

Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an opinion concerning clarification of Opinion No. 99 under certain circumstances. Specifically, you ask whether the Alabama Canons of Judicial Ethics would require disqualification of a judge in a proceeding where one of the parties to the proceeding is an attorney, who may or may not practice on a regular basis before the court.

In Opinion 99 the Commission held that under specific circumstances enumerated therein Canon 3C mandates the disqualification of a judge. That Canon provides in pertinent part:

- “(1) A judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned, including but not limited to instances where:
 - (a) He has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;”

It is the opinion of the Commission that disqualification under this canon must be considered on a case by case basis. The mere fact that a party to a proceeding is an attorney, who regularly practices before the judge in the proceeding, does not require the judge's disqualification or recusal. However, should the judge have a personal bias or prejudice toward or against the attorney or should other facts be present, which would cause the judge's impartiality to reasonably be questioned, recusal would be required.

Very truly yours,

JUDICIAL INQUIRY COMMISSION