[Cite as *Garland v. Simon-Seymour*, 2009-Ohio-5762.]

THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

GEAUGA COUNTY, OHIO

VALERIE GARLAND,	:	**O P I N I O N**
Plaintiff-Appellant,	:	**CASE NO. 2009-G-2897**
- vs -	:	
CHRISTINE M. SIMON-SEYMOUR, et al.,	:	
Defendants-Appellees.	:	

Civil Appeal from the Geauga County Court of Common Pleas, Case No. 07 PTR 001381.

Judgment: Affirmed

Mark E. Porter, Gallup & Burns, 810 The Leader Building, 526 Superior Avenue, East, Cleveland, OH 44114 (For Plaintiff-Appellant).

Timothy D. Johnson and *Gregory E. O'Brien*, Cavitch, Familo, Durkin & Frutkin, 1717 East Ninth Street, 14th Floor, Cleveland, OH 44114 (For Defendants-Appellees).

DIANE V. GRENDELL, J.

{¶1} Plaintiff-appellant, Valerie Garland, appeals the decision of the Geauga County Court of Common Pleas, granting summary judgment in favor of defendants-appellees, Christine M. Simon-Seymour and Bond and Seymour Co., L.P.A. For the following reasons, we affirm the decision of the court below.

{¶2} On December 17, 2007, Garland filed a Complaint against Attorney Simon-Seymour and her firm, Bond and Seymour, asserting claims of Attorney

Malpractice and Breach of Contract. Garland's claims arose from the defendants' representation of Garland in her capacity as guardian of her mother, Marilyn Teague.

{¶3} On February 17, 2009, the defendants moved for summary judgment, which Garland duly opposed. Evidence of the following events was submitted to the trial court.

{¶4} On July 8, 2003, Garland filed an Application to be appointed guardian of Teague's person and estate, pursuant to R.C. 2111.03, on the grounds that Teague was incompetent. According to the Application, Teague was seventy years old and suffering from "mild - moderate Alzheimers Disease."

{¶5} On September 23, 2003, the probate court appointed Garland guardian and ordered her to post bond in the amount of $350,000. On October 31, 2003, upon the court's approval of the bond issued by the Western Surety Company, Garland's guardianship became effective.

{¶6} Pursuant to R.C. 2109.302(A), Garland was required to render an account of the ward's estate within two years of the effective date of her appointment, i.e. by October 31, 2005. This account is required to include an itemized statement of all "disbursements and distributions" made by the guardian during the accounting period. Garland failed to file this account.

{¶7} On April 27, 2006, the probate court ordered Garland to file an amended accounting by May 31, 2006.

{¶8} In May 2006, Garland's attorney, Paul Newman, advised her that he could no longer continue his representation of her.

{¶9} According to an affidavit submitted by Garland, she met with Simon-Seymour "as part of my efforts to secure new legal representation in connection with my

duties as my mother's guardian." The affidavit continues: "At our initial meeting in May 2006, at the offices of *** Bond & Seymour, Defendant Seymour guaranteed that she would get approval from the Geauga County Probate Court for all the expenditures that had been made in connection with my guardianship of my mother's estate. Defendant Seymour repeated this guarantee multiple times during the period she represented me as the guardian of my mother's person and estate."

{¶10} On May 31, 2006, Simon-Seymour filed a First Partial Account on behalf of Garland for the period from November 1, 2003 to October 31, 2005.

{¶11} On June 1, 2006, Garland formally retained Bond and Seymour to represent her in the guardianship. The written agreement provided as follows:

{¶12} It is my understanding that you have agreed to retain our firm to represent you in a variety of different legal matters involving the guardianship of your mother, Marilyn, as well as prepare the First Partial Account as well as any attending documents necessary to have it accepted and approved by the probate court. *** The schedule of matters and their respective retainers is as follows:

{¶13} Review of Probate Proceedings and analysis of the status of the Documentation for the First Partial Account.
{¶14} (performed on 5/26/06) $150.00

{¶15} 2. Reconstruct financial statements and bank checks with deposits to prepare for the formalizing of the First Partial Account.
{¶16} (documents picked up by legal assistant of 5/26/06 through 5/30/06 30 hours @ $30.00 per hour) $900.00

{¶17} 3. Review accounting by legal assistant and prepare First Partial Account; secure signature; file with probate court; review additional Bank statements missing from original document and amend account;
{¶18} Prepare cash receipt expenditures; applications to approve expenditures not yet approved by court; prepare for meeting with court's accounting clerk. (60 legal hours) $9,000.00

{¶19} *** The goal is to resolve issues raised by the accounting clerk regarding cash expenditures [from the estate]; if this can be accomplished, the court may choose not to conduct a hearing.

{¶20} According to an affidavit submitted by Simon-Seymour, "[Garland] provided invoices, receipts, and other documentation relating to the ward's income and expenditures for the two year accounting term of November 2003 to 2005. The information was kept in shoe boxes, envelopes, and grocery bags. It was incomplete, disorganized and largely indecipherable. *** My staff and I worked overtime attempting to recreate and validate the numerous undocumented cash expenditures made from the ward's resources. We determined that there had been error in the initial inventory and prepared court filing to correct that error. I also determined that [Garland] had made numerous expenditures in excess of the Court mandated budget without seeking Court approval. To the extent I could lawfully do so, I prepared documents for filing with the Court seeking retroactive approval of these expenditures."

{¶21} On August 28, 2006, Simon-Seymour filed a revised First Partial Account and an Application for Authority to Release Ward's Funds.

{¶22} On August 29, 2006, Simon-Seymour filed another Application for Authority to Release Ward's Funds.

{¶23} Also on August 29, 2006, a hearing was held in the probate court on the Applications to Release Funds. At this hearing, Garland admitted to expending estate funds in excess of the $300 weekly allowance for recurring expenses and for expenses not approved by the court.

{¶24} On October 19, 2006, the probate court issued a Judgment Entry, approving the Release of Funds sought in the August 28 Application. With respect to the August 29 Application, the court denied reimbursement for many of the expenditures made in excess of the weekly allowance approved by the court. The court ordered a further hearing on the Account to be scheduled. The Judgment also provided: "Notice is

given to Western Surety Company that the Court shall consider issuing a surcharge against the bond at the time of the account hearing. Notice is also given that the Court shall consider the removal of Valerie Garland as the guardian of the estate of Marilyn J. Teague at the time of the account hearing."

{¶25} On January 8, 2007, Simon-Seymour filed a Motion for Reconsideration with a Brief in Support of Retention of Guardian, in which she argued for the probate court to reconsider its October 19, 2006 Judgment Entry disapproving Garland's unauthorized and excessive expenditure of funds.

{¶26} On January 9, 2007, the rescheduled hearing on the Account was held. In the course of this hearing, Garland testified as to the propriety of home health care expenditures made in excess of the amount allowed by the probate court. When the court asked Simon-Seymour for documentation of the expenditures, she stated that she had failed to file or bring them with her to court and that this was her "mishap." The court advised Simon-Seymour that it would not consider Garland's testimony without documentation. Simon-Seymour told the court that the documentation would be submitted.

{¶27} On January 18, 2007, the probate court issued a Judgment Entry, "allow[ing] the guardian [i.e. Simon-Seymour] until the 24th day of January, 2007 to submit additional proof of expenditures."

{¶28} In her affidavit, Simon-Seymour testified as follows: "I timely filed the additional material requested by the Court on January 24, 2007. *** After I had filed on January 24 [sic], *** a deputy accounting clerk at the Probate Court *** called me with questions regarding those documents. *** On February 20, 2007 I faxed a letter to [the clerk] with the additional information she sought."

{¶29} The record contains a document captioned Cash Receipts for First Partial Account, date-stamped by the Geauga County Probate Court on January 24, 2007. This document does not contain the actual receipts and does not appear on the court's docket. The record also contains a copy of the letter faxed to the deputy clerk dated February 20, 2007. Again, this document does not produce the actual receipts and does not appear on the court's docket. [1]

{¶30} On March 23, 2007, the probate court issued its Judgment Entry. The court made the following findings of fact and conclusions of law: "After reviewing the additional documentation submitted by the guardian, the Court does not find the motion to reconsider its Judgment Entry filed on the 9th day of October, 2006 to be well taken. Said motion is denied."

{¶31} With respect to home health care expenses, the probate court stated: "Amounts claimed as home health care expenses equaled $57,870.61. The total amount of receipts for these alleged expenses totaled $39,546.36."

{¶32} "The Court finds that there are many receipts missing for expenditures that have been made by the guardian. The Court further finds that some of the home health care receipts that were submitted in support of the account covered the period of the next accounting period and were not relevant to the first partial account. The Court finds that many of the receipts submitted to support home health care expenses included receipts for dining out. Most of these receipts included expenditures for three or more people which the court finds to be unreasonable. The Court further finds that the receipts submitted to support the accounting included items such as video games, a

1. We note that Cash Receipts for First Partial Accounting is date-stamped, as opposed to being time-stamped. Date-stamped filings, which also include the First Partial Accounting filed on May 31, 2005, do not appear on the probate court's docket although they are part of the record from the probate court.

trampoline and cage, pampers, and little swimmers diapers. The Court finds it likely that these expenses were more likely for the children of the caregiver as opposed to expenditures for the guardian."

{¶33} The probate court ordered the bond issued by Western Surety to be surcharged in the amount of $45,825.85. Of this amount, $20,105.97 was for "alleged home health care expenses."

{¶34} Finally, the probate court concluded that Garland "has committed malfeasance and that it is in the best interest of the ward that she be removed as guardian of the estate of Marilyn J. Teague."

{¶35} In support of their Motion for Summary Judgment, Simon-Seymour and Bond and Seymour submitted the expert witness report of Attorney Mark F. Swary. According to Swary's report, "there was no malpractice committed by defendant Simon-Seymour in her representation of plaintiff Valerie Garland." Swary further opined that, even if Simon-Seymour committed professional misconduct, "there is no proximate cause between the preparation of the First Accounting and the liability that the [probate] Court imposed upon [Garland] in connection with her expenditures."

{¶36} In her Brief in Opposition to Defendant's Motion for Summary Judgment, Garland relied upon the expert witness report of Attorney James T. Flaherty. Garland asserted that Simon-Seymour was negligent for failing to submit the documentation required by the probate court in support of the First Partial Accounting. According to Flaherty's report, "the failure to deliver the documents that were in [Simon-Seymour's] possession *** and the failure to take the necessary steps to protect the Client from enforcement of the Surcharge *** constitute *** Malpractice." Garland argued that Simon-Seymour's negligence was also demonstrated by the fact that counsel retained

after Simon-Seymour withdrew from the case successfully filed an Application for Retroactive Authority to Expend Funds to a date prior to November 1, 2005, i.e. within the period of the First Partial Accounting.

{¶37} On March 25, 2009, the trial court granted summary judgment in favor of Simon-Seymour and Bond and Seymour on both of Garland's claims, Attorney Malpractice and Breach of Contract. With respect to Breach of Contract, the court found that, based on the agreement entered into by the parties, Bond and Seymour did not guarantee that all expenditures on behalf of the ward during the first accounting period would be approved by the probate court.

{¶38} With respect to Attorney Malpractice, the trial court disregarded the expert report of Attorney Flaherty since it was "unsworn and therefore inappropriate pursuant to Rule 56." Therefore, Garland could not maintain her claim "except to the extent that negligence and proximate cause can be demonstrated as being within the knowledge of a lay person." The court concluded that Garland "established some negligent acts and/or omissions but *** they were harmless and not actionable malpractice."

{¶39} On April 22, 2009, Garland filed her Notice of Appeal. On appeal, she raises the following assignment of error: "The trial court erred in granting Defendants/Appellees' motion for summary judgment."

{¶40} Pursuant to Civil Rule 56(C), summary judgment is proper when (1) the evidence shows "that there is no genuine issue as to any material fact" to be litigated, (2) "[t]he moving party is entitled to judgment as a matter of law," and (3) "it appears from the evidence *** that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence *** construed most strongly in the

party's favor." A trial court's decision to grant summary judgment is reviewed by an appellate court under a de novo standard of review. *Grafton v. Ohio Edison Co.,* 77 Ohio St.3d 102, 105, 1996-Ohio-336. A de novo review requires the appellate court to conduct an independent review of the evidence before the trial court without deference to the trial court's decision. *Brown v. Cty. Commrs. of Scioto Cty.* (1993), 87 Ohio App.3d 704, 711 (citation omitted).

{¶41} With respect to her claim for Breach of Contract, Garland asserts the trial court erred by applying the parol evidence rule to exclude her testimony that Simon-Seymour "orally guaranteed the expenses [made during the period of the First Partial Accounting] would be approved."

{¶42} "The parol evidence rule is a rule of substantive law which, when applicable, defines the limits of a contract." *Charles A. Burton, Inc. v. Durkee* (1952), 158 Ohio St. 313, at paragraph one of the syllabus. "Where parties, following negotiations, make mutual promises which thereafter are integrated into an unambiguous written contract, duly signed by them, the parol evidence rule excludes from consideration evidence as to other oral promises resulting from such negotiations." Id. at paragraph two of the syllabus. "The rule comes into operation when there is a single and final memorial of the understanding of the parties. When that takes place, prior and contemporaneous negotiations, oral or written, are excluded; or, as it is sometimes said, the written memorial supersedes these prior or contemporaneous negotiations." *Galmish v. Cicchini*, 90 Ohio St.3d 22, 2000-Ohio-7, at ¶27 (citation omitted).

{¶43} "A contract that appears to be a complete and unambiguous statement of the parties' contractual intent is presumed to be an integrated writing." *Bellman v. Am.*

Internatl. Group, 113 Ohio St.3d 323, 2007-Ohio-2071, at ¶11 (citation omitted). "Whether a contract is integrated, therefore, is not dependent upon the existence of an integration clause to that effect," and "the absence of an integration clause does not preclude a finding that all or part of a contract is, in fact, an integrated writing ." Id.; *Galmish*, 90 Ohio St.3d at 28 ("the presence of an integration clause makes the final written agreement no more integrated than does the act of embodying the complete terms into the writing").

{¶44} In the present case, the parties' written agreement does not contain a guarantee that all guardianship expenditures would be approved. To the contrary, the agreement provided that Bond and Seymour would review the probate court proceedings, reconstruct financial statements, and prepare a First Partial Accounting including cash receipt expenditures and applications to approve expenditures. The agreement further acknowledged that there were issues to resolve regarding cash expenditures and that, "if this can be accomplished," the probate court might elect not to hold a hearing on the First Partial Accounting. The parties' agreement constitutes an integrated writing inasmuch as it "appears to be a complete and unambiguous statement of the parties' contractual intent." Therefore, consideration of the purported oral guarantee that all expenditures would be approved is precluded.

{¶45} Garland claims their written agreement contains an express guarantee in the following provision: "[Y]ou have agreed to retain our firm to represent you in a variety of different legal matters involving the guardianship of your mother *** as well as prepare the First Partial Account as well as any attending documents necessary to have it accepted and approved by the probate court." We do not construe this provision as expressing a guarantee that all expenditures would be approved. Rather, it merely

provides that the documents necessary for the approval of the First Partial Account would be prepared. There is no representation, whether express or implied, regarding the ultimate approval of the Account. Cf. *Advanced Analytic Laboratories, Inc. v. Kegler, Brown, Hill & Ritter, L.P.A.*, 148 Ohio App.3d 440, 2002-Ohio-3328, ¶47 ("an attorney does not have a duty to insure or guarantee the most favorable outcome possible, *** because no amount of work can guarantee a favorable result, attorneys would never know when the work they do is sufficiently more than adequate to be enough to protect not only their clients from error, but themselves from liability") (citation omitted).

{¶46} Accordingly, Simon-Seymour and Bond and Seymour were entitled to summary judgment with respect to Garland's Breach of Contract claim.

{¶47} With respect to Attorney Malpractice, the Ohio Supreme Court has held that "[t]o establish a cause of action for legal malpractice based on negligent representation, a plaintiff must show (1) that the attorney owed a duty or obligation to the plaintiff, (2) that there was a breach of that duty or obligation and that the attorney failed to conform to the standard required by law, and (3) that there is a causal connection between the conduct complained of and the resulting damage or loss." *Vahila v. Hall*, 77 Ohio St.3d 421, 1997-Ohio-259, at the syllabus.

{¶48} The Supreme Court has further held that, "[g]enerally, expert testimony [is] required in regard to professional standards of performance," where, however, "the claimed breach of professional duty is well within the common understanding of the laymen on the jury," such testimony is not deemed necessary. *McInnis v. Hyatt Legal Clinics* (1984), 10 Ohio St.3d 112, 113.

{¶49} Garland initially maintains that reversible error occurred since the trial court, as stated in its Judgment Entry, "made an effort to ferret out which of [Garland's] claims may contain some merit versus those which are harmless." Garland maintains that only a jury should have considered the merits of her claims. We disagree. Summary judgment is widely recognized as a means of evaluating the merits of claims and dismissing meritless claims prior to trial. *Greaney v. Ohio Turnpike Comm.*, 11th Dist. No. 2005-P-0012, 2005-Ohio-5284, at ¶21 (citation omitted); *Celotex Corp. v. Catrett* (1986), 477 U.S. 317, 323-324 ("[o]ne of the principal purposes of the summary judgment rule is to isolate and dispose of factually unsupported claims or defenses"). The summary judgment procedure necessarily requires a court to consider the merits of a party's claims. The trial court did not err by doing so.

{¶50} Garland next urges this court to consider the expert report of Attorney Flaherty, on the grounds that Simon-Seymour and Bond and Seymour "devoted considerable time to attacking the opinions set forth therein" and the trial court "also considered the Flaherty Report in its decision." Again, we disagree.

{¶51} In determining whether a genuine issue of material fact exists, a trial court is authorized to consider "the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action." Civ.R. 56(C). The rule further provides: "No evidence or stipulation may be considered except as stated in this rule." Based on these provisions, "it is well settled that documents submitted in opposition to a motion for summary judgment must be sworn, certified or authenticated by affidavit to be considered by the trial court in determining whether a genuine issue of material fact exists for trial." *Marrie v. Internatl. Local 717*, 11th Dist. No. 2001-T-0046, 2002-Ohio-3148, at ¶22 (citation

omitted). Pursuant to Civ.R. 56(C), then, an unsworn expert report is "irrelevant for a summary judgment determination." *Diakakis v. W. Res. Veterinary Hosp.*, 11th Dist No. 2004-T-0151, 2006-Ohio-201, at ¶22.

{¶52} Accordingly, the trial court rightly held that consideration of Flaherty's expert report was inappropriate.

{¶53} Finally, Garland argues that Simon-Seymour's negligence is patent in the absence of expert testimony. Specifically, it is alleged that Simon-Seymour breached the standard of care by "1) filing a defective First Partial Accounting, 2) failing to provide the backup documentation substantiating the expenditures made on the Ward's behalf, and 3) failing to apply for retroactive authority as required by the Probate Court."

{¶54} It is useful to recall certain undisputed facts in the record. Simon-Seymour testified that the documentation regarding expenditures provided by Garland was "incomplete, disorganized and largely indecipherable." The documentation provided had to be supplemented and/or recreated. Garland testified before the probate court that she made expenditures from the estate that were either unauthorized or in excess of the amount authorized by the probate court.

{¶55} Garland claims the First Partial Accounting was defective because it listed expenditures incurred during the second accounting period as well as expenditures for dining out and other items in excess of the $300 weekly allowance fixed by the probate court.

{¶56} Pursuant to R.C. 2109.302(A), "[e]very account shall include an itemized statement of all receipts of the guardian *** during the accounting period of all disbursements and distributions made by the guardian *** during the accounting period." Thus, Simon-Seymour was required to report all expenditure of funds from the ward's

estate. To the extent that these expenditures were deemed inappropriate and Garland held liable, Simon-Seymour is not at fault. Garland makes no claim that any of the expenditures reported in the First Partial Accounting were not drawn from the ward's estate. To the extent that expenditures made outside the accounting period were included in the Account, these expenditures could be resubmitted to the court as part of the accounting for the appropriate period. In other words, the inclusion of these expenditures in the First Partial Accounting have not been shown to have proximately caused any identifiable damages.

{¶57} Garland also faults Simon-Seymour for having to file an amended Inventory and Account, because the original overstated the assets belonging to the ward. Since the amended Inventory contained the correct value of the ward's estate, however, there can be no actionable negligence based on the prior Inventory. It is not negligence to correct one's mistakes.

{¶58} Garland claims Simon-Seymour failed to supplement the First Partial Accounting with evidence of expenditures as ordered by the probate court's January 18, 2007 Judgment Entry. Garland relies on the facts that the probate court's docket does not reflect the filing of supplementary documentation and the statement in the probate court's Judgment Entry that "there are many receipts missing for expenditures that have been made by the guardian." With respect to this issue, Simon-Seymour testified "[t]here was no responsive documentation that was not provided to the Court or that was provided to the Court late (after January 24, 2007). To the extent that the Court's subsequent order found that there were 'missing receipts' they were missing because [Garland] and/or her sisters and the respective family members, did not or could not provide them to me: not because I failed to deliver them to the Court." Supporting

Simon-Seymour's testimony is the statement in the probate court's Judgment Entry that it had reviewed "the additional documentation submitted by the guardian" and a date-stamped filing in the probate court captioned Cash Receipts for First Partial Accounting.

{¶59} Garland has failed to raise a genuine question of material fact as to whether Simon-Seymour failed to provide the probate court with supplementary documentation. Simon-Seymour's assertion that she submitted all documentation provided to her by Garland stands uncontradicted. The probate court's Judgment Entry does state that many receipts were "missing," but also that it reviewed the "additional documentation" provided by Simon-Seymour. As noted above, it is undisputed that Garland was unable to provide Simon-Seymour complete documentation for all expenditures. Since Garland did not provide Simon-Seymour with complete documentation of expenditures and Simon-Seymour submitted the available documentation, the fact that some receipts were "missing" does not support the inference that Simon-Seymour failed to comply with the court's January 18, 2007 Judgment Entry to provide further documentation.

{¶60} There is additional evidence before this court refuting Garland's claim that Simon-Seymour failed to submit the required documentation in support of the Account. The probate court's March 23, 2007 Judgment Entry held Garland liable for $45,825.85, which she suggests was due, to some degree, to Simon-Seymour's failure to provide documentation. The court itemized the surcharge as follows: "dining expenses in the amount of $3,815.12; grocery expenses in the amount of $329.95; Christmas expenses in the amount of $293.13; clothing expenses in the amount of $601.78; miscellaneous donations in the amount of $840.15; stamps and gas expenses in the amount of $590.70; pet related expenses in the amount of $78.55; miscellaneous expenses not

approved in the amount of $11,793.44; and alleged home health care expenses in the amount of $20,105.97."

{¶61} Each of the elements of the surcharge is directly accountable for by reference to a memo from the probate court accounting clerk to the probate court judge, dated August 28, 2006, and attached to Garland's Brief in Opposition to Defendants' Motion for Summary Judgment. The memo states: "I have been working with Christine Seymour to get this account figured out. The figures balance, and the assets remaining [in the estate] can be verified. *** The following is a list of disbursements that were not approved and disbursements that exceeded the approved amount." The following list contains the same items identified in the probate court's March 23, 2007 Judgment Entry as comprising the $45,825.85 surcharge. Thus, the argument that the surcharge was the result of Simon-Seymour's failure to submit evidentiary documentation of expenditures is untenable. The only reasonable conclusion is that the surcharge reflects expenditures that were "not approved" and/or "exceeded the approved amount."

{¶62} Garland also claims that Simon-Seymour's negligence is demonstrated by the fact that counsel retained after Simon-Seymour ceased to represent her was successful in having certain expenditures from the first accounting period retroactively authorized.

{¶63} On July 11, 2007, successor counsel filed an Application for Retroactive Authority to Expend Funds which included the following: "$1,700.00 per week for home health care, to include mileage for trips with ward and for misc. purchases of food and personal items for the ward retroactive to October 23, 2005." The first accounting period ended on October 31, 2005. On August 22, 2007, the probate court approved the Application for Retroactive Authority to Expend Funds.

{¶64} This argument fails to create a genuine issue of material fact. As noted by the court below, "if supported by expert testimony," this evidence of "expenses that could have been charged to the estate *** but were not" would be indicative of Simon-Seymour's negligence. As demonstrated above, however, Garland's expert report was not properly before the trial court. Even if the report could be considered, Flaherty's report contains nothing about the alleged failure to submit expenses that could have been charged to the estate. Finally, Garland is unable to demonstrate damages proximately caused by the alleged failure inasmuch as this expenditure, one week of home health care, was ultimately approved by the probate court.

{¶65} Garland's sole assignment of error is without merit.

{¶66} For the foregoing reasons, the judgment of the Geauga County Court of Common Pleas, granting summary judgment in favor of Simon-Seymour and Bond and Seymour on all claims in Garland's Complaint, is affirmed. Costs to be taxed against appellant.

MARY JANE TRAPP, P.J.,

COLLEEN MARY O'TOOLE, J.,

concur.