

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
KENTUCKY, BOWLING GREEN DIVISION

Lesia R. James et al. v. Linda Thomas, Esquire

Civil Action No. 1:24-CV-00061-RGJ-LLK (W.D. Ky. Nov. 21, 2025) · No. 1:24-CV-00061-RGJ-LLK ·
Decided November 21, 2025

SUMMARY

The United States District Court for the Western District of Kentucky grants Plaintiffs’ motion to compel production of communications involving Thor Himley in a legal malpractice action concerning the estates of Oleh and Janice Korohey. The court holds that Defendant Linda Thomas failed to establish that the communications were protected by the attorney-client privilege under Kentucky law, because she did not show that Himley was acting as Janice Korohey’s representative for the predominant purpose of obtaining legal advice. Defendant was ordered to produce the requested communications within fifteen days.

CASE DETAILS

COURT	United States District Court for the Western District of Kentucky, Bowling Green Division
WRITING FOR THE COURT	Lanny King
JURISDICTION	United States District Court for the Western District of Kentucky, Bowling Green Division
DECIDED	November 21, 2025
DOCKET	1:24-CV-00061-RGJ-LLK
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved to compel production of communications and documents involving Thor Himley. Defendant opposed the motion solely on attorney-client privilege grounds. The magistrate judge granted the motion under the referral authority of 28 U.S.C. § 636(b)(1)(A).
STANDARD OF REVIEW	The court exercised broad discretion over docket control and discovery. The moving party bore the initial burden of showing relevance, after which the objecting party bore the burden of showing why the requests were improper and, specifically, of establishing the attorney-client privilege.

PRECEDENTIAL VALUE	unpublished
PARTIES	Lesia R. James et al. v. Linda Thomas, Esquire

TOPICS

discovery dispute attorney client privilege civil procedure evidence professional negligence

PRACTICE AREAS

civil procedure evidence legal malpractice probate

QUESTIONS PRESENTED

1. Whether communications between Defendant and Thor Himley after Himley received a power of attorney from Janice Korohey were categorically protected by the attorney-client privilege.
2. Whether Defendant met her burden to establish, on a document-specific basis, that the requested communications were confidential communications made primarily to obtain legal services on Janice's behalf.
3. Whether Plaintiffs' asserted privilege waiver required resolution when Defendant failed to establish that the privilege applied in the first instance.

HOLDINGS

1. A power of attorney does not categorically shield all communications between the attorney and the attorney-in-fact. The attorney-in-fact must have been acting as the principal's representative and facilitator of legal advice, and the communications must otherwise fall within the attorney-client privilege.
2. Defendant failed to establish that the communications between Thomas and Himley were privileged because she did not show that Himley was acting on Janice's behalf, that the communications related to legal services, or that obtaining legal advice was their primary or predominant purpose.
3. The court did not need to decide whether Himley waived any privilege by disclosing a substantive legal communication because Defendant failed to establish that the communications were privileged in the first place.

KEY QUOTATIONS

“Because Defendant has not met her burden of showing that Thor’s communications with her were made for the predominant purpose of obtaining legal advice on behalf of Janice, such communications are not shielded by the attorney-client privilege.” (Analysis)

“In sum, the Court finds that Defendant has not shown that the attorney-client privilege protects her communications with Thor.” (Conclusion and Order)

FACTUAL BACKGROUND

Plaintiffs are children and heirs of Oleh Korohey and allege that they were deprived of specific bequests under Oleh and Janice Korohey's spousal agreement and reciprocal wills. Janice's son, Thor Himley, received a general power of attorney from Janice after she became executrix of Oleh's estate. Plaintiffs sought correspondence between Thomas and Himley concerning the agreement, wills, real-estate transfers, and estate administration. Defendant asserted that communications after the power of attorney were protected by attorney-client privilege, but did not establish that Himley was acting as Janice's representative or that the communications predominantly concerned legal advice.

PROCEDURAL HISTORY

Plaintiffs, heirs of Oleh Korohey, brought a diversity legal-malpractice action against attorney Linda Thomas. The case was referred to the magistrate judge for litigation planning and resolution of nondispositive matters, including discovery disputes. Plaintiffs moved to compel documents concerning Thor Himley, who held a power of attorney for Janice Korohey; the court granted the motion and ordered production within fifteen days.

DISPOSITION

other

CASES CITED

- In re Air Crash Disaster, 86 F.3d 498, 516 (6th Cir. 1996)
- Lavado v. Keohane, 992 F.2d 601, 604 (6th Cir. 1993)
- Burrell v. Duhon, No. 518CV00141TBRLK, 2019 WL 5260481, at *2 (W.D. Ky. Oct. 17, 2019)
- Gruenbaum v. Werner Enters., Inc., 270 F.R.D. 298, 302 (S.D. Ohio 2010)
- Anderson v. Dillard's, Inc., 251 F.R.D. 307, 309-10 (W.D. Tenn. 2008)
- Polylok, Inc. v. Bear Onsite, LLC, No. 3:12-CV-00535-DJH-CHL, 2017 WL 1102698, at *3 (W.D. Ky. Mar. 23, 2017)
- Kafele v. Javitch, Block, Eisen & Rathborne, No. 2:03cv00638, 2005 WL 5095186, at *1 (S.D. Ohio Apr. 20, 2005)
- Sazerac Co., Inc. v. Republic Nat'l Distrib. Co., LLC, No. 3:23-CV-00025-GNS-LLK, 2024 WL 4426427, at *2 (W.D. Ky. Oct. 4, 2024)
- Patti's Holding Co., LLC v. Zurich Am. Ins. Co., No. 5:20-cv-84-BJB, 2025 U.S. Dist. LEXIS 60419, at *4 n.2 (W.D. Ky. Mar. 31, 2025)
- St. Luke Hosps., Inc. v. Kopowski, 160 S.W.3d 771, 775 (Ky. 2005)
- Kentucky Guardianship Adm'rs, LLC v. Baptist Healthcare Sys., Inc., 635 S.W.3d 14, 28 (Ky. 2021)
- Vanderpool v. Loftness, 2011 Colo. Dist. LEXIS 833, at *2 (Colo. Dist. Ct. Mar. 8, 2011)
- Stidham v. Clark, 74 S.W.3d 719, 722-23 (Ky. 2002)
- Reynolds v. Wells, No. 2016-SC-000134-MR, 2016 WL 7330067, at *3 (Ky. Dec. 15, 2016)
- Lexington Pub. Libr. v. Clark, 90 S.W.3d 53, 59-60 (Ky. 2002)
- Diamond Resorts U.S. Collection Dev., LLC v. US Consumer Att'ys, P.A., 519 F. Supp. 3d 1184, 1204 (S.D. Fla. 2021)

- Frankfort Reg'l Med. Ctr. v. Shepherd, No. 2015-SC-000438-MR, 2016 WL 3376030, at *10 (Ky. June 16, 2016)
- United States v. Haddad, 527 F.2d 537, 539 (6th Cir. 1975)
- Patti's Holding Co., LLC v. Zurich Am. Ins. Co., No. 5:20-CV-84-BJB, 2024 WL 1610591, at *3 (W.D. Ky. Mar. 8, 2024)

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