

*Approved by the Supreme Court
Of Virginia, October 14, 1983
Effective December 1, 1983*

UPL Opinion No. 54.

**Officer of Corporation Preparing and Filing Debtor
Interrogatories and Garnishment Summonses.**

Inquiry:

In an action brought by a corporation, may an officer or other employee of the corporation, who is not an attorney, prepare and file on behalf of the corporation a summons to answer interrogatories and question the party summoned? Can such a person prepare and file on behalf of the corporation a suggestion for summons in garnishment and a garnishment summons and receive funds resulting there from on behalf of the corporation?

Opinion:

Propriety of questioning defendant. UPC 1-3, 221 Va. 385 (1980), provides in part as follows:

A corporation (other than a duly registered law corporation) does not have the same right of appearance before a tribunal as an individual, and may not be represented before a tribunal by its officers, employees or agents who are not duly authorized or licensed to practice law in Virginia.

Further, UPR 1-101(B), 221 Va. 386 (1980), provides as follows:

A non-lawyer regularly employed on a salary basis by a corporation appearing on behalf of his employer before a tribunal, judicial, administrative or executive, established under the constitution or laws of the Commonwealth of Virginia, shall not engage in activities involving the examination of witnesses, the preparation and filing of briefs or pleadings or the presentation of legal conclusions.

Since UPR 1-101 expressly prohibits a non-lawyer employee of a corporation from examining witnesses, the committee is of the opinion that it would constitute the unauthorized practice of law for an officer or other employee of the corporation, who is not an attorney, to question a party who is summoned to answer debtor interrogatories.

Propriety of preparing pleadings. A more difficult question is presented by the inquiry as to the propriety of a non-lawyer employee of a corporation filing summonses to answer debtor interrogatories, suggestions for summonses in garnishment and garnishment summonses. Rule UPR 1-101(B) proscribes "the preparation and filing of briefs or pleadings" by non-lawyer employees of corporations.

Pleadings have been defined as follows:

Pleadings are the allegations made for the purpose of definitely presenting the issue or issues to be tried and determined. We no longer treat pleadings as mere fiction. They are treated as the solemn statements of

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fact, upon the faith of which the rights of parties are to be adjudged. * * *
Burch v. Grace Street Bldg. Corp., 168 Va. 329, 341 (1937); Cf. Baylor v.
Commonwealth, 190 Va. 116 (1949).

The object of pleading is to give notice to the opposite party of the character of the claim or charges against him and to produce an issue, and when it is one of fact, to confine the introduction of evidence to the relevancy of the issue thus made, so that there will be no confusion in the minds of the jury as to the question to be decided. 14B M.J. Pleading, § 2, p. 167.

The application, certificate or suggestion for summons in garnishment does not create an issue for resolution between judgment creditor or debtor. The parties are already apprised of their respective positions in light of the judgment entered, so it is difficult to conclude that these post-judgment documents constitute pleadings within the ambit of the above definition.

In addition, UPR 1-101(A) provides that a non-lawyer may represent the interests of his corporate employer if such representation is limited to the presentation of “facts, figures or factual conclusions.”

An application filed under § 8.01-506 for a summons for debtor interrogatories merely provides factual information. An applicant simply provides the clerk the following factual information:

- (1) Style of case in which judgment granted.
- (2) Date of judgment.
- (3) Commissioner desired.
- (4) Desired date and time for interrogatories.
- (5) Certification required by § 8.01.506(C), Code.
- (6) Address for service upon judgment debtor.

The process for the issuance of a summons in garnishment also requires only the presentation of facts to the clerk. One completes a suggestion for summons in garnishment and the clerk issues the summons.

In conclusion, it is the opinion of the Committee that the application, certificate and suggestion for summons in garnishment are not “pleadings.” They are simply statements of fact which begin post-judgment remedies against a judgment debtor. The Committee is therefore of the opinion that it would not constitute the unauthorized practice of law for a non-lawyer officer or other employee of a corporation to prepare and file on behalf of the corporation summonses to answer debtor interrogatories, suggestions for summonses in garnishment and garnishment summonses.

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