

**IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL ACTION**

**JENNIFER C. IANNACO,
Plaintiff**

v.

**FUELIN FINE AUTO SALES, INC.,
Defendant**

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No. C-48-CV-2015-7059

OPINION OF THE COURT

This matter is before the Court on Plaintiff's Petition, filed on November 20, 2015, in which she asks the Court to strike Defendant's appeal from a money judgment entered in favor of Plaintiff and against Defendant by Magisterial District Judge Douglas Schlegel ("MDJ Schlegel"). On March 3, 2016, Defendant filed an Answer and New Matter to the Petition. On March 16, 2016, Plaintiff filed a Reply to Defendant's New Matter. Briefs have been submitted, oral argument was heard, and the matter is ready for disposition.

The relevant facts are not in dispute, and most of them can be gathered from the record. On April 24, 2015, Plaintiff filed a civil complaint

against Defendant at the office of MDJ Schlegel.¹ On July 15, 2015, MDJ Schlegel entered a judgment in favor of Plaintiff and against Defendant in the amount of \$4,129.86.

On August 7, 2015, Defendant, acting through Thomas J. Nedo, an agent or officer, filed the instant appeal in this Court, pursuant to Pa.R.C.P.M.D.J. No. 1002(A). (See Notice of Appeal; Pet. ¶ 5; Answer ¶ 5.) Defendant is a corporation, and Mr. Nedo is not an attorney. (Pet. ¶¶ 2, 5; Answer ¶¶ 2, 5.) On the date Defendant's appeal was filed, the Prothonotary issued a Rule to File a Complaint upon Plaintiff. On August 17, 2015, Plaintiff, also acting *pro se*, filed a Complaint. On September 25, 2015, Robert Glazer, Esquire entered his appearance for Defendant. On the same date, Attorney Glazer filed Defendant's Answer and New Matter in response to Plaintiff's Complaint. On March 16, 2016, Plaintiff filed a Reply to Defendant's New Matter.

On November 20, 2015, David A. Martino, Esquire entered his appearance for Plaintiff and filed the instant Petition. In her Petition, Plaintiff asks the Court to strike Defendant's appeal because it was filed by a non-attorney representative, arguing that a corporation cannot represent itself in the Court of Common Pleas, rendering Defendant's appeal a nullity.

¹ When she filed her complaint at MDJ Schlegel's office, Plaintiff identified Defendant as Fuelin Fine Auto. When Defendant filed the instant appeal in this Court, it identified itself as Fuelin Fine Auto Sales, Inc.

In Pennsylvania, “a corporation may appear and be represented in our courts only by an attorney duly admitted to practice” law. *Walacavage v. Excell 2000, Inc.*, 480 A.2d 281, 285 (Pa. Super. 1984). There are only two exceptions to this rule, and neither is applicable here. First, a corporation does not require an attorney if permitted to represent itself by rule or statute. *Id.* at 284. There are no such rules or statutes applicable here.² Second, a corporation does not need an attorney in a stockholder’s derivative action, which this action is not. *Id.*

When a corporation files an appeal to the Court of Common Pleas without an attorney, the filing is a nullity, rendering the Court without jurisdiction to hear it and requiring the Court to strike the appeal. *See Spirit of the Avenger Ministries v. Commw.*, 767 A.2d 1130, 1130-31 (Pa. Commw. 2001); *see also McCain v. Curione*, 527 A.2d 591, 594 (Pa. Commw. 1987) (agreeing with two Courts of Common Pleas that “proceedings commenced by persons unauthorized to practice law are a nullity”). Accordingly, Plaintiff’s Petition will be granted.

WHEREFORE, the Court enters the following:

² While Pa.R.C.P.M.D.J. No. 207(A)(3) authorizes a corporation to be represented by an officer, employee, or authorized agent of the corporation in magisterial district court proceedings, there is no Pennsylvania Rule of Civil Procedure that authorizes the same in an appeal from such a proceeding or in a civil action before the Court of Common Pleas. Further, while Plaintiff argues that the holding in *Harkness v. Unemployment Compensation Board of Review*, 920 A.2d 162 (Pa. 2007) carved out an applicable exception to the general rule, the Court disagrees. In that case, the Pennsylvania Supreme Court held that a non-attorney representative is permitted to represent a corporate employer in unemployment compensation proceedings before a referee for reasons peculiar to those proceedings. *Id.* at 168-69. None of the reasons cited by the court in *Harkness* apply with regard to a civil action before the Court of Common Pleas.

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ORDER OF COURT

AND NOW, this 22nd day of April, 2016, Plaintiff's Petition, filed on November 20, 2015, is hereby **GRANTED**. The Notice of Appeal from District Justice Judgment, filed by Defendant on August 7, 2015, is hereby **STRICKEN**. The Rule to File Complaint, issued upon Plaintiff on August 7, 2015, by the Prothonotary, is hereby **DISCHARGED**, and the instant case is hereby **DISMISSED**.

BY THE COURT:

/s/ Anthony S. Beltrami
ANTHONY S. BELTRAMI, J.