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*Attorneys for Plaintiffs-Appellees Gerald A. Unruh
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IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court Cause No. DA 24-0344

GERALD A. UNRUH, MICHAL L.
UNRUH,

Plaintiffs - Appellees

-vs-

URBAN LIFESTYLE 10 LLC, a
Washington State limited liability
company,

Defendant – Appellant.

**APPELLEES' MOTION TO
DISMISS APPEAL AND BRIEF IN
SUPPORT**

MOTION

COMES NOW Gerald A. Unruh and Michal L. Unruh, Plaintiffs-Appellees,
and move the Court to dismiss the appeal since the Defendant-Appellant Urban
Lifestyle 10, LLC (the “LLC”) must appear through legal counsel under Montana
law.

BRIEF

“A limited liability company is not merely an informal business association. It is a legal entity, distinct from its members, formed by signing and filing articles of organization with the Secretary of State.” Ioerger v. Reiner, 2005 MT 155, ¶ 20, 327 Mont. 424, 114 P.3d 1028. As such, the obligations of the LLC are separate from its members. Id. (citation omitted). Since the entity and its members are separate and distinct, an owner of an LLC does not have standing to raise an issue which belongs to the business entity. Johnson v. Booth, 2008 MT 155, ¶¶ 18-19, 343 Mont. 268, 184 P.3d 289.

The members of the LLC cannot appear for the LLC in this appeal. “A pro se litigant cannot represent or appear on behalf of another person or entity.” Rafes v. McMillan, 2022 MT 13, ¶ 20, 407 Mont. 254 502 P.3d 674 quoting Lucas v. Stevenson, 2013 MT 15, ¶ 17, 368 Mont. 269, 294 P.3d 377. “A non-lawyer who appears on behalf of another in district court is potentially subject to contempt of court under § 37-61-210, MCA (practicing law without a license).” Rafes at id. A limited liability company is a separate legal entity and must have its own counsel. Rafes at ¶ 21. Thus, the LLC must appear through a lawyer.

While the Legislature has carved out a specific exception to this general rule, that is, a member with a majority interest in an LLC has the authority to represent the LLC in a justice court or small claims court, see MCA Sections 35-8-301(5); 25-

31-601(3), that is not the case in the Supreme Court. As such, the LLC must have legal counsel or the case be dismissed.

CONCLUSION

For all the foregoing reasons, the Motion should be granted and the appeal dismissed.

DATED this 28th day of August, 2024.

CRIST, KROGH, ALKE & NORD, PLLC

By: /s/ Eric Edward Nord
Eric Edward Nord
2708 First Avenue North, Suite 300
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Attorneys for Plaintiffs-Appellees

CERTIFICATE OF SERVICE

This is to certify that on the 28th day of August, 2024, I served a true and correct copy of the foregoing Motion to Default Appellant and Brief in Support by *email and USPS Certified Mail, postage prepaid, return receipt requested* on the following:

Urban Lifestyle 10, LLC
Seattle Group Real Estate
500 108th Avenue NE Floor 11
Bellevue, WA 98004
deniel@seattlegroupe.com
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CRIST, KROGH, ALKE & NORD, PLLC

By: /s/ Eric Edward Nord
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Attorneys for Plaintiffs-Appellees

CERTIFICATE OF SERVICE

I, Eric Edward Nord, hereby certify that I have served true and accurate copies of the foregoing Motion - Dismiss to the following on 08-28-2024:

Urban Lifestyle 10 LLC (Appellant)
Seattle Group Real Estate
500 108th Ave. NE Floor 11
Bellevue WA 98004
Service Method: Conventional

Electronically Signed By: Eric Edward Nord
Dated: 08-28-2024