

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-28
Issued: November 1965

This opinion was decided under the Canons of Professional Ethics, which were in effect from 1946 to 1971. Lawyers should consult the most recent version of the Rules of Professional Conduct and Comments, SCR 3.130 (available at <http://www.kybar.org>), before relying on this opinion.

Question: In an automobile accident case with suit pending and both the plaintiff and defendant represented by counsel, may the insurance carrier for the defendant negotiate a settlement of the claim which is the subject of the pending litigation with the attorney for the plaintiff without the knowledge and consent of the attorney for the defendant and the insurance carrier?

Answer: No.

References: Canon 9

OPINION

It is unethical conduct for a lawyer to communicate upon the subject in controversy with a party who is represented by counsel. Such action would be in direct violation of Canon 9 of the Canons of Professional Ethics. See also the recent annotation on this subject found at I ALR3d 1109. It is our opinion that it would be unethical conduct for an attorney to discuss the case pending in Court with the representative of the insurance carrier when the parties are represented by counsel as indicated in the question submitted.

Note to Reader

This ethics 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). The Rule provides that formal opinions are advisory only.