

KENTUCKY BAR ASSOCIATION
Unauthorized Practice of Law Opinion KBA U-57
Issued: January 1999

Question: May a lay individual licensed in Kentucky as a “public adjuster” under KRS 304.9-430, and 806 KAR 9:030, who is not a licensed attorney, represent claimants in the handling and processing of claims against tortfeasors and/or their insurers?

Answer: No.

OPINION

The practice of law is defined as:

[A]ny service rendered involving legal knowledge or legal advice, whether of 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 services.

Where an individual engages to “represent” another, albeit “out of court,” with regard to pursuing the “rights” of that individual to money damages on account of injuries from a tort, that “representation” is a “service” that necessarily requires the application of “legal knowledge and or legal advice.”

The public adjuster must initially consult with the claimant regarding who to pursue, which requires an analysis of legal liability. Garnering proof of damages requires knowledge of confidentiality, evidentiary matters and remedies. The entire matter must be handled with an acute awareness of statutes of limitations. The effect of admissions against interest, contractual rights, and waiver of claims for consortium, issues of third party liability, product liability, and commercial and consumer protection matters all must be examined.

It is clear that the attempt by a layperson licensed as “public adjuster” to represent claimants in tort cases is the unauthorized practice of law. See KBA U-45; See Kentucky State Bar Association v. Lakes, Ky., 443 S.W.2d 248 (1969).

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.”