

FILED
2016 JUN -7 B 1:29
MAUREEN G. KELLY
LAKE CO. CLERK OF COURT

IN THE COURT OF COMMON PLEAS

LAKE COUNTY, OHIO

BRYAN ANTHONY REO)	
Plaintiff,)	CASE NO. 15 CV 001590
)	
vs.)	JOURNAL ENTRY
)	
MARTIN LINDSTEDT)	June 6, 2016
Defendant.)	
)	

This matter is presented to address the following motions.

I.

On January 7, 2016, defendant Martin Lindstedt filed his amended answer and counter-claim (sic). On page two, Lindstedt states “[s]ince Pastor Lindstedt’s Church cannot afford an attorney * * * and the Lake County Ohio taxpayers shouldn’t have to provide for an attorney to protect Pastor Lindstedt’s and Lindstedt’s Church (sic) Constitutional rights * * * this Court will have to make allowances for Pastor Lindstedt’s imperfections in responding * * *.”

This statement raises two issues.

The first is Lindstedt’s stated intent to represent the Church of Jesus Christ Christian/Aryan Nations of Missouri [Church]. In a motion for summary judgment filed by Lindstedt on May 16, 2016, Lindstedt represented that the Church is a corporate entity. Courts in Ohio have “consistently held * * * an individual, including a corporate officer, who is not an attorney, may not appear in court or maintain litigation in propria persona on behalf of a corporation.” *Smith v. Mighty Distributing of S. W., PA, Inc.*, 11th Dist. No.2004-T-0056, 2005-Ohio-1689, at ¶ 10, citing to *Union Sav. Assn. v. Home Owners Aid, Inc.* (1970), 23 Ohio St.2d 60, 262 N.E.2d 558, syllabus; *Harvey v. Austinburg Dev. Corp.*, 11th Dist. No.2006-A-0044, 2007-Ohio-3025, at ¶ 5. See, also, *Sheridan Mobile Village, Inc., v. Larsen* (1992), 78 Ohio App.3d 203, 205, 604 N.E.2d 217. Any filing by a non-attorney on a corporation's behalf constitutes litigation and if filed by individual on behalf of a corporations is a nullity and subject to being stricken from the record. *Union Sav.* at 64, 262 N.E.2d 558.

Lindstedt can file no pleading or act on behalf of the Church. By doing so he is engaging

in the unauthorized practice of law, a practice this court cannot allow. To the extent the January 7, 2016 amended answer and counterclaim attempts to assert an answer and counterclaim on behalf of the Church, the same is ordered stricken.

The second issue is whether “ ‘due process’ mandates’ that the court * * * make allowances for Pastor Lindstedt’s imperfections in responding * * *” as defendant Lindstedt claims in his pleading. That issue has been decided by the Eleventh District Court of Appeals in *Henderson v. Henderson*, 11th Dist. No. 2012-G-3118, 2013-Ohio-2820, ¶ 22, as follows,

We note that a pro se litigant is generally afforded leniency, however, there are limits to the court's leniency. See *In re Rickels*, 3rd Dist. No. 11-03-13, 2004-Ohio-2353, ¶ 4, citing *State v. Chilcutt*, 3rd Dist. Nos. 3-03-16, 3-03-17, 2003-Ohio-6705, ¶ 9; citing *State ex rel. Karmasu v. Tate*, 83 Ohio App.3d 199, 206 (4th Dist.1992); *In re Paxton*, 4th Dist. No. 91-CA2008 (June 30, 1992). “It is true that a court may, in practice, grant a certain amount of latitude toward pro se litigants .” *Goodrich v. Ohio Unemp. Comp. Rev. Comm.*, 10th Dist. No. 11AP473, 2012-Ohio-467, ¶ 25, citing *Robb v. Smallwood*, 165 Ohio App.3d 385, 2005-Ohio-5863, ¶ 5 (4th Dist.2005). “However, the court cannot simply disregard the rules in order to accommodate a party who fails to obtain counsel.” *Id.* Although we recognize the difficult task a pro se litigant faces when representing himself, we must adhere to the established rule that “ ‘[a] pro se litigant is held to the same standard as other litigants and is not entitled to special treatment from the court.’ ” *Lopshire v. Lopshire*, 11th Dist. No.2008-P-0034, 2008-Ohio-5946, ¶ 32, quoting *Metzenbaum v. Gates*, 11th Dist. No. 2003-G-2503, 2004-Ohio-2924, ¶ 7, citing *Kilroy v. B.H. Lakeshore Co.*, 111 Ohio App.3d 357, 363 (8th Dist.1996).

Lindstedt will be required to know and adhere to the various rules of court just as any attorney licensed in Ohio would.

II.

The motion of plaintiff Reo to strike defendant Lindstedt’s amended answer and counter-

claim (sic) is denied. Although the thirty-six page pleading is cumbersome and replete with sexual and racial commentary, the court concludes that defendant Lindstedt has sufficiently admitted or denied the allegations of plaintiff Reo's complaint to comport with Civ.R. 8. On the issue of counterclaims, the court notes that defendant Lindstedt was ordered to file a pleading that identifies clearly what counterclaims he intended to assert. The amended pleading designates certain paragraphs with the heading "**Counter-claim (sic) Civ.R. 13.**" As such, these are the only counterclaims that will be recognized by the court. While these designated counterclaims are not numbered, they are easily identified by page number and sufficiently place plaintiff Reo on notice of what is alleged. In that regard, they "loosely" conform the Ohio Civil Rules.

III.

Plaintiff Reo's generic motion for definite statement without an argument addressed to each heading "**Counter-claim (sic) Civ.R. 13**" is denied.

IV.

The motion of plaintiff Reo to strike defendant Lindstedt's Fourth or Fifth Response to Plaintiff's Latest Vexatious & Frivolous Motion to Strike Defendant's Second or Third Response to Reo's Fifth or Sixth Motion to Strike or Whatever it is this Week that Requires a Response to Reo filed February 22, 2016 is granted.

V.

The motion of plaintiff Reo to strike the March 7, 2016 filing of defendant Lindstedt is denied.

VI.

The March 21, 2016 generic motion for definite statement of plaintiff Reo is denied.

VII.

In accord with Civ.R. 12(A)(2), plaintiff Reo shall move or plead with a reply to the counterclaims enumerated as "**Counter-claim (sic) Civ.R. 13**" within fourteen (14) days.

VIII.

Plaintiff Reo moved for summary judgment, again based on late answers provided by defendant Lindstedt. Plaintiff Reo contends that the requests for admissions were admitted when

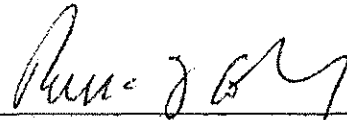
defendant Lindstedt did not answer by January 6, 2016 as this court had ordered on December 23, 2015. Plaintiff Reo correctly points out that when a party fails to timely respond to requests for admissions, the factual matters stated therein are admitted by default. *T & S Lumber Co. v. Alta Contr. Co.* (1984), 19 Ohio App.3d 241, 242; *St. Paul Fire & Marine Ins. Co. v. Battle* (1975), 44 Ohio App.2d 261, 269. However, when a party contests the truth of a Civ.R.36(A) admission for purposes of summary judgment, as defendant Lindstedt has done, the Ohio Supreme Court states that the contesting party has “satisfied the requirement of Civ.R. 36(B) that the party move the trial court to withdraw or amend the admissions. *Balson v. Dodds*, 62 Ohio St.2d 287, 296, 405 N.E.2d-293 (1980).—The court may permit the withdrawal if it will aid in presenting the merits of the case and the party who obtained the admission fails to satisfy the court that withdrawal will prejudice him in maintaining his action. *Id.*, at paragraph two of the syllabus. This two-prong test focuses on what effect the withdrawal has upon the litigation and any resulting prejudice to the opposing party not on the excuse for an erroneous admission. *Kutscherousky v. Integrated Communications Solutions, LLC*, 5th Dist. No. 2004-CA-00338, 2005-Ohio-4275, ¶ 17.

Here, presentation of the merits of this case assuredly are enhanced, not subverted, by permitting defendant Lindstedt to file untimely answers, thus satisfying the first prong. In addition, plaintiff Reo has not demonstrated that these untimely answers in any way prejudice him from maintaining his action on the merits, thus satisfying the second prong.

Defendant Lindstedt, representing himself, mistakenly believed that he could withhold his timely responses until plaintiff Reo answered his discovery. He based this on the belief that the party with the burden of proof should answer discovery first. It is a belief that is not supported by either Ohio’s or this court’s rules of civil procedure. Nonetheless, while defendant Lindstedt’s assumptions were incorrect, allowing the withdrawal of these admission will not subserve plaintiff Reo’s ability to litigate his action nor will he be prejudiced by requiring proof of each element of each claim for relief. Proof of these disputed claims on the merits is not only beneficial but it is favored in the law whenever possible.

Upon consideration, the motion of plaintiff Reo for summary judgment is denied.

IT IS SO ORDERED.



RICHARD L. COLLINS, JR.
Judge of the Court of Common Pleas

Copies:

Bryan Reo, Plaintiff *pro se*

Martin Lindstedt, Defendant *pro se*