

Linck v. Barokas & Martin
667 P.2d 171 (Alaska 1983)

Facts: Lee was in the midst of creating an estate plan drafted by the Defendants when Lee died. The estate plan was never completed. Under Lee's will, Lee's estate passed to his wife. The estate was valued at three million dollars. The children were beneficiaries only if Lee's wife predeceased Lee. Under Alaska law, Lee's wife had 6 months to disclaim her interest in the estate. The time for filing the disclaimer lapsed. Lee's wife along with the children filed a complaint against the Defendants alleging that the Defendants failed to inform Lee's wife that she had a right to disclaim the estate. The court dismissed the action for failing to state a claim upon which relief can be granted. Lee's wife and children appealed.

Issues: Whether an attorney-client relationship existed between the Linck family and the Defendants whereby the Defendants should have informed the family of their right to disclaim the property.

Holding: There did exist an attorney-client relationship between the Linck family and the Defendants whereby the Defendants should have informed the family of their right to disclaim the property.

Reasoning: There did exist an attorney-client relationship between the family and the Defendant whereby the Defendants were required to inform the family regarding estate planning, taxation, etc. Defendants breached this duty by failing to notify the family of the availability of the right to disclaim. As discussed below, the family suffered actual damages as a result of the breach.

If Lee's wife would have disclaimed the estate, the estate would have treated Lee's wife as predeceasing her husband. As Lee's wife did not disclaim the estate, when she passes the children will be subject to a second estate tax on the asset items in Lee's will. In the alternative, if Lee's wife decides to gift the children the estate while she is alive, the children will have to pay a gift tax on the estate. If Lee's wife would have disclaimed the estate, the children would not have been subject to either tax referenced above. Therefore, the family has suffered actual damages as a result of the Defendant's failure to inform Lee's wife that she could disclaim the estate.