

The Appellate Advocate:

A Recap of Recent Decisions by NJ's Appellate Courts



Brodsky v. Estate of Goodman A-0592-23

Planning a wedding is like planning a lawsuit. At some point, you need to pick a venue. And you hope everyone likes it—or at least, that your selection will not end up with a trial judge and the Appellate Division saying you picked the wrong one. That is unfortunately what happened in this case.

In *Brodsky v. Estate of Philip Goodman*, the Appellate Division reviewed the dismissal of Eleanor Brodsky's complaint and the denial of her motion for a change of venue. At the core of the dispute was a pair of annuity contracts that Brodsky alleged had been misappropriated by her late husband's heirs—namely, David Goodman (executor and son of the decedent), Michele Goldberg, and Andrea Gildar.

Brodsky and Philip Goodman had married in 2007 under the terms of a prenuptial agreement that stipulated both parties would retain separate assets. Notably, the agreement expressly named Eleanor as the beneficiary of an annuity contract with MetLife Securities, contingent upon her surviving Philip (which is ultimately what happened). A second annuity was later acquired in 2008. However, following Philip's death in January 2023, Eleanor discovered that both annuities had been transferred or liquidated into accounts benefiting Philip's heirs years prior to his passing.

In May 2023, Eleanor filed a complaint in the Law Division alleging breach of contract, fraud, conversion, and civil conspiracy. She sought punitive damages, asserting that the defendants had intentionally and unlawfully stripped her of her contractual interest in the annuities.

The procedural path of the complaint proved complex. Indeed, this is really what drew my attention. While a motion to dismiss for lack of subject-matter jurisdiction was pending, a Chancery judge—apparently upon informal discussions with the Law Division judge—issued an order transferring the case to the Probate Part. That order was later vacated when the Chancery judge disclosed a conflict of interest with the defendants' counsel.

Eleanor then filed a motion for a change of venue, arguing that irregularities in the handling of the case—including the conflicted judge’s order—had compromised her confidence in receiving a fair trial in Camden County.

On September 22, 2023, a Law Division judge heard oral argument and dismissed Eleanor’s complaint without prejudice, directing her to refile in the Chancery Division, Probate Part. The judge also denied her motion to transfer venue.

On appeal, the Appellate Division affirmed the lower court’s ruling. Applying a de novo standard of review, the panel found that the Law Division lacked subject-matter jurisdiction under Rule 4:6-2(a). The panel emphasized that under Rule 4:3-1(a)(2) and Rule 4:83-2, matters involving the estates of decedents must be heard in the Chancery Division, Probate Part. Although Eleanor asserted that her claims stood independent of the estate proceedings, the Appellate Division disagreed. It held that her allegations—centered on her rights to annuity funds that manifested upon Philip’s death—clearly implicated estate administration and beneficiary entitlements.

As for the denied change of venue, the Appellate Division applied an abuse of discretion standard and concluded that Eleanor had failed to present “clear and convincing” evidence that a fair trial could not be conducted in Camden County. While acknowledging the confusion caused by the earlier transfer and conflict, the panel observed that the Chancery judge had recused herself appropriately and that there was no indication of prejudice or impropriety.

In sum, there is no objective rule to picking a wedding venue but there might be a clearer roadmap for determining subject-matter jurisdiction: when claims fundamentally concern the management or distribution of estate assets, they fall squarely within the Probate Part’s jurisdiction.

About Thomas Cotton

Thomas Cotton is a litigation partner at Schenck Price, representing clients in trial and appellate courts throughout the United States. In addition to his practice, he authors *The Appellate Advocate*, a semi-weekly blog offering thoughtful yet accessible commentary on recent appellate rulings.



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