

SURROGATE'S COURT: NEW YORK COUNTY

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In the Matter of the Estate of

H. KENNETH RANFTLE,

File No. 4585-2008

Deceased.  
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G L E N, S.

In this proceeding for the probate of the will of H. Kenneth Ranftle, the court must determine the identity of decedent's distributees entitled to receive process under SCPA 1403 (1)(a), in the following circumstances.

The decedent married his same-sex partner, J. Craig Leiby, in Montreal, Province of Quebec, Canada on June 7, 2008. He died on November 1, 2008 survived by Mr. Leiby and by three siblings. The decedent had no children. His parents predeceased him, as did another sibling, who also left no children.

Marriages valid where solemnized have long been recognized in New York; exceptions exist only for marriages affirmatively prohibited by New York law, or proscribed by "natural law" (*Matter of May*, 305 NY 486 [1953]).<sup>1</sup> As decedent's marriage was valid under the laws of Canada, where performed, and falls into neither exception to the general rule, the marriage is entitled to recognition in New York (*Martinez v County of Monroe*, 50 AD3d 189 [4<sup>th</sup> Dept

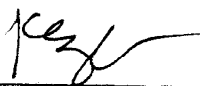
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<sup>1</sup> The "natural law" exception is generally limited to cases of incest and polygamy or where the marriage violates the state's public policy (*Martinez v County of Monroe*, 50 AD3d at 191). It is noted that Governor David Paterson has instructed New York state agencies to recognize same-sex marriages that were valid where performed, through an Executive Directive dated May 14, 2008 (see Stashenko, *Paterson Defends Recognition of Gay Marriages Elsewhere*, NYLJ, May 30, 2008 at 1, col 4).

2008]) (recognizing Canadian same-sex marriage for purposes of entitlement to spousal health care benefits).

Accordingly, Mr. Leiby is decedent's surviving spouse and sole distributee (EPTL 4-1.1). Citation in this probate proceeding need not issue under SCPA 1403 (1)(a) or any other provision of law to any other person as distributee.

Probate decree signed.



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SURROGATE

Dated: January 26, 2009