PLAINTIFF NEED NOT SHOW THAT FAILURE TO NAME A REAL PARTY IN INTEREST WAS DUE TO MISTAKE

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Preston v. Kindred Hospitals West, L.L.C.
Arizona Supreme Court, March 24, 2011

Authored by the JSH Appellate Team

Personal representatives on behalf of musician Billy Preston's Estate sued the Hospital for wrongful death, negligence, and elder abuse. Before his death, Preston had commenced a bankruptcy proceeding that continued after his death. The hospital moved to dismiss the complaint, arguing that the claim belonged to the bankruptcy estate, and therefore the bankruptcy trustee was the real party in interest. The estate moved to substitute in the bankruptcy trustee. The trial court denied the motion and dismissed the complaint because the real party in interest had not been difficult to determine; the personal representatives knew about the bankruptcy. The court of appeals reversed, which the supreme court affirmed, thus allowing the substitution of the trustee for the decedent's estate. The plain language of Rule 17(a) does not require that the failure to name a real party in interest was due to understandable mistake or difficult identification.