

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN THE MATTER OF: ESTATE OF WILLIAM: L. CREMERS, JR., ESTATE OF WILLIAM L. : CREMERS, III AND ESTATE OF ESTATE : OF ESTELLE H. CREMERS, :	IN THE SUPERIOR COURT OF PENNSYLVANIA
APPEAL OF: MATTHEW R. CREMERS :	No. 2075 EDA 2012

Appeal from the Order Entered May 15, 2012
In the Court of Common Pleas of Chester County
Orphans' Court Division No(s): 1592-0911, 1509-1719, 1510-1919

BEFORE: FORD ELLIOTT, P.J.E., MUNDY, and FITZGERALD, * JJ.

MEMORANDUM BY FITZGERALD, J.: Filed: March 11, 2013

Pro se Appellant, Matthew R. Cremers, appeals from the order entered in the Orphan's Court Division of the Chester County Court of Common Pleas declaring the 2009 will of Estelle H. Cremers ("Mother") valid and enforceable and denying the oral motion to amend the appeal petition. Appellant challenged the will based upon undue influence. We dismiss the appeal due to the failure of Appellant's brief to conform to the Pennsylvania Rules of Appellate Procedure.

The trial court adjudication thoroughly set forth the relevant facts so we do not restate them here. **See** Trial Ct. Adjudication, 5/16/12, at 1-12. On May 12, 2012, the court, following a two day hearing, adjudicated the

* Former Justice specially assigned to the Superior Court.

will contest between Appellant and Appellee, Elisa M. Cremers, over Mother's 2009 will finding that "credible evidence failed to prove that Mother had a weakened intellect, an element required to establish the undue influence averred as the sole basis of the will contest." Trial Ct. Op., 7/19/12, at 1. This timely appeal followed. Appellant filed a court-ordered Pa.R.A.P. 1925(b) statement of errors complained of on appeal. The trial court filed a responsive opinion.

Appellant raises the following issues for our review:

1. Do the errors in the Findings of Fact cited in the Adjudication rise to a level sufficient to call into question the soundness of the decision?

2. Did the trial court conflate the requirements for establishing testamentary capacity with the requirements for establishing weakened intellect as an element of an undue influence case and thereby commit an error of law?

3. Did the trial court abuse its discretion by ignoring, or giving no weight to, written evidence that [Mother] suffered from confusion, weakened intellect, and susceptibility to coercion and not giving weight to testimony which the Court called credible but which indicated insane delusions?

4. Did the trial court abuse its discretion in limiting testimony regarding, and giving no weight to, documentary evidence establishing the withering effect on Mother's mind over time of the abusive behavior of Billy, and [Appellee's] boyfriend Ed Palamar, which rose to the level of imprisonment of mind and body?

5. Did the trial court abuse its discretion in not realizing that [Appellee] had a decades-long contempt for [Appellant] and his family which turned into a vendetta from 2008-2012, during which she has routinely lied and

slandered him regarding the nature and scope of a 2008 incident in which she invaded his home in a rage?

7.^[1] Did the trial court err in finding that Mother did not show a history of persistent confusion regarding the nature and extent of her assets?

8. Did the trial court abuse its discretion in determining that the scrivener did not have multiple conflicts of interest resulting from a decades-long relationship with the testator's family, including but not limited to Billy, [Appellee, Appellant] and Hope, sufficient to vitiate his testimony in support of the will?

9. Did the trial court err and abuse its discretion in deciding that the *Motion to Amend Appeal Petition* was waived because a statute of limitations had expired?

14. Did the trial court err in determining that [Appellant's] alleged behavior from 2007 through 2009, cited as a cause for his being excluded in the will[,] was based on facts in evidence?

15. Did the trial court err in finding that the distribution scheme in the 2009 will is natural, reasonable, and consistent with family history, with Mother's history of testamentary intent, and with [Appellant's] character and curriculum vitae?

Appellant's Brief at 5-6.

As a prefatory matter we note that, "*pro se* status does not entitle a party to any particular advantage because of his or her lack of legal training." ***First Union Mortg. Corp. v. Frempong***, 744 A.2d 327, 333 (Pa. Super. 1999). Moreover, "The right of self-representation is not a license . . . not to comply with relevant rules of procedural and substantive law."

¹ Appellant's statement of the questions involved does not contain any issues numbered 6, 10, 11, 12, or 13. ***Id.*** at 5.

Jones v. Rudenstein, 585 A.2d 520, 522 (Pa. Super. 1991) (citation omitted). This Court may quash or dismiss an appeal if an appellant fails to conform to the requirements set forth in the Pennsylvania Rules of Appellate Procedure. Pa.R.A.P. 2101; *Laird v. Ely & Bernard*, 528 A.2d 1379, 1381 (Pa. Super. 1987).

Our Rules of Appellate Procedure set forth the required contents of appellate briefs. **See** Pa.R.A.P. 2111. “Additionally, Rules 2114 through 2119 specify in greater detail the material to be included in briefs on appeal.” *Wilkins v. Marsico*, 903 A.2d 1281, 1285 (Pa. Super. 2006) (citation omitted). “The statement of the questions involved must state concisely the issues to be resolved, expressed in the terms and circumstances of the case but without unnecessary detail.” Pa.R.A.P. 2116(a). “The argument shall be divided into as many parts as there are questions to be argued; and shall have at the head of each part—in distinctive type or in type distinctively displayed—the particular point treated therein, followed by such discussion and citation of authorities as are deemed pertinent.” Pa.R.A.P. 2119(a). “Citations of authorities must set forth the principle for which they are cited.” Pa.R.A.P. 2119(b). “If reference is made to the pleadings, evidence, charge, opinion or order, or any other matter appearing in the record, the argument must set forth, in immediate connection therewith, or in a footnote thereto, a reference to the place in the record where the matter referred to appears[.]” Pa.R.A.P.

2119(c). The brief must identify where in the record the arguments were preserved before the trial court. **See** Pa.R.A.P. 2117(c); **see also** Pa.R.A.P. 302, 2119(e)

This Court has stated:

[A]ppellate briefs and reproduced records must materially conform to the requirements of the Pennsylvania Rules of Appellate Procedure. Pa.R.A.P. 2101. This Court may quash or dismiss an appeal if the appellant fails to conform to the requirements set forth in the Pennsylvania Rules of Appellate Procedure. ***Id.*** Although this Court is willing to liberally construe materials filed by a *pro se* litigant, *pro se* status confers no special benefit upon the appellant. To the contrary, any person choosing to represent himself in a legal proceeding must, to a reasonable extent, assume that his lack of expertise and legal training will be his undoing.

In re Ullman, 995 A.2d 1207, 1211-12 (Pa. Super. 2010) (some citations omitted), *appeal denied*, 20 A.3d 489 (Pa. 2011). “When issues are not properly raised and developed in briefs, when the briefs are wholly inadequate to present specific issues for review, a court will not consider the merits thereof.” ***Frempong***, 744 A.2d at 333-34 (citation omitted).

Appellant’s argument and conclusion are completely devoid of discussion of legal authority. Appellant does not explain why the trial court’s ruling was contrary to law or otherwise improper. Accordingly, we are constrained to find Appellant’s brief fails to conform to our Rules of Appellate Procedure, and we dismiss this appeal on that basis. **See** Pa.R.A.P. 2116(a), 2119(a)-(c); ***In re Ullman***, 995 A.2d at 1211-12.

Appeal dismissed.

IN THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION

IN THE MATTER OF:
ESTATE OF WILLIAM L. CREMERS, JR. – NO. 1592-0911
ESTATE OF WILLIAM L. CREMERS, III – NO.1509-1719
ESTATE OF ESTELLE H. CREMERS – NO. 1510-1919

ADJUDICATION

Procedural Background

This is a will contest regarding the December 9, 2009 will ("2009 Will"; Exhibit P-2) of Estelle H. Cremers ("Mother") who died on November 28, 2010. Her estate remains open and appears at Orphans' Court docket no. 1510-1919. Estelle was predeceased by her husband William L. Cremers, Jr. who died testate in 1992 ("Father"). His estate remains open at docket no. 1592-0911. Father's will established a testamentary trust ("WLC, Jr. Trust"). There were three children born of this marriage including William L. Cremers, III, who died on October 2, 2009 ("Billy"). Billy's estate remains open at docket no. 1509-1719. The other two adult children of the marriage are Elisa M. Cremers ("Lisa") who is unmarried and Matthew Cremers ("Matthew") who is married to Hope Cremers ("Hope"). Matthew and Hope have three daughters of their own, the oldest of whom is named Eve. Father and Mother each established a separate trust for Eve ("Eve's Trusts").

Lisa, the executrix of Mother's estate, offered the 2009 Will for probate and was granted Letters Testamentary by decree dated December 10, 2010. On May 11, 2011, Matthew initiated a will contest to Mother's 2009 Will by filing a Petition for Citation *Sur Appeal* ("Appeal Petition").¹ The sole basis for the will contest was Lisa's alleged undue influence of

¹ This procedural background section only describes those filings pertinent to the will contest initiated by the Appeal Petition.

Mother. (N.T. 3/13/12, at 4.) On June 20, 2011, Lisa filed an Answer and New Matter to the Appeal Petition ("Lisa's Answer"). On July 6, 2011, Matthew filed a Reply to Lisa's Answer.

On July 8, 2011, Lisa filed a Petition for Affirmative Relief ("Petition for Relief") seeking relief for other estates and trusts issues. By order dated November 18, 2011, the court granted in part a preliminary objection filed by Matthew and Hope to the Petition for Relief and required hearings on the Appeal Petition to be heard prior to litigation on the other issues described within the Petition for Relief.

Following an agreed continuance, the court held full day hearings on the Appeal Petition on March 13 and 14, 2012. During the first morning of the hearings, Matthew's attorney sought to amend the Appeal Petition to include a theory of undue influence recognized by New Jersey. The court deferred ruling on the amendment until the parties had a chance to brief it following the hearings but allowed evidence to be presented on this alternative theory to avoid an additional hearing if the amendment eventually were granted.

Findings of Fact²

The court makes the following findings of fact:

1. At all times pertinent, Mother resided in the main house of Rock Run Farm (the "Farm") located at 1801 Ridge Road, Warwick Township, Chester County, Pennsylvania.
2. The Farm was originally purchased by Father and Mother as tenants by the entirety in 1967. At that time it consisted of approximately one hundred and twenty (120) acres.

² These are the facts the court finds credible and material following an evaluation both of witness credibility and the probative value of the physical evidence.

3. Thereafter, Father and Mother conveyed the Farm to themselves as tenants in common and proceeded to gift percentage interests in the Farm to family members. By the time of Father's death in 1992, Father owned forty-three percent (43%) of the Farm, Mother owned thirty-one percent (31%), and Billy, Matthew and Hope each owned six and one-half percent (6-1/2%). The two Eve's Trusts were also gifted a combined total of six and one-half percent (6-1/2%).

4. Beginning in 1989, Matthew and Hope, and eventually their three girls, also resided on the Farm, in a residence located about one hundred yards from Mother's house, at 1805 Ridge Road. In 1990, Father, Mother, Billy, Matthew, Hope and Eve's Trusts, as sellers, sold this residence, together with 10.98 acres of land, to Matthew and Hope. Matthew and Hope financed this transaction through a purchase money mortgage ("Mortgage") which has not yet been paid in full. At the approximate time of this purchase, Father and Matthew valued the entire Farm at one and one half million dollars.

5. The WLC, Jr. Trust, created by Father's will, acquired all of Father's 43% interest in the Farm after he died. The lifetime beneficiary of the WLC, Jr. Trust was Mother. Mother, Matthew and Hope were appointed the trustees of the WLC, Jr. Trust. The residuary beneficiaries of the WLC, Jr. Trust were Billy, Matthew and Lisa.

6. Lisa lives on a residential two acre property near, but not a part of, the Farm, with an address of 1700 Ridge Road. Father and Mother had purchased this property for Lisa's use in approximately 1987. As of 2009, Lisa held title to seventy percent (70%) of this property while the remaining thirty percent (30%) appears to be an asset of the estate of WLC, Jr. which needs to be, but has not yet been, transferred to the WLC, Jr. Trust. (N.T. 3/13/12, at 35; N.T. 3/14/12, at 386-387.)

7. Billy also lived on the Farm. For a number of years prior to his death in 2009, Billy lived in an apartment residence within the Farm barn.

8. In 2007, Attorney Allan B. Greenwood ("Mr. Greenwood") prepared a will for Mother which she executed on November 2, 2007 ("2007 Will"). Mr. Greenwood had known Mother since approximately 1965, when he first began to work, as a young lawyer, with Father who was also a lawyer. Father and Mr. Greenwood remained professional colleagues for decades, working together until Father's death in 1992. Thereafter, Mr. Greenwood was retained by Mother to represent her personally and in her various capacities, including as executrix of Father's estate and trustee of the WLC, Jr. Trust.

9. Mr. Greenwood continues to practice law, devoting approximately half of his legal practice to administration of estates, writing wills and estate planning.

10. The 2007 Will was intended approximately to equalize the property interests of the three siblings, Billy, Matthew and Lisa. Mr. Greenwood communicated with Mother regarding this goal less than one month prior to the execution of the 2007 Will. (See Exhibit P-101.)

11. At some point during 2007, Mother began to develop a mistrust of and displeasure with Matthew and Hope. (Exhibit P-101; N.T. 3/14/12, at 379-382, 421.)

12. Mother conveyed her mistrust of Matthew and Hope to Mr. Greenwood during a conference held in March of 2008. During this conference, Mr. Greenwood and Mother discussed the various ownership interests in the Farm of her children, grandchildren, the WLC, Jr. Trust and Eve's Trusts (Exhibit P-50), and Lisa's potential future acquisition of the remaining thirty percent (30%) interest in her residence at 1700 Ridge Road. (N.T. 3/14/12, at 385-386.)

13. Billy died on October 2, 2009.

14. After Billy's death, the 2007 Will would have split personal property equally between Matthew and Lisa and distributed Mother's residuary estate twenty-five percent (25%) to Matthew and seventy-five percent (75%) to Lisa.

15. From 2007 through most of 2009 and prior to Mother's execution of the 2009 Will, a number of events occurred which steadily increased Mother's mistrust of and displeasure with Matthew and Hope. (N.T. 3/14/12, at 214; N.T. 3/14/12, at 420-421.) These events included:

- i. Hope angered Mother when she refused Mother's request to resign as co-trustee of the WLC, Jr. Trust. Mother had been upset that she was not the sole trustee when Father's will was made known following his death, and she became concerned over time that Hope and Matthew held a majority vote among the three trustees. (See Exhibits P-102 and R-4);
- ii. Mother experienced resistance from Matthew and Hope in her efforts to use the WLC, Jr. Trust or its resources;
- iv. Matthew struck Lisa in August of 2008, significantly damaging her left ear. Her ear was still bleeding two weeks later when she saw a specialist. (N.T. 3/13/12, at 206-207);
- v. Matthew and Hope significantly restricted Mother's and Lisa's contact with Matthew and Hope's children after Matthew's assault on Lisa. This abrupt limitation on Mother's access to her only grandchildren was heartbreaking for Mother. (See Exhibit P-89; N.T. 3/13/12, at 32; 209-211);
- vi. Mother's continuing concern about Matthew's tendency to intimidation and violence (in part based upon his striking both Lisa and Billy);
- vii. Mother's anger after discovering that bank statements for the WLC, Jr. Trust were mailed to Matthew and Hope but not Mother. (See Exhibit P-31, at 2; N.T. 3/14/12, at 421);
- viii. Matthew's rebuffs of Mother's attempts to re-establish contact. (N.T. 3/13/12, at 213);
- ix. Matthew began to drive his girls down the driveway following school, which Mother perceived as an effort to prevent them from interacting with her as she gardened along the driveway. (N.T. 3/13/12, at 213);

- x. Even though Mother paid the taxes on the Farm, Matthew created a locked room in Mother's house which she could not access. He also put locks on the barn and kept sole possession of the keys to it and to the farm equipment. (N.T. 3/13/12, at 210-211); and
- xi. Matthew's demand (shortly after Billy's death and shortly before Mother's execution of the 2009 Will) that certain hunters seek permission to hunt on the Farm from Matthew, and not Mother, because Matthew and his immediate family controlled a majority interest in the Farm. (N.T. 3/14/12, at 396-398).

16. After Billy's death, and in accordance with Mother's direction that she wished to have a new will, Mr. Greenwood drafted two (2) new wills for Mother to consider. The first proposed revised will (Exhibit P-43) divided personalty equally between Matthew and Lisa, while giving Matthew one-third (1/3) and Lisa two-thirds (2/3) of the estate residue. It also provided that Matthew and Lisa would be appointed co-executors. The second proposed revised will divided the personalty and estate residue equally between Lisa and Matthew. (See Exhibit P-44; N.T. 3/14/12, at 402-404, 407-408).

17. These proposed wills were conveyed to Mother on or shortly after October 29, 2009.

18. Billy's death noticeably saddened Mother, but there is no credible evidence suggesting that she was clinically depressed or otherwise mentally unstable.

19. Knowing that Billy's apartment on the Farm was vacant, Mr. Greenwood asked Lisa around the beginning of December 2009 if she thought Mother would be amenable to renting Billy's apartment to a man named Bill Kirch ("Mr. Kirch"). Mr. Greenwood was a trustee of a trust established for Mr. Kirch.

20. On December 8, 2009, Mr. Greenwood held a meeting at Mother's house with Mother to discuss Mother's new will. Lisa was also present at this meeting. Mr. Greenwood

had requested that Lisa attend because he also intended to ask Mother about renting Billy's apartment to Mr. Kirch. (N.T. 3/14/12, at 402, 443.)

21. At this December 8, 2009 meeting, Mother informed Mr. Greenwood that she did not want to use either of his two proposed revised wills. Rather, Mother wanted to bequeath her entire estate solely to Lisa.

22. During the December 8th meeting with Mother, Mr. Greenwood asked Mother about renting Billy's apartment to Mr. Kirch. Mother declined. Mr. Greenwood may have billed Mr. Kirch's trust approximately fifty dollars for this inquiry. If he received compensation for this inquiry, it would have been no more than that amount.

23. Later on December 8th, after the meeting was over, Mother telephoned Mr. Greenwood to reiterate her desire for a will naming Lisa as her sole beneficiary. (N.T. 3/14/12, at 445.)

24. On December 9, 2009, at Mother's house, Mother executed the 2009 Will making Lisa her sole beneficiary and sole executrix. (Exhibit P-2.)

25. At all times during the preparation and execution of the 2009 Will, Mr. Greenwood only represented Mother individually. The court makes the following additional findings relative to Mr. Greenwood's representation of Mother:

- i. Mr. Greenwood, in connection with his prior representation of Mother, performed services on occasion which also benefitted or served Matthew's, Hope's, Billy's, the WLC, Jr. Trust's, Eve's Trusts and/or Lisa's interests;
- ii. Mr. Greenwood at no time represented Matthew, Hope, Lisa, the WLC, Jr. Trust or Eve's Trusts in any capacity;
- iii. Matthew and Hope unpersuasively claimed at the hearings that Mr. Greenwood represented one or both of them: (a) in 1995, while performing legal work on the sale of a nine hundred acre Tioga County property "Tioga Property". Although proceeds of the sale were distributed to Billy, Matthew, Hope and Lisa, Mr. Greenwood's

involvement was pursuant to Mother's capacity as executrix of Father's estate. The Tioga Property had been owned by Father and Mother but gifted during Father's life to their children and Hope; (b) in 1996, while performing legal work on the sale of the stock of a company known as McKees Rocks Industrial Enterprises, Inc. (McKees Rocks"). Similar to the Tioga Property transaction, Mr. Greenwood's work was to assist Mother in her capacity as executrix of Father's estate. Most proceeds of this sale were distributed to Billy, Matthew, Hope and Lisa due to Father's and Mother's prior gifting; (c) in 2007, while working on settlement pertaining to the sale of a portion of the Farm known as the "Loughin Subdivision" (see paragraph 25.vii below); and (d) at various times while discussing or performing work related to the WLC, Jr. Trust (see paragraphs 25.v and vi below);

- iv. Mr. Greenwood credibly denied any such representation of Matthew or Hope, and persuasively testified to the contrary that at all times he represented only Mother;
- v. Mr. Greenwood at no time had a formal attorney/client relationship with the WLC, Jr. Trust. He did at times represent Mother in her capacities as lifetime beneficiary and co-trustee of the WLC, Jr. Trust. (N.T. 3/14/12, at 339.);
- vi. In an email dated March 18, 2010, Mr. Greenwood responded to Hope's request that he provide legal advice to the WLC, Jr. Trust by stating that it might be possible for him to become attorney for the WLC, Jr. Trust, but that he would need to obtain Mother's approval first and, that his law firm would need to bill that Trust separately for any such direct representation. (See Exhibit P-37; N.T. 3/14/12, at 342.) Neither Matthew nor Hope ever responded to Mr. Greenwood's email. (N.T. 3/14/12, at 339.);
- vii. In 2007, Mother, Billy, Matthew, Hope, the WLC, Jr. Trust and Eve's Trusts, as co-owners of the Farm, sold a twelve (12) acre parcel of the Farm to Ryan and Heather Loughin. (See Exhibit P-71; N.T. 3/14/12, at 328.) After much of the Loughin subdivision work had been completed and the sale price negotiated, Mr. Greenwood provided legal services related to settlement on the Loughin Subdivision. Except for his ongoing representation of Mother, he did not separately represent any other seller in this transaction (Billy, Matthew, Hope, Eve's Trusts or the WLC, Jr. Trust). Mr. Greenwood was paid for his services from the gross sales proceeds before the net proceeds were distributed to the various Farm owners. (N.T. 3/13/12, at 70-71.);

26. Mr. Greenwood and Mother's neighbor, John Galligan ("Mr. Galligan"), witnessed Mother's execution of the 2009 Will. Mr. Galligan lived near Mother for many

years at 1730 Ridge Road. (N.T. 3/14/12, at 246.) He was friendly with Mother, who he found to be a nice and polite woman. (N.T. 3/14/12, at 248.)

27. Mother's and Mr. Galligan's residences shared a common lane. Mr. Galligan would have occasion to engage in conversation with Mother, in person, approximately four to five times a year during the period of 2007-2009. (N.T. 3/14/12, at 247-248.)

28. Immediately prior to Mother's signing of the 2009 Will, Mr. Galligan spoke with Mother for approximately twenty minutes. Mr. Galligan credibly testified that he purposefully talked to Mother about various subjects in case he might later be asked about her mental faculties. (N.T. 3/14/12, at 250.)

29. Mr. Galligan credibly testified that Mother, on December 9, 2009, was lucid and gave him no reason to suspect any incompetence, duress or other irregularity of any kind. He recounted that Mother appeared to him to be no different than she had been for the past twenty-two years he had known her. (N.T. 3/14/12, at 251-255.)

30. Mr. Galligan conversed with Mother specifically regarding, *inter alia*, current events and work needed on the main house; Mother conversed rationally and without difficulty. Mother also appeared to be happy with Lisa and glad that she was present. (N.T. 3/14/12, at 255.)

31. Mr. Greenwood also testified credibly that he engaged in a rational conversation with Mother at the time of the signing of the 2009 Will. Nothing in that conversation led Mr. Greenwood to conclude that Mother was unaware of her assets, the natural objects of her bounty, or who was to receive her estate assets in the 2009 Will. Mr. Greenwood orally summarized the substantive provisions of the 2009 Will and obtained Mother's specific reaffirmation of her desire to sign it. Having known Mother for approximately forty-four years

at that point, Mr. Greenwood determined that there was nothing to indicate that Mother was of unsound mind when she signed the 2009 Will. (N.T. 3/14/12, at 426-428, 437.)

32. Lisa called three additional fact witnesses, all of whom were friends of Mother for many years. The witnesses were Margaret Husted, Elaine Adams ("Ms. Adams") and Joan Grimley.

33. These witnesses credibly corroborated the testimony of Mr. Galligan and Mr. Greenwood, describing Mother as a smart and savvy woman who was honest, tender and caring. All three women also agreed, based upon multiple contacts with her over time, and the court so finds, that Mother possessed all of her intellectual faculties. Each of these witnesses credibly indicated that she had no concern or doubt that Mother was fully lucid and competent during the period when the 2009 Will was signed. (N.T. 3/14/12, at 263, 267, 277, 287, 306, 308.)

34. Ms. Adams credibly stated that Mother continued in full possession of her "brilliant" intellectual faculties even after the execution of the 2009 Will. Ms. Adams credibly recounted that Mother continued to chair meetings of the Warwick Township Historical Board throughout at least 2009 and that she possessed a mind like an encyclopedia. (N.T. 3/14/12, at 277.) Ms. Adams also recounted, credibly, that she visited Mother at her house on December 9, 2009, immediately after Mother had signed the 2009 Will and heard Mother exclaim, in reference to providing for Lisa by her 2009 Will, "I've done it, I've done it and now I can rest in peacc." (N.T. 3/14/12, at 284.)

35. Lisa's testimony was also credible and fully consistent with the later testimony of John Galligan and Mr. Greenwood regarding occurrences during the December 8, 2009 meeting at Mother's house and the occurrences at the December 9, 2009 meeting at Mother's house to execute the 2009 Will.

36. As of 2009, Mother continued to be able to live alone, cook for herself, manage her personal hygiene, and ably discuss such things as current events, religion and issues about Farm management. She was an accomplished woman who was proud of her matriarchal position in the family. She had authored multiple books and received many awards, including from the County of Chester and the Pennsylvania Governor, House of Representatives and Senate for her historic preservation work. (N.T. 3/13/12, at 226-227, 229-230.)

37. Neither Matthew, nor anyone else, offered medical or psychiatric evidence demonstrating or supporting a weakness of Mother's mental intellect.

38. Lisa fully acknowledged that she had a very close and special relationship with Mother. Specifically, Lisa credibly stated the following:

- i. In the period 2007-2009, and well before, Lisa spent significant personal time with Mother on a regular basis (N.T. 3/13/12, at 204, 228-229);
- ii. She regularly drove Mother on her errands, such as to stores and doctors' offices, in Mother's car;
- iii. She did not own her own car and had permission from Mother to use Mother's car for Lisa's own needs on an ongoing basis (N.T. 3/13/12, at 183-184);
- iv. She maintained at least two bank accounts in joint names with Mother, who put Lisa's name on said accounts (N.T. 3/13/12, at 188);
- v. Mother confided in Lisa regarding Mother's thoughts and feelings about many issues, including her concern that Matthew and Hope would act against Lisa after Mother's death and about Mother's strong displeasure that Hope was a co-trustee of the WLC, Jr. Trust (N.T. 3/13/12, at 214-215);
- vi. Mother sometimes paid Lisa's expenses, including for example, property taxes and homeowner's insurance (N.T. 3/13/12, at 177); and
- vii. Mother appointed Lisa her power of attorney at the same time Mother executed the 2009 Will (N.T. 3/13/12, at 183).

39. Regardless of the distribution of Mother's estate by the 2009 Will, the WLC, Jr. Trust property, following Mother's death as life beneficiary of the Trust, will be distributed equally between Matthew and Lisa. This will leave Matthew with a significant interest in the valuable Farm property. His interest from the WLC, Jr. Trust, along with the previously gifted interests in the Farm to Hope, Eve and him, will provide his immediate family with approximately a forty percent (40%) in the Farm. (N.T. 3/14/12, at 444.) These interests were thoroughly explained to Mother by Mr. Greenwood; she understood them and understood that Matthew and his family would acquire significant financial gain after her death, even without acquisition of her personal estate assets.

Discussion³

Appeal Petition

In order to set forth a *prima facie* case for undue influence, one challenging the validity of a will must demonstrate the following: (1) a confidential relationship between the proponent of the will's validity and the testator; (2) the proponent of the will's validity receives a substantial benefit under the will; and (3) the testator had a weakened intellect. *In re: Estate of Clark*, 461 Pa. 52, 63, 334 A.2d 628, 633-34 (1975); *In the matter of Mampe*, 932 A.2d 954, 959 (Pa. Super. 2007), *appeal denied*, 596 Pa. 718, 944 A.2d 758 (2008). Failure to prove any one of these three elements is fatal to a will contestant's claim of undue influence. *In re: Estate of Fritts*, 906 A.2d 601, 609-10 (Pa. Super. 2006). The contestant claiming undue influence has the burden of proving the three elements of undue influence by clear and convincing evidence. *Estate of Fickert*, 461 Pa. 653, 658, 337 A.2d 592, 594 (1975). If the contestant

³ Any explicit or implied findings of fact described within this Discussion section are incorporated by reference in the preceding Findings of Fact section.