

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

EARL R. KRAMER, III,

Plaintiff,

vs.

ESTATE OF MARY T. KRAMER,  
MICHELE HUDSON, WENDY THOMAS,  
EXECUTORS, JAMES DANIEL LANDIS &  
JAN ELIZABETH LANDIS,

Defendants.

: No. 19-0388

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: CIVIL ACTION -

: LAW & EQUITY

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: *Preliminary Objections*

**ORDER**

**AND NOW**, as Plaintiff Earl Kramer, III's complaint touches on both the validity of Mary T. Kramer's (the "decendent") October 31, 2018 will, which was admitted to probate on December 5, 2018, and a breach of contract related to an obligation dischargeable at decendent's death and/or specific performance to sell real property, this Court's civil division does not possess jurisdiction over this matter.<sup>1</sup> Therefore, the matter shall be **DISMISSED with prejudice**. While the Court is certainly sympathetic to the procedural delays inherent in denying Defendants' verbal request at argument to transfer this matter to this Court's orphans' court division,<sup>2</sup> the Court is unwilling to suspend the

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<sup>1</sup> 20 Pa.C.S.A. § 711 ("Except as provided in section 712 (relating to nonmandatory exercise of jurisdiction through the orphans' court division) and section 713 (relating to special provisions for Philadelphia County), the jurisdiction of the court of common pleas over the following shall be exercised through its orphans' court division: (1) Decedents' estates.--The administration and distribution of the real and personal property of decedents' estates and the control of the decedent's burial [ . . . ] (13) Specific performance of contracts.--To enforce specifically the performance by either party of any agreement made by a decedent to purchase or sell real or personal property." ). *Compare Mark Hershey Farms, Inc. v. Robinson*, 171 A.3d 810, 815-16 (Pa. Super. Ct. 2017) (affirming trial court's determination that the civil division could exert jurisdiction over a breach of contract claim concerning product delivery as it was not related to administration of the estate) *with Stanley v. Hendershot*, 2018 WL 2275789, at \*2, 12 (Pa. Super. Ct. May 18, 2018) (affirming trial court decision that the orphans' court division had jurisdiction over breach of contract and equitable claims revolving around the plaintiff's agreement with the decedent to care for decedent in exchange for the decedent leaving the plaintiff decedent's estate).

<sup>2</sup> The Court is cognizant of 42 Pa.C.S.A. § 5103(c)'s language related to interdivisional transfers being required instead of outright dismissals; however, Pennsylvania courts have allowed procedural difficulties to override § 5103(c)'s admonishment. *See, e.g., Com. v. Schill*, 647 A.2d 695, 696 (Pa. Commw. Ct. 1994). In this matter, Plaintiff's counsel has not filed an amended complaint after submitting his entry of appearance and is unwilling to proceed with a will contest at this time. Therefore, the Court is unwilling to

notice requirements of a will contest.<sup>3</sup> Hence, until such time as a will contest is filed and a stay granted, the personal representatives of the estate may proceed accordingly.<sup>4</sup>

**IT IS SO ORDERED this 26<sup>th</sup> day of June 2019.**

BY THE COURT,

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Eric R. Linhardt, Judge

ERL/zs

cc: Scott A. Williams, Esq., *Williams & Smay*  
Bret J. Southard, Esq., *Casale & Bonner, P.C.*  
J. Howard Langdon, Esq., *3 South Main St., Muncy, PA 17756*  
Gary Weber, Esq. (Lycoming Reporter)  
File: OC-41-18-0670

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transfer the case and force Plaintiff's hand by labeling the *pro se* complaint as the Court sees fit.

<sup>3</sup> Pa. O.C. Rule 10.4 ("Appeals to the court from an order or decree of the Register shall be by petition and governed by Chapter III [Pa. O.C. Rules 3.1-3.15] of these Rules and any applicable local rules."); *e.g.*, 20 Pa.C.S.A. § 765; Pa. O.C. Rule 3.5. In the companion case proceeding in the orphans' court division, *In re: Estate of Mary T. Kramer* (OC-41-18-0670), Pa. O.C. Rule 10.5 filings appear to imply that Plaintiff is not the only potential beneficiary/heir at law.

<sup>4</sup> 20 Pa.C.S.A. § 908(c) ("No appeal from a decree of the register shall suspend the powers or prejudice the acts of a personal representative to whom letters have been granted.").