

## Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a judge is disqualified from sitting in a certain proceeding. Under the facts presented the proceeding involves an insurance company as a defendant. The defendant insurance company is relying on a decree rendered in a different case by a federal court in a class action lawsuit. Before assuming the bench, the judge represented a client (not the defendant insurance company) in the federal court proceeding. The judge assumed the bench before the federal class action was concluded. The question here presented is whether the judge's prior involvement in the federal class action disqualifies the judge from sitting in a subsequent proceeding in which one of the parties relies upon the decree entered by the federal court in the class action.

Judicial disqualification is governed primarily by Canon 3C of the Alabama Canons of Judicial Ethics. 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:

\* \* \* \*

(b) He served as a lawyer in the matter in controversy, .....

Based on this Canon, it is the opinion of the Commission that the judge's disqualification in this instance depends upon the nature of the relationship between the present case and the previous class action. If the insurance company in the present case is relying on the class action decree merely for its value as a legal precedent, then the judge is not disqualified from sitting in the present proceeding. If, on the other hand, the class action decree is being urged upon the court as binding not only as to the legal issues but also as to the parties or a party in the present action, then the judge is disqualified from sitting in the present proceeding.

For disqualification purposes it matters not that the judge, as an attorney, accepted no compensation for representing a party in the federal class action or that the judge withdrew from that case prior to its conclusion. If the judge served as an attorney in the matter in controversy, i.e., the same issues between substantially the same parties in a previous proceeding, he is disqualified.

Sincerely,

JUDICIAL INQUIRY COMMISSION