

Fla. Panel Rules Atty Imposter Scam Suit Had Invalid Service

By **David Minsky**

Law360 (February 6, 2025, 10:15 PM EST) -- A Florida appellate court has reversed a judgment against a New Jersey real estate agent who was accused in a lawsuit of posing as an attorney and intercepting a \$930,000 wire transfer meant to close on a Miami-area property, saying service was invalid.

Writing for a three-judge panel in the Wednesday **opinion** issued by Florida's Third District Court of Appeal, Judge Bronwyn C. Miller remanded 3909 Ponce de Leon LLC's case against Esther Kassin and her company, Reesk LLC, to a lower court after finding that process of service on Kassin wasn't demonstrated and that the return-of-service was defective because the form did not include information such as date and time, manner of service or to whom the lawsuit was served.

"The omissions in this record are fatal to the validity of service," Judge Miller stated in the opinion. "Accordingly, we reverse the orders under review and remand with instructions to grant the motions."

Kassin was sued in Miami-Dade County state civil court in 2023, with 3909 Ponce de Leon LLC alleging that Kassin "illegally, wrongfully and without authorization" posed as a real estate attorney in the transaction for the purchase of a Coral Gables property and had the buyer wire \$930,000, which was later traced to Reesk LLC's account at TD Bank.

The incident occurred in September 2021, with the plaintiff and its attorneys repeatedly notifying TD Bank that the transaction was fraudulent and have the defendant's bank account frozen, but they were unsuccessful and didn't recover the money, according to the suit.

Then over a two-day period in late September 2021, the plaintiff alleged that the defendants authorized outgoing wire transfers of nearly \$900,000 from the Reesk account to an entity named Gemini Trust Company LLC. The remainder of plaintiff's funds were depleted days later, according to the suit.

"During plaintiff's September 2021 purchase of the Coral Gables property, defendants made an illegal, wrongful and unauthorized electronic intrusion into Howard Nadel's email account and/or email systems and gained illegal, wrongful and unauthorized access and control of plaintiff's real estate attorney Howard Nadel's email account and/or email system," the **complaint** said.

In January 2024, the court denied the defendants' motion to quash service of process and to vacate default judgment, court records show.

The defendants appealed, stating in their **brief** that they and the plaintiff were both victimized by the same individual or group of fraudsters — who weren't parties to the lawsuit.

Before Kassin realized that the plaintiff had obtained a \$500,000 final judgment against her and Reesk, she was already willingly helping the police and an attorney representing the plaintiff in their investigation of the bank fraud without realizing the information she provided would be used against her, according to the defendants' brief.

Additionally, in the motion to quash and vacate, the defendants said that the plaintiff was negligent for failing to verbally confirm wire instructions before sending the money, saying it was the "sole and proximate cause of plaintiff's alleged damages."

The defendants said in their brief that the emails from the attorney representing the plaintiff also showed that the fraud was committed by the "non-party fraudster," whose alleged name is William Brophy, and duped both the plaintiff and the defendants.

In November 2022, defendants said the plaintiff's attorney emailed Kassin threatening to sue and referenced an attached complaint, but there was only an untitled attachment appearing to be a letter instead of a lawsuit.

A process server indicated that he had served Kassin a copy of the lawsuit in March 2023, although it was never presented during the evidentiary hearing, and he never explained how he identified Kassin, according to the defendants' brief, which added that Kassin was at home recovering from surgery at the time.

The plaintiff, in its **reply brief**, said Kassin was served simultaneously in her individual capacity and corporate capacity as the sole member of Reesk in March 2023.

"Having carefully examined the record of the evidentiary hearing conducted below, we find dispositive a twofold assertion of error: (1) appellee failed to introduce any process demonstrating service upon Kassin; and (2) the return for Reesk was defective because it failed to include the factors mandated under [Florida law]," Judge Miller said in the opinion, adding that the omissions prevented the lower court from presuming the service was valid.

Representatives for 3909 Ponce de Leon LLC did not immediately respond to emailed requests for comment and counsel for Kassin declined to comment Thursday.

Judges Thomas Logue, Bronwyn C. Miller and Alexander S. Bokor sat on the panel for the Third District Court of Appeal.

The plaintiff is represented by Nicholas A. Collazo and James D. Whisenand of Whisenand & Turner PA.

The defendants are represented by Donna G. Solomon of Solomon Appeals Mediation & Arbitration.

The case is Esther Kassin et al. v. 3909 Ponce de Leon LLC, case number 2024-0199, in Third District Court of Appeal of the State of Florida.

--Editing by Rich Mills.