

PA Supreme Court

Case: *In re. Trust Estate of Joe LaRocca*, 431 Pa. 542 (1968)

Judge: Bell*, Musmanno, Jones, Chen, Eagen, O'Brien, Roberts

Date: Oct. 3, 1968

Tags: Attorney fees, trust

Facts: Attorneys filed petition in Orphans' Court to get counsel fees (\$10,600) out of trust estate established for minor grandson of LaRocca. Judge awarded \$7000. Appeals happened, including from mother of minor (who had hired the lawyers).

Gravamen/Question(s) at issue: Was an award of \$7000 in attorney fees out of the estate trust appropriate?

Holdings: Yes, lower court's award is affirmed.

Rationale: Attorneys did succeed in protecting, though not "creating," the trust for the minor involved. While the lower court didn't provide its explanation for why its award was "reasonable," we think it's reasonable, given the amount of money recovered for the plaintiff.

Appeals to Statute & Precedent:

- Numerous Estate cases (re. factors that influence the amount of the "reasonable" fee and the fact that it's a decision for the discretion of the lower court).

Dicta/Discussion:

- "What is a fair and reasonable fee is sometimes a delicate, and at times a difficult question." (546)
- Factors to consider re. "reasonable":
 - "the amount of work performed; the character of the services rendered; the difficulty of the problems involved; the importance of the litigation; the amount of money or value of the property in question; the degree of responsibility incurred; whether the fund involved was 'created' by the attorney; the professional skill and standing of the attorney in his profession; the results he was able to obtain; the ability of the client to pay a reasonable fee for the services rendered; and, very importantly, the amount of money or value of the property in question." (546)
- "A larger fee than usual is likewise frequently awarded when an attorney 'creates' a fund." (547)
 - In this case, although the attorneys insisted they "created" the fund, the Court is only willing to say they *protected* it.
- "By now it is hornbook law that the reasonableness of the fee is a matter for the sound discretion of the lower Court and will be changed by an appellate Court only when there is a clear abuse of discretion." (547)

- “Judge TAXIS awarded a total fee . . . of \$7,000.00, which he considered fair and reasonable compensation for the services rendered by the Knox brothers. It would have been helpful if he had given in greater detail (in his adjudication or Opinion) the factors he took into consideration in fixing the amount of the fee and his reasons in support thereof.” (548)
- This decision is at the discretion of the court of first instance.

Attorneys’ Arguments: The amount of the request was reasonable, given number of hours spent representing the minor over five years. Also: we CREATED the fund.