

The State of South Carolina
In The Court of Appeal
Appeal From Darlington County
Court of Common Pleas
Judge Paul M. Burch
The Case No. 13-CP-16-0366

Petrel International, LLC ----- Appellant

Thad H. White ----- Vs. ----- Respondent

The Notice of Appeal

The appellant hereby give the Notice of the Appeal to the Respondant in the above case, in order to protect her due process and equal protection rights.

Jan. 20, 2014

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SC Court of Appeals

Petrel International, LLC
by Haiyan Lin
P.O. Box 1011
Columbia, SC 29202
803-404-7163

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In The Court of Appeal
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Petrel International, LLC ----- Appellant
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Certificate of Service

I, Haiyan Lin, certify that I have served the respondent by U.S. mail, with postage paid and addressed to

The Braddock Law Firm, LLC
2231 W. Palmetto St. #203
Florence, SC 29503

on Jan. 20, 2014.

RECEIVED

JAN 21 2014

Court of Appeals

Haiyan Lin

P.O. Box 1011

Columbia, SC 29202

803-404-7163

COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON)
)
H. Thad White,)
)
Plaintiff,)
)
vs.)
)
Petrel International, LLC.)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
CASE NO.: 13-CP-16-0366

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SC Court of Appeals

ORDER

SCOTT B. SUGGS
CLERK OF COURT/R.M.C.
DARLINGTON COUNTY, S.C.

2013 DEC 17 AM 10:46

FILED

Date of Hearing: November 21, 2013
Attorney for Plaintiff: William J. Tuck (special appearance for Bryan W. Braddock)
Attorney for Defendant: Pro Se
Court Reporter: Crystal M. Holmes

This matter came to be heard before me on November 21, 2013 pursuant to Plaintiff's Motion for Order of Default filed with the Clerk of Court of Common Pleas for Darlington County on July 12, 2013. William J. Tuck appeared for Bryan W. Braddock, who represents Plaintiff. Haiyan Lin appeared on behalf of the Defendant, Petrel International, LLC.

This matter arises out of a foreclosure action filed by Plaintiff on April 29, 2013. The property at issue is a twelve acre tract of commercial property located at the intersection of Interstate 20 and US Highway 401 in Darlington County.

Defendant has failed to make payments as set forth in the note and mortgage, specifically by not making any payment since October of 2012. Furthermore, Defendant has failed to pay the taxes on the property, and Plaintiff was forced to pay the property taxes for the last two years to protect the property from being sold at a tax sale.

TRUE CERTIFIED COPY,
Scott B. Suggs
CLERK OF COURT/R.M.C.
DARLINGTON COUNTY, S.C.

Haiyan Lin, who is not an attorney, filed an Answer and Counterclaim on behalf of the Defendant limited liability company on June 17, 2013. Plaintiff's counsel notified Ms. Lin by letter dated July 9, 2013 that an individual cannot represent a corporation and proceeding without an attorney constitutes the unauthorized practice of law. The Defendant has failed to retain an attorney, and Ms. Lin appeared at the motion hearing to represent the Defendant limited liability company.

Ms. Lin filed a return to the Motion and argued in opposition at the hearing, relying on one South Carolina Code Section and one South Carolina Supreme Court Case. However, Ms. Lin's reliance on *South Carolina Code* §12-2-25 and *CFRE, LLC v. Greenville County Assessor* 395 S.C. 67, 716 S.E.2d 877 (S.C. 2011) for the proposition that she can represent a LLC is misplaced. §12-2-25 provides that:

"For South Carolina tax purposes:

- (1) a single-member limited liability company, which is not taxed for South Carolina income tax purposes as a corporation, is not regarded as an entity separate from its owner;
- (2) a "qualified subchapter S subsidiary", as defined in Section 1361 (b)(3)(B) of the Internal Revenue Code, is not regarded as an entity separate from the 'S' corporation that owns the stock of the qualified subchapter 'S' subsidiary."

The present case does not involve taxation issues. It involves issues related to the practice of law, upon which our appellate courts have been clear.

Furthermore, *CFRE, LLC v. Greenville County* simply held that CFRE, LLC was entitled to the residential tax ratio on real estate owned by the LLC under the S.C. Tax Code § 12-43-220(C). The CFRE case has nothing to do

with a non-lawyer's ability to represent an LLC. Bringing further irony to the citation, the LLC in *CFRE, LLC v. Greenville County* was represented by an attorney.

The South Carolina Constitution provides the Supreme Court with the duty to regulate the practice of law in the state. See S.C. Const. art. V, § 4; *In re Unauthorized Practice of Law Rules*, *supra*; see also S.C. Code Ann., §40-5-10 (1986). The generally understood definition of the practice of law embraces the preparation of pleadings and other papers indicate the actions and special proceedings and the management of such actions and proceedings on behalf of clients before judges and courts. *Doe v. McMaster*, 355 S.C. 306, 585 SE2d 773 (S.C. 2002). Further, § 40-5-310 of the *South Carolina Code* provides that "No person may either practice law or solicit the legal cause of another person or entity in this State unless he is enrolled as a member of the South Carolina Bar pursuant to applicable court rules, or otherwise authorized to perform prescribed legal activities by action of the Supreme Court of South Carolina. The type of conduct that is the subject of any charge filed pursuant to this section must have been defined as the unauthorized practice of law by the Supreme Court of South Carolina prior to any charge being filed. A person who violates this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both."

While South Carolina law recognizes an individual's ability to appear *pro se* with leave of the court, corporations - which are artificial creatures of state law - do not have a right to appear *pro se* in all instances. See S.C. Code Ann. § 40-

5-80 (Supp.2002) and S.C. Code Ann. § 40-5-320 (1986). Our appellate courts have granted corporations the ability to appear *pro se*, with leave of the court, in civil magistrate's court. See *In re Unauthorized Practice of Law, supra*. However, their ability to appear *pro se* in a state circuit or appellate court has been rejected. *Renaissance Enterprises, Inc. v. Summit Teleservices, Inc.*, 334 S.C. 649, 515 S.E.2d 257 (1999). Additionally, the Supreme Court in *Doe v. McMaster* addressed this issue: "Doe argues these cases imply a corporation engages in unauthorized practice of law only where it seeks to act on behalf of others and not solely itself. We disagree. As previously stated, the *pro se* exception for corporation is strictly limited." A Limited Liability Company, just like a corporation, is an artificial creature of state law that is a separate legal entity. A Limited Liability Company has the capacity to contract as well as the capacity to sue and be sued. Therefore, the same analysis applies to that entity.

Haiyan Lin was notified by letter on July 9, 2013 that Petrel International, LLC failed to file a proper Answer and that proceeding without an attorney constituted the unauthorized practice of law. Since that time, Defendant has failed to retain an attorney and, in fact, Ms. Lin appeared before this Court at the motion hearing representing the Defendant in violation of South Carolina law.

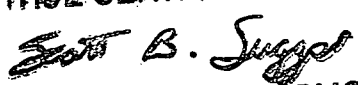
Based on the foregoing, Plaintiff's Motion for Default is granted.

IT IS SO ORDERED.

Pageland, South Carolina

December 9th, 2013


The Honorable Paul M. Burch

TRUE CERTIFIED COPY,

CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

2013 DEC 17 AM 10:47

FILED