

STATE OF WISCONSIN

CIRCUIT COURT

WALWORTH COUNTY

BRANCH 1

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In the Estate of:  
Ernest Gary Gygax, Sr.,

Case No. 20PR58

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MOTION HEARING

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September 26, 2023

Honorable Judge  
Phillip A. Koss

APPEARANCES:

Jennifer Gorn, Attorney at Law, appeared on behalf of  
the Petitioner.

Ted Johnson, Attorney at Law, appeared on behalf of Gail  
Gygax.

Steven Koch, Attorney at Law, appeared as personal  
representative.

Marilyn S. Annen, Official Reporter  
Registered Professional Reporter

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P R O C E E D I N G S

THE COURT: We'll turn to 20PR58, in the interest of Ernest Gary Gygax, Senior. Appearances, starting with the --

MR. KOCH: Good morning, Your Honor. Appearing as personal representative for the estate of Ernest Gary Gygax, Senior is Attorney Steven A. Koch.

MS. GORN: Good morning, Your Honor. Attorney Jennifer Gorn appears on behalf of the Petitioner, Lucion Gygax.

MR. JOHNSON: Good morning, Your Honor. Ted Johnson with Godfrey Law Office appearing on behalf of Gail Gygax.

THE COURT: All right. We're here for a couple things -- although I'm not sure -- Mr. Koch, you had filed some motions to be able to dispose of some assets?

MR. KOCH: That was already granted, Your Honor.

THE COURT: That's what I thought.

MR. KOCH: So was -- Well, the auction.

THE COURT: Go ahead. Why don't you bring me up to speed where we are.

MR. KOCH: Sure. One of the auctions happened. Mr. Stromberg is here. He sent the check to

1 me last week. I don't have it yet. But it -- it's over  
2 a hundred thousand dollars is my understanding.

3 And then we started up the publishing of the  
4 books with Trollord Games and Steve Chenault who  
5 testified at the trial. And I received approximately  
6 7,500.

7 I've shared all the information with Counsel.  
8 They -- they know everything about this. So that's  
9 where we are. Um, the money, the \$7,500's, in my trust  
10 account. I have not gone and opened up a formal estate  
11 account. I didn't have any money, so it didn't make any  
12 sense to do so.

13 I guess -- Also, Your Honor, you know, I  
14 obtained the castle, and it's in our vault, as well as  
15 some other documentation and some other papers.  
16 Attorney Johnson was able to cooperate with me and get  
17 that from the bank into my vault.

18 So that's kind of where we are right now. I  
19 don't know if they want me to open the estate account.  
20 I'm happy to do it. Or it can stay in my trust account.  
21 I don't really care, Your Honor, either way. I'm not  
22 sure how much interest we're gonna get in a money  
23 market. But whatever the parties want, I'm here to do  
24 it.

25 THE COURT: Right.

1 MR. KOCH: So --

2 THE COURT: Ms. Gorn?

3 MR. KOCH: I just kind of wanted to wait until  
4 the check came in before I went and opened up the estate  
5 account.

6 THE COURT: Ms. Gorn?

7 MS. GORN: Whatever is easiest for Attorney  
8 Koch is perfectly fine by me. The -- I don't -- I  
9 agree. I don't think there's gonna be a ton of interest  
10 earned. I think there's a lot of bills outstanding that  
11 need to be paid, including Attorney Koch and our estate  
12 account, Your Honor.

13 THE COURT: All right. Mr. Johnson?

14 MR. JOHNSON: Your Honor, we had some  
15 discussions about this before the hearing.

16 I have no objection to staying -- neither of  
17 us have any objection to it staying in his trust account  
18 for the time being.

19 THE COURT: Agreed. We will get the proper  
20 accounting for it regardless so --

21 MR. KOCH: Your Honor, I will prepare an order  
22 then so that the court approves it, and then I know that  
23 no one's gonna claim that I did anything inappropriate.

24 THE COURT: All right. We have this notice of  
25 claim, and Mr. Kuntz apparently is in France, who's

1 going to appear by Zoom. He wanted his claims  
2 confidential. I didn't do that. He wanted the item  
3 here today. I wasn't going to do that. Not sure why it  
4 needed to be here anyhow. Apparently he's having --  
5 Oh, he connected.

6 One of the issues is is it even timely?

7 MR. KOCH: That's one of the issues. Now that  
8 I've seen the material that he's presenting and the  
9 other information, I think the statute of limitations is  
10 a problem as well. And I just saw it, Judge, yesterday.  
11 I think the exhibits finally came through for me to see  
12 that I think maybe two days ago. Oh, wait. Yesterday  
13 was Monday, so it came through yesterday.

14 So I don't know when Counsel saw them. More  
15 recently?

16 MR. JOHNSON: Same as you as far as when they  
17 came through electronically. That's when I saw them.

18 THE COURT: All right. But there's a time  
19 limit on claims.

20 MR. KOCH: Correct. But these also are  
21 from --

22 THE COURT: Right. The underlying --

23 MR. KOCH: -- 40 years ago.

24 THE COURT: The underlying is even longer ago.  
25 Right.

1 MR. KOCH: So I would like the opportunity --  
2 I don't know what the court intends to do today on this,  
3 you know, because I saw his -- what he's claiming.

4 THE COURT: Well, what I plan to do is address  
5 him, make sure that you all put on whatever objections  
6 you want to on the record so he is aware of that.

7 Um, if this is going to proceed further and we  
8 do get to an evidentiary issue, he needs to be in person  
9 because I need to judge credibility. I don't know if we  
10 get that far as we have just talked about. And we can  
11 fill him in. We're not doing it if he's really not a  
12 party yet but --

13 MR. KOCH: Right.

14 THE COURT: But he's doing this very  
15 informally. We do need to address him with all those  
16 things.

17 MR. KOCH: Very good. Thank you, Your Honor.

18 THE COURT: All right. Mr. Kuntz, can you  
19 hear us? We cannot hear you. Still can't hear you.  
20 Still aren't able to hear you, sir.

21 MR. KUNTZ: Okay.

22 THE COURT: There. Now we can hear you.  
23 Okay.

24 MR. KUNTZ: All right.

25 THE COURT: You are Robert Kuntz?

1 MR. KUNTZ: That's correct. I'm Robert Kuntz.

2 THE COURT: All right. Good morning our time;  
3 I guess good evening your time. You are in France; is  
4 that true?

5 MR. KUNTZ: That's true. I'm in Corsica.  
6 Yes, of course. Normandy, Corsica.

7 THE COURT: All right. I'm Judge Koss. We've  
8 called the estate -- the case of the estate of Mr.  
9 Gygax.

10 You have filed a claim, correct?

11 MR. KUNTZ: That is correct, sir. Well, Your  
12 Honor.

13 THE COURT: Are you represented by counsel at  
14 all?

15 MR. KUNTZ: No. I'm representing myself.

16 THE COURT: All right. Obviously Mr. Gygax  
17 has passed some time ago, and this estate has been  
18 pending for 3 years.

19 What made you wait to file these claims?

20 MR. KUNTZ: Well, I had a -- what I consider a  
21 bailment agreement with Mr. Gygax, Your Honor. And in  
22 2018, that agreement was breached by Gail Gygax who  
23 tried to sell my properties without my knowledge to Tom  
24 De Santos for profit. At that time I asked for my  
25 properties to be returned.

1           Up until that point, Mr. Gygax and myself had  
2 always dealt openly about ownership of the castle and  
3 whether it was going to be produced by both of us.

4           THE COURT: Mr. Johnson, you represent Gail  
5 Gygax. Do you have any response or comment on this  
6 notice of claim?

7           MR. JOHNSON: Um, other than, Your Honor, that  
8 the -- I think there's some significant concerns about  
9 whether the claim is timely, Number 1. There's some  
10 statute of limitations claims.

11           I think there's also again, this open  
12 relationship that Mr. Kuntz describes -- I guess in my  
13 mind is that's difficult. I think he's got a  
14 significant proof problem to show that there is a valid  
15 claim against the estate, aside from the statute of  
16 limitations and the timeliness issues as well.

17           And so, you know, other than that, I think we  
18 need to make him prove his claim. Um, and there may be  
19 prior to that time, I think some legal issues that need  
20 to be resolved by this court, um, by either summary  
21 judgment or motions to dismiss for, you know, the  
22 statute of limitations.

23           And I -- And again, I -- This is all things  
24 that we talked about, I guess at the trial and the other  
25 attorneys that are here on behalf of the estate and Luke

1 Gygax have discussed, we think are pending issues before  
2 certainly, any claim could be validly accepted or  
3 granted by the court.

4 THE COURT: One thing before I turn to the  
5 others.

6 Mr. Kuntz, I know that you asked for much of  
7 this to be filed confidentially, but the parties have a  
8 right to see what your claims are. So I could not grant  
9 your request to make these confidential. They have to  
10 be able to defend this for their -- for their clients.

11 MR. KUNTZ: Yes, I -- Your Honor, I approve  
12 of that because that's the legality of it.

13 THE COURT: Okay. All right. Ms. Gorn, do  
14 you have any comment?

15 MS. GORN: Yes, Your Honor. So we're dealing  
16 with two pieces of ownership essentially that --

17 THE COURT: Just so you know, Ms. Gorn  
18 represents an heir.

19 MS. GORN: Yes. We're dealing with the actual  
20 physical -- his claim to the physical pieces, as well as  
21 his claim to the co-authorship.

22 Um, the castle's been in the possession of  
23 Gary Gygax and/or Gail Gygax for decades at this point.  
24 Um, there were attempts previously by Mr. Kuntz to, I  
25 guess, obtain these back. Gail at that point told him

1 no. Based on the police reports that I've reviewed,  
2 this has been an issue prior. He had a right at any  
3 point to bring an action for this. He has not.

4 Conversion or detention of personal property  
5 is barred by a 6 limit statute of repose. So I believe  
6 his claims would be barred by that.

7 As far as the ownership, the co-author claim,  
8 that claim from my understanding -- And I would need to  
9 fully brief it. But from my initial research, it looks  
10 to me as though that is a federal jurisdiction issue.  
11 They have exclusive jurisdiction to claims of  
12 co-authorship. And that is pursuant to Merchant v Levy  
13 which is a Second Circuit case out of 1996.

14 So I don't know that the court will to need  
15 decide anything. To the extent that the claims can  
16 proceed, I think we need to have a full evidentiary  
17 hearing, and he needs to prove his claim.

18 THE COURT: All right. Attorney Steven Koch  
19 is the personal representative for the estate, was  
20 appointed by the court.

21 Mr. Koch, do you have a response to Mr.  
22 Kuntz's claim?

23 MR. KOCH: Yeah. Yes, Your Honor. I want to  
24 echo what Attorney Johnson and Attorney Gorn said. I  
25 agree with them. I think there's certainly grounds here

1 to bring a motion.

2 Now that I'm seeing what the claim is and some  
3 of the supporting memorandum, I think there's definitely  
4 grounds to bring a claim, both on the motion to dismiss  
5 and/or summary judgment.

6 On the statute of limitations issues, this  
7 seems so far afield, Your Honor, that I don't know what,  
8 if -- I don't think Mr. Kuntz can prove his claim.

9 I think it's -- the time has passed by years.  
10 I mean, even decades.

11 THE COURT: And I don't want to get into an  
12 evidentiary hearing today, Mr. Kuntz, but why didn't you  
13 pursue this legally? Not just by e-mail or requests to  
14 the Gygaxes, more recently Gail.

15 Why didn't you pursue this when Gail denied it  
16 to you on some sort of legal basis?

17 MR. KUNTZ: Um, Your Honor, for the reason I  
18 don't have money to pursue a civil case. That -- that's  
19 pretty, um, evident at this point. As I had said that  
20 before, the reason I can't even come over to the states  
21 to appear is for the same financial difficulty involved.

22 As far as the statute of limitations, I would  
23 -- I would tend to understand that property is -- is  
24 property. I mean, under a bailment agreement, this did  
25 not -- the statutes of limitations did not occur because

1 Gary Gygax and I doted on this all the time up until  
2 Gail Gygax decided to go and take my property and  
3 shuffle that elsewhere for profit.

4 Now, if you're saying on the statutes of  
5 limitations for that, that might be so. But that  
6 doesn't negate the fact that I have a substantial claim  
7 to it that's not linked to the statutes of limitations.  
8 And -- and maybe for civil matters. But I -- I'm in --  
9 not pursuing a civil matter in this.

10 I'm before the court with the -- hopefully the  
11 evidence to prove that they are my rubbles and should be  
12 returned. And just as property should be returned to  
13 those who are recognized as the owner of thereof.

14 There is no statutes of limitations on  
15 ownership.

16 THE COURT: How did you know that this --  
17 there was a court case here? How did you find out to  
18 send e-mails here?

19 MR. KUNTZ: I was briefed and learned of this  
20 from Paul Stromberg who said he mentioned my name in  
21 court. This is why he wanted to tell me what was going  
22 on.

23 Mr. Stromberg, if he's present, could affirm  
24 that.

25 THE COURT: All right. But you waited until

1 our trial was over. We've had litigation on much of  
2 these issues and --

3 MR. KUNTZ: Well, I -- I put this forward  
4 because, Your Honor, you're dealing with, as you know,  
5 as you discovered, um, a person who was not, um, forward  
6 and was hiding wills and hiding -- and trying to sell  
7 property and everything else.

8 I didn't -- I didn't know what was gonna go  
9 on with this. I wasn't even aware of the court case  
10 having actually taken place until I was informed by Paul  
11 Stromberg that my name was mentioned in it.

12 THE COURT: Well, when did you find out --  
13 When did you find that out?

14 MR. KUNTZ: Your Honor, I think it was  
15 somewhere within a week of the case being ended. And I  
16 called him up on a related matter, and he mentioned it,  
17 that he mentioned my name in court. And he made  
18 reference to the ownership of the castle when the court  
19 requested an amount of it. So I knew for tax purposes.

20 And then the battle city level was auctioned,  
21 um, back in 2005. And Mr. Stromberg -- It was used as  
22 a benchmark for that, ascertaining the actual value of  
23 the castle property.

24 And so that's the only benchmark you have for  
25 ascertaining the castle property is -- is that. In fact

1 the only castle level that was auctioned by -- by me  
2 because I held it. And in fact Gary Gygax, Senior, um,  
3 congratulated me with the evidence that I put forward  
4 before having auctioned it for proving that it's my  
5 castle.

6 THE COURT: Right. I mean, let me just say  
7 that even if you're accurate, I mean, there's got to be  
8 finality to cases.

9 And we can't come back 10 years from now if  
10 another person like you comes forward with some sort of  
11 intellectual property claim or any other kind of  
12 personal property claim on this estate.

13 I realize we haven't closed the estate. But  
14 that's my concern is the timeliness. We can't just --  
15 One can't just sit on their hands and see -- wait to see  
16 what happens and then file a notice of claim. Those  
17 claims are normally done shortly after an estate is  
18 opened, and there are deadlines on that.

19 Moreover, if there's an underlying  
20 intellectual property civil claim conversion, um, those  
21 too, have timelines or baselines where an action need to  
22 be brought, not because of the merits that we keep these  
23 open, but there has to be finality to litigation. And  
24 that's why there are statutes of repose, statutes of  
25 limitations, deadlines on claims, those sort of things.

1 I'm not prejudging anything. I'm just saying  
2 what the outline is here that we're looking at. I hate  
3 to run up parties' costs by people now having to file  
4 motions to deny and summary judgment motions. But the  
5 other thing I --

6 MR. KUNTZ: Your Honor, if I may?

7 THE COURT: Yes. Let me just tell you one  
8 other thing.

9 Just -- If you succeed in avoiding that,  
10 there's going to be -- and there -- we come to an  
11 evidentiary hearing, those are very difficult to do by  
12 Zoom. They are entitled to cross-examine people  
13 personally to determine credibility, those sort of  
14 things. People flew in for this trial originally,  
15 traveled distances. Some -- One did appear by video by  
16 agreement.

17 So that's another issue that we're going to  
18 have to cross at some point in the future. But I kind  
19 of stepped on you. You wanted to say something.

20 MR. KUNTZ: Oh, no. You're fine, Your Honor.  
21 The -- I guess perhaps you answered some of it. Um, I  
22 don't understand one thing -- and perhaps I could be  
23 guided -- is that I did file a creditor's claim because  
24 I knew that -- by -- by Attorney Koch that if I didn't  
25 file it, my claims would be rejected.

1           Um, so I did so under deadline. And since I'm  
2 in France, it's very hard to be informed locally of --  
3 of creditors' claims. As I understand, they're supposed  
4 to be posted in newspapers or locally or mailed out to  
5 people who they understand are somewhat connected with  
6 this.

7           So I did that. So if you're referring to --  
8 And I may be wrong in this, but if you're referring to  
9 the creditor's claim to just be waiting around, I wasn't  
10 waiting around. I had -- I had no ability financially  
11 to pursue a civil suit. And when the creditor's claim  
12 came up, as I understood it, it seemed a logical  
13 conclusion to -- to what has been happening. I mean,  
14 and I could have -- I did request my property back 5  
15 years ago from the Gygax estate, and they refused to  
16 remand it to me.

17           So -- I did hire lawyers to pursue it, but I  
18 could not continue to fund them. And -- But I -- This  
19 is not at all obviating my claim or -- or dismiss my  
20 claim to this.

21           I created these levels 50 years ago to --  
22 almost to the day. We were still writing the play times  
23 to Dungeons & Dragons, and -- and I have been continuing  
24 to improve the property, produce my own levels in  
25 regards to it. So it's not only my copyrights but my

1 property.

2           So I -- There's no statute of limitations on  
3 that. In fact I own the -- As -- as Attorney Gorn  
4 pointed out, this is a better issue (phonetic) of  
5 copyrights is Title 17. And essentially I have  
6 copyrights that are being violated as well with this.

7           So, um, and with a claim to it, you can't  
8 dismiss one from the other, I believe, because it's --  
9 it's a design. A level is a design that -- granted only  
10 literary, and is a copyrightable thing, as well as a  
11 property as you -- So -- But the copyright stands  
12 for -- since this is created before '78 and the  
13 copyright law changed.

14           It stands for, um, the life of the copyright  
15 holder and plus 70 years. And -- and -- and that, um,  
16 is also to inform the Gygax estate that they have 55  
17 years left before the -- those levels in the castle that  
18 are theirs, um, fall into public domain.

19           THE COURT: All right. Let me just --

20           MR. KUNTZ: You know, yes, it is a --

21           THE COURT: Go ahead.

22           MR. KUNTZ: -- a copy -- No, I -- I'm good,  
23 Your Honor.

24           THE COURT: Okay. I'm just looking at Judge  
25 Reddy's order -- it's Document 10 -- that had a deadline

1 for filing claims to be July 21 of 2020. And there was  
2 notice of publication. Ms. Gorn, you actually prepared  
3 the order.

4 I assume there was publication. I obviously  
5 wasn't involved at the time.

6 MS. GORN: I would have to check the -- This  
7 is a very large case file.

8 But I would imagine if you ordered it, the  
9 proof of publication is in there.

10 THE COURT: Mr. Koch, do you --

11 MR. KOCH: I did then file a notice. I  
12 published in the Lake Geneva Regional News in December,  
13 Your Honor, because I wasn't sure it had been published.  
14 I wanted to make sure all the deadlines had been met.

15 And then I sent -- I -- An issue came up.  
16 We learned about Mr. Kuntz's possible claim. And so  
17 to -- The lawyers talked. And to avoid any issues, I  
18 mailed him or he -- I think e-mailed. I apologize. I  
19 e-mailed it to him back in July because the publication  
20 that I did said they have until August 31st --

21 THE COURT: Of this --

22 MR. KOCH: -- of this year to file a claim  
23 because I -- I -- I hadn't seen an affidavit of  
24 publication from earlier.

25 MR. JOHNSON: Your Honor, I think procedurally

1 speaking that order that you're referring to from Judge  
2 Reddy was done at a time when Mr. Koch was not even  
3 involved in the case.

4           It was the initial petition that was filed by  
5 Attorney Gorn for administration, and then no personal  
6 representative had been appointed for all of that time.

7           But one of the initial, I guess, things that  
8 was done was a publication to creditors way back 3 or 4  
9 years ago.

10           THE COURT: There is proof of publication as  
11 well, Mr. Johnson.

12           MR. JOHNSON: Yes.

13           THE COURT: You're right.

14           MR. JOHNSON: Yes.

15           THE COURT: It's Document 22. Filed May 7.

16           MR. JOHNSON: But that -- that was at a time  
17 before any personal representative while the court and  
18 these two parties over here were arguing over who should  
19 be the personal representative, if either of us, and  
20 then eventually led to Attorney Koch being appointed  
21 by -- I thought it was Judge Drettwan.

22           MR. KOCH: It was Judge Drettwan.

23           MR. JOHNSON: But that's why there was that --  
24 That's why the initial publication occurred.

25           THE COURT: Right. It would still notify

1 creditors.

2 MS. GORN: Right. It still was published. It  
3 still was an order.

4 And I would just add that, Your Honor, that  
5 notice of this probate in the Dungeons & Dragons world  
6 is no secret.

7 From the very moment and even before it was  
8 filed, there was very public disagreement between the  
9 Gygax family, members of the Gygax family, about who  
10 owned what. And so everyone in -- sort of in their  
11 sphere knew that this probate had been filed and that  
12 these things were being worked out through the court.

13 So I would be, I guess, somewhat suspicious if  
14 Mr. Kuntz claims that he had no knowledge until recently  
15 that was going on.

16 THE COURT: Right. And I sympathize if  
17 there's financial reasons he couldn't come, but that's  
18 not how the world is guided unfortunately. And that's  
19 not an exception to notice of a claim.

20 Mr. Kuntz, do you want to say something more?

21 MR. KUNTZ: I would like to defend my point of  
22 view, um, specifically in relation to what Ms. --  
23 Attorney Gorn had said that it'd be suspicious.

24 I am isolated in an island, and I don't follow  
25 what's going on in the world and certainly not even in

1 Lake Geneva any more which is my hometown. So, um, that  
2 Mr. -- And am I reading this correctly, Your Honor? So  
3 just looking back, um, that -- that what I went through  
4 is attempting to be invalidated by timing issues here?  
5 Or is there --

6 THE COURT: Yes.

7 MR. KUNTZ: -- some discussion about that?

8 THE COURT: That's my concern is the statute  
9 and Judge Reddy's order said all claims must be filed by  
10 a date in 2020.

11 So that your claim is barred by his order and  
12 by the statute. The statute puts a limitation on --  
13 normally 3 to 4 months from filing of when a creditor  
14 can make a claim so that people can proceed to  
15 litigation at one time, without worry of whether a  
16 claim -- And this could be a claim -- And I'm not  
17 unsympathetic. I have no -- not getting into the merits  
18 of it.

19 What if this swallows up the whole estate?  
20 And Ms. Gorn and Mr. Johnson had to put in many legal  
21 hours, as the personal representative, pursuing a  
22 probate case where in Ms. Gorn's case and/or Mr.  
23 Johnson's case, they were hopeful that their claim --  
24 their client would receive an inheritance.

25 And if they were aware that there was a claim

1 out there that maybe is more than their claims, would  
2 they have pursued this legally? Would they have  
3 spent -- And I know you talk about lack of finances.  
4 They have borne that financial burden to try and prove  
5 their claims, only -- And that's why there are  
6 limitations so that when litigation begins, they know  
7 what they're dealing with.

8 It's not a matter of being mean to people who  
9 have real claims. Real claims, as well as not valid  
10 claims, are barred by this order. So it's -- And I'm  
11 not trying -- To quote Marie Antoinette that the law  
12 applies to the poor and the rich that they both sleep  
13 under bridges, nor barred from sleeping under bridges.

14 But the point is there needs to be finality,  
15 and they relied on that when they did extensive -- and I  
16 mean extensive -- litigation on this case.

17 MR. KUNTZ: Mr. Johnson would have then  
18 brought forth this extensive claim that I made with Gail  
19 Gygax. Is that -- is that correct then?

20 THE COURT: I'm not sure --

21 MR. KUNTZ: In 2018. In 2018 the e-mail claim  
22 that would have sent -- that was sent to, um, to Mrs.  
23 Gail Gygax.

24 THE COURT: I don't know when she retained Mr.  
25 Johnson.

1 MR. KUNTZ: Right --

2 MR. JOHNSON: 2019 this started.

3 THE COURT: Right. This didn't start until --  
4 This was filed in 2020. I assume there was some  
5 discussion ahead of time.

6 But Mr. Johnson has a -- Whether Mr. Johnson  
7 knew or not is not the issue. It sounds like he wasn't  
8 retained until 2019. I have no knowledge of what Gail  
9 Gygax told him about you. That's a client confidence  
10 that I can't interfere with. And Mr. Johnson has a duty  
11 to his client, not to make sure the court is aware of  
12 claims that could be old and stale. That's not his job.

13 His job is not to represent you. So he didn't  
14 have any duty to inform me. His client couldn't hide  
15 it, but I don't think it ever even became an issue that  
16 I could see in any discovery. I assume the merits of it  
17 she would dispute.

18 MR. KUNTZ: Well, Your Honor, what was the  
19 purpose of Mr. Koch then sending me a claim form to be  
20 forwarded or notice to fill out?

21 THE COURT: I think to be careful and  
22 cautious. Your name came up. I think he wanted to  
23 see --

24 MR. KOCH: That's correct.

25 THE COURT: Maybe -- Mr. Koch, you want to

1 answer his question?

2 MR. KOCH: Yes.

3 THE COURT: I don't want to speak for you.

4 MR. KOCH: That's fine, Your Honor. The court  
5 is correct. To be extra careful and extra cautious,  
6 that's why we did it. We had --

7 As I said the -- all the attorneys met and --  
8 well, maybe met or spoke on the phone. I don't remember  
9 which one. But we thought that was the best way to  
10 approach this.

11 THE COURT: All right. Well, today was just  
12 to review to see where we go from here, scheduling. Not  
13 to hear this on the merits.

14 I think I am confident in denying this, based  
15 on Judge Reddy's order. But I don't know if you all  
16 feel confident that you want that order because this  
17 would be a final order to Mr. Kuntz. He would have the  
18 ability to appeal.

19 So I don't know where you want to go from  
20 here. I know there was some talk of motions or summary  
21 judgments to address this and then evidently perhaps  
22 have an evidentiary hearing if we got that far.

23 Ms. Gorn, you are the Petitioner.

24 MR. KUNTZ: Your Honor --

25 THE COURT: I'll give you another chance to

1 talk, Mr. Kuntz. I had an 11:30 hearing. I'm not sure  
2 where they're at right now.

3 MS. GORN: Your Honor, I would be comfortable  
4 with the order. I have no objection if the court would  
5 be willing to grant the order based on Judge Reddy.

6 I think the court is absolutely correct that  
7 if he were allowed to proceed, it could potentially  
8 invalidate the entire reason that our clients pursued  
9 this claim and litigated it in the first place.

10 And so there was an order by Judge Reddy. It  
11 was published, and again, while I'm not unsympathetic,  
12 the order is what the order is, Your Honor.

13 THE COURT: Mr. Johnson?

14 MR. JOHNSON: I would echo those sentiments.  
15 The same thing, Your Honor.

16 THE COURT: All right. I'll turn to you, Mr.  
17 Koch. Obviously they have a vested interest. They're  
18 not completely unbiased as litigants in this matter.  
19 You are the attorney for the estate. You sent out the  
20 notice. There was publication back in 2020.

21 What do you wish now?

22 MR. KOCH: I -- If they're confident with it,  
23 I'm confident with it also, Your Honor.

24 THE COURT: Right.

25 MR. KOCH: I think -- I understand the

1 court's order. I agree with it.

2 THE COURT: All right. Mr. Kuntz, again, I'm  
3 not deciding this on the merits. I'm not saying that  
4 you're wrong.

5 What any of the other parties may have done or  
6 what you -- what agreement you had with Gary Gygax --  
7 What I'm deciding today is your claim is too late. That  
8 back in 2020, Judge Reddy ordered that all claims of all  
9 creditors in the world -- And obviously we can't  
10 publish in every newspaper in the world.

11 So there are certain newspapers that the  
12 courts use, and it's usually a local paper. I am  
13 confident -- I don't know what your -- You say you are  
14 isolated in Corsica. Obviously that's true, but the  
15 internet reaches to all the corners of the world.

16 But I'm saying that -- without deciding the  
17 merits that your claim is barred as filed too late.

18 But you will have a right of appeal, and I  
19 just want to ask you before we break the connection if  
20 there's any other record you wish to make so that you  
21 may have a better record for appeal.

22 MR. KUNTZ: What -- what record I should make,  
23 sir?

24 THE COURT: I don't know if there's anything  
25 else you want me to think about or address before we

1 break the connection.

2 MR. KUNTZ: Well, I would consider that, um,  
3 that my property is my property, sir. And no matter how  
4 long -- And -- and the Gygax name is not returned to me  
5 upon request.

6 So having moved outside of, I guess, the  
7 jurisdiction of what you're overseeing here and into  
8 another area.

9 THE COURT: Right.

10 MR. KUNTZ: Because it's not dating my claim  
11 so much as invalidating the time of my claim.

12 THE COURT: Right. Exactly.

13 MR. KUNTZ: So I would recommend that, um, Mr.  
14 Koch and I confer on that.

15 THE COURT: You can confer, but my order will  
16 be my order today.

17 All right. So I'm granting -- I'm denying  
18 the claim based on Judge Reddy's order. I've already  
19 cited what the file numbers or what the document numbers  
20 were.

21 I believe 859.02 of the statutes talks about  
22 notice of claim and time limits on that. There has been  
23 proof of publication. Those time limits set by Judge  
24 Reddy apply to anybody and everybody. It's not a  
25 discovery kind of issue. Moreover, we have not

1 addressed the merits. There may be other issues, but  
2 whether they were -- would have then barred the  
3 underlying claims even before that deadline set by Judge  
4 Reddy.

5 But Judge Reddy's deadline does exist, and I  
6 will deny the claim. You'll prepare an order on that?

7 MR. KOCH: Yes.

8 THE COURT: Please send it to Mr. Kuntz.  
9 Please indicate it's a final order for any appellate  
10 reasons.

11 We can't -- I can't give you appeal advice.  
12 I'm not sure what Mr. Koch feels comfortable with. He  
13 has a duty to his client which is the estate, not to  
14 you. You can ask him general questions about that, but  
15 he cannot give you legal advice as though he represents  
16 you.

17 So you are not left without remedies. You can  
18 pursue this, just in a different courtroom right now.

19 MR. KOCH: And, Your Honor, I was just gonna  
20 say for the reasons stated on the record.

21 THE COURT: All right.

22 MR. KOCH: Okay.

23 THE COURT: Okay. All right. We're  
24 adjourned. Thank you.

25 MR. KOCH: Thank you, Your Honor.

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MR. JOHNSON: Thank you, Your Honor.

MS. GORN: Thank you, Your Honor.

(The proceedings concluded.)

1 STATE OF WISCONSIN )

2 ) SS:

3 WALWORTH COUNTY )

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5 I, Marilyn S. Annen, hereby certify that I am the  
6 official court reporter for the Circuit Court, Branch 1,  
7 Walworth County, Wisconsin, do hereby certify that the  
8 foregoing is a true and correct transcript of all the  
9 proceedings had and testimony taken in the above  
10 entitled matter as the same are contained in my original  
11 machine shorthand notes on the said trial or proceeding.

12 Dated at Elkhorn, Wisconsin, May 16, 2024.

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20 electronically signed by

21 Marilyn S. Annen

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23 \_\_\_\_\_  
Marilyn S. Annen

24 Registered Professional Reporter

25 Official Reporter