MISSOURI COURT OF APPEALS
WESTERN DISTRICT

EMILY RIEGEL, ALLAN PICKERT AND JOANN PICKERT,
RESPONDENTS

vs.

DAVID G. JUNGERMAN, AS TRUSTEE OR CO-TRUSTEE OF THE JUNGERMAN FAMILY IRREVOCABLE TRUST,
APPELLANT

DOCKET NUMBER WD84048

DATE: MAY 25, 2021

Appeal from:

The Circuit Court of Jackson County, Missouri
The Honorable Kevin D. Harrell, Judge

Appellate Judges:

Division One: Anthony Rex Gabbert, Presiding Judge, Edward R. Ardini, Jr. Judge and Thomas N. Chapman, Judge

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Attorneys:

Julie J. Gibson, for Respondents

Kate McKinney, for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
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EMILY RIEGEL, ALLAN PICKERT AND JOANN PICKERT, RESPONDENTS
v.
DAVID G. JUNGERMAN, AS TRUSTEE OR CO-TRUSTEE OF THE JUNGERMAN FAMILY IRREVOCABLE TRUST, APPELLANT

WD84048 Jackson County, Missouri

Division One: Anthony R. Gabbert, Presiding Judge, Edward R. Ardini, Jr., Judge and Thomas N. Chapman, Judge

The plaintiffs in this wrongful death action are the surviving spouse and parents of attorney Thomas Pickert ("Plaintiffs"). They initiated this action in May 2018, alleging that Defendant David Jungerman shot and killed Pickert on October 25, 2017, after Pickert obtained a multi-million-dollar judgment for his client against Jungerman. Plaintiffs also alleged that Jungerman conspired with the other defendants to hide and transfer assets to defraud creditors, including Plaintiffs. The other defendants included Jungerman in his capacity as trustee or co-trustee of the Jungerman Family Irrevocable Trust ("Trust"); Jungerman's daughter, Angelia Buesing, individually and in her capacity as trustee or co-trustee of the Trust; and two corporations, Jungerman Farm Corporation and Baby-Tenda Corporation.

In October 2019, Plaintiffs, Buesing—individually and as trustee of the Trust—and the Farm Corporation ("the settling parties") advised the trial court that they would be seeking court approval of a Confidential Partial Wrongful Death Settlement Agreement on November 21, 2019. Jungerman moved to continue the settlement hearing, asserting that he, as the trustee, was required to approve any settlement involving the Trust and he had not agreed to the proposed settlement. The settling parties opposed Jungerman's motion to continue, arguing that he lacked standing to object to the settlement because he was no longer trustee of the Trust, referencing a document executed by Jungerman and Buesing in April 2018 in which Jungerman resigned as trustee and appointed Buesing as successor trustee.

At the November 21, 2019 hearing, the trial court received evidence on the issue of Jungerman's status as trustee, which included the Trust Agreement, the April 2018 resignation document, and the testimony of Buesing and the sheriff who notarized the resignation document. The trial court then continued the settlement hearing to give the parties an opportunity to fully brief the issue of Jungerman's standing to object to the settlement.

In May 2020, after the parties submitted briefing, the trial court entered an order overruling Jungerman's objection to the partial settlement agreement. The trial court found that Jungerman's April 2018 resignation as trustee was valid and enforceable, Jungerman had no power or authority

to approve or disapprove the partial settlement agreement, and Buesing was the trustee with full power and authority to settle on behalf of the Trust.

The settlement approval hearing occurred in August 2020, and thereafter the trial court entered its judgment approving the confidential partial settlement agreement. Jungerman appealed from that judgment in his capacity as alleged trustee, asserting the trial court erred in finding he lacked standing to challenge the settlement agreement and failed to timely object to the settlement. Plaintiffs moved to dismiss Jungerman's appeal for lack of standing.

DISMISSED.

Division One holds:

1) Jungerman lacks standing to bring this appeal. Even assuming Jungerman were still the trustee (which we do not determine because we do not reach the merits of the appeal), he would not be aggrieved by the trial court's judgment denying him the opportunity to frustrate the settlement, as the judgment did not operate prejudicially and directly on any personal or property rights or interest Jungerman would have held in his capacity as trustee.

2) Plaintiffs' motion to dismiss Jungerman's appeal is granted.

Opinion by: Edward R. Ardini, Jr., Judge Date: May 25, 2021

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