

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 13-00385

PRESENT: SMITH, J.P., CARNI, LINDLEY, AND VALENTINO, JJ.

IN THE MATTER OF THE ESTATE OF MAGDA CORDELL
MCHALE, DECEASED.

DENISE KELLEHER, PETITIONER-RESPONDENT-RESPONDENT,
EVAN MCHALE, RESPONDENT-PETITIONER-APPELLANT;

THE JOHN MCHALE AND MAGDA MCHALE ARCHIVES
FOUNDATION, RESPONDENT-RESPONDENT.

ORDER

CHARITABLE BENEFICIARIES, INTERESTED
PARTY-RESPONDENT.

D.J. & J.A. CIRANDO, ESQS., SYRACUSE (JOHN A. CIRANDO OF COUNSEL), FOR
RESPONDENT-PETITIONER-APPELLANT.

HODGSON RUSS LLP, BUFFALO (HUGH M. RUSS, III, OF COUNSEL), FOR
RESPONDENT-RESPONDENT.

JAECKLE FLEISCHMANN & MUGEL, LLP, BUFFALO (BEVERLY S. BRAUN OF
COUNSEL), FOR PETITIONER-RESPONDENT-RESPONDENT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (WILLIAM D. MALDOVAN OF
COUNSEL), FOR INTERESTED PARTY-RESPONDENT.

Appeal from an order of the Surrogate's Court, Erie County
(Barbara Howe, S.), entered September 28, 2012. The order adjudged
that the January 21, 2008 Instrument of Gift is valid and fully
enforceable and that the property encompassed by the Instrument of
Gift is not part of the Estate of Magda Cordell McHale.

It is hereby ORDERED that the order so appealed from is
unanimously affirmed without costs.

Entered: March 27, 2015

Frances E. Cafarell
Clerk of the Court