

STATE OF MICHIGAN
COURT OF APPEALS

In re the ESTATE of CASIMIRA L. LIS, Deceased.

FLORENCE DEBLOIS, Personal Representative of
the ESTATE of CASIMIRA L. LIS, Deceased,

UNPUBLISHED
June 12, 1998

Plaintiff-Appellant,

v

DAVID NOVOCK,

No. 196547
Wayne Probate Court
LC No. 95-543933 SE

Defendant-Appellee.

Before: Wahls, P.J., and Jansen and Gage, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the summary dismissal of her action to determine ownership of certain residential properties. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

To the extent that plaintiff challenges the trial court's prior decision excluding the proffered testimony of plaintiff and Wanda Donowski, the record does not include defendant's motion in limine, plaintiff's response to the motion, the proffered testimony, the transcript of the motion hearing or the court's ruling. Because plaintiff has failed to provide these items as required by MCR 7.210 and because any determination of the merits of plaintiff's appellate challenge would necessitate a review of these materials, plaintiff's failure to provide these materials waives appellate review of any challenge to the court's exclusion of the proffered testimony. *People v Anderson*, 209 Mich App 527, 535; 531 NW2d 780 (1995); *Myers v Jarnac*, 189 Mich App 436, 444; 474 NW2d 302 (1991).

With regard to plaintiff's claim that the court erroneously excluded the proffered testimony of the decedent's former treating physician, plaintiff did not argue below that the evidence was admissible pursuant to MRE 803(24). Accordingly, her evidentiary challenge is not preserved for appellate review. *Auto Club Ins Ass'n v Lozanis*, 215 Mich App 415, 421; 546 NW2d 648 (1996). Additionally, the record does not include defendant's motion for summary disposition, plaintiff's response to the motion, or the excluded proffered testimony of the doctor. Because plaintiff failed to provide these materials as required by MCR 7.210 and because any determination of the merits of

plaintiff's challenge to the exclusion of the testimony or to the propriety of the grant of summary disposition would necessitate a review of these materials, plaintiff's failure to provide these materials waives appellate review of her challenges. *Anderson, supra; Myers, supra.*

Affirmed.

/s/ Myron H. Wahls

/s/ Kathleen Jansen

/s/ Hilda R. Gage