

30 states in pertinent part : “***When the plaintiff is a corporation, the complaint must be signed by an attorney. *** Persons who have a power of attorney from, or a management agreement with, the owner of a property, who are not attorneys, may bring an action for forcible entry and detainer in their own names as plaintiffs.”

R. C. 4705.01 prohibits the unauthorized practice of law. It provides in relevant part: “No person shall be permitted to practice as an attorney and counselor at law, or to commence, conduct or defend any action or proceeding in which he is not a party concerned, either by using or subscribing his own name, or the name of another person, unless he has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules.” Unauthorized practice of law is an affirmative defense that must be raised by an adverse party or challenged by the court *sua sponte* at the time of the trial court processes.

A trustee, who is not an attorney, may not file a complaint on behalf of the trust in a court. **Williams, Trustee v. Global Construction Company** (1985), 26 Ohio App.3d 119. In **Williams**, the plaintiff was business trust engaged in a steel fabricating business. The complaint was signed by Robert Williams, pro se. The court stated: “*** it appears clear that Robert E. Williams was acting as an attorney for Tubalcain Trust when he filed the complaint against the three defendants. He was not representing himself in the lawsuit since he was not a party to the lawsuit. Therefore, by filing the complaint for Tubalcain Trust, Williams was practicing law in violation of R. C. 4705.01. Even if Williams along with Tubalcain Trust, were a party to the action he could not represent himself and another interest party. **Ott v. Patterson** (1962), 173 Ohio St. 174.***” Although Williams was a trustee of a business trust, he could not represent the interests of the trust in court, as that constituted the practice of law

Where it appears that one not licensed to practice law has instituted legal proceedings on

behalf of another in a court of record, such suit should be dismissed. Having determined that plaintiff could not file this claim as successor trustee without an attorney at law, it is the decision of the Magistrate that the entire cause of action is dismissed without prejudice.

Suzanne Stephens 6/5/01

Magistrate Suzanne Stephens

JUN 1 11 04 AM '01
MARRIOTT COURT
JIM LARIA
CLERK

JUDGMENT ORDER

The decision of the Magistrate is approved. It is the judgment of the Court that the case be dismissed without prejudice. Costs to be paid by the plaintiff.

6/6/01
DATE

[Signature]
Judge

cc: Attorney for Defendant
Plaintiff