

3/20/03

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX DIVISION

PROBATE AND FAMILY  
COURT DEPARTMENT  
DOCKET NO.: 02P5533AA

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)  
IN RE: ESTATE OF BENJAMIN C. THOMPSON )  
)  
\_\_\_\_\_)

**AFFIDAVIT OF OBJECTIONS**

Nicholas Thompson, (the "Objector"), makes the following statements under the pains and penalties of perjury in opposition to the Petition for Probate of certain instruments purporting to be the Last Will (the "purported will") dated April 21, 1995 and a Codicil dated December 21, 1995 (the "purported codicil") of the Decedent Benjamin C. Thompson (the "Decedent" or "Ben").

**A. GROUNDS**

1. Ben was not mentally competent and lacked testamentary capacity to execute the purported will and codicil.

2. The purported will and codicil was procured through the undue influence of the decedent's spouse, Jane Thompson ("Jane") who inherits the substantial majority of Ben's assets under the purported will, which pours assets into the Benjamin C. Thompson 1995 Family Trust. See Bruno v. Bruno, 10 Mass. App. Ct. 918 (1980) ("Undue influence is 'whatever destroys free agency and constrains the person whose act is under review to do that which is contrary to his own untrammelled desire....'"). See also Popko v. Janik, 341 Mass. 212 (1960); Ryan v. Ryan, 419 Mass. 86, 92 (1994).