

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

531

CA 15-01046

PRESENT: CENTRA, J.P., LINDLEY, CURRAN, AND SCUDDER, JJ.

IN THE MATTER OF THE APPLICATION OF MELISSA C. ENGLAND AND BENJAMIN K. CAMPBELL, AS PERSONAL REPRESENTATIVES OF THE ESTATE OF HAZARD K. CAMPBELL, SR., AND HSBC BANK USA, N.A., AS CO-TRUSTEES, PETITIONERS-RESPONDENTS,

MEMORANDUM AND ORDER

FOR THE JUDICIAL SETTLEMENT OF THE INTERMEDIATE ACCOUNT AS TRUSTEES OF TRUST BY MARJORIE KNOX CAMPBELL, DATED DECEMBER 29, 1934, GRANTOR, FOR THE BENEFIT OF HAZARD K. CAMPBELL, SR., MARJORIE K. CAMPBELL AND GRACIA M. CAMPBELL, FOR THE PERIODS FROM DECEMBER 29, 1934 TO NOVEMBER 5, 1972 AND NOVEMBER 5, 1972 TO SEPTEMBER 24, 2011.

GRACIA E. CAMPBELL, CLARISSA VAIDA, AND HEATHER BYRNE, RESPONDENTS-APPELLANTS.
(APPEAL NO. 2.)

LAWRENCE J. KONCELIK, JR., EAST HAMPTON, FOR RESPONDENTS-APPELLANTS.

PHILLIPS LYTTLE LLP, BUFFALO (AMANDA L. LOWE OF COUNSEL), FOR PETITIONERS-RESPONDENTS.

Appeal from an order of the Supreme Court, Erie County (Diane Y. Devlin, J.), entered May 5, 2015. The order, among other things, granted petitioners' motion for attorneys' fees and costs and denied respondents' cross motion to disgorge fees.

It is hereby ORDERED that the order so appealed from is unanimously modified on the law by denying that part of the motion seeking attorneys' fees and costs, and as modified the order is affirmed without costs, and the matter is remitted to Supreme Court, Erie County, for a determination of reasonable attorneys' fees and costs in accordance with the same memorandum as in *Matter of HSBC Bank USA, N.A. (Campbell)* ([appeal No. 1] ___ AD3d ___ [May 5, 2017]).

Entered: May 5, 2017

Frances E. Cafarell
Clerk of the Court