

DATE: 2026/06/22

SUPERIOR COURT OF JUSTICE

HEARD: May 4, 2026

THE HONOURABLE JUSTICE A.D. HILLIARD

- [1] The Applicant, Michael Liscombe (Michael) seeks an order validating a collection of documents dated October 18, 2005, as the Last Will and Testament of Carol Donna Liscombe (Carol) and confirming that the documents that are the subject of this application revoke the previously validated Last Will and Testament of Carol from 2004.
- [2] In the alternative, Michael seeks an order that the documents dated October 18, 2005 call into question the validity of the document previously validated as Carol's Last Will and Testament such that an order should be made reversing that decision and determining that Carol's estate should be administered as an intestacy.

- [3] Only two (2) of the Respondents filed responding materials: Annette Groskopf (Annette) and Judith Rogers (Judy). Both Annette and Judy contest Michael's application and seek that the Application be dismissed in its entirety.
- [4] For the following reasons, the Application is dismissed with costs.

Background

- [5] Michael, Carol and Judy are siblings. Annette is Judy's daughter, Carol's niece.
- [6] In 2022, Annette brought an application seeking to have an undated document signed by Carol validated as Carol's Last Will and Testament pursuant to section 21.1 of the *Succession Law Reform Act (SLRA)*. In that application Michael was a Respondent along with all of the other individuals who are Respondents in this Application. Michael was the only Respondent who contested the Application.
- [7] I heard argument on that application on September 11, 2023. My reasons for judgment were released on September 21, 2023, wherein I concluded that "the handwritten fill-in-the-blanks document prepared by Ms. Liscombe meets the test under s. 21.1 of the *SLRA*." Based on that finding, I granted the Application and validated the document as the Last Will and Testament of Carol Liscombe. [*Groskopf v Rogers et al.*, 2023 ONSC 5312]
- [8] Prior to argument in Annette's application, pursuant to an Endorsement of Nightingale, J., a box of Carol's documents were delivered to Michael from Judy's lawyer. In his evidence on this Application, Michael deposes that he believed those documents were all business records and therefore did not look at them until after the completion of argument on Annette's application.
- [9] When Michael did ultimately go through the documents delivered to him, he discovered the following:
- four (4) handwritten and initialled pages numbered 1 – 6 with pages 3 and 5 missing, all dated October 18, 2005;
 - signature page (page 3 of 4) and back page from self counsel press will kit, signed but undated; and
 - self counsel press will kit fill-in-the-blanks sheets detailing personal and real property, and contents of storage and safes.
- [10] There is no page on which an executor, executrix or alternate is designated. There is no page on which the residue of the estate is referenced or disposed of.
- [11] Upon discovery of the documents, Michael moved for leave to bring this application. I granted leave and, with the consent of the parties, argument was scheduled before me.

Analysis

- [12] At the time Annette’s application was heard and decided in September 2023, section 21.1 of the *SLRA* was in its relative infancy. There were only four (4) cases that had interpreted section 21.1, only three of which had been reported. (*Grattan v Grattan*, (unreported); *Cruz v Public Guardian and Trustee*, [2023] OJ No 2671 (SCJ), *White v White Estate*, [2023] OJ No. 2800 (SCJ), *Vojska Estate v Ostrowski*, [2023] O.J. No. 2934)
- [13] Since that time, the caselaw interpreting this section of the *SLRA* has significantly expanded. All the cases from Ontario confirm that when a Court is called upon to determine whether to exercise its power under section 21.1, the Court must be satisfied that the document that is being tendered as the deceased’s Last Will and Testament demonstrates a fixed and final intention to dispose of property after death. Virtually all the cases have involved documents that simply failed to meet the execution formalities of a Will, such as being properly dated or witnessed.
- [14] The test under section 21.1 of the *SLRA* can be articulated as two questions: 1) is the document authentic? and 2) does the document set out the testamentary intentions of the deceased? (*Marsden v Hunt et al*, 2024 ONSC 1711 at para 6)
- [15] There is no dispute about the authenticity of the documents Michael seeks to have validated under section 21.1. Therefore, the first part of the test has been met. The battleground in this case is under the second prong of the test. The onus is on Michael to demonstrate on a balance of probabilities that the documents set out the testamentary intentions of Carol.
- [16] The documents that Michael now seeks to have validated as Carol’s Last Will and Testament are incomplete insofar as there are missing pages and there is no executor designated nor any indication as to how the residue of Carol’s estate is to be distributed. The documents that are pages from a self-counsel press will kit are initialled but not dated. The signature page bears the signature of Carol and Kevin Hoover and Tracy House Hoover, but is not dated.
- [17] The handwritten pages all contain the following notation on the top right-hand corner: “Dated this the 18th day of October, 2005”. These documents appear to be providing directions to Carol’s executor(s), although there is no indication on any of the documents as to whom they are addressed.
- [18] The lists of contents and property also do not contain any reference to an executor. However, it is notable that the document entitled “STOREAGE & SAFES” from the self-counsel press will kit, references a storage box with the contents including “copy of will” and a notation that the Safety Deposit Box contents include “original will”. That document is not dated, but does bear the initials C.L. T.H. and K.H. Similarly, the documents entitled “CONTENTS OF HOUSE” and “PROPERTY & REAL ESTATE” are not dated but bear the same initials as the Storage & Safes document on the bottom left-hand corner. All three of these fill-in-the-blanks documents are filled out in Carol’s handwriting.

- [19] When I consider all of the documents together, I am not satisfied that they can be construed as a Will with missing pages. Indeed, the reference to a “copy of will” and the “original will” in the Storage & Safes document suggests that the collection of documents Michael found were part of a precatory memorandum prepared by Carol in furtherance of the Will she executed in 2004.
- [20] I have also considered the similarities between the documents dated October 18, 2005 and the validated Will. The handwritten pages provide directions that are entirely consistent with the validated Will insofar as the disposition of Carol’s property such as providing for the care of her dogs. The handwritten directions about Michael paying the proceeds of a life insurance policy to the Estate the share in the business is entirely consistent with the validated Will that excluded Michael as a beneficiary.
- [21] It is also relevant that the documents that are the subject of this Application were mixed in with Carol’s other business documents and not in the lockbox where the validated Will was discovered. Michael’s own evidence is that he was surprised to find these documents amongst Carol’s business records.
- [22] Section 15 of the *SLRA* sets out when a Will or part of a Will is revoked. The mere existence of an executed signature page does not lead to the inevitable conclusion that a Will was made in 2005 *in accordance with the provisions of the SLRA*. For me to find that the 2004 Will that I validated was revoked, I would have to find on a balance of probabilities that a subsequent Will was made and that Will met all the requirements as provided for in the *SLRA*. On the evidence before me, I cannot reach such a conclusion.
- [23] Finally, and perhaps most importantly, when I consider the documents dated October 18, 2005, and the document that was ultimately validated as Carol’s Last Will and Testament, I find that Carol did not intend to die intestate. She had very specific wishes about how her estate was to be administered and prepared numerous documents to ensure that those wishes were known after her death. Michael’s alternate request for an Order that Carol’s estate be administered as an intestacy flies in the face of existing documents that I have already found represent Carol’s fixed and final testamentary intentions.

Conclusion

- [24] I am not satisfied that the documents tendered in this Application set out the testamentary intentions of Carol. I am also not satisfied that the documents demonstrate that there was a revocation of the 2004 Will that I validated in my judgment in 2023. The Application will therefore be dismissed.
- [25] I am satisfied that the Respondents were entirely successful in having this Application dismissed and therefore a costs award is appropriate. All parties filed costs outlines or made costs submissions at the completion of the Application hearing. I am satisfied that further submissions are not necessary in the circumstances.
- [26] I find that this is not a case where public policy considerations apply such that the parties’ costs should be paid by the Estate. In my view, it was plain and obvious that the documents

tendered on this Application could not support a finding that even altogether they constituted a valid will. I am also of the view that the documents prepared did not give rise to ambiguity such that this litigation can be attributed even in part to the testator. Therefore, the usual costs rules in civil litigation apply.

[27] Judy is seeking a nominal costs amount of \$1,000. That amount is more than reasonable given the outcome and a costs award in her favour will be made accordingly.

[28] Annette seeks her costs on a partial indemnity basis in the amount of \$12,056.89. I am satisfied that the costs being sought by Annette are reasonable and proportionate in the circumstances. This was an entirely new application that required a fulsome response. Although the matter was not particularly complex, additional research was required given the passage of time since the previous application was argued and the consequent development of the jurisprudence. Annette was required to respond and oppose this Application in order to ensure the proper administration of the Estate.

[29] Order to go:

- 1) Application dismissed.
- 2) Costs awarded to the Respondent, Judith Rogers, fixed in the amount of \$1,000 payable by the Applicant.
- 3) Costs awarded to the Respondent, Annette Groskopf, fixed in the amount of \$12,000 inclusive of HST and disbursements payable by the Applicant.



A.D. Hilliard

CITATION: Liscombe v. Groskopf et al, 2026 ONSC 3646
COURT FILE NO.: CV-24-00000055
DATE: 2026/06/22

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Michael Liscombe

Applicant

– and –

Annette Groskopf, personally and as estate trustee for
the Estate of Carol Donna Liscombe, Judith Rogers,
David Liscombe, Kelly O’Hoski, Erin O’Hoski, Kevin
Hoover, Tracy House-Hoover, Victoria Liscombe,
Jennifer Liscombe, Keith Krauskopf, and Sarah Rogers

Respondents

REASONS FOR JUDGMENT

A.D. Hilliard, J

Released: June 22, 2026