

Judicial Inquiry Commission

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This is in response to your request for an advisory opinion from the Alabama Judicial Inquiry Commission. Your question is whether you should recuse yourself under the following circumstances.

Your former wife has filed a professional liability complaint in circuit court against a local hospital on her own behalf individually and on behalf of your infant daughter. The incident upon which she bases the claim occurred after the divorce. Your ex-wife was granted exclusive custody of your daughter. The hospital appears frequently as a litigant in your court.

It is the opinion of this Commission that these facts do provide cause for which your impartiality might reasonably be questioned under Canon 3C(I) and do give rise to the appearance of impartiality under Canon 1, Alabama Canons of Judicial Ethics. This disqualification may not be remitted.

We distinguish the factual situation presented here with that presented in Advisory Opinion 93-477. In that opinion, this Commission held that the mere fact a judge's mother-in-law has filed, in a judicial circuit other than the judge's, a bad faith refusal-to-pay law suit against a certain insurance company does not provide cause for which the judge's impartiality might reasonably be questioned under Canon 3C (1) or give rise to the appearance of impartiality under Canon 1 where the judge presides over a separate bad faith refusal-to-pay law suit against that same insurance company.

Here, the civil action has been filed on behalf of your child, has been filed in your judicial circuit, and has been filed against a particular hospital and not a national company. Under these circumstances you are disqualified to preside over any medical liability case in which the hospital is a party.

This advisory opinion has been considered by and is the opinion of the entire Commission.