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**HEADLINE:** Judge denies claims of orphans;  
Producers of 'Extreme Makeover' are not liable in the siblings' falling-out with a family that had taken them in.

**BYLINE:** Kim Christensen, Times Staff Writer

**BODY:**

A Los Angeles County Superior Court judge has rejected five orphans' claims that producers of ABC's "Extreme Makeover: Home Edition" owed them a permanent place to live after rebuilding the house of the family friends who took them in.

Higgins siblings Charles II, Michael, Charis, Joshua and Jeremiah were ages 14 to 21 when their mother died of breast cancer in April 2004 and their father succumbed to heart failure two months later.

Longtime friends and fellow church members Phil and Loki Leomiti invited the siblings -- then living in a Downey apartment and without money for rent -- to move into the three-bedroom Santa Fe Springs tract home they shared with their own three teenagers.

The couple's kindness generated headlines and drew the attention of the reality show's producers. They secured the rights to the families' stories and transformed the modest house into a grander one, with nine bedrooms and six baths in 4,267 square feet of space.

"Extreme Makeover" recounted the project in a heart-tugging episode that aired on Easter in 2005. Within weeks, the families' relationship soured and the Higginses moved out. Each side blamed the other for the rift.

The orphans hired a lawyer to sue the Leomitis, ABC and parent company Walt Disney Co., production companies affiliated with the program, and the builder that performed the work and paid off the mortgage.

The lawsuit sought unspecified damages on allegations of fraud, breach of contract and infliction of emotional distress.

The suit also accused the Leomitis of an "orchestrated campaign to degrade and insult" the siblings to drive them away -- a charge that the couple denied.

The orphans contended that they had been promised a "permanent" home and that the show's producers failed to help when they parted ways with the Leomitis.

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ABC's lawyers countered that the show contracted with the Leomitis, not the Higginses, who thus had no legal right to a home provided by "Extreme Makeover."

In granting a motion for summary judgment last week, Judge Paul Gutman dismissed the case against the network, the production companies and the builder, ruling that the siblings had failed to prove their claims.

The Leomitis remain party to the lawsuit, because the motion for summary judgment related only to the business entities. Their lawyer, Robert English, said Gutman's decision boded well for his clients.

Patrick A. Mesisca Jr., the Higginses' lawyer, said he planned to appeal.

"It's something we can bring to the court of appeal and we will," he said.

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