



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: UNIVERSITY COMMONS LITIGATION

Civil Action No. 13-C-7000

THIS DOCUMENT APPLIES TO ALL CASES

ORDER

The Court has previously advised Plaintiff Andrew C. Smith that he can represent himself in this litigation, but he cannot represent others. Accordingly, Plaintiff Andrew C. Smith cannot represent Smith Rentals, LLC.

Shenandoah Sales & Service, Inc. v. Assessor of Jefferson County, 228 W. Va. 762, 724 S.E.2d 733 (2012) is instructive on this point. The Supreme Court of Appeals of West Virginia held that a corporation was required to be represented by a lawyer in the circuit court and a vice-president of a corporation was engaged in the unauthorized practice of law by filing an appeal to the circuit court. The Court noted that “it is a well-settled legal principle that a corporation must be represented by a lawyer in a court of record.” *Id.*, 228 W. Va. at 766, 724 S.E.2d at 737. Furthermore, Rule 4.03 of the West Virginia Trial Court Rules does not allow a corporation to be represented by a non-lawyer corporate agent:

Every party to proceedings before any court, except parties appearing *pro se*, shall be represented by a person admitted to practice before the Supreme Court of Appeals of West Virginia and in good standing as a member of its bar. . . .

Id., 228 W. Va. at 767, 724 S.E.2d at 738. Because a corporation is not a natural person, but an artificial entity created by law it cannot act *pro se*, but must act in all of its affairs through an agent or representative. Since Trial Court Rule 4.03 does not contain any provision allowing a corporation to be represented through an agent or representative, the corporation is required to be represented by a person admitted to practice before the Supreme Court of Appeals of West Virginia. *Id.*

As early as 1959, the Supreme Court of Appeals of West Virginia stated that, “[a] corporation is not a natural person but is an artificial entity created by law and for that reason in legal matters it must act through duly licensed attorneys.” *West Virginia State Bar v. Earley*, 144 W.Va. 504, 526-527, 109 S.E. 2d 420, 435 (1959), cited by *Shenandoah* at 228 W. Va. at 767, 724 S.E.2d at 738.

The Court **FINDS** that Plaintiff Andrew C. Smith is appearing in circuit court not only pro se, but also as a lay agent on behalf of Smith Rentals, LLC. Accordingly, Plaintiff Andrew C. Smith is **ORDERED** to cease appearing as a lay agent of Smith Rentals, LLC, and Smith Rentals, LLC is **ORDERED** to retain separate legal counsel in this litigation. If Smith Rentals, LLC wishes to continue filing motions and pleadings with the Court, an attorney must enter an appearance on behalf of Smith Rentals, LLC and sign all pleadings and motions. Any filings made by a non-attorney on behalf of Smith Rentals, LLC will not be accepted or reviewed.

Bailey & Glasser, LLP shall provide a copy of this order to all Plaintiffs.

It is so **ORDERED**.

ENTER: March 13, 2014

Derek C. Swope
Lead Presiding Judge
University Commons Litigation