

1 CONSOLIDATED TRIAL COURTS OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SAN BERNARDINO

3 DEPARTMENT R-3

HON. PETER NORELL, JUDGE

4 RAY WEBB, et al.,)

5 PLAINTIFFS,)

6 vs.)

VCV 013127

7 MARGARET JACKSON, et al.,)

8 DEFENDANTS.)

9
10 REPORTER'S TRANSCRIPT OF ORAL PROCEEDINGS

11 OCTOBER 10, 2001

12 HONORABLE PETER NORELL, JUDGE PRESIDING

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OFFICIAL REPORTER

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RANCHO CUCAMONGA, CALIFORNIA; WEDNESDAY, OCTOBER 10, 2001

1:44 P.M.

DEPARTMENT R-3

HON. PETER NORELL, JUDGE

APPEARANCES:

(STANLEY HODGE and RICHARD ANDREWS, Attorneys at law, appearing on behalf of the Plaintiffs; DAVID SANNER, Attorney at Law, appearing on behalf of the Defendants.)

(JILL L. LANGLEY, CSR #7663, OFFICIAL REPORTER)

THE COURT: In the matter of Ray Webb versus Margaret Jackson, Victorville Case Number 013127.

Appearances, please?

MR. HODGE: Stan Hodge appearing for the Plaintiff.

MR. ANDREWS: Richard Andrews for the Plaintiff.

MR. SANNER: David Sanner for the Defendants.

THE COURT: This matter is here for trial. We've had discussions in trying to resolve it. Those at this point in time have not been fruitful.

The Court received motions in limine to do a number of different things on both sides. I have read the motions. I have reply briefs filed in most of the oppositions to the motions. I have spent the last two days researching those, looking at those issues. At this time, I'm prepared to rule.

The first one of major import is the motion by defense to exclude the evidence on the 190 -- 190 shares that are held by the executor of the estate of Riley or J. Riley Jackson; is that right?

MR. SANNER: Yes, your Honor.

1 THE COURT: Do you believe -- do you believe, Mr.
2 Sanner, those are based upon CCP 168.2 and they had to bring
3 it within one year of the death unless there was some tolling
4 taken by the executor? That's what the cases say.

5 MR. SANNER: Unless there was conduct that would
6 constitute estoppel from asserting that statute.

7 THE COURT: Mr. Hodge, you don't think there was
8 some estoppel or you don't think that statute applies?

9 MR. HODGE: We think the evidence will show there
10 was estoppel based upon the conduct of Mrs. Jackson.

11 THE COURT: Where is that in your pleadings?

12 MR. HODGE: That's in my opposition to his, and we
13 asserted what that conduct consisted of.

14 THE COURT: I don't know if you all read the Court
15 of appeal case in the Bradley versus Brynn matter, which is
16 73 Cal. Ap. 4th, 798. But if you look at that case and
17 this -- that was even a case in which the -- there was an
18 issue against an estate for equitable indemnity on a
19 cross-complaint. Normally, equitable indemnity doesn't arise
20 until there's been a loss or somebody has paid a loss. The
21 Court went so far as to say that the statute is one year to
22 bring a claim or file a claim against the estate, or to bring
23 a lawsuit. And what you said, unless you can show conduct by
24 decedent's representative to induce you not to proceed with
25 suit.

26 So I'm going to grant the motion in limine as to
27 the 190 shares that belonged to the executor of the estate of
28 J. Riley Jackson. So we will not take any evidence in this

1 trial as it relates to those 190 shares.

2 Okay. Now, Mr. Hodge, you wanted me to take
3 judicial notice of a couple -- of the Ray Webb versus Sunbelt
4 Television, Inc., case, correct?

5 MR. HODGE: Yes.

6 THE COURT: That has to do with the other 190
7 shares, if you will, and proceedings that took place in
8 Victorville about --

9 MR. HODGE: Seeking court records.

10 THE COURT: -- seeking records on a lawsuit that
11 was filed a long time prior to this one.

12 MR. HODGE: Petition for writ of mandate.

13 THE COURT: Right. And you attached copies of -- I
14 believe of --

15 MR. HODGE: Testimony.

16 THE COURT: -- the petition signed or something was
17 signed. Mr. Porter represented your client at that time?

18 MR. HODGE: Correct.

19 THE COURT: That was against Sunbelt Television.

20 MR. HODGE: Right.

21 THE COURT: And there was some order signed by
22 Judge Powers of the Superior Court.

23 MR. HODGE: Right.

24 THE COURT: I think was that in '99 or when was
25 that?

26 MR. HODGE: That was in '90 -- starting I think in
27 '96.

28 THE COURT: From the copy you gave me, I couldn't

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see the date on the document. Although it appears to be '90 --

MR. HODGE: It started on September 30th of '94.

THE COURT: I just can't tell from the stamps on the documents when those things occurred.

MR. HODGE: It started in '94 went through '96.

THE COURT: Was there any particular objections to the Court taking judicial notice of the contents of those files? I didn't see anything.

MR. SANNER: No.

THE COURT: So that motion is granted for the Court to take judicial notice of those files. I believe we have those files here someplace. We'll find them if we don't.

The next matter has to do with a motion by Mr -- let me get the right one here -- Mr. Hodge. The motion -- excuse me. Here it is. You didn't number these so I got a little -- you want a motion in limine and order that the 200 shares issued to Defendant Margaret Jackson on April 19, '94 are no longer at issue in this trial and that's based upon what?

MR. HODGE: That's that they were issued without consideration, and that they were subsequently rescinded by motion of the board of directors followed by action by the shareholders.

THE COURT: And, Mr. Sanner, you oppose that, correct?

MR. SANNER: Yes, your Honor.

THE COURT: You gave me quite a lengthy -- you

1 wanted a separate trial on statute of limitations as well.

2 You claim that what you said on the record was not
3 a judicial admission when you said something about mutual
4 mistake; is that correct?

5 MR. SANNER: Yes, your Honor. That whole
6 discussion revolved around trying to settle that portion of
7 the case so that those shares would no longer be an issue in
8 the trial.

9 THE COURT: Uh-huh.

10 MR. SANNER: And despite my client's wanting to
11 settle that, and despite my conveying that to the Court, and
12 the reasons why we were willing to do that, that settlement
13 offer was rejected.

14 THE COURT: Okay. Well, the stock was issued at a
15 meeting on April 19, 1994, correct?

16 MR. HODGE: Yes.

17 MR. SANNER: Right.

18 THE COURT: And then there was a ruling of Judge
19 Fleuret on July 18, 1998, that dealt with that matter. There
20 was a subsequent stockholders meeting on July 7th, 1998, the
21 day before Judge Fleuret's ruling, in which the -- not
22 shareholders, but a board meeting, with the board, with Mrs.
23 Jackson being a member of the board, and signing the
24 documents that said the shares were to be rescinded based
25 upon mutual mistake. I think it was a phrase actually used
26 in the minutes.

27 Then there was a subsequent meeting on August 2nd
28 of 2001, of the shareholders, with Mrs. Jackson not being

1 allowed to vote her 200 shares based upon the judgment of
 2 Judge Fleuret, and then went back in again, when the CA did
 3 reinstate it. So that was in effect on the August 22nd, 2001
 4 shareholders' meeting, and again the shareholders voted to,
 5 as I understand, rescind those shares. And something has to
 6 happen. It states right there in the minutes what happens
 7 when these are rescinded, that the consideration, which I
 8 believe, was the television station and certain assets of Ms.
 9 Jackson should have taken place back July 7th, of '98, I
 10 believe.

11 In that case, looking at all the documentation of
 12 this case, and regardless of whether they were to go to the
 13 jury or not.

14 I'm going to rule that those 200 shares of Margaret
 15 Jackson have been rescinded by the directors of the board of
 16 Sunbelt Television, Incorporated; that they are at this time
 17 rescinded as a matter of law, and the corporation obviously
 18 is required by law to complete their portion of the
 19 rescission, which is to return to Mrs. Jackson and/or at this
 20 point in time I guess she has a conservator that's either
 21 appointed or being appointed that that be returned to her as
 22 well.

23 With those rulings of the Court, let me suggest to
 24 you, Counsel, and your clients, who are all here today, and
 25 we even have, I think, people representing the minority
 26 shareholders, although they're not part of this lawsuit per
 27 se, that perhaps you now take some additional time and decide
 28 whether you want to still resolve this matter or what you