

Dog Welfare Groups in Court Over Helmsley Trust

Three animal welfare organizations say trustees are misdirecting funds meant to help dogs.

By Marissa Heflin

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Three animal welfare organizations have filed suit in New York's Surrogate Court to intervene in the matter of Leona Helmsley's \$5 billion estate. The American Society for the Prevention of Cruelty to Animals, The Humane Society of the United States and Maddie's Fund said in a press conference Tuesday that the Helmsley trustees are misdirecting funds despite her expressed intent to help dogs.

Howard Rubenstein, spokesman for The Leona M. and Harry B. Helmsley Charitable Trust, said in a written statement Tuesday, "After waiting for nearly six months following that decision of the Surrogate, these three organizations have leveled a broadside attack against the trustees, against the Surrogate and against the New York State Attorney General, and have accompanied those attacks with an extensive media campaign. The trustees will be litigating this matter in the court, not in the press."

A statement posted on the trust website denies that Helmsley's wishes have been ignored: "Did Leona Helmsley intend for this charitable trust to focus on the care and help of dogs, rather than people? Absolutely not. Have the trustees of this vast fortune acted improperly and ignored Mrs. Helmsley's instructions? Again, absolutely not."

The statement pointed out that \$1 million of the \$136 million that has been distributed so far has gone to dog-related charities. Of that, \$100,000 went directly to an animal welfare cause, the ASPCA. The other \$900,000 went to nonprofit organizations that work with service dogs, which constitutes as human interest, not animal welfare as Helmsley intended, the animal groups said.

"The core of this lawsuit is a question of whether the courts are willing to recognize and support a clear statement of donor intent," Marsha Perelman, chair of the ASPCA Board of Directors, said at the press conference. "In March 2004, Leona Helmsley signed a statement which clearly sets forth her wish and instructed that her estate be used, in part, for the care of dogs. The trustees of her estate have asked New York's Surrogate Court for permission to ignore this wish and the court has given them permission to do so. This is a blatant mismanagement of her estate."

The motion that the organizations filed would vacate the initial order.

Legal action was not a move the groups made quickly, according to Wayne Pacelle, chief executive officer of HSUS. In fact, they were reluctant to go this route, he said.

"We did our best to have a settlement or resolution of this matter that would not require costly legal action on anyone's part," he said. "But the injustice, in our view, as charitable organizations devoted to the principle of animal welfare, is so grave that we felt compelled to take this extraordinary action."

Pacelle went on to say that the trustees, consisting of five individuals, have substituted their judgment for Helmsley's judgment, making the underlining assumption that animal welfare is not a legitimate social mission or purpose.

Henry Christensen of McDermott, Will & Emery, and Charles Berry of Arnold & Potter, legal representatives of the ASPCA and the HSUS and Maddie's Fund, respectively, said they are surprised at how this has turned out.

"We actually consider it to be rather a simple case," Christensen said at the press conference. "It's a question of whether you are going to honor donor intent or are you not ... [Helmsley] signed the Mission Statement, which said that the \$5 billion trust was to go to organizations which were engaged in the care and welfare of dogs and to all other charities."

However, the trustees maintain in their website statement that Helmsley "had entrusted her successor trustees with — in twice-stated language of the trust itself — 'sole discretion' to distribute the trust's money to charities the trustees consider worthy."

They said that they even held off in issuing grants until the Surrogate Court upheld their position.

The statement further points out that “[Helmsley’s] actions spoke as clearly as the words of the trust documents.” For example, in the eight years between the formation of the trust and her death, Helmsley contributed more than \$55 million to charitable causes. Of that, only \$1,000 was made to a dog-related charity.

“Even more telling is this: The claim that the trust was established for dog-related purposes relies on a document entitled ‘Mission Statement’ signed by Mrs. Helmsley in 2004,” according to trustees’ statement. “Between her signing that document and her death — during which time she alone controlled the trust — Mrs. Helmsley and the trust gave over \$29 million to charities; of that, the amount she and the trust gave to dog-related charities was exactly zero.”

The \$5 billion at stake is a game changer, Perelman said. Such money has the potential to empty animal shelters, prevent euthanasia and help prevent animal cruelty, such as dogfighting.

Unfortunately, this is not the only case when it comes to misdirecting funds despite clear intentions to help animal welfare groups, according to Rich Avanzino, president of Maddie’s Fund.

“Literally hundreds of millions of dollars that have been willed by people nationally, who cared about dogs, have not gone to provide for dogs as was intended,” Avanzino said. “The ignoring of donor intent in this country has become an unspoken national shame.”

In the end, this is not just about animal welfare, Pacelle said.

Trouble, Helmsley’s Maltese, ended up receiving \$2 million as a result of the will. A judge knocked it down from the original \$12 million.