

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX DIVISION

PROBATE AND FAMILY
COURT DEPARTMENT
DOCKET NO.: 02P5533

IN RE: ESTATE OF BENJAMIN C. THOMPSON

**SUBMISSION ON BEHALF OF ANTHONY, MARINA, NICHOLAS AND
BENJAMIN THOMPSON REGARDING APRIL 7TH HEARING**

Counsel for Anthony, Marina, Nicholas and Benjamin Thompson (the “Thompson children”) hereby submit the following in the matter of the Petition for Will Compromise (the “Petition”) proposed for filing with the Court by Elizabeth F. Potter, Esq.:

1. On November 3, 2003, a settlement meeting took place at which the parties, in good faith, signed a handwritten agreement memorializing their commitment to reach a satisfactory settlement in this matter (the "handwritten agreement"), the terms of which were to be incorporated into a Compromise Agreement to be filed with the Court.

2. The handwritten agreement was, in effect, an “agreement to agree”, as it merely stated that the parties agree to go forward with the process of signing settlement documents consistent with the conditions outlined on the handwritten agreement. Rosenfeld v. U.S. Trust Co., 290 Mass. 210 (pg. 217 (1935) (“An agreement to reach an agreement is a contradiction in terms and imposes no obligation on the parties thereto.”)

3. Notwithstanding this fact, and assuming, *arguendo*, that the handwritten agreement was in fact a legally binding contract, issues have arisen and actions have been taken which have