

KENTUCKY BAR ASSOCIATION
Unauthorized Practice of Law Opinion KBA U-27
Issued: October 1980

- Question 1:** Must a nonresident attorney be assisted by local co-counsel when he represents his client and employer in an administrative hearing in Kentucky?
- Answer 1:** Yes.
- Question 2:** May a non-attorney employee of a corporation represent the corporation in an administrative hearing where the formal roles of evidence are observed?
- Answer 2:** No.
- References:** SCR 3.020. SCR 3.030(2), Opinion KBA U-4: Kentucky State Bar Assn v. Henry Vogt Machine Co. 416 S.W.2d 727 (Ky. 1967)

OPINION

This request comes from the Department of Insurance and essentially requests whether representation before the Department of Insurance is different than representation before the Unemployment Insurance Commission. We hold that it does not.

The practice of law is defined in SCR 3.020 and provides:

The practice of law is any service rendered involving legal knowledge or legal advice, whether representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the service...

There can be no doubt that a person who represents a client before the Department of Insurance of the Commonwealth of Kentucky is engaged in the practice of law. SCR 3.030(2) provides:

A person licensed to practice in another state, but not in this state, shall be permitted to practice a case in this state *only if* he subjects himself to the jurisdiction and Rules of the Court covering professional conduct and *engages a member of the Association as co-counsel*, whose presence shall be necessary at all trials and at other times when required by the court. (Emphasis added)

Clearly, a lawyer admitted to practice law in another state must associate with a lawyer who is a member of the Bar of the Commonwealth of Kentucky. In Kentucky State Bar Assn v. Henry Vogt Machine Co. 416 S.W.2d 727 (Ky. 1967), the Court held that a nonlawyer who

attended and participated in an Unemployment Insurance Commission Hearing on behalf of his employer was engaged in the unauthorized practice of law.

This Committee ruled in 1962 that “analyzing all claims for compensation filed against an employer” in an Unemployment Compensation Commission is “...strictly speaking a part of the practice of law ...”

It is the belief of this Committee that KBA U-4 and Kentucky State Bar Assn v. Henry Vogt Machine Co., *supra*, are dispositive of the issue of this request. The Committee sees no difference between practice before the Department of Insurance or the Unemployment Insurance Commission.

Note to Reader

This unauthorized practice opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). Note that the Rule provides in part: “Both informal and formal opinions shall be advisory only.”