

IN THE COURT OF APPEALS OF IOWA

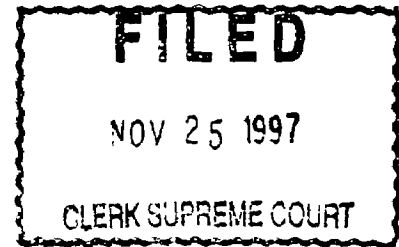
No. 7-336 / 96-0668

000105

**HOUSTON DAVIS d/b/a HERITAGE TIMBER
FRAMES,**
Appellee,

vs.

**ED ROTH d/b/a MIDWEST TIMBER COMPONENT
CORPORATION,**
Appellant.



Appeal from the Iowa District Court for Clayton County, John Bauercamper,
Judge.

Midwest Timber Component Corporation appeals a district court's order
granting Houston Davis's motion for summary judgment. **AFFIRMED.**

Ericka Roth, Downers Grove, Illinois, pro se, for appellant.

John Steven McCorkindale of Ehrhardt, Gnagy & McCorkindale, Elkader, and
Houston Davis, Jefferson City, Missouri, pro se, for appellee.

Considered by Sackett, P.J., and Vogel, J., and Peterson, S.J.*

*Senior Judge from the 1st Judicial District serving on this court by order of
the Iowa Supreme Court.

PETERSON, S.J.

Defendant, Midwest Timber Component Corporation, appeals the district court decision granting of a motion for summary judgment filed by the plaintiff, Houston Davis. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

On July 20, 1994, Houston Davis, through his attorney, filed a petition against Ed Roth d/b/a Midwest Timber Component Corporation. The petition alleged a cause of action for breach of contract, fraud, and requested that an attachment issue.

As a result of motions filed by the defendant, the plaintiff recast his petition on November 14, 1994, alleging the same cause of action as was alleged in the first petition, but this time against Midwest Timber Component Corporation as a corporation.

On May 5, 1995, an application was filed by the defendant's attorney to withdraw, which was granted on May 6, 1995. On June 8, 1995, a motion was filed by Ericka Roth, the president of Midwest Timber Component Corporation, requesting that all proceedings in this matter be in writing and communicated either by fax or U.S. Mail allowing up to fourteen working days for delivery. This motion listed the address for the Midwest Timber Component Corporation. All subsequent proceedings in this matter by the Midwest Timber Component Corporation have been filed by Ericka Roth as the president.

On June 15, 1995, the plaintiff filed a notice of the service of interrogatories, the request for admissions, and a request for production of documents on the

defendant. On September 15, 1995, the plaintiff filed additional requests for admissions. There was no response from the defendant Midwest Timber Component Corporation to any of these requests and the interrogatories were not answered.

On October 3, 1995, the plaintiff filed a motion for summary judgment which was sustained on December 5, 1995. The trial court sustained the motion finding that there were no material facts in dispute concerning the parties to the contract, the existence of a contract, and the terms of the contract. These facts were established by the defendant's failure to respond to the plaintiff's request for admissions.

The defendant appeals contending there is no evidence in the record to show that Midwest Timber Component Corporation was a party to the contract in dispute and that the district court improperly differentiated in its standard for service. With respect to the latter, it is contended that Ericka Roth, as president of Midwest Timber Component Corporation, did not receive the request for admissions.

The appendix and the appellant's final brief and argument have been prepared by Ericka Roth as president of Midwest Timber Component Corporation, and the appellee's brief has been prepared by Houston Davis. Courts do not utilize a deferential standard when persons choose to represent themselves. *Metropolitan Jacobson Dev. Venture v. Bd. of Rev.*, 476 N.W.2d 726, 729 (Iowa App. 1991). The law does not judge by two standards, one for lawyers and the other for laypersons. Rather, all are expected to act with equal competence. *Id.* If lay parties choose to proceed on a pro se basis, they do so at their own risk. *Id.* Thus, the issues are

resolved without regard as to whether a party did or did not choose to employ legal counsel. *Id.*

Iowa Rule of Appellate Procedure 14 pertains to the briefs to be filed by the parties to the appeal. Subparagraph 3 requires:

[A] statement of the issues presented for review. Under each issue separately stated shall be a list of all cases, statutes, and other authorities referred to the argument covering that issue. The authorities which are considered to be most pertinent and convincing shall be indicated by underlining. No less than one nor more than four authorities under each separately-stated issue shall be so indicated. Failure in the brief to state, argue, or to cite authority in support of an issue may be deemed waiver of that issue.

In this case, defendant has failed to cite any relevant authority to support the issues they requested to be reviewed. We, therefore, find they have waived their right to appeal those issues and consequently we affirm the trial court.

AFFIRMED.