

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

MEYER SALES COMPANY, INC.,

Plaintiff,

v.

TEAMSTERS LOCAL 662,

Defendant.

ORDER

05-C-495-C

This case was removed to this court from the Circuit Court for Barron County. According to defendant, removal is proper because the complaint of plaintiff Meyer Sales Company, Inc. arises under the Labor Management Relations Act, 29 U.S.C. § 187.

There is a preliminary problem with plaintiff's case, however, that will have to be resolved before the suit can proceed to resolution. When plaintiff filed its complaint, it did so in small claims court. The complaint is signed by Fred Meyer, who appears to be the president of the plaintiff corporation. However, although Meyer may appear on behalf of or perform legal services for the plaintiff corporation in Wisconsin's small claims courts, Carmain v. Affiliated Capital Corp., 654 N.W.2d 265 (Wis. App. 2002), "[a] non-lawyer cannot represent or appear on behalf of a corporation in federal court. Muzikowski v.

Paramount Pictures Corp., 322 F.3d 918, 924 (7th Cir. 2003). This is so even when the person seeking to represent the corporation is its president and major stockholder. Rowland v. California Men's Colony, Unit II Men's Advisory Council, 506 U.S. 194 (1993) (citing Strong Delivery Ministry Assn. v. Board of Appeals of Cook County, 543 F.2d 32, 34 (7th Cir. 1976)); Lewis v. Lenc-Smith Mfg. Co., 784 F.2d 829, 830 n.4 (7th Cir.1986) (citation omitted). The reasoning behind the rule is that "a corporation can do no act except through its agents and that such agents representing the corporation in Court must be attorneys at law who have been admitted to practice, are officers of the court and subject to its control." MacNeil v. Hearst Corp., 160 F. Supp. 157, 159 (D. Del. 1958). This rule holds even if the corporation has only one shareholder. Shamey v. Hickey, 433 A.2d 1111 (D.C. App.1981). In Shamey, the court explained that the purpose of the rule was "not the protection of stockholders but the protection of the courts and the administration of justice," and that a person who accepts the advantages of incorporation for his or her business must also bear the burdens, including the need to hire counsel to sue or defend in court. Id. at 1113 (quoting Mercu-Ray Industries, Inc. v. Bristol-Myers Co., 392 F. Supp. 16, 17 (S.D.N.Y. 1974)).

A corporation attempting to proceed pro se in federal court must be provided notice that it is required to appear by counsel, just as a pro se plaintiff must be provided notice of the serious consequences of failing to submit affidavits in response to a motion for summary

judgment. Lewis v. Faulkner, 689 F.2d 100, 102 (7th Cir.1982). Therefore, I am providing plaintiff with that notice.

ORDER

IT IS ORDERED that plaintiff may have until September 16, 2005, in which to enter a notice of appearance of a lawyer who will represent plaintiff in this case. Alternatively, the parties, through counsel, may stipulate to a dismissal of this action. If, by September 16, 2005, plaintiff does not file a notice of appearance of counsel or hire a lawyer to obtain a stipulated dismissal from defendant, then I will dismiss this case on the court's own motion without prejudice to the plaintiff corporation's filing suit by counsel at some later date.

Entered this 19th day of August, 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge