

State of New York  
Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: December 13, 2012

514293

---

BARBARA O'SULLIVAN,  
Appellant,

v

MEMORANDUM AND ORDER

MARY BRACCI HALLOCK et al.,  
Respondents,  
et al.,  
Defendants.

---

Calendar Date: October 11, 2012

Before: Mercure, J.P., Lahtinen, Malone Jr., Stein and  
Egan Jr., JJ.

---

Barbara O'Sullivan, Delhi, appellant pro se.

Porter L. Kirkwood, Delhi, for respondents.

---

Mercure, J.P.

Appeal from an order of the Supreme Court (Becker, J.), entered June 1, 2011 in Delaware County, which, among other things, granted a motion by defendants Mary Bracci Hallock, Stephen Bracci and Peter Bracci to dismiss the complaint against them.

Plaintiff and defendants Mary Bracci Hallock, Stephen Bracci and Peter Bracci (hereinafter collectively referred to as defendants) are siblings whose father (hereinafter decedent) died in 2009. Plaintiff commenced this action against defendants, Oneonta Fox Hospital and Countryside Care Center, asserting claims based upon improper care of decedent and that defendants misappropriated plaintiff's share of decedent's estate. Oneonta

Fox and defendants moved to dismiss the complaint.<sup>1</sup> Supreme Court granted both motions, and plaintiff now appeals, limiting her challenge to the dismissal of the complaint against defendants.

We affirm. The complaint does not state a cause of action. "More is needed to state a claim . . . than factual allegations which are conclusory, vague or inherently incredible" (Matter of Niagara Mohawk Power Corp. v State of New York, 300 AD2d 949, 952 [2002] [citations omitted]; accord Matter of Abele v Dimitriadis, 53 AD3d 969, 970 [2008], lv denied 12 NY3d 706 [2009]). Plaintiff appears to assert a claim of tortious interference with prospective inheritance based upon her observations that defendants have made home improvements and settled debts since decedent's death. Such speculative and conclusory allegations are insufficient to state a cause of action and, in any event, New York does not recognize a cause of action for tortious interference with prospective inheritance (see Vogt v Witmeyer, 87 NY2d 998, 999 [1996]). Similarly, plaintiff's factual allegations regarding her belief that decedent left a will, that the will named either Stephen Bracci or Hallock as executor of the estate, and that neither has fulfilled the duties required of an executor are, in our view, too speculative and conclusory to state a cause of action. Finally, plaintiff's claim that defendants attempted – unsuccessfully – to pressure her into signing over her rights to the proceeds of an insurance policy does not fit within any cognizable legal theory.

Plaintiff's remaining contentions are either unpreserved for our review or lacking in merit.


Lahtinen, Malone Jr., Stein and Egan Jr., JJ., concur.

---

<sup>1</sup> Plaintiff asserted before Supreme Court that Countryside Care Center failed to appear in this action.

ORDERED that the order is affirmed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive style with a large, prominent "R" at the beginning and a long, sweeping underline at the end.

Robert D. Mayberger  
Clerk of the Court