

**KENTUCKY BAR ASSOCIATION**  
**Ethics Opinion KBA E-10**  
Issued: November 1962

**Question:** May an attorney be retained on a monthly basis by a collection agency where the agency obtains assignments of accounts and files suit in its own name and attorney only files appearance if defense is made?

**Answer:** Yes

**OPINION**

An attorney has requested an advisory opinion as to the propriety of the proposed action hereinafter described.

A credit bureau collects accounts for its members and for certain nonresident creditors. It secures assignments of accounts from its customers and files suit in its own name against the debtors. It uses form pleadings prepared by the attorney, files all papers necessary to secure and enforce the judgment, and the name of the attorney does not normally appear in the record. But if defense is made by a defendant, the case is turned over to the attorney to handle from that point on. The credit bureau desires to retain the attorney on a monthly basis, and to pay him an additional fee for each case in which he actually appears.

The propriety of the situation depends, to some extent, upon the manner in which the credit bureau conducts its business. If it merely takes an assignment of an account and files suit upon it in its own name, without actually buying the account, it is probably engaging in the unauthorized practice of law and the attorney should not represent it, for he would be aiding another in the unauthorized practice. Other than that, and so long as the parties conduct themselves in accordance with prior opinions of the Association and of the American Bar Association, it appears to us that the proposed action will not be improper.

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***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). Note that the Rule provides: "Both informal and formal opinions shall be advisory only; however, no attorney shall be disciplined for any professional act on his part performed in compliance with an opinion furnished to him on his petition, provided his petition clearly, fairly, accurately and completely states his contemplated professional act."*