

Commonwealth Of Kentucky

Court of Appeals

NO. 2003-CA-000080-MR

BAPTIST HOSPITAL EAST

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE STEPHEN K. MERSHON, JUDGE
ACTION NO. 02-CI-004630

KAREN CRAFT, ADMINISTRATRIX
OF THE ESTATE OF
CAROLYN J. HIBBITT

APPELLEE

OPINION
REVERSING AND REMANDING
** ** * * * * *

BEFORE: KNOPF, TACKETT, AND VANMETER, JUDGES.

TACKETT, JUDGE: Baptist Hospital East (Baptist East) appeals from a summary judgment entered on a claim for collection of a debt owed by decedent Carolyn Hibbitt for medical services. The circuit court granted summary judgment in favor of Hibbitt's estate because Baptist East had not followed the procedures outlined in Kentucky Revised Statute (KRS) Chapter 396 for claims against a decedent's estate. Baptist East appeals,

arguing that the circuit court should not have granted summary judgment because the estate's Administratrix, Karen Craft (Administratrix) did not notify Baptist East of Hibbitt's death in a timely fashion even though Administratrix had actual knowledge of the claim against the decedent. We agree, and reverse.

Hibbitt died on November 23, 2001. Baptist East sent a demand letter to Hibbitt on December 19, 2001, without knowledge of her death. A second letter was sent on April 25, 2002, and having received no response, suit was filed on June 20, 2002. Administratrix received notice by certified mail of the claim. Administratrix responded by sending a letter disallowing the claim against the estate on July 10, 2002. On September 20, 2002, Baptist East amended its complaint to include the Administratrix as a party. On November 22, 2002, the circuit court granted summary judgment in favor of the estate, holding that Baptist East had not properly commenced an action against the personal representative of the estate within 60 days of notice that the claim was disallowed under KRS 396.055. This appeal followed.

Baptist East states that a known creditor has a right under the Due Process clause of the Fourteenth Amendment of the United States Constitution to actual notice of the death of the decedent. Citing Tulsa Professional Collection Services v.

Pope, 485 U.S. 478, 491, 108 S.Ct. 1340, 99 L.Ed.2d 565 (1988), Baptist East argues that since the Administratrix was aware of the claim, then the personal representative had a duty to notify Baptist East that the debtor had died, so that it could properly proceed under KRS Chapter 396 to assert its claim against the estate. The circuit court agreed with Baptist East that it should have received notice of the death of the decedent so it could make a claim. However, the decision of the circuit court was based on the failure of Baptist East, once it received notice that the decedent had in fact died and that the estate was disallowing the claim under KRS 396.055, to properly amend the complaint to name the personal representative until September 20, 2002, more than 60 days after receiving the notice that the claim was disallowed. Baptist East insists that "given the trial court's own findings that the original Complaint was not a claim . . . the Appellant was not required to substitute the Administratrix as defendant within 60 days of July 10, 2002 . . . because the Appellant was not legally bound to do so since no claim had been properly made." Following that argument, Baptist East says that it first presented its claim against the estate when it substituted the Administratrix as a defendant on September 20, 2002, because the circuit court stated that "Baptist East's complaint does not qualify as a presentation of

a claim to the personal representative because the claim must be made 'to the personal representative.' KRS 396.015(1)."

After reviewing the record and the applicable law, we must agree with Baptist East that since the original complaint could not constitute a proper claim under the statute, likewise the Administratrix's attempt to disallow that claim was not effective. Instead of acting to disallow the claim, the personal representative's proper course of action was to notify Baptist East of the decedent's death in order to file a proper claim. On receipt of the proper claim, the Administratrix could then disallow the claim, notifying Baptist East that it must file suit naming the personal representative of the estate. Since neither party followed the procedure outlined in the statute from the beginning, we hold that the complaint served as notice of the existence of a potential creditor of the estate, the attempt to disallow the claim actually served as notice of the death of the decedent, and the amendment of the complaint to include the personal representative as a named party functioned as a claim within the meaning of KRS 396.015. We therefore reverse the decision of the Jefferson Circuit Court and remand the matter for further proceedings.

For the foregoing reasons, the judgment of the Jefferson Circuit Court is reversed and remanded.

KNOPF, JUDGE, CONCURS.

VANMETER, JUDGE, CONCURS IN RESULT ONLY AND FILES
SEPARATE OPINION.

VANMETER, JUDGE, CONCURRING IN RESULT ONLY. I concur in the result reached by the majority, but I do so for different reasons. KRS Chapter 396 was substantially amended in 1988¹ in order to simplify the methods for presentation, allowance and disallowance of claims in order to provide for an orderly administration of decedent's estates. As such, many of the previously arcane provisions of KRS Chapter 396 as regards formal requirements in the presentations of claims were eliminated.² KRS 396.015(1) sets forth two rather simple methods of presenting claims. One method is filing a somewhat formal document, a written statement, with the district court clerk. The other method is more simple: (1) a written statement of the claim; (2) setting forth its basis; (3) the name and address of the claimant; and (4) mailed or delivered to the personal representative. No form of the written statement of the claim is otherwise required. Thus, my view is that demand letters, such as the ones sent by Baptist East Hospital on December 19, 2001 and April 25, 2002, whether addressed to the decedent or the personal representative, and whether the claimant has notice

¹ 1988 Ky. Acts ch. 90, §§ 6-32.

² See 2 Merritt, Kentucky Practice §1460 (describing the "quaint but stringent requirements" for a proof of claim prior to the 1988 legislation).

of the death of the decedent or of the appointment of the personal representative, satisfied the requirement of a written statement of the claim, provided the personal representative received them.³

Once the personal representative receives the demand letters, her obligation is to either allow or disallow the claim. Under KRS 396.055, the personal representative has sixty days within which to do either. The failure of the personal representative to take either action constitutes allowance of the claim. KRS 396.055(1). Allowed claims must be paid. KRS 396.075(1). The personal representative may change an allowed claim to a disallowed claim, but only upon petition to the court with notice to the claimant. Id.

My view is that the record clearly supports a finding that the Administratrix in the instant case received the demand letters and failed to take action. The claim of the Appellant was therefore allowed. The failure of the Administratrix subsequently to disallow the claim with court approval, pursuant to KRS 396.055(1), results in an active allowance of the claim. The July 10, 2002 letter from the Administratrix's counsel disallowing the claim had no effect on the claims process.

³ Notwithstanding the trial court's finding of "no evidence that the Administratrix was even aware of these letters," it is difficult to believe that she was not aware of the letters given that the letters were addressed to the decedent at her last known address, which was the same address at which the administratrix received and signed for the certified mail receipt for the complaint.

I would thus reverse the action of the Jefferson
Circuit Court in dismissing the action.⁴

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⁴ KRS 396.075(1) contains a procedure for a claimant's whose allowed claimed has not been paid to petition the court for an order directing the personal representative to pay the claim.