

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

ROSALIE J. CIMA, et al.,) ED97813
)
 Appellants,) Appeal from the Circuit Court
) of Audrain County
 v.)
) Honorable Kelly C. Broniec
 RANDY L. RHOADES, et al.,) 07UI-PR00060
)
 Respondents.) Filed: June 4, 2013

Appellants Rosalie Cima, Donald Rhoades, Charles Rhoades, Dennis Rhoades, and Kenneth Rhoades, are children of Betty Virginia Rhoades (Mrs. Rhoades). Respondents are Mrs. Rhoades and her remaining three children: Randy Rhoades, Betty Sue Herron, and Beverly Kibler. Appellants appeal the trial court’s judgment upholding a revocable trust and an amendment thereto, executed by Mrs. Rhoades, which disinherited Appellants. Appellants argue that the trial court failed to recognize a presumption of undue influence and that the overwhelming weight of the evidence established that the documents were the result of undue influence by Respondents Randy Rhoades and Betty Sue Herron.

AFFIRMED.

Northern Division Holds: The trial court did not misapply the law in failing to recognize a presumption of undue influence in a court-tried case because it did hear all the evidence and make a finding on the ultimate question of undue influence. The trial court’s factual conclusion that Mrs. Rhoades was not unduly influenced was not against the overwhelming weight of the evidence.

Opinion by: Gary M. Gaertner, Jr., P.J.
Clifford H. Ahrens, J., and Roy L. Richter, J., concur.

Attorney for Appellants: Jill R. Jackson
Attorneys for Respondents: Louis J. Leonatti, Randall Baker