

94-Year-Old Wins Case Against Stepson

Texas Lawyer

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Body

On Sept. 6, Hazel A. Starbuck, a 94-year-old woman, won \$240,000 in damages and \$25,000 in attorney fees in a final judgment issued against her stepson. She had alleged that he took the money while abusing his fiduciary obligations as executor of her deceased husband's estate.

She alleged in *Hazel A. Starbuck v. John A. Starbuck*, individually and as executor of the estate of Virgil Starbuck, filed in the 61st District Court in Houston, that the stepson had used the funds, in part, for remodeling his home.

Stephen Ray Smith, a partner in Houston's Christian Smith & Jewell, who represents the elderly woman, says, "The facts in this case were offensive," and those made his job easier.

But persuading his client that she needed to appear in court to testify proved the most challenging task, Smith says.

"My biggest concern was that she wasn't going to be there. It's very difficult for old people, and the older you are, the more difficult," Smith says.

Michael Culling, who represents the stepson, says he and his client were "disappointed" with the final judgment and have not yet decided if they will seek a review of it. He declines further comment.

In an amended petition filed Feb. 22, Starbuck alleged her stepson - as an individual and executor of her husband's estate - breached his fiduciary duties and had taken property unlawfully.

In an answer and counterclaim filed Jan. 23, 2012, her stepson John A. Starbuck denied the allegations and alleged that he handled the accounts as his stepmother had requested. His counterclaim alleged that his stepmother's petition made him suffer humiliation and cited libel as a cause of action, seeking an unspecified amount of damages.

After a one-day trial in August, 61st District Judge Alfred H. Bennett indicated from the bench that he would decide for the elderly woman, according to Smith, and then issued his Sept. 6 final judgment, which awards additional attorney fees for appeals.

Smith says Culling was "cooperative" opposing counsel and agreed to depose Hazel Starbuck in her home. He did persuade his client to testify at trial.

Her 94th birthday fell three days after the trial. Smith says he called his client and sang happy birthday to her on that day.

"I think she had to suffer through that [the singing]," he says, but she felt relieved about the outcome.

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