

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-20-00400-CV

Lorie Bernice Sharpe Trust, Appellant

v.

Troy Phung, Appellee

**FROM THE COUNTY COURT OF TRAVIS COUNTY
NO. C-1-CV-19-000308, THE HONORABLE TODD T. WONG, JUDGE PRESIDING**

OPINION

Lorie Bernice Sharpe Trust, by its pro se trustee or agent, Lorie Sharpe, filed a notice of appeal from the trial court’s summary judgment against it. After an initial review of the record, we informed Sharpe that a trustee or other representative of a trust may not appear pro se in a representative capacity, and therefore, an attorney representing the trust must file an amended notice of appeal to avoid dismissal of the appeal. To date, Sharpe has not responded to our request, nor has any other party or attorney responded on behalf of Lorie Bernice Sharpe Trust.

A trustee may not appear pro se in her representative capacity as a trustee. *See In re Guetersloh*, 326 S.W.3d 737, 739-40 (Tex. App.—Amarillo 2010, orig. proceeding) (holding that trustee may not appear pro se in representative capacity as trustee of trust); *see also, e.g., Steele v. McDonald*, 202 S.W.3d 926, 928 (Tex. App.—Waco 2006, no pet.) (holding that

independent executor may not appear pro se in representative capacity for estate). Rule 7 of the Texas Rules of Civil Procedure allows a person to represent himself or herself pro se only to litigate rights on his or her own behalf, not to litigate rights in a representative capacity. Tex. R. Civ. P. 7; *Kaminetzky v. Newman*, No. 01-10-01113-CV, 2011 WL 6938536, at *2 (Tex. App.—Houston [1st Dist.] Dec. 29, 2011, no pet.) (concluding appellant could not represent pro se two corporate defendants as assignee of corporations); *see also Kunstoplast of Am., Inc. v. Formosa Plastics Corp., U.S.A.*, 937 S.W.2d 455, 456 (Tex. 1996) (although corporate officer could perform “specific ministerial task of depositing cash with a clerk in lieu of a cost bond,” nonlawyer may not represent corporation in court).

According to Texas law, only a licensed attorney is allowed to represent other parties. *See* Tex. Gov’t Code §§ 81.101-.102 (prohibiting practice of law in Texas unless person is member of state bar); *id.* §§ 83.001-.006 (prohibiting unlicensed persons from practicing law without a license); *see also 1 Fox 2 Prods., LLC v. Mercedes-Benz USA, LLC*, No. 03-20-00101-CV, 2021 WL 81865, at *4 (Tex. App.—Austin Jan. 7, 2021, no pet. h.) (dismissing corporate appellant’s issues raised in brief because LLC’s owner could not represent entity pro se); *Jimison v. Mann*, 957 S.W.2d 860, 861 (Tex. App.—Amarillo 1997, order) (per curiam) (striking documents filed by layperson having no authority to file them on behalf of another). The Texas Legislature has defined the practice of law to include, among other things, “the preparation of a pleading or other document incident to an action.” Tex. Gov’t Code § 81.101(a). Consequently, if a nonattorney files documents on behalf of a trust in an appeal, this amounts to the unauthorized practice of law. *See In re Guetersloh*, 326 S.W.3d at 740 (concluding nonattorney’s appearance in trial court on behalf of trust amounted to unauthorized practice of law).

Therefore, because a nonattorney trustee cannot represent a trust, and no attorney has filed an amended notice of appeal on behalf of Lorie Bernice Sharpe Trust, we dismiss this appeal. *See* Tex. R. App. P. 42.3(b), (c).

Gisela D. Triana, Justice

Before Justices Goodwin, Triana, and Kelly

Dismissed for Want of Prosecution

Filed: April 23, 2021