

# Mall Heirs Battle Over Will

Melvin Simon Boosted Wife's Inheritance, Sparking Challenge From His Daughter

BY KRIS HUDSON  
AND RACHEL EMMA SILVERMAN

Seven months before Melvin Simon died, the ailing shopping-mall magnate altered his \$1 billion will during a three-hour meeting in Asherwood, his palatial home near Indianapolis. A financial adviser had to hold and guide his hand as he signed the revised document, according to court filings.

Now that scene has become the center of a bitter estate struggle pitting Mr. Simon's second wife, Bren Simon, whose inheritance was greatly increased by the new will, against his children from his first marriage.

Deborah Simon, Mr. Simon's eldest daughter, says the assistance her sick father got to sign the document was evidence that he did so under duress.

Mr. Simon "did not have sufficient capacity to know the extent and value of his property, those who were the natural objects of his bounty (or) their desserts with respect to their treatment," she said in a court document filed last month to contest the will.

But Bren Simon, who was present at the signing of the disputed will, said in a filing that "Melvin made his own voluntary decisions ... for sound and rational reasons, after again receiving independent advice." She said that her husband requested that someone guide his hand at the fateful meeting because he didn't want to sign the document with an "X."

The battle over the will of Melvin Simon, who died in September of cancer at the age of 82, has riveted Indianapolis high society and dragged in **Simon Property Group Inc.**, the largest mall owner in the country, which Mr. Simon founded. His son, David Simon, is now its chairman and chief executive.

Melvin Simon, who according to court papers left an estate worth more than \$1 billion, is survived by Bren Simon, 66, whom he married in 1972; his three children from his first marriage, David, Deborah and Cindy Simon Skjodt; and Bren's daughter, Tamme McCauley Simon, whom he adopted when she was 40, according to the court filings. David and Cindy haven't filed in the court case, although they are represented by the same lawyers as Deborah Simon.

Analysts don't think the outcome of the struggle will have an impact on control of Simon Property, which owns more than 300 malls, because the Simon family owns less than a 13% of the company's shares. Much of that stake is held jointly by Melvin Simon; his son, David; and Melvin Si-

mon's brother, Herb.

The battle over Mr. Simon's will joins a list of high-profile estate contests among the super-rich, involving accusations that a senior family member may not have fully understood what was at stake when signing estate-planning documents.

In her court papers, Bren Simon said Melvin Simon's new will was necessary because the value of the estate had "diminished substantially" after a fall in Simon Property's share price. Meanwhile, David Simon's decision to cut the company's dividend, she said, reduced her cash flow. The late changes to the will "reflected an effort to compensate" Bren Simon for her cut inheritance, she said.

The court papers show tensions have simmered for some time. Bren Simon's papers alleged that David Simon "rebuffed" an attempt to have his stepmother appointed to a board overseeing the family's interests in Simon Property. She also alleged that Melvin Simon was concerned "that the children might not be fair or equitable to Bren Simon if the children were left with an ability to impact Bren's financial situation."

David Simon and the attorney representing Deborah Simon declined to comment.

The previous version of Melvin Simon's will, in place for 10 years, set aside one-third of his estate for Bren Simon. Another third was to be distributed to his grown children after Bren Simon's death, with the income going to Bren Simon in the meantime. Charity was to get the final third.

That plan was changed in the wake of the Feb. 13, 2009, meeting. The new will decrees that half of the estate go to Bren Simon upon her husband's death. The other half would go, after Bren's death, into charitable trusts—with the children getting anything leftover from that half 12 to 15 years thereafter.

"Under this new estate plan, Bren would receive hundreds of millions of dollars more than Melvin had previously intended to provide" and "the inheritance of (his children) would be dramatically reduced," Deborah Simon said in her filing.

While challenges to wills are common, proving that malfeasance occurred isn't easy. In general, those granting inheritances in a will don't have to have a high level of capacity to draft the instructions; they need to know what their property is, how they want it distributed and who their relatives are. In some cases, mental capacity to create a will doesn't have to be as high as the standard to execute a contract.



At top, Bren and Melvin Simon. His will is being challenged by Deborah Simon, at right above with her sister, Cindy Simon-Skjodt, in November.

When he changed his will, Melvin Simon suffered from neurological disorders that "impaired his language, reading, writing, cognition, memory and understanding," according to his daughter's court papers. Bren Simon denied in her papers that his medical conditions were serious enough to prevent him from conducting his financial affairs.

The two sides also are fighting over whether Melvin Simon was adequately represented when he signed his new will. Deborah Simon's court papers noted that attorney Eric Manter-

field and Bruce Jacobson, an accountant and financial adviser to Melvin and Bren Simon, were present at the signing. But neither Messrs. Manterfield nor Jacobson provided Melvin with any documents summarizing his assets or how their distribution would be changed before or after the meeting, Deborah Simon's papers state.

Bren Simon said in her papers that Melvin Simon was extensively advised of the changes. Mr. Manterfield declined to comment. Mr. Jacobson didn't return calls seeking comment.