

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA.

APPELLATE DIVISION (CIVIL)  
Case No.: 502008AP000041XXXXMB  
L.T.: 502007SC013791XXXXNB  
Division: 'AY'

PALM BEACH ATLANTIC UNIVERSITY,

Appellant(s),

v.

CHELSEA CAMPBELL,

Appellee(s).

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Opinion filed: *Sept 16, 2009*

**Appeal from the County Court in and for Palm Beach County,  
Judge Ted Booras.**

For Appellant: Aaron Scicchitano, Esq.  
10967 Lake Underhill Rd., Unit 125  
Orlando, FL 32825.

For Appellee: Chelsea Campbell  
213 Lone Pine Dr.  
Palm Beach Gardens, FL 33410.

PER CURIAM.

REVERSED AND REMANDED.

Palm Beach Atlantic University ("PBAU") argues that the lower court erred by allowing Chelsea Campbell's mother, Wanda Campbell, to appear at the pre-trial conference and at trial on her daughter's behalf. The record shows that Chelsea Campbell has not appeared in this case either personally or through a licensed attorney. It is clear from the record that Wanda Campbell is not an attorney at law, and that she merely has her daughter's power of attorney and

guardianship. Although Wanda Campbell's power of attorney to act on her daughter's behalf authorizes her to act as her daughter's agent, it does not authorize her to act as her daughter's attorney at law. *The Florida Bar v. Kaufman*, 452 So.2d 526, 527 (Fla. 1984); *Pryor v. King*, 485 So. 2d 28 (Fla. 1st DCA 1986) (affirming trial court where husband appealed, in part, because trial court did not permit his wife, who held his power of attorney, to appear on his behalf). Appearing in court or in proceedings which are part of the judicial process constitutes the practice of law. *The Florida Bar v. Kaufman*, 452 So.2d 526, 527 (Fla. 1984). Thus, Wanda Campbell was not authorized to act as her daughter's attorney and appear on her behalf in court.

"On the date and time appointed in the notice to appear, the plaintiff and defendant shall appear personally or by counsel." Fla. Sm. Cl. R. 7.090(a). The filing of a motion or a defensive pleading shall not excuse the personal appearance of a party or attorney on the initial appearance date (pretrial conference). Fla. Sm. Cl. R. 7.090(c). If the defendant does not appear at the scheduled time, the plaintiff is entitled to a default to be entered by either the judge or clerk. Fla. Sm. Cl. R. 7.170(a). Campbell filed two correspondences with the Court, both requesting that her mother be allowed to appear on her behalf and disputing the amount PBAU stated she owed. Thus, Campbell did file a defensive pleading; however, under the express language of the Small Claims Rules, PBAU was entitled to a default due to Campbell's failure to appear personally or through counsel. Although it would not have been an abuse of discretion for the trial court to provide Campbell another opportunity to personally appear instead of immediately entering a default, it was an abuse of discretion to permit Wanda Campbell to represent her daughter at trial and to never require an appearance by Campbell herself. Since the trial court not only permitted Wanda Campbell to appear on Campbell's behalf, but permitted her to testify and make legal arguments (*i.e.*, arguing that PBAU failed to enter a contract into evidence), the final judgment

must be reversed. It is clear from the Final Judgment for Defendant that the trial court based its decision upon Wanda Campbell's testimony and legal arguments; since Campbell did not personally appear at trial, it was error for the trial court to consider Wanda Campbell's testimony and argument.

The Final Judgment for Defendant is hereby REVERSED and the matter is REMANDED for a new trial. The trial court shall afford Campbell the opportunity to appear at trial either personally or through counsel; however, the trial court is directed to enter a default pursuant to Florida Small Claim Rule 7.170(a) if Campbell fails to appear.

BARKDULL, HAFELE, and SASSER, JJ., concur.