

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

ENTERED

NOV 26 2003

US. BANKRUPTCY COURT
MDNC - SD

IN RE:)
)
.103 Norwalk Street, L.L.C.,) Case No. 01-10059C-7G
)
Debtor.)
)

ORDER

This case is before the court for consideration of a motion pursuant to Federal Rule 60(b) and Bankruptcy Rule 9024 (Docket #136) which was filed on November 6, 2003 ("the Motion"). The Motion purports to be a motion on behalf of the Debtor, 1103 Norwalk Street, L.L.C., and was filed by Gary I. Terry "acting as an interested party on behalf of the Debtor. ." Having reviewed the Motion, the court is satisfied that oral argument is not needed for the proper resolution of the Motion and the Motion, therefore, will be decided without holding a hearing on the Motion.

Under Rule 9011 of the Federal Rules of Bankruptcy Procedure, "[e]very petition, pleading, written motion, and other paper, except a list, schedule, or statement, or amendments thereto, shall be signed by at least one attorney of record in the attorney's individual name." The Motion now before the court does not comply with this requirement of Rule 9011 because it is signed only by Mr. Terry who is not a licensed attorney or an attorney of record in this case.

While an individual party to a bankruptcy case or other court proceeding may represent himself or herself, it is well established

that a corporation can appear only through a licensed attorney. See Rowland v. Cal. Men's Colony, 506 U.S. 194, 201-02, 113 S. Ct. 716, 721 (1993) (stating that "it has been the law for the better part of two centuries . . . that a corporation may appear in the federal courts only through licensed counsel") This rule is applicable to all forms of business entities. See Id., 506 U.S. at 202, 113 S. Ct. at 721 ("[S]lave in a few aberrant cases, the lower courts have routinely held that 28 U.S.C. § 1654, 'providing that parties may plead and conduct their own cases personally or by counsel,' does not allow corporations, partnerships, or associations to appear in federal court" other than through a licensed attorney); see also Harrison v. Wahatoyas, L.L.C., 253 F.3d 552, 556 (10th Cir. 2001) ("a corporation or other business entity can only appear in court through an attorney and not through a non-attorney corporate officer appearing pro se"); Tinkers & Chance v. Zowie Intertainment, Inc., 2001 WL 706908 (Fed. Cir.) ("All artificial entities such as corporations, partnerships, or associations, may only appear in federal court through a licensed attorney"); In re American West Airlines, 40 F.3d 1058, 1059 (9th Cir. 1994) ("Corporations and other unincorporated associations must appear in court through an attorney"); Runkle v. United States, 962 F. Supp. 1112, 1113 (N.D. Ind. 1997) ("Corporations must be represented in court by attorneys admitted to practice . . . the same rule applies to partnerships

and other unincorporated organizations"). A limited liability company, such as the Debtor in this case, is a type of business entity and, like other business entities, can appear in court only through a licensed attorney. See Kipp v. Royal & Son Alliance Personal Ins. Co., 209 F. Supp. 2d 962, 963 (E.D. Wis. 2002) (As both partnerships and corporations can only appear in court by counsel, a "LLC should be governed . by the same rule."); Collier v. Cobalt, LLC, 2002 W.L. 726640 (E.D. La.) ("Whether the LLC is characterized as a corporation, a partnership, or a hybrid, it may only appear in court through counsel"); In re Interiors of Yesterday, LLC, 284 B.R. 19, 24 (Bankr. D. Conn. 2002) ("The rule against pro se appearances by artificial entities applies to limited liability companies"); In re ICLNDS Notes Acquisition, LLC, 259 B.R. 289, 293-94 (Bankr. N.D. Ohio 2001) ("whether an LLC is viewed as a corporation or partnership or a hybrid, it may only appear in court through an attorney"). Consistent with the foregoing long established rule, Rule LBR9011-2 of our Local Rules provides that while an individual may appear pro se, "[a]ll partnerships, corporations and other business entities that desire to appear in cases or proceedings before this Bankruptcy Court must be represented by an attorney duly admitted to practice before the Bankruptcy Court."

Since the Motion is not signed by an attorney, it constitutes a pro se pleading. Under the foregoing cases and Local Rule

LBR9011-2, the Debtor, 1103 Norwalk Street, L.L.C., as a limited liability company, may not appear in this case or seek relief pro se. The result is that the Motion does not comply with Rule 9011 of the Federal Rules of Bankruptcy Procedure or Local Rule LBR9011-2 and therefore should be stricken.

IT IS SO ORDERED.

This 26th day of November, 2003.

WILLIAM L. STOCKS

WILLIAM L. STOCKS
United States Bankruptcy Judge