

Ohio case law continues to hold that *pro se* litigants are held to the same standards as a practicing attorney. *Justice v. Lutheran Social Services*, Franklin Cty. No. 92AP-1153, unreported, 1993 Ohio App. LEXIS 2029 at *6 (10thDist.). The *pro se* litigant is to be treated the same as one trained in the law as far as the requirements to follow procedural law and adherence to court rules, and are presumed to have knowledge of the law and of correct legal procedure. *Kessler v. Kessler*, 2010-Ohio-2369, ¶8 (10thDist.); *Meyers v. First Natl. Bank*, 3 Ohio App.3d 209, 210 (1stDist.1981); *Erie Ins. Co. v. Bell*, 2002-Ohio-6139 (4thDist.). *Pro se* civil litigants are also bound by the same rules and procedures as those litigants who retain counsel. *White v. Fifth Third Bank*, 2010-Ohio-4611, ¶13 (10thDist.), citing *Zukowski v. Brunner*, 125 Ohio St.3d 53, 2010-Ohio-1652; *Raccuia v. Kent State Univ.*, 2010-Ohio-3014, ¶13 (10thDist.); *Copeland v. Rosario*, Summit Cty. No. 18452, 1998 Ohio App. LEXIS 260 at *7 (9thDist.). If the Court treats a *pro se* litigant differently, the Court begins to depart from its duty of impartiality and prejudices the handling of the case as it relates to other litigants represented by counsel. Accordingly, under Ohio law, *pro se* litigants are not accorded greater rights and must accept the results of their mistakes and errors. *Kilroy v. B.H. Lakeshore*, 111 Ohio App.3d 357, 363 (8thDist.1996); *Harris v. Housing Appeals Board*, 2003-Ohio-724, 11 (9thDist.).

Upon review, this case must be dismissed due to Appellant's failure to invoke the subject matter jurisdiction of this Court as Appellant's Notice of Appeal does not comport with the requirements of R.C. 4141.282. "It is elementary that an appeal, the right to which is conferred by statute, can be perfected only in the mode prescribed by statute. . . ." *Zier v. Bureau of Unemployment Compensation*, 151 Ohio St. 123, syllabus

para.1 (1949). The Ohio Supreme Court has further held that “[c]ompliance with these specific and mandatory requirements governing the filing of such notice is essential to invoke jurisdiction of the Court of Common Pleas.” *In re King*, 62 Ohio St.3d 87, 88 (1980), quoting *Zier* at paragraph two of the syllabus. More recently, Ohio courts have addressed the failure to name all interested parties as appellees as required by R.C. 4141.282(D). Those courts have held that the failure to do so deprives the trial court of subject-matter jurisdiction over the appeal. *See Rupert v. Ohio Dept. of Job & Family Servs.*, 6th Dist. Lucas No. L-14-1139, 2015-Ohio-915 (failed to name the employer); *Dikong v. Ohio Supports, Inc.*, 2013-Ohio-33, 985 N.E.2d 949 (1stDist.)(failed to name the director of job and family services); *Mattice v. Ohio Dept. of Job & Family Servs.*, 2d Dist. Montgomery No. 25718, 2013-Ohio-3941 (failed to name the employer); *Luton v. Ohio Unemp. Revision Comm.*, 8th Dist. Cuyahoga No. 97996, 2012- Ohio-3963 (failed to name the employer); *Sydenstricker v. Donato’s Pizzeria, LLC*, 11th Dist. Lake No. 2009-L-149, 2010-Ohio-2953 (failed to name the director of job and family services).

In this case, the pertinent portion of R.C. 4141.282, being the statute governing the appeal procedure involved herein, states:

(D) The commission shall provide on its final decision the names and addresses of all interested parties. The appellant shall name all interested parties as appellees in the notice of appeal. The Director of Job and Family Services is always an interested party and shall be named as an appellee in the notice of appeal.

Pursuant to R.C. 4141.282(D), “[t]he appellant shall name all interested parties as appellees in the notice of appeal.” A failure to name one’s employer in the notice of appeal constitutes a failure to comply with the mandatory requirements of R.C. 4141.282(D). *Luton v. Rev. Comm.*, 2012-Ohio-3963, ¶14 (8thDist.). *See also In re*

Claim of King, 62 Ohio St.2d 87, 87 (1980) (court determined that because appellee failed to name his employer as a party to the appeal, appellee failed to follow the directives of the statute, and therefore, the court of common pleas lacked subject matter jurisdiction to proceed); *Rupert, supra* at ¶11. “Substantial compliance” with the statute does not vest jurisdiction with the reviewing court. *Luton, supra* at ¶¶15-16.

It is clear from Exhibit A to appellee’s motion to dismiss – the February 24, 2015 Decision of the Unemployment Compensation Review Commission (“Review Commission”) with regard to appellant and his employment with Talbott Recovery Campus, that the Review Commission complied with the applicable section of R.C. 4141.282(D). The February 24, 2015 Decision states in “Appeals Rights” on page 5 of 5 that “[a]n appeal from this decision may be filed to the Court of Common Pleas of the county where the appellant, if an employee, is resident or was last employed . . . , within thirty (30) days from the date of mailing of this decision, as set forth in Section 4141.282, Revised Code of Ohio. The appellant must name all interested parties as appellees in the notice of appeal, including the Director of the Department of Job and Family Services.” *See* Exhibit A to Motion to Dismiss, p. 5. The February 24, 2015 Decision also provided the names and addresses of all interested parties, including appellant and his employer, Talbott Recovery Campus). *Id.*

Here, appellant failed to follow the mandates of R.C. 4141.282(D) by failing to name all interested parties in his notice of appeal, i.e. his former employer. “An incorrect notice of appeal does not vest jurisdiction in the court of common pleas.” *Sydenstricker v. Donato's Pizzeria, L.L.C.*, 2010-Ohio-2953, at *5 (11thDist.). *See* R.C. 4141.282(C). Appellant’s failure to strictly comply with the terms of the statute deprives the Court of subject matter jurisdiction to hear his appeal. *Id.*

For this reason, the Court's jurisdiction has not been invoked to review any decision of the Unemployment Compensation Review Commission with regard to appellant. The Court **GRANTS** appellee Director, Ohio Department of Job & Family Services' Motion to Dismiss.

Accordingly, the appeal herein is **DISMISSED** based on the fact that the appellant has not invoked the jurisdiction of this Court.

Rule 58(B) of the Ohio Rules of Civil Procedure provides the following:

(B) Notice of filing. When the court signs a judgment, the court shall endorse thereon a direction to the clerk to serve upon all parties not in default for failure to appear notice of the judgment and its date of entry upon the journal. Within three days of entering the judgment on the journal, the clerk shall serve the parties in a manner prescribed by Civ. R. 5(B) and note the service in the appearance docket. Upon serving the notice and notation of the service in the appearance docket, the service is complete. The failure of the clerk to serve notice does not affect the validity of the judgment or the running of the time for appeal except as provided in App. R. 4(A).

THE COURT FINDS THAT THERE IS NO JUST REASON FOR DELAY.

THIS IS A FINAL APPEALABLE ORDER. Pursuant to Civil Rule 58, the Clerk of Court shall serve notice upon all parties of this judgment and its date of entry.

IT IS SO ORDERED.

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Franklin County Court of Common Pleas

Date: 04-03-2015
Case Title: TROY SUMNER -VS- OHIO STATE UNEMPLOYMENT REVIEW
COMMISSION
Case Number: 15CV002549
Type: JUDGMENT ENTRY

It Is So Ordered.

A handwritten signature in black ink, "Michael J. Holbrook", is written over a blue circular court seal. The seal contains the text "COMMON PLEAS", "FRANKLIN COUNTY, OHIO", and "ALL THINGS ARE POSSIBLE".

/s/ Judge Michael J. Holbrook

Court Disposition

Case Number: 15CV002549

Case Style: TROY SUMNER -VS- OHIO STATE UNEMPLOYMENT
REVIEW COMMISION

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 15CV0025492015-04-0199980000

Document Title: 04-01-2015-MOTION TO DISMISS

Disposition: MOTION GRANTED