

STATE OF MICHIGAN
COURT OF APPEALS

BARBARA SUE DAMORE, Personal
Representative of the Estate of Mildred Driscoll,
deceased,

Petitioner-Appellant,

v

GRAND RAPIDS PUBLIC BROADCASTING
CORPORATION,

Respondent-Appellee.

UNPUBLISHED
November 25, 2003

No. 241335
Kent County Probate Court
LC No. 01-171303-CZ

Before: Murray, P.J., and Gage and Kelly, JJ.

MEMORANDUM.

Petitioner appeals as of right the order granting respondent's motion for summary disposition under MCR 2.116(C)(10). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The decedent died in 1995 at the age of 94. Before her death, she lived with her nephew, John Lubinkas, who apparently helped manage her accounts. Petitioner alleged that in 1990, Lubinkas borrowed money from decedent on respondent's behalf. Petitioner brought this action seeking to recover the loaned money for the estate.

A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. In evaluating the motion, the trial court considers affidavits, pleadings, depositions, admissions and other evidence submitted by the parties in a light most favorable to the party opposing the motion. Where the proffered evidence fails to establish a genuine issue of material fact, the moving party is entitled to judgment as a matter of law. *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999).

Petitioner failed to come forward with admissible evidence supporting her assertion that respondent owed decedent any money. No documents showed the existence of a loan from decedent to respondent. The probate court properly granted respondent's motion for summary disposition.

Affirmed.

/s/ Christopher M. Murray
/s/ Hilda R. Gage
/s/ Kirsten Frank Kelly