

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ESTATE OF DIANE M. RADER and
LARRY W. RADER,

Plaintiffs,

v.

MEMORANDUM and ORDER

WALGREEN CO.,

07-C-083-S

Defendant.

Presently pending before this Court is defendant's motion for summary judgment on the pleadings. This motion has been fully briefed and is ready for decision.

Plaintiff Larry Rader filed this action on behalf of himself and the Estate of Diane M. Rader. He is not currently licensed to practice law.

MEMORANDUM

Defendant argues that plaintiff Larry Rader cannot represent the interests of the estate of Diane M. Rader because he is not an attorney. The statute, 28 U.S.C. § 1654 allows parties to conduct their own cases personally or by counsel.

In Lewis v. Lenc-Smith Manufacturing Co., 784 F.2d 829, 830 (7th Cir. 1986), the Court held that a party may be bound, or his or her rights waived by a legal representative. The Court stated that if the representative is a licensed attorney the party's rights are protected.

Since plaintiff Larry Rader is not a licensed attorney he cannot represent the interests of plaintiff Estate of Diane M. Rader in this action.

Defendant's motion for judgment on the pleadings will be partially granted. The Estate of Diane M. Rader will be dismissed as plaintiff in this action because it is not represented by counsel. Plaintiff Larry M. Rader may pursue this action on his own behalf.

ORDER

IT IS ORDERED that defendant's motion for judgment on the pleadings is PARTIALLY GRANTED dismissing the claims of the Estate of Diane M. Rader without prejudice.

Entered this 7th day of March, 2007.

BY THE COURT:

/s/

JOHN C. SHABAZ
District Judge