

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

308.1

CA 22-01902

PRESENT: SMITH, J.P., CURRAN, BANNISTER, AND KEANE, JJ.

IN THE MATTER OF SRC FAMILY TRUST ESTABLISHED
UNDER THE VALHALLA TRUST DATED APRIL 1, 1978,
AS AMENDED BY COURT DECREE ISSUED MAY 1, 2006.
(PROCEEDING NO. 1.)

MEMORANDUM AND ORDER

IN THE MATTER OF MJC FAMILY TRUST ESTABLISHED
UNDER THE VALHALLA TRUST DATED APRIL 1, 1978,
AS AMENDED BY COURT DECREE ISSUED MAY 1, 2006.
(PROCEEDING NO. 2.)

MICHAEL A. MAMMOLITO AND TIMOTHY AHERN,
TRUSTEES OF THE SRC FAMILY TRUST AND THE MJC
FAMILY TRUST, PETITIONERS-RESPONDENTS;

MARK CONGEL, REBECCA CONGEL, SABRINA CONGEL,
ROBERT CONGEL, JACK CONGEL, RYAN CONGEL,
SYDNEY CONGEL, LOGAN CONGEL AND JAEDYN CONGEL,
OBJECTANTS-APPELLANTS.

BARCLAY DAMON LLP, BUFFALO (JENNIFER G. FLANNERY OF COUNSEL), FOR
OBJECTANTS-APPELLANTS REBECCA CONGEL, SABRINA CONGEL, ROBERT CONGEL,
JACK CONGEL, RYAN CONGEL, SYDNEY CONGEL, LOGAN CONGEL AND JAEDYN
CONGEL.

HANCOCK ESTABROOK, LLP, SYRACUSE (JANET D. CALLAHAN OF COUNSEL), FOR
OBJECTANT-APPELLANT MARK CONGEL.

COSTELLO, COONEY & FEARON, PLLC, SYRACUSE (ROBERT J. SMITH OF
COUNSEL), AND MORRISON & FOERSTER LLP, BOSTON, MASSACHUSETTS, FOR
PETITIONERS-RESPONDENTS.

Appeals from an order of the Surrogate's Court, Onondaga County
(Mary Keib Smith, S.), entered October 19, 2022. The order, inter
alia, granted in part the motions of petitioners for summary judgment.

It is hereby ORDERED that said appeals are unanimously dismissed
without costs.

Memorandum: In this dispute over family trusts, objectants
appeal from an order that, inter alia, granted in part petitioners'
motions for summary judgment dismissing particular objections to
certain settlements of accounting filed by petitioners. Following a
subsequent trial, Surrogate's Court entered a final decree
(denominated order) dated December 13, 2023 denying the remaining

objections after finding them without merit and judicially settling the accounts. Inasmuch as "[t]he right to appeal from an intermediate order terminates with the entry of a final judgment" (*Matter of Scott v Manilla*, 203 AD2d 972, 973 [4th Dept 1994]; see generally CPLR 5501 [a] [1]; *Matter of Aho*, 39 NY2d 241, 248 [1976]), this appeal from the intermediate order must be dismissed (see *McCann v Gordon*, 204 AD3d 1449, 1449 [4th Dept 2022], appeal dismissed 38 NY3d 1158 [2022]; see also *Matter of Frank A. Clemente Two-Year Grantor Retained Annuity Trust*, 224 AD3d 945, 945-946 [3d Dept 2024]; *Matter of Panella* [appeal No. 2], 218 AD3d 1198, 1199 [4th Dept 2023]). Objectants may raise their contentions in an appeal from the final decree (see generally *Chase Manhattan Bank, N.A. v Roberts & Roberts*, 63 AD2d 566, 567 [1st Dept 1978]).

Entered: June 14, 2024

Ann Dillon Flynn
Clerk of the Court