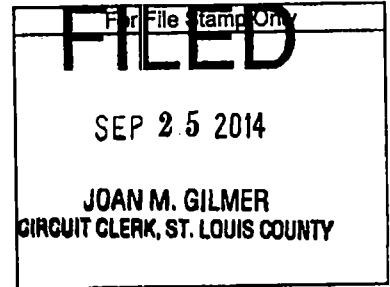


IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI

21st JUDICIAL CIRCUIT

Probate Division

In the matter of	)	
The Estate of Kathryn Ann Shark	)	Sept. 25, 2014
	)	
Kimberly Dorlac	)	12SL-PR03086
	)	
Plaintiff,	)	Division 7
v.	)	
	)	
Francis E. Shark, individually, and as	)	
Personal Representative,	)	
	)	
Defendant.	)	



**Order and Judgment**

Pending before the court is the petition of Kimberly Dorlac ("plaintiff") to remove the personal representative of the Estate of Kathryn Ann Shark and for an order enforcing the ante-nuptial agreement of Kathryn Ann Shark and Francis E. Shark. The matter is called for trial. Plaintiff appears in person and by counsel. Defendant appears in person and by counsel. Evidence adduced. Cause heard and submitted.

Kimberly Dorlac ("plaintiff") is the daughter of Kathryn Ann Shark ("decedent"). Plaintiff asks the court to enforce an ante-nuptial agreement ("agreement") executed by decedent and Francis E. Shark ("defendant"). The agreement addresses, inter alia, the separate property of decedent and the separate property of defendant and further addresses waiver of the right of a spouse to serve as personal representative of the deceased spouse's estate. Plaintiff argues that defendant has breached the agreement by serving as personal representative of the Estate of Kathryn Ann Shark and by refusing to treat the separate property of decedent as her separate property.

Defendant argues that the agreement is not a valid ante-nuptial agreement in that it was never completed by decedent and defendant and because decedent failed to disclose her expectancy of an inheritance from her step-father, thereby denying him full disclosure of the nature and extent of her property interests.

Upon evidence adduced after hearing the court finds and concludes:

1. This court has jurisdiction under Section 472.020, RSMo.
2. Venue for this matter is proper in this court under Section 473.010, RSMo.
3. All parties necessary to disposition of the issues are properly before the court.
4. Much of defendant's testimony is confusing and unreliable. It did not generally assist the court in finding facts necessary to reach its decision in the case. Defendant's conduct in following the terms of the agreement during the years of his marriage to decedent has guided the court in

*ORDER  
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reaching its decision.

5. The credible testimony and evidence establishes that decedent and defendant executed the agreement on August 11, 1995, the day before their marriage. The agreement includes a specific description of shares of stock owned by defendant and identifies his half interest in Shark Professional Pharmacy, Inc. (paragraph 9); it further specifically spells out how the parties will treat ownership interests in 285 N. Jefferson, Florissant, Mo. (paragraphs 6 and 7).

6. Paragraphs 8 and 11 spell out how the parties will treat their separate property. The paragraphs refer to exhibits "A", "B," "C," and "D," but the exhibits are not attached to the agreement, and according to defendant were never completed.

7. Paragraph 9(b) provides that "Neither party is the beneficiary of any family trusts or is expecting substantial inheritance rights, except as detailed on Exhibit "A" or Exhibit "B."

8. Paragraph 5.(c)(6) addresses the right of either decedent or defendant to act as the other's personal representative. It provides that they waive the right to act as the personal representative of the estate of the deceased spouse.

9. Under Section 5.(c) and 5.(c)(2), defendant agreed to "waive, renounce, release, disclaim and/or relinquish all claims, rights and/or estates, ... which he ... has or may have as the surviving spouse with respect to any separate property of the deceased spouse possessed or owned by the deceased spouse at the time of the deceased spouse's death ... including (2) The right of the surviving spouse to take a distributive share of the estate of the deceased spouse in the event the deceased spouse dies intestate..."

10. Decedent died intestate.

11. Decedent and defendant signed the agreement before a notary and thereafter observed the terms of the agreement throughout the years of their marriage.

12. At the time of execution of the agreement, decedent knew that her mother and step-father owned real property, referred to during trial as "the farm," that is located in Wright County, Missouri, but decedent expected that her brother would inherit the property as she was not close to her step-father. Decedent did not mislead defendant about her expectance of inheriting "the farm."

13. At the time of execution of the agreement, decedent and defendant had been involved in a social relationship for many years, had purchased a home together in 1994, and were familiar with each other's assets. The knowledge of each concerning the nature and extent of the other's property interests was such that there was substantially full disclosure of the assets of decedent to defendant and of the assets of defendant to decedent.

14. Decedent's and defendant's mutual release of their rights in each other's property serves as sufficient consideration for the agreement.

15. The agreement is valid and binding.

16. Paragraph 24 of the agreement provides that in the event of a breach of the agreement by a party and a party is required to hire an attorney to enforce the terms of the agreement, the party breaching shall pay a reasonable attorney fee to the aggrieved party.

17. Plaintiff was represented by Maryanne Newman and incurred attorney's fees in the amount \$2,820 for that representation. Plaintiff was also represented by William G. Buchholz II and incurred attorney's fees in the amount of \$4,920 for that representation. Reasonable attorneys' fees total \$7,730.

NOW THEREFORE, it is ORDERED, ADJUDGED, and DECREED:

A. The Antenuptial Agreement executed by decedent Kathryn Shark and defendant Francis E. Shark is a valid and binding agreement.

B. Pursuant to Section 5.(c)(6) of the Antenuptial Agreement, Francis E. Shark waived his right to serve as personal representative of the Estate of Kathryn Ann Shark and is disqualified from acting as personal representative. Francis E. Shark is removed as personal representative and the court authorizes Kimberly Dorlac to be appointed as personal representative if she files an application.

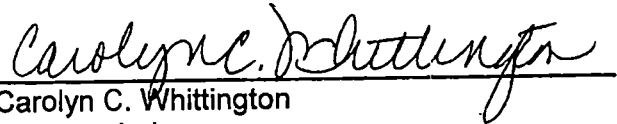
C. Defendant shall account for all property of decedent that he has in his possession or his control.

D. Defendant shall relinquish and deliver to plaintiff all property of decedent he has in his possession or control.

E. Defendant shall execute all documents, instruments or things necessary to and in furtherance of transfer, relinquishment, and/or delivery of property of decedent to plaintiff.

F. Judgment is entered in favor of Kimberly Dorlac and against Francis E. Shark in the amount of \$7,730.00 as and for reasonable attorneys' fees.

**SO ORDERED:**



Carolyn C. Whittington  
Probate Judge

Copy to:

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