

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT DIVISION TWO

IN THE MATTER OF: ) No. ED103864  
EDWIN MEISSNER TESTAMENTARY )  
TRUST )  
)  
) Appeal from the Circuit Court  
) of the City of St. Louis  
)  
) Honorable Bryan L. Hettenbach  
)  
)  
) FILED: September 6, 2016

U.S. Bank, National Association (“U.S. Bank”) filed a Petition for Instructions regarding whether, upon termination of the testamentary trust created by Edwin B. Meissner (“Testator”), the remaining assets of the trust should be divided into two equal shares between Testator’s children, Edwin Meissner, Jr., and Dorothy Meissner Freeman, or into six equal shares among Testator’s six grandchildren. Edwin Meissner Jr’s son, Wallace Meissner (“Wallace”), and Dorothy’s daughter, Elizabeth Freeman Baer (“Elizabeth”), both filed motions for summary judgment, whereupon the trial court entered summary judgment in favor of Elizabeth finding that upon termination of the trust, the remaining corpus was to be divided into two shares.

AFFIRMED.

Division Two Holds: The express language, general scheme and intention of the will clearly demonstrates that Testator intended to distribute the trust’s corpus into two equal shares per stirpes upon termination of the trust. Any other interpretation of the will would directly contradict the express terms of the will and would create inconsistencies between its provisions. Additionally, the statutory presumption for per capita distribution under Section 474.020 is inapplicable because the will contains a provision of contrary intention.

Opinion by: Roy L. Richter, J.  
Sherri B. Sullivan, P.J., and Colleen Dolan, J., concur.

Attorney for Appellant: Michael J. McKittrick, Misty A. Watson, Danna McKittrick

Attorney for Respondent: Kathleen R. Sherby, Kimberly A. Mohr

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