

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE**

**STEPHEN R. MCPHERSON
AS A PARENT OF S.B., A MINOR**

PLAINTIFF

v.

CIVIL ACTION NO. 3:13CV-512-H

MCDONALD'S CORPORATION *et al.*

DEFENDANTS

MEMORANDUM OPINION

Stephen R. McPherson filed a diversity action without the assistance of counsel on behalf of his son, S.B., a minor, against McDonald's Corporation, McDonald's Restaurant, and Gallagher Bassett Services. By Memorandum and Order entered August 6, 2013, the Court concluded that McPherson, an unrepresented parent, cannot bring this action on behalf of his minor child, S.B., without legal representation and provided McPherson with 60 days within which to obtain counsel to proceed with this action.

Instead of obtaining counsel, McPherson filed a motion asking this Court to "consider Alternative Dispute Resolution, conducted by this court, through Magistrate Dave Whalin. If this is not an acceptable option plaintiff seeks the District Court to appoint a Guardian ad litem on behalf of the minor child." By Memorandum and Order entered March 21, 2014, the Court denied both requests again advising McPherson that he cannot sue on behalf of S.B. without obtaining counsel. *See Amaya v. Pitner*, 130 F. App'x 25, 27 (7th Cir. 2005) ("Though as guardian of her minor children she may sue on their behalf, Fed. R. Civ. P. 17(c), she may not do so without counsel."); *Shepherd v. Wellman*, 313 F.3d 963, 970 (6th Cir. 2002) ("[P]arents cannot appear pro se on behalf of their minor children because a minor's personal cause of action is her own and does not belong to her parent or representative."); *Meeker v. Kercher*, 782 F.2d

153, 154 (10th Cir. 1986) (“[U]nder Fed. R. Civ. P. 17(c) and 28 U.S.C. § 1654, a minor child cannot bring suit through a parent acting as next friend if the parent is not represented by an attorney.”). The Court granted McPherson another 45 days within which to obtain counsel to proceed with this action. The Court warned McPherson that his failure to obtain counsel within the time allowed would result in dismissal of this action without prejudice.

The 45-day period has expired without a response from McPherson. Therefore, by separate Order, the Court will dismiss this action filed on behalf of S.B., a minor, without prejudice.

Date:

cc: Stephen R. McPherson, *pro se*
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