

Judicial Inquiry Commission

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May 13, 1993

This is in response to your request for an advisory opinion from the Judicial Inquiry Commission. Your question is whether you are disqualified under the following circumstances:

The case involved is a civil action for divorce. The plaintiff/husband is employed as a loan officer with a local bank and, in that capacity, had "many dealings" with the judge while she was an attorney in private practice. Additionally, the judge, as an attorney, "did various and sundry legal work" for the plaintiff. The attorney for the defendant/wife in the divorce case has filed a motion to recuse.

It is the opinion of this Commission that you are not disqualified under these limited and particular circumstances. The prior professional and business associations between the judge as a practicing attorney and the officer of the bank are simply insufficient grounds for disqualification in a civil action for divorce.

As a loan officer, the plaintiff was not responsible for approving any loan which you may have received. Obviously, the plaintiff has brought the civil action in his capacity as an individual and not as a representative or employee of the bank.

The facts you have provided of your prior association with the bank officer are very limited and the Commission's finding of no disqualification is based only on those particular facts. However, such a relationship may very well provide a basis for disqualification. Under Canon 3C(l)(b), Alabama Canons of Judicial Ethics, your disqualification would be required if your prior representation of the plaintiff involved a "matter in controversy." Moreover, if your prior association and relationship with the officer of the bank were either so extensive or of such a nature as to create the appearance of impropriety or generate the situation where your impartiality as a judge might reasonably be questioned, then disqualification would be required under Canons 2A or 3C(l).

This advisory opinion has been reviewed and approved by the Judicial Inquiry Commission and is the opinion of the Commission.