

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS  
STATE OF MISSOURI  
PROBATE DIVISION

U. S. Bank, N.A., as Trustee of the )  
Living Trust Agreement of )  
Lorenz K. Ayers, Dated June 5, 1962, )  
As Amended, )  
Plaintiff )  
v. ) Cause No. 1722-PR00637  
Annie Herbst, et al )  
Defendants. )

ORDER

Before the Court are (1) the Cross Motion for Summary Judgment of Plaintiff U.S. Bank National Association as Trustee of the Living Trust Agreement of Lorenz K. Ayers Dated May 3, 1967, as Amended and Restated ("Plaintiff"); and (2) the Motion for Partial Summary Judgment on Count I of Her Second Amended Counterclaim and on the Verified Motion Seeking to Rescind Her Consent to the Trustee's Election for a Statutory Adjustment for the Donald Herbst Trust and to Revoke the Trustee's Unitrust Election for the Catherine Herbst Trust, of Defendant Elizabeth A. Molk ("Defendant Molk").

On April 11, 2019, Defendant Molk withdrew her Verified Motion Seeking to Rescind Her Consent to the Trustee's Election for a Statutory Adjustment for the Donald Herbst Trust and to Revoke the Trustee's Unitrust Election for the Catherine Herbst Trust.

On May 30, 2019, Plaintiff's Cross Motion for Summary Judgment and Defendant Molk's Motion for Partial Summary Judgment on Count I of Her Second Amended Counterclaim, were heard and submitted.

Upon review and consideration of the written submissions and argument presented by the parties, the Court finds that Plaintiff is authorized to make the unitrust election over the separate trust for the benefit of Anne Herbst created under the Living Trust Agreement of Lorenz K. Ayers Dated May 3, 1967, as Amended and Restated.

Plaintiff's Cross Motion for Summary Judgment is **granted**.

Defendant Molk's Motion for Partial Summary Judgment on Count I of Her Second Amended Counterclaim is **denied**.

Questions of fees shall be taken up at a later date.

So Ordered on June 28, 2019.

  
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Patrick J. Connaghan, Commissioner

The above Order entered by the Commissioner is hereby confirmed.

So ordered on June 28, 2019.

  
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Rex Burlison  
Judge of the Probate Division

