

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

MARK NESTEL, ET AL., RESPONDENTS

vs.

MELISSA ROHACH, APPELLANT

DOCKET NUMBER WD79867

DATE: JUNE 27, 2017

Appeal from:

The Circuit Court of Jackson County, Missouri
The Honorable Kathleen A. Forsyth, Judge

Appellate Judges:

Division Three: Anthony Rex Gabbert, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

Attorney:

Kimberly J. Westhusing-Kass, for Respondents

Adam S. Davis, for Appellant

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

MARK NESTEL, ET AL., RESPONDENTS

v.

MELISSA ROHACH, APPELLANT

WD79867

Jackson County, Missouri

Before Division Three: Anthony Rex Gabbert, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

Melissa Rohach appeals the judgment of the Jackson County Circuit Court in a discovery of assets action alleging undue influence related to beneficiary designations on seven accounts. The jury found no undue influence on four of the disputed accounts and undue influence on three other accounts. In her first point on appeal, Melissa Rohach complains the trial court erred in denying her motions for directed verdict and judgment notwithstanding the verdict because the evidence does not support a finding of undue influence. In her second point on appeal, Melissa Rohach claims the trial court erred in denying her alternative motion for new trial because the jury verdict was inconsistent. Given the disposition of the first point on appeal, Melissa Rohach's second point is not addressed. The judgment is reversed.

REVERSED.

Division Three holds:

(1) Where the only evidence of undue influence was that daughter had motive and opportunity to influence her mother and where the evidence demonstrated that mother favored daughter, that evidence is not substantial evidence that daughter overcame mother's free will.

Opinion by: Victor C. Howard, Judge

Date: June 27, 2017

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