

**KENTUCKY BAR ASSOCIATION**  
**Ethics Opinion KBA E-210**  
Issued: March 1979

**Modified by E-444 (2018)**

**Question 1:** May an assistant Commonwealth attorney or his associates engage in the private practice of law?

**Answer 1:** Qualified yes.

**Question 2:** May an assistant Commonwealth attorney or his associates participate in any divorce action where children are involved?

**Answer 2:** Qualified yes.

**Question 3:** May an assistant Commonwealth attorney's practice include Workmen's Compensation cases?

**Answer 3:** Yes.

**References:** Opinion KBA E-66; DR 9-101; KRS 15.760(3), 342.425; EC 9-6

**OPINION**

The Committee assumes that the assistant Commonwealth attorney was not a full time Commonwealth attorney and therefore is allowed to engage in the private practice of law. At all times a lawyer should strive to avoid not only professional impropriety but also the appearance of impropriety. An assistant Commonwealth attorney or his associates should be very reluctant to take a civil case where there is a possibility of further criminal action. However, if there is only a remote possibility of subsequent criminal proceedings the assistant Commonwealth attorney may take the case, since the attorney could later excuse himself if the remote possibility develops into a reality.

A divorce proceeding is no different from any other civil case as set forth above.

With respect to Workmen's Compensation cases, the analogy of the county attorney opinion in Opinion KBA E-66 written by the Kentucky Court of Appeals, 1974, is applicable to a Commonwealth attorney. Thus, a Commonwealth attorney may practice before the Workmen's Compensation Board and handle Workmen's Compensation cases.

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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). The Rule provides that formal opinions are advisory only.*