

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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ERIC A. BRAVERMAN, Personal Representative of  
the Estate of KAREY ANNE ROBB, Deceased,

UNPUBLISHED  
August 1, 2000

Plaintiff-Appellee,

v

No. 205806  
Wayne Circuit Court  
LC No. 96-603739-NI

KIRK DOUGLAS STURM and FRED A STURM,

Defendants,

and

KELLY ROBB and BETTIE K. BALL,

Appellants.

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Before: Wilder, P.J., and Holbrook, Jr. and McDonald, JJ.

PER CURIAM.

Appellants appeal as of right, challenging the trial court's order approving the distribution of settlement funds in this wrongful death action. We affirm.

Appellant Robb, the decedent's daughter, claims that the trial court erred in failing to award her a greater share of the settlement funds. The trial court's distribution of the settlement proceeds from the wrongful-death action is reviewed for clear error. *Colbert v Primary Care Medical, PC*, 226 Mich App 99, 104; 574 NW2d 36 (1997). Further settlement proceeds are reviewed for fair and equitable distribution. *In re Claim of Carr*, 189 Mich App 234, 237-238, 240; 471 NW2d 637 (1991). Family members of the decedent may recover damages for loss of society and companionship. MCL 600.2922(6); MSA 27A.2922(6). These damages are designed to compensate "for the destruction of family relationships that results when one family member dies." *McTaggart v Lindsey*, 202 Mich App 612, 616; 509 NW2d 881 (1993). However, these damages are not subject to precise measurement, and the only reasonable method of calculation "is to assess the type of relationship the decedent had with the claimant in terms of objective behavior as indicated by the time and activity shared and the

overall characteristics of the relationship.” *In re Claim of Carr, supra* at 239. We will affirm the court’s distribution where it is supported by the evidence of the parties’ relationships with the decedent. *McTaggart, supra* at 616.

We find no clear error in the trial court’s distribution. The evidence indicated that appellant Robb’s relationship with the decedent was strained, due to her romantic involvement with an older man of whom her mother disapproved. That man, defendant Kirk Sturm, was ultimately responsible for the decedent’s death. Appellant Robb ignored her mother’s insistence that she discontinue the relationship, and on one occasion went away with the man to another state, requiring the decedent to go to that state to retrieve her daughter. Appellant Robb claims that she deserved more of a share of the settlement proceeds because she spent more time with the decedent than the other family members did. However, the quantity of time spent is a concept separate from the quality of a relationship. *Carr, supra* at 239. While appellant Robb insists that the trial court inappropriately punished her for her relationship with defendant Kirk Sturm, it is apparent that the court was not “punishing” her, but was instead taking into account the detrimental effect that her romantic involvement with defendant Kirk Sturm had on her relationship with the decedent. This was an appropriate consideration of the overall relationship between appellant Robb and the decedent. Moreover, the share apportioned to appellant Robb was not meager—she was awarded twice as much as each of the decedent’s individual siblings, and nearly as much as each of the decedent’s parents. No clear error has been shown.<sup>1</sup>

Appellant Ball, who was appellant Robb’s trial counsel, argues that the court erred by not awarding her a share of the attorney fee taken out of the settlement proceeds. Ball commenced the wrongful-death action while she represented appellant Robb as the personal representative of the estate. After plaintiff was named the successor personal representative, however, another attorney was substituted for Ball. Plaintiff’s attorney conducted the bulk of discovery and negotiated the settlement. The trial court awarded him the entire attorney fee.

Ball had a proper claim for quantum meruit recovery for the legal services she rendered before her representation was terminated. *Reynolds v Polen*, 222 Mich App 20, 27; 564 NW2d 467 (1997). However, this alone does not ensure recovery. Rather, the trial court must assess the discharged attorney’s contribution to the settlement of the case. *Id.* at 30-31. Here, the trial court determined that Ball contributed nothing to the settlement of the wrongful-death action and, in fact, jeopardized any recovery by choosing appellant Robb as the plaintiff, even though appellant Robb was still romantically involved with the man responsible for the decedent’s death. We discern no clear error in the trial court’s findings. Ball did little more than file the complaint. Plaintiff’s attorney conducted discovery and negotiated a favorable settlement. The trial court’s award of the entire attorney fee to plaintiff’s attorney was reasonable, under these circumstances.

Affirmed.

/s/ Kurtis T. Wilder  
/s/ Donald E. Holbrook, Jr.  
/s/ Gary R. McDonald

<sup>1</sup> Appellant Robb also claims, in passing, that the trial court erred by prohibiting cross-examination. However, appellant Robb's trial counsel, Ball, did not object to this procedure, and it is thus not preserved for appellate review. *Great Lakes Division of Nat'l Steel Corp v Ecorse*, 227 Mich App 379, 425; 576 NW2d 667 (1998) (claim that trial court denied right to cross-examination was unpreserved for failure to object). Moreover, appellant Robb has not demonstrated any prejudice from the procedure. *Id.*, 426.