

Different Outcomes for Two Law Firms in Legal Malpractice Case Confirm That Lawyers Representing Estate Administrator Do Not Owe a Duty to Beneficiaries

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Johnson v. Darren Findling Law Firm, PLC, No. 22-cv-5517, 2023 U.S. Dist. LEXIS 144186 (N.D. Ill. Aug. 17, 2023).

Brief Summary

The United States District Court for the Northern District of Illinois held that a law firm representing the administrator in estate proceedings did not owe a duty to a beneficiary of the estate, and the beneficiary's legal malpractice claim was thus dismissed. However, a different law firm, which pursued a wrongful death claim on behalf of the estate, did owe a duty of care to the beneficiary.

Complete Summary

Stacy Johnson (Johnson) died when her motorcycle collided with a vehicle operated by Joyce Collins (Collins). Johnson died intestate, and her mother, Kristina Johnson, was appointed the administrator of her estate (the Estate). The Darren Findling Law Firm, PLC (Findling or the Findling Firm) was retained to represent Kristina as the administrator. One of Johnson's heirs was her father, Nathaniel Johnson, Jr., who initiated this case as the plaintiff.

The Law Offices of Jason A. Waechter (the Waechter Firm) was retained to pursue a wrongful death claim against Collins. The Waechter Firm negotiated a settlement with Collins' insurer without filing suit. Collins' insurer tendered the limits of the insurance policy (\$250,000.00) pursuant to a written settlement agreement, which released Collins from any liability.

The administrator and the plaintiff disagreed on whether Michigan or Illinois law would govern the distribution of the insurance proceeds. Ultimately, the administrator and Johnson's heirs signed a settlement agreement governing the distribution of the proceeds and releasing the parties from liability. However, that agreement exempted any legal malpractice and breach of fiduciary duty claims that the plaintiff could bring against Findling.

The plaintiff alleged the recovery from Collins was inadequate, and he initiated this case against Findling and the Waechter Firm (collectively the defendants). The plaintiff pursued claims of legal malpractice and breach of fiduciary duty. The matter was removed to federal court, and the defendants moved to dismiss the complaint. The district court held that Findling, the firm that represented the administrator in the estate proceedings, did not owe a duty to the plaintiff. Illinois law provides that an attorney owes a duty of reasonable care to his or her client but not to a third party. *Schechter v. Blank*, 627 N.E.2d 106, 109 (Ill. App. Ct. 1993). There is an exception, and a duty can arise where the attorney was hired for the primary purpose of benefiting a third party. *Reynolds v. Henderson & Lyman*, 903 F.3d 693, 696 (7th Cir. 2018). According to the Illinois Supreme Court, there are three types of non-clients who are owed a duty. *Oakland Police & Fire Retirement System v. Brown*, 861 F.3d 644, 653 (7th Cir. 2017). Those non-clients are (1) third-party beneficiaries of a will, (2) third-party beneficiaries of wrongful death action, (3) and third-party recipients of an opinion letter.

Findling contended that it owed no duty to the plaintiff because it was not hired primarily for the plaintiff's benefit. Rather, it was hired for the primary purpose of representing the Estate's administrator. The district court agreed and reasoned that the representation agreement identified Kristina as the client in the Estate matter. The settlement agreement also provided that Findling would receive payment as the law firm for the Estate. Further, none of the Estate's beneficiaries qualified as non-clients under Illinois law. Illinois courts have rejected the argument that an attorney representing an estate owes a duty to an estate's beneficiaries. Ultimately, the primary purpose of an attorney's relationship with an administrator was to assist in properly administering the estate.

The district court went on to reason that an attorney must give his or her allegiance to the estate where an adversarial situation arises between the estate and its beneficiaries. Here, the plaintiff took an adversarial position and argued that Michigan law should apply to the distribution of the proceeds. In contrast, the Estate argued that Illinois law should apply. This conflict illustrated the precise reason as to why Findling could not have owed a duty to the plaintiff. The court thus dismissed the plaintiff's claims against Findling.

On the other hand, the district court determined that a duty was in fact owed by the Waechter Firm. As noted by the Seventh Circuit in *Oakland*, an attorney owes a duty to third-party beneficiaries of a wrongful death action. Here, the Waechter Firm represented the Estate in the successful settlement of the wrongful death claim. Any wrongful death claim would have been brought for the benefit of the decedent's heirs, including the plaintiff. As such, the Waechter Firm owed the plaintiff a duty. The plaintiff alleged that proper legal advice would have resulted in a higher recovery from Collins. The plaintiff further argued that the Waechter Firm never informed him of its decision to negotiate with Collins' insurer. The court held that this failure to discuss the settlement with Johnson's heirs could have amounted to a breach of duty.

The district court concluded, however, that the plaintiff failed to allege proximate cause. Specifically, there were no facts to support the position that a wrongful death action would have obtained a better result. Instead, the plaintiff only alleged that the Estate should have sued Collins, but he failed to detail what claims could have been pursued or why any such claims would have been more fruitful than the settlement obtained. The court, therefore, dismissed the claims against the Waechter Firm. The court then dismissed the plaintiff's breach of fiduciary duty claim on the basis that it was simply duplicative of the legal malpractice claim and allegedly resulted in the same injury. See *Nettleton v. Strogdill*, 899 N.E.2d 1252, 1267 (Ill. App. Ct. 2008).

Significance of Decision

This decision is significant because it reinforces the principle that an attorney for the estate owes a duty to the administrator of that estate and not to beneficiaries.

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