

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2012-000317-001 DT

08/20/2012

HONORABLE MARK H. BRAIN

CLERK OF THE COURT
T. Nosker
Deputy

A A M, L L C

BRANDON A HALE

v.

BOARD OF LEGAL DOCUMENT PREPARERS
(001)
LES KRAMBEAL (001)

REMAND DESK-LCA-CCC

MINUTE ENTRY

This special action poses a discrete, pure legal question: Can a Legal Document Preparer *sign* a lien it prepared on behalf of a homeowners association? Retired Judge Schwartz answered the question “yes,” but the Board overruled his decision and said “no” in the proceedings below. Having studied the parties’ papers and arguments, the Court concludes that Judge Schwartz was correct, and that the Board was wrong.

The analysis is governed by Rule 31, Rules of the Arizona Supreme Court, and § 7-208 of the Arizona Code of Judicial Administration. Rule 31(a)(2) defines the practice of law and includes in that definition things like “preparing any document in any medium intended to affect or secure legal rights for a specific person or entity,” “representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as arbitration and mediation,” “preparing any document through any medium for filing in any court, administrative agency or tribunal for a specific person or entity,” and “negotiating legal rights or responsibilities for a specific person or entity.” Rule 31(b) then prohibits the unauthorized practice of law, subject to exemptions as set forth in Rule 31(d) (which allow the activities set forth in § 7-208).

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Corporations can only act through their agents, and as a general matter are entitled to appoint and retain agents as they see fit. The Board has failed to explain how merely signing a lien to be filed at a recorder can be considered “the practice of law” without rendering virtually everything of note a corporate agent does “the practice of law.” Merely signing a lien as an agent of a corporation is not the practice of law, any more than signing a check, a contract, a deed, or other things which arguably bind the corporation. UPL Advisory Opinion no. 12-01 (March 2012) tacitly admits as much, by noting that a duly authorized agent can sign a lien.¹ The Court can find nothing in Rule 31 which prohibits this practice. And, of course, the legal document preparer rules (in the administrative code) were enacted to allow something that Rule 31 would otherwise preclude (that is, to allow legal document preparers to engage in certain activities that would be “the practice of law”), and the Court has found no prohibition of the practice there either. Simply put, it makes no sense that a homeowners association can appoint a man chosen at random to sign its liens without running afoul of Rule 31, but cannot appoint a legal document preparer to do the same thing. Accordingly, plaintiff’s claim for relief is GRANTED.

Plaintiff shall file an appropriate form of judgment within 10 business days of the date this minute entry is filed.

¹ The Opinion states, “Unless expressly permitted by the Association bylaws and appropriate corporate resolution, CAM personnel may not sign a document on behalf of the corporate entity.”