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SUPREME COURT OF THE UNITED STATES

In the Matter of:

TULSA PROFESSIONAL COLLECTION)
SERVICES, INC.,) No. 36-1961
Appellant,)
v.)
JOANNE POPE, EXECUTRIX OF THE)
ESTATE OF EVERETT POPE, JR.,)
DECEASED)

Pages: 1 through 47

Place: Washington, D.C.

Date: March 2, 1988

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1 IN THE SUPREME COURT OF THE UNITED STATES

2 -----x

3 TULSA PROFESSIONAL COLLECTION :

4 SERVICES, INC., :

5 Appellant, :

6 v. : No. 86-1961

7 JOANNE POPE, EXECUTRIX OF THE :

8 ESTATE OF H. EVERETT POPE, JR., :

9 DECEASED :

10 -----x

11 Washington, D.C.

12 Wednesday, March 2, 1988

13 The above-entitled matter came on for oral argument
14 before the Supreme Court of the United States at 11:05 a.m.

15 APPEARANCES:

16 RANDALL E. ROSE, ESQ., Tulsa, Oklahoma; on behalf of the
17 Appellant.

18 PHILLIP K. SMITH, ESQ., Tulsa, Oklahoma; on behalf of the
19 Appellees.

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1 P R O C E E D I N G S

2 (11:05 a.m.)

3 CHIEF JUSTICE REHNQUIST: Mr. Rose, you may proceed
4 whenever you're ready.

5 ORAL ARGUMENT OF RANDALL E. ROSE, ESQ.

6 ON BEHALF OF THE APPELLANT

7 MR. ROSE: Thank you, Mr. Chief Justice, and may it
8 please the Court:

9 The nature of the case to be presented in this
10 argument involves a challenge to the constitutionality of
11 certain Oklahoma statutes providing for notice by publication
12 to creditors in a probate proceeding.

13 Section 331 of Title 58 of the Oklahoma Statutes sets
14 forth that notice provision. The sole notice provided is a
15 notice by publication.

16 The Appellant, here and after referred to as TPCS,
17 challenged the constitutionality of this statute for failing to
18 provide a meaningful notice to creditors in the context of a
19 probate proceeding that would afford due process as required by
20 the Fourteenth Amendment to the United States Constitution.

21 Upon review of the facts in this case and an
22 application of the Oklahoma statutory scheme, it will be clear
23 that current Oklahoma law does not provide a meaningful notice.
24 It is our position that an analysis of the relevant decisions
25 of this Court will require due process to be extended to known

1 or reasonably ascertainable creditors.

2 It is further our position that contrary to
3 assertions in various state supreme court decisions, that (1) a
4 creditor's interest in a probate proceeding is a property
5 right, (2) --

6 QUESTION: Mr. Rose, incidentally, did the decedent
7 die in the hospital?

8 MR. ROSE: Yes, he did, Your Honor.

9 QUESTION: Why weren't they then on some kind of
10 notice that there was an estate probably to be probated?

11 MR. ROSE: Well, that --

12 QUESTION: They certainly knew her address.

13 MR. ROSE: Yes, that's true, Your Honor. That
14 actually is the entire crux of this case. It is undisputed and
15 the statement of facts will have shown that the decedent died
16 in the hospital, and we had notice obviously that he died.

17 The question is not whether we had notice that he
18 died, but whether we had notice of the initiation of the
19 probate proceeding and the publication of the notice to
20 creditors to file their claims.

21 QUESTION: Was this a Tulsa hospital?

22 MR. ROSE: Yes, it was.

23 QUESTION: It is certainly a less sympathetic case
24 than if your creditor were off in New York or somewhere.

25 MR. ROSE: It is not the ideal case to present the

1 issue. However, again, the question is not whether we had
2 notice. No one has denied, it has been readily admitted, it's
3 a stipulated fact that we had notice that he died. In
4 Oklahoma, a probate case can be filed, Title 58, Section 22 of
5 the Oklahoma Statutes provides that a probate case can be filed
6 at any time after the death of the decedent.

7 QUESTION: Well, certainly, I've known of hospitals
8 that routinely watch the legal notices in legal newspapers --

9 MR. ROSE: That's correct.

10 QUESTION: -- or they go down and check the probate
11 office and get their claim in.

12 MR. ROSE: That's correct.

13 QUESTION: Your hospital just sat by and let it go,
14 even though the death was in Tulsa and even though the decedent
15 was a Tulsa resident.

16 MR. ROSE: Yes. It would appear that way on the
17 surface.

18 QUESTION: Well, isn't it so?

19 MR. ROSE: It is not so. If I may respectfully
20 disagree with you.

21 In this particular case, there was an additional
22 statutory procedure available, originally enacted in 1910, that
23 states that the representative of the estate must pay the
24 expenses of last illness and funeral expenses as soon as
25 practicable after the funds come into his hands.

1 QUESTION: Well, that is a peculiar Oklahoma quirk, I
2 suppose, but how does it really affect your case?

3 MR. ROSE: In that situation, it is not -- it has
4 historically been the case that you do not have to file a
5 creditor's claim to collect a bill --

6 QUESTION: The Supreme Court of Oklahoma held
7 otherwise in this case.

8 MR. ROSE: That's correct. That's correct.

9 Again, I think that the difficulty is in this case,
10 just as in this Court's decision in Mennonite Board of Missions
11 v. Adams in 1983, and although that was a closely-divided
12 decision in that case, the Court determined that the notice of
13 the delinquency of taxes was not the same thing as the notice
14 that the property was going to be sold.

15 In Oklahoma, in the Mennonite case, for example,
16 there is a time period, there was a time period within which
17 that tax sale would take place. In Oklahoma, because of the
18 nature of the statutes that we have to work with and as
19 provided in Section 22 of Title 58, that notice period, the
20 time within which to present your claim, can begin to run any
21 time from the date of death of the decedent until forever.

22 Now, there is some statutory construction of this
23 particular statute. There are specific cases that say three
24 years and five years and fifteen years and twenty-six years.
25 So, in certain specific cases, it has been as much as twenty-

1 six years before the probate case was filed.

2 QUESTION: And the later it goes, the less time you
3 have to file. As I recall, if it's five years after the death,
4 you only get one month after the notice is published instead of
5 two.

6 MR. ROSE: That's correct. That's correct.

7 QUESTION: So, you theoretically have to keep reading
8 the newspapers for --

9 MR. ROSE: That is the difficulty with the whole
10 case. You have to keep track of every debtor in every legal
11 publication, every newspaper that's defined as a legal
12 publication in Oklahoma, in every county in Oklahoma, and you
13 have to read every notice that's published, every day, in order
14 to keep track of a specific debtor.

15 And, again, because of the nature of the statutory
16 scheme in Oklahoma, you have to do that for five or ten or
17 fifteen or twenty years. I think the interesting thing about
18 Section 22 is that it says that the general statute of
19 limitations, the longest one that is available in Oklahoma of
20 five years, that general set of statutes of limitations from
21 one to five years for different causes of action, that statute
22 of limitations does not apply.

23 So, it's open. The probate case can be filed at any
24 time after the death.

25 QUESTION: Can you file a claim before the notice

1 goes out?

2 MR. ROSE: You can file a claim, but the difficulty
3 is in discovering that a probate case is filed. So, it's the
4 same situation.

5 QUESTION: You don't think that's so hard, do you?

6 MR. ROSE: Pardon me?

7 QUESTION: You don't really think that's so hard, do
8 you?

9 MR. ROSE: To determine whether the probate case is
10 filed? Well, the only method of doing -- well, you can call
11 the courthouse every day. You can call the court clerk's
12 office every day and ask them if a probate case had been filed
13 in the name of that decedent.

14 QUESTION: I would think particularly representing a
15 collection agency, as you do, that would be quite a staple of
16 their business.

17 MR. ROSE: Well, again, in the context of this case
18 and the way it arose, the fact that this Section 594 Title 58
19 had been relied on historically for the proposition that all
20 funeral expenses and expenses of last illness are supposed to
21 be paid, no mention of a claim, that is something that the
22 hospital had done.

23 I think the important thing is, and I think that this
24 is the thing that the Oklahoma Supreme Court looked at, why did
25 the Oklahoma Supreme Court take this case. Why did they decide

1 this issue. They could have said, well, wait a minute, they
2 had actual notice, so we're not going to decide the issue.

3 What they did say, though, on page 7-A of the
4 jurisdictional statement, they said that, well, the Court of
5 Appeals was wrong in saying that the Appellee didn't -- that
6 the Appellant didn't show that they didn't have actual notice.
7 They said that's not the burden of the Appellant.

8 The Appellee's burden is to show that the proper
9 notice was given. All the Appellee can say is we published and
10 that's what's required by statute. So, we've done everything
11 that we could.

12 QUESTION: You don't acknowledge you have actual
13 notice. Are you acknowledging that you had actual notice?

14 MR. ROSE: Of what? We had actual notice of the
15 death.

16 QUESTION: Of the death.

17 MR. ROSE: Because the --

18 QUESTION: The death doesn't start anything running
19 at all.

20 MR. ROSE: That's right. It starts nothing. Nothing
21 happens when the person dies necessarily.

22 QUESTION: You could say the same thing about the
23 creditor of a contract claim. He has actual notice that his
24 claim exists, but that's of no use until he knows that a
25 bankruptcy proceeding has started.

1 MR. ROSE: That's true, and I think that you may be
2 making reference to this Court's decision in the 1953 New York
3 v. New York-New Haven Railroad Company, where this Court
4 decided that mailed notice was required to creditors of that
5 debtor. That was a railroad reorganization case, but it was
6 not any different.

7 QUESTION: That was decided as a matter of
8 constitutional law?

9 MR. ROSE: I believe so. If -- in that case, it's --
10 the factual situation is extremely similar to the factual
11 situation in this case, and even still, in that case, and as a
12 result of the extension of the holding of that case under
13 current bankruptcy law, current bankruptcy rules provide that a
14 notice to creditors must be sent out within some statutory time
15 period, sixty days or something from the time of filing.

16 QUESTION: It just occurred to me, there's only one
17 probate court in Tulsa, isn't there?

18 MR. ROSE: That's correct.

19 QUESTION: So, it's only one court you have to watch?

20 MR. ROSE: That's correct. But, again, Justice
21 Marshall, you then have to call that courthouse every day for
22 -- no. That's true. You just have to continue to monitor --
23 pardon me? No, not in this case, because in this case, when
24 the notice to creditors is published, you only have sixty days
25 to file a claim.

1 QUESTION: Well, once every sixty days.

2 MR. ROSE: You could do that and you could do that
3 for up to apparently at least twenty-six years throughout --
4 for every debtor that you had in every county in Oklahoma, and
5 in every county and every state that also has a short-term non-
6 claim statute, such as we have in Oklahoma.

7 QUESTION: But you wouldn't have had to do it very
8 long in this case?

9 MR. ROSE: In this particular case, that's correct.

10 QUESTION: Well, that's the case we're judging. Not
11 some other.

12 MR. ROSE: The importance, though, is that we did not
13 have notice of the initiation of the probate proceeding and the
14 subsequent publication of notice to creditors.

15 QUESTION: Well, that's true, that's true, but you
16 could have had.

17 MR. ROSE: We could have had. I think that's an
18 important point. Had we had notice, if we had known, not that
19 the decedent died, but if we had known that the probate case
20 was filed and the notice to creditors was published, --

21 QUESTION: Oh, sure.

22 MR. ROSE: -- then we would have filed a claim.

23 QUESTION: Sure you would have, but you could have
24 easily found out. It wouldn't have taken a whole lot of effort
25 to find out in this case. There may be some other creditors,

1 you wouldn't expect them to inquire, but a collection agency --

2 MR. ROSE: Well, again, in this case, this was under
3 a different statutory scheme, that all I can tell you has been
4 -- was relied on since 1910 when the statute was enacted at the
5 same time.

6 QUESTION: You're a professional organization.
7 That's your job, isn't it?

8 MR. ROSE: That's right, Your Honor.

9 QUESTION: This isn't an inordinate -- I mean, if
10 it's too much for you to send somebody by there once a week?

11 MR. ROSE: Well, again, --

12 QUESTION: Do you check the legal papers?

13 MR. ROSE: I think that the focus should be --

14 QUESTION: What else do you do other than bill
15 people?

16 MR. ROSE: That's it. We try to collect the money.
17 I think that the focus should be on not just keeping track of a
18 single creditor -- of a single debtor, certainly keeping track
19 of a single debtor, when you isolate on that one single
20 creditor -- that single debtor, it is easy to -- you can say --
21 you can always say you could have looked out for that single
22 debtor -- yes, but the difficulty is in doing that, in every
23 county reading every legal publication in every county, in not
24 only Oklahoma but in all the states that have a sixty-day,
25 ninety-day time frame within which to file a claim.

1 QUESTION: That hypothesizes a truly massive business
2 of collection which would extend to every county in Oklahoma
3 and every county in every other state of the Union. You know,
4 you would have to have thousands of people and presumably some
5 of them could be assigned to reading probate notices.

6 MR. ROSE: That is precisely my point, and that is --

7 QUESTION: And all of them paying fees.

8 MR. ROSE: Pardon me?

9 QUESTION: And all of them paying fees. F-E-E-S.

10 MR. ROSE: For?

11 QUESTION: For the services that your company gives.

12 MR. ROSE: Correct.

13 QUESTION: You get paid for it.

14 MR. ROSE: That's correct.

15 QUESTION: So, the more you have, the more you have
16 to look out for.

17 MR. ROSE: Okay. I agree. The focus on the case,
18 though, should be on -- it's not conceded --

19 QUESTION: Do you think that Oklahoma should direct
20 their laws particularly to cooperate with you, to your company?

21 MR. ROSE: To cooperate with all creditors that are
22 similarly situated.

23 QUESTION: Or the public in general.

24 MR. ROSE: Pardon me?

25 QUESTION: Or in the public in general.

1 MR. ROSE: Well, it's for everyone. It's for
2 everyone to whom --

3 QUESTION: Not just at you because you have to go to
4 every county --

5 MR. ROSE: That's exactly right.

6 QUESTION: -- and every state.

7 MR. ROSE: That's exactly right.

8 QUESTION: Well, Oklahoma should look out for you
9 then specially.

10 MR. ROSE: No, not specially, but in conjunction with
11 all other creditors.

12 QUESTION: Well, I mean, a single creditor wouldn't
13 have all that trouble, would he?

14 QUESTION: You are focusing on the collection agency.
15 I'd like to focus on the real creditor, the hospital.

16 MR. ROSE: On the hospital.

17 QUESTION: And when was the assignment made?

18 MR. ROSE: The assignment from the hospital to the
19 collection agency? The entities are related entities, as is
20 reflected in the jurisdictional statement. It is another
21 office within the hospital. They are separate corporations.
22 They operate separately.

23 QUESTION: When you say that then, the real creditor
24 is still the hospital.

25 MR. ROSE: That's correct.

1 QUESTION: And I can't get much sympathy for your
2 argument about every county and every state when you have a
3 Tulsa decedent and a Tulsa hospital and the Tulsa probate.

4 Well, in Oklahoma, let me ask this, in Oklahoma,
5 where is the probate instituted? In the county of residence?

6 MR. ROSE: It's in the county of residence. It can
7 be in the county where the property is located.

8 QUESTION: But in -- this decedent was a resident of
9 this particular county.

10 MR. ROSE: That's correct.

11 QUESTION: I can't see the great burden that is on
12 your client, either the hospital or the collection agency. I
13 just can't get very sympathetic about it.

14 MR. ROSE: Again, when you focus on one --

15 QUESTION: Isn't that what this case is about? One?

16 MR. ROSE: It certainly is. We can't represent --
17 we're not representing the interests of every specific debtor,
18 every specific creditor that there is. In a general way, we're
19 doing that.

20 QUESTION: Mr. Rose, has any -- have the lower courts
21 determined precisely what it is the hospital had actual notice
22 of?

23 MR. ROSE: No, they have not.

24 QUESTION: Whether the hospital did have actual
25 knowledge of a probate proceeding?

1 MR. ROSE: No, no. The stipulated facts, the only
2 facts --

3 QUESTION: The stipulated facts just is that the
4 hospital knew of the death, obviously.

5 MR. ROSE: That's correct. Those are the only --

6 QUESTION: But no other finding, is there?

7 MR. ROSE: No other findings.

8 QUESTION: Well, if, in fact, the hospital had actual
9 knowledge of the probate proceeding, do you lose?

10 MR. ROSE: In this case, without the filing of a
11 claim, yes. Yes.

12 QUESTION: You concede that?

13 MR. ROSE: Yes.

14 QUESTION: Didn't you say a moment ago, and if you
15 didn't say this, please, that in Mennonite, we decided the
16 general notice question, although in that particular case, the
17 claimant had had notice, had had actual notice?

18 MR. ROSE: Well, the reference I made to Mennonite
19 was that the notice of the delinquency of taxes was not the
20 same thing as the notice of the pendency of a sale. It's the
21 same situation here. The notice of the death is not the same
22 thing as the notice of the pendency of the probate proceeding
23 or the subsequent --

24 QUESTION: Since that might have taken place
25 considerably later, is your point.

1 MR. ROSE: Pardon me?

2 QUESTION: Since the probate proceeding might have
3 been commenced considerably after the death.

4 MR. ROSE: Certainly, certainly.

5 QUESTION: I think before we got into all the factual
6 background of the case, you were beginning to say why this was
7 like Mennonite, that you thought there was a property interest
8 here.

9 MR. ROSE: Right. The arguments that have been used
10 to defeat a claim of unconstitutionality of a particular
11 statute have included that there is no adjudication of property
12 rights. For example, in that specific case, the state has
13 suggested that notice by mailing is only required, may only be
14 required when tangible property interests are involved.

15 However, in the Mennonite case, there were cases
16 cited that set forth interests that were not tangible property
17 interests, and those included the student's right to a public
18 education, the right to continue utility service during the
19 time that a disputed bill remained unpaid.

20 The New York case example of a debt owed to a
21 creditor in a bankruptcy proceeding as well as the Mullane
22 example of a trustee's obligation to provide an accounting.

23 QUESTION: Of course, in the Mullane case, there was
24 an existing interest in personal property.

25 MR. ROSE: That's true.

1 QUESTION: And in Mennonite, there was an existing
2 interest in real property.

3 MR. ROSE: That's true.

4 QUESTION: And here you have what's traditionally
5 just a claim in personam, a contract claim for payment.

6 MR. ROSE: That's true. But it's an intangible
7 property interest just as a student's right to a public
8 education is an intangible property right.

9 QUESTION: But the law has always treated quite
10 differently interests in property as opposed to contractual
11 interests, has it not?

12 MR. ROSE: Yes, it has. But the law also does not
13 distinguish the application of the principles of due process
14 based on a classification of property.

15 QUESTION: Many, many things certainly can be
16 property under our due process decisions that are not classical
17 interests in personal property or real property, but,
18 nonetheless, I think you probably have to deal with the
19 proposition that traditionally a statute of limitations dealing
20 with real property is much longer than a statute of limitations
21 dealing with contract rights and that sort of thing.

22 MR. ROSE: True. Well, another argument that has
23 been used to defeat the claim of the unconstitutionality of a
24 particular statute is that a non-claim statute is a statute of
25 limitations, so that notice by publication would be sufficient.

1 A non-claim statute, though, is not the same either
2 by definition or by its application as a long-term statute of
3 limitations is the traditional statute of limitations. In a
4 traditional statute of limitations, there is the concept of
5 repose for the claim and the concept that stale claims will be
6 precluded by the running of the statutory period.

7 In the short-term statute that some courts have
8 referred to as a statute of limitations, there is not that same
9 possibility. The idea of the claim resting, repose for the
10 claim, doesn't exist in just a sixty-day time period, and the
11 claim is not going to become stale in that time period.

12 QUESTION: The interest there, I suppose, of the
13 state is not to ward off stale claims, but to say that after
14 someone dies, it's imperative to wind up his affairs more
15 rapidly and you simply relied on the statute of limitations.

16 MR. ROSE: That's correct. In those states with
17 longer-term statutes, the same kinds of policy considerations
18 or policy considerations of those states and yet, they have a
19 true statute of limitations that is one to two up to six years.

20 In this non-claim statute, there is not that same
21 consideration.

22 QUESTION: You urge us that we should look upon them
23 in two different ways. So, if our next case is what, a one-
24 year time period, we -- you'd lose, but this is a sixty-day and
25 you -- what's --

1 MR. ROSE: There's a difficulty.

2 QUESTION: There sure is. I mean, pick a number.

3 MR. ROSE: You have to draw a line. You have to draw
4 a line somewhere.

5 The question is in applying the statute, in applying
6 the concept of due process, is the means that you use -- is it
7 going to accomplish the purpose that you intend for it to to
8 accomplish.

9 In the short-term non-claims statute, or in a longer-
10 term non-claim statute, that idea is met. In the shorter-term
11 non-claims statute, it is just simply not met.

12 QUESTION: Mr. Rose, what is it that cuts off your
13 claim? Is it -- suppose a probate proceeding is commenced but
14 for some reason terminated, --

15 MR. ROSE: Yes.

16 QUESTION: -- and then a new probate proceeding is
17 commenced, is your claim dead?

18 MR. ROSE: No. The claim -- you have sixty days
19 after the notice by publication is published to file your
20 claim. So that if the notice was not published, that is if the
21 probate case is just filed and dismissed, then you would not
22 have lost your claim.

23 The time period doesn't begin to run until the notice
24 is published.

25 QUESTION: What is the notice is published, but the

1 probate for some reason does not go through to completion? Is
2 there any way that that can happen?

3 MR. ROSE: Well, I suppose -- I don't know the answer
4 off the top of my head. I would suppose that perhaps it could
5 not have. If the probate case is filed, I mean, what is the
6 reason? You know, it's speculative. What's the reason for the
7 case being dismissed? If it's because someone dies, they can
8 appoint someone else.

9 If it's because the decedent didn't really die, of
10 course, then that's a different situation, but it would depend
11 on -- let's just take some speculation. It would depend on the
12 circumstances. Probably it wouldn't be dismissed if it was
13 something like someone dying.

14 QUESTION: There are very few unsuccessful probates.

15 MR. ROSE: That's true.

16 I think the Court -- it's necessary for the Court to
17 look at in deciding whether due process is afforded in this
18 case, whether it should be afforded, is to look at the state
19 interest involved, and this is a balancing test that the
20 dissent theory was not going to be used any longer in the
21 Mennonite case. Just a balancing test.

22 It's weighing the interests of the creditor and his
23 right in the probate proceeding against the interest of the
24 state in applying their laws. The interest of the state in
25 Oklahoma apparently is strictly and nothing else order,

1 finality of proceedings and quick settlement of estate, and I
2 say this because in 1965, the statute was reduced, the time
3 period in which to file claims was reduced from four months to
4 the current two-month period.

5 If the --

6 QUESTION: Would you be satisfied with four months?

7 MR. ROSE: No. Again, that's a legislative
8 determination. I would think that one year would be long
9 enough for all claims to come to the attention --

10 QUESTION: Many other states have four months. As an
11 old probate hand, I know that.

12 MR. ROSE: Yes. Some states have four months. Some
13 states have two, two states have two months, some states have
14 six, and some states have a year or two years up to six years.

15 I'd like to reserve the rest of my time for rebuttal.

16 CHIEF JUSTICE REHNQUIST: Thank you, Mr. Rose.

17 We'll hear now from you, Mr. Smith.

18 ORAL ARGUMENT OF PHILLIP K. SMITH, ESQ.

19 ON BEHALF OF THE APPELLEES

20 MR. SMITH: Thank you, Mr. Chief Justice, and may it
21 please the Court:

22 Immediately, I would like to address several
23 statements made by Appellant Hospital, both in their
24 jurisdictional statement in their briefs as well as in the oral
25 argument just concluded that are no where to be found in the

1 record.

2 These are very pertinent statements. The most
3 blatant of which is that the personal representative had actual
4 knowledge of the claim of the hospital at the time her husband
5 died as well as at the time that notice to creditors was
6 published.

7 For the first six years after the death of the
8 decedent, the Appellant Hospital relied exclusively on the
9 Oklahoma statute that set out certain preferences and
10 priorities of payment under Section 594 of our Probate Code,
11 and no court thus far has decided that that relieved them of
12 the burden of filing a notice to creditors, that not until the
13 case had been tried on that issue in the original probate
14 court, had been heard by the Oklahoma Court of Appeals, and
15 upon petition for rehearing to the Oklahoma Court of Appeals,
16 approximately August of 1985, did the Appellant Hospital raise
17 the issue of due process.

18 Now, up until that point, the exclusive question
19 before the court was the question of priority of payment of
20 debts.

21 The fact that the personal representative had actual
22 knowledge of the claim is no where to be found in the record,
23 and we dispute that fact, and we have continually disputed it
24 in our brief.

25 QUESTION: Well, that's just never been decided, I

1 take it.

2 MR. SMITH: That's correct. It was never --

3 QUESTION: Who knew what has not been decided.

4 MR. SMITH: That's correct. There was never an
5 opportunity to try the facts on the due process issue.

6 We have maintained --

7 QUESTION: If the case goes back, it can be
8 determined?

9 MR. SMITH: That's correct. We are ready to meet
10 that issue as a matter of fact because we maintain that she had
11 no knowledge of any claim pending at the time either that he
12 died or the time that she published notice to creditors.

13 QUESTION: Do you also maintain that the hospital
14 knew of the probate proceeding?

15 MR. SMITH: We do not maintain that they knew of the
16 probate proceeding at the time that he died or that we gave
17 them actual notice.

18 QUESTION: Well, I guess there wasn't a probate
19 proceeding before he died.

20 MR. SMITH: That's right. We don't know when the
21 hospital found out about the probate proceeding.

22 QUESTION: Just to get in my mind a couple of the
23 dates here. The date of death was April 2nd, 1979, and the
24 notice to creditors was published in July of that year?

25 MR. SMITH: Yes, sir.

1 QUESTION: And the first claim filed by the
2 collection agency here was in October 1983?

3 MR. SMITH: That was not a claim. We disputed, and
4 this has never been a part of the record, that they ever filed
5 a claim. In October of 1983, they made application for the
6 first time during the whole probate to compel the personal
7 representative to pay their claim based on a priority of
8 payments under Section 594.

9 QUESTION: That was the first appearance they had
10 made in the probate action?

11 MR. SMITH: Yes, sir. That's correct.

12 QUESTION: Had there been any preliminary
13 distributions from the estate?

14 MR. SMITH: No. There is only one sole heir and that
15 is the personal representative, the wife of the deceased, and
16 she had not taken any distribution.

17 It might be important to get the dates in order in
18 the record. It is in the record that the decedent was admitted
19 to St. John Medical Center on November of 1978. He never left
20 the hospital building until his death on April 2nd of 1979.

21 Now, she was appointed the personal representative
22 and duly published on July 17th, 1979, and as the Chief Justice
23 pointed out, the claims period then ran until September 17th,
24 1979. Actually, some five and a half months after the date of
25 death.

1 And in Oklahoma, the sixty-day period does not
2 commence until the first date of publication. It's not two
3 months from the date of death.

4 QUESTION: Mr. Smith, what if we had here a creditor
5 from out of state with no knowledge of the death or the probate
6 proceeding, do you think that publication notice under the
7 Oklahoma statute would be -- would meet due process
8 requirements?

9 MR. SMITH: There is an exception as are several
10 exceptions under the non-claims statute. One provides for an
11 out of state creditor.

12 QUESTION: If you know about them.

13 MR. SMITH: Sir?

14 QUESTION: If you know about them. You can't give
15 notice to out of state creditors personally unless you know
16 about them.

17 MR. SMITH: Right. But concerning out of state
18 creditors, they are exempt from the two-month time period.

19 QUESTION: Well, then, let's make it an in state
20 creditor without any knowledge at all.

21 MR. SMITH: There are no exemptions made for in state
22 creditors, just on the basis that they had no knowledge.

23 QUESTION: Well, that isn't my question. I'm not
24 asking about the operation of the statute. I'm asking you
25 whether you would say that due process would require something

1 more than publication notice to such creditors.

2 MR. SMITH: No. We would say that they would not be
3 entitled to it under due process.

4 QUESTION: You would have to because actually all the
5 Oklahoma law provides for the out of state creditors the longer
6 period. He still can be barred once the decree is entered.

7 MR. SMITH: Yes, sir. That is true.

8 QUESTION: Once the decree is entered, he's out,
9 whether he gives notice or not.

10 MR. SMITH: He has until the final decree of
11 distribution, which could be months or years, depending on the
12 case.

13 QUESTION: Right.

14 QUESTION: What was the reason, if any, that notice
15 was not given to the hospital?

16 MR. SMITH: Notice was not given for two reasons.
17 One, Mrs. Pope did not realize and recognize the hospital as a
18 creditor of the estate. Two, --

19 QUESTION: Well, the hospital bill was outstanding,
20 wasn't it?

21 MR. SMITH: The hospital bill was outstanding. She,
22 and this is not in the record, sir, I want to clarify that, she
23 had reason to believe in her mind that the estate, including
24 herself personally, would never be liable for a penny from this
25 expense because of insurance.

1 QUESTION: Well, were you counsel for the estate and
2 for her?

3 MR. SMITH: Yes. Our firm was. I wasn't personally.

4 QUESTION: Well, did the firm share her belief?

5 MR. SMITH: I can't answer that as far --

6 QUESTION: But you can answer my question. Why
7 didn't the firm give the hospital notice?

8 MR. SMITH: Well, it wasn't required under the non-
9 claims statute.

10 QUESTION: Was it because they hoped they would avoid
11 the filing of a claim and the necessity of paying it?

12 MR. SMITH: No, sir. The --

13 QUESTION: Are we playing games in Oklahoma?

14 MR. SMITH: No. The point could be argued that an
15 unscrupulous personal representative could play behind the laws
16 and wait until the filing period was over and then step in and
17 say, your bill is out because you didn't file. In this case,
18 claims were paid as a matter of fact, and this is not in the
19 record either, but claims were paid and declared as deductions
20 for estate tax returns, both to the IRS and the Oklahoma Tax
21 Commission.

22 QUESTION: Well, those claims had been filed, I take
23 it.

24 MR. SMITH: No, they weren't. They were paid without
25 having been filed.

1 QUESTION: She still paid them?

2 MR. SMITH: Yes, sir.

3 QUESTION: But you knew about them and paid them?

4 MR. SMITH: Yes, sir.

5 QUESTION: And you didn't give the hospital notice
6 because you were relying on the public notice?

7 MR. SMITH: Yes, sir, and we didn't recognize the
8 claim of the hospital.

9 QUESTION: Did you have any trouble with the IRS who
10 would -- I've known them in the past to insist on the formal
11 filing and allowance of claims before they allow them as
12 deductions.

13 Did you have any trouble?

14 MR. SMITH: We had no trouble with the IRS on that
15 question and received releases from both tax entities.

16 The reason I mentioned the deduction on the tax
17 return is that to show the good faith of Mrs. Pope because she
18 did not declare any money due and owing to St. John Medical
19 Center, and for a \$14,000 deduction, had she known of that, she
20 would have taken it.

21 QUESTION: Well, she would have had to pay it.

22 MR. SMITH: She would have had to pay it.

23 QUESTION: There certainly is a financial interest in
24 the heirs at least in avoiding notice to creditors, isn't
25 there? I mean, certainly the potential heir will enhance the

1 estate if creditors don't know.

2 MR. SMITH: That's true. There would be a potential
3 if heirs --

4 QUESTION: Do you think the Constitution would
5 require that you give at least public notice?

6 MR. SMITH: I believe that public notice is required
7 under the due process clause.

8 QUESTION: Why?

9 MR. SMITH: Because of the uncertainty of determining
10 who and who is not a creditor. I believe it puts all of the
11 creditors in the same boat to alert the public and the
12 creditors at large that there is a proceeding which might
13 affect their interests.

14 QUESTION: What do you mean, the uncertainty of
15 knowing who -- you say unscrupulous administrator or executor
16 might not notify known creditors. Is it clear where
17 scrupulousness lies? I mean, I assume the obligation of the
18 executor is to maximize the estate that can be passed on to the
19 heirs.

20 MR. SMITH: As well as pay any valid debts. The --

21 QUESTION: Well, but a debt's not valid if it's not
22 presented in time. It's barred.

23 MR. SMITH: That's correct.

24 QUESTION: He has an obligation to make sure that
25 everybody doesn't file in time and files in time. I'm not sure

1 where his obligation lies. If I were in that position and I
2 knew that my obligation under law is just to publish notice,
3 that I've opened up this estate, you sure that I have an
4 obligation to these creditors that I know of rather than to the
5 potential distributees? I'm not sure where that lies.

6 MR. SMITH: I still believe that under the oath of
7 office that an executor takes, they are under a duty to not
8 only protect the rights of the heirs and the property
9 interests, but also to pay any valid debts of the estate.

10 I still believe that there is a dual role there to be
11 played. In this case, the personal representative happens to
12 be the wife of the deceased, and there is a close tie there.

13 QUESTION: Is the obligation to pay debts valid when
14 all the debts are in and if these are never presented, --

15 MR. SMITH: That's true.

16 QUESTION: -- they're not valid debts?

17 MR. SMITH: That's correct. I would also state that
18 the practice in Oklahoma as well as possibly other
19 jurisdictions is to pay claims, even though proper creditors
20 claims are not presented, and this is done and while if you
21 have an executor who has to answer to some heirs who wouldn't
22 have done that themselves, it is done on a practical basis
23 every day.

24 QUESTION: Well, in response to that, I know of at
25 least four jurisdictions where that is not true.

1 MR. SMITH: In Oklahoma, it is the practice. The
2 reason --

3 QUESTION: You made the statement you thought it was
4 generally the practice, and I questioned that one.

5 MR. SMITH: In Oklahoma, excuse me, insurance
6 payments continue to be made by the employer sponsored
7 insurance carrier until approximately February of 1980. So, as
8 to the determination of the debt, not only when he died, but
9 when she gave notice to creditors, she didn't know any exact
10 amount and I dare say the hospital didn't know because it could
11 have, in fact, been paid off in full.

12 So, at best, it was a contingent claim and provisions
13 are made under the same Oklahoma non-claims statute, Section
14 333, for contingent claims, and it provides that a creditor of
15 a contingent or unmatured debt is to present the claim in that
16 form to the personal representative, and depending on when the
17 claim becomes due, depends how far the --

18 QUESTION: How is the person supposed to do it if the
19 creditor doesn't know about the opening of the estate?

20 MR. SMITH: Well, the creditor, we maintain, is
21 supposed to monitor those accounts that they have to collect.

22 QUESTION: Well, why do they give this exception --
23 the exception for the out of state people is because they don't
24 read the newspapers that the Oklahoma citizens have available
25 to them. That's the point.

1 MR. SMITH: I would assume because they wouldn't have
2 access to the newspapers.

3 QUESTION: But the ordinary creditor has to read all
4 the legal publications to protect himself or herself.

5 MR. SMITH: That would be correct.

6 QUESTION: And we haven't talked much about whether
7 the statute is constitutional. We've had an interesting
8 discussion of Oklahoma probate law, but do you think the
9 statute is constitutional? Do you think that's adequate notice
10 to the average creditor?

11 MR. SMITH: Yes, sir.

12 QUESTION: Sixty days.

13 MR. SMITH: Sixty days. Sounds like a short stream,
14 but it's not always sixty days.

15 QUESTION: Sixty days plus the period of time between
16 the date of death and the time the publication is made. You
17 have a prompt estate opening and a prompt publication, it could
18 be a matter of ninety days, I would assume, in a lot of cases.

19 MR. SMITH: The original hearing cannot be less than
20 ten days or more than thirty days from whenever the petition is
21 filed.

22 QUESTION: It is usually filed within a couple of
23 weeks.

24 MR. SMITH: In this case, it was a period of over
25 five months that they had to file their claim. We maintain

1 that that is reasonable and the legislature, for some reason,
2 in 1965, shortened the period from four months to two months,
3 citing the state purpose of expediting and closing estates as
4 well as the proper presentation of validation of debts.

5 These claims aren't just presented on a piece of
6 paper. They have to be validated. They have to be properly
7 shown so that she knows that she's paying a rightful debt.

8 QUESTION: What's the big deal about notifying known
9 creditors? Why does that have to delay the closing of the
10 estate?

11 MR. SMITH: We don't argue with the idea that actual
12 notice is preferable in most all cases. The problem, Justice
13 Scalia, in a probate matter is that who is the known creditor,
14 and that is the problem here. She knew St. John's. She had been
15 there many times. She knew their address. She knew how to get
16 there. She knew how to find their mailing address.

17 But as to whether or not they were a known creditor
18 of this estate, she didn't know them in that sense at all.

19 QUESTION: Yes, but for purposes of our decision in
20 reviewing the court below, they assumed for purposes of
21 decision that she may well have known them and still didn't
22 have to give them notice. Don't we have to decide whether
23 there's any obligation even when the representative of the
24 estate does know?

25 I mean, you may be right as a matter of fact that she

1 didn't know, but that hasn't been tried out, has it?

2 MR. SMITH: No, that has not been tried.

3 QUESTION: So, don't we have to, to decide this case,
4 assume that everybody knew -- that she knew the facts and could
5 well have given notice and wouldn't have slowed anything up at
6 all if she said, well, I don't think the hospital bill is paid,
7 I think I ought to write them a letter?

8 MR. SMITH: We maintain that to do that causes a
9 burden upon personal representatives who are not always the
10 spouse of the decedent, to find out exactly who the creditors
11 are, and this is a genuine problem where personal
12 representatives who has some times only desks or drawers of
13 papers to go through in order to determine who the creditors
14 are.

15 QUESTION: Yes, but the question Justice Stevens
16 poses is whatever kind of administrator you have, if the
17 administrator actually knows of a creditor, must he give them
18 notice.

19 MR. SMITH: Not under this statute.

20 QUESTION: Well, the question is, does the
21 Constitution require more.

22 MR. SMITH: I don't believe so. I don't believe so.
23 If you assume -- just take an example. Let's say Mr. Pope had
24 some outside business interests and this is not uncommon for
25 people to do this without making it a matter of record, let's

1 assume that he took loans out before he died to a person we'll
2 call John or a person by the name of Mary. He didn't tell his
3 wife about this. Wasn't filed of record. These were strictly
4 loans that he chose to do with what he pleased, but he died and
5 neither one of them were repaid.

6 He happened to leave some notes about one of them
7 laying around the house. The one to John. The wife found
8 that. She said, I think he had something going on with John,
9 let's give John notice. But what about Mary? Neither Mary nor
10 John happened to find out about Mr. Pope's death and thus much
11 less know about a probate.

12 It's not fair, we urge the Court, that Mary should be
13 left out even though she had the same legal position as John.

14 QUESTION: I come back to the facts of this case.
15 Her husband was in the hospital for several weeks. Surely she
16 knew a hospital bill was accumulating. I would be surprised if
17 she didn't know whether or not it was paid.

18 MR. SMITH: She had prior experience with this
19 hospital.

20 QUESTION: If the executor were the First National
21 Bank of Tulsa, if you have one, they certainly would have
22 investigated it.

23 MR. SMITH: This goes outside the record again, but
24 to answer your question, a personal representative, the wife of
25 the deceased, had prior experiences with this hospital and with

1 this husband and with this insurance carrier in which she never
2 had to pay a dime. She assumed and had reason to believe that
3 she wouldn't have to pay any this time and, therefore, did not
4 recognize them as a creditor of this estate.

5 QUESTION: Well, sooner or later, it became evident
6 that the hospital was and that the bill was unpaid.

7 MR. SMITH: The --

8 QUESTION: And is there some rule in Oklahoma that an
9 administrator can't pay a valid debt after the claims period
10 has run?

11 MR. SMITH: No, sir. She could have paid it. In
12 this case, she didn't believe -- once she was presented, which
13 was more than over a year after her husband's death was the
14 first notice or communication that she received from the
15 hospital. In April, approximately, of 1980.

16 QUESTION: Then, there was no doubt that the bill was
17 valid, was there?

18 MR. SMITH: There was in her mind. She still
19 believed at that point that insurance would cover because
20 insurance had been making payments sporadically over a period
21 of months. The most recent one having been around February of
22 1980, about two months prior to receiving that letter.

23 The letter she received did not indicate any past due
24 amount was owed. It merely stated this is the balance of the
25 account. She believed that insurance would cover it and she

1 never heard again from either the hospital or their collection
2 agency until approximately 1982.

3 Up to this point, they had never filed anything in
4 the case until October of 1983, some four and a half years
5 after the probate had been initiated.

6 QUESTION: If we rule in favor of the Appellant, is
7 there a concern that the cost of probate will escalate because
8 the cost of executor bonds will be higher, etc.?

9 MR. SMITH: Yes, Justice Kennedy, that is one
10 concern. We concede that a twenty-two cent stamp to give
11 notice is not a problem, but there could possibly be a problem
12 with responsibility upon the fiduciary to perform under their
13 bond and to give notice because under the earlier example of
14 John and Mary, Mary comes in and says my due process rights
15 were violated, I didn't get notice. I'm going to sue you and
16 she may have a claim against not only the executor but the
17 heirs later down the road.

18 Another --

19 QUESTION: Mr. Smith, suppose Oklahoma wants to
20 provide an easy way for its citizens to get credit, to re-
21 establish their credit, so it provides for a declaratory
22 judgment scheme in which you can file a declaratory judgment
23 action seeking to have a pronouncement that there are no
24 outstanding debts against you or exactly what claims there are
25 against you, and it adopts the same system we have here, you

1 simply have public notice of the suit by publishing it in a
2 newspaper and any creditor who doesn't come in within sixty
3 days, asserting a claim, shall be barred, and you'll get a
4 declaratory judgment that that debt is no longer relevant, do
5 you think that would be constitutional?

6 MR. SMITH: I would ask, does the debtor have
7 knowledge of the identity of the creditors in that case, and if
8 so, --

9 QUESTION: Yes.

10 MR. SMITH: Excuse me.

11 QUESTION: Does the debtor have knowledge? Yes.

12 MR. SMITH: Yes. If they have knowledge, that's one
13 thing, and in order to declare a declaratory judgment, I
14 believe that this Court's decisions would find grounds to
15 declare that unconstitutional.

16 QUESTION: Now, why is this different? Why couldn't
17 I call that a statute of limitations just as well as you want
18 us to call this one a statute of limitations?

19 MR. SMITH: Because in this case, there was no
20 declaratory judgment nor are there in probate matters. It's
21 simply the running of the statute which is similar to the case
22 of Texaco, Inc., v. Short, decided by this case, in which it
23 determined that the running of a statute of limitations acts to
24 cut those potential claims off as opposed to a declaratory
25 judgment in Mullane and Mennonite.

1 That is one of the distinctions that we draw. The
2 Appellant Hospital in this case attempted six years after the
3 probate was started to draw the facts of this case to fit under
4 the third Moseley case that came out of the Supreme Court of
5 Nevada. The facts do not apply at all.

6 In that third Moseley case, the personal
7 representative had actual knowledge of the creditors' claims.
8 The creditor had a pending lawsuit against the deceased at the
9 time of death. The creditor in Moseley did not know of the
10 death of the decedent until the final day for filing claims and
11 they filed two days late.

12 That wasn't deemed to be fair and I don't believe
13 that it was fair, but it's not the facts of this case. That's
14 why it's important to understand some of the facts as they have
15 been stated in the briefs that are not in the record and which
16 distinguish the case on that basis.

17 I think there's also --

18 QUESTION: How do you distinguish the City of New
19 York case holding that notice by publication was not sufficient
20 for creditors in filing claims in a bankruptcy estate?

21 MR. SMITH: I think part of the answer goes to the
22 nature of a bankruptcy versus the nature of a probate action.
23 The whole nature of the case in New York that you're referring
24 to has to do with getting the bankrupt debtor a fresh start in
25 that case, a reorganization under another company.

1 That debtor in the New York case knew of New York
2 City's existing interest in the real property. Not only that,
3 but in that particular case, the judge, according to the
4 findings, failed to properly follow the statute in requiring
5 all creditors to be given mailed notice.

6 Another distinction is that the notice that was given
7 to the creditors in that New York bankruptcy case had to do of
8 a court order. It was not the running of the statute of
9 limitations. It was the court order that they were supposed to
10 have given notice to New York City about that they failed to
11 do.

12 So, I think from that standpoint, there are several
13 distinguishing factors between a bankruptcy in which all
14 creditors were known or the debtor wouldn't be in the
15 bankruptcy court to begin with because he knows who's putting
16 the pressure on him from the credit standpoint.

17 QUESTION: Mr. Smith, is there any provision in the
18 Oklahoma Probate Code that requires the executor or the
19 administrator to make any kind of representation to the court
20 that all known debts have been paid?

21 MR. SMITH: There is not currently a requirement. It
22 is frequent in orders allowing final accounts that all
23 creditors who have filed claims have been paid. Maybe that was
24 your question.

25 QUESTION: No. Apart from the requirement that those

1 who have filed claims have been paid. The first clause of most
2 wills says and pay all just debts and so forth. There's no
3 requirement that they have to represent to the probate court
4 that that's been done, other than those that are actually
5 filed.

6 MR. SMITH: Right. We maintain that the Hospital
7 Appellant had several opportunities in which to protect itself
8 under the broad scope of due process and no one can define what
9 due process is in any single word or two, but we suggest that
10 it represents a fair or reasonable opportunity.

11 Sometimes, such as in Mullane and Mennonite, this
12 fair or reasonable opportunity requires a hearing before the
13 state cuts off a creditor's interest. But sometimes it does
14 not require a hearing, such as in the Texaco case, and we
15 believe that ample opportunity is made under the Oklahoma non-
16 claims statute for debtors or, excuse me, for creditors to
17 present their claims and have them adjudicated. If a creditor
18 is going to do business in a state and loan money to people and
19 perform services for people, they better become aware of the
20 law.

21 That relates not only to probate law, they better be
22 aware of the tax laws. In a hospital case, they better be
23 aware of negligence law, and in Texaco, this Court held that
24 presumption of the statutes is made by the Court when a statute
25 of limitations is at question.

1 We determine that no less is true here. We believe
2 that --

3 QUESTION: This applies, of course, not just to
4 people doing business, but this could have been his cousin at
5 the other side of the state who loaned him money.

6 MR. SMITH: That's correct.

7 QUESTION: So, it's not just people that are in
8 business, it's any debt.

9 MR. SMITH: People who do business. Maybe I should
10 have said that. People who do business, and if Aunt Sue loans
11 money to a nephew and Aunt Sue has been a homemaker for thirty
12 years and she doesn't normally transact business, she better
13 know certain things about usury laws or perhaps she's violating
14 those. So, there is a duty on any person who transacts certain
15 types of business to be aware of the law or to find out about
16 the law.

17 The hospital in this case handled business and has
18 people die in its wards every day. They know what the law is.
19 They failed to do their job by not filing a creditor's claim
20 and finding out about the probate.

21 We pray the Court to affirm the Supreme Court of
22 Oklahoma in favor of the estate and not allow facts outside the
23 record to be twisted into the confines of the Moseley case, the
24 Texaco case, and the Mullane case.

25 If there are no further questions, thank you.

1 CHIEF JUSTICE REHNQUIST: Thank you, Mr. Smith.

2 Mr. Rose, you have three minutes remaining.

3 ORAL ARGUMENT OF RANDALL E. ROSE, ESQ.

4 ON BEHALF OF THE APPELLANT - REBUTTAL

5 MR. ROSE: Thank you, Mr. Chief Justice.

6 Justice Stevens, I believe, was asking a question
7 about how quickly can that time period pass within which to
8 file your claims. In Oklahoma, the representative is required
9 to publish the notice within thirty days of his appointment.
10 The wording in the statute is: must be revoked, but then
11 follows by: unless good cause is shown.

12 The practice is and what is preferred by the Court is
13 to publish a notice within thirty days and then you end up with
14 a ninety-day time period. I believe you had that question.

15 Justice Scalia, I believe, was asking a question
16 about the difficulty in the unscrupulous personal
17 representative hiding behind the log to use the Appellee's
18 terminology.

19 They paid some claims and they didn't pay some
20 claims. The decedent was in the hospital for a number of
21 months, had a \$142,000 hospital bill, and says I didn't know
22 that there was any money still owing.

23 Again, a lot of these facts are outside the record,
24 and it makes it difficult for the Court and --

25 QUESTION: But, Mr. Rose, if you win, doesn't the

1 case have to go back for trial on the question of whether the
2 administrator actually knew about the claim?

3 MR. ROSE: Well, not if -- that would be fine. I
4 believe that if the statute is unconstitutional as applied,
5 that that would not be necessary.

6 QUESTION: If the only constitutional requirement is
7 that the people who have actual notice be -- I mean, people of
8 whom the decedent's representative actually knew to have
9 claims, your client would not prevail unless she knew that
10 there was an outstanding claim.

11 MR. ROSE: Okay. Yes, I believe that's right.

12 QUESTION: And that has not yet been adjudicated.

13 MR. ROSE: That's correct.

14 I believe Justice Scalia also asked what's the
15 problem with giving notice to known creditors. There's not
16 really a problem.

17 What would be required of a representative in that
18 kind of situation? Due diligence. This is making up the law
19 now. What kind of requirements should we have? Due diligence,
20 reasonable inquiry on the part of the personal
21 representative.

22 In seeking to notify -- to ascertain and notify
23 creditors, on his appointment --

24 CHIEF JUSTICE REHNQUIST: Thank you, Mr. Rose.

25 The case is submitted.

1 (Whereupon, at 12:04 o'clock p.m., the case in the
2 above-entitled matter was submitted.)

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REPORTERS' CERTIFICATE

1
2
3 DOCKET NUMBER: 86-1961
Tulsa Professional Collection Services, Inc.,
4 CASE TITLE: v. Joanne Pope, Executrix of the Estate of
H. Everett Pope, Jr., Deceased
5 HEARING DATE: March 2, 1988
6 LOCATION: Washington, D.C.

7
8 I hereby certify that the proceedings and evidence
9 are contained fully and accurately on the tapes and notes
10 reported by me at the hearing in the above case before the
11 Supreme Court of the United States.
12

13 Date: March 2, 1988.

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