

# IT'S HUG YOUR LAWYER DAY!!!



## *COUNSEL'S CORNER*

Edward Sherman dba Find It Apartment Locators and Citi Homes operated multiple apartment locating businesses. Datri Boston occasionally worked for Ed, locating apartments for tenants in exchange for fees paid by the apartment owners and managers.

Datri ultimately obtained his own TREC license and created Apartment Express LLC dba Mr. Day Rents. The Texas Comptroller's website shows that Apartment Express LLC was formed in Texas in April 2010, and is still "active" today with a Houston address.

Datri then offered to finance Ed's receivables. We call this '*factoring*.' That relationship lasted about one year.

Ed eventually grew concerned that Datri was collecting and cashing checks from apartment communities, rather than applying them in payment for the factored invoices. Ed investigated, so Datri stopped making advance payments to Ed, and sent statements directly to apartment complexes on invoices against which Datri had advanced monies to Ed.

Ed was the first to the Courthouse. Datri's attorney filed an Answer, but then withdrew from further representing Datri.

Datri hired Attorney v2. However, v2 also withdrew from the case and at no point after that were Datri or Mr. Day Rents (remember it was a dba for a Texas entity) represented by legal counsel.

At trial, Ed appeared without a lawyer. Evidently Datri also did not have an attorney. Neither party offered opening or closing statements, or attempted to introduce evidence on behalf of Mr. Day Rents.

Ed Sherman lost to Datri Boston and Mr. Day Rents in trial court. Ed appealed.

On appeal, one compelling argument advanced by Ed was that Mr. Day Rents, as a Texas limited liability company, should have been represented by a lawyer in the trial court. Since Mr. Day Rents was not represented by an attorney, Datriil Boston had no right to present a claim, defend a position or otherwise represent Mr. Day Rents, the entity he likely owned.

And further, that Datriil's attempt to represent a limited liability company had no legal effect as Datriil was attempting to practice law in Texas without a license to do so.

The Court of Appeals agreed. Datriil Boston had no right to represent his entity in County Court.

Ed Sherman wins. Datriil Boston loses.

See *Edward Sherman v. Datriil Boston*; Cause No. 14-14-00764-CV; Tex. App. Dist. 14; January 28, 2016.

Lessons learned:

1. Except in limited circumstances in Texas Small Claims Court, all entities must be represented by attorneys in Texas courts. To do otherwise jeopardizes the positions advanced by the individual on behalf of the entity.
2. As well, the State Bar of Texas takes a dim view of those attempting to practice law in Texas, without a license to do so.
3. On the other hand, all Courts in Texas are 100% open and accessible to all individuals representing themselves. Not that I would ever recommend that. *Just sayin' is all.*

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