



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WAGGONER CARR
ATTORNEY GENERAL**

May 23, 1963

Honorable Henry Wade
District Attorney
Dallas County
Records Building
Dallas, Texas

Opinion No. C-82

Re: Whether a non-lawyer employee
of a corporation may legally
file a petition in a small
claims court in behalf of
the corporation.

Dear Mr. Wade:

The question posed by your opinion request is as follows:

"There presently exists in Dallas County a division of opinions among the Justices of the Peace as to the legality of a corporation filing cases in the Small Claims Courts through the use of non-lawyer employees. . . .

" . . .

"By way of example, we respectfully submit the following factual situation.

"An incorporated department store, public utility, etc. desires to file a petition in the Small Claims Court. A non-attorney employee with knowledge of the facts involved goes to the Justice Court and fills in the blanks of a form petition as the same is set forth in said Art. 2460a (Small Claims Act). He signs the petition in behalf of the employer corporation and subscribes and swears to the same before the Judge of the Court. Such acts constitute the limit of his duties other than appearing as a witness when called upon to do so by a licensed attorney, or by the Court, under the authority of Section 9, Art. 2460a, V.C.S."

Section 4 of Article 2460a, Vernon's Civil Statutes, reads in part:

"Actions shall be commenced under the provisions of this Act whenever the claimant, or the personal representative of a deceased claimant, appears before the judge of the Small Claims Court and files a statement of his claim under oath. . . ." (Emphasis added).

Section 4 of Article 2460a specifically provides that the claimant shall appear before the judge of the court and file a written statement under oath. Therefore in the case of a corporation, the representative or agent of the corporate claimant would have to appear and file the sworn statement in order to commence an action. If the employee who files a claim is empowered to act for the corporation, he should have personal knowledge of the facts in order to make the affidavit, but whether he is an attorney would have no bearing on his authority to file the claim. The purpose of the act was to provide a manner in which small claims could be collected at a minimum of expense and without the necessity of retaining an attorney. It is the opinion of this office that a non-lawyer employee of a corporation may legally file a petition in the small claims court in behalf of the corporation.

SUMMARY

A non-lawyer employee of a corporation who is empowered to act for the corporation may legally file a claim in the small claims court in behalf of the corporation.

Yours very truly,

WAGGONER CARR
Attorney General

Jack G. Norwood
By

Jack G. Norwood
Assistant

JGN:wb:ms

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APPROVED:

OPINION COMMITTEE

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APPROVED FOR THE ATTORNEY GENERAL
By: Stanton Stone