

SUPREME COURT OF SOUTH CAROLINA

Medlock v. University Health Services, Inc.

404 S.C. 25 (2013) · Decided June 12, 2013

SUMMARY

The South Carolina Supreme Court held that a non-attorney may present a claim against an estate and petition for allowance of the claim in probate court on behalf of a business entity without engaging in the unauthorized practice of law. The Court reasoned that these activities do not require an attorney's professional judgment or specialized legal knowledge.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Per Curiam; Toal, C.J.; Pleicones, J.; Beatty, J.; Kittredge, J.; Hearn, J.
JURISDICTION	South Carolina
DECIDED	June 12, 2013
DISPOSITION	other
PROCEDURAL POSTURE	Petition for original jurisdiction seeking a declaration that a non-attorney's filing of an estate creditor claim and petition for allowance of the claim on behalf of a business entity constituted the unauthorized practice of law.
PRECEDENTIAL VALUE	Published South Carolina Supreme Court opinion; binding precedent on the stated probate-court representation rule.
PARTIES	Dana Allison Medlock, personal representative of the Medlock Estate v. University Health Services, Inc.

TOPICS

probate procedure creditor claims probate civil procedure

PRACTICE AREAS

Probate Unauthorized practice of law Civil procedure

QUESTIONS PRESENTED

1. Whether a non-attorney may file a creditor's claim against an estate in probate court on behalf of a business entity without engaging in the unauthorized practice of law.

2. Whether a non-attorney may petition for allowance of that claim in probate court on behalf of a business entity without engaging in the unauthorized practice of law.

HOLDINGS

1. A non-attorney may present a claim against an estate in probate court on behalf of a business entity without engaging in the unauthorized practice of law.
2. A non-attorney may petition for allowance of a claim in probate court on behalf of a business entity without engaging in the unauthorized practice of law.

KEY QUOTATIONS

“We dispense with further briefing and hold that a non-attorney may present claims against an estate and petition for allowance of claims in the probate court on behalf of a business entity without engaging in the unauthorized practice of law.” (at 27)

“Pursuant to that invitation, we now hold a non-attorney may represent a business entity in the probate court to make an estate claim and subsequently petition for allowance of the claim without engaging in the unauthorized practice of law.” (at 29)

FACTUAL BACKGROUND

University Health Services, Inc. filed and served a statement of creditor's claim against the Medlock Estate in probate court. Its director of collections, Albert J. Sullivan, signed the claim and later signed a petition for allowance of the claim, while the petition identified an attorney who was not licensed in South Carolina. The probate judge continued the hearing without deciding whether Sullivan could represent the business entity, and the respondent subsequently withdrew its claim.

PROCEDURAL HISTORY

University Health Services, Inc. filed a creditor's claim against the Medlock Estate in probate court, and its director of collections, Albert J. Sullivan, signed the claim and subsequent petition for allowance. After the probate judge continued the hearing without ruling on Sullivan's authority to appear, the estate's personal representative petitioned the South Carolina Supreme Court for original jurisdiction. The Supreme Court granted the petition, referred the matter to a special referee, and received stipulated facts; the respondent later permanently withdrew its claim.

DISPOSITION

other

CASES CITED

- Brown v. Coe, 365 S.C. 137, 139, 616 S.E.2d 705, 706 (2005)
- Doe v. McMaster, 355 S.C. 306, 312, 585 S.E.2d 773, 776 (2002)
- State ex rel. Daniel v. Wells, 191 S.C. 468, 477, 5 S.E.2d 181, 185 (1939)

- Renaissance Enters., Inc. v. Summit Teleservices, Inc., 334 S.C. 649, 651-53, 515 S.E.2d 257, 258-59 (1999)
- In re Unauthorized Practice of Law Rules Proposed by the S.C. Bar, 309 S.C. 304, 305-07, 422 S.E.2d 123, 124-25 (1992)

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