

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

DOUGLAS CRAIN, ET AL

CIVIL ACTION NO. 18-cv-0548

VERSUS

JUDGE FOOTE

E&M OPERATING, LLC., ET AL.

MAGISTRATE JUDGE HORNSBY

MEMORANDUM ORDER

Douglas and Catherine Crain filed this civil action against E&M Operating, LLC and Coleman Caldwell. E&M was served through Mr. Nicholas Darden, as the LLC's agent for service. Doc. 3. Mr. Darden has signed and filed an answer, which the court has docketed as an answer on behalf of E&M (since Mr. Darden is not a named defendant and has no need to file an answer). The answer is deficient, however, because Mr. Darden may not file an answer for an LLC unless he is an attorney admitted to the bar of this court.

Almost all courts have held that federal law “does not allow corporations, partnerships, or associations to appear in federal court otherwise than through a licensed attorney.” Rowland v. California Men's Colony, 113 S.Ct. 716, 721 (1993). The Fifth Circuit has long followed the rule that corporations, partnerships or other “fictional legal persons” cannot appear for themselves personally but must be represented by licensed counsel. Southwest Express Co. v. Interstate Commerce Commission, 670 F.2d 53, 55 (5th Cir. 1982). See also Memon v. Allied Domecq Qsr, 385 F.3d 871, 873 (5th Cir. 2004); U.S. v. Trowbridge, 251 F.3d 157 (5th Cir. 2001); and KMA, Inc. v. General Motors Acceptance Corp., 652 F.2d 398, 399 (5th Cir. 1981).

There is no indication that Mr. Darden is an attorney admitted to the bar of this court. The Fifth Circuit has affirmed a district court that struck a pleading offered by an entity that purported to appear through a non-lawyer. Donovan v. Road Rangers Country Junction, Inc., 736 F.2d 1004, 1005 (5th Cir. 1984). But the Court suggested in Memon that a district court should expressly warn or formally order the entity to retain counsel before the court takes the harsh measures of striking pleadings or dismissing claims with prejudice. Memon, 385 F.3d at 874.

This is the warning contemplated by Memon.. E&M must file an answer that is signed by an authorized attorney by **June 25, 2018**, or the answer signed by Mr. Darden will be stricken. That may subject E&M to entry of default and a default judgment, so E&M should address this matter promptly if it wishes to defend against this lawsuit.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 8th day of June, 2018.



Mark L. Hornsby
U.S. Magistrate Judge