

THE STATE OF NEW HAMPSHIRE

Merrimack, SS.

6th Circuit
Probate Division

DOCKET NO. 317-2013-EQ-00865

MAR 14 2014

JOHN MARK HALLETT, ET AL

VS.

WILLIAM E. BRENNAN, ET AL

AND

BARBARA D. RASKIN HEBERT HALLETT, ET AL.

Petitioners' Motion for a Ruling on the Safe Harbor Provison of
NH RSA 564-B:10-1014(C) (3)

NOW COME THE PLAINTIFFS', by and through their attorney,
Francis J. Coffey, who ask the Court for a ruling on Count I of
the Petition and say:

1. The Petitioners incorporate into this pleading their entire Verified Petition and the Respondents' answers as offers of proof.
2. The Richard S. Hallett 1996 Revocable Trust Declaration contained a No-Contest or Interrorem Clause at Article 13.
3. Such clause forbids a Beneficiary from directly or indirectly conducting or in any manner whatsoever taking part in or aiding in any proceeding to oppose the administration of the Trust, or any amendment thereto, or

to impair, invalidate, or set aside the Trust or the Trust amendment, or any of their provisions. In such event, the provision therein made for the benefit of such a person shall thereupon be revoked.

4. The Petitioners have not brought this action before the Court to oppose the administration of the Trust, or any amendment thereto, nor to impair, invalidate, or set aside the Trust or the Trust amendment, or any of their provisions.
5. The Petitioners have brought this action in support of the lawful administration of the Trust and its Amendment.
6. The Petitioners have brought this action to facilitate, validate, and enforce the Trust Agreement, its Amendment and all of its provisions.
7. The Petitioners have brought this action because the Trustees have committed a breach of fiduciary duties and/or a breach of trust and/or for a construction or interpretation of the terms of the Trust. As such, regardless of the language contained within the Trust Agreement's No Contest Clause, by statute there can be no violation by the Petitioners of the No-Contest provision.
see NH RSA 564-B:10-1014

Wherefore, the Petitioners ask the Court to rule, pursuant to NH RSA 564-B:10-1014(C)(3) (the safe harbor provision), that:

- A. No part of the Petition constitutes a contest of the Trust by the Petitioners within the meaning of the Trust's No-Contest provision and that by the Verified Petition they are not in violation of the No Contest Clause of Article 13.
- B. If the Court finds any part of this Petition violates the Article 13 No-Contest clause then the Petitioners ask the Court to point out what part of the Petition may be in violation and allow the Petitioners to amend the Petition or reserve that right, or enter an order that is fair and just to the interest of all the parties.
- C. Schedule the Hearing on this matter;
- D. Grant such other relief the Court deems just and equitable.

Respectfully Submitted,

John Mark Hallett,
Amy Hallett Hebert,
Hannah R. Hebert,
Rachael M. Hebert, and
Patricia Hallett Sanderson,
the Petitioners,
by their Attorney:

3/14/14
date

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Certification

I CERTIFY THAT I did provide a copy of this pleading to Attorneys Ralph Suozzo and Linda Smith at 1001 Elm St. Suite 205, Manchester, NH 03101 by first class mail or by electronic mail at rsuozzo@morrisonmahoney.com and lsmith@morrisonmahoney.com and to Attorney Janie Lanza Vowles at 81 Merriam Av. Leominster, Ma 01453 by first class mail or by electronic mail at jvowles@jlvlaw.com. I did not seek the assent of counsel for the Respondents as it is unlikely they would assent.

3/14/14
date

Francis J. Coffey
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