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Judge rules, but amount uncertain

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The estate of Grateful Dead guitarist Jerry Garcia must honor his 1993 promise to pay his second wife, Carolyn ``Mountain Girl" Garcia, a \$5 million settlement, a Marin County judge tentatively ruled yesterday.



But the legal wrangling is far from finished, and with multiple claims against the estate that may far exceed its value, it's not clear how much money Carolyn Garcia will end up with or when she will get it.

The preliminary decision issued by Judge Michael Dufficy followed 14 days of legal arguments by attorneys for Carolyn Garcia, who lives in Pleasant Hill, Ore., and the guitarist's widow, Deborah Koons Garcia of Mill Valley.

``We're just opening the first bottle of champagne to celebrate," Carolyn Garcia said from her home after learning of the decision. ``We are incredibly relieved and grateful that (the judge) agreed with all our points."

At issue throughout the trial was the validity of a one-paragraph divorce settlement written by Carolyn Garcia and signed by both Carolyn and Jerry Garcia in May 1993 while they were still married. In it, the musician promised to pay the \$5 million settlement (\$20,833 a month for 20 years) in return for his wife agreeing to drop community property and spousal support claims.

Garcia paid about \$460,000 under the agreement, but after he died in 1995 at age 53, his widow, as an executor of his estate, cut off the payments. Carolyn Garcia countered with a claim against the estate.

Her attorney, David Phillips, described the document as a valid and binding agreement, while attorney Paul Camera, who represented Deborah Garcia and the estate, argued that it failed to meet the standards of a marital settlement contract.

Dufficy, a highly regarded divorce lawyer before he took the bench a few years ago, ruled that the document was a simple contract between two people and did not have to meet the stricter standards of a marital settlement contract.

``It is a simple contract to pay money," Dufficy wrote in his seven-page decision. ``Jerry honored the agreement while he was alive. Jerry's estate cannot rescind the contract after Jerry is gone."

The ruling means that Carolyn Garcia has a valid claim against the estate for about \$4.5 million -- the amount left unpaid when Jerry Garcia died of a heart attack while at a drug treatment center in Marin County.

However, it remains to be decided whether she is first in line to collect. Other creditors may argue that her claim, while valid, has no more weight than any other valid claim. About \$38 million in claims from past lovers, business associates and others are pending.

Deborah Garcia, who had known the musician for years and married him in 1994, opposed Carolyn Garcia's claim.

She said the estate has a value of approximately \$6 million, based on estimated future income from royalties and other sources.

Currently, she said, only "a few hundred thousand dollars" is left in the bank.

Nothing will be paid out until the Probate Court authorizes it, she said, adding that Carolyn Garcia's claim may have to await the resolution of the other claims.

"They all may have to be in the soup together" and accept a prorated share, she added.

Personally, she said, she was "disappointed" with Dufficy's ruling. It should not have been treated as a simple contract, she said.

Camera said, "With all due respect, I think (Dufficy) made a couple of legal errors."

Those include the judge's finding that it was a simple contract, not a marital settlement agreement covered by the state's Family Law Act, Camera said.

"This was not between two merchants, it was between a husband and wife dividing property," said Camera, who added he will ask Dufficy to reconsider and if that fails, will recommend to his client that the case be taken to the state Court of Appeal.

In his ruling, Dufficy said the \$5 million settlement, when stretched over 20 years, is "within the parameters of a reasonable settlement."

"And that is exactly what Jerry and Carolyn chose to accomplish at their May 11, 1993, meeting: to forbear from further litigation and reach an amicable and fair settlement," the judge wrote. "And the parties' subsequent actions bespeak their intent: Carolyn moved back to Oregon, and Jerry paid the money" in monthly installments until his death.

Carolyn Garcia said she was celebrating together with her three daughters: Jerry Garcia's daughters Teresa and Annabel Garcia and Sunshine Kesey, daughter of novelist Ken Kesey. Each of the daughters is listed as an heir in Garcia's will and stands to lose a portion of their inheritance under Dufficy's ruling.

"We're just starting to celebrate," Carolyn Garcia said. "It was a very trying experience to watch the judicial process. But I thought the judge was extremely even-handed."

She said she has been living on her savings, which also were tapped for legal expenses.

"It appears there will be more skirmishing, which means spending more money on legal matters, before this is resolved" and the money paid, she said.

The trial was played against a backdrop of Garcia's relationships, especially with Carolyn Garcia.

Camera tried to paint Carolyn Garcia as a grand conniver who manipulated her husband, fogged by years of heroin and cocaine abuse, into signing the agreement giving her more money than he possessed. Camera alleged that the two were married in 1981 as a ``tax sham" and that Jerry Garcia had repeatedly tried to distance himself from her.

At one point, Camera accused Carolyn of lying about receiving a touching love letter from her husband during their marriage. Camera established through other evidence and witnesses that the letter was written in the late 1960s, years before they had children and got married.

Dufficy, in his ruling, paid little attention to Camera's claims.

The marriage was legal, and there was no evidence of ``undue influence or coercion" in the settlement, the judge said.

During the trial, the two Garcia wives avoided eye contact and never seemed to acknowledge the other's presence.

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