

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
THIRD DEPARTMENT

Matter of Frank A. Clemente Two-Year Grantor Retained Annuity
Trust

2026 NY Slip Op 03706 (3d Dep't 2026) · No. CV-23-1488 · Decided June 11, 2026

SUMMARY

The Appellate Division, Third Department affirmed a Surrogate's Court decree approving the judicial settlement of an inter vivos trust accounting. The court held that jurisdiction was proper because the trustee resided in New York and was retained after the trustee's death, and it declined to vacate the parties' open-court settlement because the alleged fraud was known or reasonably discoverable before the stipulation.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Pritzker, J.P.; Ceresia, J.; Fisher, J.; McShan, J.; Corcoran, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	June 11, 2026
DOCKET	CV-23-1488
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a decree of the Surrogate's Court of Rensselaer County granting a petition for judicial settlement of an accounting of an inter vivos trust and denying the objectant's motion to vacate an open-court settlement.
STANDARD OF REVIEW	The court reviewed whether the Surrogate's Court properly exercised subject matter jurisdiction and whether the court properly denied a motion to vacate a stipulation of settlement. The court also noted that certain remaining contentions were unpreserved or without merit.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Paul Clemente v. Frank Clemente Jr., as Successor Trustee of the Frank A. Clemente Two-Year Grantor Retained Annuity Trust, Erin

Clemente, as Administrator of the Estate of Robert Clemente, Geri Lee Ide, other respondents

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QUESTIONS PRESENTED

1. Whether the Surrogate's Court had subject matter jurisdiction over the inter vivos trust under SCPA 207 because the trustee resided in New York even though his domicile or mailing address may have been in Colorado.
2. Whether the Surrogate's Court retained jurisdiction over the accounting proceeding after the original fiduciary died and the successor trustee voluntarily became a party.
3. Whether the objectant's open-court stipulation of settlement should be vacated based on alleged fraud where the objectant had access to the relevant evidence before entering the stipulation.

HOLDINGS

1. The Surrogate's Court had subject matter jurisdiction under SCPA 207 because the trustee resided in New York when the proceeding commenced and during its pendency, notwithstanding that his domicile may have been in Colorado.
2. The Surrogate's Court retained jurisdiction after the trustee died because it had jurisdiction when the trustee petitioned for judicial settlement and the successor trustee voluntarily became a party.
3. The Surrogate's Court properly denied the motion to vacate the settlement because the objectant knew or should have known of the allegedly fraudulent transactions before entering the settlement and failed to exercise due diligence.

KEY QUOTATIONS

*"The SCPA "expressly confer[s] statewide subject matter jurisdiction over lifetime trusts on the Surrogate's Courts where the trust assets are in this state, the grantor was a New York domiciliary when the proceeding was commenced, or a trustee resides here"" (*2)*

*"Accordingly, as the objectant knew or should have known about the allegedly fraudulent transactions before agreeing to the settlement, Surrogate's Court properly denied his motion to vacate the parties' open court settlement" (*3)*

FACTUAL BACKGROUND

Frank A. Clemente and his wife created an estate plan that included a family limited partnership and a two-year grantor retained annuity trust benefiting their five children. David P. Clemente served as trustee and was

temporarily residing in Troy, New York, although his mailing address and possible domicile were in Colorado. After the trustee died, Frank A. Clemente Jr. became successor trustee and participated in proceedings involving an updated trust accounting. The parties entered an open-court settlement, but Paul Clemente later sought to vacate it based on alleged fraudulent transfers that he or his counsel knew or should have known about before the settlement.

PROCEDURAL HISTORY

Paul Clemente commenced a proceeding to compel the trustee to provide a final accounting. The trustee petitioned for judicial settlement, and after discovery the Surrogate's Court partially granted Clemente's motion for summary judgment, determined that it had jurisdiction, and directed a trial concerning compensation and fiduciary duties. After the trustee died, the successor trustee submitted an updated accounting. The parties entered an open-court settlement, the interested parties consented to the updated accounting, and the Surrogate's Court denied Clemente's motion to vacate the settlement based on alleged fraud before entering the decree. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Clemente, 224 AD3d 945 (3d Dep't 2024)
- Matter of Witherill, 306 AD2d 674, 674 (3d Dep't 2003)
- Matter of Samuel A. Garrasi and Mary H. Garrasi Irrevocable Trust dated July 31, 1991, 91 AD3d 1074, 1075 (3d Dep't 2012)
- Yaniveth R. v LTD Realty Co., 27 NY3d 186, 193 (2016)
- Finch v Erie Ins. Co., 211 AD3d 1152, 1154 (3d Dep't 2022)
- Hammerman v Louis Watch Co., 7 AD2d 817, 818 (3d Dep't 1958)
- Matter of Chain Trust, 220 AD3d 770, 771 (2d Dep't 2023)
- Matter of Samuel A. Garrasi and Mary H. Garrasi Irrevocable Trust dated July 31, 1991, 91 AD3d 1074, 1075-1076 (3d Dep't 2012)
- Rainone v Davenport, 121 AD3d 1444, 1445 (3d Dep't 2014)
- Matter of McLaughlin, 97 AD3d 1051, 1052 (3d Dep't 2012)
- Myristica, LLC v Camp Myristica, Ltd., 201 AD3d 1078, 1081 (3d Dep't 2022)
- Matter of Brady v Town of Warwick, 244 AD3d 1699, 1700 n (3d Dep't 2025)