

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of the Estate of ELLA COHEN,  
Deceased.

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HERTZBERG & NOVECK,

Appellant,

v

MARTIN COHEN, RICHARD COHEN,  
ADRIENNE WEIN, JACK WEIN, MARGO  
STOLLMAN, SUZANNE STOLLMAN,  
and LISA STOLLMAN SMOUHA,

Appellees.

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UNPUBLISHED

August 3, 1999

No. 206949

Oakland Probate Court

LC No. 95-243937 SE

Before: White, P.J., and Markey and Wilder, JJ.

MEMORANDUM.

Appellant Hertzberg & Noveck, legal counsel retained by co-personal representatives Martin and Richard Cohen, appeals by of right from the probate court's order allowing only \$10,440.00 in attorney fees, based upon 116 hours at \$90.00 per hour, instead of \$30,950.00, based upon 154.75 hours at \$200.00 per hour, as requested by appellant. We affirm.

In general, the probate court has broad discretion in determining what constitutes reasonable compensation for necessary legal services performed on behalf of a decedent's estate. MCL 700.541; MSA 27.5541; MCR 8.303; *In re Kruger Estate*, 176 Mich App 241, 251; 438 NW2d 898 (1989). On appeal, appellant contends that the probate court abused its discretion by reducing the hours and hourly rate claimed in appellant's fee request without conducting an evidentiary hearing to consider the factors listed in MRPC 1.5(a) and by interfering, without reason, with appellant's private fee contract. We disagree.

The probate court held a hearing on appellant's fee request on September 3, 1997, and the parties had ample opportunity to present any testimony or other evidence at that time. Appellant never offered to call any witnesses below and makes no actual offer of proof on appeal. Moreover, appellant has failed to offer any argument specifically identifying how the arguments of the parties and remarks of the probate court at the September 3, 1997 hearing might reflect inadequate consideration of the factors listed in MRPC 1.5(a). The probate court was not obliged to defer to the terms of the private fee agreement when determining the amount of reasonable compensation to be awarded under MCL 700.541; MSA 27.5541. See *In re Condemnation of Private Property for Hwy Purposes*, 209 Mich App 336, 342; 530 NW2d 183 (1995).

Affirmed.

/s/ Helene N. White

/s/ Jane E. Markey

/s/ Kurtis T. Wilder