

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

SK GATEWAY CLEANERS	§	
a/k/a CHAE S. MCFARLAND,	§	
Plaintiff,	§	
	§	
v.	§	EP-16-CV-42-PRM
	§	
ADMINISTRATIVE REVIEW	§	
BOARD UNITED STATES	§	
DEPARTMENT OF LABOR,	§	
Defendant.	§	

ORDER DISMISSING CAUSE WITHOUT PREJUDICE

On this day, the Court sua sponte considered the above-captioned cause. Chae S. McFarland, an individual who is not licensed to practice law, filed a Complaint on February 5, 2016, on behalf of Plaintiff SK Gateway Cleaners, wherein he seeks to appeal the decision of an administrative law judge. *See* Compl. 1, Feb. 5, 2016, ECF No. 1. Yet, Plaintiff SK Gateway Cleaners, “as a corporation[,]”¹ cannot appear in proper person as a corporation or through its corporate officer, under

¹ On April 1, 2016, Chae S. McFarland, on behalf of “SK Gateway Cleaners” submitted an “Assumed Name Record: Certificate of Ownership for Incorporated Business or Profession” (Instrument Number 20160001927) with El Paso County, Texas, indicating that the name of the incorporated business is “Ribbon World Inc.”

settled interpretations applicable to 28 U.S.C. § 1654.² It can enter an appearance in this court only through an attorney” *Sw. Exp. Co., Inc., v. Interstate Commerce Comm’n*, 670 F.2d 53, 56 (5th Cir. 1982) (citing *Turner v. Am. Bar Ass’n*, 407 F. Supp. 451, 476 (1975)).³ Thus, Plaintiff SK Gateway Cleaners cannot properly appear before this Court without the representation of licensed counsel. Therefore, the Court is of the opinion that it should dismiss the above-captioned cause without prejudice.⁴ Plaintiff SK Gateway Cleaners is free to re-file its complaint

² 28 U.S.C. § 1654 provides “[i]n all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.”

³ “Corporations and partnerships, both of which are fictional legal persons, obviously cannot appear for themselves personally. With regard to these two types of business associations, the long standing and consistent court interpretation of § 1654 is that they must be represented by licensed counsel Corporations and partnerships, by their very nature, are unable to represent themselves and the consistent interpretations of § 1654 is that the only proper representative of a corporation or partnership is a licensed attorney, not an unlicensed layman regardless of how close his association with the partnership or corporation.” *Turner*, 407 F. Supp. at 476.

⁴ In *Memon v. Allied Domecq QSR*, the Fifth Circuit held that the district court erred in dismissing a corporation’s claims *with prejudice* without first warning the corporation that it must retain counsel. 385 F.3d 871, 873–74 (5th Cir. 2004). The Fifth Circuit noted that dismissal with prejudice was an “extreme sanction.” *Id.* at 874. The Fifth Circuit did, however, note with approval that other district courts have dismissed such cases *without prejudice* allowing the corporation to re-file after acquiring a lawyer. *Id.*

once it has retained the assistance of an attorney who is licensed to practice law before the Court to represent its interests in prosecuting its complaint.

Accordingly, **IT IS ORDERED** that the above-captioned cause is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED should Plaintiff SK Gateway Cleaners wish to re-file its complaint it must **RETAIN** the assistance of an attorney licensed to practice law before this Court to represent its interest in prosecuting its complaint.

IT IS FINALLY ORDERED that the Clerk shall **CLOSE** this case.

SIGNED this 16th day of May, 2016.



PHILIP R. MARTINEZ
UNITED STATES DISTRICT JUDGE

(citing *Capital Croup, Inc. v. Gaston & Snow*, 768 F. Supp. 264, 265–66 (E.D. Wis. 1991)). Accordingly, the Court will dismiss Plaintiff's claims without prejudice to allow Plaintiff to re-file after acquiring an attorney.