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Kochs file Kan. lawsuit over think tank ownership

By JOHN HANNA, Associated Press

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Billionaire brothers and political donors Charles and David Koch are pursuing a lawsuit in their native Kansas over the ownership of a libertarian-leaning think tank based in Washington, and the organization's CEO described it as a "hostile takeover" attempt.

The Koch brothers, known nationally for supporting conservative causes and candidates, also are longtime shareholders in the Cato Institute, a research organization that promotes free-market, small-government policies. Their lawsuit seeks a court ruling that would leave the institute with only one other shareholder, its president and chief executive officer, Ed Crane, who also is a defendant.

The brothers filed their lawsuit Wednesday in Johnson County District Court, arguing that the Kansas court has jurisdiction because the Cato Institute, while based in Washington, also lists an office in the Kansas City suburb of Overland Park. The brothers are the top executives at Wichita-based Koch Industries Inc., but the multibillion-dollar industrial firm is not involved in the lawsuit.

The lawsuit centers on the 25 percent ownership interest in the Cato Institute previously held by William Niskanen, who retired as chairman in 2008 and died in October. The Koch brothers contend that under shareholders' agreements in 1977 and 1985, his wife can't retain the shares and control his ownership interest but must give the shares back to the institute.

"We support Cato and its work," Charles Koch said in a statement. "We are not acting in a partisan manner, we seek no `takeover,' and this is not a hostile action. All we seek is adherence to the shareholders' agreement."

The two brothers are the only plaintiffs in the lawsuit, which names the institute, Crane and Kathryn Washburn, Niskanen's widow, as defendants. Wes Edwards, an attorney for the Koch brothers, said they've made multiple attempts to resolve the issue and are going to court "reluctantly."

But Crane said in a statement that while Charles Koch is trying to gain control of the institute. Crane said that while Charles Koch and entities he's controlled have provided financial support, he's had "no significant influence" over the institute's management, direction or work.

"We view Mr. Koch's actions as an attempt at a hostile takeover, and intend to fight it vehemently in order to continue as an independent research organization," Crane said.

Charles Koch, a Wichita resident, is chairman and CEO of Koch Industries, which has about 67,000 employees worldwide and $110 billion in annual revenues, with interests that include oil refineries, fertilizer, chemicals, paper and pollution-control equipment. David Koch, who lives in New York, is the company's executive vice president.

They're frequent targets of criticism from progressive groups and the Occupy movement over their political activities. The small-government, anti-tax group Americans for Prosperity was founded with their support.

In its last annual report, the institute listed 120 employees and an annual budget of $23 million and said 80 percent of its revenues come from individuals.

Crane called the lawsuit an effort by Charles Koch to "transform Cato from an independent, nonpartisan research organization into a political entity that might better support his partisan agenda."

The lawsuit said a foundation set up and named for Charles Koch in 1974 became the Cato Institute in 1976. On the institute's website, a 25th anniversary timeline says the institute was established in 1977 with Crane and Charles Koch as co-founders.

"We want to ensure that Cato stays true to its fundamental principles of individual liberty, free markets, and peace into the future, and that it not be subject to the personal preferences of individual officers or directors," Charles Koch said.

According to court documents, Niskanen signed the 1985 shareholders' agreement, the same year he became the institute's chairman, and David Koch became a shareholder in 1991.

Submitted with the lawsuit, the 1977 and 1985 shareholders' agreements said any shareholder wishing to dispose of his or her shares must first offer them to the institute. However, neither specifically deals with the death of a shareholder.