

PUBLICATION

Georgia Attorneys Alone May Answer Georgia Garnishments

September 28, 2011

On September 12, 2011, the Georgia Supreme Court approved an advisory opinion issued by the State Bar of Georgia Standing Committee on the Unauthorized Practice of Law. The opinion interpreted existing Georgia law as requiring all garnishment answers filed in Georgia courts to be signed by an attorney licensed to practice in the state. Consequently, as of September 12, all corporate employers must use a Georgia-licensed attorney to respond to a summons of garnishment issued by a Georgia state or superior court. Failure to comply with this rule can result in default and potential criminal sanctions for the unauthorized practice of law.

Before now, Georgia courts and their clerks did not require garnishment answers to be signed by a Georgia-licensed attorney. However, the Supreme Court's holding now prohibits a corporate garnishee's human resource or payroll personnel, third-party vendors, PEOs, and in-house counsel from signing garnishment pleadings (including answers) filed in Georgia courts unless the person signing the pleading is licensed to practice law in Georgia. This holding does not extend to garnishment answers filed in Georgia magistrate courts, however.

In his concurring opinion, Justice David Nahmias encouraged employers to lobby the Georgia Judicial Council and/or state's General Assembly to overturn its holding. Nevertheless, for now, Georgia corporate employers that are served with summonses of garnishment in a Georgia court other than a magistrate's court must ensure that their answers are signed by a Georgia-licensed attorney.

If you have questions regarding this or any other Supreme Court opinion, please reach out to your Baker Donelson attorney or any of our nearly 70 Labor & Employment attorneys located in Birmingham, Alabama; Atlanta, Georgia; Baton Rouge, Mandeville and New Orleans, Louisiana; Jackson, Mississippi; and Chattanooga, Johnson City, Knoxville, Memphis and Nashville, Tennessee.