

## A LAWYER IS THE SUBJECT OF THE EVIDENTIARY PROCESS IN CIVIL PROCEEDINGS

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**Abstract.** *The article analyzes the lawyer's procedural actions to gather evidence during civil court proceedings. These essence and importance of real protection of the rights and legal interests of lawyers in the Republic of Uzbekiston, improvment of the law and normative legal documents on the activity of lawyers are studied and determined.*

**Key words:** *law of the Republic of Uzbekiston "On Advocacy".lawyer request, evidence, expert opinion.*

Most cases (legal disputes )are heard in courts of general jurisdiction. These include inheritance and divorce, traffic violations and illegal dismissal, consumer protection and complaints against officials, unpaid loans and utility bills, and others cases in the Republic of Uzbekiston are considered by courts of general jurisdiction.

Jurisdiction is the power to hear specific disputes, and the word "general" means the opposite of special and specialized. That is the phrase general jurisdiction means that such a court hears all disputes, except for specialized courts (which have special jurisdiction). Evidence is important in civil cases. At the trial, the lawyer must convince the court that he is right with the help of available evidence and other reasonable arguments. Correct formulation of such a problem is of great importance. In practice, the lawyer convinces the court that he is supposedly right, and on the contrary, there are cases where the real opinion of the lawyer is not taken into account by the court. A lawyer also makes it his duty to assist the court in determining the truth of the case while presenting evidence at the hearing of the case must put.

While participating in the determination of the truth in the case the lawyer has no right to forget that his main task is to provide legal assistance to his client and he can not harm his client. Therefore a lawyer should always guide his client's behavior by giving advice giving advise, helping to collect evidence, giving them a preliminary assesment. Evidence consists of four elements which include the activities of gather, presenting, examining and evaluating evidence. Before the logical proof comes the formation of the subject

of the proof. Before collecting evidence, it is necessary to find it, organize it first, and decide in what direction it can be used. So, in particular, the lawyer has to decide what kind of evidence he needs, how to get the evidence that he wants to work with, what additional materials he can use. Therefore, before the collection of evidence, the lawyer has specific characteristics should be the entire stage of initial work with the client. Thus, in article 7 the Republic of Uzbekistan "On Advocacy" the procedure for sending a lawyer questionnaire is established. Within the framework of this article, the lawyer shall submit to state bodies and other bodies, as well as to enterprises, institutions and organization, reference, descriptions and other documents (here in after referred to as information) necessary for the provision of qualified legal assistance by the lawyer on matters within the competence of these bodies and organizations. (documents) has the right to send a lawyer's request regarding the issues of presentation is provided. In other words, the lawyer has the right to apply to the criminal court in connection with this situation.

However, this tool does not always work in practice because of individual privacy is protected by law in our country. According to Article 46 of the Code of Administrative Responsibility of the Republic of Uzbekistan, collecting information about a citizen's personal life, disseminating personal or family secret information without his consent is punishable by a fine of 10 to 40 times the minimum wage. will cause In accordance with Article 141 of the Criminal Code of the Republic of Uzbekistan, similar actions are punishable by a fine from 50 to 100 times the minimum wage or correctional work for up to 3 years or imprisonment for up to 6 months. Because of this, sometimes the lawyer has some difficulties to get answers to the questionnaire. Thus, it is not always possible for a lawyer to independently collect all the necessary evidence, in which case the lawyer can apply to the court to obtain it in accordance with the principle of dispute. In this case, the reasons why the lawyer does not have the opportunity to independently obtain certain evidence should show. Before collecting evidence, it is necessary to define the boundaries of the subject of evidence. Gathering evidence without clearly specifying the subject of the evidence often leads to errors. So, by creatively using both sources of evidence subject formation, the basis of the claim and legal norms, the lawyer representing the interests of the party or a third party will have the opportunity to correctly form the subject of evidence. It allows him to effectively present relevant evidence for future work. It should be noted that during the trial, the subject of evidence can be defined and changed. With the emergence of new circumstances during the trial, there is a need to present new evidence in the case. In this regard, the lawyer must promptly respond to all changes that

occur during the trial. However, this does not mean that previous fact-finding has completely lost its meaning. On the contrary, the new subject of proof can be connected with the first one and the mere change of the subject of proof by the procedural opponent may be considered as an indication of the weakness of his position.

The activities of a lawyer can be different depending on who the lawyer represents, in particular, the plaintiff or the defendant, but the principles of his work remain the same. On the contrary, the new subject of proof can be connected with the first one and the mere change of the subject of proof by the procedural opponent may be considered as an indication of the weakness of his position. The activities of a lawyer may vary depending on whom the lawyer represents, namely the plaintiff or the defendant, but the principles of his work remain the same. Thus, if a lawyer accepts an assignment to provide legal assistance to a claimant in a case, then the lawyer's actions are aimed at protecting the rights and legal interests of the claimant by proving the legality and validity of the claim. If the lawyer defends the defendant, his activities are limited to identifying the circumstances that completely or partially reject the stated claims, that is, protecting the rights and legal interests of the defendant.

When accepting an assignment in a particular case, a lawyer must take into account the law's requirement of the burden of proof, according to which the party has a basis for its claims and objections must prove the circumstances. His defender in defense of the truth of his statements, the lawyer must prove that they are facts and have a certain legal character at the trial. The search for evidence should be carried out by the lawyer together with the client before the start of the trial or after the adjournment of the trial. Evidence must be identified, obtained and systematized before it can be presented to the court. The parties and their representatives are the main subjects of evidence collection in civil proceedings. The process of identifying (searching, recording, obtaining) factual information for a lawyer often creates great difficulties. The first form of identification of evidence by a lawyer is his interview with the client. In the process of talking with the client and studying the available materials, the lawyer must have an idea of the existence of factual information, that is, the evidence necessary to confirm the stated requirements or possible objections.

Regarding the correlation of certain evidence before deciding the dispute it is very important to solve the question correctly. If there is a need to attract witnesses to resolve the dispute, the lawyer's task is to identify the minimum, but sufficient number of witnesses who have the necessary information about the circumstances related to the subject of proof. At the same time, the lawyer

should take into account that the testimony of persons who can indicate the legal source of their knowledge will be of evidentiary value, i.e. witnessing an event or action witnessed, learning about them from documents or official reports. Information from unknown sources (rumors, anonymous letters and statements) will not have evidentiary value. If it is necessary to study issues that require special knowledge in various fields of science, technology, art or craft, a lawyer may request an examination.

The appointment of expertise is within the exclusive authority of the court, but the persons participating in the case and their representatives on the appointment of expertise has the right to apply with a petition, to indicate the necessary expertise institution and to formulate issues that require a decision by the court. At this stage, an important task of the lawyer is to express opinions on the involvement of specific persons or institutions in the performance of expert tasks, to correctly set the questions for which expert research will be conducted. Taking into account that the expert's opinion does not have a predetermined force for the court, the lawyer, when making a critical assessment of the expert's opinions in appropriate cases, must show the inaccuracy of the expert's research methodology, the inconsistency of the conclusions with the available materials. This is important, because the shortcomings, inaccuracies and incompleteness identified by the lawyer can serve to challenge the evidentiary value of the expert's opinion in the future and to file an application for a repeated or additional expert opinion. The lawyer has the right to apply to the court to obtain them to identify the evidence. This is in the motion, the lawyer must ask for known evidence and to add to the case or to provide assistance in identifying them. When the exact location of the evidence is unknown, the lawyer has the right to describe its possible location or indicate the source. Therefore, not knowing the exact content, form and other characteristics of the evidence should not prevent raising the issue of obtaining it. In the civil procedural legislation, written and physical evidence is required by the court and the person who requested it has the right to receive the relevant evidence and submit it to the court. We also note that in a civil case, not all information about facts, but only information obtained from appropriate sources using the form prescribed by law, is recognized as evidence.

In the process of working with civil case materials, the lawyer not only provides evidence, but also the facts of the subject of proof is desirable to identify other useful information. In the end, this information can become evidence if there is such a possibility. If this is not possible, properly used information about facts not admitted into evidence can support the lawyer's

evidentiary position and, at the same time, help to build an inner confidence in the judges that is favorable to the client.

The persons participating in the case have the right to complete the case materials after studying all the evidence in the case. By this time, the lawyer should have a clear idea about the reliability of the evidence supporting the stated claim. He should discuss with the client any doubts that may arise during the trial, determine the possibility of presenting additional evidence, and then call and question additional witnesses, request documents, and possibly appoint an expert should file a petition. Lawyer may also resubmit requests previously denied by the court. After the court has completed the examination of the case materials, it will proceed to the final consideration of the merits of the case, consisting of the speech of the persons participating in the case and their representatives.

Thus, the role of the lawyer in the process of proof is of great importance. In the process of proof, the lawyer must identify the subject of the evidence and the relevant evidence and begin to collect this evidence. The fiduciary must assist the attorney in the process of gathering evidence. Evidence may be collected in any manner not prohibited by law.

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