

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-150
Issued: July 1976

This opinion was decided under the Code of Professional Responsibility, which was in effect from 1971 to 1990. Lawyers should consult the current version of the Rules of Professional Conduct and Comments, SCR 3.130 (available at <http://www.kybar.org>), before relying on this opinion.

Question: May a lawyer employed by an insurance company plan estates and prepare wills, trust agreements, and partnership and corporate documents for the benefit of the insurer's customers, as part of its service to them as an insurer?

Answer: No

References: DR 3-101(A); Frazee v. Citizens Fidelity, 393 S.W.2d 778 (Ky. 1965); Kentucky State Bar Assn v. First Federal, 342 S.W.2d 397 (Ky 1961)

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In these circumstances the insurance company is engaged in the unauthorized practice of law and the lawyer is helping it do so in violation of DR 3-101(A).

This opinion is not a mere mechanical application of the references cited. If the customer needs legal advice and services, he needs disinterested advice and services. Insurance companies have a keen financial interest in certain aspects of estate planning, trust agreements, "buy sell" agreements, retirement plans, profit-sharing plans, and the like. The advantages of insurance funding are often manifest, but an insurance company and its employees cannot be disinterested in such matters.

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.