

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-345
Issued: March 1991

The Kentucky Supreme Court adopted comprehensive changes to the pro hac vice rules. This opinion refers to SCR 3.030, which was substantially amended. Lawyers should consult the current version of the rule, (available at <http://www.kybar.org>), before relying on this opinion.

Question 1: How may a practitioner licensed in another state practice in the courts of Kentucky?

Answer 1: See Opinion.

Question 2: May a non-lawyer represent a corporation in a court other than the small claims court?

Answer 2: No.

OPINION

One would have assumed that questions like this should not have to be addressed in formal opinions, but there have been a rash of incidents of late raising these issues.

There is no system of national bar admission. It has been the rule in the past that a lawyer must be admitted in Kentucky to practice in Kentucky courts, or must obtain permission to practice *pro hac vice* in the particular court in the particular case, and obtain local counsel to assist. This has also been the practice in federal court. See Rule 3 of the United States District Courts for the Eastern and Western Districts of Kentucky (we note that there is a note to the 1991 edition of the Rules that some amendment to this rule is being considered, but not details are provided). SCR 3.030(2) provides: "A person admitted 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 governing 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." Clearly, the trial judge has authority to enforce these rules and conventions. The question of whether to grant or deny a motion for admission *pro hac vice* rests in the discretion of the trial judge.

The Court may also enforce Rule 3.020, which clearly prohibits lay representation of a corporation (with an exception limited to small claims court).

The committee does not and cannot answer questions of procedural or substantive law relating to the manner in which these issues might be raised and decided, the application of statutes of limitation, and the like.

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.