

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND  
BUSINESS COURT**

**CATHY B. DEUTCHMAN, ET AL,  
Plaintiffs,**

v.

**Case No. 15-145183-CB  
Hon. James M. Alexander**

**JAY HOWARD BRODY,  
Defendant.**

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**OPINION AND ORDER RE: SUMMARY DISPOSITION**

This matter is before the Court on Defendant’s motion for summary disposition. Plaintiffs filed this action on claims of misconduct by Jay Brody against Plaintiffs as owners of R&R Management, FP Novi, and FP Westland. These businesses are in the business of owning and managing apartment complexes.

Defendant argues that it is entitled to summary disposition because the present case involves claims that are within the exclusive jurisdiction of the probate court. To that end, Defendant now move for summary disposition under MCR 2.116(C)(4), which tests whether the Court has subject matter jurisdiction over Plaintiffs’ claims.

Under MCL 700.1302(b)(v), the probate court has exclusive jurisdiction over

A proceeding that concerns the validity, internal affairs, or settlement of a trust; the administration, distribution, modification, reformation, or termination of a trust; or the declaration of rights that involve a trust, trustee, or trust beneficiary, including, but not limited to, proceedings to do all of the following:

. . .

(v) Determine a question that arises in the administration or distribution of a trust, including a question of construction of a will or trust.

In response to Defendant's motion, Plaintiffs argue that the present case cannot and does not involve the administration of a trust because the Defendant in this case, Jay Brody, "has no authority to administrate the trust at issue in the probate manner." Rather, Robert Brody (Jay and Cathy's father) is the trustee of the Rhea Brody Trust. Plaintiffs allege that Jay Brody is pressuring, exercising undue influence over, and exploiting his relationship with Robert Brody to "enrich himself to the detriment of his sister and without regard for his fiduciary obligations."

Therefore, Plaintiffs argue, "The probate matter seeks protection of the Rhea Brody Trust from acts of Robert Brody. The Complaint before this Court seeks relief from acts of misconduct by Jay Brody against R&R as well as against Cathy Deutchman and James Deutchman, as owners of R&R, FP Novi, and FP Westland."

As a result, Plaintiffs argue, the present Complaint does not allege any claims that could fall within the jurisdiction of the probate court. The Court agrees. While the two cases may require some overlapping factual proofs, each focuses on a different actor and alleged conduct. The Complaint in this case alleges ten counts all aimed at Jay Brody's actions as a member of the parties' companies. This Court, not the probate court, properly has jurisdiction over Plaintiffs' claims.

For all of the foregoing reasons, Defendant's motion for summary disposition under (C)(4) is DENIED.

Alternatively, Defendant asks the Court to exercise its discretion to stay this case pending the disposition of the probate case. This request is, similarly, DENIED.

Finally, in their response to Defendant's jurisdiction motion, Plaintiffs request summary disposition under MCR 2.116(I)(2) on an entirely unrelated ground – arguing that they are entitled to a permanent injunction. This request has nothing to do with Defendant's jurisdiction

argument and will, therefore, not be considered. Should Plaintiffs wish the Court to consider a substantive summary disposition motion, they should file the same in a timely manner, so it can be properly scheduled for hearing.

**IT IS SO ORDERED.**

May 20, 2015  
Date

/s/ James M. Alexander  
Hon. James M. Alexander, Circuit Court Judge