

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

THOMAS R. WILSON

Appellant

v.

RONALD D. DETWILER, SR., AND
KEVIN E. & IRMA L. DETWILER

Appellees

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 685 MDA 2015

Appeal from the Order Entered March 31, 2015
In the Court of Common Pleas of Huntingdon County
Civil Division at No(s): CP-31-CV-1203-2010

BEFORE: PANELLA, J., LAZARUS, J., and PLATT, J.*

JUDGMENT ORDER BY LAZARUS, J.:

FILED DECEMBER 08, 2015

This action was commenced on behalf of Plaintiff Thomas R. Wilson by Constance Andresen, acting as his agent under a power of attorney, by and through Andresen's attorney, David A. Ody, Esquire, by the filing of a praecipe for writ of summons on August 17, 2010. The writ was served upon defendants Kevin E. and Irma L. Detweiler, but not upon defendant Ronald D. Detwiler. Plaintiff never filed a complaint. On October 28, 2014, the court issued an order scheduling a hearing on December 15, 2014, for the purpose of terminating the case due to inactivity. Notice of the hearing was provided to all parties pursuant to Pa.R.C.P. 236.

* Retired Senior Judge assigned to the Superior Court.

Prior to the date of the hearing, on November 19, 2014, Attorney Ody filed a petition for leave to withdraw as counsel, stating that he had had no contact with named plaintiff Wilson. Attorney Ody also requested that the court continue the scheduled hearing to allow Andresen to obtain new counsel. By order dated November 21, 2014, the court granted Attorney Ody leave to withdraw, but denied the request for continuance. Neither plaintiff Wilson nor his agent, Andresen, appeared for the December 15, 2014 hearing. However, on that date Andresen filed a "Motion for Stay Due to Neglect on the Record by Counsel" and a "Notice of Lis Pendens and Case Pending."

By order dated January 9, 2015, the court scheduled a status conference to be held on March 30, 2015. On that date, Andresen filed a handwritten, untitled document in which she purported to join the case as an additional plaintiff. The court denied this request. Andresen appeared at the status conference on March 30, 2015, claiming to represent plaintiff Wilson, and requested that the court not dismiss the action. That same day, the court issued an order dismissing the case "due to Plaintiff's failure to proceed with the filing of a complaint." Trial Court Order, 3/31/15.

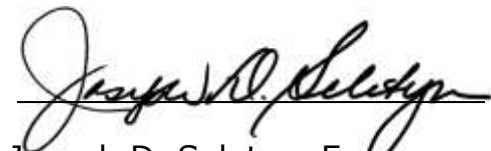
Andresen, again purporting to act on Wilson's behalf, filed a notice of appeal to this Court on April 13, 2015, followed by a court-ordered statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b). In this Court, Andresen has filed documents titled "Appellants' [sic] Opening Brief and Excerpt of Record," "Amended Appellants' [sic] Opening Brief and

Excerpt of Record," "Plaintiff's – Appellants [sic] Appendix to Appeal Brief," "Amended Plaintiff's – Appellants [sic] Appendix to Appeal Brief," as well as a "Motion to Deny Appellees/Defendant's [sic] Brief for Untimely Filing and False Statements of Service."

In ***Kohlman v. Western Pennsylvania Hosp.***, 652 A.2d 849 (Pa. Super. 1994), this Court held that a non-lawyer agent under a power of attorney lacks authority to litigate *pro se* in his or her principal's stead, and concluded that doing so constitutes the unauthorized practice of law. Here, Andresen purported to represent Wilson before the trial court and continues to do so in this Court. Because a "power of attorney cannot be used as a device to license laypersons to act as an attorney-at-law," *id.* at 852, and as Andresen is not a licensed attorney, we hold that the legal pleadings filed by Andresen in this litigation have no legal effect. As such, the appeal must be dismissed.

Appeal dismissed; motion to strike Appellees' brief denied.

Judgment Entered.



Joseph D. Seletyn, Esq.
Prothonotary

Date: 12/8/2015