

SONS OF UNION VETERANS OF THE CIVIL WAR
OFFICE OF THE NATIONAL COUNSELOR

OPINION I – SERIES 2015-2016

I have been requested of the Commander-in-Chief to render an opinion as to the following question: Does a Camp or Department need the permission of the National Organization to file legal action in a court of competent jurisdiction?

It is my opinion the answer is yes.

The National Organization charters Departments to carry out the purposes of the Order within certain geographic boundaries. Camps are chartered within each Department (with the permission of the National Organization), to again conduct activities to carry out the purposes of the Order. Those purposes are found in our National Charter as granted by the Congress of the United States and is found in 36 USCS § 200301 (2002), specifically, § 200302.

Under the basic principles of agency law, by issuing Charters to Departments and Camps, the National Organization (as the principal) is creating “agents” to do the work of the Order on behalf of the Order. An agent can only act on behalf of the principal as authorized by the principal.

Agency law defines the various types of authority. There is Actual authority and Apparent authority. Actual authority is divided into two types:

Express actual authority - means an agent has been expressly told he or she may act on behalf of a principal.

Implied actual authority - also called "usual authority", is authority an agent has by virtue of being reasonably necessary to carry out his express authority. As such, it can be inferred by virtue of a position held by an agent.

Apparent authority is when a principal, by either words or actions, causes a third party to believe that an agent has authority to act, even though the agent has no express or implied authority to act with regard to the particular matter at hand. There is also the principle of Ratification, where a principal ratifies the previous unauthorized action of the agent

Nowhere in section 200302 is a Department or Camp – as an agent – empowered to file legal actions. Therefore, there is no Express actual authority for a Department or a Camp to file a legal action.

Nor is the ability to file legal action in any way necessary to carry out the functions of the Order.

The authority for the National Organization to sue and be sued is found in § 200305 of our National Charter.

It is my opinion section 200302 does not have any language that would cause a third party to believe a Department or a Camp has authority to file legal action with any fair reading of section 200302.

It is therefore clear under the principles of Agency Law, Departments and Camps of the Order may not file any legal action in any court without the consent of the National Organization.

Respectfully submitted in fraternity, charity and loyalty,

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National Counselor
Sons of Union Veterans of the Civil War