

In re Conservatorship of Abbott

Additional Case Names

In re Abbott Living Trust

Case Number

S-15-0967

S-15-0040

Case Audio

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November 3, 2016

Court Number

Douglas

Case Summary

S-15-0967 In the Matter of the Conservatorship of Marcia G. Abbott. Marcia Abbott, Settlor of the Trust, and Mark Abbott, Designated Successor Trustee (Appellants) v. Cynthia J. Sellon and Russell G. Abbott (Cross-appellants)

S-16-0040 In the Matter of the Abbott Living Trust dated August 8, 1995. Marcia Abbott, Settlor of the Trust, and Mark Abbott, Designated Successor Trustee (Appellants) v. Cynthia J. Sellon and Russell G. Abbott (Cross-appellants)

Sarpy County, Judge Lawrence Barrett

Attorneys: Michael F. Coyle, Elizabeth A. Culhane & Jacqueline M. DeLuca (Fraser Stryker PC LLO) and John K. Green & G. Rosanna Moore (Pickens & Greene, LLP) ' John M. Lingelbach, James A. Tews & Minja Herian (Koley Jessen P.C., L.L.O.)

Probate: Appointment of conservator, removal of trustee, surcharge, accounting

Proceedings Below: In the trust case, the county court ordered that Mark Abbott be removed as successor trustee of the Abbott Living Trust within 30 days but denied appellees' claim for a surcharge. In the conservatorship case, the court appointed Mark as conservator for Marcia G. Abbott.

Issues: Appellants assign that the county court erred by (1) appointing a conservator, (2) failing to dismiss appellees' claims in the trust case for lack of standing, (3) removing Mark as trustee, (4) finding that Mark breached certain statutory duties, (5) ordering that a portion of appellees' attorney fees and costs should be paid out of the trust, and (6) excluding certain evidence at trial.

Cross-appellants assign that the court erred by (1) finding that Mark did not violate his fiduciary duties under ' 30-3869, (2) appointing Mark as conservator for Marcia, (3) disallowing appellees' attorney fees and costs in the conservatorship action, (4) reducing appellees' attorney fees and costs in the trust case, and (5) declining to order Mark to reimburse the Abbott Trust for attorney fees and costs he expended in the trust case.
