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The ''officially released'' date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the ''officially released'' date appearing in the opinion. In no event will any such motions be accepted before the ''officially released'' date.

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SCHALLER, J., dissenting. I agree with the majority that the Probate Court had jurisdiction to adjudicate the name change application brought on behalf of the minor child by the pro se plaintiff mother, Tamara A. Shockley. I also agree that the trial court improperly addressed the merits of the appeal from the Probate Court after concluding that it lacked subject matter jurisdiction. I respectfully disagree, however, with the majority's conclusion that the Superior Court did not have subject matter jurisdiction concerning the plaintiff mother's appeal from probate. In my view, the plaintiff brought the probate appeal as well as the change of name application in the capacity of parent and next friend of her minor child. Accordingly, she had standing in that capacity before the Superior Court, and that court had subject matter jurisdiction. My conclusion, however, raises a threshold issue regarding the authority to proceed pursuant to our recent decision in *Lowe* v. *Shelton*, 83 Conn. App. 750, 851 A.2d 1183, cert. denied, 271 Conn. 915, 859 A.2d 568 (2004). Because the plaintiff is proceeding in a representative capacity for her minor child, she currently lacks authority to proceed without counsel in the present appeal.

At this point, a detailed discussion of *Lowe* is necessary in order to explain my views on the present appeal. In *Lowe*, the minor child, a student at Shelton high school, attempted to establish a jazz club at his school. Id., 752. His application was denied by the student council. Id. The minor's parents received a letter from the school's headmaster, indicating the reasons for the denial. Id. The student, through his parents acting as next friends, commenced a civil action against the city of Shelton, the board of education, the high school and the headmaster. Id., 751. The student alleged that the reasons listed in the letter for the denial of his application constituted libel ''because it asserted that [he] was a liar.'' Id., 752–53.

Following a trial, the court rendered judgment in favor of the defendants. Id., 753. The student's parents, who were not lawyers, brought an appeal without counsel on behalf of their son prior to his reaching the age of majority. Id. While the appeal was pending, and prior to oral argument before this court, the student became eighteen years of age. Id. At oral argument, we requested simultaneous supplemental briefs in order to give the parties an opportunity to discuss ''(1) whether we [had] subject matter jurisdiction over th[e] appeal because it was filed by the plaintiff's parents without the appearance of an attorney and (2) if it was improper for the plaintiff's parents to file the appeal, whether the defect [was] curable.'' Id.

We first concluded that we had subject matter juris-

diction to hear the appeal brought by the student, who then had reached the age of majority. Id., 754. The second question that we answered in *Lowe* was whether the nonlawyer parents properly brought the appeal without the appearance of an attorney. Id., 755. We concluded that they did not. Id. ''As nonattorneys, the plaintiff's parents lacked authorization to maintain this appeal without the appearance of an attorney. . . . The authorization to appear pro se is limited to representing one's own cause, and *does not permit individuals to appear pro se in a representative capacity*.'' (Citations omitted; emphasis in original; internal quotation marks omitted.) Id., 756. Despite that flaw in the appeal, however, we concluded that filing of an appeal on behalf of a minor by a nonlawyer parent did not implicate our subject matter jurisdiction and was, in fact, curable by the filing of an appearance by the former minor student. Id., 759.

In the present case, the pro se plaintiff, although a lawyer, is not licensed to practice law in Connecticut. There is no indication that she has been admitted to practice pro hac vice.[1] In short, she is not authorized to practice law in this jurisdiction. It would appear, therefore, that this case falls within the ambit of *Lowe* because she brought the appeal as parent and next friend of her minor child.

Because the parties have neither raised nor had the opportunity to address the *Lowe* authority problem and because *Lowe* presents a *curable* defect, the parties must be given an opportunity to brief and to address the issue. Moreover, if we determine ultimately that a *Lowe* authority defect exists in the present appeal, the plaintiff must be given an opportunity to correct the defect by having counsel appear for her minor child. See *Phoebe G.* v. *Solnit*, 252 Conn. 68, 79 n.10, 743 A.2d 606 (1999).

Having pointed out the potential and unresolved problem with this appeal as a result of the *Lowe* case, I now turn to the conclusion of the majority that the plaintiff was not proceeding in a representative capacity in the Superior Court. The plaintiff brought the application for a change of name in the Probate Court as parent and next friend. The majority gleans that from the language of the application to change the child's name. The majority reconciles the ambiguous language of the application and, in fact, the ambiguous language of the Probate Court decree in favor of determining that she brought the application on behalf of the child. The Probate Court's ''Decree Allowing Appeal from Probate,'' which is entitled ''In the Matter of Nnamdi Ikwanne Shockley-Okeke, formerly residing in Stamford, Connecticut in said District, a minor person,'' acknowledges that the plaintiff ''says that she is aggrieved by the order and decree . . . denying her petition to change the name of her son . . . and has moved an appeal to the

Superior Court . . . .'' I note that on one of the Probate Court's forms, entitled ''Order of Notice of Hearing, Notice and Return,'' the petitioner is listed as ''Tamara A. Shockley, parent and next friend to Nnamdi Ikwanne Shockley-Okeke, a minor.'' The mother was not a party, individually, before the Probate Court and had standing in that proceeding only as parent on behalf of the minor child.

The decree from the Probate Court then authorizes the plaintiff by name to appeal to the Superior Court. Because the plaintiff was before the Probate Court in a representative capacity and sought permission to appeal in the same capacity, it is reasonable to conclude that she thereafter brought the present appeal in that same representative capacity.

The majority, however, interprets the probate appeal documents differently in determining that the appeal ''fails to indicate that it is brought by the plaintiff on behalf of her son.'' Apparently, the basis for that conclusion is the absence of specific language in the appeal that indicates that the appeal is being brought on behalf of a minor. I respectfully submit that in doing so, the majority fails to account for two well established principles in our jurisprudence. First, ''[o]ur Supreme Court has repeatedly eschewed applying the law in such a hypertechnical manner so as to elevate form over substance.'' (Internal quotation marks omitted.) *Martin Printing, Inc.* v. *Sone*, 89 Conn. App. 336, 344, 873 A.2d 232 (2005). Second, ''[i]t is well established that, in determining whether a court has subject matter jurisdiction, every presumption favoring jurisdiction should be indulged.'' (Internal quotation marks omitted.) *Loricco Towers Condominium Assn.* v. *Pantani*, 90 Conn. App. 43, 48, 876 A.2d 1211 (2005). In my view, an application of those two principles leads to the conclusion that although the plaintiff's appeal from the Probate Court is not a model of clarity, nevertheless, and *in the interests of justice*, the proper course would be to have the Superior Court rule on the merits of the controversy involving the minor child.

The plaintiff also refers to herself individually in the course of the appeal. Because the plaintiff appeared in the Probate Court solely *in the capacity of parent and next friend*, and not individually—for which she would have no standing—I find no reason to conclude that she attempted to appeal *in an individual capacity* after the adverse decision on the name change application, which she brought *as parent and next friend*. I disagree with the majority's assumption that having received an adverse decision as parent of the minor in the Probate Court, she then attempted to appeal in an individual capacity. Because the language of both the application and the appeal combine language of *individual capacity* with language of *representation*, they should not be measured according to different standards. The Probate

Court's decree allowing the appeal limited the right of appeal to the plaintiff in a representative capacity, strongly indicating that any appeal brought would be in that capacity.

Moreover, the appeal from the Probate Court contains language clearly indicating that the plaintiff continued to represent the child's interest in the appeal. She asserts, for example, that the Probate Court made a decision on the basis of the interests of the defendant father, Edward C. Okeke, rather than "in the best interests of a child who will live in this country." The appeal also claims that "the [Probate] Court failed to consider the welfare of the child residing in Connecticut . . . ." The plaintiff also asserted in her appeal that she "wishes the child to have the same choice as made by the [defendant] . . . ." My reading of the application and the appeal finds no basis to differentiate one from the other in terms of the capacity in which the plaintiff mother was acting. Aside from the logic of concluding that she would appeal in the same and only capacity in which she appeared in the Probate Court, the language of both documents indicates that consistency in interpretation should lead to the conclusion that she was acting *on behalf of the child* in both proceedings, absent a clear and unequivocal expressed intent by the plaintiff to proceed as an individual.[2]

I believe that the Superior Court incorrectly determined that the plaintiff had no standing to bring the appeal just as it incorrectly determined that she had no standing before the Probate Court. On the basis of my conclusion, the Superior Court could have proceeded to the merits of the appeal. Because it determined that no jurisdiction existed and so informed the parties, however, the court should not have addressed the merits. In my view, because the plaintiff has standing to proceed on the probate appeal in the Superior Court, it would ordinarily be appropriate to reverse the judgment of the Superior Court and to remand the case for a new trial of the appeal from probate. Because the lack of authority to proceed without counsel, however, on the basis of *Lowe* v. *Shelton*, supra, 83 Conn. App. 750, implicates our authority to decide the appeal, I would give the parties an opportunity to address the *Lowe* problem by ordering supplemental briefs and, if necessary, I would give the plaintiff the opportunity to cure any such problem by having counsel appear on her behalf as representative of the minor child.

For the foregoing reasons, I respectfully dissent.

[1] Practice Book § 2-16 provides in relevant part: "An attorney who is in good standing at the bar of another state . . . may, upon special and infrequent occasion and for good cause shown upon written application presented by a member of the bar of this state, be permitted in the discretion of the court, to participate to such extent as the court may prescribe in the presentation of a cause or appeal in any court of this state . . . ."

[2] I do not suggest that a finding of subject matter jurisdiction by the Probate Court is sine qua non of the issue. Moreover, it is clear that, under different circumstances, a matter within the Probate Court's jurisdiction

could be altered in a way that would result in lack of jurisdiction with respect to an appeal in the Superior Court. Under the facts and circumstances here, however, I believe the appeal from the Probate Court was before the Superior Court properly.