EXHIBIT 4

FIRST SUPERIOR COURT FOR THE FIRST JUDICIAL CIRCUIT

Panamá, this fourth (4th) day of May, two thousand and seven (2007)

José Salvador Muñoz, Esq., who at the time was counsel of record for **HILDA P. LOCUM**, filed an appeal from Order No. 1025/173/06 issued by the Fourth Civil Circuit Court of the First Judicial Circuit of Panama within the Probate Proceedings of the late **WILSON CHARLES LUCOM**, timely supporting it with the pleading at pages 61-71.

By virtue of the foregoing, the judge now under appeal granted the appeal with deferred effect in her Order No. 1187/173-06 of August 18, 2006.

It should be clarified that the IGRA LAW FIRM, the new judicial attorney-in-fact for Mr. RICHARD SAM LEHMAN, the executor designated in the order appealed from, filed a pleading opposing the appeal at pages 80-81.

After the case file came before this Superior Court, the appropriate distribution rules were complied with, and the appeal is now ready to be decided, and to that effect we will take the liberty of giving a brief narration of what has taken place, of the order appealed from, and of the allegations by the parties, and will then issue our opinion.

BACKGROUND OF THE ORDER APPEALED FROM

Mr. RICHARD SAM LEHMAN, acting, we suppose, in his capacity as executor of the will since he does not so state, bestowed a power of attorney on the law firm BUFETE JURIDICO ADMINISTRATIVO ALVAREZ, CROSBIE & ASOCIADOS, in order for them to open the probate proceedings of the late WILSON CHARLES LUCOM as of June 2, 2006, the date of his decease.

The request that was made asks that, by virtue of the will granted by WILSON CHARLES LUCOM and by virtue of his decease, the decedent's probate proceedings be declared open and that Messrs. RICHARD LEHMAN, HILDA PIZA LUCOM, and CHRISTOPHER RUDY are the designated executors.

The request for the opening of probate proceedings was accompanied by Mr. WILSON CHARLES LUCOM's death certificate and by an authenticated copy of Public Deed No. 6646 of June 20, 2005, granted before the Second Notarial Offices of the Panama Circuit, whereby Mr. WILSON CHARLES LUCOM granted his will, and by authenticated copies of Public Deeds No. 11191 of October 20, 2005, and No. 1131 of February 3, 2006, both also granted before the Second Notarial Offices of the Panama Circuit, whereby said gentleman made codicils modifying his open will, granted under the aforesaid Public Deed No. 6646.

THE ORDER APPEALED FROM

In Order No. 1025/173-06 of July 5, 2006, which is the resolution being challenged, the Fourth Civil Circuit Judge of the First Judicial Circuit of Panama ruled as follows:

"...

1. **DECLARES:** That the probate proceedings of the late WILSON CHARLES LUCOM who died on June 2, 2006, are open.

2. THAT HIS LEGATEES, without prejudice of third parties, are Mrs. HILDA PIZA LUCOM, ISABEL MARIA CLARK, ROBERT CLARK, id. ..., ALEXANDER CLARK, LANNY CLARK, id. ..., CASSANDRA CLARK, id. ..., MAYO CLINIC OF ROCHESTER MINNESOTA, MELINDA MORRICE, HILDA ABDELNOUR, MADELINE ARIAS, GILBERTO ARIAS, MARGARITA ARIAS ALLISON, NORA GARNER, JAMES GIBBONS, ANN SMITH, WALTER GARNER, GABY ELKINS, CHRISTOPHER RUDDY, DR. PETER HIBBERD, MARIO BOYD, ANDREA OSPINA, TANYA RAMOS, ISRAEL TEJADA, EDILBERTO SOTO.

* CONDITIONAL: END WAR TRUST FOUNDATION.

The heir is deemed to be the **WILSON C. LUCOM TRUST FUND FOUNDATION.**

3. MR. RICHARD SAM LEHMAN, a U.S. citizen, identification number L 550-757-44-081-0, **IS APPOINTED** executor of the estate, and must appear before the Court in order to be installed in office.

4. **IT IS ORDERED** that all persons having any interest in the same appear under the law, and that the edict dealt with by Article 1526 of the Judicial Code be **POSTED and PUBLISHED.**

Let the law firm **BUFETE JURIDICO ADMINISTRATIVO ALVAREZ, CROSBIE & ASOCIADOS** be deemed the legal attorneys-in-fact of Mr. RICHARD SAM LEHMAN under the special power of attorney bestowed upon it.

Let **JOSE SALVADOR MUÑOZ, Esq.**, be deemed as chief attorney-in-fact and **MARIA ELVIRA MUÑOZ, Esq.**, and **JORGE ORCASITA NG, Esq.**, as alternate attorneys-in-fact for Mrs. **HILDA ANTONIA PIZA BLONDET.**

Legal basis: Articles 11525 and 1526 of the Judicial Code.

..."

(Pages 27 and 28)

In the considerations leading to the order quoted above, the judge now under appeal states that RICHARD SAM LEHMAN requested the opening of the probate proceedings of the late WILSON CHARLES LUCOM and filed the documents called for in Article 1525 of the Judicial Code, but that it was fitting to verify whether LEHMAN had standing to act.

In this regard, the judge now under appeal notes that the first clause of the will granted in Public Deed No. 6646 of June 20, 2005, by WILSON CHARLES LUCOM designated as executors:

> "Richard Lehman, of Boca Raton, Florida, U.S.A.; Rubén Carles, of Panama, Republic of Panama; and my beloved wife Hilda Piza Lucom, formerly Hilda Piza Arias, daughter-in-law of Harmodio Arias, former president of the Republic of Panama, and a niece of Mireya Moscoso, former president of the Republic of Panama. In the event that Mr. Rubén Carles should be unable to continue as an executor for any reason, I appoint Mr. Christopher Rudy as executor to replace him."

The trial judge goes on to point out that subsequently Mr. Lucom, in Public Deed No. 1191 of October 20, 20005, modified the first clause of the will to designated Richard Lehman, Christopher Rudy, and his wife Hilda Piza de Lucom

as executors; and that in one last deed, No. 1131 of February 3, 2006, he again modified his will stating in the first clause that the open will he granted through Public Deed No. 6646 of June 20, 2005, is to remain in effect for all legal purposes, in its entirety, and reiterating all clauses thereof, except for one, to wit:

> "SECOND: It is my will that the FIRST CLAUSE of the aforesaid will should now read thus: 'FIRST CLAUSE: I, Wilson C. Lucom, a resident of the city of Panama, Republic of Panama, being of sound body and mind, make the second codicil to the will previously granted. I bequeath to ISRAEL DEL CARMEN TEJADA CUERVO ..."

The trial judge concludes that what the testator did was to change the original first clause, leaving the appointment of executors without effect, and providing in that last expression of his will the manner he wishes the first clause of his will to read.

But the trier of fact now under appeal notes that there is to be found at pages 20 to 22 a document received at the Clerk's office whereby Mario Velázquez Chismar, the Second Notary of the Panama Circuit, certifies circumstances related to this will according to which the document must be construed as a whole, *i.e.*, the original with its two modifications, and that, consequently, it could not be concluded that there were no executors, as the will of the testator in the modifications was to maintain the will in effect.

The judge being appealed from indicates that she agrees with the Notary's statements but that she must rule on the admission of the complaint after considering the evidence produced in the light of sound examination and legal logic.

The trial judge then concludes that the original will granted in Deed No. 6646 of June 20, 2005, is the one in effect, and transcribes a portion of it at page nine (back), entitled "**EXECUTORS AND TRUSTEES**" (see page 26), from which she draws the conclusion that the testator's will was aimed at having the property he was bequeathing administered by executors and trustees, pointing out what type of responsibility was incumbent upon them, and when they were exempted from crimes against the property of the WILSON C. LUCOM TRUST FUND Foundation.

However, the judge under appeal concludes by stating that "after all that has been set forth, the Court considers that the executor that remains in effect after the codicils, and heeding the testator's will as a whole. is Mr. **RICHARD LEHMAN**" (page 27).

THE PARTIES' ALLEGATIONS

In the pleading in support of the complaint at pages 61 to 71, José Salvador Muñoz, Esq., who at the time was Mr. HILDA ANTONIA PIZA LUCOM's attorney-in-fact, objects to the Order on different grounds.

Firstly, he objects to Mr. RICHARD SAM LEHMAN's appointment as executor, explaining that while in the first clause of Public Deed No. 6646 of June 20, 2005, Mr. LUCOM had designated RICHARD LEHMAN, HILDA PIZA LUCOM, and RUBEN DARIO CARLES as executors, in Public Deed No. 11,191 of October 25, 2006, he had modified the first clause of his will, designating

RICHARD LEHMAN, HILDA PIZA LUCOM, and CHRISTOPHER RUDY as executors, *i.e.*, eliminating RUBEN DARIO CARLES, and that subsequently, in Public Deed No. 1131 of February 3, 2006, he had again modified the first clause of his will by eliminating all executors and making a legacy in favor of ISRAEL DEL CARMEN TEJADA.

Appealing counsel states that notwithstanding the clarity of what had been set forth, the trier of fact now under appeal ruled and concluded, using a very *sui generis* construction, that there was only one executor, namely, Mr. RICHARD SAM LEHMAN, when in reality there is no executor and when, in the worst scenario, it should have been construed that there were three and not just one executor.

The appellant goes on to say that the judge being appealed from opines on a certificate issued by the Second Notary of the Circuit (Mario Velázquez) in which the latter, straying from his powers and almost entering the realm of the Criminal Code, "seems as if it was issued because the parties concerned noticed that they had been left without executors, [and] he attempts to salvage the situation with an illegal certificate."

Secondly, appealing counsel censures the fact that the judge now under appeal took into consideration the illegal certificate by the Second Notary, Mario Velázquez Chismar, as notaries may only certify that which is on the record in

their offices but may not issue opinions, as this violates legal provisions of both the Civil Code and the Judicial Code.

Thirdly, appealing counsel also criticizes the fact that the trial judge instituted the WILSON C. LUCOM TRUST FUND FOUNDATION and the END WAR TRUST FOUNDATION as heirs of the estate when nowhere in the will or its codicils are they so instituted.

Fourthly, in his appeal counsel also censures the fact that Mrs. HILDA P. LUCOM was not designated as heiress, for in her capacity as the surviving spouse she is the residuary legatee of WILSON CHARLES LUCOM, and that this follows from the third clause of the will.

Fifthly, the appellant again censures RICHARD SAM LEHMAN's designation as executor, this time on the grounds that inasmuch as said gentleman is domiciled abroad, he may not be so designated, analogously applying paragraph 9 of Article 415 of the Family Code which provides that foreigners not residing in the country may not be guardians.

In an aside from the foregoing, appealing counsel points out that he assumed that WILSON CHARLES LUCOM had eliminated Messrs. RICHARD SAM LEHMAN and CHRISTOPHER RUDY because both owed him money, half a million dollars the former, and one and a half million dollars the latter, evidence of which he would introduce and precludes them from being executors.

Lastly, counsel concludes his appeal by criticizing that unsuitable individuals and entities, not legally registered, should have been admitted to practice law, and that this is at loggerheads with the legal profession, pointing out that Victor Crosbie is not a lawyer and that the firm upon which the power of attorney was bestowed, BUFETE JURIDICO ADMINISTRATIVO ALVAREZ, CROSBIE & ASOCIADOS is not registered among the Public Records, as has been established and, consequently, is not registered either in the Court's books.

For all of the above, appealing counsel concludes by pointing out that the resolution must not only be revoked but also rejected as inadmissible.

On the other hand, the IGRA Law Firm, Mr. Richard S. Lehman's new attorney-in-fact, has filed a pleading opposing the appeal and holding that in order to open probate proceedings all that is necessary is to prove the death of the decedent and to file a copy of the will, if it were an open one, as provided for in Article 1525 of the Judicial Code; that pursuant to Article 1422 of the Judicial Code, probate proceedings are NOT ADVERSARIAL proceedings and that, therefore, any opposition or controversy that may arise cannot be dealt with by way of an appeal.

The appeal being pending, Carlos E. Villalobos Jaén, Esq., judicial attorney-in-fact for Mr. RICHARD S. LEHMAN filed a pleading with the Court noting the existence of grounds for nullity impossible to correct, namely this First Superior Court's lack of functional competence, as he believes that the appeal

from the order declaring heirs actually seeks to remove the designated executor and that this is only possible through a motion, as contemplated in Article 1587 of the Judicial Code. Mr. Villalobos also posits that non-adversarial proceedings such as the present probate proceedings are governed by the rules applicable to summary proceedings, and that paragraph 9 of Article 1346 *ibid.* setting forth resolutions subject to appeal in summary proceedings and, consequently, in probate proceedings, does not include orders declaring heirs. Mr. Villalobos adds that there is no regulation stating that orders declaring heirs are subject to appeal.

THE COURT'S DECISION

Inasmuch as under paragraph 2 of Article 753 of the Judicial Code absolute nullities may be made known to the Court by means of a simple pleading, and inasmuch as the lack of functional competence is grounds for nullity, this Superior Court deems it pertinent to first address the alleged nullity.

The alleged lack of functional competence is based on the fact that the order declaring heirs is not appealable, and that the only way to remove the designated executor, which is what is being sought with the present appeal, is through the filing of a motion, as contemplated in Article 1587 of the Judicial Code.

In this regard, this Collegiate Court must point out that although it is true that there is no regulation specifically providing that an order declaring heirs is appealable, paragraph 6 of Article 1164 of the Judicial Code establishes that an

order declaring heirs may be annulled or repealed, and, in turn, paragraph 8 of Article 1131 *ibid.* establishes as appealable any order issued by the rest of the Superior Court Division which by its nature may be repealed or annulled. Moreover, we must not forget that, as a general rule, repeal or annulment *per saltum* does not exist in our legal system. It is also worth noting that even if the sole objection to the order declaring heirs were the designation of the executor, which is not the case, the fact that there is such a thing as a motion to remove executors does not stand in the way of reviewing the designation of the executor in an appeal, as this is part of the order declaring heirs in probate proceedings under paragraph 2 of Article 1526 of the Judicial Code.

Therefore, this Court's alleged lack of functional competence is completely ruled out, as also is the alleged nullity noted by Mr. Villalobos, it being appropriate, then, to move on to address the substance of the appeal.

The first aspect impugned in the appeal has to do with the appointment of the executor, an office which the judge now under appeal deemed exclusively appertaining to Mr. RICHARD SAM LEHMAN, as it was her estimation that the testator's will was aimed at maintaining the legal effects of the original will set forth in Public Deed No. 6646 of June 20, 2005, as a whole, since the testator reiterated all of the clauses of the initial document with the sole exception of instituting a legacy in favor of ISRAEL DEL CARMEN TEJADA CUERVO and establishing the END WAR TRUST FOUNDATION as a conditional beneficiary.

In order to establish whether or not the designation of Mr. RICHARD SAM LEHMAN as the sole executor is correct, it is necessary to examine in its entirety both the original will contained in Public Deed No. 6646 of June 20, 2005, of the Second Notarial Offices of the Panama Circuit, and the two amendments made thereto through Public Deeds No. 1191 of October 20, 2005, and No. 1131 of February 3, 2006, both of the Second Notarial Office of the Panama Circuit, since in these latter two deeds the testator expressly represents its will, in the first clause, that the open testament granted in Public Deed 6646 of June 20, 2005, of the Second Notarial offices of the Panama Circuit, maintain its full effect with the sole exception he then stated.

In Public Deed No. 6646 of June 20, 2005, Mr. WILSON CHARLES LUCOM granted an open will before the Second Notarial Offices of the Panama Circuit. In the first clause of Public Deed No. 6646, Mr. WILSON CHARLES LUCOM designates Messrs. RICHARD LEHMAN and RUBEN CARLES and his wife HILDA PIZA LUCOM as executors, and in the event that Mr. Carles should be unable to continue as an executor, he designates Mr. CHRISTOPHER RUDY as executor.

In the second clause of Public Deed No. 11191 of October 20, 2005, Mr. WILSON CHARLES LUCOM represents that he wishes to modify the first clause of his will granted in Public Deed No. 6646 to designate RICHARD LEHMAN,

CHRISTOPHER RUDY, and his wife HILDA PIZA LUCOM as executors. In other words, he eliminated Mr. RUBEN DARIO CARLES as an executor.

And in the second clause of Public Deed No. 1131 of February 3, 2006, Mr. WILSON CHARLES LUCOM represents that he wishes to modify the first clause of his will granted in Public Deed No. 6646, which, as we have seen, dealt with the institution of executors; however, he does not refer to the executors at any time but rather modifies the manner of the legacy made in favor of Mr. ISRAEL DEL CARMEN TEJADA CUERVO, a legacy that had been originally instituted in Public Deed No. 1131. It should be clarified that the testator makes no allusion at any time in Public Deed No. 1131 to any wish to modify the executors or to eliminate them; rather, he only alludes to the clause containing the designation of the executor.

Said clause reads as follows:

> "**SECOND**: It is my will that the FIRST CLAUSE of the aforesaid will should now read thus: '**FIRST CLAUSE**: I, Wilson C. Lucom, a resident of the city of Panama, Republic of Panama, being of sound body and mind, make the second codicil to the will previously granted. I bequeath to ISRAEL DEL CARMEN TEJADA CUERVO the bearer of personal identity card number eight two hundred and thirty-three six hundred and sixty-eight (8-233-668), a Panamanian citizen, real property number one hundred ten thousand forty-one (110041), a house and a lot of land, provided that he remains employed by me until the time of my death. The property, which is duly recorded among the Public Records, had the following description:
> Real property number one hundred ten thousand and forty-one (110041), roll seven thousand one hundred and seventy-two (7172), document five (5) of the Property Section, duly recorded in the Civil

Registry of the Province of Panama, [illegible]
Altos de la Pulida, lot number M-3, in the San Miguelito District, the measurements and boundaries of which are recorded in the Property Section of the Public Registry of the Province of Panama. If Israel Tejada should not be employed by me at the time of my death, the condition precedent shall be controlling and he shall not be bequeathed any portion of real property ten thousand ..., in addition, he must vacate said real property within sixty days. In addition, Mr. Tejada shall have no interest, whether past or future, in real property ten thousand .... In the event that Mr. Tejada should not be working for me, he shall not receive this property as a legacy and therefore he shall not be the owner of it, and the property previously described shall pass to the **END WAR TRUST** Foundation. In the event that the condition precedent is met and that Mr. Tejada is in Mr. Lucom's employment at the time of the latter's death, Mr. Tejada shall freely be the owner of said property. ...
It is irrelevant whether Mr. Tejada remains employed by Mrs. HILDA LUCOM at the time of Mr. LUCOM's death. The condition precedent enters into effect immediately. ..."
(See pages 15 and 15, back).

As may be seen from what has been transcribed, the testator made use of the power to revoke his will in whole or in part that is granted to him by Articles 771 and 772 of the Civil Code.

But, considering that the first clause instituted the executors, and considering that in the last Public Deed no new designation of executors is made but rather a legacy that had already been established in the original will is amended, one may ask whether or not there are executors designated by the testator.

Under the will construction rule contained in Article 707 of the Civil Code, "Any testamentary provision shall be construed according to the literal meaning of its words, unless it is clear that the testator's will was different. In case of doubt,

that which seems to be more in accordance will the testator's intent, as per the tenor of the will itself, shall be observed ..."

In no way may the second clause of Public Deed No. 1131, in the literal tenor of its words, be construed to mean that the designation of executors was eliminated or changed because, as we have said, the word executor was never mentioned. This clause in its literal sense must be understood to modify the legacy to Mr. CARMEN TEJADA CUERVO.

But the problem lies in the fact that [the language] states how the first clause of the will shall read, as it relates to the designation of executors, but the issue of the executors is not touched upon, only that of a legacy.

In this Court's opinion, the testator made a numeration error when referring to the first clause in order to modify the legacy established below, and this doubt must be resolved in the manner most in keeping with the testator's will and intent. From a reading of the original will and its amendments it is obvious that the intent of the testator was to have executors, as it follows from several clauses of the will that the property of the estate was to be administered, distributed, and, in some instances, sold by executors who were told the manner in which they were to proceed with the administration of the property entrusted to them and the disposition thereof, and it was even stated what fees the executors would earn.

Let us not forget that in the two modifications to the original will, Mr. WILSON CHARLES LUCOM ratifies his original will by stating that it is his will that the will in Public Deed No. 6646 remain in effect for all legal purposes, as a whole, and that he reiterates all of the clauses of the aforesaid document.

From the above, this Superior Court must conclude that Mr. CHARLES WILSON LUCOM did not at any time have the intent to eliminate the designation of executors and that therefore it must be understood that the last executors designated in Public Deed No. 1191 of October 20, 2005, of the Second Notarial Offices of the Panama Circuit, are those whom the judge now under appeal should have deemed to be the executors, namely, as we have said, Messrs. RICHARD LEHMAN and CHRISTOPHER RUDY, and his wife HILDA PIZA LUCOM.

Notwithstanding all that has been previously set forth, it must be pointed out that the judge under appeal should not in any way have taken into account the opinion of the Second Notary, as this was a certificate *contra lege*, for the duties of notaries do not include interpreting the will of testators or administering justice, which is the exclusive prerogative of triers of fact.

It is also interesting that the judge under appeal should have instituted Mr. RICHARD SAM LEHMAN as the sole executor when the will designates Messrs. RICHARD LEHMAN and CHRISTOPHER RUDY and his [the testator's] wife HILDA PIZA LUCOM and when the petitioner, Mr. RICHARD SAM LEHMAN asked her to have the three individuals designated in the will as executors.

The testator did not clarify, though, whether the testators [*sic.*] would act jointly or severally, *i.e.*, he did not say whether the three ought to act jointly or whether each of them could act separately.

Article 859 of the Civil Code provides in connection with this point that if the testator does not clearly establish the joint nature of the executors or sets the order in which they are to discharge their trust, the executors shall be understood to have been appointed jointly and shall perform the duties of their office jointly, as provided by Articles 857 and 858 of the Civil Code.

With regard to the argument by counsel for the appellant that neither RICHARD LEHMAN nor CHRISTOPHER RUDY may be designated executors by virtue of the fact that said gentlemen reside abroad and are foreigners, and that paragraph 9 of Article 415 of the Family Code requires that guardians reside in the country, a provision that would be analogously applied, this Superior Office must point out that, in our opinion, said provision must not be analogously applied, for the guardian does not only have under this care the protection of the property of minors, mentally ill individuals and those subject to interdiction, but also the protection of said individuals, which makes it reasonable that the guardian should not reside abroad.

It is clear from the foregoing, therefore, that the proper thing to do is to modify the order appealed from as regards the executors and to designate Mr.

RICHARD LEHMAN, Mr. CHRISTOPHER RUDY, and Mrs. HILDA PIZA LUCOM to discharge jointly the office of executors.

Appealing counsel also seeks to have Mrs. HILDA P. LUCOM declared heiress in her capacity as the surviving spouse, and by virtue of the fact that this follows from the third clause of the will.

It must be pointed out in this regard that from the contents of Public Deed No. 6646 it is not inferred that the decedent's intention was to institute his wife as his residuary legatee. On the contrary, in the third clause, entitled "THE LEGACY," the decedent establishes the legacy of a specific and determined amount under the title "My legacy to my beloved spouse Hilda Piza Lucom." And subsequently he bequeaths his wife a specific and determined piece of property. In other words, then, the testator's will was aimed at his wife being a legatee and not the residuary legatee, for the decedent so expressly provided it. In addition to this, if the estate has been deferred by the decedent's will through a will, a call under the law can hardly be made.

With respect to the legatee status of the other persons instituted as such in the order being appealed from, this Court has no objection at all, as said legacies and beneficiaries are clearly established.

But the order under appeal institutes the WILSON C. LUCOM TRUST FUND FOUNDATION as an heir, a designation also censured by the appellant, who points out that nowhere in the will or its codicils was it so instituted.

It is indeed true that a residuary legatee is nowhere established in the will or its codicils. And though it is true that the will states that the remnant of the testator's bills after having satisfied the legacies, as well as the proceeds from the sale of three real properties, which the testator claims are owned by him, must go to the WILSON C. LUCOM TRUST FUND FOUNDATION, the truth of the matter is that it follows from the will itself that the intent is not for the WILSON C. LUCOM TRUST FUND FOUNDATION to be the residuary legatee, as the will expressly states that the main objective of the WILSON C. LUCOM TRUST FUND "... is to feed needy children in Panama."

In the opinion of this Superior Court, the decedent's intent was to establish a trust with the remnant of his property, after having satisfied the legacies, the trustees of which trust would be the executors, as per the decedent's express mandate, and the purpose of which trust would be feeding needy children in Panama.

According to the evidence in the original case file, which is before this Superior Court by reason of another appeal, there is no legal person known as the WILSON C. LOCUM TRUST FOUNDATION; what does exist is a trust called the WILSON C. LUCOM TRUST FUND FOUNDATION. We say this because a review of the document at page 216 shows that what has been constituted is nothing more than a trust executed on May 26, 2006, in the island of Nevis, in which the decedent, WILSON C. LOCUM, appears as the settlor.

Under the law of Panama and the law of St. Christopher and Nevis, a trust is a legal act whereby the settlor transfers property to a trustee for the trustee to administer or dispose of it for the benefit of a fideicommissary or beneficiary. And it can be done through a will, to be effective after the settlor's death. Neither Panamanian law nor the law of St. Christopher and Nevis grant legal standing to a trust, so that a trust is not a legal person capable of binding itself and, therefore, it could hardly be deemed to be an heir. (See Law 1 of 1984 and the Nevis International Exempt Trust Ordinance, 1994, as amended in 2000).

It follows, therefore, that it would be irresponsible of this Superior Court to confirm the decision to designate the WILSON C. LUCOM TRUST FUND trust as an heir, as it has no legal standing or the ability to acquire rights or bind itself and, therefore, could not receive the property or dispose of it.

Following Roman Law tradition, we must consider the will as the law of the estate, *i.e.*, that in estate matters, the supreme law is the need to respect the decedent's will or intent. Said principle is contemplated in Article 707 of the Civil Code.

For this reason, therefore, we must examine the will in order to find the testator's will or intent.

We have already stated that the testator's will, after establishing all the legacies, states, at three different points in time, that the proceeds from the sale of three real properties owned by him shall go to the WILSON C. LUCOM TRUST

FUND FOUNDATION, which, as we have previously clarified, is a trust. And it further states that the remnants of his estate, after having satisfied the legacies, shall go to the fund of the WILSON C. LUCOM TRUST FUND FOUNDATION, the objective of which, as the will points out, is feeding needy children in Panama.

Under the title 'EXECUTORS AND TRUSTEES" the testator expressly states in the will that "The executors shall also be fideicommissaries (*sic.*) (this is obviously a mistake, as the fideicommissaries or beneficiaries would be the needy children of Panama, and therefore it must be construed to mean trustees) of the WILSON C. LUCOM TRUST FUND FOUNDATION," while in executing the trust, in the introduction, it is established that the trustee is the corporation LUCOM WORLD PEACE LIMITED, a legal person organized in the island of Nevis on April 19, 2006, but it later states that in case of the death of Wilson C. Lucom (see clause 15 of the trust), the trustees would be RICHARD S. LEHMAN, CHRISTOPHER RUDDY and HILDA P. LUCOM (see pages 187 to 246 of the main case file).

Inasmuch as the testator's will as set forth in the will agrees with clause 15 of the trust, which comes later in time than the introduction, on the issue of the trustees, this Court believes that said individuals should be deemed to be the trustees of the trust so that, acting jointly, they may carry out the trust's objective. For if there is no declared heir but only legatees, the only way to enforce the

testator's will with respect to the remnant of his property, after having satisfied the legacies, would be to institute trustees that would realize the assets in order to be able to carry out the testator's will to feed the needy children of Panama in the manner established in the will.

As a consequence of the foregoing, the proper thing to do is to revoke the designation of the WILSON C. LUCOM TRUST FUND FOUNDATION as heir, and therefore it is also proper to amend the order appealed from to eliminate said trust as an heir and to deem the designated trustees as such.

Finally, as regards the appellant's censure of the designation of Bufete Jurídico Alvarez Crosbie & Asociados as RICHARD S. LEHMAN's judicial attorney-in-fact under the special power of attorney bestowed on it, arguing that said firm could not be deemed to be an attorney-in-fact as it had not been incorporated (see page 73) and stating that it included an individual who is not suitable to engage in the practice of law (page 72), this Superior Court notes that said power of attorney has been revoked by Mr. RICHARD SAM LEHMAN as of the moment he bestowed a new power of attorney on the IGRA law firm, already recognized as valid at the trial court level, and therefore such discussion has become moot in this process.

Wherefore **THE FIRST SUPERIOR COURT OF JUSTICE OF THE FIRST JUDICIAL DISTRICT OF PANAMA**, administering justice in the name of the republic and under the law, **MODIFIES** Order No. 1025/173-06 of July 5,

2006, issued by the Fourth Civil Circuit Court of the First Judicial Circuit of Panama, so that its resolution will now read as follows:

DECLARES:

1. That the probate proceedings of the late WILSON CHARLES LUCOM who died on June 2, 2006, are open.

2. THAT HIS LEGATEES, without prejudice of third parties, are Mrs. HILDA PIZA LUCOM, ISABEL MARIA CLARK, ROBERT CLARK, ALEXANDER CLARK, LANNY CLARK, CASSANDRA CLARK, MAYO CLINIC OF ROCHESTER MINNESOTA, MELINDA MORRICE, HILDA ABDELNOUR, MADELINE ARIAS, GILBERTO ARIAS, MARGARITA ARIAS ALLISON, NORA GARNER, JAMES GIBBONS, ANN SMITH, WALTER GARNER, GABY ELKINS, CHRISTOPHER RUDDY, DR. PETER HIBBERD, MARIO BOYD, ANDREA OSPINA, TANYA RAMOS, and ISRAEL TEJADA.

3. Mr. **RICHARD SAM LEHMAN**, Mr. **CHRISTOPHER RUDY**, and Mrs. **HILDA PIZA LOCUM** are appointed **EXECUTORS AND TRUSTEES** of the estate so that they may jointly, pursuant to the provisions of Articles 857 and 858, hold the office of executors and trustees, and who must appear before the Court in order to be installed in office; and

4. **IT IS ORDERED** that all persons having any interest in the same appear under the law, and that the edict dealt with by Article 1526 of the Judicial Code be **POSTED** and **PUBLISHED**.

Let it be notified.

[signed:] *Eva Cal*

JUDGE EVA CAL

[signed:] *M A Espino*

JUDGE MIGUEL A. ESPINO

[Illegible signature]

OLGA RUJANO,
Clerk