

**ETHICS OPINION NUMBER 32  
OF THE MISSISSIPPI BAR  
RENDERED JUNE 26, 1975  
AMENDED APRIL 6, 2013**

**AIDING THE UNAUTHORIZED PRACTICE OF LAW** - A lawyer shall not aid a non-lawyer in the unauthorized practice of law.

The Ethics Committee of the Mississippi Bar has been requested to render an opinion on the following situation:

Lawyer A represents a client with regard to the company's collections in Justice of the Peace Court. Lawyer A is paid a monthly retainer for this work. When the loan company desires to file suit in the Justice of the Peace Court, the loan company employee types up a "fill-in-the-blanks" declaration and files it in the Justice of the Peace Court. Lawyer A's name appears on the declaration as the attorney for the Plaintiff Loan Company. However, Lawyer A does not sign the declaration; did not see the declaration before it was filed; and is not aware that the specific declaration is being filed. The declaration requests an award of attorney's fees as provided for in the note. If the defendant does not appear, default judgment is taken for the amount of the note sued for, plus attorney's fee, and lawyer A will never be aware that the suit is filed. The attorney's fee will be paid to the Loan Company. If the defendant contests the action, then the Loan Company will notify Lawyer A and Lawyer A will handle the case from that point on. All attorney's fees obtained through these suits are paid to the Loan Company. Lawyer A is paid only his regular monthly retainer.

It is the opinion of the Ethics Committee that such activity would constitute unauthorized practice of law, and would therefore be improper pursuant to Rules 5.3, 5.4 and 5.5 of the Mississippi Rules of Professional Conduct ("MRPC").

Rule 5.3, MRPC states that:

With respect to a non-lawyer . . . associated with a lawyer:

(a) a lawyer shall ensure “the firm has in effect measures giving reasonable assurance that the person’s conduct is compatible with the professional obligations of the lawyer.”

...

(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the rules of professional conduct if engaged in by the lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved.”

Rule 5.4, MRPC, states that “a lawyer shall not share legal fees with a non-lawyer.”

Rule 5.5, MRPC, states that a lawyer shall not “assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

In this hypothetical, the lawyer knew of the specific conduct (sharing legal fees) by virtue of his or her review of any declaration from the loan company that was contested. The lawyer ratified the conduct by accepting files from the loan company.

The Committee finds that the acceptance of an attorney’s fee by a non-lawyer constitutes the unauthorized practice of law. The failure of the lawyer to take reasonable steps to prevent the loan company from accepting attorney’s fees in the course of collecting judgments obtained in this manner further constitutes assisting a non-lawyer in the unauthorized practice of law.