



## Legal Alert

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Michael R. King  
[mking@gblaw.com](mailto:mking@gblaw.com)  
602-256-4405

**QUESTION: HOW LONG WILL PEOPLE FIGHT OVER THE ANNA NICOLE SMITH ESTATE'S CLAIMS AGAINST THE FORTUNE OF THAT TEXAS BILLIONAIRE?**

**ANSWER: PEOPLE WILL FIGHT FOREVER OVER THOSE AMOUNTS OF MONEY!**

Chief Justice Roberts began his opinion in *Stern v. Marshall*, 131 S.Ct. 2594 (2011):

This “suit has, in course of time, become so complicated, that . . . no two . . . lawyers can talk about it for five minutes, without coming to a total disagreement as to all the premises. Innumerable children have been born into the cause; innumerable young people have married into it;” and, sadly, the original parties “have died out of it.” A “long procession of [judges] has come in and gone out” during that time, and still the suit “drags its weary length before the Court.”

Justice Roberts was quoting *Bleak House* by Charles Dickens and he noted that the “words were not written about this case, . . . but they could have been.” The fight is over the fortune of J. Howard Marshall II, who was one of the richest men in Texas. Anna Nicole Smith was J. Howard Marshall’s third wife having married him about a year before he died. Predictably, Anna Nicole Smith got involved in litigation with the son of J. Howard Marshall over who got how much money. Anna Nicole Smith was trying to get half of Mr. Marshall’s fortune. She received a lot of money and other gifts before and during the marriage, but she was not included in Mr. Marshall’s Will.

Prior to the death of Mr. Marshall, Anna Nicole Smith sued E. Pierce Marshall, the younger son of J. Howard Marshall, for fraudulently inducing the old man to sign a living trust document that excluded her. (Holidays were probably cordial in this family!) She claimed that Mr. Marshall intended to give her half of his property. The younger son, defended the lawsuit saying he didn’t do anything fraudulent and the Estate was to be distributed according to the terms of the Trust and Will.

After Mr. Marshall died, Anna Nicole Smith filed bankruptcy in California. Pierce Marshall sued in the bankruptcy proceeding for defamation. Pierce

Marshall said that Anna Nicole Smith defamed him by having her lawyers tell the press that he had committed fraud to take control of his father's fortune. Anna Nicole Smith counterclaimed for tortious interference with the gift that she should have received from Mr. Marshall's Estate. She again asserted that Pierce Marshall had wrongfully prevented her from receiving her half of Mr. Marshall's assets.

The dispute over Mr. Marshall's property went through state and federal courts in Louisiana, Texas and California. The Texas state probate court and the bankruptcy court handling Anna Nicole Smith's bankruptcy reached opposite decisions. The Texas state court in a jury trial entered judgment on the merits in favor of Pierce Marshall, upholding the Trust and the Will and refusing to give Anna Nicole Smith half of the Estate.

The Anna Nicole Smith bankruptcy court, however, awarded her over \$400 million in compensatory damages and \$25 million in punitive damages and threw out Pierce Marshall's defamation claim. The dispute then worked its way up to the U.S. Supreme Court to see which decision would control.

So what did the Supreme Court decide? The Supreme Court said the bankruptcy court did not have jurisdiction to decide the counterclaim for tortious interference with the gift of half the estate filed by Anna Nicole Smith. Therefore, the Texas probate court judgment was the earliest final judgment entered and had already decided all relevant legal and factual issues of the case. The jury trial on the merits in the Texas court upholding the Trust and the Will and ruling against the claims by Anna Nicole Smith was the decision that applied.

The reason the Supreme Court said that the bankruptcy court could not decide the dispute was that bankruptcy courts are merely created under authority of Article I of the Constitution and are limited to deciding "core" bankruptcy issues. Only a federal court formed pursuant to Article III of the Constitution could decide the issues involved in this dispute because these were not "core" bankruptcy issues.

Article III, Section I, of the Constitution says "[t]he judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." The judges of those constitutional courts "shall hold their Offices during good Behaviour" and their compensation can't be decreased while they are judges. Bankruptcy judges don't have lifetime tenure and salary protections and, therefore, don't have the power to decide issues such as those presented to the bankruptcy court by Anna Nicole Smith. The *Stern v. Marshall* case has many pages of carefully reasoned constitutional law. None of that will interest you, however.

If you want to try to make sure that your heirs do not waste your estate with lawyers, please consult me for estate planning services. On the other hand, Mr. Marshall had a very good estate plan and documents. Maybe you should simply expect trouble when your last spouse is younger than your kids!

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