

MICHIGAN SUPREME COURT



Office of Public Information

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SAGINAW COMMUNITY TO HOST MICHIGAN SUPREME COURT; ORAL ARGUMENT TO TAKE PLACE AT SAGINAW VALLEY STATE UNIVERSITY

Local students to attend; event marks Saginaw Bar Association's 150th anniversary

LANSING, MI, October 20, 2008 – Saginaw Valley State University will be the setting for a Michigan Supreme Court oral argument, attended by students representing schools throughout the county.

Chief Justice Clifford W. Taylor thanked judges of Saginaw County, local attorneys, and SVSU officials for hosting the Supreme Court. “We are particularly indebted to Judge Fred L. Borchard; Ms. Lori Bommarito, president of the Saginaw County Bar Association; Ms. Kelli Scorsone, the SCBA’s executive director; and Ms. Trish Luplow of the Saginaw County Lawyers’ Auxiliary for helping to organize this event, and to SVSU President Eric R. Gilbertson, who graciously offered the university as the setting for our hearing,” Taylor said.

The October 22 hearing is expected to draw hundreds of area students, including those from local high schools, SVSU, and Delta College, Taylor said. “We expect that this will be far and away the largest live audience for an oral argument in the Court’s history,” he said.

The oral argument, which begins at 1:30 p.m., will be followed by a reception. Both events, which will take place in SVSU’s Curtiss Hall, are open to the public.

The event also highlights the Saginaw County Bar Association’s upcoming 150th anniversary in 2009. The SCBA, one of the oldest attorney organizations in the state, will host the Supreme Court justices at a luncheon before the oral argument.

While the Supreme Court normally hears oral argument at the Michigan Hall of Justice in Lansing, Supreme Court justices and staff are traveling to Saginaw as part of “Court Community Connections,” which the Supreme Court started in 2007 as a public education program aimed principally at high school students, explained Taylor. The Saginaw visit is the third such event, and with potentially hundreds of students attending, will be the largest to date, he said.

“Not everyone can make the trip to Lansing, so we are bringing the Supreme Court to the people, one community at a time,” Taylor said. “Our goal is to help students understand this phase of the justice system. Most people have some understanding of how a trial court functions – not so with the appellate courts. We are trying to fill that gap.”

Taylor added, “My fellow justices and I support this program because it’s critical for citizens in

a democracy to understand how all branches of government work, including the judicial branch. Otherwise, democracy itself is at risk.”

To prepare for the oral argument, students will meet with local attorneys, who will discuss the case that the Court will hear. After the argument, the students will have a debriefing with the attorneys who argued the case.

The case the Supreme Court will hear is *In re Estate of Raymond*. At issue in the case is an almost \$800,000 inheritance left by a woman whose will stated that her estate would go to her siblings, and her husband’s siblings, “that survive me share and share alike or to the survivor or survivors thereof.” Descendants of some predeceased siblings argue that the language allows them to inherit, while one of the woman’s brothers contends that the will allows only the couple’s surviving siblings to benefit. (See case summary below.)

Those who wish to attend oral argument are encouraged to arrive at noon to begin security screening. A second viewing room, where the argument will be shown in simulcast, will be used in case of overflow crowds.

(Please note: The summary that follows is a brief account of the case and may not reflect the way in which some or all of the Court’s seven Justices view the case. The attorneys may also disagree about the facts, the issues, the procedural history, or the significance of the case. Briefs are available on the Supreme Court’s web site at http://www.courts.michigan.gov/supremecourt/Clerk/msc_orals.htm. For further details about the case, please contact the attorneys.)

IN RE ESTATE OF RAYMOND, DECEASED (case no. 134461)

Attorney for petitioner Clair Morse: Anna Marie Anzalone/(517) 263-9906

Attorney for respondents Valerie Sharkey, et al.: Jeffery T. Hall/(734) 944-2269

Trial Court: Lenawee County Probate Court

At issue: Does the testator’s will allow only her living siblings and her husband’s living siblings to inherit from her – or can the descendants of the couple’s deceased siblings also inherit? At stake is who may share in an almost \$800,000 inheritance.

Background: In 1979, Alice J. Raymond and her husband Claude, who did not have any children, made mirror-image wills, in which each of them provided that – after taxes, funeral costs, and administrative expenses – the rest of the property should pass to the surviving spouse. Ms. Raymond’s will also provided that if she died after her husband, the residue of her estate should pass as follows:

“A. Fifty (50%) per cent thereof to my brother [sic] and sisters that survive me share and share alike or to the survivor or survivors thereof.

B. Fifty (50%) per cent thereof to the brothers and sisters of my husband that survive me share and share alike or to the survivor or survivors thereof.”

There was a similar provision in Claude Raymond’s will. Ms. Raymond had eight siblings, as did her husband.

When Ms. Raymond died on February 27, 2005, her husband had already died. Five of her siblings, and three of her husband’s, were alive at the time of her death. The estate’s total assets

amounted to \$796,796.31.

In June 2005, Clair Morse, one of Ms. Raymond's brothers, filed a petition for probate. A month later, he petitioned the probate court, asking the court to interpret paragraphs A and B to mean that only the surviving siblings of Ms. Raymond and her husband could inherit the residue of the estate, with 50 percent going to Ms. Raymond's surviving siblings and 50 percent to her husband's. This meant, he contended, that no share could go to the descendants of the couple's deceased siblings. The language of the will was unambiguous and demonstrated that Ms. Raymond used that wording deliberately to avoid an outcome where anyone other than a surviving sibling would inherit, her brother maintained.

But the respondents in this case, who are descendants of the predeceased siblings, argued that Ms. Raymond intended for them to inherit also, and that the court should interpret the will to mean that they could take their deceased ancestors' share by representation. The respondents contended that the phrases "that survive me" and "or to the survivor or survivors thereof" created an ambiguity in the will, and that "survivor or survivors thereof" could include siblings' descendants. To adopt Mr. Morse's interpretation would mean that, if all the siblings on one side of the family died, the other side of the family could take the entire residue of the estate, the respondents said; such a result would be contrary to Ms. Raymond's intent that each side of the family would receive an equal one-half share of the estate, they argued.

At a hearing on November 21, 2005, the probate court agreed with Mr. Morse, denying the respondents a share of the estate. The respondents appealed by right, but in a 2-1 decision, the Michigan Court of Appeals affirmed the probate court. The Court of Appeals majority said that the phrase "that survive me" showed that the will "clearly limits the class of devisees to the siblings still alive at [Ms. Raymond's] death." The "share and share alike" language also indicated that the class was limited to surviving siblings, the majority said. The majority rejected the respondents' argument Ms. Raymond must have intended for each side of the family to take an equal one-half share of the estate; the will's terms, not speculation about Ms. Raymond's intentions, must govern the interpretation of the will, the majority indicated. The language of the residue clause indicated that Ms. Raymond did not wish to leave the estate to anyone other than her and her husband's siblings, the majority concluded.

But the dissenting judge said that the will's plain language showed that Ms. Raymond's estate should be shared by both the surviving siblings and the surviving descendants of predeceased siblings. Interpreting the phrase "or to the survivor or survivors thereof" to mean only surviving siblings is illogical, the dissent said, because the phrase "that survive me" already made that point. The "survivors thereof" clause must therefore refer to someone else, the only logical group being the descendants of predeceased siblings – their survivors, said the dissenting judge. The language "share and share alike" did not pertain to who could inherit, but only affected the proportion each beneficiary could receive, the dissent reasoned. And the 50 percent-division language clearly showed that Ms. Raymond intended for the two families to share equally, the dissent said, which could only happen if descendants of predeceased siblings were allowed to share in the residue.

The respondents appeal to the Michigan Supreme Court.

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