

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-341
Issued: November 1990

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 a lawyer delegate the task of taking depositions to a non-admitted law school graduate or other lay assistant?

Answer: No.

References: KBA E-251 (1981); Oregon Op. 449 (1980); New York County Op. 666 (1985).

OPINION

From time to time lawyers have attempted such delegation on the erroneous assumption that anything goes “outside of court.” Such delegation is not proper. See Rules 1.1, 1.2, and 1.3 (counterparts to DRs 6-101(A)(3) and 7-101(A)(3), cited in E-251. Such delegation also runs afoul of SCR 3.020 (Unauthorized Practice of Law), a Rule that is not limited to practice in the courtroom.

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.