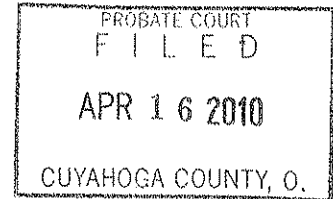


IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO  
PROBATE DIVISION



**TILLIE ROONEY**

**CASE NO. 2009 ADV 0153365**

**Plaintiff**

**v.**

**JUDGE LAURA J. GALLAGHER**

**DAVID B. ROONEY, SUCCESSOR  
TRUSTEE, and INDIVIDUALLY**

**Defendant**

**JUDGMENT ENTRY**

This matter came on for hearing on April 8, 2010 upon Plaintiff's Motion for Expedited Hearing on Removal of Trustee Pursuant to Ohio Revised Code 5807.06 (C) filed March 23, 2010. The underlying Complaint for Removal was filed on December 4, 2009. The Court agreed to expedite the hearing with regard to removal and the parties were notified that the issue of removal would be heard on April 8, 2010.

Present for hearing were the Plaintiff, Tillie Rooney, represented by Attorneys Adam Fried and Christine Reid and Defendant David B. Rooney, represented by Attorney John Sayre. Also present as witnesses for the Plaintiff were her daughters Ellen Rooney and Shari Rooney.

The Court heard testimony from David Rooney, Tillie Rooney, Ellen Rooney and Shari Rooney. Several documents were submitted by both parties for the Court's review, including a DVD recording of the signing of the Raymond Rooney Trust.

Upon consideration of the testimony and evidence presented at hearing the Court finds two things to be true. The Court finds that Raymond Rooney intended for his wife Tillie to be financially supported from his assets after his death. The Court further finds that Tillie has not

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received the financial support that was intended for her.

The Court finds that David Rooney is both Trustee and Beneficiary under the Raymond Rooney Trust. The Court further finds that David Rooney facilitated the preparation and signing of the Trust less than two months prior to the death of Raymond Rooney. The Court further finds that David Rooney, as Trustee, was authorized by the terms of the Trust to pay the funeral expenses of Raymond Rooney from the Trust, but that he failed to do so within a reasonable time resulting in collections efforts against Tillie Rooney. The Court further finds that David Rooney as Trustee has not yet filed any tax returns for the Trust.

The Court further finds that David Rooney, as Trustee, has initiated a separate action against Tillie Rooney to dispute ownership of the family home. Tillie Rooney is the current owner of the home pursuant to a survivorship deed.

The Court finds that David Rooney's failure to promptly pay funeral expenses, timely file tax returns for the trust, or to provide any financial support to Tillie Rooney since Raymond Rooney's death in November , 2008 constitute a persistent failure of the trustee to administer the trust effectively pursuant to O.R.C. 5807.06 (B)(3).

The Court further finds that David Rooney's actions in filing suit against Tillie Rooney cause serious doubt as to whether David Rooney, as trustee, can effectively administer the trust and protect the interests of that beneficiary.

The Court finds Plaintiff's Complaint for Removal of Trustee to be well taken. The Court finds that David B. Rooney is hereby **removed** as Trustee of the Raymond Rooney Trust. The Court further finds that Attorney Egidijus Marcinkevicius, shall be appointed by the Court as Successor Trustee . The Court further finds that the other prayers for relief set forth in the Complaint shall be set for further hearing.

**IT IS SO ORDERED.**

It is further **ORDERED** that the Clerk of Court shall serve upon all parties notice of this judgment and date of entry pursuant to Civ. R. 58(B).



JUDGE LAURA J. GALLAGHER

APR 16 2010