

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.

SUPERIOR COURT
CIVIL ACTION
NO. BACV2011-00433

JESSE E. TORRES, III and others¹

VS.

SOPHIE J. TORRES and others²

MEMORANDUM OF DECISION AND ORDER
ON DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

INTRODUCTION

Plaintiffs, Jesse Torres and Jennifer Adams, filed this action against Defendants for, *inter alia*, alleged breach of contract, conspiracy, slander, defamation, coercion, extortion, and intentional infliction of emotional distress. All counts other than those against Defendant Jesse E. Torres, IV, appear to arise from an alleged breach of contract between Plaintiff Jesse E. Torres, III and Defendant Sophie Torres. Before the court is Defendant Jesse E. Torres, IV's motion for summary judgment. For the following reasons, Defendant's motion for summary judgment is ALLOWED.

BACKGROUND

The summary Judgment record, viewed in a light most favorable to the non-moving party, reveals the following.

¹Jennifer J. Adams.

²Jesse E. Torres, IV, Debtmerica, LLC, and Donald F. Torres.

On or about April 24, 2009, Plaintiffs assisted Defendant Sophie Torres in drafting a will, which she then signed. Sophie then executed an Addendum to the Will, which Plaintiffs also helped her to draft, which purported to transfer all of her rights in real property to the Plaintiffs. Plaintiffs allege that the execution of this Addendum created an enforceable contract between the parties, and that Sophie's decision to change and/or revise her will by executing a third and subsequent will constitutes a breach of contract.

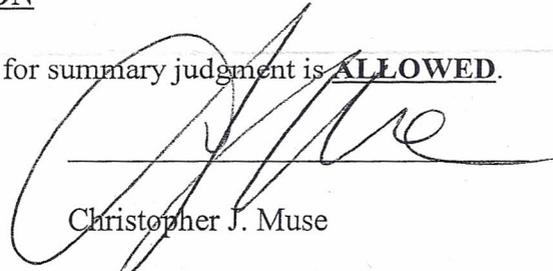
The parties agree that all counts, must fail if the breach of contract count against Sophie fails.

DISCUSSION

Massachusetts case law is clear that an enforceable contract to make a will cannot be litigated for breach of contract until such time for performance has arrived, i.e. at the time of death. Furthermore, even if this court found an enforceable contract, which it does not, a breach is not arguable. The court has reviewed all of the remaining counts, and all parties agree that a ruling as to count I would impact all remaining claims. As count I is dismissed, all remaining counts must be dismissed. Therefore, summary judgment is appropriate at this time.

CONCLUSION

For the foregoing reasons, Defendant's motion for summary judgment is ALLOWED.

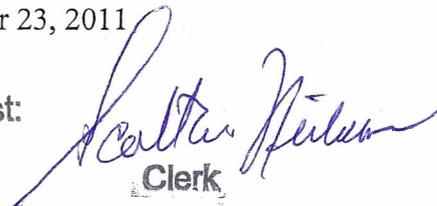


Christopher J. Muse

Justice of the Superior Court

Dated: November 23, 2011

A true copy, Attest:



Clerk