

Judicial Inquiry Commission

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May 31, 1989

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 proceeding involving a law firm which filed suit against the judge approximately 10 years earlier. The judge was a 10% owner of an entity sued and suffered no detriment as a result of the suit. A present client of the law firm has requested the law firm to move for the judge's recusal.

It is the opinion of the Commission that the mere previous existence of an adversarial relationship in a legal proceeding between a judge and an attorney does not disqualify the judge in all future legal proceedings involving the attorney or members of his firm.

Judicial disqualification is based primarily on Canon 3C of the Alabama Canons of Judicial Ethics. That Canon provides:

- (1) A judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned, ...

Our Supreme Court has held that the test for disqualification under this provision is whether a man of ordinary prudence, knowing the facts known to the judge, would reasonably question the judge's impartiality. See In re Sheffield, 465 So.2d 350 (Ala. 1984). The mere existence of an adversarial relationship occurring 10 years in the past is insufficient to cause the judge's disqualification, especially where, as stated in the facts presented, the judge suffered no detriment as a result of the litigation.

Sincerely,

JUDICIAL INQUIRY COMMISSION