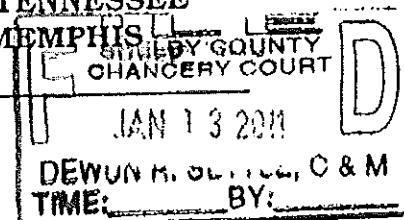


IN THE CHANCERY COURT OF SHELBY COUNTY, TENNESSEE  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS



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ELIZA A. PRESLEY,

Plaintiff,

v.

CASE NO: CH-09-1696-2

LISA MARIE PRESLEY-LOCKWOOD,  
the SURVIVING HEIRS OF VERNON E. PRESLEY  
and UNKNOWN HEIRS OF VERNON E. PRESLEY,

Defendants.

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**PLAINTIFF'S MEMORANDUM IN OPPOSITION TO  
MOTION FOR SUMMARY JUDGMENT**

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Plaintiff seeks in this matter to be recognized as the daughter of Vernon E. Presley. Plaintiff brought this action in equity, naming Defendants: Lisa Marie Presley-Lockwood, the Surviving Heirs of Vernon E. Presley and the Unknown Heirs of Vernon E. Presley." Plaintiff hereby responds to Defendant Lisa Marie Presley-Lockwood's Motion for Summary Judgment as follows:

The opposing counsel, William R. Bradley, on behalf of the "named defendant," has filed an Answer to Plaintiff's Complaint, and the instant Motion for Summary Judgment. He asserts that his client is Lisa Marie Presley-Lockwood. He has represented to the Court that he has represented both Mrs. Presley-Lockwood and Elvis Presley Enterprises for many years.

In any case, this Court must construe the Answer and pending Motion for Summary Judgment as filed only on behalf of Mrs. Presley-Lockwood. Whatever the Court rules, as to Mrs. Presley-Lockwood, the plain fact remains: no unknown heirs have filed an Answer to Plaintiff's Complaint.

#### **STATEMENT OF FACTS**

Defendant has spent considerable effort outlining "facts" about Elvis A. Presley, most of which are irrelevant. What is relevant is that Vernon E. Presley died testate on June 26, 1979. His Last Will and Testament was admitted to probate on June 26, 1979 (the very date of his death. Vernon E. Presley left a Residuary Trust. Defendant suggests that Elvis A. Presley also left a Residuary Trust. What is omitted in Defendant's Statement of Fact is that Vernon E. Presley was a named beneficiary under Elvis Presley's Residual Trust. Plaintiff contends said trust still exists. Therefore, even though Vernon E. Presley's estate was closed on September 1, 1985, Vernon E. Presley's interest in the Residual Trust under Elvis A. Presley's will has not been distributed.

#### **ALICE ELIZABETH TIFFIN**

Plaintiff admits that most of this paragraph is true as far as stated. She denies, however, the blatant hearsay as purportedly stated by Florence Juanita Sharp. Said statements are not made under oath, nor by deposition. Plaintiff has never been treated well by her natural mother, but instead with actual loathing.

### STATEMENT OF [PROBATE] PROCEEDINGS

Plaintiff did file a Petition before the Probate Court of Shelby County, Tennessee. What Defendant did not relate to the Court in the instant matter is that before any process was served or published, indeed at the first hearing before the Court, William Bradley appeared on behalf of Elvis Presley Enterprises, armed with a motion to dismiss the petition. The issues were never truly joined. No ruling was made by the Probate Court. Plaintiff non-suited the matter before the Probate Court.

### CONTENTIONS

The "factual" assertions regarding whether Elvis A. Presley is alive are not relevant to the issues before this Court. Indeed the testimony proffered by Defendant was irrelevant and immaterial to the Probate Court. The transcript below shows that Mr. Bradley made his appearance in Court on behalf of Elvis Presley Enterprises, with no pleading having been filed prior to said hearing. He was allowed by the Probate Judge to participate in said hearing, including to cross-examine the Petitioner, against Plaintiff's attorney's strenuous objections. He had no standing to participate. He insisted on asking questions to Eliza Presley about Elvis A. Presley. She answered truthfully to the best of her knowledge.

It is correct that Eliza A. Presley was given away for adoption by her natural mother. What is not correct is that her natural father also

did so. Her natural father [whoever he is] never released her for adoption.

**SUMMARY JUDGMENT STANDARD**

Plaintiff does not repeat the standard for summary judgment in Tennessee but relies on the same cases cited by Defendant.

**ISSUE OF PARENTAGE IS MATERIAL**

The case of Presley v. Hanks, 782 S.W. 2d 482 (Tenn. Ct. App. 1989) is not determinative in the instant matter.

Plaintiff brings this action to determine if she is the biological child of Vernon E. Presley. Her claim is the direct opposite of the claim in the Hanks case.

**WHETHER PARENTAGE CLAIM IS BARRED BY T.C.A. § 36-2-305**

Plaintiff did not discover who her father was until the Summer of 2008. She filed within three (3) months of learning that Vernon E. Presley was her father. T.C.A. § 36-2-306 (a) provides:

An action to establish the parentage of a child may be instituted before or after the birth of the child and until three (3) years beyond the child's age of majority. The provisions of this chapter shall not affect the relationship of parent and child as established in 31-2-105.

She then filed in Probate, then dismissed or non-suited. She then re-filed in Chancery within one (1) year. The instant case was timely filed.

**WHETHER CLAIM BARRED BECAUSE OF ADOPTION  
AND UNTIMELINESS**

There is no dispute apparently: Plaintiff was a child born out of wedlock. Plaintiff filed her action in Probate, and thereafter in Chancery, quite quickly after learning who her father was.

Plaintiff contends that she is among the "issue" of Vernon Presley. She relies on the definition of issue, per Tenn. Code Ann. § 31-1-101(6), which in pertinent part reads:

"Issue of a person means all the person's lineal descendants (adopted as well as natural born)...

This section is vital, because under the Tennessee statutes governing intestacy, the intestate person's heirs are defined as his "surviving issue." T.C.A. § 31-2-104

One other statute is vital in the instant matter: T.C.A. § 36-1-121(e) provides:

An adopted child shall not inherit real or personal property from a biological parent or relative thereof when the relationship between them has been terminated by final order of adoption, nor shall such biological parent or relative thereof inherit from the adopted child. Notwithstanding the provisions of subsection (a), if a parent of a child dies without the relationship of parent and child having been previously terminated and any other person thereafter adopts the child, the child's right of inheritance from or through the deceased biological parent or any relative thereof shall be unaffected by the adoption.

Vernon E. Presley never took affirmative action to release his parental rights to Eliza Presley. Only her mother did so. See Affidavit of Eliza A.

Presley. Therefore, Plaintiff contends that absent a full and correct termination, or release of rights, Eliza does have the right of inheritance from Vernon E. Presley.

**CLAIM NOT BARRED BECAUSE INHERITANCE RIGHTS VESTED**

Plaintiff has already addressed the timeliness issue. Plaintiff was not a "creditor." She had no knowledge that she was related to Vernon E. Presley in 1979. Only in 2008 did she learn he was her father. She acted promptly to assert that Vernon E. Presley was her father.

As demonstrated above, Vernon E. Presley's estate still holds assets, namely a portion of assets left to him by his son Elvis A. Presley. Said "portion" still exists, and has not been distributed. It continues to grow, with additional funds coming into it on a regular basis. Thus, the right of inheritance have not fully vested.

Plaintiff agrees that she is not a pretermitted child.

**VERNON E. PRESLEY DIED TESTATE**

It is correct that Vernon E. Presley died testate. Plaintiff does not attempt to make a claim against the Estate of Elvis A. Presley.

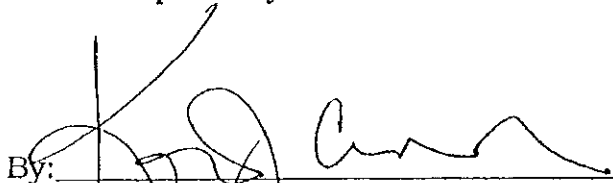
**SERVICE OF PROCESS ISSUE**

Although not addressed in Defendant's Memorandum, there are allegations of insufficiency of process. Plaintiff contends that she served all Defendants by publication.

**CONCLUSION**

For the reasons above, there exist material issues of fact precluding summary relief as to Lisa Marie Presley-Lockwood. Plaintiff files herewith her Affidavit. Further, Plaintiff contends that without amply time for discovery as requested in the status conference, she is essentially facing a dispositive motion under circumstances which prejudice her claims greatly.

Respectfully submitted,

By: 

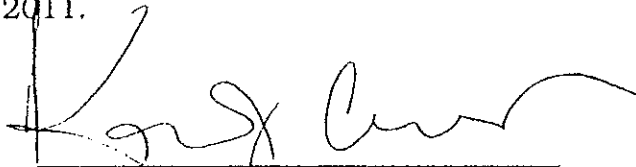
Kathleen L. Caldwell, #9916  
2670 Union Avenue Extended  
Suite 110  
Telephone: (901) 458-4035  
Facsimile: (901) 458-4037

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been hand delivered to the following:

**William R. Bradley, Jr., Esq.  
1700 One Commerce Square  
Memphis, TN 38103**

This 13<sup>th</sup> day of January, 2011.

  
\_\_\_\_\_  
Certifying Attorney