

Kentucky Bar Association
Unauthorized Practice of Law Opinion KBA U-61
Issued: September 1999

Question: May an insurance adjuster represent an insured at court ordered mediation?

Answer: No.

OPINION

SCR 3.020 defines the practice of law under the exclusive authority of the Supreme Court of Kentucky to promulgate rules governing the practice of law. *See Turner v. Kentucky Bar Association*, Ky. 980 S.W.2d 560 (1998). That definition includes "...any service rendered involving...legal advice, whether of representation, counsel or advocacy in or out of court in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services."

"Court ordered Mediation" is more than settlement negotiations. The process involves assessment of the strength of legal claims and defenses, damage calculations, proof problems, procedural compliance, evidentiary considerations, knowledge of venue specific issues and other matters which require legal skill and knowledge. Certainly those appearing on behalf of third parties at mediation are "representing" them. As such this activity falls within the definition of "the practice of law" and may be conducted only by licensed attorneys.

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."