

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D24544
G/hu

_____AD3d_____

Submitted - September 14, 2009

MARK C. DILLON, J.P.
RANDALL T. ENG
ARIEL E. BELEN
L. PRISCILLA HALL, JJ.

2008-02201

DECISION & ORDER

In the Matter of Gregory Cavallo, a/k/a Gregory M.
Cavallo, deceased; Rebecca Pytosh, appellant;
Behrins & Behrins, P.C., respondent.

(File No. P133/01D)

Greenfield Stein & Senior, LLP, New York, N.Y. (Harvey E. Corn and Jeffery H. Sheetz of counsel), for appellant.

Behrins & Behrins, P.C., Staten Island, N.Y. (Bruce G. Behrins of counsel),
respondent pro se.

In a contested probate proceeding in which Behrins & Behrins, P.C., petitioned pursuant to SCPA 2110 to fix and determine an attorney's fee, the proponent of the will appeals, as limited by her brief, from so much of a decree of the Surrogate's Court, Richmond County (Gigante, S.), dated January 29, 2008, as, upon a decision of the same court (Fusco, A.S.), dated December 27, 2007, directed that the fee for the objectants' attorney be paid from the estate.

ORDERED that the decree is reversed insofar as appealed from, on the law, with costs.

There is no evidence in the record that the legal services rendered by the petitioner, counsel for the objectants, benefitted or enlarged the estate. Rather, the petitioner's services benefitted only its clients. Thus, the petitioner may seek compensation from its clients personally, and

October 6, 2009

Page 1.

MATTER OF CAVALLO, DECEASED

not from the estate generally (*see Matter of Baxter [Gaynor]*, 196 AD2d 186, 190; *Matter of Bacharach*, 12 AD2d 938; *Matter of Cannariato*, 159 Misc 409, 410-411).

DILLON, J.P., ENG, BELEN and HALL, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer
Clerk of the Court