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Wilson v. Lawrence: Ohio Supreme Court Upholds Strict Interpretation of Statute Governing Presentment of Claims Against Estates; Rejects Argument of Substantial Compliance

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Creditors of Ohio estates have little room for error under a decision handed down by the Supreme Court of Ohio on April 19, 2017. This decision is a striking announcement of strict construction of critical importance not only to creditors but also to executors and administrators of estates and the lawyers who represent them.

The *Wilson* case concerned the application of the long-standing Ohio statute that requires a claim against an estate to be "presented" to the executor or administrator of a deceased person's estate "in a writing" within six months of the decedent's death. A creditor—owed \$200,000 on a contract with the decedent—sent a written claim to someone other than the executor (the decedent's personal secretary and trustee of his trust) but with the salutation "to the heirs, administrators or executors of the Estate . . .". The evidence showed that the letter had been forwarded on to the duly-appointed executor within the required six month time period. But this was not enough; the creditor's claim failed. The Supreme Court held: "delivery of the claim to a person not appointed by the probate court who gives it to the executor or administrator fails to present a claim against the estate."

The 6-1 majority opinion, authored by Chief Justice O'Connor, found that RC 2117.06(a)(1)(a) was unambiguous in its requirement that creditors "shall present their claims . . . to the executor or administrator." The creditor's "substantial compliance" with the statute was insufficient to present a claim. The majority specifically dismissed the idea of a "softened standard" for presentment of claims under the statute, noting that no court has the authority to ignore plain and unambiguous statutory language.

Justice O'Neill dissented, writing that a jury could reasonably conclude that the creditor met the requirements of R.C. 2117.06 because the creditor sent his written claim in a manner "reasonably calculated" to get it "to" the executor. Under Justice O'Neill's reading of the statute, a

letter directed in the salutation line to the executor that makes its way to the executor prior to the notice deadline would satisfy the requirements of R.C. 2117.06 because the writing was presented "to" the executor.

According to the dissent, the majority opinion leaves open the question of whether sending a written claim by private courier fails under majority's rule: "[m]ust creditors now track down the executor on the seventh hole of the local country club and physically hand the claim to the executor to establish that the claim was 'presented'?"

The majority's opinion does not say that transmission of a claim by U.S. Mail or private courier addressed to the executor or administrator would be insufficient to present a claim under the statute. But the majority offers no response to the dissent's question "[w]ould sending a written claim by FedEx or private courier fail the majority's rule?" The majority's opinion also notes that the claim was not presented to the executor "or [his attorney]," but does not speak conclusively to whether a creditor may present a claim to an executor through the executor's attorney. Indeed, in an effort to state a common-sense, bright-line interpretation of the statute, the majority opinion leaves unanswered questions that may give rise to future litigation or require legislative clarification.

Whether you are an executor or administrator of an estate who receives a claim from a creditor, are owed money by someone who has died, or are an attorney with questions about this decision means for your practice and your clients, contact a Vorys attorney regarding the application of this remarkable decision.

The decision is *Wilson v. Lawrence*, Slip Opinion No. 2017-Ohio-1410.