts to create a non-existent conflict between the First and Third Districts on the basis of *Lay* and *Knobloch* (*See*, Petition 15), *Venturelli* (*See*, Petition 15) and *Trompeter* (*See*, Petition 16). However, the First District Appellate Court's Dismissal Order and Rehearing Order do not conflict with these decisions in the Third District. In fact, the *Will* Court even cited a Third District case, *Harnetiaux' Estate v. Hartzell*, 91 Ill.App.2d 222, 227 (3rd Dist. 1968), in support of the principle that it is the 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. *Will* at 289.

Moreover, the *Lay* case is inapposite, as it did not involve standing with respect to a wrongful death or survival action. Rather, *Lay* specifically involved the standing of an heir, as an "interested person" as defined under Section 1-2.11 of the Probate Act (755 ILCS 5/1-2.11), to contest a will pursuant to Section 8-1(a) of the Probate Act (755 ILCS 5/8-1(a)). *In re Estate of Lay*, 2018 IL App (3d) 170378, ¶ 14. As *Lay* did not involve standing with respect to a wrongful death or survival action, the First District Appellate Court's Dismissal Order and Rehearing Order do not conflict with *Lay*.

Further, *Knobloch* is also inapplicable, as that case involved a federal wrongful death action under the Federal Employers' Liability Act ("F.E.L.A.") (45 U.S.C. Sec. 51 *et seq.*) and a petition for intervention in the F.E.L.A. claim filed by the mother and guardian of the decedent's illegitimate, after-born child, which petition claimed a conflict of interest between the

decedent's illegitimate child and the decedent's legitimate child. *Knobloch v. Peoria and Pekin Union Ry. Co.*, 118 Ill.App.3d 205, 206 (3rd Dist. 1983). The *Knobloch* Court found the authority of the federal Jones Act instructive, especially with respect to the conflicting nature of the beneficial interests between the legitimate child and the illegitimate child, in remanding the case to allow the petition for intervention. *Id.* at 208, 210. As *Knobloch* is limited to standing with respect to a *federal* wrongful death action under the Federal Employers' Liability Act, the First District Appellate Court's Dismissal Order and Rehearing Order do not conflict with *Knobloch*.

In addition, Padma cites to *Venturelli* as a Third District case in purported "conflict with the First District's holding here that beneficiaries have no standing to assert that an Estate Administrator is improperly carrying out its duties" and purported "conflict with the decision here that beneficiaries have no standing to protest any court decision regarding the administrator." *See*, Petition 15-16; *Estate of Venturelli v. Granville Nat. Bank*, 54 Ill.App.3d 997 (3rd Dist. 1977). Padma mischaracterizes the First District Appellate Court's Dismissal Order and Rehearing Order as holding that beneficiaries have no standing to assert mismanagement by the administrator in order to create a conflict. As the Dismissal Order "granted" MTC's Motion to Dismiss, which relied upon the basis of *Will* (giving the administrator the sole right of action or control over a wrongful death or survival action), there is no conflict with *Venturelli*.

Finally, Padma mischaracterizes *Trompeter* as standing for the proposition that a party of record has an absolute right to appeal. In *Trompeter*, the circuit

court found in favor of plaintiff's mechanic's lien but also found that such lien was subordinate to the defendant's mortgage lien on the property. *Trompeter Const. Co., Inc. v. First Federal Sav. and Loan Ass'n of Ottawa*, 62 Ill.App.3d 173, 174 (3rd Dist. 1978). The defendant's appeal of the circuit court's allowance of plaintiff's mechanic's lien was ultimately dismissed because the appeal was moot, as the plaintiff's mechanic's lien was subordinate to the defendant's mortgage lien. *Id.* at 177. Although the *Trompeter* Court held that a party of record generally has a right to appeal, it also stated that "[t]he test as to whether an appellant has a right to review is whether his interest is direct, immediate and substantial" and not moot. *Id.* at 176. Here, although Padma was a party of record as an heir, her interest was *not* direct, immediate and substantial, as the Dismissal Order "granted" MTC's Motion to Dismiss, which relied upon the basis *Will* (giving the administrator the sole right of action or control over a wrongful death or survival action).

Thus, as neither *Lay* nor *Knobloch* is applicable; *Trompeter* does not create an absolute right for a party of record to appeal where Padma's interest is moot in light of MTC's right to control the Law Division Proceedings pursuant to *Will*; and *Hartzell* is consistent with *Will*, the First District Appellate Court's Dismissal Order and Rehearing Order do not conflict with cases in the Third District.

iii. There Is No Conflict with the Fourth District

Padma again ineffectively attempts to create a non-existent conflict between the First and Fourth Districts on the basis of the *Thomson*, *Weeks*, *Thorp* and *Parlier* cases. (See, Petition 15-16) However, the

First District Appellate Court's Dismissal Order and Rehearing Order do not conflict with these decisions in the Fourth District. In fact, the *Will* Court even cited a Fourth District case, *Rodgers v. Consolidated R.R. Corp.*, 136 Ill.App.3d 191, 193 (4th Dist. 1985), in support of the principle that it is the 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. *Will* at 289.

Padma cites to *Thomson*, *Weeks*, *Thorp* and *Parlier* as Fourth District cases in purported "conflict with the First District's holding here that beneficiaries have no standing to assert that an Estate Administrator is improperly carrying out its duties" and purported "conflict with the decision here that beneficiaries have no standing to protest any court decision regarding the administrator." (See, Petition 15-16) Padma mischaracterizes the First District Appellate Court's Dismissal Order and Rehearing Order as holding that beneficiaries have no standing to assert mismanagement by the administrator in order to create a conflict. In fact, Padma acknowledges the Probate Court allowed her to file a Response opposing MTC's Report to Court. (See, Petition 8) Interestingly, Padma never alleged mismanagement and never objected to MTC's Report confirming the \$2.1 Million Settlement was fair, reasonable and in the best interests of the Estate. Further, and ironically, Padma was removed as Administrator for waste and mismanagement. (C.562) As the Dismissal Order "granted" MTC's Motion to Dismiss, which relied upon the basis of *Will* (giving the administrator the sole right of action or control over a wrongful death or survival action), there is no conflict with *Thomson*, *Weeks*, *Thorp* and *Parlier*. Thus, the

First District Appellate Court's Dismissal Order and Rehearing Order do not conflict with cases in the Fourth District.

As a result of all of the above, as the First District Appellate Court's Dismissal Order and Rehearing Order are not in conflict with the Second, Third and Fourth Districts, this Court should exercise its sound judicial discretion pursuant to Rule 315(a) in denying Padma's Petition.

B. The First District Appellate Court's Dismissal and Rehearing Orders Do Not Present a Conflict with This Court's Holdings

Padma erroneously attempts to create a non-existent conflict between the First District Appellate Court's Dismissal Order and Rehearing Order and this Court's holdings in *Powell* and *Wellman*. (See, Petition 16-17) With respect to *In re Estate of Powell*, 2014 IL 115997, Padma mischaracterizes *Powell* as holding "that the beneficiary of a wrongful death action has standing to contest the improper attorney actions of the wrongful death plaintiff's attorney." (See, Petition 16) In *Powell*, the guardian 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. This 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 involves a legal malpractice claim nor a claim against the attorneys who filed the wrongful death action in this matter, *Powell* is inapplicable and Padma presents no conflict worthy of this Court's attention. With respect to *Wellman*, MTC agrees that *Wellman* does stand for the proposition that the doctrine of standing requires that a party, either in an individual or representative capacity, have a real interest in the action brought and its outcome. *In re Estate of Wellman*, 174 Ill.2d 335, 344 (Ill. 1996). MTC even cited to *Wellman* in its Motion to Dismiss. (A-16) However, MTC's Motion to Dismiss also discussed standing in the context of wrongful death and survival actions based on *Will* and argued that Padma lacked standing, both individually (as she was not a party to the medical malpractice Lawsuit) and as former administrator (as she was removed as Administrator for mismanagement of the Estate, and, in any event, Padma had filed her Appeal solely in her individual capacity as "beneficiary" of the Estate). (A-16 to A-19) As the First District Appellate Court's Dismissal and Rehearing Orders do not conflict with *Powell* or *Wellman*, there is no conflict worthy of this Court's attention and this Court should deny Padma's Rule 315 Petition.

C. The First District Appellate Court's Dismissal and Rehearing Orders Do Not Present a Conflict with Illinois or U.S. Supreme Court Precedent

Padma again attempts to create a non-existent conflict between the First District Appellate Court's Dismissal Order and Rehearing Order and any precedent regarding a constitutional right to standing or due process. (*See*, Petition 17-19) *First*, Padma points to her status and standing as a wrongful death beneficiary on the basis of *Powell*. However, as discussed in Part II.B. above, *Powell* never specifically discussed standing and only 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. *Powell* at ¶¶ 20, 24. Here, as Padma's Appeal neither involves a legal malpractice claim nor a claim against the attorneys who filed the wrongful death action in this matter, *Powell* is inapplicable and Padma attempts to inappropriately expand *Powell's* actual holding to lend herself standing. *Next*, Padma unsuccessfully attempts to establish her alleged standing as an heir and beneficiary in this matter on the basis of *Cappetta*, *Wallen*, *Thomson*, *Lay* and *Venturelli*. However, as each such case is inapposite here for the reasons discussed in detail in Parts II.A. and II.B. and as *Will* establishes that it is the administrator (and not the beneficiaries or heirs) who possesses the sole right of control over a wrongful death or survival action, Padma has failed to establish her property interests as an Estate heir and wrongful death claimant, and thus, Padma does not possess any property interest that is being deprived of due process. Thus, as the

First District Appellate Court's Dismissal Order and Rehearing Order do not conflict with any precedent regarding a constitutional right to standing or due process, Padma's Petition pursuant to Rule 315 should be denied.

D. The First District Appellate Court's Dismissal Order Does Not Require This Court's Exercise of Its Supervisory Authority

Padma argues that this Court should exercise its supervisory authority because the "Appellate Court's one-sentence dismissal fails to conform to the requirements of Rules 23(c)(i), (ii) and (iii) for summary orders." (*See*, Petition 19-20) Rule 23(c) requires a summary order to contain: (i) a statement describing the nature of the case and the dispositive issues without a discussion of the facts; (ii) a citation to controlling precedent, if any; and (iii) the judgment of the court and a citation to one or more of the criteria under this rule which supports the judgment. Ill. S. Ct. R. 23(c)(i)-(iii). However, as the February 20, 2020 Order "GRANTED" MTC's Motion to Dismiss Appeal (A-1) (which requested entry of an order dismissing Padma's Appeal with prejudice) (A-19), the February 20, 2020 Order effectively incorporated MTC's Motion to Dismiss with respect to the nature of the case and the citation to controlling precedent. Although the First District Appellate Court's Dismissal Order may have omitted the technical requirement of a citation to one or more of the criteria under Rule 23(c) which supports the dismissal, given the definitive and clear basis of *Will* (giving the administrator the sole right of action or control over a wrongful death or survival action) and in the interest of judicial economy, it is not necessary for this Court to accept review of the First

District Appellate Court's decision in this case merely to correct such a minor technicality.

CONCLUSION

Neither the First District Appellate Court's Dismissal Order nor Rehearing Order has deprived Padma of her control over the Lawsuit in the Law Division Proceedings, as *Will* makes clear that it is the administrator (and not the beneficiaries or heirs) who possesses the sole right of control over a wrongful death or survival action. As such, Padma has not been deprived of due process in this matter. Thus, as there is no question of first impression under the Constitution of the United States or the State of Illinois which arises as a result of the First District Appellate Court's Dismissal Order and Rehearing Order, Padma's Petition pursuant to Rule 317 must be denied. Further, Padma presents no issue arising from the First District Appellate Court's Orders that merits this Court's review pursuant to Rule 315, as the Dismissal Order and Rehearing Order: (1) do not conflict with any other decision; (2) present no question of general importance; and (3) do not require this Court's supervisory authority. Therefore, there is no reason for this Court to revisit these conclusions, and Padma's Petition pursuant to Rule 315 must be denied. For the foregoing reasons, Padma's Petition pursuant to both Rule 315 and Rule 317 should be denied.

Respectfully submitted,

/s/ Mark R. Singler

*One of the attorneys for Respondent, Midland
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