

STATE OF MICHIGAN
COURT OF APPEALS

In re Estate of LUSCINDA JANE STILLSON,
Deceased.

JOHN STILLSON and GARY STILLSON,

Petitioner-Appellants,

v

FLOYD H. FARMER, JR., Personal
Representative of the Estate of LUSCINDA JANE
STILLSON, VICTORIA BROOKS, a Minor
MICHAEL BROOKS, a Minor, and LLOYD
STILLSON.

Respondent-Appellees.

UNPUBLISHED

June 29, 2010

No. 286777

Ottawa Probate Court

LC No. 07-054852-DA

Before: MARKEY, P.J., and BANDSTRA and MURRAY, JJ.

MARKEY, P.J. (*dissenting*).

I respectfully dissent.

I conclude, for the reasons stated by the trial court, that the phrase “other heirs at law” is patently ambiguous when read together with the rest of the will, including the testator’s clearly expressed intent that she bore no ill-will toward her “other sons, Gary Stillson and John Stillson,” and that “for reasons of my own it is my desire that distribution of my estate be limited to my son Floyd Stillson” From the four corners of the will it is equally likely that “other heirs at law” might refer to those flowing only from Floyd, who preceded the testator in death, or might include the Stillsons. A text is ambiguous “when it is equally susceptible to more than a single meaning.” *Superior Hotels, LLC v Mackinaw Twp*, 282 Mich App 621, 629; 765 NW2d 31 (2009) (citation and emphasis omitted). Consequently, the trial court did not err in receiving extrinsic evidence regarding the testator’s intent. *In re Kremlick Estate*, 417 Mich 237, 240; 331

NW2d 228 (1983); *Burke v Central Trust Co*, 258 Mich 588, 592; 242 NW 760 (1932). I also cannot find that the trial court clearly erred by crediting the testimony of the scrivener regarding the testator's intent. MCR 2.613(C).

I would affirm.

/s/ Jane E. Markey