

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

IN THE MATTER OF LLOYD FOWLER, JR., Deceased, RICHARD J. KOURY, II,
Appellant,

v.

DEBRA CORN,

Respondent.

DOCKET NUMBER WD75394

Date: April 16, 2013

Appeal from:
Jackson County Circuit Court
The Honorable Kathleen A. Forsyth, Judge

Appellate Judges:
Division One: Mark D. Pfeiffer, P.J., Victor C. Howard and Alok Ahuja, JJ.

Attorneys:
Richard J. Koury, II, Appellant Acting Pro Se, Independence, MO, for appellant.
L. Clay Barton, Oak Grove, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY
COURT OF APPEALS -- WESTERN DISTRICT

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Lloyd Fowler, Jr. died on January 13, 2011. Pursuant to § 473.097, RSMo, Fowler's daughter Debra Corn filed a small-estate affidavit with respect to his estate on February 22, 2011. The affidavit stated that the only asset of Fowler's estate was a piece of real property valued at \$30,000, and that the only persons entitled to distribution of that asset were Corn and her brother.

Appellant Richard Koury filed a claim for \$5,185.65 against the estate on June 8, 2011. Koury's claim alleged that Fowler had executed a contract to purchase an automobile from Koury, but had failed to complete the transaction; Koury later sold the vehicle to a third party for less than Fowler had agreed to pay.

On September 14, 2011, the attorney representing the estate sent a letter to Koury stating that "[t]he personal representative will consent to the judgment in the estate of Lloyd Fowler. If you will submit to me a proposed consent I will get it signed and filed." Koury apparently never tendered a proposed consent document to the estate's attorney, however. Koury's claim was never paid.

On May 16, 2012, Koury filed a Motion seeking to enforce the settlement of his claim reflected in the September 14, 2011 letter. The circuit dismissed Koury's June 8, 2011 claim, and his motion to enforce settlement, based on its conclusion that, under *Missouri Department of Social Services v. Brundage*, 85 S.W.3d 43 (Mo. App. W.D. 2002), it lacked the authority to resolve disputes over claims in a small-estate proceeding. Koury appeals.

AFFIRMED.

Division One holds:

Missouri's probate code creates a streamlined process for the payment of claims and the distribution of assets in situations in which a decedent leaves an estate valued at no more than

\$40,000. As *Brundage* recognized, the small-estate statutes contain no procedures for the litigation or resolution of disputes over claims. *Brundage* held that, if a small-estate claimant is unable to achieve a voluntary resolution of its claim with the estate, its option is to petition under § 473.020, RSMo to have the estate opened for full administration. Such a petition must be filed within one year of the decedent's death. If a claimant fails to obtain a voluntary resolution of its claim, and fails to seek to open the estate for administration within § 473.020's time limitations, it cannot seek to litigate its disputed claim within the small-estate proceeding itself.

Brundage is fully applicable here, and supports the circuit court's dismissal of Koury's claim, and his motion to enforce a purported settlement of that claim. We take no position on whether Koury may be entitled to obtain relief against Corn, or against any other distributee of Fowler's assets, in a separate proceeding.

Before: Division One: Mark D. Pfeiffer, P.J., Victor C. Howard and Alok Ahuja, JJ.

Opinion by: Alok Ahuja, Judge

April 16, 2013

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