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## Georgia Supreme Court Rules Attorneys Must Sign Garnishment Answers

On September 12, 2011 the Georgia Supreme Court adopted an informal State Bar of Georgia advisory opinion stating that any non-lawyer, such as a payroll clerk, third party vendor, or human resources employee, cannot answer a garnishment in Georgia if they are unauthorized to practice law.

UPL Advisory Opinion No.  
2010-1

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## GEORGIA SUPREME COURT RULES EMPLOYERS MUST USE ATTORNEYS WHEN RESPONDING TO GARNISHMENTS

**Background:** In these economic times, Georgia employers have become accustomed to allowing their human resources or payroll departments process and respond to wage garnishments. Wage garnishments usually last around six months and require a number of answers to be filed with the court, along with wages that are subject to garnishment.

In June 2010, the State Bar of Georgia's Standing Committee on the Unauthorized Practice of Law (UPL) issued Advisory Opinion No. 2010-1, which addressed the question: Is the completion, execution and filing of an answer in the garnishment action by a non-attorney employee of the garnishee considered the unlicensed practice of law? The answer was "yes." Any non-lawyer who answers for a garnishee other than himself in a legal proceeding pending with a Georgia court of record is engaged in the unlicensed practice of law.

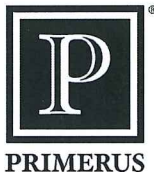
On September 12, 2011 the Georgia Supreme Court issued a two sentence decision approving the advisory opinion issued by the State Bar of Georgia Standing Committee on the UPL and concluded that a non-lawyer, such as a clerical employee of a corporation, who answers for a garnishee other than himself in a legal proceeding pending with a Georgia court of record is engaged in the unlicensed practice of law.

**Recommendation:** While Georgia's citizens, of course, have a constitutionally protected right of self-representation; corporations and limited liability companies are entities created under state law. While corporations can act through individuals, no one can individually embody a corporation. **As a result, corporations' responses to garnishments in superior and state courts in Georgia must utilize a licensed Georgia attorney.** Failing to adhere to the new decision will subject non-attorneys who sign a garnishment to criminal and civil penalties and the court may strike an answer filed by a non-attorney and enter a default judgment against the company, which could render the company liable for the entire debt and not just the amount it would otherwise have withheld in garnishment.

**Forecast:** Justice David Nahmias in a concurring opinion seemed to empathize with businesses and encouraged employers to lobby the Judicial Council and the General Assembly for relief from this decision. In 2012, when the Georgia Assembly reconvenes, expect a strong push by the Georgia Chamber of Commerce for the General Assembly to take action to alleviate the effects of the Supreme Court decision through legislation that will permit non-lawyers to file garnishment responses on behalf of employers.

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