

CLEVELAND MUNICIPAL COURT
HOUSING DIVISION
CUYAHOGA COUNTY, OHIO

DDM LLC)	
)	Judge Raymond L. Pianka
Plaintiff)	
)	Case No. 97 CVG 06455
vs.)	
)	OPINION AND
Fiorentini, et al.)	JUDGMENT ENTRY
)	
Defendants)	

This matter came for hearing April 7, 1997 on the plaintiff's claim for restitution. Plaintiff is a limited liability company organized under the laws of the State of Ohio. Ms. Dede Atkins, secretary of the limited liability company, was present in Court on behalf of plaintiff. Ms. Atkins, who is not an attorney, signed the complaint in the present matter and was unaccompanied by counsel. As a matter of first impression, this Court must decide whether or not a limited liability company must be represented by counsel in Court.

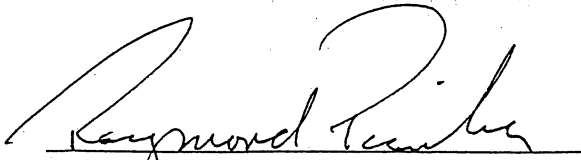
The Ohio Supreme Court has required corporations to be represented by counsel based upon the fact that a corporation is an artificial person and, further, based upon the statutory prohibition of the unauthorized practice of law. Union Savings Association v. Home Owners Aid, Inc. (1970), 23 Ohio St.2d 60. Case law also supports requiring trustees to be represented by counsel. Tubalcain Trust v. Cornerstone Construction, Inc. (May 26, 1994), Franklin App. No. 93APE12-1701, unreported; Williams v. Global Construction Co., Ltd. (July 25, 1985), 26 Ohio App.3d 119 (Franklin App.). Upon review of R.C. Chapter 1705 and R.C. Section 4705.01, this Court concludes that the bases noted above, requiring corporations and trusts to be represented by counsel in Court, are equally applicable to limited liability companies.

The complaint in this matter was signed by the secretary of the limited liability company. The signature of an officer of a limited liability company on a complaint is a legal nullity. Therefore, the pleading was deficient, as if filed unsigned. Civil Rule 11 states in pertinent part, "If a document is not signed . . . it may be stricken . . ." Numerous cases have also held that complaints filed on behalf of corporations and signed by non-attorneys must be dismissed. Sheridan Mobile Village, Inc. v. Larsen, et al. (February 4, 1992), 78 Ohio App.3d 203 (Lawrence Cty.); YWCA of Canton, Inc. v. Hager (Mar. 7, 1989), Stark App. No. CA-7351, unreported. See also National Church Publications v. Hiser (June 12, 1986), Richland App. No. CA-2388, unreported. Therefore, the present complaint is stricken. Plaintiff must file a new action to proceed.

JUDGMENT ENTRY RECEIVED
FOR JOURNALIZATION

APR 15 1997

EARLE D. TURNER, Clerk



Judge Raymond Pianka
Housing Division

CLEVELAND MUNICIPAL COURT
HOUSING DIVISION
CUYAHOGA COUNTY, OHIO

DDM LLC)	
)	Judge Raymond L. Pianka
Plaintiff)	
)	Case No. 97 CVG 06455
vs.)	
)	MAGISTRATE'S REPORT
Fiorentini, et al.)	
)	
Defendants)	

This matter came for hearing April 7, 1997 before Magistrate Sandra R. Lewis, to whom it was assigned by Judge Raymond Pianka pursuant to Ohio Rule of Civil Procedure 53, to take evidence on all issues of law and fact regarding the plaintiff's claim for restitution.

FINDINGS OF FACT

1. Plaintiff is a limited liability company organized under the laws of the State of Ohio.
2. Ms. Dede Atkins, secretary of the limited liability company, was present in Court on behalf of plaintiff. Ms. Atkins, who is not an attorney, signed the complaint in the present matter and was unaccompanied by counsel.

CONCLUSIONS OF LAW

The Ohio Supreme Court has required corporations to be represented by counsel based upon the fact that a corporation is an artificial person and, further, based upon the statutory prohibition of the unauthorized practice of law. Union Savings Association v. Home Owners Aid, Inc. (1970), 23 Ohio St.2d 60. Therefore, this matter should be dismissed as improperly filed.

Recommended:

Magistrate Sandra R. Lewis

SERVICE

A copy of this Magistrate's Report was sent via regular U.S. Mail to the plaintiff's counsel DDM, LLC, P.O. Box 23072, Chagrin Falls, Ohio 44023 and to defendants Jina Fiorentini and Keith Christianson, 6602 Fleet Avenue, #7, up rear, Cleveland, Ohio 44105 this _____ day of April 1997.