

IN THE FRANKLIN COUNTY MUNICIPAL COURT
COLUMBUS, OHIO

JAMES PATTERSON

Plaintiff(s)

vs

ERIC TEGGE

Defendant(s)

CASE No. 2019 CVG 025075

ENTRY

This Court grants Defendant's motion to vacate judgment entered against Defendant on September 27, 2019, and to dismiss Plaintiff's case pursuant this Court's inherent authority to vacate void judgments. Plaintiff is not an attorney and is therefore barred from signing a complaint on the behalf of a third-party under R.C. § 4705.07. The property Plaintiff is seeking to evict Defendant from is owned by a third-party, and not Plaintiff. Plaintiff's complaint is therefore null and void ab initio. The parties have agreed to the facts contained in this order for this Court to base its assessment on.

Statement of Facts

On June 28, 2019, Plaintiff filed the complaint in this instant case for forcible entry and detainer of the residential premises located at 6564 Santa Cruz Place, Reynoldsburg, Ohio 43068. Plaintiff signed the complaint as "JAMES L. PATTERSON, Owner." Plaintiff is not the owner of the premises; the owner of the premises is "JIM LEVI 1052, INC." The premises was transferred from JAMES L. PATTERSON JR., to JIM LEVI 1052, INC., on November 21, 2006. Plaintiff filed an amended complaint on July 15, 2019. Plaintiff and Defendant signed a settlement

agreement on July 31, 2019, which was not submitted to the court. Instead the case was continued on twice until September 27, 2019, when a hearing was held on the enforcement of this settlement agreement and judgement was granted for restitution of the premises.

Court's inherent authority to dismiss

This Court has the inherent authority to vacate a void judgement, which is independent from Civ.R. 60(B). 1970 Staff Note Civ.R. 60; *See, The Lincoln Tavern, Inc. v. Snader*, 165 Ohio St. 61 (1956).

Unauthorized Practice of Law under R.C. § R.C. 4705.07(A)(3)

R.C. 4705.07(A)(3) states, “No person who is not licensed to practice law in this state shall do any of the following: ... (3) Commit any act that is prohibited by the supreme court as being the unauthorized practice of law.”

It is the inherent authority of the judicial branch to define the practice of law, which cannot be limited by the legislative branch. *Cleveland Bar Assn. v. Picklo*, 96 Ohio St.3d 195, 2002 -Ohio- 3995, 772 N.E.2d 1187. Non-attorneys cannot file complaints for forcible entry and detainer and recovery of unpaid rent or other money damages on behalf of a property owner. *Id.* A landlord's conduct of representing property owners in related legal proceedings constitutes the unauthorized practice of law. *Ohio State Bar Association v. Ross*, 154 Ohio St.3d 328, 114 N.E.3d 179, 2018 -Ohio- 4247. It is well-settled that “[a] corporation cannot maintain litigation in propria persona, or appear in court through an officer of the corporation or an appointed agent not admitted to the practice of law.” *Union Savings Assn. v. Home Owners Aid* (1970), 23 Ohio St.2d 60, 262 N.E.2d 558, syllabus. The Supreme Court of Ohio explained these restrictions:

It is the responsibility of this court to provide effective standards for admission to the practice of law and for the discipline of those admitted to practice. Litigation must be projected through the courts according to established practice by lawyers who are of high character, skilled in the profession, dedicated to the interest of their clients, and in the spirit of public service. In the orderly process of the administration of justice, any retreat from those principles would be a disservice to the public. To allow a corporation to maintain litigation and appear in court represented by corporate officers or agents only would lay open the gates to the practice of law for entry to those corporate officers or agents who have not been qualified to practice law and who are not amenable to the general discipline of the court.

Id at 64.

A complaint filed in violation of R.C. § 4705.07 is a nullity and must be treated as if it were never filed. *Geiger v. King*, 10th Dist. Franklin No. 03AP-1228, 2004-Ohio-2137 ¶ 9; *See Sheridan Mobile Village, Inc. v. Larsen*, 78 Ohio App.3d 203, 604 N.E.2d 217 (4th Dist. 1992); *Baon v. Fairview Hosp.*, 8th Dist. Cuyahoga No. 107946, 2019-Ohio-3371, ¶ 21; *DiPaolo Indus. Dev., L.L.C. v. Blair & Latell Co.*, 11th Dist. Trumbull No. 2014-T-0006, 2014-Ohio-4317, ¶ 14; A complaint filed by a non-attorney in violation of R.C. § 4705.01 should be dismissed without prejudice. *State ex rel. Army of Twelve Monkeys v. Warren Cty. Court of Common Pleas*, 156 Ohio St.3d 346, 2019-Ohio-901, 126 N.E.3d 1113 (2019). A null complaint renders amendments to the complaint null. *See Cannabis for Cures, L.L.C. v. State Bd. of Pharmacy*, 2nd Dist. Clark No. 2018-CA-12, 2018-Ohio-3193, ¶ 11; *Fone-X, Inc. v. Strohm*, 5th Dist. Licking No. CA-3653, 1991 WL 261824, *1.

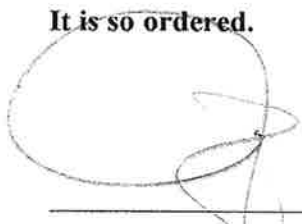
Plaintiff's filing of the complaint is void ab initio and cannot be cured

Plaintiff's signing and filing of the complaint in this instant case constitutes legal representation of JIM LEVI 1052, INC, the owner of the premises. Since Plaintiff is prohibited from filing complaints on behalf of third-parties, Plaintiff's complaint is null and renders Plaintiff's amended complaint null. Plaintiff cannot cure the null complaint by substituting parties,

amending the complaint, or obtaining an attorney. Plaintiff maintains that he was unaware that a sole member LLC was a separate legal entity and that an LLC is merely a device to protect personal liability. Regardless, Plaintiff's complaint must be treated as if it has never been filed, therefore, this case has not presented any real parties or injuries before this Court, which is necessary to establish standing. For these reasons, judgement for Plaintiff in this case must be vacated and his case dismissed.

For these reasons, judgement for Plaintiff is vacated and this case dismissed without prejudice.

It is so ordered.



Judge James O'Grady

3/3/20

Date

Sample order provided by counsel for the parties:

*Alan Friedman
Attorney for Plaintiff*

*Jyoshu Tsushima
Attorney for Defendant*

Copies to parties

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COLUMBUS, OHIO

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Plaintiff,

v.

Eric Tegge,
Defendant.

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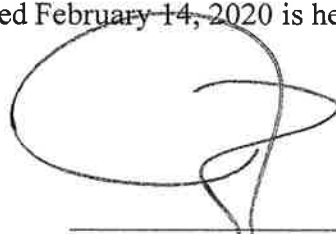
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ENTRY

Upon agreement the entry journalized February 14, 2020 is hereby withdrawn and stricken.

IT IS SO ORDERED.

Date: 3/3/20



JUDGE JAMES P. O'GRADY

Copies to:
Alan Friedman, Esq.
Attorney for Plaintiff

Jyoshu Tsumima
Attorney for Defendant