
STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Probate Division

Case Type: Trust

In the Matter of the Trust Created by
Article VII of the Last Will and Testament
of CHARLES K. BLANDIN (aka the
Residuary Trust),

Deceased.

Court File No. 62-C5-58-302795

Judge: Stephen L. Smith

**Blandin Foundation's
Petition to Construe and Interpret
Terms of Will**

Petitioner Blandin Foundation respectfully represents and petitions the Court as follows:

PETITIONER

Petitioner Blandin Foundation (the "Foundation") is the sole beneficiary of the Trust created by Article VII of the Last Will and Testament of Charles K. Blandin (referred to as the "Residuary Trust") and an interested party under the Minnesota Trust Code. The address of Blandin Foundation is 100 North Pokegama Avenue, Grand Rapids, Minnesota 55744.

REQUEST FOR RELIEF

Pursuant to Minn. Stat. § 501C.0202(4), the Foundation requests an Order both construing and interpreting certain terms of the Last Will and Testament of Charles K. Blandin (the "Will"). Specifically, the Foundation requests that the Court confirm that:

- Based upon a reasonable construction and interpretation of the Will and Minnesota law, that the no-contest provision included in the Will does not apply to the Foundation and was intended for the individual beneficiaries that Blandin named in his Will.
- Based upon a reasonable construction and interpretation of the Will and Minnesota law, that the no-contest provision included in the Will is governed by Minn. Stat. § 524.2-517.

BACKGROUND

1. The Foundation is a private foundation based in Grand Rapids, Minnesota. The Foundation was established by Charles K. Blandin (“Blandin”) in 1941 to aid and promote what was at that time the Village of Grand Rapids, Minnesota, and its surrounding area. In establishing the Foundation, Blandin emphasized flexibility to ensure it could adapt to changing times, with an underlying philosophy that its work should lead to the “betterment of mankind.” The Foundation is the state’s largest rural-based and rural-focused foundation.

2. The Foundation is the sole beneficiary of the Residuary Trust, which was established by the Will. Blandin executed the Will more than 75 years ago, on January 18, 1949. Blandin executed Codicils in 1951, 1952, and 1953. The 1951 Codicil modified a no-contest provision established by Article XI of the Will. The 1951 Codicil represents the operative version of the no-contest provision. The 1952 and 1953 Codicils made modifications not relevant to this Petition.

3. The Foundation's mission is to "connect, fund and advocate for ideas and people to inspire resourcefulness and move rural places forward." Its vision is for "rural Minnesota places that welcome diversity, address injustice, and embrace change to create a sustainable and equitable future."

4. The Foundation's charitable work focuses on the belief that rural places and people have been held back by long-standing unfair structures, systems, and practices. Consequently, the Foundation focuses its grantmaking efforts on three areas:

- Community wealth-building: Building the rural bases of knowledge, money, workforce, entrepreneurship, and investment – and keeping those powerful resources close to home.
- Placemaking: Bolstering the arts, culture, natural resources, creativity, and opportunities to come together that help people feel connected, invested, and proud of where they live.
- Small communities: Funding resources, skills and needed system changes in rural Minnesota's smallest communities.

5. The Foundation is an Internal Revenue Code § 501(c)(3) organization and governed by Minn. Stat. § 501B.32.

PROCEDURAL POSTURE

6. The Residuary Trust is subject to the *in rem* jurisdiction of the Court pursuant to Minn. Stat. § 501C.0201.

7. The Will contemplated that there would be a corporate trustee, originally Northwestern National Bank and Trust Company, and an individual trustee, originally William H. Oppenheimer, of the Residuary Trust.

8. Wells Fargo Bank, N.A. is the current corporate trustee, and James Hoolihan is the current individual trustee, of the Residuary Trust.

9. Pursuant to Article VIII, 3, the Will requires that:

At least annually the corporate trustee shall prepare a statement showing the condition of the trust funds, the receipts and disbursements of principal and income thereof. Such account shall contain a complete inventory of all assets of the trust. Such account shall be filed annually with the court having jurisdiction over the trust, and a copy thereof shall be furnished [sic] the beneficiaries thereof.

Formal hearings for the approval and allowance of said accounts shall be had in said court after notice to all beneficiaries at not more than three-year intervals.

10. The approval of the accounts of the Residuary Trust is specific to the activities of the corporate trustee and the individual trustee.

11. From Blandin's death in 1958 until 1990, the triennial hearings for the approval and allowance of the accounts of the Residuary Trust reviewed petitions that were submitted jointly by the corporate trustee and the individual trustee. Such petitions consistently focused on the Trustees' accounts for the previous three-year period, setting the fees for the corporate and individual trustees, awarding legal fees for the corporate and individual trustees' attorney, and authorizing the acquisition or retention of extraordinary assets held by the Residuary Trust. For example, in 1988 when Wells Fargo's predecessor Norwest Bank Minnesota, N.A. was the corporate

trustee, the Trustees sought and secured court approval to retain 27,000 shares of common stock in Norwest Corporation.

12. In 1990, the corporate and individual trustees jointly petitioned the Court for an order declaring that certain aspects of the Foundation's articles of incorporation and bylaws that were drafted in accordance with Article X of the Will could be amended. Specifically, the provisions of Article X of the Will that the corporate and individual trustees sought to abrogate were:

- The requirement that no person could be elected to the Board of Trustees of the Foundation without the approval of the corporate and individual trustees;
- The requirement that a majority of the Trustees of the Foundation be residents of Grand Rapids, Minnesota and Itasca County; and
- The requirement that the individual co-trustee of the Residuary Trust and an officer of the corporate co-trustee would always serve on the Board of Trustees for the Foundation.

13. Also in 1990, the corporate and individual trustees sought an order declaring that the requirement in Article X of the Will that the distribution income of the Residuary Trust be "of a character beneficial to the residents of" Grand Rapids, Minnesota, and its vicinity: (1) did not restrict the Foundation to supporting activities and programs solely in the Grand Rapids geographical area; and (2) permitted the Foundation to expend funds received from the Residuary Trust in a manner that the

Foundation Board of Trustees deemed advisable in support of activities and programs within the State of Minnesota.

14. On October 25, 1990, the Court issued an Order (the “1990 Order”) granting the Trustees’ requests as set forth in paragraphs 12 and 13. The Foundation was not a party to the Trustees’ requests as set forth in paragraphs 12 and 13.

15. For a period of time after the 1990 Order, members of the Grand Rapids community expressed concerns that the Grand Rapids area was becoming secondary under the leadership direction of the then President and CEO of the Foundation. With assistance from the Attorney General, a stipulation was entered acknowledging that the perpetual and primary responsibility of the Foundation is to distribute funds to meet the reasonable needs of the Grand Rapids area.

16. In subsequent years, the Trustees, members of the Grand Rapids community, and the Foundation worked to define what qualified as “primary responsibility...to meet the needs of the Grand Rapids area.” Ultimately, it was agreed that the Foundation would distribute to the Grand Rapids area at a rate of 60% or more on a six-year rolling average measure. Since 2015, the Foundation has exceeded the 60% distribution rate to the Grand Rapids area.

17. The Foundation uses a transparent self-reporting process regarding its distribution rate. The Foundation’s self-reporting is included in the management discussion portion of the Foundation’s annual financial statement, which is provided to the Court and the Attorney General.

18. Upon information and belief, for the last decade there have not been material concerns about the Foundation's commitment to the Grand Rapids area, and the self-reporting has provided and continues to provide meaningful transparency for the community.

19. The Foundation is a mature organization, with well-regarded and highly qualified leadership and staff, as well as an engaged, knowledgeable, and dedicated Board of Trustees. It has chartered Executive, Finance and Audit, Investment, and Governance Committees. It independently manages approximately 10% of the assets on which it relies for its operations and grantmaking.

20. In recent years, the perceived need to prove and defend the Foundation's commitment to the local community at triennial accounting hearings has, from the Foundation's perspective, overshadowed and distracted from the statutory purpose of the triennial account review, despite more than a decade now having passed since the establishment of the 60% giving rate, and the related self-reporting process.

21. Until recently, the Foundation, the corporate trustee, and the individual trustee have all been represented by the same law firm. This created a situation that discouraged the Foundation's leadership from raising questions regarding the Foundation's rights as the sole beneficiary of the Residuary Trust.

22. The petition submitted by the Trustees and the subsequent order for the most recent triennial hearing in 2022 illustrates this dynamic. Counsel – appearing for the corporate trustee and the individual trustee – prepared a petition on behalf of the co-trustees and appeared on their behalf for the purpose of allowing the Trustees'

accounts and other relief. While not a party to the petition, the Foundation was asked to provide testimony in support of the petition, which was facilitated by counsel representing the co-trustees.

23. The Foundation acquired new leadership beginning in 2020. Since 2020, the Foundation's leadership has closely evaluated its economic impact, consistent with its mission and commitment to the Grand Rapids area. This has necessarily included looking closely at the revenue generated by the Residuary Trust's investments, the expense burden on the Residuary Trust, and the Foundation's ability to do planful long-term grantmaking. These are important issues that involve activities and decisions that fundamentally occur at the trustee level.

24. The Foundation is better able to maximize the impact of its grantmaking to the local community if it has predictable and responsibly robust distributions from the Residuary Trust.

25. The Residuary Trust is required by law to distribute 5% of its assets, accounting for certain allowable deductions, to the Foundation. The 5% is a minimum, and the Residuary Trust could by law distribute more than 5%.

26. Because they are a private charitable trust and a private foundation, respectively, neither the Residuary Trust nor the Foundation are exempt from certain taxes.

27. The Residuary Trust and the Foundation are subject to an annual excise tax, currently at a rate of 1.39%, on their net investment income.

28. The Residuary Trust and the Foundation are also subject to taxation on unrelated business taxable income ("UBIT"). UBIT is income from a trade or business that is regularly conducted and is not substantially related to the charitable or exempt purpose of the private trust or foundation.

29. Annual administrative expenses charged to the Residuary Trust are not insignificant. Specifically, and rounded to the thousands, in the last two court-approved accounting periods they have been:

- 2018: \$400,000.
- 2019: \$340,000.
- 2020: \$310,000.
- 2021: \$490,000.
- 2022: \$445,000.
- 2023: \$377,000.

30. The tax burden based on the investments made by the Trustees is also not insignificant and has been increasing. Specifically, and rounded to the thousands, in the last two triennial accounting periods they have been:

- 2018: \$416,000 for excise taxes and \$0 for UBIT (total \$416,000).
- 2019: \$296,000 for excise taxes and \$52,000 for UBIT (total \$348,000).
- 2020: \$213,000 for excise taxes and \$65,000 for UBIT (total \$278,000).
- 2021: \$690,000 for excise taxes and \$383,000 for UBIT (total \$1,073,000).

- 2022: \$792,000 for excise taxes and \$381,000 for UBIT (total \$1,173,000).
- 2023: \$158,000 for excise taxes and \$484,000 for UBIT (total \$642,000).

31. The ultimate tax burden on the Residuary Trust is impacted based on decisions made by the Trustees, including such things as the selection of an outsourced chief investment officer to manage the investment portfolio in accordance with an investment policy statement set by the Trustees. Since at least the early 2000s, the acting Trustees have elected to engage Wells Fargo or a subsidiary of Wells Fargo for these services.

32. The tax burden related to excise taxes can be managed by strategic timing related to the disposition of certain assets. The tax burden related to UBIT can be managed by strategic asset selection.

33. Since at least 2013, the distributions from the Residuary Trust have been 5% of the Residuary Trust assets, minus excise taxes, UBIT, and administrative expenses.

34. Upon information and belief, taking into account administrative expenses and the tax burden on the Residuary Trust, the actual distributions made by the Residuary Trust to the Foundation has frequently been below 5%. For example, in 2018 the actual rate was 4.92%; in 2020 it was 4.87%; in 2021 it was 4.41%; in 2023 it was 4.54%; and in 2024 it is estimated to be 4.65%.

35. In a typical year, each one-tenth of one percent of the 5% required minimum distribution rate is the equivalent of over \$425,000 in distributable funds.

36. In addition, pursuant to the formula used by the corporate trustee, for any year when the gross distribution rate is above 5%, the corporate trustee considers that amount to be an excess distribution and deducts it from a future distribution.

37. There are additional, not insignificant expenses at the Residuary Trust level. For example, from 2018 to the present, annual compensation for the corporate trustee's portfolio management team has ranged from \$1,162,274 up to \$1,368,316.

38. In addition, the corporate trustee's portfolio management team utilizes investment managers. In 2023, the investment managers were paid more than \$520,000. In 2022, the investment managers were paid more than \$400,000. In 2021, the investment managers were paid more than \$545,000.

39. The overall investment returns that have been achieved on behalf of the Residuary Trust have been below the Trustees' own benchmark approximately two-thirds of the time for an extended period.

40. In 2024, the Foundation made an oral request to the corporate trustee that distributions be made such that they were consistently a 5% net to the Foundation. The Trustees declined.

41. The Petition to Allow Trustees' Accounts and Other Relief filed with this Court on December 17, 2024, does not address the Residuary Trust's required minimum distribution to the Foundation, although previous petitions by the Trustees and subsequent Court orders have at times done so.

42. In advance of the previously scheduled hearing on the triennial accounts, the Foundation inquired about its ability to raise questions that had emerged that impacted its grantmaking ability.

43. If it were clear that it could do so without jeopardizing its mission and commitment to the local community, the Foundation would raise issues associated with the items outlined above in the context of the ongoing Court supervision. Unfortunately, the current state of the law in Minnesota regarding no-contest provisions presents so much uncertainty that it would be irresponsible for the Foundation to risk its work given the present uncertainty without clarification and confirmation from the Court.

44. Confirmation from the Court as outlined in this Petition will permit the Foundation to raise these issues in the context of the triennial hearing. Conversely, without the confirmation sought in this Petition, the Foundation would not raise these issues.

**THE BASIS FOR THE REQUEST FOR THE COURT TO CONSTRUE AND
INTERPRET THE NO-CONTEST PROVISION IN BLANDIN'S WILL**

45. Pursuant to Minn. Stat. § 501C.0202(4), Minnesota courts have authority over trust proceedings “to construe, interpret, or reform the terms of a trust, or authorize a deviation from the terms of a trust.”

46. The Foundation believes that the no-contest clause in the Will was not intended to apply to it, and that even if it were, that the ambiguities in the Will undermine and/or impact if and how it would apply to the Foundation. But in an

abundance of caution, in order to protect and preserve the Foundation's mission and its commitment to the local community, it brings the present Petition.

RECENT MINNESOTA CASE LAW REGARDING NO CONTEST CLAUSES

47. Minnesota statute provides that "[a] provision in a will purporting to penalize an interested person for contesting the will or instituting other proceedings relating to the estate is unenforceable if probable cause exists for instituting proceedings." Minn. Stat. § 524.2-517. Upon information and belief, the rule was enacted for obvious reasons—legitimate challenges to certain aspects of estate administration should not be discouraged.

48. Minnesota statute provides that "[t]he rules of construction that apply in this state to the interpretation of and disposition of property by will also apply as appropriate to the interpretation of the terms of a trust and the disposition of trust property." Minn. Stat. § 501C.0112.

49. In 2022, a Minnesota court declined to apply the probable cause standard to a no-contest provision in a trust agreement. *In re B.C. Fox Tr., U/A/D, July 1, 1997, as Amended*, A21-0770, 2022 WL 1073756, at *1 (Minn. Ct. App. Apr. 11, 2022).

50. A recent Minnesota decision cited to the *Fox* matter to disinherit a beneficiary who expressed concerns regarding her treatment as a beneficiary. *The Gus A. Chafoulias Revocable Trust*, No. 55-CV-24-3457 (Minn. Dist. Ct. Feb. 24, 2025). Citing to *Fox*, the Court in *Chafoulias* noted that "no-contest provisions have generally been found to be valid and enforceable subject to the limitations [...] that forfeitures must be strictly construed by clear and unambiguous language." *Id.* at 16. The Court

acknowledged “that this result is harsh and leaves the Petitioner with no meaningful ability to seek judicial review of the Trustee’s actions. Unfortunately, this appears to be the current state of the law in Minnesota and the intent of the parties’ father as grantor controls.” *Id.* at 34.

51. Upon information and belief, the no-contest provision contained in Blandin’s Will was not intended to apply to the Foundation. In addition, as a matter of law, to the degree that the no-contest provision applies to anyone, because it is contained in the Will, Minn. Stat. § 524.2-517 applies to any potential challenges.

52. Blandin’s Will includes a no-contest provision that states as follows:

“During my lifetime I have created a trust for certain individuals as beneficiaries. I have intentionally failed to make any provision for any person named in said trust in this Will.

“In case any legatee or beneficiary mentioned or referred to in this Will or in any trust created by me during my lifetime for whom or for whose benefit I have made any provision herein or in said trust shall endeavor in any way to contest in any court or before any tribunal this Will or the validity thereof, or its due or proper execution, or the provisions applicable to him or her, or any other provisions of this Will, or shall in any way question my acts in making this Will or any of its provisions, or make any claim in or to my estate other than as provided herein or in said trust so created by me during my lifetime, then and in that event such contestant shall thereupon forfeit and shall thence forth cease to have any right, title or interest in or to any portion of my estate or any property devised thereunder or any income therefrom, and any and all provisions of this Will or said trust in favor of or for the benefit of such contestant are hereby absolutely revoked, *and any and all rights which said contestant would otherwise have had thereunder shall fall into and become a part of the residue of my estate.*”

Article XI, Codicil to the Will dated December 17, 1951 (emphasis added).

**THE NO-CONTEST PROVISION IN THE WILL WAS NOT INTENDED TO APPLY
TO THE FOUNDATION**

53. Blandin's Will includes provisions for friends and family. For example, in Article III, he established an inter vivos trust for his great-grandchildren. In Article IV he bequeathed set sums to certain family members, employees of the Blandin Paper Company, and other individuals. And in Articles V and VI he established an additional inter vivos trust for the benefit of certain family members and to provide for the care of three cemetery lots.

54. The Residuary Trust was established by Article VII of the Will. It is of a distinctly different character than the inter vivos trusts established by Articles III, V, and VI. Tellingly, the Residuary Trust is the explicit and default beneficiary of the residue of the inter vivos trusts established by Articles III, V, and VI.

55. The no-contest provision contains language that, upon information and belief, inadvertently suggests that it applies beyond the individuals who were beneficiaries of the inter vivos trusts established by Articles III, V, and VI. The provision refers to any "any legatee or beneficiary mentioned or referred to in this Will or in any trust created by me during my lifetime for whom or for whose benefit I have made any provision herein or in said trust."

56. Viewed in context of the surrounding language, however, the no-contest provision does not apply to the Foundation.

- First, Article XI, as modified by the applicable codicil, begins by stating: "During my lifetime I have created a trust for certain

individuals as beneficiaries. I have intentionally failed to make any provision for any person named in said trust in this Will.” This opening sentence suggests that when the no-contest clause talks about beneficiaries, it is referring to the individuals who were beneficiaries of Blandin’s inter vivos trusts.

- Second, if a legatee or beneficiary runs afoul of the no-contest provision, the Will provides that “any and all rights which said contestant would otherwise have had thereunder shall fall into and become a part of the residue of my estate.” Article VII, in turn, provides that the residue of Blandin’s estate must go to the Trustees of the Trust, of which the Foundation is the sole beneficiary. So, if the Foundation violated the no-contest provision, the remedy provided by the Will would make no sense.

57. It also makes no sense that Blandin would establish a Foundation to benefit from both the residue of the Will as well as the interests of any individuals in default of the no-contest clause contained in the Will, and at the same time prohibit the Foundation from looking out for its separate and distinct interests as a beneficiary charged with obligation to the community to which he was committed. Notably, Blandin established a Board of Trustees for the Foundation and could not have intended to deprive them of the ability to scrutinize the actions of the Trustees.

58. Minnesota courts “look with disfavor on forfeitures of all kinds,” and “will avoid forfeitures when reasonably possible to do so.” *Capistrant v. Lifetouch Nat’l*

Sch. Studios, Inc., 916 N.W.2d 23, 28 (Minn. 2018). Because the no-contest provision is ambiguous at best as applied to the Foundation, a court should refuse to enforce it as to the Foundation.

**THE NO CONTEXT CLAUSE IN BLANDIN'S WILL IS GOVERNED BY THE
PROBATE CODE**

59. Minnesota law provides that “[a] provision in a will purporting to penalize an interested person for contesting the will or instituting other proceedings relating to the estate is unenforceable if probable cause exists for instituting proceedings.” Minn. Stat. § 524.2-517. However, a recent Minnesota case determined that the same rule does not apply to a no-contest provision in a trust. *In re B.C. Fox Tr.*, U/A/D, July 1, 1997, as amended, A21-0770, 2022 WL 1073756, at *1 (Minn. Ct. App. Apr. 11, 2022). But in that case, the trust was created by a trust agreement, so the no-contest provision was not “in a will” as articulated by Minn. Stat. § 524.2-517. And although the Uniform Trust Code states that “[t]he terms of a trust prevail over any provision of [the Trust Code]” except in enumerated circumstances, it does not provide that the terms of a trust prevail over other statutes that may apply. Minn. Stat. Ann. § 501C.0105.

60. Here, the no-contest provision is “in a will” and addresses proceedings instituted to “contest[] the will or institute[] other proceedings relating to the estate.” Thus, Minn. Stat. § 542.2-517, by its terms, applies. Further, the no-contest provision applies both to trust beneficiaries and to legatees who are not trust beneficiaries. It

would be anomalous to apply different rules of construction to the same provision depending on who is challenging the Will.

WHEREFORE, Petitioner Blandin Foundation requests that the Court make and enter an order designating the time and place all interested parties may be heard upon the matters set forth in this Petition and specifying the time within which and the manner in which notice of such hearing shall be given. Petitioner further requests that, at the time and place of such hearing, the Court make an order as follows:

1. Confirming that this Petition and the related Notice of Hearing have been served on all interested parties;
2. Confirming, based upon a reasonable construction and interpretation of the Will and Minnesota law, that the no-contest provision included in the Will does not apply to the Foundation and was intended for the individual beneficiaries that Blandin named in his Will;
3. Confirming, based upon a reasonable construction and interpretation of the Will and Minnesota law, that the no-contest provision included in the Will is governed by Minn. Stat. § 524.2-517; and
4. Granting such other relief as may be proper.

I declare under penalty of perjury that I have read the foregoing Petition and that, to the best of my knowledge and information, its representations are true, correct, and complete. Minn. Stat. § 358.116.

Date: 7/3/2025 | 2:13:40 PM ^{CDT}, 2025

Blandin Foundation

Itasca County County, Minnesota

By:  2D839956SD214FF...
Its: CEO

ROBINS KAPLAN LLP
Denise S. Rahne (0331314)
DRahne@RobinsKaplan.com
Timothy W. Billion (0395272)
TBillion@RobinsKaplan.com
2800 LaSalle Avenue, Suite 2800
Minneapolis, MN 55402
612-349-8500; Fax 612-339-4181
Attorneys for Petitioner Blandin Foundation

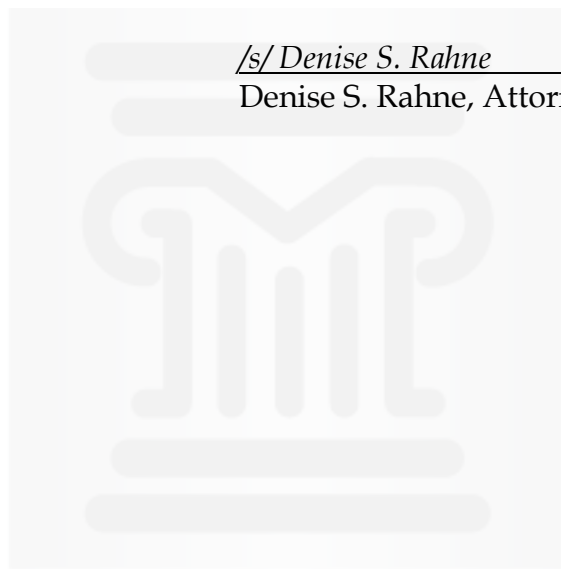
MINNESOTA
JUDICIAL
BRANCH

Acknowledgement

The parties upon whose behalf this pleading is submitted, by and through the undersigned, hereby acknowledge(s) that sanctions may be imposed for violation of applicable provisions of Minnesota law (including Minn. Stat. §§ 549.211 and 524.1304; and Rule 11 of the Minnesota Rules of Civil Procedure).

/s/ Denise S. Rahne

Denise S. Rahne, Attorney for Petitioner



MINNESOTA
JUDICIAL
BRANCH