

## SUPREME COURT OF RHODE ISLAND

# Angela Giguere Kumble et al. v. Michael Voccola et al.; Michael Voccola et al. v. Angela Giguere Kumble et al.

Kumble v. Voccola · No. Nos. 2019-49-Appeal (PB 12-3338) and 2019-47-Appeal (PB 12-3476) · Decided June 30, 2021

### SUMMARY

The Rhode Island Supreme Court affirmed a Superior Court judgment awarding trustees attorneys' fees, expenses, and interest incurred in administering two testamentary trusts. The court held that interest on attorneys' fees could qualify as a reasonable trust expense under Rhode Island General Laws § 18-6-1 and concluded that the beneficiaries' challenges to the fee award lacked merit or were waived.

### CASE DETAILS

|                       |                                                                                                                                                                                                                       |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Rhode Island                                                                                                                                                                                         |
| WRITING FOR THE COURT | Associate Justice Melissa A. Long; Chief Justice Suttell; Justice Robinson; Justice Lynch Prata; Justice Long                                                                                                         |
| JURISDICTION          | Rhode Island                                                                                                                                                                                                          |
| DECIDED               | June 30, 2021                                                                                                                                                                                                         |
| DOCKET                | Nos. 2019-49-Appeal (PB 12-3338) and 2019-47-Appeal (PB 12-3476)                                                                                                                                                      |
| DISPOSITION           | affirmed                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | The beneficiaries appealed from the consolidated final judgment of the Providence County Superior Court awarding the trustees attorneys' fees, costs, and interest incurred in administering two testamentary trusts. |
| STANDARD OF REVIEW    | The Supreme Court reviewed the award of attorneys' fees for abuse of discretion and the statutory interpretation underlying the award of interest de novo.                                                            |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                        |
| PARTIES               | Angela Giguere Kumble et al., Christine Tellefsen v. Michael Voccola et al., Daniel Shedd                                                                                                                             |

## TOPICS

trust administration

trustee duties

remedies

appellate procedure

statutory interpretation

## PRACTICE AREAS

trusts

probate

appellate procedure

remedies

## QUESTIONS PRESENTED

1. Whether the Superior Court abused its discretion in awarding the trustees attorneys' fees and costs after considering the applicable reasonableness factors.
2. Whether interest charged on attorneys' fees incurred in administering the trusts constituted a reasonable and indemnifiable trust expense under G.L. 1956 § 18-6-1.
3. Whether the beneficiaries could challenge the award of fees incurred in pursuing the trustees' entitlement to compensation after failing to appeal the Superior Court's May 11, 2017 decision.

## HOLDINGS

1. The Superior Court did not abuse its discretion in awarding the trustees attorneys' fees and costs because it considered the applicable fee-reasonableness factors, including the proportionality of the award and the trustees' success on the substantial claims asserted against them.
2. Interest charged on attorneys' fees incurred in administering a trust, including interest accruing while the trustees lacked access to trust assets, is a reasonable expense incurred in the execution of the trust and is indemnifiable under G.L. 1956 § 18-6-1.
3. The beneficiaries waived their challenge to the award of fees incurred in pursuing the trustees' entitlement to compensation because they did not appeal the Superior Court's May 11, 2017 decision resolving that issue.

## KEY QUOTATIONS

*“Bills incurred by trustees in the administration of a trust, including interest accrued through no fault of the trustees, are a reasonable trust expense that is indemnifiable under § 18-6-1.”* (at 18)

*“Because we hold that the trial justice properly awarded interest under § 18-6-1 as an expense reasonably incurred in the administration of the trust, we”* (at 19)

*“Although the interest figure is large, we cannot, as the old adage states, allow “bad facts to make bad law.””* (at 19)

## FACTUAL BACKGROUND

Frederick Carrozza's will created two testamentary trusts and named Michael Voccola and Daniel Shedd as trustees entitled to reasonable compensation. After Carrozza's death, disputes arose between the trustees and beneficiaries concerning management of trust properties, counsel, distribution of trust assets, and responsibility for litigation expenses. The trustees incurred substantial attorneys' fees, lost access to trust assets under a consent

order, and sought indemnification from the trusts, including interest charged under their engagement agreement with counsel.

## PROCEDURAL HISTORY

The beneficiaries and trustees litigated competing claims concerning administration of two testamentary trusts. After an eleven-day nonjury trial, the Superior Court awarded compensation and attorneys' fees to the trustees and denied the parties' substantive counterclaims. The court later awarded interest on the attorneys' fees and entered final judgment; the beneficiaries timely appealed, and the Supreme Court consolidated the appeals.

## DISPOSITION

affirmed

## CASES CITED

- Carrozza v. Voccola, 962 A.2d 73 (R.I. 2009)
- Carrozza v. Voccola, 90 A.3d 142 (R.I. 2014)
- Tri-Town Construction Company, Inc. v. Commerce Park Associates 12, LLC, 139 A.3d 467 (R.I. 2016)
- Sisto v. America Condominium Association, Inc., 140 A.3d 124, 129 (R.I. 2016)
- Pearson v. Pearson, 11 A.3d 103, 108 (R.I. 2011)
- Keystone Elevator Company, Inc. v. Johnson & Wales University, 850 A.2d 912, 920 (R.I. 2004)
- Hogan v. McAndrew, 131 A.3d 717, 722 (R.I. 2016)
- Independent Oil and Chemical Workers of Quincy, Inc. v. Procter & Gamble Manufacturing Company, 864 F.2d 927, 929 (1st Cir. 1988)
- In re Quinn's Estate, 64 R.I. 322, 322, 12 A.2d 275, 276 (R.I. 1940)
- Morse v. Minardi, 208 A.3d 1151, 1155 (R.I. 2019)
- Nunes v. Meadowbrook Development Co., Inc., 24 A.3d 539, 542 (R.I. 2011)
- Notarantonio v. Notarantonio, 941 A.2d 138, 144 (R.I. 2008)
- In re Estate of Brown, 206 A.3d 127, 136 (R.I. 2019)
- Tanner v. Town Council of Town of East Greenwich, 880 A.2d 784, 802 (R.I. 2005)
- Moore v. Ballard, 914 A.2d 487, 489 (R.I. 2007)
- Cadillac Lounge, LLC v. City of Providence, 913 A.2d 1039, 1043 (R.I. 2007)
- Gibbons v. Gibbons, 619 A.2d 432, 434 (R.I. 1993)