

The John F. Dodge Estate

A Chapter in Probate History

By Marlene Coir

The long history of the John F. Dodge estate has been likened to the story told in *Bleak House*, Charles Dickens' dreary tale of a decedent's estate which lined the pockets of many but left intended beneficiaries lost in a quagmire produced by avarice, treachery, concealment, and England's Chancery Court.¹ The pathology of *Jarndyce v Jarndyce* bears no true likeness to the history of the Dodge estate, but the specifics of the latter estate's documents and the tenacity of some of Dodge's heirs and would-be heirs resulted in a probate history that spanned many decades.

John F. Dodge and his brother, Horace, founded the very successful Dodge Brothers motor car company in the early part of the twentieth century. When John Dodge died in January 1920, court documents placed the worth of his estate at just under \$40 million, most of which was held in personal property. However, the worth of the undistributed portion of his estate grew substantially after his death.² He was survived by natural heirs from two marriages: two daughters and one son from his first marriage to Ivy Hawkins, who died in 1901, and two daughters and a son from his marriage to Matilda Rausch, who survived him.

Dodge left an 18-page will, which placed the bulk of his wealth in trust. The trust would provide income to his children and widow, Matilda, throughout their lives. Final distribution of the trust's corpus would take place only after the last of his children died, at which time it would be distributed to the "natural heirs" of his children.³ Matilda Rausch Dodge chose to take her statutory share of the estate as John's widow rather than as a beneficiary under his will, thereby renouncing any income or distribution from the testamentary trust.⁴

Litigation commenced soon after Dodge's death. John Duval Dodge (John D.), the testator's son from his first marriage, was the principal petitioner in much of the litigation. The provisions of his father's will provided John D. an annual income of \$1,800, which was a fraction of that enjoyed by his siblings and half-siblings. It also appeared that he would take no share of the residuary. This virtual disinheritance resulted in John D. challenging the probate of the will. The issue was resolved through an agreement reached with his father's other heirs and the trustees of the estate. John D. took \$1.6 million from his father's estate in 1921, giving up any further claims to the trust income or residuary.⁵

The settlement was made possible, in part, by the enactment of Michigan Public Act 429 of 1921, which became known as the Dodge Act.⁶ The legislation allowed the beneficiaries of a will, or the representatives of the beneficiaries, to alter distribution of the estate even if the distribution did not comport with the exact language of the testament.

John D. saw yet another opportunity to take from his father's estate after his half-sister, Anna Margaret, died. The youngest daughter of John and Matilda, she was born after the execution of her father's will, was not named as a beneficiary, and died in 1924

before reaching the age of five. Under the controlling statute, the pretermitted child would receive the same portion of her father's property that she would have if he had died intestate. Because of her premature death, that portion became part of her intestate estate. The court's reading of Michigan's statutes of descent and succession would decide the distribution of Anna Margaret's estate assets.

The Wayne County Probate Court found that the personal property received through her father would succeed only to her mother (at that time remarried and known as Matilda Wilson); however, any inherited real property was part of an ancestral estate and would descend to her father's children and their issue. The matter was appealed to the Wayne County Circuit Court, which interpreted the law in favor of Matilda Wilson and would have distributed both real and personal property solely to her as Anna's surviving parent.⁷ However, this ruling was, in turn, appealed to the Michigan Supreme Court, which reinstated the probate court's decision.⁸ It would seem that John D. had succeeded in securing another helping, albeit a very small portion, of his deceased father's fortune through Anna Margaret's estate.

In 1940, John D. again sought financial gain from the Dodge estate. Claiming the entire 1921 settlement illegal under Michigan

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law, he sought to have the trust declared void, which would cause the will's trust provisions to fail. From this came his theory that the property held in trust should be distributed as if there were no will.⁹ This claim was denied by the probate court and appealed up to the Michigan Supreme Court. After a lengthy discussion, Michigan's highest court affirmed the dismissal of the claim by the lower courts.¹⁰ The official version of this opinion covers more than 40 pages and includes 37 headnotes.

Winifred Dodge Gray Seyburn, Dodge's eldest and longest surviving child, died in 1980. This event permitted final distribution of the corpus of John F. Dodge's estate and an end to probate administration. The estate instruments came before Wayne County Probate Judge Willis F. Ward who entered "a thorough and carefully drawn opinion"¹¹ on the proper distribution of the testamentary trust. Seven appeals from Judge Ward's opinion were filed with and consolidated by the Michigan Court of Appeals. The litigation involved 10 law firms and at least 22 litigants. The appellate opinion referenced another lawsuit regarding the reformation of the trust corpus purchase agreement between Annie Laurine Dodge and her sisters-in-law. (Annie Laurine was the widow of Daniel George Dodge, John F. Dodge's son with Matilda. She had remarried and was known as Annie Laurine Dodge Van Etten.) That suit remained pending in Wayne County Circuit Court.¹²

The appeals court held that the term "heirs" in John F. Dodge's will, as it applied to distribution of the trust corpus, was meant to include all who would take under Michigan's intestate succession statutes and did not refer only to the "issue" of his named children. For purposes of its decision and

analysis, the court also found that the 1940 corpus purchase agreement entered into by Annie Laurine Dodge Van Etten barred any further claim by her for a share of the trust.¹³ The court carefully dissected the terms of the Dodge Trust, delving into the genealogy of the Dodge family when deemed necessary. Judge Ward's 1980 partition and distribution order was affirmed. The beneficiaries of the Dodge Trust appeared to finally receive closure.

There is another footnote to this history—one that enjoyed a moment of fame in the sensational press. In 1984, a petition for rehearing of the probate court's 1980 order was brought by an individual claiming to be the sister of Frances Matilda Dodge (Van Lenep), perhaps her twin. Frances was the eldest child of John and Matilda Dodge; she died in 1971. The petitioner, who was 70 when she initiated her claim, had recently discovered she had been adopted as a very young child. She also claimed that Frances Matilda Dodge's birth certificate indicated that Frances was first in birth order of twins. Subsequent to these revelations, the petitioner started having memories of being in the Dodge home when she was an infant.¹⁴

In addition to a rehearing on the trust partition, the petitioner sought to have her adoption papers opened—if not to prove she was a Dodge heir, at least to set her mind at rest. The petition for rehearing was judged untimely by the probate court and her request to open her adoption records deemed moot. The ruling was, of course, appealed, and the appellate court affirmed the probate court's denial of the request for rehearing of the order of partition.¹⁵ However, the appellate court did find merit in the petition to open the adoption records, acknowledging that "psychological need may establish

good cause" and remanded for rehearing on that issue.¹⁶

Many of the real-life players in Michigan's "bleak house" finally benefitted from a trust held for more than 60 years before final partition and distribution. The characters in Dickens' fictitious account of equity and wealth pursued were not so fortunate. ■



Marlene Coir is a reference librarian at the Thomas M. Cooley Law School in Auburn Hills. She has been a member of the State Bar of Michigan since 1990 and presently sits on the SBM Committee on Libraries, Legal Research, and Legal Publications. She also serves as chair of the Pro Bono Librarians Committee for the Michigan chapter of the American Association of Law Libraries.

ENDNOTES

1. See Dickens, *Bleak House* (London: Bradbury & Evans, 1853).
2. See *Dodge v Detroit Trust Co*, 300 Mich 575, 584; 2 NW2d 509 (1940).
3. *In re Dodge Trust*, 121 Mich App 527, 534–536; 330 NW2d 72 (1982).
4. *Id.* at 560.
5. *Id.* at 561.
6. For additional information on this piece of legislation, see Allen, *Let the Dodge brothers drive you home—using the Dodge Act and facilitative mediation to resolve probate and trust litigation*, 22 Mich Probate & Estate Planning J 8 (2002), available at <<https://www.michbar.org/probate/pdfs/fall02.pdf>> (accessed April 12, 2014).
7. Dingeman, *Matter of the Estate of Anna Margaret Dodge, deceased—Appeals of John Duval Dodge, et al., from Order of Wanye [sic] County Probate Court distributing estate of said deceased [case]*, 10 U of Detroit Bi-Monthly L R 124 (1926–1927), available at HeinOnline. See also *In re Dodge Estate*, 242 Mich 156; 218 NW 798 (1928).
8. *Id.* at 162.
9. *Detroit Trust Co*, n 2 *supra* at 597–598.
10. *Id.* at 618.
11. *In re Dodge Trust*, n 3 *supra* at 533.
12. *Id.* at 528. For a discussion regarding jurisdictional issues related to Mrs. Van Etten's lawsuit, see *Van Etten v Manufacturers Nat'l Bank of Detroit*, 119 Mich App 277; 326 NW2d 479 (1982).
13. *Id.* at 529.
14. *In re Dodge Estate*, 162 Mich App 573, 577–578, 413 NW2d 449 (1987).
15. *Id.* at 582–583.
16. *Id.* at 584.