

Daily Journal

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TOP VERDICTS OF 2012

TOP DEFENSE VERDICTS

In the matter of LET Revocable Trust

Congress's failure in 2010 to renew the estate tax law required estate planners and litigators to get creative. It also required the deceased to do some time traveling.

Eileen Tweten was on her death bed in 2010 when she and her husband Leonard realized that half of their \$100 million trust, written in 2008 to pass in full to the surviving spouse, would instead be diverted to their two daughters upon Eileen's death because of the change in tax law.

The solution? The couple wrote an amendment saying the trust was to be read as if Eileen had already died in 2009.

The daughters, who would not receive their share of the proceeds under the amended trust until both parents died, subsequently filed suit against their 85-year old father, seeking to invalidate

CASE INFO

Trust / Estate Tax

Riverside County Superior Court Judge James A. Cox

Defense attorneys:

Bingham McCutchen LLP, Marshall B. Grossman, Karen Ho; Ervin Cohen & Jessup LLP, Rodney C. Lee, Jeffrey Merriam-Rehwal

Plaintiffs' attorneys:

Loeb & Loeb LLP, Adam F. Streisand, Nicholas Van Brunt, Amy K. Bell

the amendment and demanding the \$50 million. *In the Matter of the LET Revocable Trust*, INP10000515 (Riverside County Super. Ct., filed 2010).

Marshall B. Grossman of Bingham McCutchen LLP,



MARSHALL B. GROSSMAN

who represented Tweten, said the daughters argued Tweten exercised undue influence on his wife, that she didn't have the mental capacity to execute the amendment and that her signature had been forged.

Riverside County Superior Court Judge James Cox invalidated the amendment

because it hadn't been notarized as required by the terms of the trust. But Cox denied the daughters' request for trust proceeds and granted Tweten's petition to modify the trust to allow him to retain the full \$100 million.

"The judge ruled that under any standard of proof, [the modification] was necessary to honor the intent of the parents," Grossman said.

Cox also rejected the daughters' argument that Tweten was guilty of wrongdoing.

"The ultimate goal is to try and ascertain the trustor's intent," said Rodney C. Lee of Ervin Cohen & Jessup LLP, who also represented the defendant. "That's just what the judge did here."

The daughters — Nancy Crowe and Janet Houston — have filed a notice of appeal.

— Blake Edwards