

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Lakewood Senior Health Campus,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 14-1415-EL-CSS
	)	
FirstEnergy Solutions Corp.,	)	
	)	
Respondent.	)	

**FIRSTENERGY SOLUTIONS CORP.'S MOTION TO DISMISS AND
MEMORANDUM IN SUPPORT**

The complaint in this proceeding was filed on behalf of a business entity and signed by an individual who is not an attorney. Business entities must be represented by counsel in court and agency proceedings. Moreover, signing a pleading constitutes the practice of law, and only licensed attorneys may practice law. Therefore, in accordance with R.C. 4705.01 and Ohio Adm. 4901-1-08(A), the Commission must dismiss the complaint.

The invoice attached to the complaint lists Lakewood Senior Health Campus as the customer of record. Public records on file with the Ohio Secretary of State confirm that the complainant is a limited liability company.¹ Business entities are distinct from their owners and managers; therefore, a business entity may not pursue an action in a court or agency unless represented by counsel. “No person shall be permitted to practice as an attorney and counselor at law, or to commence [or] conduct . . . any action or proceeding . . . unless the person has been admitted to the bar by order of the supreme court” R.C. 4705.01. This includes corporations, which “cannot maintain litigation *in propria persona*, or appear in court through

¹ Ohio Secretary of State, Business Search, http://www2.sos.state.oh.us/pls/bsqry/f?p=100:7:0::NO:7:P7_CHARTER_NUM:1670199 (accessed Sept. 2, 2014).

an . . . appointed agent not admitted to the practice of law.” *Union Savings Assn. v. Home Owners Aid, Inc.*, 23 Ohio St.2d 60, syllabus (1970).

Consistent with these authorities, the Commission’s rules require business entities to be represented by counsel. Ohio Adm. Code 4901-1-08(A); *see also In re the Complaint of E-Poch Properties, LLC*, Case No. 08-288-GA-CSS, Entry at 2 (Sept. 26, 2008) (“any party not appearing on its on behalf, *i.e.*, businesses and corporations, shall be represented by an attorney authorized to practice law in the state of Ohio.”).

The complaint is signed by Jason R. Jacobs, who also signed the contract attached to the complaint. Nothing in the complainant’s filing states or suggests that Mr. Jacobs is a licensed attorney. Nor does he appear on the rolls of licensed attorneys maintained on the Supreme Court of Ohio’s website.² It may be fairly assumed, therefore, that Mr. Jacobs is not an attorney.

There is no question that signing and filing a complaint constitutes the practice of law. According to the Supreme Court of Ohio, the practice of law includes “preparation of legal pleadings and other papers, appearing in court cases, and managing actions and proceedings on behalf of clients . . . , whether before courts or administrative agencies.” *Ohio State Bar Assn. v. Miller*, 138 Ohio St.3d 203, 2014-Ohio-515, ¶ 14 (internal quotations omitted).

There also is no question about the appropriate remedy for the unauthorized practice of law. “Where it appears that one not licensed to practice law has instituted legal proceedings on behalf of another in a court of record, such suit should be dismissed” *Williams v. Global Construction Co., Ltd.*, 26 Ohio App.3d 119, 121 (10th Dist. 1985).

Given the above, FirstEnergy Solutions Corp. requests that the Commission issue an Entry dismissing the complaint.

² A September 2, 2014 Attorney Information Search of “Jason Jacobs” on the Supreme Court of Ohio website yielded no results.

Dated: September 4, 2014

Respectfully submitted,

/s/ Mark A. Hayden

Mark A. Hayden (0081077)
Jacob A McDermott (0087187)
Christine M. Weber (0032245)
FIRSTENERGY SERVICE COMPANY
76 South Main Street
Akron, OH 44308
(330) 761-7735, 384-5038
(330) 384-3875 (fax)
haydenm@firstenergycorp.com
jmcdermott@firstenergycorp.com
cweber@firstenergycorp.com

Mark A. Whitt (0067996)
Andrew J. Campbell (0081485)
Gregory L. Williams (0088758)
WHITT STURTEVANT LLP
The KeyBank Building
88 East Broad Street, Suite 1590
Columbus, Ohio 43215
(614) 224-3911
(614) 224-3960 (fax)
whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com
williams@whitt-sturtevant.com

(All counsel willing to accept service by email.)

ATTORNEYS FOR FIRSTENERGY
SOLUTIONS CORP.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Dismiss was served by U.S. mail
this 4th day of September 2014 to the following:

Lakewood Senior Health Campus
c/o Jason R. Jacobs
38642 Center Ridge Rd.
N. Ridgeville, Ohio 44039

/s/ Gregory L. Williams
One of the Attorneys for FirstEnergy Solutions
Corp.

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

9/4/2014 4:55:55 PM

in

Case No(s). 14-1415-EL-CSS

Summary: Motion to Dismiss and Memorandum in Support electronically filed by Mr. Gregory L. Williams on behalf of FirstEnergy Solutions Corp.