

**KENTUCKY BAR ASSOCIATION**

**Ethics Opinion KBA E-397**

Issued: March 1997

**Question:** Will the KBA Ethics Committee decide motions to disqualify counsel when such motions are referred to the Committee by the Courts of the Commonwealth?

**Answer:** No.

**References:** SCR 3.530; CJC Canons 3A. (4) and 3B. (3); KBA E-297 (1984).

**OPINION**

Judges may entertain and decide motions to disqualify, and Judges may also “take or initiate appropriate disciplinary measures against ... a lawyer for unprofessional conduct or which the judge may become aware.” CJC Canon 3B. (4). Under Canon 3B. (4) a judge may refer a disciplinary matter to Bar Counsel [initiate a complaint].

Nothing in SCR 3.530 [Advisory Opinion] or in any other Rule of Court provides for the transfer or referral of “Motions to Disqualify” to the Ethics Committee for decision. The Committee’s role is limited. See KBA E-297 (1984). It has no authority to hold hearings or to resolve disputed issues of fact. Accordingly, the members of the Committee must decline to accept the transfer or referral of “Motions to Disqualify.”

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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.*