

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

FILED  
U.S. DISTRICT COURT  
OCT 19 P 1:21  
DISTRICT OF UTAH  
BY: \_\_\_\_\_  
DEPUTY CLERK

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U.S. COMMODITY FUTURES )  
TRADING COMMISSION, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
U.S. VENTURES LC, a Utah limited )  
liability company, WINSOME )  
INVESTMENT TRUST, an )  
unincorporated Texas entity, ROBERT )  
J. ANDRES and ROBERT L. )  
HOLLOWAY, )  
 )  
Defendants. )

Civil No. 2:11-CV-00099 BSJ

**ORDER**

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On October 14, 2011, defendant Robert J. Andres filed a document captioned as a "Notice to the Court as to E-filing," (dkt. no. 78), and on October 16, Mr. Andres filed a "Motion for Extension of Time to File Response Opposing Court Order Reappointing Receiver," (dkt. no. 79). Mr. Andres also attempted to file the same or similar documents on behalf of defendant Winsome Investment Trust, (*see* dkt. nos. 78, 80).

At this point, Mr. Andres is appearing in the above-captioned action *pro se*, without representation by counsel.<sup>1</sup> He has also attempted to appear on behalf of the

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<sup>1</sup>See 28 U.S.C. § 1654 (2006 ed.) ("In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.")

Winsome Investment Trust, but because he is not a licensed attorney and member of the bar of this court, he cannot do so. “[A] non-attorney may appear *in propria persona* on his own behalf,” but “that privilege is personal to him” and “he has no authority to appear as an attorney for others than himself.” *C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th Cir. 1987) (affirming district court's order dismissing one complaint without prejudice and striking another because nonlawyer trustee had no authority to appear as attorney for the trust); *Bell v. South Bay European Corp.*, 486 F. Supp. 2d 257, 259 (S.D.N.Y. 2007) (“A trust is deemed an artificial entity for the purposes of the rule barring a nonlawyer trustee from representing the interests of the trust.”).

Consequently, to the extent that he has filed papers in the name of the Winsome Investment Trust, those papers shall be stricken from the record in this case.

Given Mr. Andres' existing arrangement with the Clerk of the Court to make use of the court's CM/ECF electronic filing system, he may continue to do so solely on his own behalf as a *pro se* litigant in the above-captioned proceeding, and he should receive all notices distributed via that system, consistent with the CM/ECF Administrative Procedures. Should an attorney enter an appearance on his behalf in this action, his use of the CM/ECF system will then cease. He cannot use the CM/ECF system to file papers or receive notices on behalf of the Winsome Investment Trust or any entity or person other than himself.

Because Mr. Andres is proceeding *pro se*, we construe his filings—on his own

behalf—liberally. *See, e.g., Van Deelan v. Johnson*, 497 F.3d 1151, 1153 n.1 (10th Cir. 2007). The Order Reappointing Receiver (dkt. no. 77) having already been entered by the court,<sup>2</sup> the court construes Mr. Andres’ “Motion for Extension of Time to File Response Opposing Court Order Reappointing Receiver,” (dkt. no. 79), as a motion for leave to seek relief from that Order, which of course he may seek on his own motion pursuant to the Rules, without prior leave of court. *See* Fed. R. Civ. P. 60(b).

Generally, parties appearing pro se are expected to conduct the case themselves in all respects, including appearance and participation at hearings, subject to the Rules and practices that apply to attorneys who appear before the court. Mr. Andres now seeks an order permitting him to appear by telephone at “any such related Court hearings” in this case “until further Order of this Court.” (Motion for Extension of Time to File Response Opposing Court Order Reappointing Receiver, (dkt. no. 79), at 4, 6.) This court declines to grant such leave absent a specific showing of need or hardship as to a particular scheduled hearing or proceeding.

Therefore,

**IT IS ORDERED** that defendant Robert J. Andres is GRANTED leave to make use of the court’s CM/ECF electronic filing system consistent with the CM/ECF

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<sup>2</sup>This is one of those circumstances contemplated by the court’s Local Rule DUCivR 54-1(b) in which it was “otherwise determined by the court” that the proposed order prepared by counsel would not be “served upon opposing counsel for review and approval as to form prior to being submitted to the court for review and signature” after seven days have elapsed.

Administrative Rules, solely on his own behalf, solely in the above-captioned proceeding, and only so long as he appears *pro se* in the above-captioned proceeding;

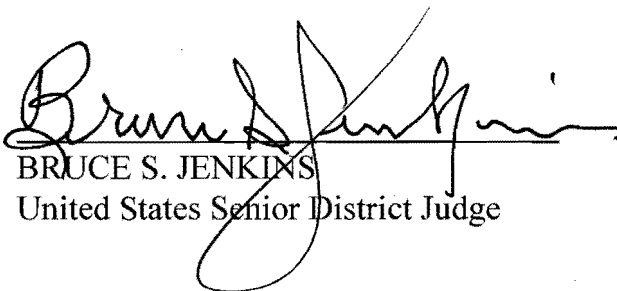
**IT IS FURTHER ORDERED** that those papers that Mr. Andres has filed with this court in the name of the Winsome Investment Trust, or any entity or person other than himself, (e.g., dkt. no. 80), are hereby STRICKEN from the record of this court;

**IT IS FURTHER ORDERED** that Mr. Andres' "Motion for Extension of Time to File Response Opposing Court Order Reappointing Receiver," (dkt. no. 79), is hereby DENIED as unnecessary because Mr. Andres may file his own motion for relief from the Order pursuant to this court's Rules without prior leave of court; and

**IT IS FURTHER ORDERED** that Mr. Andres' request for leave to appear by telephone at any hearings in this case until further order of this court (dkt. no. 79) is hereby DENIED;

<sup>rh</sup>  
DATED this 19 day of October, 2011.

BY THE COURT:

  
BRUCE S. JENKINS  
United States Senior District Judge