

COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT  
PROBATE AND FAMILY COURT DEPARTMENT

Norfolk Division

Docket Number 16E0020QC

Philippe Dauman and George S. Abrams, as  
Trustees of the SUMNER M. REDSTONE NATIONAL  
AMUSEMENTS TRUST  
Plaintiffs

V.

Sumner M. Redstone, Phyllis Redstone, Shari Redstone, Tyler Korff,  
Norman I. Jacobs, David Andelman, and Leonard Lewin, as Trustees;  
Thaddeus Jankowski and Jill Krutick, as purported new Trustees; Sumner Redstone, as  
sole current beneficiary; and Phyllis Redstone, Shari Redstone, Tyler Korff,  
Brandon Korff, Kimberlee Korff Ostheimer, Harvey Benjamin, Haylee Rose,  
Keryn Redstone, and Lauren Redstone Ellis, as remainder and contingent  
beneficiaries, of the SUMNER M. REDSTONE NATIONAL  
AMUSEMENTS TRUST  
Defendants

**ORDER**

(On Amended Complaint in Equity filed May 25, 2016)

Given the issues raised at the June 7, 2016 hearing, and in the interest of expedient and efficient management of this case, it is Ordered that the parties in their submissions in favor of/against dismissal of the action shall address at a minimum the issues/questions set forth below. By this Order the Court is not limiting the arguments about or bases for or against the dismissal of the action. All references to the "Trust" are to the "Sumner M. Redstone National Amusements Trust" created on June 28, 2002 as amended. All references to the "MUTC" mean the Massachusetts Uniform Trust Code. "Sumner" is Sumner Redstone in his capacities as Trustee and Trust Grantor. "Shari" is Shari Redstone in her capacity as Trustee, any other fiduciary capacity, and as beneficiary.

The Court's issues/questions are as follows:

- 1) Does a Court have to find Sumner mentally incapacitated as a predicate to a finding of undue influence by Shari?

- 2) Do the terms of the Trust permit or prohibit removal of the plaintiffs as trustees by way of influence by Shari, or is the Trust silent on the issue? If the Trust is silent on the issue, and if undue influence were exerted, is trustee removal prohibited by law or public policy in Massachusetts?
- 3) At article E page 25, the Trust instrument uses the terms "mentally incapacitated" and if "adjudged incompetent by a court of proper jurisdiction." Should Massachusetts or California law apply as to the meaning of "mentally incapacitated"?
- 4) Even if the issue of Sumner's mental incapacity is a California issue, do the terms of the Trust or the MUTC require that the issue of influence, undue or not, in procuring the removal of the plaintiffs as trustees be decided in Massachusetts?
- 5) If California has exclusive jurisdiction or represents a better venue over the issue of mental incapacity and if a California court of proper jurisdiction deems Sumner to be mentally incapacitated, is California's definition of incapacity substantially similar to Massachusetts' definition to afford the California determination full faith and credit on that issue?
- 6) Does California have exclusive or concurrent subject matter jurisdiction over the administration of the Trust?
- 7) If Massachusetts has subject matter jurisdiction of the Trust by its terms, should California venue supersede that jurisdiction given the purported facts of Sumner's age and physical limitations?
- 8) Given that the Trust was created by Sumner as a Massachusetts Trust when he was indisputably not mentally incapacitated, should MUTC sec. 201 govern disputes regarding the removal of trustees?
- 9) Did Sumner, if he acted independently, competently, and free of undue influence in removing the plaintiffs as trustees, subject the issue of removal to Massachusetts jurisdiction pursuant to MUTC sec. 202?
- 10) Do any of the parties rely on MUTC sec. 412 to prevent or leave undisturbed the removal of the plaintiffs as trustees?
- 11) If Sumner were not mentally incapacitated and had not been unduly influenced to do so by Shari, do the terms of the Trust authorize him to have removed the trustees for no reason?

DATE: JUNE 16, 2016

  
George F. Phelan, Judge

Probate and Family Court