

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,  
PENNSYLVANIA**

<b>MILDRED R. STACKHOUSE,</b>	:	
<b>Plaintiff</b>	:	<b>NO. CV-18-0642</b>
	:	
<b>vs.</b>	:	
	:	<b>CIVIL ACTION</b>
<b>DENNIS R. GORDNER and</b>	:	
<b>GAIL B. GORDNER,</b>	:	
<b>Defendants</b>	:	<b>SUMMARY JUDGMENT</b>

**OPINION**

**I. Facts and Procedural History**

Following the death of her husband in 2006, Plaintiff held in fee simple 136 acres of farmland, which included a house and a barn, located in Jordan Township, Lycoming County. In 2008, the Defendants, particularly Dennis Gordner, befriended the Plaintiff when he began working on her farm. Plaintiff essentially became part of the Gordner family, attending holidays and birthdays parties and being called “gram” by the Defendants’ grandchildren.

Following discussions between Defendant, Dennis Gordner, and Plaintiff regarding Plaintiff’s offer to will her land to the Defendants, the Plaintiff contacted Attorney Layne R. Oden for legal assistance. On June 8, 2011, Plaintiff went on her own to meet with Attorney Oden. Attorney Oden’s notes indicate that the Plaintiff did not want her children “to get a dime.” Based upon the initial meeting with the Plaintiff, Attorney Oden prepared documents for the Plaintiff. On September 12, 2011, the Plaintiff presented to Attorney Oden’s office with the Defendants where she executed two documents: 1) A Deed transferring the subject property to Defendants for a consideration of \$1.00 and reserving a life estate for herself; and 2) A Last Will and Testament conveying all of her assets to

the Defendants upon her death. Plaintiff claims that she only intended to execute a Will at this time and only recently became aware of the Deed when she attempted to transfer the property into her daughter's name.

Plaintiff was 76 years old when these transactions took place and, as alleged by the Plaintiff, was "weak in body and mind, depressed and lonely from the death of her husband in 2006, easily influenced and was not possessed of sufficient mental capacity to comprehend the true meaning of the Deed and Will, or the effect of her acts." *See Plaintiff's Complaint at Paragraph 14.* Plaintiff further alleges that she executed the two documents because the Defendants told her that her five children were no longer interested in her, the Defendants were her good friends, and they were the only ones who would help her. *See Plaintiff's Amended Complaint at Paragraph 2 (Paragraph 8).* Plaintiff ultimately claims that the Deed and Will were executed due to her inability to comprehend her acts and Defendants' fraud, duress, coercion and undue influence on the Plaintiff.

On April 30, 2018, Plaintiff filed a six count Complaint based on undue influence, breach of contract, and unjust enrichment. The Court ruled on Defendant's Preliminary Objections, dismissing counts four and five of the Complaint (breach of contract claims) and allowing the Plaintiff to file an Amended Complaint, which she did on November 5, 2018. In Count I, Plaintiff alleges that the Defendants procured the execution of the Deed and Will through fraud, duress, coercion, and undue influence. In Count II, Plaintiff alleges that the Defendants have failed to pay rent to the Plaintiff, despite being in control of the farm, since the Deed and Will were executed. However, during oral argument

held on June 22, 2020, Plaintiff conceded that she is no longer pursuing this claim and therefore, the Court will not address this issue. Count II will be dismissed as being voluntarily withdrawn by the Plaintiff. Similarly to Count I, Plaintiff alleges in Count III that the Defendants induced her to give them various sums of money through fraud, duress, coercion or undue influence. Finally, in Count IV, Plaintiff claims unjust enrichment.

## **II. Legal Principles**

### **A. Summary Judgment Standard**

Pennsylvania Rule of Civil Procedure 1035.2 provides the following regarding summary judgment:

After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law

(1) whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or

(2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

When proceeding under subdivision (2), the Court considers whether the record contains sufficient evidence to make out a *prima facie* cause of action and, if it is decided that there is not, then there is no evidence to submit to the jury. Pa.R.C.P. No. 1035.2 (*Note*). In order to defeat a motion based on the above, the adverse party must come forth with evidence showing the existence of the facts essential to the cause of action or defense. Pa.R.C.P. No. 1035.2 (*Note*). As is well established in Pennsylvania, summary judgment must be

decided on the evidentiary record only and the Court views the record in the light most favorable to the non-moving party. *Toy v. Metro. Life Ins. Co.*, 928 A.2d 186, 194-57 (Pa. 2007). The Court may grant summary judgment only where the right to such a judgment is clear and free from doubt. *Id.*

## **B. General Principles**

In the case of *Yohe v. Yohe*, the Supreme Court of Pennsylvania held that a party who can read but either will not or does not read a deed prior to signing it is guilty of supine negligence and will not be protected. *Yohe v. Yohe*, 353 A.2d 417, 420 (Pa. 1976). “The integrity of signed documents must be respected especially in land transactions in order for there to be certainty in the law. We cannot rescind conveyances merely because one party later claims that he did not understand what he was signing when there was nothing to prevent him from merely reading the deed to discover its contents.” *Id.* As long as there was no coercion, there is no remedy for someone who is not prudent enough to read the deed to realize its consequences prior to signing it. *Id.* The “conveyance of real property by way of deed is presumptively valid and will not be set aside unless it is shown by clear and convincing evidence that the transfer was improperly induced by fraud or other misconduct on the part of the transferee . . . .” *Wagner v. Wagner*, 353 A.2d 819, 823–24 (Pa. 1976).

### **C. Undue Influence**

The person who claims that a document was procured by undue influence has the burden of proof. *In re Estate of Angle*, 777 A.2d 144, 123 (Pa. Super. 2001). That burden is shifted when the following three elements are established:

- 1) a confidential relationship existed;
- 2) the proponent received a substantial benefit; and
- 3) the testator had a weakened intellect.

*Id.*

A confidential relationship exists “whenever circumstances make it certain that the parties did not deal on equal terms but that on one side there was an over-mastering influence, and on the other, dependence or trust, justifiably reposed.” *In re Estate of Jakiella*, 510 A.2d 815, 817–818 (Pa. Super. 1986). “Influence” is control over a person that virtually destroys her free agency. *Id.* Examples of influential conduct is “imprisonment of the body or mind, fraud, or threats, or misrepresentations, or circumvention, or inordinate flattery or physical or moral coercion, to such a degree as to prejudice the mind of the testator, to destroy his free agency and to operate as a present restraint upon him in the making of a will.” *Id.* Opportunity for undue influence, suspicion, and conjecture do not create or amount to proof of either a confidential relationship or undue influence and opportunity is not evidence and does not take the place of testimony. *In re Thompson's Estate*, 126 A.2d 740, 749 (Pa. 1956).

## **D. Unjust Enrichment**

### **i. Statute of Limitations**

The statute of limitations on an unjust enrichment claim is four years. 42 Pa.C.S.A. § 5525(a)(4); *Cole v. Lawrence*, 701 A.2d 987, 989 (Pa. Super. 1997). Pennsylvania courts strictly apply statutes of limitations. *Kingston Coal Co. v. Felton Min. Co.*, 690 A.2d 284, 288 (Pa. Super. 1997). The statute of limitations begins to run as soon as the right to institute and maintain suit arises; lack of knowledge, mistake, or misunderstanding do not toll the running of the statute of limitations. *Id.*

However, if the discovery rule applies, then the statute is tolled until the Plaintiff knew or reasonably should have known of her injury and that the injury was caused by another's conduct. *KAR v. TGL*, 107 A.3d 770, 779-780 (Pa. Super. 2014). "When a defendant's conduct is part of a continuing practice, an action is timely so long as the last act evidencing the continuing practice falls within the limitations period; in such an instance, the court will grant relief for the earlier related acts that would otherwise be time barred." *Larsen v. State Employees' Ret. Sys.*, 553 F. Supp. 2d 403, 416–17 (M.D. Pa. 2008). In order for the discovery rule to apply, the Plaintiff must demonstrate that:

- 1) At least one act occurred within the filing period. The crucial question is whether any present violation exists; and
- 2) The alleged wrong is more than the occurrence of isolated or sporadic acts.

*Id.*

## ii. Elements of Unjust Enrichment

In order to succeed on an unjust enrichment claim, the Plaintiff must prove the following elements:

(1) that benefits were conferred on defendant by plaintiff;

(2) the appreciation of such benefits by defendant; and

(3) Defendants' acceptance and retention of such benefits under such circumstances would be inequitable without payment of value. The Plaintiff must also show that the Defendants either wrongfully secured or passively received a benefit that would be unconscionable for them to retain. *McCabe v. Marywood Univ.*, 166 A.3d 1257, 1263–64 (Pa. Super. 2017).

“In determining if the doctrine applies, our focus is not on the intention of the parties, but rather on whether the defendant has been unjustly enriched.” *Wilson v. Parker*, 227 A.3d 343, 353 (Pa. Super. 2020), citing *Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C. v. Law Firm of Malone Middleman, P.C.*, 179 A.3d 1093 (Pa. 2018). The doctrine of unjust enrichment will not apply simply because the defendant benefited; rather, the benefit must be unjust. *McCabe*, 166 A.3d at 1263-64.

## III. Discussion

### a. Undue Influence

Counts I and III of Plaintiff's Complaint are based on undue influence. Plaintiff alleges she was “weak in body and mind, depressed . . . easily influenced, and was not possessed of sufficient mental capacity to comprehend the true meaning of the Deed and Will” and that the Defendants induced her to

execute the two documents through fraud, duress, coercion, and undue influence. See *Plaintiff's Complaint at Paragraph 14 and Amended Complaint at Paragraph 19*. Defendants argue that Plaintiff's deposition testimony is entirely contrary to these allegations. Regarding her weakness in body and mind and her inability to comprehend, Plaintiff testified at her deposition to the following:

- Q . . . What do – did you mean by weak of body and mind in that paragraph?
- A Because of the loss of my husband.
- Q Okay. And prior to the transaction that we agree occurred in approximately September 2011, your husband died about five years [earlier] . . . . What was your state of mind relative to your husband's death then?
- A Well, I accepted it as it was because he had a bad heart.
- Q Okay, and how did that make you weak of body?
- A **Well, I was still able to do everything that I need to do and kept on going.**

*Plaintiff Deposition Transcript at page 18, lines 14-20 and page 19, lines 3-10 (emphasis added).*

- Q **Was there any mental conditions that prevented you from being able to take care of your house?**
- A No.
- Q **Okay, was there any mental health issues or – that prevented you from agreeing with Mr. Gordner to enter into the lease agreement?**
- A No.
- Q **Was there any diagnosed mental health condition by a doctor?**
- A No.
- Q So is it safe to say that you were still missing your husband?
- A Yes.
- Q But it didn't prevent you from performing your daily activities?
- A That's right, yes.
- Q **And it didn't prevent you from entering into any contracts or agreements?**
- A No.
- Q **Okay. And did you have any reason to not understand the conversations that you had with Attorney Oden?**
- A No.
- Q Okay. The paragraph also says that you were – didn't have sufficient mental capacity. Mental capacity meaning you couldn't understand or appreciate your own actions. Did you have anything



that prevented you from understanding what you did on a daily basis?

A No.

Q And you were able to perform your daily functions?

A Yes.

Q You didn't have any memory issues remembering – relative to remembering doctor's appointments or –

**A No, I did not have any problems.**

Q You always understood what date of the year it was?

A Yes.

Q Okay. And any – any bouts of depression or anything that prevented you from doing your daily activities?

A No.

*Plaintiff Deposition Transcript at page 19, line 17 through page 21, line 11*

*(emphasis added).*

Attorney Oden also testified to his understanding of Plaintiff's mental capacity at the time she executed the Will and Deed:

Q Do you have any opinion relative to Mrs. Stackhouse's testamentary capacity at that time?

A To the extent that I prepared the documents, reviewed the documents, and went through my litany of questions that she was able to answer, and the fact that obviously I allowed her to execute the documents, **I would have had no questions whatsoever regarding her testamentary capacity.**

Q And relative to her capacity to appreciate and understand the life estate deed, do you have any reason to believe that she didn't understand or appreciate what was going on?

A No, I do not.

*Oden Deposition Transcript at page 36, line 15 through page 37, line 2*

*(emphasis added).*

Defendants argue that Plaintiff's testimony was also void of any indication that Defendants "induced [her] to execute the Deed and Will . . . by making false statements that the Plaintiff's children no longer cared for her and would not help her with the farm . . ." and that the Defendants committed acts of "excessive importunity, verbal abuse, physical intimidation and threats . . ." See *Plaintiff's*

*Amended Complaint at Paragraphs 19 and 20.* The following are portions of Plaintiff's testimony relating to Defendants' alleged inducement:

**Q . . . Did Mr. Gordner ever verbally abuse you in any manner?**

**A Not that I can remember.**

Q Do you know why this statement was put into this paragraph?

A Not really.

**Q Okay. Did Mr. Gordner or Mrs. Gordner ever threaten you or tell you if you didn't transfer your property to them, whether it was at death or at any period of time, they were going to physically harm you?**

**A No.**

Q Did they ever tell you that if you didn't transfer the property to them, they wouldn't – they wouldn't continue to help you around your house or take care of you the ways they had continued to do during that time period?

A No.

**Q Did you have any reason to believe that they would harm you?**

**A No.**

**Q At any point in time did you ever feel threatened by them during your interaction with them?**

**A No.**

*Plaintiff Deposition Transcript at page 22, lines 1-24 (emphasis added).*

Q And did you call Mr. Oden yourself –

A Yes.

Q -- to schedule that appointment?

A Yes. And Denny was in my house when I made that call.

**Q Did Dennis ever threaten you and say you had to use attorney Oden?**

**A No.**

Q So if you had chose to use another attorney, you felt like you could make that choice on your own?

A Yes.

*Plaintiff Deposition Transcript at page 24, lines 13-23 (emphasis added).*

Plaintiff herself testified that it was her intent to execute the Will such that the Defendants would inherit her property upon her death:

Q Did he explain the will to you?

A Not really, no.

Q So you had no idea when you signed this document that you were transferring whatever belongings you had when you passed away to –

A I understood –

- Q -- Dennis and Gail Gordner?  
A -- that everything was to go to them when I died.  
Q Okay.  
A Nothing before.

*Plaintiff Deposition Transcript at page 29, lines 5-15.*

Finally, Attorney Oden testified as to his understanding of Plaintiff's intent and that he explained every documents to the Plaintiff:

- Q Was there any question or any information – did any question come up as to why it was being left to a stranger?  
A Yes.  
Q Do you have any recollections of that?  
**A In my file I have written multiple times that it was Mrs. Stackhouse's wishes that her children were not to receive any distribution form her estate.**

*Oden Deposition Transcript at page 13, line 22 through page 14, line 4*

*(emphasis added).*

- Q Now, relative to the life estate deed . . . what would have been your normal process in reviewing and having that document signed?  
A **Some of the preliminary notes indicated that she wanted to add someone to a deed.** Going back to Attorney Roberts' question, it may have been my suggestion for the life estate deed. It is my practice to prefer doing a life estate deed rather than just a straight addition or transfer. That way there are protections to the grantor. That they retain the right absolutely to live in the property.  
...  
Q And not being too presumptive, there would have been a conversation with Mrs. Stackhouse that said, this is your property, essentially, you get to do with it just like you do now until you pass away at which point the remain – the interest goes to the remainderment, being the Gordners?  
**A I am confident of that conversation. And the reason is the reference in any notes to the Principal and Income Act.**

*Oden Deposition Transcript at page 33, line 13 through page 34, line 13*

*(emphasis added).*

- Q And to the best of your recollection, you would have shown this entire document [the Deed] to Mrs. Stackhouse, done a brief explanation of why you were doing it again, and then asked her to sign, unless she had any questions or concerns?

**A Absolutely, because I would have specifically addressed the life estate and the reservation of the Principal and Income Act.**

Q And at any time were these documents ever shared with the Gordners prior to you sending them the final executed version?

A Not that I am aware of, no.

*Oden Deposition Transcript at page 35, line 24 through page 36, line 10*

*(emphasis added).*

Plaintiff argues that while she intended to transfer the land to the Defendants upon her death, she never intended to transfer it immediately, and that the Defendants induced her to do so. She argues that she has only a ninth grade education, does not understand legal terms, and no one ever explained to her what it was she was signing.

Q And did you have a conversation about what you wishes were?

**A No sir, I just called him to make out a will.**

Q Okay. And did you tell him what you wanted in that will?

A Not on that date, I did not, no.

Q Okay. Then how –how do you know that he knew what to put in that – in the will?

A We –the only e – that I know that he knew was what we talked about that day and that was it. **There was no – supposed to be no deed transfer whatsoever.**

*Plaintiff Deposition Transcript at page 25, lines 12-24 (emphasis added).*

A I understood –

Q -- Dennis and Gail Gordner –

A -- That everything was to go to them when I died.

Q Okay.

**A Nothing before.**

*Plaintiff Deposition Transcript at page 29, lines 10-15 (emphasis added).*

Q So – make sure I'm clear. You never saw the Deed –

A No.

Q -- until after it was recorded?

A That's right.

Q Okay. The Deed has a signature page. Is that your signature?

A Yes. But that's the only page I was showed.

Q Okay. So you – and you signed that in front of a notary. Just this page?

A Yes.

...

Q Did you ever question Attorney Oden about what you were signing?

A No.

Q Any particular reason why you didn't question him?

A Because I didn't understand this stuff anyway, and I figured I'm making out a Will and nothing more, and I had no idea what else was going on.

*Plaintiff Deposition Transcript at page 32, lines 4-14 and page 32, line 24*

*through page 33, line 7.*

Q Okay. Who suggested that you transfer the property to Mary [Plaintiff's daughter] and yourself?

A **Mainly me, because I want their names off of my Deed because they don't deserve it.**

Q **And why do you believe that?**

A **Because he [Mr. Gordner] thinks he owns everything now. And this is what he's been telling me. When anybody can try and throw somebody off of my property because I told them they dared to hunt there. It's not right.**

Q Okay. But it's not because you didn't intend to give him all of your property when you signed those documents?

A At that time that was – and that was only supposed to be the Will, no goddamn Deed transfers.

Q But your intentions were at that time –

A At that time. Yes.

Q Just to finish my – it was to transfer – have all of your property go to Dennis and Gail at your passing?

A That was what it was at that particular time.

*Plaintiff Deposition Transcript at page 37, line 17 through page 38, line 11*

*(emphasis added).*

Plaintiff argues that she and the Defendants had a confidential relationship because they became friends, they invited her to their house for holidays and birthdays, and their grandchildren called her "gram." Mr. Gordner would eat meals at Plaintiff's house and she would mend his clothes. She counted on him and trusted him. For these reasons, according to Plaintiff, the Defendants were able to convince her that she should leave the farm to them.

Plaintiff also points out that Mr. Gordner has a long history of farming properties, including his great grandfather's, his uncle's, and his neighbor's without paying rent or contributing towards repairs. Plaintiff further claims that Mr. Gordner created a false note that he and Mildred signed showing that he paid her \$20,000 for the property. "It is obvious that Gordner knew he was doing something wrong and tried to create some kind of evidence showing that he had paid for the farm." *Plaintiff's Brief at unnumbered page 4.* While Plaintiff draws these conclusions, among others, she points to no evidence to support them.

Again, the elements to undue influence are 1) confidential relationship; 2) substantial benefit received by the Defendant; and 3) weakened intellect on the part of the Plaintiff. These elements are conjunctive, meaning if the Plaintiff is unable to prove any one of them, then the Plaintiff's entire claim fails. Here, it is clear that the Defendants received a substantial benefit from the Plaintiff. However, the Plaintiff is unable to prove a confidential relationship or a weakened intellect – the first and third elements.

Regarding the first element, the Plaintiff has not provided sufficient proof that a confidential relationship existed between her and the Defendants. Plaintiff introduced evidence that she essentially became a member of the Gordner family; however, there is absolutely no evidence that the Plaintiff depended on the Defendants or that the Defendants in some way over-mastered or influenced the Plaintiff. To the contrary, Plaintiff testified that the Defendants never abused or threatened her and that she had no reason to believe they would harm her. A confidential relationship is not presumed simply because the Plaintiff and Defendants became part of one another's family.

Regarding the third element, it is clear from Plaintiff's own testimony that she did not have a weakened intellect at the time she executed the Will and Deed. She testified that she was not suffering from any mental conditions or problems that would have prevented her from entering into contracts or understanding the conversations between her and Attorney Oden. While it may be true that she did not entirely understand the legal consequences of the documents she was signing, there is no evidence that the Defendants caused, persuaded, or otherwise influenced her to execute the documents. In fact, Plaintiff admits that "it was Layne Oden's idea . . . concerning a deed with a life estate." *Plaintiff Response at Paragraph 30.*

The fact that there exists a note signed by Defendant, Dennis Gordner, and the Plaintiff that purports to show that Defendants paid the Plaintiff \$20,000 for the farm is of no consequence, as it does not prove a confidential relationship or that Plaintiff had a weakened intellect. Defendant, Dennis Gordner, admits that while it is his signature on the document, he has never paid the Plaintiff \$20,000 and has never signed anything stating that he did so. It is completely unknown to both parties how or why this document came to be. While it is true the Court must view the facts in the light most favorable to the Plaintiff as the non-moving party, there are not actual facts for the Court to consider here. The context of this document is pure conjecture and has no explanation. As stated above, Plaintiff has failed to prove that the Defendants influenced her to the point that her free agency was destroyed. Mere opportunity does not evidence a confidential relationship or undue influence. For these reasons, Plaintiff's undue influence

claims fail as there is no genuine issue of material fact, particularly to elements one and three for undue influence.

**b. Unjust Enrichment**

Count VI of Plaintiff's Complaint is based on unjust enrichment. Plaintiff alleges that the Defendants were unjustly enriched because "the acceptance and retention of such benefits [conferred upon the Defendants] under these circumstances made it inequitable for the Defendants to retain the benefit and they must return the property to the Plaintiff to make payment of the fair market value of the property to the Plaintiff." *Plaintiff's Complaint at Paragraph 39.*

Defendants argue first that the statute of limitations on an unjust enrichment claim has run, since more than four years has passed since the Plaintiff knew or should have known of her alleged injury. On September 12, 2011, Attorney Oden sent a letter to the Plaintiff stating that the "deed creates a life estate interest in [Plaintiff] with a remainder interest to [Defendants]. Upon your death, title to the premises vests automatically in [Defendants] . . . . If you should desire to sell, transfer or mortgage the property, the consent of the [Defendants] will be required." *See Defendants' Exhibit A.* On September 15, 2011, Plaintiff picked up a copy of her Will and Deed from Attorney Oden. *Plaintiff Deposition Transcript at page 32, lines 1-8.* At the latest, Defendants argue the statute of limitations would have run four years after the Plaintiff picked up the copy of the Will and Deed, which would have been September 15, 2015. Plaintiffs' Complaint was filed April 30, 2018.



The Court agrees with the Defendants' argument on the statute of limitations. As set forth above, the statute of limitations on an unjust enrichment claim is four years. Plaintiff signed the Deed and Will on September 12, 2011, which is the same date that Attorney Oden mailed the Plaintiff a letter explaining the documents she signed, albeit in legal terms. Plaintiff picked up copies of the documents on September 15, 2011, put them in her safe, and did not look at them again for several years. This lawsuit was filed on April 30, 2018. Despite Plaintiff's arguments, the discovery rule does not preserve her claim as timely. Plaintiff has set forth no evidence that the Defendants' actions or inactions prevented her from discovering her alleged injury. For example, there are no allegations that the Defendants took the documents from Plaintiff so she could not read them. There is no evidence that the Defendants' misled her regarding the content of the documents. There is no evidence that the Defendants caused the Plaintiff to fail to act in a timely manner. Therefore, even under the discovery rule, the Plaintiff reasonably should have been aware of the alleged harm no later than September 15, 2011 and the statute of limitations has run on Plaintiff's unjust enrichment claim.

Even if the statute of limitations has not run, the Defendants argue that based on the testimony cited above, Plaintiff admitted that at the time she executed the Will and Deed that it was her intent to transfer the property to the Defendants upon her passing. Any enrichment of the Defendants must be unjust; mere enrichment is not sufficient.

Plaintiff argues that the transfer of the property to the Defendants was "wrongfully secured or passively received [such that it] would be unconscionable

to retain” because the Defendants paid no consideration for the transfer and the transfer was done under false and misleading pretenses. Essentially, Plaintiff argues that the Defendants either wrongly secured or passively received the property by failing to pay consideration, transferring the property under false pretenses, and falsely creating a document showing that Defendants paid \$20,000 to the Plaintiff.

The Court is of the opinion that the Plaintiff has failed to prove the necessary elements of unjust enrichment, particularly the third element that acceptance and retention of the benefit the Defendants’ received under such circumstances would be inequitable to retain without payment of value.

Here, a benefit was clearly conferred upon the Defendants. The question is whether or not the benefit was *unjustly* conferred. Plaintiff had five children when she signed the Deed and Will. The Defendants received the property for the consideration of \$1.00. The Defendants and the Plaintiff have no blood relation, but did have a similar familial relationship. The following passages, taken from both the Plaintiff’s and Defendant, Dennis Gordner’s deposition demonstrate the relationship they had with one another:

Q Did you have a good friendly relationship with him?

A I think so. Yes.

Q Up until the subject of this lawsuit came about?

A Yes.

Q Okay. And would he come down and visit you on occasion at your own house?

A Yes.

Q And would you cook him meals and - -

A Yes.

Q - - have conversations with him?

A Yes.

**Q Was he somebody that you could rely on to take care of your if you had something going on at your own house?**

**A Most likely.**

*Plaintiff Deposition Transcript at page 14, line9 to page 15, line 10*

*(emphasis added).*

Q Okay. Now we've heard the statement from Mr. Gordner and Mrs. Gordner that you had told individuals that you didn't want your children to have anything because they weren't involved in your life.

...

A I may have told them that at one point but things have changed.

*Plaintiff Deposition Transcript at page 38, lines 12-15 and page 39, lines*

*4-5.*

Q Relative to your property, has Mr. Gordner ever done any work around your property for you that wasn't the farming operation?

A Only what he volunteered to do.

Q Okay. So he stated that he volunteered to help you put new floors in the property, in the - - was it the kitchen?

**A He volunteered to help put the pantry floor down, and then after I got the pantry floor down, they wanted to me to do the kitchen floor, too.**

Q Okay. But they volunteered to help do that work then - -

A Yet [sic].

Q - - for you?

...

Q And did he ever repair or maintain the driveway for you?

**A They brought - - he drove the state highway truck and dumped the grindings off of the sides of the road and put that on the floor - - on the driveway.**

Q **Did he charge you for that?**

**A No.**

Q Was that an improvement to the driveway?

A Somewhat.

...

Q Okay. And I believe there was a portion of your property that he did not farm but there was hay being grown by you personally?

A Yes.

Q **And did he bale that hay for you?**

**A Some of it, yes.**

Q Did he do that on a yearly basis from approximately 2000, I believe, nine when you entered into the lease agreement, until 2017 when you told him to stop coming on your property - - on the property?

A Yeah. But he only did that after 2012 because Nelson was bailing my hay before that.

**Q Okay. So as of 2012 to 2017, Mr. Gordner baled your hay and put it in your barn for you?**

**A Baled some, yeah.**

*Plaintiff Deposition Transcript at page 47, line 7 to page 49, line 1*

*(emphasis added).*

**Q So on occasion Mr. Gordner would pay for the baler twine for your hay?**

**A He did the last year.**

Q Okay.

A Or the year or two, because I was furnishing enough baler twine to - - cover most of theirs, too.

Q Okay. I appreciate that. And Mr. Gordner testified that he used - - he would haul coal in for you. Is that an accurate statement?

A And he used - - part of the time he used my truck. And the last time he hauled coal, he used my daughter's trailer and I paid for the gas for his truck to haul it.

Q But that coal was brought in for your benefit, correct?

A Yes.

*Plaintiff Deposition Transcript at page 50, lines 3-19 (emphasis added).*

**Q Okay. Who plowed the snow in the wintertime on your driveway?**

**A He [Mr. Gordner] did at his own - -**

Q Understood. He - - it was Mr. Gordner that plowed for you correct?

A But I had my own tractor that I could plowed by own.

Q Okay. But he did do it?

A Only because he wanted to do it, but not because I asked him.

*Plaintiff Deposition Transcript at page 51, lines 5-14 (emphasis added).*

Q Okay. I believe Mr. Gordner testified relative to your interactions with his grandchildren, being the children of his son Bill Gordner. Some of the comments were that - - statements were that they used to come over and say hi to you. That - -

A Yes.

Q - - they felt like you were their gram as well. Is that an accurate statement?

**A Yeah. They used to come, and they used to all call me gram because he [Dennis Gordner] started it.**

*Plaintiff Deposition Transcript at page 52, lines 7-16 (emphasis added).*

Q Were you a relative of hers [Plaintiff] or something?

**A No, I wasn't. I treated her like my own.**  
Q What did you do to do treat her like your own?  
A She was to Thanksgiving dinners, birthdays, Christmas.  
Q At your house?  
A At our house, yes, or my kids' house, wherever we had it.

*Dennis Gordner Deposition Transcript at page 28, lines 17-24 (emphasis added).*

Q You worked 12 hour shifts sometimes and you would eat there when you got off or eat there before you went?  
**A Why did I go there? To check on her.**

*Dennis Gordner Deposition Transcript at page 29, lines 4-7 (emphasis added).*

Q Took William's - -  
A Bill.  
Q - - kids in as her gran kids?  
A Yes.  
Q She helped raise them?  
**A No. She - - she would treat them like her own when they would stop to visit when I was up there working.**  
...  
**A And - - and we made sure that they [the kids] went back in to see her on Halloween because nobody ever went to see Mildred. My kids went back to see her.**

*Dennis Gordner Deposition Transcript at page 48, line 19 to page 49, line 1 and 16-18 (emphasis added).*

The case of *Mitchell v. Moore* is factually comparable to the present case. The Plaintiff and Defendant, who were in a romantic relationship, lived together on Defendant's farm. *Mitchell v. Moore*, 729 A.2d 1200, 1202 (Pa. Super. 1999). The Plaintiff did not pay rent to the Defendant while living there but assisted the Defendant in the maintenance of the house and farm. *Id.* When the relationship

ended, the Plaintiff brought an action against Defendant for unjust enrichment and sought compensation for the work he did around the house and farm. *Id.*

The Court ultimately held that the Plaintiff failed to prove the elements of unjust enrichment. *Id.* at 1206. Specifically, it stated that “an intention to pay for work done will be assumed, except in the case of parent and child. Where, however, it is apparent that the parties, though not so related by blood, in reality bore like connection to each other, the implication does not arise . . . .’ While it has been held that the presumption of gratuitous services does not automatically arise in a daughter-in-law/mother-in-law context, where a claimant has become ‘part of the family’ the contrary is true.” *Id.* at 1204, *citing Brown v. McCurdy*, 122 A. 169 (Pa. 1923).

While the facts in *Mitchell* are not entirely similar to the present case since there is not a claim for failure to pay for services, it is reasonable to say that when there is a child/parent bond, there is no presumption that the child will pay for property bequeathed to them. While the Plaintiff and Defendants are not related by blood, it is clear from the above testimony that Dennis Gordner cared for the Plaintiff as a child would care for a parent. It can be said that the Plaintiff and the Defendants became “part of the family” to each other.

On the contrary, the case of *Runco v. Burdyn*, is distinguishable to the present case. In *Runco*, the Plaintiff, an unmarried elderly woman with no children, deeded her property to the Defendant, the Plaintiff’s niece. *Runco v. Burdyn*, 05 CV 3179, 2006 WL 2242995, at \*2 (C.P. Lackawanna 206). In the 40 years that the Plaintiff and Defendant lived near each other, the Defendant never helped the Plaintiff maintain her house and never provided any financial support

to the Plaintiff. *Id.* Defendant took the Plaintiff to her attorney's office where Plaintiff "wished to make a will and to convey her property to the [Defendants] so that . . . [Plaintiff] could live [at the subject property] as long as she wanted to." *Id.* A deed was executed conveying Plaintiff's property to the Defendant for the consideration of \$1.00 but the deed did not provide Plaintiff with a life estate. *Id.* at \*3. The Court, based on the Area Agency on Aging's findings, found that the Plaintiff had been led to believe by the Defendant that she only executed a will that would convey the property to the Defendant upon her death in exchange for Defendant's promise to care for her. *Id.* The Court also found that the Plaintiff's weakened intellect and misplaced trust in family members made her susceptible to manipulation. *Id.* at \*4. The Court ultimately found that the Defendant was unjustly enriched. *Id.* at \*8.

While the facts in *Runco* may initially seem similar to those of the present case, there are stark differences. It is obvious that Dennis Gordner helped the Plaintiff and cared for her. He plowed her driveway, stopped by to check on her, baled her hay, and invited her to holiday and birthday parties with his family. Mr. Gordner ensured that the Plaintiff would be able to live on the property until the time of her death. There is no evidence that he ever intended to force her to leave. As discussed in detail above, there are absolutely no findings of abuse on the part of the Defendants by either this Court or the local office on aging. The Court further found that the Plaintiff was not weak, either intellectually or physically, at the time she signed the Deed and Will.

Therefore, for all the reasons set forth above, it is not unconscionable for the Defendants to retain the property. Plaintiff's unjust enrichment claim fails as there is no genuine issue of material fact.

#### **IV. Conclusion**

It is clear to the Court that based on the above case law and testimony, particularly the Plaintiff's own deposition testimony, that the Plaintiff cannot prove the elements of undue influence or unjust enrichment. It is understandable to the Court that, due to Plaintiff's age and extent of her education, she may not have fully understood the legal consequences of the documents she was signing. However, the duty to ensure Plaintiff's understanding does not rest on the Defendants and Plaintiff has pointed to no evidence to show that the Defendants induced, coerced, or influenced the Plaintiff into executing the documents. Further, based on the testimony from the Plaintiff regarding her and Mr. Gordner's relationship, it is not inconceivable that Plaintiff would want to give the Defendants her property. Therefore, Defendants are entitled to summary judgment as a matter of law.



**ORDER**

**AND NOW**, this 24<sup>th</sup> day of **July, 2020**, upon consideration of Defendants' Motion for Summary Judgment and Plaintiff's Response thereto, it is hereby Ordered that Defendant's Motion is **GRANTED** on Counts I, II, and IV and Count II is **DISMISSED** with prejudice based upon Plaintiff's withdrawal of the claim.

BY THE COURT,

\_\_\_\_\_  
Hon. Ryan M. Tira, Judge

RMT/ads

CC: Lee H. Roberts, Esquire – *146 E. Water Street, Lock Haven, PA 17745*  
J. Michael Wiley, Esquire/Christopher H. Kenyon Esquire – *835 West Fourth Street, Williamsport, PA 17701*  
Gary L. Weber, Esquire – Mitchell Gallagher

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,  
PENNSYLVANIA**

<b>MILDRED R. STACKHOUSE,</b>	:	
<b>Plaintiff</b>	:	<b>NO. CV-18-0642</b>
	:	
<b>vs.</b>	:	
	:	<b>CIVIL ACTION</b>
<b>DENNIS R. GORDNER and</b>	:	
<b>GAIL B. GORDNER,</b>	:	
<b>Defendants</b>	:	<b>SUMMARY JUDGMENT</b>

**AMENDED ORDER**

**AND NOW**, this 27<sup>th</sup> day of **July, 2020**, the Court's Order dated July 24, 2020 regarding Defendant's Motion for Summary Judgment is hereby amended as follows:

Defendant's Motion is **GRANTED** on Counts I, III, and VI. Count II is **DISMISSED** with prejudice based upon Plaintiff's withdrawal of the claim.

BY THE COURT,

\_\_\_\_\_  
Hon. Ryan M. Tira, Judge

RMT/ads

CC: Lee H. Roberts, Esquire – 146 E. Water Street, Lock Haven, PA 17745  
J. Michael Wiley, Esquire/Christopher H. Kenyon Esquire – 835 West  
Fourth Street, Williamsport, PA 17701  
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