

STATE OF MICHIGAN
COURT OF APPEALS

FINDLING LAW FIRM, PLC,

Plaintiff-Appellant,

v

ANDRE DUPERRY, Personal Representative of
the Estate of Nathaniel DuPerry, Jr., Deceased,

Defendant-Appellee.

UNPUBLISHED

January 13, 2004

No. 243835

Wayne Probate Court

LC No. 2000-621192-DE

Before: Donofrio, P.J., and Griffin and Jansen, JJ.

MEMORANDUM.

Plaintiff, The Findling Law Firm, PLC, appeals as of right the dismissal of this action to collect attorney fees allegedly owing from defendant estate. We reverse and remand for further proceedings. This case is being decided without oral argument pursuant to MCR 7.214(E).

At the September 3, 2002, pretrial conference, the probate court sua sponte dismissed this action without explanation or notice. On the first page of plaintiff's complaint, the following is handwritten:

Sep 3, 2002 (in chambers) dis-Dismissed by court. Parties directed to
circuit court. Martin T. Maher per MTM

On appeal, plaintiff argues that the dismissal, without notice or explanation by the probate court, violates our court rules, including MCR 2.504. We agree. Further, we note that "Generally, due process in civil cases requires notice of the nature of the proceeding" being scheduled. *Vicencio v Ramirez*, 211 Mich App 501, 504; 536 NW2d 280 (1995). "In any proceeding involving notice, due process requires that the notice given be reasonably calculated, under all the circumstances, to appraise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Id.* at 504.

Reversed and remanded for further proceedings. We do not retain jurisdiction.

/s/ Pat M. Donofrio

/s/ Richard Allen Griffin

/s/ Kathleen Jansen