

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA**

MICHAEL B. ROBERTS	:	
d/b/a KEYSTONE STAFFING,	:	
Plaintiff	:	
	:	
v.	:	NO. 98-00,596
	:	
MININGTOWN MANUFACTURING,	:	
DAVID H. ROUNDSLEY, SR., and	:	
SCOTT ROUNDSLEY,	:	
Defendants	:	

**OPINION and ORDER**

The plaintiff, Michael B. Roberts d/b/a Keystone Staffing, has alleged the defendants owe him \$26,972.74, the amount due on an oral contract, plus interest and costs. Two of the defendants, Miningtown Manufacturing and Scott Roundsley, have not answered the complaint. David H. Roundsley, Sr., the third defendant, has denied any liability on the contract, claiming he sold the business to his son, Scott Roundsley. After briefing and argument, the court finds that summary judgment is not warranted in this case.<sup>1</sup>

**Discussion**

A motion for summary judgment should be granted only when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Pa.R.Civ.P. 1035.2(1). Keystone claims it is entitled to summary judgment merely because Mr. Roundsley, Sr. filed a fictitious name registration with the Corporation Bureau of the

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<sup>1</sup> It appears, however, that the plaintiff is entitled to default judgment against the other two defendants.

Pennsylvania Department of State on 2 December 1991. The registration, which lists him as the sole owner of Miningtown Manufacturing, was never canceled or amended.

Keystone therefore argues that Mr. Roundsley, Sr., having placed the world on notice that he owned the business, should now be estopped from denying his ownership—whether or not he owned the business at the time of contracting and whether or not he presently owns it..

There is nothing in the text of the Fictitious Names Act, 54 Pa. C.S.A. §§ 501-506, that prohibits a person from denying he or she is the current owner of a business registered to them under the Act. In fact, § 332 of the Act, entitled “Effect of registration,” states only that registration imparts the right to conduct business under that name.

The case of Rowland v. Canuso, 329 Pa. 72 (1938), supports this conclusion. In that case, the Pennsylvania Supreme Court explained that the purpose of the Act is twofold: (1) to protect those who deal with persons carrying on a business under an assumed name, and (2) to enable them to know with whom they do business. Id. at 79. The court also added that the Act “serves the purpose of identifying those against whom *in certain circumstances* claims for damages, arising from either tort or contract, should be made.” Id. (Emphasis added.) This statement demonstrates that liability does not automatically flow from registration under the Act.

Since there is no authority within the Act to estop someone from denying ownership of a business registered to them, Keystone’s motion for summary judgment could only be granted based on the equitable principle of estoppel. Estoppel requires that the party to be estopped: (1) intentionally or negligently misrepresented some material fact, (2) knew or

had reason to know that the other party would justifiably rely on the misrepresentation, and (3) induced the party to act to his or her detriment based on their justifiable reliance upon the misrepresented fact. Foster v. Westmoreland Casualty Company, 145 Pa. Cmwlth 638, 604 A.2d 1131 (1992). The court might be inclined to find that by neglecting to amend or cancel the fictitious name when he allegedly sold the business, Mr. Roundsley misrepresented a material fact and had reason to know that an individual would rely on that misrepresentation in conducting business with him. However, Keystone cannot meet the third element of estoppel because it has not alleged that it relied on the fictitious name registration. In fact, Keystone admitted at argument that it dealt exclusively with David Roundsley in negotiating the contract. Absent an allegation of detrimental reliance and evidence to support it, Keystone cannot show that estoppel should be applied against Mr. Roundsley, Sr.

Both sides have pointed to Rowland, *supra*, to support their position. In that case the Pennsylvania Supreme Court found that a son who had filed a Fictitious Names Act registration along with his father and brother was not estopped from denying the continued existence of the partnership. Keystone argues the case is not on point because it involved a tort action instead of a contract, and the court explicitly distinguished it on that basis. While it is true that the court declined to apply estoppel based largely on the fact that the action was in tort rather than in contract, the court did not state that estoppel would necessarily be applied in a contract action. In fact, the court indicated that detrimental reliance would first be necessary to apply estoppel in a suit arising out of a contract. The court stated, “This action being in trespass, to recover for a tort, there was in the case no question of estoppel,

or of plaintiff's reliance on Vito's membership in the firm, as there *might be* in a suit on contract." Id. at 80. (Emphasis added.)

Finding no basis upon which to apply the doctrine of estoppel against David Roundsley, Sr., Keystone's motion must be denied.

**ORDER**

AND NOW, this \_\_\_\_ day of June, 1999, the motion for summary judgment filed by the plaintiff on 13 May 1999 is denied.

BY THE COURT,

Clinton W. Smith, P.J.

cc: Dana Stuchell, Esq., Law Clerk  
Charles J. McKelvey, Esq.  
R. Matthew Patch, Esq.

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Defendants	:	

**ORDER**

AND NOW, this \_\_\_\_ day of June, 1999, after argument, the motion for summary judgment filed by David Roundsley, Sr. on 26 May 1999, is denied. Although the court has refused to apply estoppel against David Roundsley, Sr. based on his fictitious name registration, there are still sufficient issues of fact regarding his ownership in the business to permit the case to go to trial.

BY THE COURT,

Clinton W. Smith, P.J.

cc: Dana Stuchell, Esq., Law Clerk  
Charles J. McKelvey, Esq.  
R. Matthew Patch, Esq.