

[Cite as *In re Estate of Demsey*, 2016-Ohio-8152.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 104398

IN RE: ESTATE OF LOUISE J. DEMSEY

[Appeal by Kenneth J. Demsey]

**JUDGMENT:
AFFIRMED**

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Probate Division
Case No. 2010 EST 0160457

BEFORE: S. Gallagher, J., Kilbane, P.J., and Stewart, J.

RELEASED AND JOURNALIZED: December 15, 2016

FOR APPELLANT

Kenneth J. Demsey, pro se
P.O. Box 29195
Parma, Ohio 44129

ATTORNEY FOR APPELLEE

S. Robert E. Lazzaro
Costanzo & Lazzaro
13317 Madison Avenue
Lakewood, Ohio 44107

Also listed:

Kevin Demsey, pro se
21440 East 104th Street
Broken Arrow, Oklahoma 74014

Nancy Demsey Daniels, pro se
4847 Dameuly Drive
Hilliard, Ohio 43026

Sharlene Haberek, pro se
155 Cobblestone Lane
Springboro, Ohio 45066

Jean McLeod, pro se
306 Mariana Avenue
Midland, Texas 79701

SEAN C. GALLAGHER, J.:

{¶1} This appeal, involving a probated estate, is a companion to 8th Dist. Cuyahoga No. 104400, filed the same day. Both appeals were filed on behalf of Kenneth J. Demsey, and the notices of appeal attached separate trial court orders issued on April 4, 2016. The notice of appeal in 8th Dist. Cuyahoga No. 104400 expressly indicated that Demsey was appealing the imposition of sanctions imposed upon him and his counsel following an evidentiary hearing, while the notice of appeal in this appeal expressly appealed the overruling of objections to a magistrate's order dated March 22, 2016, heard upon the briefing. Demsey's attorney withdrew from this appeal, and Demsey is proceeding pro se. The pro se brief in this case, however, is a photocopied version of the appellate brief filed by counsel in 8th Dist. Cuyahoga No. 104400.

{¶2} The orders appealed in the companion cases are not related and do not involve overlapping legal issues. In the objections order, the subject matter of this appeal, the trial court overruled objections to a magistrate's decision and approved an application for attorney fees filed by the estate's counsel, covering over 60 hours of work and some miscellaneous expenses for a total of \$9,765.00 in fees and \$181.95 in expenses. The trial court also allocated the beneficiaries' share of the fees and expenses that were all covered by the estate. In the sanctions order, as is pertinent to that appeal,

the trial court imposed over \$2,000 in attorney fees awarded against Demsey and his attorney jointly and severally based on a motion for sanctions under Civ.R. 11.

{¶3} The duplicated brief addresses the Civ.R. 11 sanctions, requested in response to Demsey's belated objections to the accounting of the estate's assets. The trial court held a hearing on the sanctions matter, in which several evidentiary objections were advanced. The focus of the issues raised in the brief are those evidentiary objections and the grounds to file the belated objections under Civ.R. 11. The brief does not address any approved fees charged to the estate, the subject matter of this appeal.

{¶4} Accordingly, the photocopied brief fails to comply with the requirements of App.R. 16. An appellant's brief must, among other requirements, contain the following as relevant to the order and proceedings appealed: (1) a statement of the assignments of error presented for review, with reference to the place in the record where each error is reflected; (2) a statement of the issues presented for review, with references to the assignments of error to which each issue relates; (3) a statement of the case briefly describing the nature of the case, the course of proceedings, and the disposition in the court below; (4) a statement of facts relevant to the assignments of error presented for review, with appropriate references to the record; (5) an argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons in support of the contentions, with citations to the authorities, statutes, and parts of the record on which appellant relies; and (6) a conclusion briefly stating the precise relief sought. In light of the fact that the substantive portion of the photocopied

brief addresses an order and a trial court proceeding not relevant to the subject matter of the order appealed in this case, we have no arguments upon which to review the appeal for any error. App.R. 16(A)(7).

{¶5} Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

SEAN C. GALLAGHER, JUDGE

MARY EILEEN KILBANE, P.J., and
MELODY J. STEWART, J., CONCUR