
Pima County Superior Court Jury Trials

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the standard of care. Dfnts argued the change form was inadvertently placed in Dfnt law firm's safe until after the depositor's death. Dfnts also argued that the custodian never challenged the form and there was no requirement that the form be delivered before death. Additionally, Dfnts argued that Plntfs' damages of attorney's fees in the underlying case were caused by a litigious family member who challenged the distribution, and by an attorney who charged an unreasonable fee to handle the underlying litigation. Dfnts called Steven W. Phillips, J.D., an attorney and trusts/estates expert, who testified it was not below the standard of care to deliver the change form upon the death of the depositor, and the custodian had no requirement to do so prior to death. Plntfs sought \$200,000 in attorney's fees in the underlying case. Plntfs called the attorney who handled the challenge litigation, who testified that his fee was reasonable, in light of the complexity and work performed. Dfnts called Thomas A. Zlaket, J.D., who was of the opinion that Plntfs' attorney performed unnecessary tasks in the underlying case, and the attorney's fees were unreasonable and excessive. Prayer: \$200,000 compensatory damages. Plntfs made a pretrial demand of \$150,000 - Dfnts offered \$40,000 (D). (Carrier: Hanover Insurance.) During closing arguments, Plntfs' counsel asked jury to award Plntfs \$200,000. Defense counsel suggested jury start with \$88,000 in damages, then reduce the amount for costs caused by others. Three day trial. Jury out less than one hour. AWARDED PLNTFS HUSBAND AND WIFE \$7,333.33 COMPENSATORY DAMAGES; AND AWARDED EACH OF THREE PLNTF CHILDREN \$7,333.33 COMPENSATORY DAMAGES (A TOTAL OF \$29,333.32). UNANIMOUSLY.

2/13/14 - Judge CHARLES V. HARRINGTON - CV 2012-6532 - PETERS (David L. Curl of Curl & Glasson, P.L.C.) v GADARIAN & CACY, P.L.L.C.; and CACY (Donald Wilson, Jr., of Broening Oberg Woods & Wilson, P.C.) - PROFESSIONAL MALPRACTICE - LEGAL. Plntfs, husband and wife and their three children, alleged Dfnt Cacy, an attorney, fell below the standard of care when she failed to deliver to the custodian a change form, which made Plntfs the beneficiaries of an IRA, before the death of the IRA's depositor. Plntfs also alleged the prior beneficiary challenged the distribution to Plntfs, and Plntfs had to hire an attorney and engage in litigation to obtain their inheritance. Plntfs called John C. Lincoln, J.D., an attorney and trusts/estates expert, who was of the opinion that it was below the standard of care not to have the change form delivered prior to the depositor's death. Dfnt Cacy, female, denied falling below