

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

GEORGE T. KELLY, III, and THOMAS  
BOOGHER, individually and on behalf of all  
others similarly situated,

Appellees – Plaintiffs,

v.

THE ALIERA COMPANIES, INC., formerly  
known as Alieria Healthcare, Inc., a Delaware  
corporation; and TRINITY HEALTHSHARE,  
INC., a Delaware corporation,

Appellants – Defendants.

No. 20-3702

**APPELLEES’ MOTION TO  
DISMISS APPEAL**

Appellees George Kelly III and Thomas Boogher, individually and on behalf of all others similarly situated, respectfully move this Court to dismiss the appeal brought by Appellant, the Alieria Companies Inc.

On October 14, 2021, Appellant’s counsel, Burr & Foreman, LLP moved to withdraw as counsel. This Court granted that motion on October 15, 2021. As of today, Appellant is not represented by counsel.

Alieria, a corporation, can only appear in federal courts by and through licensed counsel. *Rowland v. Cal. Men’s Colony, Unit II Men’s Advisory Council*, 506 U.S. 194, 201-02 (1993); *see also United States v. Van Stelton*, 988 F.2d 70, 70 (8th Cir. 1993) (holding that Van Stelton was “not a party to this appeal because it [was] not represented by counsel and a corporation cannot appear *pro se*.”).

Pursuant to the rules of this Court, 8 Cir. R. 3C and FRAP 3(a)(2), “an appellant’s failure to take any step other than the timely filing of a notice of appeal . . . is ground only for the court of appeals to act as it considers appropriate, including dismissing the appeal.” Appellant is not a

party to this appeal since it is not represented by counsel. Appellant's appeal should be dismissed for want of prosecution.

DATED: November 1, 2021.

Respectfully Submitted,

/s/Jay Angoff

Jay Angoff  
Cyrus Mehri  
Ezra Bronstein  
Desireé Langley  
MEHRI & SKALET, PLLC  
2000 K Street, Suite 325  
Washington, DC 20006  
(202) 822-5100  
jangoff@findjustice.com  
cmehri@findjustice.com  
ebronstein@findjustice.com  
dlangley@findjustice.com

Richard E. Spoonemore  
Eleanor Hamburger  
Ann E. Merryfield  
SIRIANNI YOUTZ  
SPOONEMORE HAMBURGER PLLC  
3101 Western Avenue, Suite 350  
Seattle, WA 98121  
(206) 223-0303  
rspoonemore@sylaw.com  
ehamburger@sylaw.com  
amerryfield@sylaw.com

Michael David Myers  
MYERS & COMPANY PLLC  
1530 Eastlake  
Avenue East  
Seattle, WA 98102  
(206) 398-1188  
mmyers@myers-company.com

*Attorneys for Appellees*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 1, 2021, I filed the foregoing with the Court's CM/ECF system, which will cause a true and correct copy of the same to be served electronically on all registered counsel of record.

/s/Jay Angoff  
Jay Angoff  
*Attorney for Appellees*