

Monica Gavin and Lucia Carezani, Executrix of the Estate of James Gavin, Deceased v. Elaine Loeffelbein
Supreme Court of Pennsylvania
No. 74 MAP 2017
March 26, 2019
Opinion by Justice Donohue

Our matrimonial clients are now often older than in the past. Some of these clients will become incapacitated during their divorce. The Supreme Court's recent decision in *Monica Gavin and Lucia Carezani, Executrix of the Estate of James Gavin, Deceased v. Elaine Loeffelbein* highlights two provisions of the Probate Estates and Fiduciaries Code with which we should be conversant and reminds us that we must be knowledgeable about areas of the law outside our specialty.

Wife brought an action alleging trespass, conversion, negligence and punitive damages against her sister-in-law (Ms. Loeffelbein) because Ms. Loeffelbein and Husband entered the former marital residence and removed memorabilia (estimated value of \$236,161) that Husband wanted to protect from dissipation and pass on to his children. Before Ms. Loeffelbein and Husband entered and removed the items, an emergency guardian of Husband's estate and person had been appointed.

The Court reversed the Superior Court's holdings that emergency guardianship orders automatically expire and that the rebuttable presumption that an incapacitated person is unable to engage in financial transactions is inapplicable to a person under the protection of an emergency guardian who has been appointed for the person and his estate. The Court vacated the Superior Court's decision and remanded to the Superior Court for proceedings.