

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

LINDA GRUBBS, *et al.*,  
Plaintiffs,

v.

SHEAKLEY GROUP, INC., *et al.*,  
Defendants.

Case No. 1:13-cv-246

Dlott, J.  
Litkovitz, M.J.

**ORDER**

This matter is before the Court on defendant Angelia Strunk-Zwick's (defendant Zwick) motion for appointment of counsel (Doc. 39) and plaintiffs' response thereto. (Doc. 42). This matter is also before the Court on defendant Zwick's motion to stay the proceedings (Doc. 40) and plaintiffs' response in opposition. (Doc. 41).

**I. Motion for Appointment of Counsel (Doc. 39)**

Defendant Zwick, currently proceeding pro se, moves for appointment of counsel asserting that plaintiffs' counsel, Eric Deters, has sent threatening and disturbing communications to her that made her deeply fearful. The following is an excerpt of Mr. Deters' communication to defendant Zwick:

I look [forward] so much to taking your deposition and after the verdict and judgment we obtain against you through subpoena and garnishments and liens collect it from you through the end of your life. It's also nice that you are not represented by counsel so I can communicate directly to you and share with you my favorite verse from Revelations: Behold a pale horse and upon him rode death. And hell followed with him. Consider me hell.

(Doc. 39 at 4). It appears from the context of defendant Zwick's motion that her request for appointment of counsel is an attempt to prevent Mr. Deters from issuing similar communications to her in the future.

In their response, plaintiffs do not object to the appointment of counsel on behalf of defendant Zwick, but assert that her claims of deep fear are mere “histrionics.” (Doc. 42 at 1). Plaintiffs assert that defendant Zwick is treacherous and that she is “no little Ms. Muffet. She’s closer to a Black Widow of business.” Plaintiffs maintain that as defendant Zwick is proceeding pro se, Mr. Deters is permitted to contact her directly and, further, that the above-quoted biblical passage was appropriate as defendant Zwick “deserves hell for what she did to [plaintiff] Linda Grubbs without remorse and continued denial after sentencing.” (Doc. 42 at 2).

The appointment of counsel in a civil proceeding is not a constitutional right and is justified only by exceptional circumstances. *Lavado v. Keohane*, 992 F.2d 601, 605-06 (6th Cir. 1993). *See also Lanier v. Bryant*, 332 F.3d 999, 1006 (6th Cir. 2003). The Court makes every effort to appoint counsel in those cases which proceed to trial, and in exceptional circumstances will attempt to appoint counsel at an earlier stage of the litigation.

Defendant Zwick has not demonstrated that such exceptional circumstances exist in this case. Notably, defendant Zwick has failed to demonstrate that she is unable to afford counsel on her own behalf. But even assuming that defendant Zwick is indigent and unable to afford counsel, the above communication from attorney Deters does not, in itself, justify appointing counsel for defendant Zwick. Therefore, the motion for appointment of counsel (Doc. 39) is denied.

The Court notes, however, that Mr. Deters communication to defendant Zwick does not comport with the spirit of the Court’s Local Rules which provide that “[e]very lawyer, litigant, and judge is entitled to expect, and should be accorded . . . [c]ommon courtesy [including] politeness in conversation. . . .” *See* Local Civil and Criminal Rules of the United States District Court for the Southern District of Ohio, Introductory Statement on Civility. Plaintiffs, plaintiffs’

counsel, and Mr. Deters are hereby put on notice that such communications are discourteous, inappropriate, and will not be tolerated by the Court and that future instances of similar communications may result in sanctions against counsel.

## **II. Motion to Stay Litigation (Doc. 40)**

On July 23, 2013, defendant Zwick moved to stay this litigation because she was in federal prison in Lexington, Kentucky and without her legal materials. Defendant Zwick represents that she had difficulty receiving her legal mail at the time of the filing. It appears this difficulty was due to a lack of storage space at the prison facility for defendant Zwick as she had only recently, as of June 2013, become incarcerated. (Doc. 40).

Review of the record reflects that defendant Zwick has received and responded to various motions after she filed her motion to stay. *See* Docs. 53, 66. It therefore appears that defendant Zwick is now receiving the legal filings associated with this litigation. Accordingly, there is no basis for granting defendant Zwick's motion to stay this matter. Defendant Zwick's motion to stay (Doc. 40) is therefore **DENIED**.

## **III. Conclusion**

For the above reasons, defendant Zwick's motion for appointment of counsel (Doc. 39) and motion to stay (Doc. 40) are **DENIED**.

**IT IS THUS ORDERED.**

Date: \_\_\_\_\_

1/8/14

  
Karen L. Litkovitz  
United States Magistrate Judge