

IN THE MUNICIPAL COURT OF FINDLAY, OHIO

BISHOP KANDEL REALTY

Case No. 89-CVG-1406

Plaintiff

vs.

SAM DECKER, et al.

JUDGMENT ENTRY

Defendants

In accordance with this court's written decision issued April 2, 1990, the court finds that Bishop Kandel Realty as a partnership cannot be represented by Janice Bishop. Janice Bishop is not a party and is not an attorney. Neither is she a "party concerned" solely by virtue of her familial relationship to the partners of the plaintiff organization.

Wherefore, the court grants defendants' motion to strike the complaint. Plaintiff's complaint is dismissed without prejudice. Plaintiff has fourteen days from the filing of this entry to refile their complaint for damage.

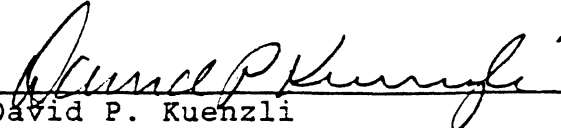


JUDGE REGINALD J. ROUTSON

APPROVED FOR ENTRY:



Janet Pecquet  
ADVOCATES FOR BASIC LEGAL EQUALITY INC.  
Attorney for Defendants  
DEC-JE.63



David P. Kuenzli  
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IN THE MUNICIPAL COURT OF FINDLAY, OHIO

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|------------------------|---|----------------------|
| BISHOP KANDEL REALTY   | : |                      |
|                        | : |                      |
| PLAINTIFF,             | : |                      |
|                        | : | CASE NO. 89-CVG-1406 |
| -vs-                   | : |                      |
|                        | : | <u>DECISION</u>      |
| SAM E. DECKER          | : |                      |
| AND VIRGINIA M. DECKER | : |                      |
| DEFENDANT.             | : |                      |

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This matter came on for consideration of Defendant's Motion to Strike Plaintiff's Complaint. Upon consideration of the arguments of counsel and the memoranda filed by the parties, the Court finds as follows.

**STATEMENT OF FACTS**

On September 28, 1989, Bishop Kandel Realty, a Partnership consisting of Dennis Bishop and Eugene Kandel, filed a Complaint against the Defendants. The claim sought a writ of restitution and damages. The Complaint was signed by Janice Bishop, an agent for the Plaintiff. Mrs. Bishop is not an attorney at law. On November 29, 1989, the Defendants filed a Motion to Strike Plaintiff's Complaint, alleging that a partnership may not maintain litigation in propria persona and, in the alternative, that Revised Code section 4705.01 prohibits anyone from commencing an action unless he is a

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party concerned or an attorney at law admitted to the practice by order of the Supreme Court of Ohio.

#### DECISION

With respect to the first branch of Defendant's Motion, this Court cannot conclude that the case of Union Savings Association v Homeowners Aid, Inc. (1970) 23 OS 2d, 60 is dispositive of this issue. In that case, the Supreme Court of Ohio found that a corporation could not appear in propria persona. In this case, the Plaintiff is a partnership, a very different specie of business relationships. This Court could find no decision which would prohibit a partnership from proceeding in propria persona. Absent any legal authority, this Court chooses not to extend the rationale of Union Savings Association, supra, to the case sub judice.

Therefore, the first branch of Defendant's Motion is not well taken.

With respect to the second branch of Defendant's Motion, Plaintiffs argue that Janice Bishop, wife of Denny Bishop and daughter of Eugene Kandel, is a "party concerned" within the meaning of Revised Code section 4507.01, by virtue of her marital and familial relationship. In the case of Williams v Global Construction, Limited, (1985) 26 O App. 3d, 119, the Court held that a party concerned is one who is named as a party to the underlying lawsuit. See 26 O App. 3d at 120. Janice Bishop is not a party named in this legal action

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and therefore is not a "party concerned". Her marital and familial relationships are not sufficient in and of themselves, absent a direct pecuniary interest.

Wherefore, pursuant to Williams, supra, the Court finds that the second branch of Defendants Motion is well taken.

Wherefore, this Court orders that Plaintiff's Complaint be dismissed without prejudice. See Williams, supra.

Plaintiffs are afforded 14 days after the filing of the appropriate entry to refile their complaint for damages.

Prevailing counsel to prepare the appropriate entry.

  
REGINALD J. ROUTSON, JUDGE  
FINCLAY MUNICIPAL COURT