

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

IN RE: ESTATE OF ALMA BUNCH : APPEAL NO. C-150108
 : TRIAL NO. 2010001728
 :
 : *JUDGMENT ENTRY.*

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Appellant 1st National Cash Refund, Inc., (“1st National”) appeals from an entry of the Hamilton County Probate Court amending a certificate of judgment to include 1st National as a judgment debtor.

In its first assignment of error, 1st National argues that the trial court erred in amending the certificate of judgment to include it as a judgment debtor. The trial court entered a judgment on August 29, 2012, ordering 1st National “and/or” its president, Carl Woodford, as well as attorney John Neal to pay \$24,370.73 to the Estate of Alma Bunch (the “Estate”) by September 17, 2012. The order provided that the failure to pay would be scheduled for a contempt hearing. The amount remained unpaid to the Estate, and the trial court issued a show-cause order to attorney Neal and to Woodford on October 3, 2012. After a hearing, the trial court entered an order on December 20, 2012, finding Woodford and Neal in contempt and ordering the two to pay \$24,370.73

to the Estate. On January 28, 2013, the clerk of courts issued two separate certificates of judgment naming attorney Neal and Woodford, respectively, as judgment debtors. The attorney for the Estate then moved the court to “amend” the certificate of judgment to include 1st National as a judgment debtor. The trial court agreed to amend the certificate of judgment based upon its August 29, 2012 order, requiring 1st National to pay \$24,370.73 to the Estate by September 17, 2012.

Due process requires that a person or entity receive notice and an opportunity to respond to contempt allegations before the person or entity can be found in indirect civil contempt. *See, e.g., Goffstein v. Goffstein*, 1st Dist. Hamilton No. C-140010, 2014-Ohio-5060, ¶ 6. The trial court did not include 1st National in its show-cause order, and the trial court’s December 20, 2012 contempt order excluded 1st National. Corporations are distinct legal entities, and the record does not reflect any argument advanced by the Estate in the trial court which would allow for a “reverse piercing” of the corporate veil, holding 1st National liable for the actions of Woodford. *See Maui Toys, Inc. v. Brown*, 7th Dist. Mahoning No. 12 MA 172, 2014-Ohio-583, ¶ 81. Furthermore, the trial court’s August 29, 2012 order, requiring 1st National “and/or” Woodford to pay \$24,370.73 to the Estate was not a final, appealable order, because it contemplated further proceedings in the trial court—namely, a contempt hearing. *See State ex rel. Keith v. McMonagle*, 103 Ohio St.3d 430, 2004-Ohio-5580, 816 N.E.2d 597, ¶ 4 (generally, judgments which contemplate further action are not final, appealable orders).

For these reasons, the trial court erred in amending the certificate of judgment to include 1st National as a judgment debtor. We sustain 1st National’s first assignment of error.

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In 1st National's second assignment of error, it argues that the trial court erred by entering its August 29, 2012 order requiring 1st National to pay \$24,370.73 to the Estate by September 17, 2012, because 1st National was not formally made a party to the case. Although the trial court denied 1st National's motion to intervene, the record reflects that prior to the entry of the August 29, 2012 order, 1st National had notice of the Estate's assertion that it held probate assets, and 1st National actively participated in the probate case. Therefore, 1st National cannot claim prejudice by the failure, if any, of the probate court to follow a specific procedure, and cannot claim that the probate court lacked personal jurisdiction over it. *See Bender v. Haynes*, 2011-Ohio-6769, 969 N.E.2d 302 (1st Dist.). We overrule 1st National's second assignment of error.

In conclusion, we reverse the trial court's decision amending the certificate of judgment to include 1st National as a judgment debtor, and we remand the cause for further proceedings in the trial court consistent with this judgment entry and the law.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., FISCHER and MOCK, JJ.

To the clerk:

Enter upon the journal of the court on December 11, 2015
per order of the court _____.
Presiding Judge