



APPLICATION WILLIAM ZIEGLER

584 N.Y.S.2d 302 (1992) | Cited 0 times | New York Supreme Court | June 2, 1992

Decree, Surrogate's Court, New York County (Eve Preminger, S.), entered August 1, 1991, which approved the settlement of the proceedings, and, insofar as appealed from, directed the Steinkraus Trust, of which appellants are trustees, to pay half of the fee of the guardian ad litem, unanimously affirmed, without costs.

William Ziegler commenced the instant proceeding to remove his sister Helen Ziegler Steinkraus and United States Trust Company as co-trustees of the trust created for him by his father's will. The parties entered into extensive negotiations that encompassed not only Ziegler's trust but also his sister's parallel trust (with the same trustees) created by the father's will, and far exceeded the scope of the original proceeding. Ultimately, a settlement was reached and approved by the Surrogate containing terms binding on both trusts.

Appellants challenge only the Surrogate's decision to equally apportion the fee for the guardian ad litem (appointed in connection with the Ziegler Trust) between the two trusts, contending that since the Steinkraus Trust was not a party to the original proceeding, the court did not have jurisdiction over it. We find that since the negotiations revolved around the interests of both trusts, the assets of which were virtually identical, and since the ultimate settlement had significant impact on both trusts, conferring substantial benefits upon the Steinkraus Trust, the Steinkraus Trust was within the jurisdiction of the court (SCPA 201[3]; see, *Matter of Peck*, 79 Misc. 2d 1053; *Matter of Edwards*, 41 Misc. 2d 703). The Surrogate, therefore was well within her discretion to apportion payment of the guardian's compensation in this manner, particularly in view of the guardian's significant role in the negotiations (*Livingston v. Ward*, 248 NY 193, 195-196; *Matter of Burk*, 6 A.D.2d 429).

ENTERED: June 2, 1992

