

News From the Bench: Joint Account Right of Survivorship Survives Challenge From Estate Executor

Before getting into the details of Konfrst vs. Stehlik, please read out loud or sing the standard News From the Bench disclaimer:

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After the death of Widow’s husband in 2002, Widow maintained a joint money market account and joint checking account that named her late husband’s niece (“Surviving Accountholder”) on the joint account. Surviving Accountholder was also a tenant of Widow, renting a duplex adjacent to Widow’s duplex residence. Widow died on February 7, 2010 and was survived by one brother (“Executor”). From the time that Surviving Accountholder was added to the accounts by Widow until Widow’s death, Surviving Accountholder made no deposits of her own into either account, made no payments or withdrawals for her own benefit and claimed no interest income on her personal tax returns. She only used her status as joint accountholder to pay Widow’s bills on occasions when Widow was unable to do so.

When Widow died on February 7, 2010, the balance in the money market account was \$255,000. On February 8, 2010, Surviving Accountholder withdrew the entire balance. Executor sued Surviving Accountholder seeking to recover the \$255,000 for Widow’s estate. The trial court ruled in favor of Surviving Accountholder, and Executor appealed.

Under Illinois’ Joint Tenancy Act, personal property cannot transfer by right of survivorship unless there is a *written instrument* that expresses the *intent* to create survivorship rights in the property. The two issues facing the Court in this case were: (1) Was there a written instrument? and (2) Even if the answer to (1) is “yes,” was there the *intent* that the money market account be used to transfer money to Surviving Accountholder by means of joint tenancy?

The issue as to the existence of a written instrument was clouded by the fact that the bank could not produce an account signature card signed by all relevant parties; however, the Court found to be credible Surviving Accountholder’s testimony that a joint account signature card had, in fact, been signed by her and Widow, especially when she produced an unsigned copy that a bank officer verified was similar to the form used by the bank, monthly bank statements were in the names of both Widow and Surviving Accountholder and the bank allowed Surviving Accountholder to change the mailing address on the account, which the bank officer testified they would not have done for someone who lacked ownership status in the account.

As to the issue of intent to transfer via a joint account, the Court was not persuaded by Executor's claim that the account was merely a "convenience account" with Surviving Accountholder having only been added to the account for the purpose of writing checks to pay Widow's bills. Having already concluded that a joint account with right of survivorship account had been created at the bank, the Court found credible Surviving Accountholder's testimony that Widow told her she would be entitled to the money market account balance when Widow "croaked." The Court also dismissed Executor's evidence of an unauthenticated handwritten note stating that upon her death Widow would leave Surviving Accountholder \$50,000. Executor argued that the note proved that Widow did not intend to transfer the money market account balance to Surviving Accountholder; however, the Court ruled that the note lacked the essential components of a will (including witnesses) and that, in any event, it was possible that Widow wanted to leave Surviving Accountholder \$50,000 from her estate *in addition to* funds that would be transferred from bank accounts via right of survivorship.