STATE OF MICHIGAN

COURT OF APPEALS

In re SOLOMON GASTON MILLER TRUST

MARCIA MILLER, a/k/a, MARIE LYNNE,

Appellant,

v

JUSTIN GUDEMAN, NICOLE GUDEMAN, DANIEL HARWOOD, DAVID HENKIN, TAYLOR HENKIN, and ELIZABETH L. LUCKENBACH, Successor Trustee,

Appellees.

UNPUBLISHED
November 29, 2018

No. 341502
Oakland Probate Court
LC No. 2017-376049-TV

Before: M. J. KELLY, P.J., and SAWYER and MARKEY, JJ.

PER CURIAM.

Appellant, Marcia Miller, a/k/a, Marie Lynne, appeals by right the probate court's November 29, 2017 order denying reconsideration of its October 2, 2017 order that concluded that the trust instrument contained no latent or patent ambiguity, overruled objections to the trust, and directed that the trust "shall be administered as written with assets distributed after trust expenses and specific bequests pursuant to Article VIII." We affirm.

I. FACTS AND PROCEEDINGS

This case involves the interpretation of the Solomon Gaston Miller Trust, which was created on August 26, 1987, but which was also amended at least twelve times with a final restatement signed on September 17, 2015. The grantor,[1] Sol G. Miller, O.D., died on January 8,

[1] MCL 700.7103(i) defines "settlor" as "a person, including a testator or a trustee, who creates a trust." But the trust at issue provides: "*Grantor* has the same legal meaning as *Settlor, Trustor* or any other term referring to the maker of a trust." Trust, § 14.07(i). In this case, the maker of the trust, Sol G. Miller, O.D., refers to himself as the "grantor" of the trust. See § 1.05 "Powers

2016; the grantor's wife, Ilene Jacqueline Miller, died unexpectedly on December 11, 2015. A prior version of the trust, adopted September 27, 2013, created on the grantor's passing a 70%-share life estate for Ilene, with 12.5%-share life estates for each of the grantor's daughters, Debra Mcleod and appellant, and a 5%-share life estate for the grantor's sister, Annette Miller. The 2015 restatement of the trust, in Article Seven, created similar life estates, but only if Ilene survived the grantor. The disputed preamble of Article Seven of the 2015 Trust restatement provides:

> If my wife, Ilene J. Miller, survives me, the Trustee shall hold and administer the remaining trust property in a separate trust as provided in this Article. This document refers to the trust as the *Family Trust.*
>
> If my wife does not survive me, the Trustee shall administer the remaining trust property as provided in Article Eight.

The residual beneficiaries under Article Eight of the 2015 trust restatement (and also under the 2013 version), are the respective grandchildren of the grantor (Khalil Jackson, Ali Jackson, and Nambreza Miller) and the grandchildren of grantor's wife Ilene, appellees Justin Gudeman, Nicole Gudeman, Daniel Harwood, David Henkin, and Taylor Henkin.

Attorney Daniel Serlin drafted the September 2015 trust restatement for Dr. Miller. Shortly before his death, the grantor resigned as trustee, and Serlin became the successor trustee. After the grantor's passing, disputes developed between Serlin and the grantor's daughters over whether to cremate the deceased grantor, what assets were in or not in the trust, and distribution of trust assets. These disputes were exacerbated because Serlin wrote to potential beneficiaries on February 18, 2016, stating that the trust provided for life income estates for the grantor's daughters and his sister. Serlin again wrote to potential beneficiaries in September 2016; this time he said that his memory of the trust's terms had been mistaken when he wrote his February letter. Serlin stated in the September letter that the Article Seven life estates for the grantor's daughters and his sister were not created because the grantor's wife did not survive the grantor.

As trustee, Serlin subsequently filed a petition for instruction with the probate court pursuant to MCL 700.7201(3) seeking an order that the trustee be permitted to distribute the trust residue according to the terms of Article Eight. The petition states the chronology of interaction between Serlin and the potential beneficiaries under Article Seven, states the relevant first three sentences of Article Seven, and sets forth the terms of Article Eight of the 2015 trust restatement. The petition states that because the grantor's wife did not survive the grantor, the preamble of Article Seven required that the trust residue be distributed according to Article Eight.

Appellant filed a response to the petition for instruction that stressed the differences between the 2013 version of the trust and the 2015 restatement, noting the effect of the changes

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Reserved by Me as Grantor." Consequently, we refer to the maker of the trust, Sol G. Miller, O.D., as the "grantor" but "settlor" or "trustor," in this case, would also refer to Dr. Miller.

on the potential life beneficiaries under Article Seven. The response also stated that Serlin's conflicting statements required an evidentiary hearing.

The probate court held a hearing after the initial pleadings and entered an order on April 27, 2017, that removed Serlin as trustee, and appointed as successor trustee, Elizabeth Luckenbach. The court also authorized the filing of briefs concerning any ambiguities in the 2015 trust restatement or the "settlor's lack of capacity and/or intention."

Appellant filed a brief arguing that certain internal inconsistencies of §7.02 and §7.04 superseded the preamble language of Article Seven. Appellant argued that the probate court should hold an evidentiary hearing to receive extrinsic evidence of the settlor's intent.

The probate court heard oral arguments on the submitted briefs on October 2, 2017. At the conclusion of arguments the court stated its findings from the bench, in part, as follows:

> Upon review of the entire document the court is left with a document that's clear on its face. No argument has been made that Sol was incapacitated or unduly influenced, therefore, these issues will not be considered.
>
> * * *
>
> No scrivener's error, ambiguity, latent or patent, [has] been shown. As such, no extrinsic evidence may be considered in the settler's intent as derived from the four corners of the document exclusively.
>
> * * *
>
> Sol's intent was that in the event his wife predeceased him, upon his death the bulk of assets would go to his grandchildren and his wife, Ilene's, grandchildren. That is very clear in the first part of Article 7, the second paragraph.
>
> Therefore, it is ordered that the objections of Marsha McGee Miller, Deborah McLeod and Annette Frances Miller are overruled, that the document is clear and unambiguous and shall be administered as such pursuant to Article 8 to the exclusion and derogation of Article 7. So ordered. Thank you.

The same day, the probate court entered its written order implementing its oral rulings.

On October 9, 2017, appellant moved for reconsideration, raising for the first time the reformation of the trust under MCL 700.7415, without necessity of an ambiguity, based on a "mistake of fact or law." Appellant argued that the questioned language of Article Seven was a drafting mistake, not intended by the grantor. Appellant argued that MCL 700.7415 was intended to address the situation in this case, where the language in the trust was not ambiguous but it did not express the settlor's intent. Appellant requested the probate court to reconsider its October 2, 2017 order, or conduct an evidentiary hearing regarding Dr. Miller's intent.

The probate court on its own motion, entered an order on October 9, 2017 for further briefing on whether appellant had waived any argument regarding "mistake of fact or law" under MCL 700.7415, and if not waived, whether appellant's argument could warrant relief under the standards of MCR 2.119(F). After briefing, the probate court issued an opinion and order on November 29, 2017, denying reconsideration because appellant had not even argued that the court had committed palpable error in finding the trust unambiguous and enforceable as written.

As to appellant's claim for reformation under MCL 700.7415, the probate court ruled that reformation under the statute had not previously been sought or argued and that any attempt to litigate reformation "is properly brought by a separate petition." So, while the probate court denied the motion for reconsideration, it ruled it would "stay the distribution of the trust assets for sixty (60) days to permit interested persons to file a proper petition pursuant to MCL 700.7415, and if filed," would continue the stay "until adjudication of such a petition." Appellant apparently chose not to file a separate petition for reformation.

II. ANALYSIS

A. PRESERVATION

Appellant preserved her right to appeal the probate court's order interpreting the trust by presenting her objections to the lower court and obtaining a ruling. *Autodie, LLC v Grand Rapids*, 305 Mich App 423, 430; 852 NW2d 650 (2014). But appellant's arguments seeking reformation of the trust under MCL 700.7415 without showing an ambiguity based on "mistake of fact or law" were not preserved because they were not presented until appellant's motion for reconsideration. "Where an issue is first presented in a motion for reconsideration, it is not properly preserved." *Vushaj v Farm Bureau Gen Ins Co of Mich*, 284 Mich App 513, 519; 773 NW2d 758 (2009); see also *Demski v Petlick*, 309 Mich App 404, 441; 873 NW2d 596 (2015).

B. STANDARD OF REVIEW

The probate court's interpretation of a trust is a question of law reviewed de novo on appeal. *In re Herbert Trust*, 303 Mich App 456, 458; 844 NW2d 163 (2013). "A court must ascertain and give effect to the settlor's intent when resolving a dispute concerning the meaning of a trust." *Id*. The intent of the settlor of a trust is ascertained by looking to the words of the trust itself. *In re Perry Trust*, 299 Mich App 525, 530; 831 NW2d 251 (2013). If the trust's terms are ambiguous, a court may look outside the document to determine the settlor's intent, and consider the circumstances surrounding the creation of the trust and also the general rules of construction. *In re Kostin Estate*, 278 Mich App 47, 53; 748 NW2d 583 (2008). A patent ambiguity occurs when the trust uses defective, obscure, or incomprehensible words that create uncertainty regarding the meaning of the trust's terms. *In re Woodworth Trust*, 196 Mich App 326, 328; 492 NW2d 818 (1992). A latent ambiguity exists when the language and its meaning are clear, but some extrinsic fact shows that more than one meaning is possible. *Id*. "The fact that litigants disagree regarding the meaning of a trust, however, does not mean that it is ambiguous." *Bill & Dana Brown Trust v Garcia*, 312 Mich App 684, 693; 880 NW2d 269 (2015). A court must also read a trust as a whole, harmonizing and giving effect to all its terms, if possible. *In re Raymond Estate*, 483 Mich 48, 52; 764 NW2d 1 (2009); *In re Bem Estate*, 247 Mich App 427, 434; 637 NW2d 506 (2001). Also, given their complex nature, a court should

not "hyperanalyze" or "overscrutinize" the clear, plain language used in estate planning documents. *Bem Estate*, 247 Mich App at 434, citing *In re Coe Trusts*, 233 Mich App 525, 535; 593 NW2d 190 (1999). In sum, a court may not rewrite the plain and unambiguous terms of a trust in the guise of interpretation but rather must enforce them as they are written. *In re Reisman Estate*, 266 Mich App 522, 527; 702 NW2d 658 (2005).

This Court . . . reviews for an abuse of discretion a probate court's dispositional rulings and reviews for clear error the factual findings underlying a probate court's decision." *In re Bibi Guardianship*, 315 Mich App 323, 328-329; 890 NW2d 387 (2016). This Court also reviews "a trial court's decision on a motion for reconsideration for an abuse of discretion." *Woods v SLB Property Mgt LLC*, 277 Mich App 622, 629; 750 NW2d 228 (2008). A court "abuses its discretion when it chooses an outcome outside the range of reasonable and principled outcomes." *In re Temple Marital Trust*, 278 Mich App 122, 128, 748 NW2d 265 (2008). This Court will determine that a probate court's finding is clearly erroneous only when left with a definite and firm conviction that a mistake has been made, even if there is some evidence to support the finding. *In re Bennett Estate*, 255 Mich App 545, 549, 662 NW2d 772 (2003).

C. DISCUSSION

The first three sentences of Article Seven of the Sol G. Miller, O.D. Revocable Living Trust are clear and unambiguous: the Family Trust of Article Seven, with its life estates, is not created unless the grantor's wife (Ilene Miller) survives the grantor (Sol G. Miller). Because it is undisputed that Sol G. Miller's wife did not survive him, Article Seven plainly directs: "If my wife does not survive me, the Trustee shall administer the remaining trust property as provided in Article Eight." Nothing in § 7.02 or § 7.04, or the terms of the 2013 restatement of the trust, or the scrivener's misstatement regarding the terms of the trust, establish a latent ambiguity regarding the trust's terms with respect to Article Seven. The clear and plain terms of the trust must be enforced as written. *Bill & Dana Brown Trust*, 312 Mich App at 694; *In re Reisman Estate*, 266 Mich App at 527. Consequently, the probate court did not abuse its discretion, *In re Bibi Guardianship*, 315 Mich App at 328-329, by entering its October 2, 2017 order providing (1) that the trust instrument does not contain a latent or patent ambiguity, (2) by overruling the objections to the trust, and by directing that the trust "shall be administered as written with assets distributed after trust expenses and specific bequests pursuant to Article VIII"

Appellant also has not established plain error occurred or even that she is aggrieved with respect to her unpreserved argument that under MCL 700.7415, without the necessity of showing an ambiguity, she may attempt to establish that a "mistake of fact or law" occurred, i.e., that a scrivener's drafting error frustrated the grantor's intent, permitting the probate court to reform of the trust so that the Family Trust is established without the grantor's wife having survived the grantor. Therefore, we affirm the probate court.

Appellant does not argue that patent ambiguity exists. Rather, she argues that certain alleged inconsistencies in the trust's terms and certain extrinsic facts show that a latent ambiguity requires interpreting Article Seven as establishing the Family Trust with its life estates despite the plainly expressed requirement of the preamble of Article Seven that the grantor's wife must survive the grantor for the Family Trust to be created. Appellant's arguments fail to establish that the trust contains a latent ambiguity exists that would permit modifying the intent of grantor

as plainly expressed in the trust; the Family Trust with its life estates was never created because the grantor's wife, Ilene Miller, did not survive the grantor, Sol G. Miller.

The same rules of construction apply to wills, trusts and contracts. *In re Kremlick Estate*, 417 Mich 237, 241; 331 N2d 228 (1983); *In re Reisman Estate*, 266 Mich App at 527. Absent an ambiguity, the intent of the grantor as plainly expressed within the four corners of the trust must be carried out. *In re Kremlick Estate*, 417 Mich at 240. Where an ambiguity may exist, extrinsic evidence is admissible to demonstrate that an ambiguity in fact exists and to establish intent. *Id.*, at 241. A latent ambiguity is established by evidence that shows otherwise clear language is susceptible to more than a single meaning. See *Shay v Aldrich*, 487 Mich 648, 668; 790 NW2d 629 (2010). Appellant's arguments from the face of the trust and from extrinsic facts do not show a latent ambiguity—i.e., more than one meaning for the introduction of Article Seven.

First, appellant argues that the terms of § 7.02 indicate that the life estates of the Family Trust be created despite the language in Article Seven requiring that Ilene Miller, the grantor's wife survive him. Specifically, appellant asserts that the following language overrules the preamble of Article Seven:

> *Notwithstanding the foregoing*, upon the death of any of the individuals named above under Section 7.02 a through d, of this Article or *if any of the individuals shall not survive Grantor*, then such beneficiary's shares shall be proportionately distributed to the remaining beneficiaries under this Paragraph for their lifetimes. [Article Seven, § 7.02 (italics added; punctuation altered).]

Appellant asserts that because the "individuals named" in § 7.02(a)-(d) include the grantor's wife, and she did not survive the grantor, then the life estates are still created with the share of grantor's wife being "proportionately distributed to the remaining beneficiaries." Appellant further argues that the beginning phrase, "Notwithstanding the foregoing," refers back to the Article Seven preamble and overrules it. This argument fails.

Trusts must be read as a whole, harmonizing and giving effect to all of its terms, if possible. *In re Raymond Estate*, 483 Mich at 52; *In re Bem Estate*, 247 Mich App at 434. In this case, because the grantor's wife did not survive the grantor as required by the plain terms of the preamble to Article Seven, the Family Trust was never created and there can be no conflict with the terms of § 7.01 (family trust beneficiaries), § 7.02 (distribution of income), § 7.03 (distribution of principal), or § 7.04 (termination of family trust). To become effective, all of these provisions require that the grantor's wife, Ilene, survive the grantor, Dr. Miller. Because Ilene did not survive Dr. Miller, the terms of § 7.01 - § 7.04 never became effective. Rather, the trust corpus, after expenses and specific bequests, is required to be distributed according to the terms of Article Eight: "If my wife does not survive me, the Trustee shall administer the remaining trust property as provided in Article Eight." No ambiguity exists, and the trust must be enforced according to its plain terms. *In re Raymond Estate*, 483 Mich at 52.

The fact that one of the potential life beneficiaries of the Family Trust was Ilene and proportional redistribution of a life beneficiary's share is directed if a beneficiary "shall not survive the Grantor" does not render ambiguous the pertinent condition precedent for the establishing the Family Trust. As noted, § 7.02 does not apply because Ilene did not survive her

husband, Dr. Miller. We will not "hyper analyze" or "over scrutinize" a portion of the trust that never became effective where the clear and plain language of the trust directs a result. *In re Bem Estate*, 247 Mich App at 434. An ambiguity is not created even if the trust is in artfully worded or clumsily drafted where it plainly provides for one interpretation. See *Mich Twp Participating Plan v Pavolich*, 232 Mich App 378, 382; 591 NW2d 325 (1998). While the redistribution language of § 7.02—"if any of the individuals shall not survive Grantor"—includes Ilene and is therefore meaningless because Ilene died before the grantor, the entirety of § 7.01 - § 7.04 is ineffective. Inartful drafting does not render ambiguous the condition precedent to establishing the Family Trust: "If my wife does not survive me, the Trustee shall administer the remaining trust property as provided in Article Eight." See *id*. at 383-384. A court must enforce the plain and unambiguous terms of a trust as written. *In re Raymond Estate*, 483 Mich at 52.

For the same reasons, appellant's contention that the introductory phrase of the last sentence of § 7.02, "Notwithstanding the foregoing," refers to and overrules the condition precedent to the creation of the Family Trust under Article Seven, is without merit. Trust terms must be read in the context of their placement within the trust and in light of the trust document as a whole. *In re Raymond Estate*, 483 Mich at 52. When read in context, it is clear that the phrase "notwithstanding the foregoing" refers to the immediately preceding allocation of the shares of income of the Family Trust to its life estate beneficiaries, not to the introductory language of Article Seven itself, which controls whether or not the Family Trust is established. This is consistent with rules for reading legal documents such as wills, trust, or even statutes. See *In re Reisman Estate*, 266 Mich App at 526; *In re Bem Estate*, 247 Mich App at 434. The foremost rule in effectuating the intent of a legal document's maker is to examine the language of the document itself. See *Sun Valley Foods Co v Ward*, 460 Mich 230, 236; 596 NW2d 119 (1999); *In re Perry Trust,* 299 Mich App at 530. "In interpreting the [document] at issue, we consider both the plain meaning of the critical word or phrase as well as 'its placement and purpose in the statutory scheme.' " *Sun Valley Foods*, 460 Mich at 237 (citation omitted). In this case, the notwithstanding phrase immediately follows the allocation of income shares among the life beneficiaries of the Family Trust and is immediately followed by instruction to allocate the share of a deceased life beneficiary proportionately to the other life beneficiaries. This context clearly shows that the notwithstanding phrase only applies to the administration of the Family Trust *if* the Family Trust is established, according the clear language of the grantor, "If my wife, Ilene J. Miller, survives me . . . ." Because Ilene did not survive the grantor, the plain terms of the trust require that "the Trustee shall administer the remaining trust property as provided in Article Eight."

Appellant also argues that certain rules of construction support her contention that the Family Trust was created despite the fact that the grantor's wife did not survive him. These arguments are also misplaced. Because there is no ambiguity with respect to the condition precedent for the establish of the Family Trust—that the grantor's wife must survive the grantor—the rules of construction other than applying the plain terms of the trust do not apply. See *In re Kremlick Estate*, 417 Mich at 240 ("[I]f a [trust] evinces a patent or latent ambiguity, a court may establish intent by considering two outside sources: (1) surrounding circumstances, and (2) rules of construction."); *In re Butterfield Estate*, 405 Mich 702, 711, 275 NW2d 262 (1979) ("[I]f the document evidences a patent or latent ambiguity, there are two external sources through consideration of which a court may establish the intent of the testator: (1) surrounding circumstances and (2) rules of construction."). In this case, there is no ambiguity, and the

grantor's intent expressed in plain terms must be enforced. *In re Butterfield Estate*, 405 Mich at 711; *Bill & Dana Brown Trust*, 312 Mich App at 694.

Appellant also argues that extrinsic facts show a latent ambiguity regarding the necessity of Ilene surviving the grantor for the Family Trust to arise. Specifically, appellant argues that the 2013 version of the trust created life estates for the Article Seven beneficiaries without the necessity of Ilene's surviving the grantor and that a scrivener's error occurred when the trust was restated again in 2015 by adding the necessity that Ilene survive the grantor for the Family Trust to arise. Appellant supports this argument with the additional extrinsic fact of the scrivener's, and then trustee, Daniel Serlin's, writing to all interested parties on February 18, 2016 that his recollection was that after specific bequests were made, the trust provided for a life income estate for the grantor's daughters, appellant and Deborah McLeod, and the grantor's sister, Annette Miller. Serlin later wrote to all interested parties on September 1, 2016, that after rereading the trust's terms he realized that his recollection was in error: The trust did not provide for life estates for appellant, McLeod, or Annette Miller because the grantor's wife did not survive the grantor. These extrinsic facts do not show a latent ambiguity in the plain terms Article Seven of the trust.

As noted, extrinsic evidence is admissible to demonstrate that a latent ambiguity may exist. *In re Kremlick Estate*, 417 Mich at 241. A latent ambiguity exists where otherwise clear language "is susceptible to more than one interpretation." *Shay*, 487 Mich at 668. Appellant's arguments concerning extrinsic facts in this case do not establish that the first three sentences of Article Seven are "susceptible to more than one interpretation," i.e., extrinsic facts do not show a latent ambiguity as to the Family Trust of Article Seven.

The 2013 version of trust shows only that the grantor made changes to the terms of the trust when adopting the restatement in 2015. The fact that the grantor in 2015 made changes in the terms of trust from its 2013 version does not suggest more than one meaning for the clear and unambiguous introductory first three sentences of Article Seven in the 2015 trust restatement. Appellant's argument to the contrary based on *Bullis v Downes*, 240 Mich App 462, 469-470; 612 NW2d 435 (2000), a legal malpractice case, is misplaced. The *Bullis* Court held that deeds drafted the same day as a trust were part of the decedent's estate plan, so they were not extrinsic evidence and could therefore be admitted to show an error by the drafting attorney frustrated the testator's intent. But this case is not one of legal malpractice, and the 2013 version is not a contemporaneous part of the 2015 trust restatement. The two versions of the trust are separate, with the 2015 restatement completely superseding all of its predecessor versions. *Bullis* does not support the proposition that a latent ambiguity exists with respect to the plain terms of the 2015 trust restatement, especially the first three sentences of Article Seven regarding the Family Trust.

Similarly, *Mieras v DeBona*, 452 Mich 278; 550 NW2d 202 (1996), does not support appellant's arguments. *Mieras*, another legal malpractice case brought by disappointed heirs, held that extrinsic evidence could not be used to show the testator's intent was different from that clearly expressed in the testamentary document. *Id*. at 308 (BOYLE, J.). Thus, extrinsic evidence may not be used to show that because of an alleged drafting error, the testator's intent was other than that clearly expressed in the document at issue. See *id*. at 303-305; *Bullis*, 240 Mich App at 469. Neither *Mieras* nor *Bullis* support using the 2013 trust restatement as evidence of a latent ambiguity regarding the plain terms of the 2015 trust restatement.

Finally, the scrivener's misstatement from faulty recollection concerning the terms of the 2015 trust restatement cannot alter or create a latent ambiguity regarding the plainly expressed terms of Article Seven, While Serlin's letter demonstrates a faulty memory of the terms of the trust that the grantor adopted several months before, the actual written trust restatement shows the clearly expressed grantor's intent that must be enforced. *In re Butterfield Estate*, 405 Mich at 711.

In sum, the trial court also did not abuse its discretion by denying appellant's motion for reconsideration of its October 2, 2017 order providing that the trust did not contain a latent or patent ambiguity and directing that the trust "shall be administered as written with assets distributed after trust expenses and specific bequests pursuant to Article VIII." Appellant's unpreserved legal theory seeking reformation of the trust without showing an ambiguity under MCL 700.7415 based on "mistake of fact or law" also does not merit relief. Appellate review is limited to whether plain error occurred. *Demski*, 309 Mich App at 442. Relief under the plain error rule requires showing at minimum that (1) an error occurred; (2) the error was plain, i.e., clear or obvious, and (3) and the plain error affected substantial rights. *Id*. at 427. In this case, plain error is not demonstrated because appellant's arguments and extrinsic facts she cites do not show "clear and convincing evidence that both the settlor's intent and the terms of the trust were affected by a mistake of fact or law." MCL 700.7415. The probate court did not abuse its discretion by declining to consider this legal theory raised for the first time in a motion for reconsideration. *Woods*, 277 Mich App at 630.

Appellant's alternative argument that the probate court erred by not conducting an evidentiary hearing also does not warrant relief. "A trial court's decision that an evidentiary hearing is not warranted is reviewed for an abuse of discretion." *Kernen v Homestead Dev Co*, 252 Mich App 689, 691; 653 NW2d 634 (2002). The probate court "abuses its discretion when it chooses an outcome outside the range of reasonable and principled outcomes." *In re Temple Marital Trust*, 278 Mich App at 128.

As discussed above, the terms of the trust at issue are clear and unambiguous. Therefore, extrinsic evidence is not admissible to show that the grantor's intent was other than that clearly expressed, and the trust must be enforced according to its plain terms. *In re Kremlick Estate*, 417 Mich at 240 ("The law is loath to supplement the language of [testamentary] documents with extrinsic information."); *In re Butterfield Estate*, 405 Mich at 711 ("Where there is no ambiguity, [the testator's] intention is to be gleaned from the four corners of the instrument, and the court has merely to interpret and enforce the language employed.")(citation omitted). Because the trust was not ambiguous, the probate court did not abuse its discretion by declining to conduct an evidentiary hearing to receive extrinsic evidence for the purpose rewriting the plain terms of the trust. *Id*.; *In re Reisman Estate*, 266 Mich App at 527.

Similarly, disappointed heirs, like appellant, may not use extrinsic evidence to show that an attorney's error frustrated the grantor's true intent such that it was different from that clearly expressed in the trust. *Bullis*, 240 Mich App at 469, citing *Mieras*, 452 Mich at 303-305. In this case, appellant proffered nothing to show that clear and convincing evidence might exist to support her claim that, although not ambiguous, "that both the settlor's intent and the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement." MCL 700.7415. So, the probate court did not abuse its discretion by declining to hold an evidentiary

hearing regarding appellant's claims of ambiguity or scrivener's drafting error. *In re Temple Marital Trust*, 278 Mich App at 128.

Additionally, with respect to her claim for reformation under MCL 700.7415, appellant was not aggrieved by the probate court's decision where the court stayed its October 2, 2017 order until February 1, 2018, permitting appellant time to file a petition for reformation under her new legal theory. See MCR 7.203(A). To have standing to bring an appeal, a party must be aggrieved by the lower court's decision. *Kieta v Thomas M Cooley Law School*, 290 Mich App 144, 147; 799 NW2d 579 (2010). In this case, the decision of the probate court gave appellant the opportunity to pursue her new theory of reformation by filing a new petition. "To be aggrieved, one must have some interest of a pecuniary nature in the outcome of the case, and not a mere possibility arising from some unknown and future contingency." *Federated Ins Co v Oakland Co Rd Comm*, 475 Mich 286, 291; 715 NW2d 846 (2006) (citation omitted). Appellant contends the probate court's ruling was illusory because a new petition for reformation would be barred by res judicata. But this argument does not show that the court's ruling is directly adverse to her claim for reformation because it depends on future contingencies and future rulings of the court. *Id.*; see also *Rymal v Baergen*, 262 Mich App 274, 318-319; 686 NW2d 241 (2004).

We affirm. As the prevailing party, appellees may tax their costs pursuant to MCR 7.219. We do not retain jurisdiction.

/s/ Michael J. Kelly
/s/ David H. Sawyer
/s/ Jane E. Markey