

VERMONT SUPERIOR COURT
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CIVIL DIVISION
Case No. 23-CV-04547

Kevin Blais v. Town of Burke

ORDER ON MOTION TO DISMISS

In this property tax appeal, defendant Town of Burke renews its motion to dismiss the case under Rule 17 of the Vermont Rules of Civil Procedure because named plaintiff Kevin Blais is not the real party in interest and because, the Town argues, Mr. Blais has not complied with the court's February 27, 2024 order directing Going Green Realty, LLC (GGR)—the actual party-in-interest—to file a motion to substitute that is either submitted by counsel or accompanied by an explanation why Mr. Blais should be permitted to represent GGR in this action. For the reasons set forth below, the Town's motion is granted.

Relevant Procedural History

The prior history of this action is set forth in the court's February 27 order. As relevant here, the court concluded in that order that GGR is the real party-in-interest under Rule 17 of the Vermont Rules of Civil Procedure and ordered that the case be dismissed unless GGR filed a motion to substitute the company as the plaintiff within 30 days. The order further provided that the motion must be filed by counsel for GGR or include an explanation of why Mr. Blais, who is not licensed to practice law, should be permitted to represent GGR.

On March 27, Mr. Blais responded by sending an e-mail to the court describing alleged procedural errors during the underlying proceedings before the Town's Board of Civil Authority, questioning whether the Town was the proper defendant, and repeating arguments the court already rejected when it denied Mr. Blais's motion for summary judgment in the February 27 order. Mr. Blais also submitted a "Resolution of Going Green Realty LLC," which states:

Whereas; Going Green Realty LLC is a limited liability company located in Rhode Island.

Whereas; The organization cannot afford to hire counsel, nor can it secure counsel on a pro bono basis.

Whereas; Kevin Blais has been authorized to represent the organization.

Whereas; Kevin Blais has intimate knowledge of this tax appeal case and has represented it at all stages, including the [Board of Civil Authority].

Whereas; Kevin Blais is the life partner of Going Green Realty's sole member, Linda Green.

The resolution is signed by Ms. Green.

The Town responded on March 29 by filing a renewed motion to dismiss. The Town argues that Mr. Blais's submissions do not satisfy the court's February 27 order because GGR has not filed a motion to substitute and because the GGR resolution does not demonstrate, among other things, that Mr. Blais has the requisite legal knowledge or skills to represent GGR in this action without unduly burdening the Town or the court.

Mr. Blais opposed the Town's motion in an April 12 email to the court. Mr. Blais argues that "Kevin Blais . . . is the appellant" and that "the lister/appraiser," or potentially the Town's Board of Civil Authority—but not the Town itself—is the proper appellee/defendant. Mr. Blais contends that he and GGR complied with the February 27 order by submitting the GGR resolution. He further argues that GGR sought to correct the record "by attempting to substitute GGR for Kevin Blais, at the Town Clerk's office, as the appellants had never advanced their case through the Superior Court as required by law." Finally, Mr. Blais argues that court records showing "that this tax appeal had in fact been advanced through the court and had in fact been docketed . . . [are] grossly inaccurate, and in no way represent[] the factual events at hand."

Discussion

This court has already held that GGR is the real party-in-interest in this action. The court ordered GGR to file a motion to substitute itself for Mr. Blais. That motion was required to be filed by an attorney or accompanied by an explanation of why the court should permit the company to be represented by someone who is not an attorney. Even if the court were to construe Mr. Blais's March 27 e-mail and accompanying resolution as a motion to substitute, the court concludes that Mr. Blais has not met his burden to show that he can represent GGR in this action.

As previously explained in the February 27 order, someone who is not licensed to practice law may only represent a business or organization in a Vermont court if:

- (1) the organization cannot afford to hire counsel, nor can it secure counsel on a pro bono basis, (2) the proposed lay representative is authorized to represent the organization, (3) the proposed lay representative demonstrates adequate legal knowledge and skills to represent the organization without unduly burdening the opposing party or the court, and (4) the representative shares a common interest with the organization.

Vermont Agency of Nat. Res. v. Upper Valley Reg'l Landfill Corp., 159 Vt. 454, 458 (1992); *see also* 11A V.S.A. § 30.02(1) (“A court or other adjudicative body shall permit a corporation to appear through a nonattorney representative if: (A) the proposed nonattorney representative is authorized to represent the corporation; (B) the proposed nonattorney representative demonstrates adequate legal knowledge and skills to represent the organization without unduly burdening the opposing party or the court; and (C) the proposed nonattorney representative shares a common interest with the corporation.”).

Assuming the GGR resolution suffices to establish that the company shares a common interest with Mr. Blais and has authorized him to represent the company, further evidence is required to support the conclusory assertion that GGR cannot afford counsel and has been unable to secure pro bono counsel. The court need not pursue that question, however, because the court concludes that Mr. Blais lacks the necessary legal knowledge and skills to represent GGR in this case without unduly burdening the Town and the court. Mr. Blais’s court filings uniformly fail to comply with the Vermont Rules of Civil Procedure and Vermont Rules of Electronic Filing, they raise issues that have already been decided by the court, and they focus on irrelevant and meritless arguments that would be considered frivolous if submitted by a licensed attorney.

For example, Mr. Blais’s March 27 and April 12 submissions to the court were email messages. They were not signed. *See* V.R.C.P. 11(a). They included a docket number in the subject line but no case caption. *See* V.R.C.P. 7(b), 10. They do not appear to have been sent to or served on the opposing party, requiring the court to provide notice of the filings to the Town through its electronic filing system. *See* V.R.C.P. 5. Although Mr. Blais is purporting to represent GGR, and is therefore not a “self-represented litigant,” he has not registered as an electronic filer. *See* V.R.E.F. 3. He has continued to argue that the Town failed to provide him with a required list of “interested persons” in this case even though the court already decided that issue against him in the February 27 order. He has submitted multiple filings raising other meritless arguments—including that this case has never been docketed and that the Town lacks authority to defend the action, even though defendant commenced this action by appealing the actions of the Town’s Board of Civil Authority and the Town has a clear statutory obligation to defend litigation that challenges the actions of town officials. *See* 24 V.S.A. § 901.

The court does not recite these shortcomings to criticize Mr. Blais, but to demonstrate why his representation of GGR in this case is problematic for the court, the Town, and ultimately the public. The Vermont Supreme Court has explained:

The primary purpose of the “lawyer-representation rule” is the protection of the public . . . Courts have generally refused to permit nonattorneys to represent organizations because they do not have the ethical responsibilities of attorneys and are not subject to the disciplinary control of the courts. The lawyer-representation rule also ensures that the courts have control over the

management and administration of cases. The conduct of litigation by a nonlawyer creates unusual burdens not only for the party he represents but as well for his adversaries and the court. The lay litigant frequently brings pleadings that are awkwardly drafted, motions that are inarticulately presented, [and] proceedings that are needlessly multiplicative.

Upper Valley Reg'l Landfill Corp., 159 Vt. at 454–56 (citations and quotations omitted). Mr. Blais's filings in this case unfortunately illustrate these concerns.

Because the court concludes that Mr. Blais may not lawfully represent GGR in this appeal, the court grants the Town's renewed motion to dismiss.

Order

The Town's motion to dismiss is GRANTED.

Electronically signed on: 5/1/2024 pursuant to V.R.E.F. 9(d)



Benjamin D. Battles
Superior Court Judge