§ 398. Settlement agreement—To withdraw contest of will, 25A Am. Jur. Pl. & Pr. § 398

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Wills
VIII. Opposition and Contest
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Topic Summary Correlation Table

§ 398. Settlement agreement—To withdraw contest of will

[Caption, see § 5]

SETTLEMENT AGREEMENT

This agreement is made on [date of agreement], by and between the undersigned.

[Name of decedent], in Section [number of section] of [his/her] last will and testament, bequeathed [his/her] farm consisting of [number of acres] acres and described as [description of farm], to [his/her] [son/daughter], [name of child], on certain conditions stated in that section. The will was offered for probate in the [name of court] of [name of county], [name of state], on [date of offer]. On [date of objection], [name of decedent's second child] objected to the probating of the will.

Therefore, for the purpose of avoiding further litigation, it is agreed by and between [decedent's son/decedent's daughter] and [name of decedent's second child] that [name of decedent's second child] shall withdraw all objections to the probating of the will. In consideration of such withdrawal, [decedent's son/decedent's daughter] agrees that [he/she] will fulfill all the conditions and stipulations contained in Section [number of section] of the last will and testament of [name of decedent], and that after the death of their [father/mother] named in that section, [he/she] will divide equally whatever is left of the farm described in the section, or from the proceeds of any sale of the farm, with [name of decedent's second child]. It is understood and agreed, however, that the property is not to be sold by [decedent's son/decedent's daughter] unless it is necessary to do so for the purpose of supporting their [father/mother] in the manner provided in Section [number of section] item of the will, unless with the consent of [name of decedent's second child].

In witness of the above, the parties have affixed their signatures to this agreement the day and year first above-written.

____________
[Names of parties to agreement]

Notes

West's Key Number Digest

West's Key Number Digest, Wills ☞ 340
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Validity and enforceability of agreement to drop or compromise will contest or withdraw objections to probate, or of agreement to induce others to do so, 42 A.L.R.2d 1319

Legal Encyclopedias

Compromise and settlement of will contests. Am. Jur. 2d, Wills §§ 966 et seq.