

Pro Se Litigants Afforded Same Rights as those Represented by Counsel

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And why shouldn't they?

The New Jersey Appellate Court determined that pro se litigants are entitled to the same rights and relief as those who are represented by counsel in *Ridge at Back Brook, LLC v. Klenert*. This decision has significant impact for family attorneys dealing with pro se litigants, which can prove very frustrating. In this case, the plaintiff filed suit for unpaid dues against the defendant which had remained unpaid for over six years totaling more than \$160,000. The defendant, who was strained financially and claimed he was unable to afford counsel acted as a pro se litigant. The plaintiff filed a Notice to Admit and the defendant failed to respond. As a pro se litigant, he misunderstood the Court Rules and did not timely respond to plaintiff's requests for admissions pursuant to Rule 4:22, of which failure is deemed an admission to plaintiff's allegations. The trial court granted the plaintiff's motion for summary judgment and awarded plaintiff counsel fees and entered a judgment of over \$260,000.

The defendant thereafter retained counsel and moved for relief pursuant to Rule 4:50. The trial court denied his motion. On appeal, the court determined that the trial court erred because it did not consider the defendant's failures in representing himself and whether, considering fairness and equity, relief should be granted.

The court further declared:

"To be sure, we do not mean to suggest a self-represented party is entitled to a second chance in all instances - far from it. We merely hold that a pro se litigant is entitled to nothing less than that to which a litigant is entitled when represented by a negligent attorney."

A good rule of thumb when dealing with a pro se litigant is to make sure that all communications with pro se litigants are in writing in order to create a paper record. Dealing with pro se litigants can be very frustrating, but having that paper trail could save time and angst when arguing to the court whether or not the pro se litigant was provided with information or whether they are making desperate misrepresentations to the court; whether they followed the rule or whether they failed to do so. Do not give pro se litigants legal advice. The best advice that can be given is that they hire an attorney.

If you have a question or wish to discuss this topic with one of our family lawyers, please give Joe a call at **(732) 352-9871**.

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