

IN THE UTAH COURT OF APPEALS

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Los Angeles Homeowners Aid, Inc.,)	MEMORANDUM DECISION
)	(Not For Official Publication)
)	
Plaintiff and Appellee,)	Case No. 20090641-CA
)	
v.)	F I L E D
)	(January 14, 2010)
)	
<u>Holli Lundahl</u> , Marlene)	2010 UT App 4
Telford, et al.,)	
)	
Defendants and Appellant.)	

Fourth District, American Fork Department, 050100206
The Honorable Derek P. Pullan
The Honorable Christine Johnson

Attorneys: Holli Lundahl, Malad City, Idaho, Appellant Pro Se
Paul D. Dodd, Provo, for Appellee Marlene Telford

Before Judges Davis, Thorne, and Voros.

PER CURIAM:

Appellant Holli Lundahl appeals a default judgment entered against her in a judicial foreclosure action initiated by Los Angeles Homeowners Aid, Inc. (LAHA). This case is before the court on a sua sponte motion for summary disposition. LAHA declines to participate in this appeal.

On October 5, 2005, the district court sent Lundahl notice of a scheduling conference to be held on November 17, 2005. After Lundahl failed to appear at the scheduling conference, the district court granted LAHA's motion to strike Lundahl's answer and counterclaim. On January 20, 2006, the district court entered an order striking Lundahl's pleadings for failure to appear at the scheduling conference and dismissing her counterclaim as a sanction under rule 37(b)(2)(C) of the Utah Rules of Civil Procedure. See Utah R. Civ. P. 37(b)(2)(C) (providing that if a party fails to obey an order setting a scheduling conference under rule 16(b), the district court may impose sanctions including striking pleadings and rendering default judgment against the disobedient party). The district court then entered default judgment against Lundahl.

Lundahl moved to vacate the order striking her pleadings, claiming that she did not receive notice of the scheduling conference. Following an evidentiary hearing, the district court denied Lundahl's motion. The district court found Lundahl was not truthful when she stated that she never used "155 W State Street, # 6, Lehi, Utah" as her address in court documents because district court filings demonstrated otherwise and she also had been served at that address. The district court docket for October 5, 2005, included entries that Lundahl's address was changed from "155 W State Street, Trailer 6(6E) Lehi UT 84043" to "155 W State Street, Trailer 6(6E) PO Box 833 Lehi UT 84043." The district court found that it had sent notice of the scheduling conference to both addresses. The district court ruled that "[t]his notice was sufficient to inform Lundahl of the scheduling conference" and that her failure to appear justified striking her pleadings. Finally, the district court concluded that "[l]ike all litigants, Lundahl has a duty to include her current address on all pleadings filed with the Court."

The only issues properly before this court concern whether the district court erred in striking Lundahl's pleadings and entering a default judgment in favor of LAHA. Lundahl claims in her response to the sua sponte motion that "[o]n October 5, 2005, someone from LAHA's camp impersonated LUNDAHL and called Judge Pullan's court clerk and changed LUNDAHL's notice address from Lundahl's residence in Malad City Idaho to a non-existent [sic.] address in Lehi Utah using in part LUNDAHL's former PO Box address." She also claims that she did not receive notice of the scheduling conference because the notice was sent to an incorrect address as part of a scheme by LAHA to obtain a default judgment. However, Lundahl did not claim at the evidentiary hearing that an impersonator associated with LAHA changed her address with the district court to cause the notice of the scheduling conference to be misdirected, and there is no evidence in the record to support that theory. Lundahl claims that the owners of the Lehi trailer received no notice on her behalf, which is also not supported by evidence. Lundahl also claims that she told district court personnel that her post office box had been closed for failure to make payment and that the district court should have known that any notices sent to the post office box would not have reached her. The record reflects that on October 25, 2005, which was twenty days after the district court sent notice of the scheduling conference, Lundahl filed a "notice" that she had been out of town litigating a matter in Idaho and learned when she returned on October 24, 2005, that her post office box was closed because she had failed to make payment. However, the content of the document addressed a pending motion to compel discovery responses. Lundahl now argues that the district court should have known from this document that she did not receive the notice of the scheduling conference.

The district court found that Lundahl had used both the Lehi trailer address and the Lehi post office box as her addresses during the litigation. The district court also found that the clerk mailed the notice of the scheduling conference to both addresses. These findings are supported by evidence in the record and are not clearly erroneous. Lundahl's claims of fabrication and collusion to misdirect the notice of the scheduling hearing are based only on her unsupported assertions that someone impersonated her to change her address and that the district court clerk colluded with LAHA to fabricate an address change. There is no support in the record for these claims. In addition, the district court correctly concluded that Lundahl had an obligation to provide a correct address to the district court at all times. See Utah R. Civ. P. 10(a)(3) (requiring all filings to state the name, address, email address, and telephone number of the party filing the paper). In Lundahl v. Quinn, 2003 UT 11, 67 P.3d 1000, the Utah Supreme Court held that Lundahl "shall not receive any leniency of treatment based merely on nominal pro se status," id. ¶ 15, and "shall be charged with knowledge and understanding of all relevant statutes, rules, and case law," id. ¶ 5. The supreme court also stated that "[o]ther courts of this State may take note of our ruling and respond appropriately" and that those courts "possess the powers necessary to maintain the orderly disposition of matters brought before them, including the power to levy sanctions." Id. ¶ 15. Considered in the context of the Utah Supreme Court's decision holding Lundahl to knowledge of relevant rules and procedures, it was not error for the district court to strike her pleadings as a sanction for failure to attend the scheduling conference and to enter a default judgment under the facts of this case.

Affirmed.

James Z. Davis,
Presiding Judge

William A. Thorne Jr., Judge

J. Frederic Voros Jr., Judge