

**STATE OF MINNESOTA
COUNTY OF CARVER**

DISTRICT COURT

**FIRST JUDICIAL DISTRICT
PROBATE DIVISION**

In the Matter of:

Estate of Prince Rogers Nelson,

Court File No. 10-PR-16-46

Honorable Kevin W. Eide

Decedent.

**DECLARATION OF BRIAN E. JORDE
RE ESTATE OF ALFRED JACKSON**

I, Brian E. Jorde, declare under penalty of perjury that everything I have stated in this document is true and correct:

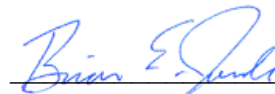
1. I am the court appointed Administrator de bonis non in a Missouri Probate matter captioned as *In the Matter of the Estate of Alfred F. Jackson*, in the Circuit Court of Jackson County, Missouri Probate Division at Independence 19P9-PR01357. This probate matter relates to Alfred F Jackson, Jr. (“Mr. Jackson”) who was a brother of Prince. I am familiar with and knowledgeable to testify as to the procedural history of this probate matter and relevant proceedings and specifically those related to an alleged lien filed by White Wiggins & Barnes, LLP (“WWB”) in the Missouri probate matter.
2. Mr. Jackson died on August 29, 2019. On November 13, 2019 an Application for Letters Testamentary were filed to open the Jackson estate. On July 16, 2020, Kennedy Barnes, a non-licensed Missouri attorney, purported to file a Claim for

legal fees of \$177,176.32 allegedly generated in approximately four (4) months of time when they claim to have represented Mr. Jackson.

3. On September 10, 2020, the then acting Administrator Pendente Lite, Timothy J. Murphy and his counsel filed a Motion to Dismiss the WWB Claim.
4. WWB and the Estate through Mr. Murphy submitted argument on the disputed Claim and the court entered Judgement dismissing the WWB Claim on June 11, 2021. A true and accurate copy of the Judgment Dismissing Claim is attached.
5. The Missouri Probate proceeding retains exclusive jurisdiction over any claims or liens related to any assets of Mr. Jackson. WWB attempted to exercise its rights in the Missouri Probate matter and were unsuccessful. The Prince Estate does not have jurisdiction to adjudicate a claim or lien related to any asset or alleged expectancy of Mr. Jackson. The determination of any assets, debts, liens or claims related to Mr. Jackson have been determined within the Missouri Probate proceeding.
6. Unfortunately for WWB, it forfeited its right to assert a claim for payment of fees by its untimely and flawed submission to the Missouri probate court. No doubt realizing its errors, or about August 4, 2021, WWB filed a claim in the Prince Rogers Nelson Estate matter, related to its alleged Attorney's Lien for any identical amount and with identical reasoning and basis as it used during its attempt to properly file its lien where it needed to be filed - in Missouri.
7. Because WWB has no valid claim against the Jackson Estate, it can't file any such claim or lien elsewhere as an end-run around the basic tenets of probate law.

8. I have reviewed the Memorandum in Opposition to Application for Determination and Establishment of Attorney's Lien Filed by White Wiggins & Barnes, LLP, as submitted to this court by counsel for Primary Wave. I agree with the factual statements made therein and the legal arguments presented.
9. Based upon the foregoing, the Estate of Alfred A. Jackson, Jr. supports Primary Wave's Opposition.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

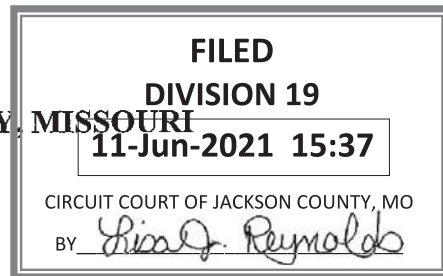


Brian E. Jorde
2425 S. 144th Street
Omaha, NE 68144
Phone: (402)493-4100
Email: bjorde@dominalaw.com

Signed this 28th day of December, 2021, in Douglas County, Nebraska.

ATTACHMENT #1

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT INDEPENDENCE
PROBATE DIVISION**



WWB, LLP,)	
)	
Petitioner,)	
vs.)	Case No. 20P9-PR01018
)	Division 19
TIMOTHY J. MURPHY, Administrator)	
Pendente Lite,)	
Respondent.)	

In the Estate of)	
ALFRED FRANK ALONZO)	Estate No. 19P9-PR01357
JACKSON, JR.,)	
Deceased.)	

JUDGMENT DISMISSING CLAIM

NOW on this day, the Court takes up the Claim filed by WWB, LLP, a Texas Limited Liability Partnership, on July 16, 2020. On February 5, 2021, the Court held a hearing via Webex by Cisco videoconferencing, during which it heard argument on the Motion to Dismiss filed by Timothy J. Murphy, Administrator Pendente Lite, for the Estate of Alfred Frank Alonzo Jackson, Jr. Claimant appeared by Kennedy Barnes, a partner with WWB, LLP, and by counsel Jerryl T. Christmas, Esquire, and Herbert E. Hardwick, Esquire. Administrator Pendente Lite appeared via videoconferencing and by counsel, James Tobin, Esq. After hearing argument by counsel, the Court took this matter under advisement. The Court now makes the following findings:

FACTS

1. That Alfred Frank Alonzo Jackson, Jr. (hereinafter "Decedent") died on August 29, 2019.
2. That an Application for Letters Testamentary was filed on November 13, 2019, and letters were issued to Leonardo Da Vinci Starke (hereinafter "Starke") on December 17, 2019, appointing him Personal Representative of Decedent's estate.

3. That Starke's authority was suspended on March 4, 2020, due to a conflict of interest arising from the filing of several will contest actions.
4. That on March 4, 2020, Timothy J. Murphy (hereinafter "Administrator Pendente Lite") was appointed Administrator Pendente Lite for Decedent's estate.
5. That on July 16, 2020, Claimant WWB, LLP (hereinafter "Claimant") filed its Claim Against Estate in the amount of \$177,176.32.
6. That on August 10, 2020, an adversary order was entered making applicable Missouri Civil Rules of Procedure 41 through 103 (except that only 55.03, 55.12, 55.25(c), and 55.26 through 55.30 of Rule 55 should be applicable), and assigning the Claim the adversary number 20P9-PR01018.
7. That on September 10, 2020, Administrator Pendente Lite filed his Motion to Dismiss Claim arguing that Claimant had engaged in the unauthorized practice of law by filing the Claim, and that due to this unauthorized practice, the Court was without jurisdiction to take up the Claim.
8. That on September 17, 2020, Jerryl T. Christmas, Esq. entered his appearance on behalf of Claimant. Thereafter, counsel filed his Motion for Pro Hac Vice Admission to allow Kennedy Barnes, Esquire, a duly licensed attorney authorized to practice law in Texas, to appear as counsel in this case. The Court granted said Motion on January 29, 2021, pursuant to Mo. Sup. Ct. R. 9.03.
9. That on February 1, 2021, Claimant's counsel filed his response to Administrator Pendente Lite's Motion to Dismiss, and a reply was filed on February 2, 2021.
10. That on February 5, 2021, the Court heard oral argument on Administrator Pendente Lite's Motion to Dismiss, and responses thereto, and thereafter took the matter under advisement.

LAW

11. That any action commenced against a personal representative, after the death of a decedent, is considered a claim duly filed against the estate from the time of serving the original process on the personal representative, and the filing of a written notice in the probate division of the institution of such action within the time prescribed in RSMo. §473.360. RSMo. § 473.367.¹
12. That the statement of the claim itself shall not be received as any evidence of the claim, but such claim shall be established by competent evidence before it is paid. RSMo. §473.380.3.
13. That attorneys who are not members of the Missouri Bar shall not practice or do a law business in this state except as provided in Mo. Sup. Ct. R. 4-5.5, 9.03, and 9.04. Mo. Sup. Ct. R. 9.01.
14. That while a natural person is entitled to appear and assert claims on his or her own behalf in Missouri courts, a corporation and other statutory entities may appear only through an attorney licensed or admitted to practice in the State of Missouri by the Court. A corporation and other statutory entities do not constitute natural persons, and thus may only act through its agents or representatives. Naylor Senior Citizens Housing, LP v. Side Const. Co. Inc., 423 S.W.3d 238, 243 (Mo. banc 2014). In legal matters, it must act, if at all, through licensed attorneys. Id.; Clark v. Austin, 101 S.W.2d 977, 982 (Mo. 1937). This view is shared almost universally. *See, e.g.*, Rowland v. California Men's Colony, Unit II Men's Advisory Council, 506 U.S. 194, 201-02 (1993) ("It has been the law for the better part of two centuries, for example, that a corporation may appear in federal courts through

¹ Unless otherwise indicated, statutory citations refer to the 2016 edition of the Revised Statutes of Missouri, updated through the 2019 Cumulative Supplement.

licensed counsel.”); 19 Am.Jur.2d Corporation §1874 (citing Osborn v. Bank of U.S., 9 Wheat. 738, 830, 6 L.Ed. 204 (1824) (Marshall, C.J.) (“A corporation, it is true, can appear only by attorney while a natural person may appear for himself.”))

15. That the act of appearing in Court to assert or defend claims on behalf of another lies at the very heart of the practice of law. Naylor, 423 S.W.3d at 244. *See also*, RSMo. § 484.010.1 (the practice of law includes the “appearance as an advocate in a representative capacity... in connection with proceedings pending or prospective before any court of record”); Hargis v. JLB Corp., 357 S.W.3d 574, 578 (Mo. 2011) (en banc).
16. That formation of limited partnerships and limited liability partnerships in Texas are governed by Title 1, Chapter 3(A) of the Texas Business Organizations Code.

ANALYSIS

17. That the facts addressed at the hearing on February 5, 2021 were largely undisputed.
18. That Claimant is an established Texas Limited Liability Partnership, created pursuant Texas statutes, much like Limited Liability Corporations and Corporations are established under Missouri law.
19. That the Claim was signed and filed by Kennedy Barnes, Esq., as Managing Partner of WWB, LLP.
20. That because Claimant is not a natural person entitled to appear and assert claims on his or her own behalf in Missouri courts, Claimant may appear only through a Missouri licensed attorney. As reasoned in Naylor, when an individual appears pro se, that person is not engaging in the practice of law because he is not representing another in court. In contrast, a statutory entity or “legal fiction” cannot “be anywhere or do anything – including, but not limited to, appearing in court – unless some individual does so on its behalf.” Naylor

at 244. Such an individual, acting on behalf of the statutory entity “by definition is ‘representing another’ in court and, therefore, necessarily is engaging in the practice of law.” Id. At 246. Because Missouri courts restrict the practice of law to Missouri licensed attorneys, except as otherwise provided by Rule, a statutory entity’s representative must be a licensed attorney. Mayer v. Lindenwood Female College, 453 S.W.3d 307, 313-14 (Mo. Ct. App. E.D. 2014).

21. That there is no dispute that Claimant is a statutory entity, nor is there a dispute that the Claim was filed by a representative of the statutory entity.
22. That Kennedy Barnes, Esq. is an attorney licensed to practice law in the State of Texas.²
23. That at the time the Claim was filed on July 16, 2020, Mr. Barnes was not operating under his pro hac vice status, and said status was only granted after the filing of the Claim.
24. That the Claim was filed by Mr. Barnes in his capacity as Managing Partner of Claimant and not as a Rule 9.03 visiting attorney.
25. That having established Mr. Barnes’ status at the time of the filing of the Claim, the sole issue remaining before the Court is to determine whether or not the filing of a claim in a probate estate constitutes the practice of law.
26. That Claimant’s counsel argues that filing a claim does not constitute the practice of law because it essentially entails submitting a fillable form to be processed by the probate court, and requires no legal skill, knowledge, or discretion. This Court respectfully disagrees.
27. That claims filed with this Court come in all forms and sizes. The dollar amounts and values of the claims can range from negligible amounts to very large sums. Claims can be initiated, established and litigated in a myriad of ways, as evidenced by the comprehensive statutes

² This Court is not aware of other states in which Mr. Barnes is licensed to practice law, however, it was undisputed that he is not a licensed member of The Missouri Bar.

provided in the Missouri probate code as well as a plethora of case law specifically directed to the multitude of disputes involving claims.

28. That the forms referenced by Claimant are created by this Court as a convenience to litigants, primarily with self-represented litigants in mind. Court forms are also created to assist court clerks that initiate and process the many different types of actions that come through the Court. By utilizing forms, court clerks are able to more easily process complicated litigation in a simplistic, uniform matter.
29. That similar forms have been created by the courts in other areas of law for the same purpose, as this practice is not unique to probate. For example, in landlord tenant law, simplified forms have been created to assist parties to pursue their rights as they relate to real estate. The courts have created forms which are used routinely in civil collection actions. Forms are very often used in small claims trial de novo cases.
30. That in each of these legal scenarios the law is clear: if the petitioner is a statutory entity, it must act through a duly licensed attorney. Failure to act through a duly licensed attorney results in a finding of the unauthorized practice of law.
31. That Claimant supports his argument by relying on the holding in Mitchell v. J&M Sec., LLC, which found that the submission of a garnishment application and accompanying interrogatories did not constitute the unauthorized practice of law. Mitchell, 590 S.W.3d 853 (Mo. Ct. App. E.D. 2019). The Mitchell case is clearly distinguishable.
32. That a garnishment action is a legal proceeding that occurs *after* a lawsuit is resolved, while the filing of a claim serves as the first step to initiate an action. Missouri law requires a claim to be served on the personal representative, similar to how a newly filed civil petition

must be served on a defendant. RSMo. §473.367. Additionally, the probate court routinely enters adversary orders making certain rules of civil procedure applicable to the action.

33. That the probate code sets forth various time limitation statutes triggered by various events. Failing to comply with said statutory deadlines leads to harsh results for claimants not aware of the consequences. RSMo. §§ 473.360; 473.444.
34. That contrary to Claimant's argument that the filing of a claim requires no legal skill, knowledge or discretion, to be successful with a claim, claimant, at the time of filing, must at least have knowledge of probate service requirements, Missouri Rules of Civil Procedure, and multiple statutes of limitations.
35. That under Missouri law, the filing of a claim itself does not guarantee anything because the claim itself is not treated as evidence or proof. RSMo. §473.380.3. Claims must be established by competent evidence, clearly indicating some form of appearance by the claimant in a court proceeding.
36. That while the Court appreciates Claimant's arguments, applying the relevant law and for the reasons cited above, the act of filing a claim in a probate estate is the practice of law.
37. That because Mr. Barnes filed the claim on behalf of Claimant as a representative of the statutory entity, rather than through a duly licensed attorney authorized to practice law in Missouri, Claimant engaged in the unauthorized practice of law.
38. That actions constituting the unauthorized practice of law must not be recognized or given effect and such unauthorized practice requires dismissal of the action or voidance of any judgment. See Strong v. Gilster Mary Lee Corp., 23 S.W.3d 234 (Mo.App.E.D. 2000); Reed v. Labor & Indus. Relations Comm'n, 789 S.W.2d 19 (Mo. banc 1990).

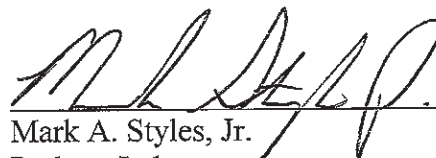
39. That for all of the foregoing reasons, the Motion to Dismiss filed by Timothy J. Murphy, Administrator Pendente Lite, should be granted. It is therefore

ORDERED, ADJUDGED, AND DECREED that the Motion to Dismiss filed by Timothy J. Murphy, Administrator Pendente Lite for the Estate of Alfred Frank Alonzo Jackson, Jr. is hereby GRANTED.

IT IS FURTHER ORDERED that the Claim Against Estate filed by WWB, LLC in the amount of \$177,176.32 is hereby dismissed.

IT IS SO ORDERED.

June 11, 2021
Date


Mark A. Styles, Jr.
Probate Judge