

CLEVELAND MUNICIPAL COURT  
HOUSING DIVISION  
CUYAHOGA COUNTY, OHIO  
Judge Raymond L. Pianka

LAMMB Management

Date: December 13, 2006

Plaintiff

-vs-

CASE NO.: 2006 CVG 27727

Merle Perkins; and  
Rondaline Perkins

Defendants

JUDGMENT ENTRY

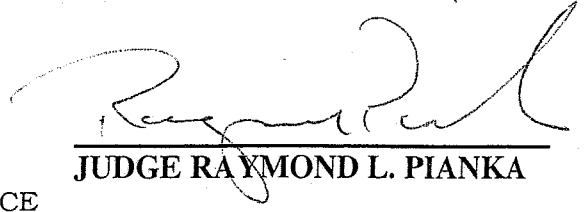
Defendants filed their *Defendants' Motion For Summary Judgment* December 12, 2006. The Court denies the motion for the following reasons.

O.R.C. §1329.10(B) requires a person doing business under a trade name or fictitious name to register that name with the Ohio Secretary of State in order to have capacity to sue under that name. Defendants claim that Plaintiff has failed to register its name and that there is no genuine dispute as to whether this is true. Defendants then argue that Plaintiff, having failed to register the name "LAMMB Management," lacks capacity to sue. But a party can maintain capacity to sue so long as the party registers the trade name or fictitious name prior to a final judgment. *Dodd v. Keybank* (2006), 2006 WL 62432, 2006-Ohio-93 (8<sup>th</sup> Dist.) at ¶15. The Court will not grant a final judgment prior to trial, which is set for December 18, 2006. Thus, Plaintiff has until at least December 18, 2006 to register its name. Defendants may raise this issue at trial. If Defendants present evidence that the name is not registered, Plaintiff will have the burden of proving that it is registered.

Defendants also argue that Plaintiff must be represented by an attorney. The Court will also consider this issue at trial but not before. If Plaintiff registers the name "LAMMB Management" as a name under which a business association, such as a corporation, does business, the Court would dismiss the complaint for having been filed by a non-attorney on behalf of another. But if Plaintiff registers the name as a name under which a person, L'Tuanya Ballard, does business, the Court will not dismiss it since Ms. Ballard would be the appropriate person to bring the action.

The Court denies Defendants' motion for summary judgment because it raises issues that must be heard at trial and not before trial.

Trial on Plaintiff's first cause of action remains set for **December 18, 2006 at 9:00 a.m.** on the 13<sup>th</sup> floor of the Justice Center, 1200 Ontario Street, Cleveland, Ohio, parties to check in at the counter outside the courtrooms.



**JUDGE RAYMOND L. PIANKA**

SERVICE

A copy of this judgment entry was sent via regular U.S. Mail to the following on \_\_\_/\_\_\_/\_\_\_.

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