

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT KANSAS CITY

DENELLE GINDER,

Plaintiff,

Case No. 0516-CV09389

Division 9

v.

CAPITOL FEDERAL SAVINGS INC.,

Defendant.

ORDER

Pending before the Court is Defendant Capitol Federal Savings Inc.'s ("Capitol Federal") Motion to Strike "Judicial Notice of Payment in Full" and "Request for Relief from Judgment" or in the Alternative, "Denial of the Request for Relief." For the reasons stated below, Capitol Federal's motion is granted.

BACKGROUND

The Court entered a Judgment of Default in this case on December 12, 2008 in favor of Capitol Federal.<sup>1</sup> Denny Ray Hardin, supposedly on behalf of Plaintiff Denelle Ginder, filed a "Judicial Notice of Payment in Full" and "Request for Relief from Judgment" on March 4, 2009 and April 22, 2009, respectively. Capitol Federal followed with the current pending motion.

ANALYSIS

Capitol Federal moved for denial of Plaintiff's request for two reasons: Plaintiff's pleading should be stricken because they are defective and Mr. Hardin is essentially attempting to practice law without a license. Both arguments are well taken. A motion to strike, under Rule

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<sup>1</sup> On October 9, 2007, Capitol Federal filed its Answer to Plaintiff's Amended Petition for Damages, which included affirmative defenses and also filed its Amended Counterclaim and Cross Claim for Judicial Foreclosure of Deed of Trust. More than seven months passed, and plaintiff did not respond to nor answer Capitol Federal's filings.

55.27(e) includes, irregular or defective pleadings, In re Sheldon's Estate, 189 S.W.2d 235, 237

(Mo. Banc 1945), and irrelevant or redundant matter, Webster v. Sterling Finance Co., 173

S.W.2d 928, 932 (Mo. Banc 1943). Rule 55.27(e) states:

“(e) Motion to Strike. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within thirty days after the service of the pleading upon any party or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.”

Further the judiciary has the inherent power to regulate the unauthorized practice of law in Missouri. Bray v. Brooks, 41 S.W.3d 7, 10 (Mo. Ct. App. 2001). Section 484.020 of the Missouri Revised Statutes prohibits any individual from engaging in the practice of law or doing law business as defined in § 484.010 without a license. Id. The “practice of law” includes the drawing of papers or pleadings in a representative capacity. Mo. Rev. Stat. § 484.010. The “business of law” includes “the doing of any act for a valuable consideration in a representative capacity, obtaining or tending to obtain or securing or tending to secure for any person, firm, association or corporation any property or property rights whatsoever.” Id. An entry of appearance as an attorney is required under Local Rule 3.5.2 to proceed with legal actions in the 16<sup>th</sup> Judicial Circuit of Missouri.

Mr. Hardin is not an attorney who may file pleadings on behalf of a client. Thus, pleadings filed by Mr. Hardin are improper. Furthermore, neither “Judicial Notice of Payment in Full” nor “Request for Relief from Judgment” are recognized pleadings in Missouri, thus they will be stricken pursuant to Rule 55.27.

Substantively, Mr. Hardin's pleadings also fail. A “Bonded Promissory Note” will not satisfy a judgment unless the judgment holder - - in this case Capitol Federal - - has agreed to accept such a note as satisfactory payment. Griffen v. Priest, 137 S.W.2d 685, 687 (Mo. App.

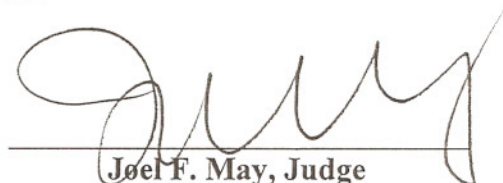
1940); Riggs v. Goodrich, 74 Mo. 108 (Mo. 1881). Capitol Federal has not done so. Thus, Mr.

Hardin's "Bonded Promissory Note," does not satisfy the judgment of this Court.

Therefore, it is hereby

ORDERED Defendant's Motion to Strike "Judicial Notice of Payment in Full" and "Request for Relief from Judgment" or in the Alternative, "Denial of the Request for Relief" is GRANTED, and Plaintiff and Denny Ray Hardin's "Judicial Notice of Payment in Full" and "Request for Relief from Judgment" are hereby stricken.

June 2, 2009  
Date



Joel F. May, Judge

A copy of the above was faxed/mailed on this

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