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THEATRICAL SHOWCASE



Graham Paine/Metroland

Robbie Simpson and Diena Howe perform a scene from 'Variations on the Death of Trotsky' during opening night of the Georgetown Little Theatre's outdoor one-act play festival Theatre is A'LIVE.

legal matters | LITIGATION

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ASK THE PROFESSIONAL

Q

I am the estate trustee for my mother's modest estate. I have a brother that was estranged from the family and since my mother's passing he has resurfaced. He is contesting the administration of the estate and making spurious claims against me as the estate trustee. He told me that even if he gets nothing from the estate, he will bankrupt the estate before it is paid out. What can I do?

A

In the absence of settlement, a court will have to determine the case. However, your brother does so at his own risk. While in the past it was almost commonplace for the costs of litigation to be paid out of the estate, individual participants are now often required to pay their own legal costs. Our civil court system also applies a principle that the unsuccessful party pays a portion of the successful party's legal costs. The courts have wide jurisdiction to decide how much if any of the successful party's costs, the unsuccessful party should pay. Recently, where a party brought an unsuccessful challenge to a deceased's Will, the court awarded a higher level of costs because of the behavior of the unsuccessful party. In your case, baseless allegations brought by your brother may also result in a court awarding significant costs against him. There are also other procedural options available.

If you are dealing with an estate issue, give us a call to set up a free ½ hour consultation. Stay safe and enjoy the weekend.



J. David Keith
Partner

Commercial and Civil Litigation,
Employment Law, Estate Litigation.

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