

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-393
Issued: September 1996

The Rules of Professional Conduct are amended periodically. Lawyers should consult the current version of the rules and comments, SCR 3.130 (available at <http://www.kybar.org>), before relying on this opinion.

Question: May the lawyer for a claimant contact the insured tortfeasor, over the objection of the insurer, if no lawyer has been appointed to represent the insured tortfeasor?

Answer: Yes

References: KRPC 4.2

OPINION

Insurance adjusters are not lawyers for purposes of KRPC 4.2. Even if they are admitted to practice law, they may not represent the insured. See KBA U-36 (1981). It seems to follow, as the night follows the day, that a plaintiff's lawyer does not need to obtain an insurance adjuster's consent to talk to *anyone*. If the plaintiff's lawyer knows that the insured is represented by a lawyer, then that lawyer may not be bypassed. See KRPC 4.2 ("represented by another *lawyer* in the matter").

This opinion was issued at the request of a lawyer who says that adjusters are "acting as lawyers" and "blocking contact with insureds". The request is within the scope of SCR 3.530, since the lawyer is concerned with the ethics of contacting the insured over the adjuster's purported veto in these circumstances.

The lawyer shall not state or imply that the lawyer is disinterested and shall comply with KRPC 4.1, 4.3 and 4.4.

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.