

KENTUCKY BAR ASSOCIATION
Unauthorized Practice of Law Opinion KBA U-19
Issued: May 1978

With regard to questions seeking a clarification or extension of Kentucky: Bar Assn v. Henry Vogt Machine Co. Inc., 416 S.W.2d 72 (Ky. 1967) and Opinion KBA U-15, all with regard to lay persons making appearances for filing various documents in behalf of, claimants before unemployment insurance commissions and public assistance boards, and hold themselves out as practitioners in some quasi-legal situation, we would submit the following answers:

Question 1: Since the Kentucky Bar Association and the Kentucky Supreme Court have recognized only attorneys and legal interns to engage in specific limited aspects relating to the practice of law, can titles which give the appearance of legal training or certification (such as paralegal professional, legal assistant, legal aid, legal representative, social work coordinator, welfare rights coordinator) be used on letterhead stationery, any written documents filed at a fair hearing, or any written documents filed with a quasi-judicial body?

Answer 1: No.

The Kentucky Bar Association and the Supreme Court have never wavered from the requirements for practicing attorneys and for qualifications in the practice of law. The only function of the "legal intern" is to assist a supervising attorney and engage only in very limited acts under the supervision of that attorney, who is ultimately responsible for his work. As to the title on letterheads or documents such as "paralegal professional" we would refer to Opinion KBA E-142 which, in essence and in fact, prohibits the designation as such even on the letterheads of attorneys who supervise their work. It can hardly be said that representation before these administrative agencies constitutes other than the practice of law. Only members of bar associations are entitled to practice before quasi-judicial bodies and this work has been defined as the practice of law.

Question 2(a): Can individuals who are neither attorneys nor legal interns represent an individual at a fair hearing whether these individuals are paralegals, legal representatives, or "friends" the claimant has asked to represent him?

Question 2(b): If an individual who is a legal intern does represent someone at a fair hearing, must all documents filed for the record be signed by a supervising attorney if legal issues and arguments are presented therein?

Answer 2(a): No.

Answer 2(b): Qualified yes.-Assuming that the paralegal is operating within his , the principal attorney is the one ultimately responsible for the work of the paralegal and must and should sign all documents submitted by this paralegal.

Question 3(a): Can individuals who are neither attorneys nor legal interns represent an individual before a quasi-judicial body (the Kentucky Unemployment Insurance Commission and Public Assistance Appeal Board), including the filing of documents with the quasi-judicial body in which legal issues and arguments are presented?

Question 3(b) If a legal intern does represent an individual before the quasi-judicial body, must all documents filed for the record be signed by a supervising attorney?

Answer 3(a): No. SCR 3.020, so often quoted, defines the practice of law. A non-lawyer is prohibited from engaging in these activities and it would be in violation of the spirit of Kentucky State Bar Assn v. Lakes, 443 S.W.2d 248 (Ky. 1969), to extend the work of paralegals beyond the immediate supervision of attorneys.

Answer 3(b): Yes.

Question 4: In cases which are filed in a court of law (e.g., judicial review of the Commission's or Appeal Board's decision, declaratory judgment, federal civil rights action), is it proper for an individual who is neither an attorney nor legal intern, nor a plaintiff, to sign the court filed document and be designated by one of the above mentioned titles (legal assistant, paralegal professional, etc.), even though the attorney has signed the documents?

Answer 4: No.

The answers to Question 3 apply to Question 4 with even more stringent restrictions. The Supreme Court and the Kentucky Bar Association have religiously prohibited a non-lawyer from representing himself to the general public as trained in the profession and rendering services reserved to the lawyer. The ultimate responsibility lying with the lawyer, the acts of the paralegal are the acts of an agent and the lawyer should be the only name appearing of record, and consequently, the recipient of notices, etc. We would suggest that hearing officers before the various boards and commissions reconsider Opinion KBA U -15 in its entirety. There is no qualification as to that answer.

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."