

CHAPTER II

NAMES

STANDARD 2.1

RULE OF *IDEM SONANS*

STANDARD: DIFFERENTLY SPELLED NAMES ARE PRESUMED TO IDENTIFY THE SAME PERSON IF THEY SOUND ALIKE, OR IF THEIR SOUNDS CANNOT BE DISTINGUISHED EASILY, OR IF COMMON USAGE BY CORRUPTION OR ABBREVIATION HAS MADE THEIR PRONUNCIATION IDENTICAL.

Problem: Blackacre was deeded to Lawrence Emery and Fredrick Stephens. A deed describing Blackacre was later executed by Laurence Emory and Frederick Stevens as grantors. May the names of the grantees and grantors be presumed to identify the same persons?

Answer: Yes.

Authorities: *Kinney v Harrett*, 46 Mich 87, 8 NW 708 (1881); *Detroit v Macier*, 117 Mich 76, 75 NW 285 (1898); *Ensley v Coolbaugh*, 160 Mich 229, 125 NW 279 (1910); *LeBoeuf v Papp*, 243 Mich 318, 220 NW 792 (1928).

STANDARD 2.2

PRESENCE OR ABSENCE OF MIDDLE NAME AND INITIAL

STANDARD: THE PRESENCE IN ONE INSTRUMENT AND THE ABSENCE IN ANOTHER OF A MIDDLE NAME OR INITIAL DOES NOT ITSELF CREATE A QUESTION OF IDENTITY.

Problem A: Blackacre was deeded to Lawrence Emery. A deed describing Blackacre was later executed by Lawrence J. Emery. May the names of the grantee and grantor be presumed to identify the same person?

Answer: Yes.

Problem B: Blackacre was deeded to Lawrence Emery. A deed describing Blackacre was later executed by Lawrence Joseph Emery. May the names of the grantee and grantor be presumed to identify the same person?

Answer: Yes.

Problem C: Blackacre was deeded to Lawrence J. Emery, of Los Angeles, California. A deed describing Blackacre was later executed by Lawrence Joseph Emery, of Buffalo, New York. May the names of the grantee and grantor be presumed to identify the same person?

Answer: No. Based upon the disparity in the stated addresses, further inquiry into the identity of the grantee and grantor is warranted.

Authorities: *People, ex rel Jochim v Kennedy*, 37 Mich 67 (1877); *Berkery v Wayne Circuit Judge*, 82 Mich 160, 46 NW 436 (1890).

STANDARD 2.3

ABBREVIATIONS

STANDARD: ALL CUSTOMARY AND GENERALLY ACCEPTED ABBREVIATIONS OF FIRST AND MIDDLE NAMES APPEARING IN RECORDED INSTRUMENTS SHOULD BE RECOGNIZED AS EQUIVALENT TO THE FULL NAME.

Problem: Blackacre was conveyed by a deed reciting L. Joseph Emery as the grantee. A deed describing Blackacre was later executed reciting L. Jos. Emery as the grantor. May the names of the grantee and grantor be presumed to identify the same person?

Answer: Yes.

Authorities: *People v Tisdale*, 1 Doug 59 (1843). See also, *Standard v Jewell*, 206 Mich 61, 172 NW 407 (1919).

STANDARD 2.4

RECITAL OF IDENTITY

STANDARD: A RECITAL OF IDENTITY MAY BE PRESUMED TO BE TRUE IF STATED IN AN INSTRUMENT EXECUTED BY THE PERSON WHOSE IDENTITY IS RECITED.

Problem A: Blackacre was deeded to Joe Emery. A deed describing Blackacre was later executed by J. Lawrence Emery, also known as Joe Emery, as grantor. May the names of the grantee and the grantor be presumed to identify the same person?

Answer: Yes.

Problem B: Blackacre was deeded to Laura Emery. A mortgage of Blackacre was later executed by Laura Graham, formerly Laura Emery. May the mortgagor be presumed to be the same person as the grantee of the prior deed?

Answer: Yes.

Authorities: *Botsford General Hospital v Citizens Insurance Co.*, 195 Mich App 127, 489 NW2d 137 (1992). See, MRE 803(15).

STANDARD 2.5

EFFECT OF SUFFIX

STANDARD: AN ADDITION OF A SUFFIX SUCH AS “JR” OR “II” TO THE NAME OF A SUBSEQUENT GRANTOR REBUTS THE PRESUMPTION OF IDENTITY WITH A PRIOR GRANTEE OTHERWISE ARISING FROM IDENTITY OF NAME.

Problem: Blackacre was deeded to Lawrence Emery. A deed describing Blackacre was later executed by Lawrence Emery, Jr. May the names of the grantee and the grantor be presumed to identify the same person?

Answer: No. The use of the word “Jr.” in the later deed warrants further inquiry into the identity of the grantee and grantor.

Authority: *Dehn v Dehn*, 170 Mich 407, 136 NW 453 (1912).

Comment: If a father and son have the same name, a conveyance is presumed to be in favor of the father in the absence of language in the conveyance evidencing intent to make the son the grantee. *Goodell v Hibbard*, 32 Mich 47 (1875).

STANDARD 2.6

VARIANCE IN NAME OF INDIVIDUAL

STANDARD: IF THE SIGNATURE ON A CONVEYANCE IS IDENTICAL TO THE NAME STATED IN THE ACKNOWLEDGMENT, A DISCREPANCY IN THE NAME OF THE CONVEYING PARTY AS STATED IN THE BODY OF THE CONVEYANCE MAY ORDINARILY BE DISREGARDED.

Problem A: A deed describing Blackacre was signed and acknowledged by Helen Stone. The body of the deed identified the grantor as Hilda Stone. May the discrepancy between the name of the grantor as stated in the body of the deed and in the signature and acknowledgment be disregarded?

Answer: Yes.

Problem B: A deed describing Blackacre was signed by Hilda Stone but the name stated in the acknowledgment was Helen Stone. The body of the deed identified the grantor as Helen Stone. May the discrepancy between the signature and the name in the acknowledgment be disregarded?

Answer: No. The deed purporting to be signed by Hilda Stone but acknowledged by Helen Stone is not admissible to prove a conveyance by Helen Stone without proof that the grantor was known by both names. In the absence of such evidence, there can be no presumption that Hilda Stone and Helen Stone are the same person.

Authorities: Problem A: *Cameron v Culkins*, 44 Mich 531, 7 NW 157 (1880); *Donohue v Vosper*, 189 Mich 78, 155 NW 407 (1915); *aff'd* 243 U.S. 59 (1917); *Hall v Hall*, 190 Mich 100, 155 NW 695 (1916).

Problem B: *Boothroyd v Engles*, 23 Mich 19 (1871).

Comment A: An instrument of conveyance containing a discrepancy between (a) the name of the conveying party as stated in the body of the instrument, (b) the signature, or (c) the name stated in the acknowledgment is not entitled to be recorded; but if recorded, the instrument is con-

clusively presumed to comply with the statutory recording requirements as to identity of names. MCL 565.201(1)(b).

Comment B: Evidence that a grantor was known by two different names set forth in an instrument may be established by an affidavit as to the grantor's identity. MCL 565.451a.

STANDARD 2.7

VARIATION IN CORPORATE NAME

STANDARD: A VARIATION IN A CORPORATE NAME ARISING THROUGH THE USE OR NON-USE OF A COMMONLY RECOGNIZED ABBREVIATION SUCH AS “CO.,” “INC.,” “CORP.,” “LTD.,” “P.C.,” OR “&”, OR THE OMISSION OR INCLUSION OF THE WORD “THE”, MAY BE DISREGARDED UNLESS AN EXAMINER IS OTHERWISE PUT ON INQUIRY.

Problem A: Blackacre was deeded to Star Company, a Michigan corporation, which was the correct name of the grantee. A deed describing Blackacre was later executed by The Star Co., a Michigan corporation. May the names of the grantor and grantee be presumed to identify the same corporation?

Answer: Yes.

Problem B: Blackacre was deeded to Stars & Stripes Flag Company, Inc., a Michigan corporation. A deed describing Blackacre was later executed by Stars and Stripes Flag Company, Incorporated, a Michigan corporation, which was the correct name of the grantor. May the names of the grantor and grantee be presumed to identify the same corporation?

Answer: Yes.

Problem C: Star Corp., a Michigan corporation, was the grantee in a deed describing Blackacre and the grantor in a later deed describing Blackacre. The correct corporate name is The Star Corporation, a Michigan corporation. May the names Star Corp. and The Star Corporation be presumed to identify the same corporation?

Answer: Yes.

Authorities: *Bernard & Leas Mfg Co v Packard & Calvin, Ltd*, 64 F 309 (CA 3, 1894); *Beedy v Finney*, 118 Iowa 276, 91 NW 1069 (1902); *Seiberling v Miller*, 207 Ill 443, 69 NE 800 (1904); *Goldberg, Bowen & Co v Dimick*, 169 Cal 187, 146 P 672 (1915); *Seaboard Commercial*

Corp v Leventhal, 120 Conn 52, 178 A 922 (1935).

Comment: The statutes regulating corporate names permit the use of the abbreviations “Co.,” “Inc.,” “Corp.,” “Ltd.,” and “P.C.” MCL 450.1211 and 450.231.