

**IN THE COURT OF APPEALS OF IOWA**

No. 0-304 / 09-0168  
Filed October 20, 2010

**IN THE MATTER OF THE  
TIMBERLINE BUILDERS, INC.,**  
Plaintiff-Appellant,

**vs.**

**DONALD D. JAYNE TRUST,  
DONALD D. JAYNE and  
LINDA K. JAYNE, Trustees,**  
Defendants-Appellees.

---

Appeal from the Iowa District Court for Polk County, D.J. Stovall, Judge.

Timberline Builders, Inc. appeals from the district court's ruling, which required Timberline to dissolve its mechanic's lien. In compliance with the order of the supreme court, both parties filed statements addressing whether Timberline, a corporation, may be represented on appeal by a non-lawyer.

**APPEAL DISMISSED.**

Michael Foust, as president of Timberline Builders, Inc., Windsor Heights, appellant.

Kathryn S. Barnhill of Barnhill & Associates, West Des Moines, for appellees.

Considered by Vogel, P.J., and Potterfield and Danilson, JJ.

**POTTERFIELD, J.**

Timberline Builders, Inc. (Timberline) appeals from the district court's ruling that disallowed Timberline's foreclosure of its mechanic's lien and directed Timberline to dissolve the lien. The corporation was represented by counsel in the district court, but filed its notice of appeal and briefs in the supreme court through its president, a non-lawyer.

After briefing was completed, the supreme court *sua sponte* noted its concern that the individual purporting to represent appellant Timberline, Michael Foust, "may not be licensed to practice law in the State of Iowa." The court noted the general rule that a corporation may not represent itself through nonlawyer employees, officers, or shareholders, ordered the parties to address the question of whether Foust could legally represent Timberline, and submitted the issue with the appeal. The appeal was transferred to this court.

In his statement, Foust did not claim to be an attorney. Foust's statement contended that as president of the corporation, Foust has a fiduciary duty to protect the assets of the corporation and that "[n]owhere in the rules of civil procedure or appellate procedure is it disclosed that a corporation cannot select the representative to prepare and file documents on its behalf." He asserted the general rule noted in *Hawkeye Bank & Trust, National Ass'n v. Baugh*, 463 N.W.2d 22, 25 (Iowa 1990), should be void as against public policy.

On June 16, 2010, because Timberline cannot represent itself through a nonlawyer officer, employee, or shareholder, we struck Timberline's appellate brief and allowed thirty days for appearance of counsel on the corporation's behalf.

Timberline filed an application for further review with the supreme court. The application was denied as our June 16, 2010 decision was not a final decision. The case was remanded to this court and we granted Timberline until October 12, 2010, to have an attorney appear.

On October 11, 2010, Faust filed a “reply and objection” and asked that this court make a “quick and final disposition” of the case.

For all the reasons previously stated in our June 16, 2010 decision, we dismiss this appeal.

**APPEAL DISMISSED.**