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LAW OFFICES

WILLIAMS, SMITH & SUMMERS, P.A.

380 WEST ALFRED STREET
TAVARES, FLORIDA 32778

CHRISTOPHER J. SMITH
GARY L. SUMMERS
ROBERT Q. WILLIAMS
ERIC C. BARKETT

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The Florida Bar
TELEPHONE:
(904) 343-6655
FAX (904) 343-4267

September 3, 1991

Lori S. Holcomb, Assistant UPL Counsel
The Florida Bar
650 Apalachee Parkway
Tallahassee, Florida 32399-2300

Re: Potential advisory opinion regarding
activities of property managers

Dear Lori:

It is my understanding that the Standing Committee on Unlicensed Practice of Law will hold a public hearing on September 5, 1991, to consider whether it constitutes the unlicensed practice of law for a property manager, with or without a power of attorney, to draft and serve a three-day notice, draft and file a complaint for eviction and motion for default, obtain a final judgment, and obtain a writ of possession for the landlord in an uncontested residential eviction action. This letter will comment upon one part of the question to be considered by the Standing Committee.

As I indicated during our telephone conversation of September 3, I represent several landlord clients, some of whom use on-site property managers to manage their respective rental complexes. The on-site managers routinely handle the delivery of rule violation notices, including the three-day notices for nonpayment of rent. The clients that I represent do not draft any additional documents related to the eviction process, but instead turn the tenant files over to me to draft and file the complaint and all other court documents if the tenant fails to pay rent within the three-day time frame.

The landlord clients that I represent all use three-day notices patterned after the form set forth in Section 83.56(3), Florida Statutes. The on-site property managers simply fill in the blanks regarding the amount owed, the description of the leased premises, and the date by which payment is due. Moreover, my clients frequently review with me the sufficiency of the notices that they use, and I always check the notice and the manner of service before we file the eviction complaint. Under such circumstances, the risk of harm to the landlord in allowing the

Lori S. Holcomb, Assistant UPL Counsel
Page 2
September 3, 1991

property managers to complete and serve three-day notices is, in my opinion, extremely remote.

Additionally, to require lawyers to prepare and serve all three-day notices would work an extreme hardship and impose undue expense upon landlords who use the services of property management companies. Landlords want to move quickly in serving the three-day notice when faced with a tenant who has defaulted in paying rent. Relying upon attorneys to prepare and serve such notices will cause delay in the eviction process and add the expense of the attorneys' charges for those services.

For the reasons discussed in this letter, and based upon my experience as chairman of the Fifth Circuit Unlicensed Practice of Law Committee, it is my opinion that the drafting and serving of three-day notices by property managers does not constitute the unlicensed practice of law. Please do not hesitate to call me, however, if you have any questions about this matter.

Sincerely,


Gary L. Summers

GLS/sc