

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

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SANFORD D. BOSEM et al.,)
)
 Plaintiffs,)
)
 vs.)
)
 REMAX PROPERTIES, LLC et al.,)
)
 Defendants.)
)

2:10-cv-00251-RCJ-RJJ

ORDER

This case arises out of Plaintiff Phantom Tours, LLC's ("Phantom Tours") eviction from a luxury condominium in Las Vegas, Nevada. Plaintiffs filed the present Complaint in this Court, apparently believing that by doing so they had also "removed" certain eviction proceedings against Phantom Tours. But Plaintiffs are apparently not defendants in any state court action. Plaintiffs have now moved to "dismiss" the eviction proceedings, and Defendants have moved variously to dismiss or remand the Complaint. Defendants also request fees and costs. Rather than respond to Defendants' motions, Plaintiffs have filed a Motion for Clarification and Court's Direction on How to Proceed (#23). This order addresses only that motion.

Plaintiff Sanford D. Bosem is a managing partner of Plaintiff Phantom Tours, LLC. (Compl. at 1; *id.* ¶ 4). On November 6, 2009, Phantom Tours entered into an agreement (the "Agreement") with Defendant Luxury Suites International ("Luxury Suites") to lease Penthouse Suite 58308 at Palms Place, 4321 W. Flamingo Rd., Las Vegas, NV at the rate of \$10,000 per month, beginning on November 16, 2009. (*See id.*, Ex. D). "Phantom Tours, LLC," and no other

1 natural or corporate person, is identified as “LESSEE” throughout the Agreement. (*See id.*). On
2 January 12, 2010, Plaintiff received a demand for payment of rent despite allegedly having paid all
3 rent due. (*Id.* ¶¶ 9–10; *id.*, Ex. A).

4 Plaintiffs sued Defendants Remax Properties, LLC (“Remax”); Luxury Suites; Candace C.
5 Bailey; David Watts; David B. Sanders; Deette Jensen; and The Cooper Castle Law Firm, LLP
6 (“Cooper”) in this Court on ten causes of action, which the Court will characterize as follows: (1)
7 Violations of 15 U.S.C. § 1692; (2) Defamation; (3) Violations of 15 U.S.C. § 1692; (4)
8 Violations of 15 U.S.C. § 1692; (5) Constructive Eviction; (6)–(7) Breach of Contract; (8) Civil
9 Conspiracy; (9) Intentional Infliction of Emotional Distress (“IIED”); and (10) Declaratory
10 Judgment. Plaintiffs have moved to “dismiss” the eviction proceedings against them. Sanders and
11 Cooper have moved to dismiss and for fees and costs. The remaining defendants have moved to
12 remand and for fees and costs.

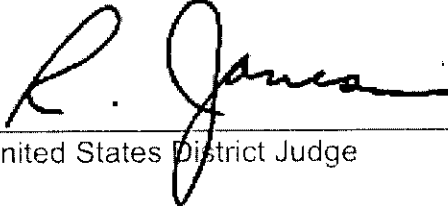
13 Sanders and Cooper have moved to dismiss based, *inter alia*, on lack of standing. Sanders
14 and Cooper argue that Bosem lacks standing to sue at all because only Phantom Tours was a
15 party to the rental agreement underlying this case and that Bosem has no standing in a personal
16 capacity to pursue claims arising out of Defendants’ alleged wrongful actions relating to the rental
17 agreement. Phantom Tours may pursue its own claims, but Phantom Tours is an independent
18 legal entity that must be represented by a licensed attorney. *See Rowland v. Cal. Men’s Colony,*
19 *Unit II Men’s Advisory Council*, 506 U.S. 194, 202 (1993) (citing 28 U.S.C. § 1654); *United*
20 *States v. High Country Broad. Co.*, 3 F.3d 1244, 1245 (9th Cir. 1993) (“A corporation may
21 appear in federal court only through licensed counsel.”); *see also In re Discipline of Schaefer*, 25
22 P.3d 191, 200 (Nev. 2001) (“We have consistently held that a legal entity such as a corporation
23 cannot appear except through counsel . . .”). Defendants argue that by presenting his company
24 Phantom Tours as appearing “*pro se*,” Bosem—who Defendants claim is only licensed to practice

1 law in Florida, where he is allegedly suspended for failure to pay bar dues—is in fact engaging in
2 the unauthorized practice of law.¹ If, as Defendants claim, Bosem is not admitted to this Court
3 either generally² or *pro hac vice*,³ he is potentially engaged in the unauthorized practice of law,
4 and Phantom Tours will be stricken as a Plaintiff if it does not obtain licensed counsel.

5 **CONCLUSION**

6 IT IS HEREBY ORDERED that the Motion for Clarification and Court's Direction on
7 How to Proceed (#23) is GRANTED. Bosem must apply for admission *pro hac vice* before he
8 may represent Phantom Tours. He has seven (7) days from the date of this order to apply for *pro*
9 *hac vice* admission. Whether admission is granted or denied, Bosem will have seven (7) days
10 from the date of that order to oppose the pending motions (#11, #14, #15, #17).

11 DATED: This 24th day of May, 2010.

12
13
14 
15 United States District Judge
16
17

18 ¹Except for nonresident U.S. Government attorneys, this District requires an attorney to
19 be admitted to practice in Nevada. *See* L.R. IA 10-1 and 10-3. A search for any attorney with the
20 last name "Bosem" returns "no records" on the State Bar of Nevada's website. *See* State Bar of
21 Nevada, Find-A-Lawyer, <http://www.nvbar.org/findalawyer2.asp> (last visited May 6, 2010). The
Court may take judicial notice of this information as a public record. *See Mack v. S. Bay Beer*
Distribs., 798 F.2d 1279, 1282 (9th Cir. 1986).

22 ²The records of the Clerk's Office indicate no attorneys by the name "Bosem" admitted to
23 practice in this District.

24 ³The clerk's record does not indicate any motions for admission *pro hac vice* in the
25 present case.