

The Court charges the jury that if you believe from the evidence that the will makes an unnatural disposition of the property of the Testatrix this fact may be taken into consideration, together with, or in connection with all of the evidence in the case in the determination of the issues involved.

Siveer
Stephen J. Maddeben
judge

3.

The Court charges the jury that if you are reasonably satisfied from the evidence in this case, that the will was obtained by the exercise of undue influence on the part of H. C. Devine, Jr. which amounted to coercion, then you must find that the will was obtained by undue influence.

Given
Jeffrey J. Middleberry
Judge

4.

The Court charges the jury that the issue of insanity gives much latitude to the parties to introduce evidence of the Testatrix's acts, declarations and conduct prior and subsequent to the execution of the will and in considering such evidence, I charge you that you should give such evidence such weight to which you think it is entitled.

Super
Jeffrey J. Madleson
Judge

The Court charges the jury that if you are reasonably satisfied from the evidence in this case, either direct or circumstantial, that a confidential relationship existed between Ella Virginia Devine and H. C. Devine, Jr. and that there was activity on the part of H. C. Devine, Jr. in procuring the execution of the will, then I charge you that this raises a presumption of undue influence on his part and casts upon the Plaintiff the burden of proving that such will was not the result of undue influence.

Refused
Seafair J. Marshall
Judge

The Court charges the jury that if you are reasonably satisfied from the evidence in this case that Ella Virginia Devine used medicines continuously over a long period of time prior to August 13, 1964; and if you are further reasonably satisfied from the evidence that the use of such medicines over such period of time produced mental incapacity in the said Ella Virginia Devine, that such facts should be considered by you in determining whether or not the degree of impairment of her mind had progressed to such an extent as to render her incapable of making a valid will on August 13, 1964.

Given
Jeffrey J. Mollenbren
Judge

7.

The Court charges the jury that it is not the means employed so much as the effect produced which must be considered by you in determining whether undue influence has contributed to the making of the will, for though the influence exerted over the Testatrix was such as if applied under ordinary circumstances or exercised over a person of ordinary power of resistance, would be considered as innocent, yet, if, in the particular case it resulted in the disposition of property contrary to Testatrix's desires, the influence was undue.

Given,
Suzanne J. Madeline
Judge

The Court charges the jury that the true test as to undue influence is to be found, not so much in the nature and extent of the influence exercised, as in the effect that such influence has on the person making the will.

W. W. W. W.
John J. Mandelbaum
Judge

The Court charges the jury that if you are reasonably satisfied from the evidence in this case that the instrument offered for probate as the Last Will and Testament of Ella Virginia Devine is the result of undue influence exercised by H. C. Devine, Jr. over the said Ella Virginia Devine, you should find for the Defendants.

J. J. Mason
Joseph J. Mason
Judge

10.

The Court charges the jury that if you believe the evidence in this case you must find for the Defendants.

Refused
Jeffrey J. Mathison
Judge

The Court charges the jury that whether the free agency of the Testatrix was destroyed or mastered by physical force or mental coercion or by threats which occasioned fear or by importunity which the Testatrix was too weak to resist, or which extorts compliance in the hope of peace is immaterial. In considering the issue of undue influence, therefore, it is essential to ascertain as far as practicable the power of coercion on one hand and the liability of its influence on the other. And whenever through weakness, ignorance, dependency or implicit reliance of one on the good faith of another, the latter obtains an ascendancy which prevents the former from exercising an unbiased judgment, undue influence exists.

Susan
Jeffrey J. Masleburn
judge.

12.

The Court charges the jury that the illness of the Testatrix, if such existed at the time of the making of her will, and the time, nature and duration of such illness are proper subjects of inquiry under the issues of testamentary capacity.

J. J. Mason
J. J. Mason
Judge

13.

The Court charges the jury that if you believe the evidence in this case you cannot find for the Plaintiff.

Refused,
Seafair J. Marshall
Judge.