

KENTUCKY BAR ASSOCIATION
Unauthorized Practice of Law Opinion KBA U-13
Issued: November 1975

Question: Does an incorporated collection agency engage in the practice of law when it makes demand upon an individual for an unguaranteed corporate debt by a letter threatening legal proceedings displaying thereon a logo of a judge with the scales of justice in the background?

Answer: Yes.

References: RCA 3.020

OPINION

RCA 3.020 provides in part:

The practice of law is any 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...

The question posed offends the above Rule of the Court of Appeals because an unlicensed person who threatens legal proceedings must necessarily make a determination as to who is the legally liable party, and whether suit should and can be brought. There are matters which should be left to the prerogatives of lawyers licensed to practice.

The trend of authorities in other jurisdictions is in concurrence with this opinion. 27 A.L.R.3d 1152, Practice of Law, Collection Agency §7. The same authorities condemn simulated legal process as a means of coercing the debtor to comply with the agency's threats.

It appears that an agent may make a peaceful collection or a friendly adjustment of a bill without engaging in the practice of law. However, the collector infringes on the field reserved to the legal professional when he undertakes to give legal advice, or to threaten debtors with legal proceedings,...(7 Am.Jur.2d Attorneys at Law §80).

The logo of a menacing judge about to strike his gavel with the scales of justice in the background only adds to the unauthorized threat of legal proceedings by the misuse of scare tactics.

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."