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The District of Columbia Bar

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MEMORANDUM

TO: Board of Governors
Section Chairpersons

FROM: Lynne M. Lester
Manager, Sections Office

DATE: November 6, 1986

SUBJECT: Comment in support of proposed amendment to the practice in the Small Claims Division of the Superior Court regarding the requirement that corporations be represented by attorneys

Pursuant to the Section Guidelines No. 13, Sections a and c, the enclosed public statement is being sent to you by Court Rules Committee, Courts, Lawyers and the Administration of Justice Section

a(iii): "No later than 12:00 noon on the seventh (7th) day before the statement is to be submitted to the legislative or governmental body, the Section will forward (by mail or otherwise) a one-page summary of the comments, (summary forms may be obtained through the Sections Office), the full text of the comments, and the full text of the legislative or governmental proposal to the Manager of Sections. The one-page summary woll be sent to the Chairperson(s) of each Section steering committee and any other D.C. Bar committee that appear to have an interest in the subject matter of the comments. A copy of the full text and the one-page summary will be forwarded to the Executive Director of the Bar, the President and President-Elect of the Bar, the Section's Board of Governors liaison, and the Chairperson and Vice-Chairperson of the Council of Sections. Copies of the full text will be provided upon request through the Sections Office. Reproduction and postage expenses will be incurred by whomever requested the full text (i.e., Section, Bar committee or Board of Governors account). The

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Philip A. Lacovara, *Counsel to The Board*

Manager for Sections shall help with the distribution, if requested, and shall forward a copy of the one-page summary to each member of the Board of Governors. In addition, the Manager for Sections shall draw up a list of all persons receiving the comment or statement, and he/she shall ascertain that appropriate distribution has been made and will assist in collecting the views of the distributees. If no request is made to the Manager for Sections within the seven-day period by at least three (3) members of the Board of Governors, or by majority vote of any steering committee or committee of the Bar, that the proposed amendment be placed on the agenda of the Board of Governors, the Section may submit its comments to the appropriate federal or state legislative or governmental body at the end of the seven-day period.

c(ii): "The Board of Governors may request, pursuant to sub-section (a)(iv), that the Section comments on proposed court rules change be placed on the Board agenda only if (a) the proposed court rule is so closely and directly related to the administration of justice that a special meeting of the Bar's membership pursuant to Rule VI, Section 2, or a special referendum pursuant to Rule VI, Section 1, should be called or (b) the proposed rule affects the practice of law--generally, the admission of attorneys, their discipline, or the nature of the profession,"

a(v): "Another Section or committee of the Bar may request that the proposed set of comments by a Section be placed on the Board's agenda only if such Section or committee believes that it has greater ot coextensive expertise in or jurisidiction over the subject matter, and only if (a) a short explanation of the basis for this belief and (b) an outline filed with both the Manager for Sections and the commenting Section's chairperson. The short explanation and outline or proposed alternate comments will be forwarded by the Manager for Sections to the Board members."

a(vi): Notice of the request that the statment bne placed on the board's agenda lodged with the Manager for Sections by any Board member may initially be telephobned to the Manager for Sections (who will then inform the commenting Section), but must be supplemented by a writen objection lodged within seven days of the oral objection.,"

c(iii): "If the comments of the Section on a proposed court rules change is placed on the agenda of the Board of Governors, the Board may adopt the comments and the Board's own views, in which case no mandatory disclaimer (see Guideline No. 14) need be placed on the comments. If the Board and the Sections differ on the proposal, each may submit its own views.

Please call me by 5:00 p.m., Thursday, November 13, 1986 if you wish to have this matter placed on the Board of Governors' agenda for Tuesday, December 9, 1986

I may be reached at 331-3883.

COMMENT OF THE SECTION OF COURTS, LAWYERS AND THE ADMINISTRATION OF JUSTICE OF THE DISTRICT OF COLUMBIA BAR ON PROPOSED AMENDMENT TO THE PRACTICE IN THE SMALL CLAIMS DIVISION OF THE SUPERIOR COURT REGARDING THE REQUIREMENT THAT CORPORATIONS BE REPRESENTED BY ATTORNEYS

John T. Boese, Chair
Ellen Bass
Arthur B. Spitzer
Richard B. Hoffman
Thomas C. Papson
Cornish F. Hitchcock
Jay A. Resnick

Section Steering Committee

Randell Hunt Norton, Co-Chair
Thomas C. Papson, Co-Chair
Gregg H. Golden
Joel Bennett

Members of the Section's Committee on Court Rules Who Participated in this Comment

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STANDARD DISCLAIMER

"The views expressed herein represent only those of the Courts, Lawyers, and the Administration of Justice Section of the D.C. Bar and not those of the D.C. Bar or of its Board of Governors."

COMMENT OF THE SECTION OF COURTS,
LAWYERS AND THE ADMINISTRATION OF
JUSTICE OF THE DISTRICT OF COLUMBIA BAR
ON
PROPOSED AMENDMENT TO THE PRACTICE
IN THE SMALL CLAIMS DIVISION
OF THE SUPERIOR COURT REGARDING THE
REQUIREMENT THAT CORPORATIONS BE
REPRESENTED BY ATTORNEYS

The Section of Courts, Lawyers and the Administration of Justice of the District of Columbia Bar and its Rules Committee are in receipt of copies of correspondence from John Scheuermann, Esq., on behalf of the Council for Court Excellence, to the Honorable William C. Gardner of the Superior Court of the District of Columbia and the Honorable William C. Pryor, Chief Judge of the District of Columbia Court of Appeals, proposing that the Small Claims Rules and the "Unauthorized Practice of Law" Rule of the District of Columbia Court of Appeals be amended to permit corporations to be represented in certain circumstances by a person other than a member of the Bar. A copy of these letters and of the supporting documentation which was filed with them are attached hereto.

The Section has reviewed the proposal and concurs with the recommendations of the Council for Court Excellence. It appears that the proposal has been thoroughly thought out and carefully crafted so as to apply only to those situations where the requirement that a corporation be represented by counsel has created a potential for abuse. By limiting the situations in which a

corporation may proceed other than by counsel to cases in which the corporation is a defendant and in which no counterclaim or crossclaim is filed, the proposed amendment has avoided the possibility of creating a Small Claims "bar" of non-lawyers. The Section expects that the situations in which any given corporation may represent itself by its own non-lawyer employee will be so rare as to prevent the creation of a body of non-lawyers who regularly represent such corporations. On the other hand, permitting a corporation to defend itself by an employee will eliminate the abuses reflected in the case of Klein v. Melville Corporation, (Superior Court SC No. 4042-84, Judge Schwelb, 112 Daily Washington Law Reporter No. 121, p. 1233), a copy of which was attached to the letter of John Scheuermann, Esq., to Judges Gardner and Pryor.

Under the circumstances, the Section believes that this limited exception to the requirement that a corporation be represented by counsel would promote the interests of justice and should be adopted.