

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Ammon M. Sprau, II,
Plaintiff,
vs.
City of Surprise; Surprise Police
Department,
Defendants.

No. CV-12-437-PHX-GMS

ORDER

Pending before the Court is Defendants’ Motion to Preclude Ammon M. Sprau from Practicing Law without a License. (Doc. 9). Defendants also request the Court to preclude Ammon M. Sprau II from litigating on his own behalf. (Doc. 9). For the reasons discussed below, the Court grants Defendants’ Motion to Preclude Ammon M. Sprau from Practicing Law without a License and denies the request to preclude Ammon M. Sprau II from litigating pro se.

BACKGROUND

On January 31, 2012, Plaintiff filed his amended complaint against Defendants in the Maricopa County Superior Court alleging violations of his Constitutional rights. (Doc. 1, Ex. 2). On May 10, 2012, Defendants alleged that Ammon M. Sprau (Mr. Sprau) has been acting as a legal representative for his son Ammon M. Sprau II (Sprau II). (Doc. 9). Plaintiff denies these allegations. It appears Mr. Sprau may have assisted

1 in the preparation of the original complaint filed December 20, 2011 in the Maricopa
2 County Superior Court. (Doc. 1, Ex. 1). Mr. Sprau may or may not have assisted in the
3 preparation and filing of Sprau II's subsequent pleadings. While it is not certain whether
4 Sprau II has been acting on his own behalf, it is certain the privilege to represent one's
5 self does not create a privilege to be represented by a third-party non-attorney. *See*
6 *McShane v. United States*, 366 F.2d 286, 288 (9th Cir. 1966).

7 DISCUSSION

8 I. Legal Standard

9 Pursuant to 28 U.S.C. § 1654, "parties may plead and conduct their own cases
10 personally." In an action brought by a pro se litigant, the real party in interest must be the
11 person who "has the right to be enforced." *Simon v. Hartford Life, Inc.*, 546 F.3d 661,
12 664 (9th Cir. 2008). The Arizona Supreme Court has held that an attorney in fact, not
13 licensed to practice law, cannot represent anyone other than himself. *Hunt Inv. Co. v.*
14 *Eliot*, 154 Ariz. 357, 362, 742 P.2d 858, 863 (Ct. App. 1987) (citing *Mosher v. Hiner*, 62
15 Ariz. 110, 113—14, 154 P.2d 372, 374 (1944)).

16 II. Analysis

17 A. Motion to Preclude Mr. Sprau from Practicing Law without a License

18 Mr. Sprau is not a licensed attorney and is therefore precluded from practicing law
19 in the State of Arizona on behalf of his adult son. A litigant may be his own attorney, but
20 a layman cannot practice law on another's behalf. *Mosher*, 62 Ariz. at 113—14. Rule
21 31(a) of the Supreme Court of Arizona defines practicing law as "providing legal advice
22 or services to or for another by" preparing documents, legal opinions, representing
23 another in a proceeding or other formal dispute resolution process, or negotiating legal
24 rights for a specific person (other than one's self). Mr. Sprau, a third-party non-attorney,
25 is therefore prohibited from performing any of the aforementioned functions on behalf of
26 Sprau II.

27 B. Request to Preclude Sprau II from Litigating Pro Se

28 Sprau II may continue to litigate his case pro se. One who acts on his own behalf

1 is not engaged in the practice of law. *See Hunt*, 154 Ariz. at 362. However, pro se
2 litigants are subject to the same good faith limitations imposed on lawyers, as officers of
3 the court. *United States v. Flewitt*, 874 F.2d 669, 675 (9th Cir. 1989).

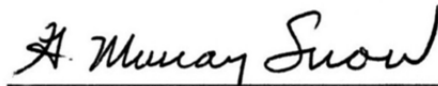
4 **CONCLUSION**

5 For the reasons stated above, Ammon M. Sprau will not represent Ammon M.
6 Sprau II in this matter.

7 **IT IS THEREFORE ORDERED** that Defendants' Motion to Preclude Ammon
8 M. Sprau from Practicing Law without a License (Doc. 9) is **GRANTED**.

9 **IT IS FURTHER ORDERED** that Plaintiff's Motion to Stop Harassment (Doc.
10 16) is **DENIED AS MOOT**.

11 Dated this 4th day of June, 2012.

12 

13 _____
14 G. Murray Snow
15 United States District Judge
16
17
18
19
20
21
22
23
24
25
26
27
28